ORDINANCE NO. 535

AN ORDINANCE OF THE CITY OF MALIBU APPROVING ZONING TEXT AMENDMENT NO. 25-003 AN AMENDMENT TO TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE TO UPDATE ACCESSORY DWELLING UNIT REGULATIONS AND DETERMINING THE AMENDMENTS ARE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does ordain as follows.

SECTION 1. Recitals.

A. State law authorizes cities to act by ordinance to provide for the creation and regulation of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs).

B. On January 8, 2024, the City Council adopted Ordinance No. 511 to update the second-unit regulations and establish the City's ADU/JADU framework.

C. On February 1, 2024, the City transmitted Ordinance No. 511 to the California Department of Housing and Community Development (HCD) for review pursuant to Government Code section 66326.

D. On November 13, 2024, HCD issued a written findings letter identifying required amendments and clarifications to ensure consistency with State ADU and JADU law.

E. On August 11, 2025, the City Council adopted Resolution No. 25-41 to: 1) initiate Zoning Text Amendment (ZTA) No. 25-003 to update ADU regulations consistent with State law; and 2) direct the Planning Commission to schedule a public hearing regarding the ZTA and provide a recommendation to the Council whether to approve, modify, or reject the amendments.

F. On August 18, 2025, the Planning Commission held a duly noticed public hearing on the proposed ADU amendments on ZTA No. 25-003, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record and recommended adoption of Resolution No. 25-65 as amended.

G. To remain valid and enforceable, the City's ADU ordinance must be updated to reflect the most recent changes to State ADU and JADU law.

H. Since the August 18, 2025 hearing, ZTA No. 25-003 was not adopted so that the City could revise the amendment to incorporate additional State ADU and JADU legislation has taken effect or will take effect later in 2026, including, but not limited to, Assembly Bill (AB) 462, AB 1154, Senate Bill (SB) 9 (2025), SB 543, and SB 1211.

I. On January 20, 2026, the Planning Commission held a duly noticed public hearing on the revised draft of ZTA No. 25-003 incorporating new state law and clarifications, reviewed

the agenda report, written materials, public testimony, and all evidence in the record, and adopted Resolution No. 26-03 recommending City Council approval.

J. Following the January 20, 2026, hearing, staff identified the need for a reduced setback provision for ADUs attached to fire rebuild replacement structures authorized under Malibu Municipal Code (MMC) Section 17.60.020(C) and returned the item to the Planning Commission for consideration of the additional provision.

K. On March 26, 2026, a Notice of Planning Commission Public Hearing was timely published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

L. On April 20, 2026, the Planning Commission held a duly noticed public hearing on the revised draft of ZTA No. 25-003 to include a reduced setback provision for fire rebuilds; and reviewed the agenda report, written materials, public testimony, and all evidence in the record; and adopting Resolution No. 26-16, amending the Commission's prior recommendation on January 20, 2026 (Resolution No. 26-03) to include a setback provision for ADUs attached to beachfront fire rebuild replacement structures and recommending that the City Council approve revised ZTA No. 25-003, with no other changes to the proposed amendments.

M. On May 14, 2026, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

N. On June 8, 2026, the City Council held a duly noticed public hearing on the proposed ZTA No 25-003, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record. The City Council conducted a first reading and introduction of the Ordinance and directed staff to set a second reading for adoption of Ordinance No. XXX, approving ZTA No. 25-003.

SECTION 2. Environmental Review.

The actions before the City Council are exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17, which states that CEQA does not apply to the adoption of local ordinances regulating the construction of second units and by CEQA Guidelines Section 15282(h) that exempts adoption of an ordinance regarding second units in single-family and multifamily residential zones.

Furthermore, the City Council has analyzed the proposed amendments. CEQA applies only to projects which have the potential for causing a significant effect on the environment. Pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council determined that the proposed amendments are required by State law and will not result in changes from existing development standards, such as density limits and environmental resource protection standards; consequently, there is no possibility the amendment will have a significant effect on the environment and accordingly, and the exemption set forth in Section 15061(b)(3) applies.

SECTION 3. Zoning Text Amendment Findings.

Pursuant to MMC Section 17.74.040(C), the City Council hereby makes the following findings to approve ZTA No. 25-003 as stated in Section 4 of this ordinance.

A. The subject ZTA is consistent with the objectives, policies, general land uses and programs specified in the General Plan. Specifically, it fulfills programs specified in Housing Element Goal 1 (Adequate Housing for the Existing and Projected Needs of All Economic Segments of the Community), and Housing Element Program 4.1 (Support Development of Accessory Dwelling Units) and Objective 1.e (timely updates to the ADU ordinance to maintain compliance with State law).

B. The City Council held a public hearing, reviewed the subject ZTA for compliance with the City of Malibu General Plan and MMC, and finds that the ZTA is consistent with the General Plan and MMC. The City Council finds that the adoption of the Ordinance is consistent with the General Plan as a matter of law under Government Code section 66314(c).

SECTION 4. Zoning Text Amendments.

Pursuant to MMC Section 17.74.040(D), the MMC shall be amended as follows:

A. Amend MMC Chapter 17.44 in its entirety as set forth below:

CHAPTER 17.44

ACCESSORY DWELLING UNITS

17.44.010. Title.

This chapter shall be known as the "Malibu Accessory Dwelling Unit Ordinance."

17.44.020. Purpose.

The purpose of this chapter is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with Chapter 13 of Division 1 of Title 7 of the California Government Code. The entire city of Malibu is located in a designated "Very High Fire Hazard Severity Zone," and this chapter ensures that ADUs and JADUs are developed and operated on adequate sites, at proper and desirable locations, and that the goals and objectives of the general plan are observed.

17.44.030. Effect of conforming.

An ADU or JADU that conforms to the standards in this chapter will be:

A. Deemed to be consistent with the city's general plan and zoning designation for the lot on which the ADU or JADU is located.

B. Deemed not to exceed the allowable density for the lot on which the ADU or JADU is located.

C. Considered not to be subject to the application of any local ordinance, policy, or program to limit residential growth.

D. Approved without requiring the correction of a nonconforming zoning condition. This does not prevent the city from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.12. For purposes of this chapter, "nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

17.44.040. Definitions.

A. "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following:

   1. An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and

   2. A manufactured home, as defined by Section 18007 of the California Health and Safety Code.

B. "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

C. "Complete independent living facilities" means permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or

multifamily dwelling is or will be situated.

D. "Efficiency kitchen" means a kitchen that satisfies all of the following:

1. A cooking facility with appliances;

2. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.

E. "Junior accessory dwelling unit" means a residential unit that

1. Is no more than 500 square feet of interior livable space in size;

2. Is contained entirely within an existing or proposed single-family structure; an enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure;

3. Has an independent exterior entrance, apart from that of the primary dwelling;

4. Either includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure, and if the latter, the JADU includes an interior entrance to the main living area of the existing or proposed single-family structure in addition to the exterior entrance to the JADU; and

5. Includes an efficiency kitchen, as defined in this subsection D.

F. "Livable space" means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.

G. "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

H. "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit or junior accessory dwelling unit.

I. "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

J. "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, or subways and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

K. "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

L. Very high fire hazard severity zone" means zone as defined by Government Code Section 51177 and designated by Ordinance No. 299 and the City's adopted Local Responsibility Area Fire Hazard Severity Zone Maps, as may be amended from time to time.

17.44.050. Permitted locations.

A. ADUs and JADUs under Section 17.44.060(A) are allowed on lots that are in a residential or mixed-use zone.

B. ADUs under Section 17.44.060(B) are allowed on lots zoned to allow single-family or multifamily dwelling residential use.

C. Areas with Adequate Ingress and Egress. Since the entire City is located within a designated "Very High Fire Hazard Severity Zone," emergency ingress and egress shall be evaluated consistent with the City's adopted Fire Code (2025 California Fire Code, as amended), including the fire apparatus access road requirements set forth in California Fire Code Section 503, as enforced by the Los Angeles County Fire Department. Nothing in this subsection is intended to establish a zoning-based prohibition on ADUs or JADUS. Compliance with Fire Code and Building Code requirements is required; however, such requirements shall not be used as a zoning-based basis to deny an ADU or JADU that must be approved ministerially under State law.

17.44.060. Approvals.

The following approvals apply to ADUs and JADUs developed under this chapter. Because the city of Malibu lies entirely within the Coastal Zone, ADU applications may be subject to the requirements in the Local Coastal Program (LCP) in addition to the provisions of this chapter. If an ADU application is exempt from the need to obtain a coastal development permit, then only this chapter governs.

A. Class 1: Statutorily Regulated. Class 1 ADUs and JADUs are approved under Government Code Section 66323. If an ADU or JADU complies with each of the general requirements in Section 17.44.080 below, it is allowed subject to an ADU permit and a building permit in the following scenarios provided in this subsection (A). An ADU and JADU approved under subsection (A)(1) may be combined with an ADU approved under subsection (A)(2), and ADUs approved under subsection (A)(3) may be combined with ADUs approved under subsection (A)(4).

1. Converted on a Lot with Single-Family. One ADU as described in this subsection (A)(1) and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:

a. Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or (in the case

of an ADU only) within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress; and

b. Has exterior access that is independent of that for the single-family dwelling; and

c. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.

d. The JADU complies with the requirements of Government Code Sections 66333 through 66339.

2. Limited Detached on a Lot with Single-Family. One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (A)(1) above if the detached ADU satisfies each of the following limitations:

a. The side- and rear-yard setbacks are at least four feet.

b. The total floor area is 800 square feet or smaller.

c. The peak height above grade does not exceed the applicable height limit in subsection 17.44.080(K) below.

3. Converted on a Lot with Multifamily. One or more ADUs within portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. Under this subsection (A)(3) at least one converted ADU is allowed within an existing multifamily dwelling, up to a quantity equal to 25 percent of the existing multifamily dwelling units.

4. Limited Detached on a Lot with Multifamily. No more than two detached ADUs on a lot that has a proposed multifamily dwelling, or up to eight detached ADUs on a lot with an existing multifamily dwelling, if each detached ADU satisfies both of the following limitations:

a. The side- and rear-yard setbacks are at least four feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the city will not require any modification to the multifamily dwelling as a condition of approving the ADU.

b. The peak height above grade does not exceed the applicable height limit provided in subsection 17.44.080(K) below.

c. If the lot has an existing multifamily dwelling, the quantity of detached

ADUs does not exceed the number of primary dwelling units on the lot.

B. Class 2: Locally Regulated. Class 2 ADUs are approved under Government Code sections 66314–66322.

1. Except as allowed under subsection A, all ADUs require an ADU permit and a building permit and must comply with the standards set forth in Sections 17.44.080 and 17.44.090.

2. The city may charge a fee to reimburse it for costs incurred in processing ADU permits, including the costs of adopting or amending the city's ADU ordinance. The ADU permit processing fee is determined by the city council by resolution.

17.44.070. Process and timing.

A. Completeness.

1. Determination in 15 days. The city will determine whether an application to create or serve an ADU or JADU is complete and will provide written notice of the determination to the applicant within 15 business days after the city receives the application submittal.

2. Incomplete items. If the city's determination under subsection (A)(1) above is that the application is incomplete, the city's notice must list the incomplete items and describe how the application can be made complete.

3. Cure. After receiving a notice that the application is incomplete, the applicant may cure and address the items that were deemed by the city to be incomplete.

4. Subsequent submittals. If the applicant submits additional information to address incomplete items, within 15 business days of the subsequent submittal the city will determine in writing whether the additional information remedies all the incomplete items that the city identified in its original notice. The city may not require the application to include an item that was not included in the original notice.

5. Deemed complete. If the city does not make a timely determination as required by this subsection (A), the application or resubmitted application is deemed complete for the purposes of subsection (C) below.

6. Appeal of incompleteness. An applicant may appeal the city's determination that the application is incomplete by submitting a written appeal to the city clerk. The planning commission will review the written appeal and affirm or reverse the completeness determination and provide a final written determination to the applicant within 60 business days after receipt of the appeal.

B. No Discretion or Hearing. An ADU permit is considered and approved ministerially by the community development director without discretionary review or a hearing.

C. Deadline to Approve or Deny Ministerial Approvals. The city must approve or deny an application to create an ADU or JADU within 60 days from the date that the city receives a complete application. If the city has not approved or denied the completed application within 60 days, the application is deemed approved, unless either:

1. The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or

2. When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the city may delay ~~acting on~~ approving or denying the permit application for the ADU or JADU until the city acts on the permit application to create the new single-family or multifamily dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.

D. Denial. If the city denies an application to create an ADU or JADU, the city must provide the applicant with comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection C above.

E. Appeal of Denial. An applicant may appeal the city's denial of the application by submitting a written appeal to the city clerk. The planning commission will review the written appeal and affirm or reverse the denial and provide a final written determination to the applicant within 60 business days after receipt of the appeal.

F. Concurrent Review of Demolition**.** A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.

17.44.080. General requirements.

The following requirements apply to all Class 1 and Class 2 ADUs and JADUs:

A. Zoning.

1. A Class 1 Statutorily Regulated ADU approved under Section 17.44.060(A) may be created on a lot in a residential or mixed-use zone.

2. A Class 2 Locally Regulated ADU approved under Section 17.44.060(B) may be created on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.

3. In accordance with Government Code section 66333(a), a JADU may only be created on a lot zoned to allow single-family residences.

B. Rental Term. An ADU or JADU may not be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.

C. Rental Rate Reporting. To facilitate the city's obligation to identify adequate sites in accordance with Government Code Sections 65583.1 and 66330, and to help ADUs and JADUs to count towards the city's Regional Housing Needs Assessment (RHNA) requirements, within 90 days after each January 1 following issuance of the building permit, the owner shall report the actual rent charged for the ADU or JADU during the prior year.

D. No Separate Conveyance. An ADU or JADU may be rented, but, except as otherwise provided in Government Code Section 66341, no ADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot). A JADU may not be sold or otherwise conveyed separately from the lot and the primary dwelling.

E. Septic System. If the ADU or JADU will connect to an on-site water treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.

F. Fire Sprinklers.

1. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.

2. The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

G. Owner Occupancy with JADU.

a. Generally. As required by state law, JADUs are generally subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person's legal domicile and permanent residence.

b. Exceptions. The owner-occupancy requirement in this subsection (G) does not apply in either of the following situations:

1. The JADU has separate sanitation facilities (i.e., does not share sanitation facilities with the existing primary dwelling unit structure).

2. The property is entirely owned by another governmental agency, land trust, or housing organization.

c. ADUs. ADUs are not subject to an owner-occupancy requirement.

H. Deed Restriction. Prior to issuance of a certificate of occupancy for a JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Community Development Director. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the city and must provide that:

1. The JADU may not be sold separately from the primary dwelling.

2. A JADU created cannot be rented for less than 30 days.

3. The JADU is restricted to the approved size and to the other attributes allowed by this section.

4. The deed restriction runs with the land and may be enforced against future property owners.

5. The deed restriction is enforceable by the director or his or her designee for the benefit of the city. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the city is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the JADU in violation of the recorded restrictions or abatement of the illegal unit.

I. Building and Safety.

a. Must Comply With Building Code. Subject to subsection (I)(b) below, all ADUs and JADUs must comply with all local building code requirements.

b. No Change of Occupancy. Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code, unless the building official or Code Enforcement Division officer makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection (I)(b) prevents the city from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section.

J. Certificate of Occupancy Timing.

a. Generally. No certificate of occupancy for an ADU or JADU may be issued before the certificate of occupancy is issued for the primary dwelling unit.

b. Limited Exception for State-Declared Emergencies. Notwithstanding

subsection (J)(a) above, a certificate of occupancy for an ADU may be issued before a certificate of occupancy for the primary dwelling if each of the following requirements are met:

1. The county is subject to a proclamation of a state of emergency made by the California Governor on or after February 1, 2025.

2. The primary dwelling was substantially damaged or destroyed by an event referenced in the Governor's state of emergency proclamation.

3. The ADU has been issued construction permits and has passed all required inspections.

4. The ADU is not attached to the primary dwelling.

K. Height.

a. No ADU subject to this chapter may exceed 16 feet in height above grade, except as provided in subsections (K)(b) through (K)(d) of this section.

b. A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single-family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that matches the roof pitch of the primary dwelling unit.

c. A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed 18 feet in height.

d. An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection (K)(d) may not exceed two stories.

17.44.090. Specific ADU requirements.

The following requirements apply only to Class 2 - Locally Regulated ADUs under Section 17.44.060 (B) above. This section does not apply to Class 1 Statutorily Regulated ADUs and JADUs under Section 17.44.060 (A) above.

A. Size.

1. The maximum floor area of a detached or attached ADU is 1,000 square feet.

2. Notwithstanding subsection (A)(1), an ADU that is created on a lot with an existing primary dwelling and that is attached to the primary dwelling is limited to 50 percent of the floor area of the existing primary dwelling, subject to subsection (A)(3).

3. Application of other development standards in this Section might further limit the size of the ADU, but no application of the percent-based size limit in subsection A.2 or of a FAR, front-setback, lot-coverage, or open-space requirement may require the ADU to be less than 800 square feet of interior livable space.

4. By definition, a JADU may not be larger than 500 square feet.

B. Setbacks.

1. The front yard setback of an ADU located on a non-beach front lot, subject to this Section, shall be at least 20 percent of the total depth of the lot, or 65 feet, whichever is less. On a beachfront lot, the front yard setback shall be 20 feet maximum or the average of the two immediate neighbors, whichever is less.

2. No part of any ADU that is subject to this Section may be located within four feet of a side or rear property line.

3. No setback is required for an ADU that is subject to this Section if the ADU is constructed in the same location and to the same dimensions as an existing structure.

4. On a beachfront lot, an ADU proposed in conjunction with, and attached to, a legally authorized replacement structure reconstructed pursuant to Section 17.60.020(C) following damage or destruction by a natural disaster, and which is located outside the footprint or envelope of the approved replacement structure, may maintain the same setback as the replacement structure it is attached to so long as the Los Angeles County Fire Department and City Building Official have determined the structure will comply will all necessary building and fire code requirements.

C. Floor Area Ratio (FAR). No ADU subject to Section 17.44.090 may cause the total FAR of the lot to exceed 38 percent, subject to subsection 17.44.090(A)(3).

D. Lot Coverage. No ADU subject to this Section may cause the total lot coverage of the lot to exceed 45% for up to ¼ acre; 35% of the net area for lots ¼ to ½ acre and 30% of the net area up to a maximum of 25,000 square feet per parcel for lots ½ acre of more in size, subject to subsection 17.44.090(A)(3).

E. Passageway. No passageway, as defined by Section 17.44.040, is required for an ADU.

F. Parking.

1. Generally. One off-street enclosed or unenclosed parking space is required for each ADU or bedroom, whichever is less. Unenclosed parking spaces may be provided in setback areas or as tandem parking, as defined by Section 17.44.040.

2. Exceptions. No parking under subsection (F)(1) above is required in the following situations:

a. The ADU is located within one-half mile walking distance of public transit, as defined in Section 17.44.040.

b. The ADU is located within an architecturally and historically significant historic district.

c. The ADU is part of the proposed or existing primary residence or part of an existing accessory structure, under Section 17.44.060(A)(1).

d. When on-street parking permits are required but not offered to the occupant of the ADU.

e. When there is an established car share vehicle stop located within one block of the ADU.

f. When the permit application to create an ADU is submitted with an application to create a new single-family or new multifamily dwelling on the same lot, provided that the ADU or the lot satisfies any other criteria listed in subsections (D)(2)(a) through (D)(2)(f).

3. No Replacement Parking Required. When a garage, carport, covered parking structure, or uncovered parking space is: (a) demolished in conjunction with the construction of an ADU; or (b) converted to an ADU, those off-street parking spaces are not required to be replaced. If replacement parking is proposed by the owner, the parking must be located on hardscape.

G. Internal Connection. An attached ADU shall not be connected internally to the main residence. A detached ADU shall not be connected internally to any accessory structure except to a legally established garage that serves the ADU.

17.44.100. Fees.

A. Impact Fees.

1. No impact fee shall be charged for an ADU that is less than 750 square feet of interior livable space.

2. Any impact fee that is required for an ADU that is 750 square feet or more of

interior livable space must be charged proportionately in relation to the floor area of the primary dwelling unit. (e.g., the square footage of the ADU, divided by the square footage of the primary dwelling, times the typical fee amount charged for a new dwelling.)

3. A JADU or ADU with less than 500 square feet of interior livable space does not increase assessable space by 500 square feet for purposes of Education Code section 17620(a)(1)(C), and is therefore not subject to school fees under Education Code section 17620.

4. For purposes of this Section, "impact fee" means a "fee" under the Mitigation Fee Act (Government Code Section 66000(b)) and a fee under the Quimby Act (Government Code Section 66477). It does not include any connection fee or capacity charge for water or sewer service.

B. Utility Fees.

1. An ADU that is constructed with a single-family dwelling shall be subject to standard utility-connection requirements and fees for a new residential use.

2. Converted ADUs created under Section 17.44.060(A)(1) are not required to have a new or separate utility connection directly between the ADU and the utility. Nor is a connection fee or capacity charge required unless the ADU is constructed with a new single-family home (per subsection (B)(1) above).

3. All ADUs not covered by subsection (B)(1) or (B)(2) above require a new, separate utility connection directly between the ADU and the utility for any utility service that is provided by the City.

a. All utilities that are not provided by the City are subject to the connection and fee requirements of the utility provider.

b. The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU, based on either the square footage or the number of drainage-fixture units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system. The fee or charge may not exceed the reasonable cost of providing this service.

17.44.110. Nonconforming Zoning Code conditions, Building Code violations, and unpermitted structures.

A. Generally. The city will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.

B. Unpermitted ADUs and JADUs Constructed Before 2020.

1. Permit to Legalize. As required by state law, the city may not deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if denial is based on either of the following grounds:

   a. The ADU or JADU violates applicable building standards, or

   b. The ADU does not comply with the state ADU or JADU law or with this Chapter 17.44.

2. Exceptions:

   a. Notwithstanding subsection (B)(1) above the city may deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if the city makes a finding that correcting a violation is necessary to comply with the standards specified in California Health and Safety Code Section 17920.3.

   b. Subsection (B)(1) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code Section 17920.3.

SECTION 5. Effective Date.

In accordance with California Government Code section 36937, this Ordinance shall become effective on the 30th day following its passage and adoption.

SECTION 6. Severability.

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality or the remaining portions of this Ordinance; it being hereby expressly declared and this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phases be declared invalid or unconstitutional.

SECTION 7. The City Clerk shall certify the adoption of this ordinance.

PASSED, APPROVED AND ADOPTED this 22nd day of June 2026.

BRUCE SILVERSTEIN, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

Date: 6/22/26

APPROVED AS TO FORM:

TREVOR RUSIN, Interim City Attorney

I CERTIFY THAT THE FOREGOING ORDINANCE NO. 535 was passed and adopted at the Regular City Council meeting of June 22, 2026, by the following vote:

AYES:	5	Councilmembers:	Conrad, Riggins, Stewart, Uhring, Silverstein
NOES:	0		
ABSTAIN:	0		
ABSENT:	0		

KELSEY PETTIJOHN, City Clerk
(seal)

EXHIBIT A

CHAPTER 17.44

ACCESSORY DWELLING UNITS

§ 17.44.010. Title.

This chapter shall be known as the "Malibu Accessory Dwelling Unit Ordinance."

§ 17.44.020. Purpose.

The purpose of this chapter is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with Chapter 13 of Division 1 of Title 7 of the California Government Code. The entire city of Malibu is located in a designated "Very High Fire Hazard Severity Zone," and this chapter ensures that ADUs and JADUs are developed and operated on adequate sites, at proper and desirable locations, and that the goals and objectives of the general plan are observed.

§ 17.44.030. Effect of conforming.

An ADU or JADU that conforms to the standards in this chapter will be:

E. Deemed to be consistent with the city's general plan and zoning designation for the lot on which the ADU or JADU is located.

F. Deemed not to exceed the allowable density for the lot on which the ADU or JADU is located.

G. Considered not to be subject to the application of any local ordinance, policy, or program to limit residential growth.

H. Approved without requiring the correction of a nonconforming zoning condition. This does not prevent the city from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.12. For purposes of this chapter, "nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

§ 17.44.040. Definitions.

M. "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and

2. A manufactured home, as defined by Section 18007 of the California Health and Safety Code.

N. "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

O. "Complete independent living facilities" means permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.

P. "Efficiency kitchen" means a kitchen that satisfies all of the following:

1. A cooking facility with appliances;

2. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.

Q. "Junior accessory dwelling unit" means a residential unit that

1. Is no more than 500 square feet of interior livable space in size;

2. Is contained entirely within an existing or proposed single-family structure; an enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure;

3. Has an independent exterior entrance, apart from that of the primary dwelling;

4. Either includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure, and if the latter, the JADU includes an interior entrance to the main living area of the existing or proposed single-family structure in addition to the exterior entrance to the JADU; and

5. Includes an efficiency kitchen, as defined in this subsection D.

R. "Livable space" means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.

S. "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

T. "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit or junior accessory dwelling unit.

U. "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

V. "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, or subways and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

W. "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

X. "Very high fire hazard severity zone" means zone as defined by Government Code Section 51177 and designated by Ordinance No. 299 and the City's adopted Local Responsibility Area Fire Hazard Severity Zone Maps, as may be amended from time to time.

§ 17.44.050. Permitted locations.

D. ADUs and JADUs under Section 17.44.060(A) are allowed on lots that are in a residential or mixed-use zone.

E. ADUs under Section 17.44.060(B) are allowed on lots zoned to allow single-family or multifamily dwelling residential use.

F. Areas with Adequate Ingress and Egress. Since the entire City is located within a designated "Very High Fire Hazard Severity Zone," emergency ingress and egress shall be evaluated consistent with the City's adopted Fire Code (2025 California Fire Code, as amended), including the fire apparatus access road requirements set forth in California Fire Code Section 503, as enforced by the Los Angeles County Fire Department. Nothing in this subsection is intended to establish a zoning-based prohibition on ADUs or JADUS. Compliance with Fire Code and Building Code requirements is required; however, such requirements shall not be used as a zoning-based basis to deny an ADU or JADU that must be approved ministerially under State law.

§ 17.44.060. Approvals.

The following approvals apply to ADUs and JADUs developed under this chapter. Because the city of Malibu lies entirely within the Coastal Zone, ADU applications may be subject to the requirements in the Local Coastal Program (LCP) in addition to the provisions of this chapter. If an ADU application is exempt from the need to obtain a coastal development permit, then only this chapter governs.

C. Class 1: Statutorily Regulated. Class 1 ADUs and JADUs are approved under Government Code Section 66323. If an ADU or JADU complies with each of the general requirements in Section 17.44.080 below, it is allowed subject to an ADU permit and a building permit in the following scenarios provided in this subsection (A). An ADU and JADU approved under subsection (A)(1) may be combined with an ADU approved under subsection (A)(2), and ADUs approved under subsection (A)(3) may be combined with ADUs approved under subsection (A)(4).

5. Converted on a Lot with Single-Family. One ADU as described in this subsection (A)(1) and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:

    e. Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or (in the case of an ADU only) within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress; and

    f. Has exterior access that is independent of that for the single-family dwelling; and

    g. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.

    h. The JADU complies with the requirements of Government Code Sections 66333 through 66339.

6. Limited Detached on a Lot with Single-Family. One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (A)(1) above if the detached ADU satisfies each of the following limitations:

    a. The side- and rear-yard setbacks are at least four feet.

    b. The total floor area is 800 square feet or smaller.

    c. The peak height above grade does not exceed the applicable height limit in subsection 17.44.080(K) below.

7. Converted on a Lot with Multifamily. One or more ADUs within portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. Under this subsection (A)(3) at least one converted ADU is allowed within an existing multifamily dwelling, up to a quantity equal to 25 percent of the existing multifamily dwelling units.

8. Limited Detached on a Lot with Multifamily. No more than two detached ADUs on a lot that has a proposed multifamily dwelling, or up to eight detached ADUs on a lot with an existing multifamily dwelling, if each detached ADU satisfies both of the following limitations:

    a. The side- and rear-yard setbacks are at least four feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the city will not require any modification to the multifamily

dwelling as a condition of approving the ADU.

b. The peak height above grade does not exceed the applicable height limit provided in subsection 17.44.080(K) below.

c. If the lot has an existing multifamily dwelling, the quantity of detached ADUs does not exceed the number of primary dwelling units on the lot.

D. Class 2: Locally Regulated. Class 2 ADUs are approved under Government Code sections 66314–66322.

1. Except as allowed under subsection A, all ADUs require an ADU permit and a building permit and must comply with the standards set forth in Sections 17.44.080 and 17.44.090.

2. The city may charge a fee to reimburse it for costs incurred in processing ADU permits, including the costs of adopting or amending the city's ADU ordinance. The ADU permit processing fee is determined by the city council by resolution.

§ 17.44.070. Process and timing.

G. Completeness.

1. Determination in 15 days. The city will determine whether an application to create or serve an ADU or JADU is complete and will provide written notice of the determination to the applicant within 15 business days after the city receives the application submittal.

2. Incomplete items. If the city's determination under subsection (A)(1) above is that the application is incomplete, the city's notice must list the incomplete items and describe how the application can be made complete.

3. Cure. After receiving a notice that the application is incomplete, the applicant may cure and address the items that were deemed by the city to be incomplete.

4. Subsequent submittals. If the applicant submits additional information to address incomplete items, within 15 business days of the subsequent submittal the city will determine in writing whether the additional information remedies all the incomplete items that the city identified in its original notice. The city may not require the application to include an item that was not included in the original notice.

5. Deemed complete. If the city does not make a timely determination as required by this subsection (A), the application or resubmitted application is deemed complete for the purposes of subsection (C) below.

6. Appeal of incompleteness. An applicant may appeal the city's determination that

the application is incomplete by submitting a written appeal to the city clerk. The planning commission will review the written appeal and affirm or reverse the completeness determination and provide a final written determination to the applicant within 60 business days after receipt of the appeal.

H. No Discretion or Hearing. An ADU permit is considered and approved ministerially by the community development director without discretionary review or a hearing.

I. Deadline to Approve or Deny Ministerial Approvals. The city must approve or deny an application to create an ADU or JADU within 60 days from the date that the city receives a complete application. If the city has not approved or denied the completed application within 60 days, the application is deemed approved, unless either:

1. The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or

2. When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the city may delay ~~acting on~~ approving or denying the permit application for the ADU or JADU until the city acts on the permit application to create the new single-family or multifamily dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.

J. Denial. If the city denies an application to create an ADU or JADU, the city must provide the applicant with comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection C above.

K. Appeal of Denial. An applicant may appeal the city's denial of the application by submitting a written appeal to the city clerk. The planning commission will review the written appeal and affirm or reverse the denial and provide a final written determination to the applicant within 60 business days after receipt of the appeal.

L. Concurrent Review of Demolition**.** A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.

§ 17.44.080. General requirements.

The following requirements apply to all Class 1 and Class 2 ADUs and JADUs:

J. Zoning.

4. A Class 1 Statutorily Regulated ADU approved under Section 17.44.060(A) may be created on a lot in a residential or mixed-use zone.

5. A Class 2 Locally Regulated ADU approved under Section 17.44.060(B) may be created on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.

6. In accordance with Government Code section 66333(a), a JADU may only be created on a lot zoned to allow single-family residences.

K. Rental Term. An ADU or JADU may not be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.

L. Rental Rate Reporting. To facilitate the city's obligation to identify adequate sites in accordance with Government Code Sections 65583.1 and 66330, and to help ADUs and JADUs to count towards the city's Regional Housing Needs Assessment (RHNA) requirements, within 90 days after each January 1 following issuance of the building permit, the owner shall report the actual rent charged for the ADU or JADU during the prior year.

M. No Separate Conveyance. An ADU or JADU may be rented, but, except as otherwise provided in Government Code Section 66341, no ADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot). A JADU may not be sold or otherwise conveyed separately from the lot and the primary dwelling.

N. Septic System. If the ADU or JADU will connect to an on-site water treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.

O. Fire Sprinklers.

1. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.

2. The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

P. Owner Occupancy with JADU.

a. Generally. As required by state law, JADUs are generally subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person's legal domicile and permanent residence.

b. Exceptions. The owner-occupancy requirement in this subsection (G) does not

apply in either of the following situations:

3. The JADU has separate sanitation facilities (i.e., does not share sanitation facilities with the existing primary dwelling unit structure).

4. The property is entirely owned by another governmental agency, land trust, or housing organization.

c. ADUs. ADUs are not subject to an owner-occupancy requirement.

Q. Deed Restriction. Prior to issuance of a certificate of occupancy for a JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Community Development Director. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the city and must provide that:

6. The JADU may not be sold separately from the primary dwelling.

7. A JADU created cannot be rented for less than 30 days.

8. The JADU is restricted to the approved size and to the other attributes allowed by this section.

9. The deed restriction runs with the land and may be enforced against future property owners.

10. The deed restriction is enforceable by the director or his or her designee for the benefit of the city. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the city is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the JADU in violation of the recorded restrictions or abatement of the illegal unit.

R. Building and Safety.

a. Must Comply With Building Code. Subject to subsection (I)(b) below, all ADUs and JADUs must comply with all local building code requirements.

b. No Change of Occupancy. Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code, unless the building official or Code Enforcement Division officer makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection (I)(b) prevents the city from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section.

L. Certificate of Occupancy Timing.

a. Generally. No certificate of occupancy for an ADU or JADU may be issued before the certificate of occupancy is issued for the primary dwelling unit.

b. Limited Exception for State-Declared Emergencies. Notwithstanding subsection (J)(a) above, a certificate of occupancy for an ADU may be issued before a certificate of occupancy for the primary dwelling if each of the following requirements are met:

1. The county is subject to a proclamation of a state of emergency made by the California Governor on or after February 1, 2025.

2. The primary dwelling was substantially damaged or destroyed by an event referenced in the Governor's state of emergency proclamation.

3. The ADU has been issued construction permits and has passed all required inspections.

4. The ADU is not attached to the primary dwelling.

M. Height.

a. No ADU subject to this chapter may exceed 16 feet in height above grade, except as provided in subsections (K)(b) through (K)(d) of this section.

b. A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single-family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that matches the roof pitch of the primary dwelling unit.

c. A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed 18 feet in height.

d. An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection (K)(d) may not exceed two stories.

§ 17.44.090. Specific ADU requirements.

The following requirements apply only to Class 2 - Locally Regulated ADUs under Section 17.44.060 (B) above. This section does not apply to Class 1 Statutorily Regulated ADUs and JADUs under Section 17.44.060 (A) above.

H. Size.

1. The maximum floor area of a detached or attached ADU is 1,000 square feet.

2. Notwithstanding subsection (A)(1), an ADU that is created on a lot with an existing primary dwelling and that is attached to the primary dwelling is limited to 50 percent of the floor area of the existing primary dwelling, subject to subsection (A)(3).

3. Application of other development standards in this Section might further limit the size of the ADU, but no application of the percent-based size limit in subsection A.2 or of a FAR, front-setback, lot-coverage, or open-space requirement may require the ADU to be less than 800 square feet of interior livable space.

4. By definition, a JADU may not be larger than 500 square feet.

I. Setbacks.

1. The front yard setback of an ADU located on a non-beach front lot, subject to this Section, shall be at least 20 percent of the total depth of the lot, or 65 feet, whichever is less. On a beachfront lot, the front yard setback shall be 20 feet maximum or the average of the two immediate neighbors, whichever is less.

2. No part of any ADU that is subject to this Section may be located within four feet of a side or rear property line.

3. No setback is required for an ADU that is subject to this Section if the ADU is constructed in the same location and to the same dimensions as an existing structure.

4. On a beachfront lot, an ADU proposed in conjunction with, and attached to, a legally authorized replacement structure reconstructed pursuant to Section 17.60.020(C) following damage or destruction by a natural disaster, and which is located outside the footprint or envelope of the approved replacement structure, may maintain the same setback as the replacement structure it is attached to so long as the Los Angeles County Fire Department and City Building Official have determined the structure will comply will all necessary building and fire code requirements.

J. Floor Area Ratio (FAR). No ADU subject to Section 17.44.090 may cause the total

FAR of the lot to exceed 38 percent, subject to subsection 17.44.090(A)(3).

K. Lot Coverage. No ADU subject to this Section may cause the total lot coverage of the lot to exceed 45% for up to ¼ acre; 35% of the net area for lots ¼ to ½ acre and 30% of the net area up to a maximum of 25,000 square feet per parcel for lots ½ acre of more in size, subject to subsection 17.44.090(A)(3).

L. Passageway. No passageway, as defined by Section 17.44.040, is required for an ADU.

M. Parking.

1. Generally. One off-street enclosed or unenclosed parking space is required for each ADU or bedroom, whichever is less. Unenclosed parking spaces may be provided in setback areas or as tandem parking, as defined by Section 17.44.040.

2. Exceptions. No parking under subsection (F)(1) above is required in the following situations:

   a. The ADU is located within one-half mile walking distance of public transit, as defined in Section 17.44.040.

   b. The ADU is located within an architecturally and historically significant historic district.

   c. The ADU is part of the proposed or existing primary residence or part of an existing accessory structure, under Section 17.44.060(A)(1).

   d. When on-street parking permits are required but not offered to the occupant of the ADU.

   e. When there is an established car share vehicle stop located within one block of the ADU.

   f. When the permit application to create an ADU is submitted with an application to create a new single-family or new multifamily dwelling on the same lot, provided that the ADU or the lot satisfies any other criteria listed in subsections (D)(2)(a) through (D)(2)(f).

3. No Replacement Parking Required. When a garage, carport, covered parking structure, or uncovered parking space is: (a) demolished in conjunction with the construction of an ADU; or (b) converted to an ADU, those off-street parking spaces are not required to be replaced. If replacement parking is proposed by the owner, the parking must be located on hardscape.

N. Internal Connection. An attached ADU shall not be connected internally to the main residence. A detached ADU shall not be connected internally to any accessory structure except to a legally established garage that serves the ADU.

§ 17.44.100. Fees.

C. Impact Fees.

1. No impact fee shall be charged for an ADU that is less than 750 square feet of interior livable space.

2. Any impact fee that is required for an ADU that is 750 square feet or more of interior livable space must be charged proportionately in relation to the floor area of the primary dwelling unit. (e.g., the square footage of the ADU, divided by the square footage of the primary dwelling, times the typical fee amount charged for a new dwelling.)

3. A JADU or ADU with less than 500 square feet of interior livable space does not increase assessable space by 500 square feet for purposes of Education Code section 17620(a)(1)(C), and is therefore not subject to school fees under Education Code section 17620.

4. For purposes of this Section, "impact fee" means a "fee" under the Mitigation Fee Act (Government Code Section 66000(b)) and a fee under the Quimby Act (Government Code Section 66477). It does not include any connection fee or capacity charge for water or sewer service.

D. Utility Fees.

1. An ADU that is constructed with a single-family dwelling shall be subject to standard utility-connection requirements and fees for a new residential use.

2. Converted ADUs created under Section 17.44.060(A)(1) are not required to have a new or separate utility connection directly between the ADU and the utility. Nor is a connection fee or capacity charge required unless the ADU is constructed with a new single-family home (per subsection (B)(1) above).

3. All ADUs not covered by subsection (B)(1) or (B)(2) above require a new, separate utility connection directly between the ADU and the utility for any utility service that is provided by the City.

   c. All utilities that are not provided by the City are subject to the connection and fee requirements of the utility provider.

   d. The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU, based on either the square footage or the number of drainage-fixture units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system. The fee or charge may not exceed the reasonable cost of providing this service.

§ 17.44.110. Nonconforming Zoning Code conditions, Building Code violations, and unpermitted structures.

C. Generally. The city will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.

D. Unpermitted ADUs and JADUs Constructed Before 2020.

1. Permit to Legalize. As required by state law, the city may not deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if denial is based on either of the following grounds:

   a. The ADU or JADU violates applicable building standards, or

   b. The ADU does not comply with the state ADU or JADU law or with this Chapter 17.44.

2. Exceptions:

   a. Notwithstanding subsection (B)(1) above the city may deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if the city makes a finding that correcting a violation is necessary to comply with the standards specified in California Health and Safety Code Section 17920.3.

   b. Subsection (B)(1) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code Section 17920.3.