

ORDINANCE NO. 517

AN ORDINANCE OF THE CITY OF MALIBU AMENDING SECTION 15.40.020 (DEFINITIONS); SECTION 15.40.050, (OWTS REQUIREMENTS FOR BUILDINGS); SECTION 15.40.080 (CUMULATIVE IMPACTS); SECTION 15.42.050 (WASTEWATER DESIGN FLOWS) SECTION 15.44.030 (OWTS OPERATING PERMIT REQUIREMENT); SECTION 15.44.040 (RENEWAL OF OWTS OPERATING PERMITS), AND SECTION 15.44.50 (OWTS INSPECTION AND OPERATING PERMIT CRITERIA) OF THE MALIBU MUNICIPAL CODE AND DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

SECTION 1. Recitals.

A. Home Occupation Use (HOU) is a significant concern for the City due to the increased hydraulic and strength loading to Onsite Wastewater Treatment Systems and the potential impacts to the general public health and safety that overtaxed Onsite Wastewater Treatment Systems pose to the City.

B. An increase in the quantity and/or strength of flow to the disposal system can pose a danger, potentially leading to disposal system failure. In a state of failure, untreated or partially treated sewage may discharge onto the surface, adversely affecting public health, water quality, and the environment in the City.

SECTION 2. Chapters 15.40, 15.42, and 15.44 of the Malibu Municipal Code (MMC) are hereby amended to read as follows:

A. **Section 15.40.020 (Definitions)** is hereby amended by adding the following definition:

“ ‘Home occupation’ has the same meaning as found in section 17.02.060.”

B. **Section 15.40.050 (A) (1) (OWTS Requirements for Buildings)** is hereby amended to read as follows:

A. Commercial Buildings, Multifamily Dwellings, and Home Occupation Use-AOWTS Required.

1. Buildings. Commercial buildings and multifamily dwellings that are newly constructed, or renovated, and properties with a home occupation use that increases the quantity and/or strength of flow to the OWTS by virtue of the use shall have an AOWTS unless otherwise approved by the administrative authority

for good cause. In no way does this section permit or allow any kind of use that is not otherwise permitted by this Code.

C. Section 15.40.080 Cumulative Impacts is hereby amended to read as follows:

Cumulative impact analysis evaluating the potential impact of the proposed OWTS on groundwater level and quality (i.e., effects of groundwater mounding, nitrate loading and fecal/pathogen contamination), quality of nearby surface drainages (i.e., nitrate loading and fecal/pathogen contamination), and slope stability shall be required for the following development projects:

- A. Individual OWTS with design flow greater than one thousand five hundred (1,500) gallons per day (gpd);
- B. Land divisions;
- C. OWTS for any commercial development;
- D. Any lot which involves two or more OWTS within one hundred (100) feet of each other with a combined capacity of over one thousand five hundred (1,500) gpd;
- E. OWTS for properties with a home occupation use subject to this Chapter.
- F. OWTS for multifamily residential developments;
- G. OWTS classified as a “community” system serving multiple property owners;
- H. OWTS which the City or Regional Water Board identify as presenting a potential threat to surface water or groundwater beneficial uses; and
- I. OWTS located within the contributing recharge area of known nitrate groundwater problems.

Cumulative impact analyses shall be conducted in accordance with guidelines prescribed in the Malibu OWTS Manual and shall be included as an element of the OWTS design report for the proposed project application.

D. Section 15.42.050 (C) Wastewater Design Flows is hereby amended to read as follows (there is no change to Table 15.42 (B)-3):

Commercial and Home Occupation Uses Described in section 15.40.050 (A) (1). Wastewater flows used for design of OWTS for uses other than residential shall be estimated based on the projected activities, occupancy, and facilities, using wastewater generation guidelines provided in Table 15.42.030(B)-3. For facilities not listed in Table 15.42.030(B)-3 the wastewater design flow shall be estimated based on either: (1) appropriate literature references (e.g., US EPA) for the type of facility proposed; or (2) documented wastewater flow monitoring data for no less than 3 comparable facilities. Additionally, the administrative authority may consider adjustment to the criteria listed in Table 15.42.030(B)-3 for specific facilities based upon documented wastewater flow monitoring data. In all cases, the design proposal shall include sufficient technical information to support the proposed design flow estimate. Notwithstanding the above, minimum design flow for any OWTS shall not be less than one hundred fifty (150) gpd.

- E. **Section 15.44.030.C(4c) OWTS Operating Permit Requirement** is hereby amended to read as follows:

Multifamily uses, condominiums, and properties with a home occupation use described in section 15.40.050 (A) (1).

- F. **Section 15.44.030.C OWTS Operating Permit Requirement** is hereby amended by adding the following section as item C(8):

“When the City has received an OWTS complaint for a property with a home occupation use, a City Registered OM&M is required to inspect the OWTS and provide an inspection report to the City within fifteen (15) days of the city’s receipt of the complaint. The home occupation use will be required to cease operation until all required repairs, modifications, replacements, and/or upgrades have been completed to the satisfaction of the administrative authority.

- G. **Section 15.44.040 Renewal of OWTS Operating Permits** is hereby amended to read as follows:

- A. Operating permits for properties with a home occupation use shall be valid for two (2) years from the date of issuance unless sooner revoked by the administrative authority pursuant to this chapter.
- B. Operating permits for an OWTS serving commercial or multifamily uses shall be valid for two (2) years from the date of issuance unless sooner revoked by the administrative authority pursuant to this chapter.
- C. Operating permits for advanced onsite wastewater treatment systems serving single-family uses shall be valid for three (3) years from the date of issuance unless sooner revoked by the administrative authority pursuant to this chapter.
- D. Operating permits for conventional onsite wastewater treatment systems serving single-family uses shall be valid for five (5) years from the date of issuance unless sooner revoked by the administrative authority pursuant to this chapter.
- E. The owner of real property served by an OWTS is responsible for the timely renewal of the operating permit. It shall be a violation of this chapter for an owner of real property served by an OWTS to allow an operating permit to lapse for a period longer than thirty (30) days unless the property owner has entered into a compliance agreement with the city for any necessary repairs, upgrades or modifications to the OWTS.

- H. **Section 15.44.050 OWTS Inspection and Operating Permit Criteria** is hereby amended to read as follows:

- A. An operating permit will not be issued to a property owner until the OWTS has been inspected by a City approved OWTS inspector and found to be operating in compliance with the City’s Guidelines for the Inspection of Onsite Wastewater

- Treatment Systems in the Malibu OWTS Manual and with any applicable conditions previously stipulated for the system.
- B. All inspections required by this chapter shall be conducted by a City approved OWTS inspector in accordance with the guidelines.
 - C. All residential properties with a home occupation use described in section 15.40.050 (A) (1) shall obtain an inspection annually. The City will revoke the operating permit and suspend home occupation use activities until all required repairs, modifications, replacements, and/or upgrades have been completed to the satisfaction of the administrative authority.
 - D. The results of any inspection required by this chapter shall be reported to the administrative authority by the OWTS inspector on the official inspection form for onsite wastewater treatment systems.
 - E. The administrative authority shall establish and approve the guidelines for the inspection of onsite wastewater treatment systems and the official inspection form for onsite wastewater treatment systems and any amendments thereto.
 - F. It is a violation of this code to falsify, misrepresent, or fraudulently alter or manipulate a system inspection form.

SECTION 3. Environmental Review.

This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The City Council hereby finds that under Section 15061(b)(3) of the State CEQA Guidelines, this Ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment. It also finds the Ordinance is exempt from the requirements of CEQA pursuant to CEQA Guidelines Sections 15307 and 15308 as an action by a regulatory agency taken to protect the environment and natural resources.

SECTION 4. Severability.

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

The City Council hereby declares that it would have passed this ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional.

SECTION 5. Certification.

The City Clerk shall certify the passage and adoption of this ordinance and enter it into the book of original ordinances.

SECTION 6. Effective Date.

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

PASSED, APPROVED AND ADOPTED this 24th day of June 2024.

STEVE UHRING, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

Date: _____

APPROVED AS TO FORM:

TREVOR RUSIN, Interim City Attorney

I CERTIFY THAT THE FOREGOING ORDINANCE NO. 517 was passed and adopted at the Regular City Council meeting of June 24, 2024, by the following vote:

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

KELSEY PETTIJOHN, City Clerk
(seal)