

## PROPOSED

### MALIBU LOCAL COASTAL PROGRAM AMENDMENT

December 27, 2013

LCPA No. 12-002

The existing language in the certified LCP is shown in straight type. The language proposed by the City of Malibu in this amendment to be inserted is shown underlined. The language proposed by the City of Malibu to be removed in this amendment is shown as ~~stuck-out~~.

A. Add the new definitions in alphabetical order to LIP Section 2.1 (Definitions) to read as follows:

ADJUSTED REGIONAL HOUSING NEEDS ASSESSMENT (RHNA) – the unmet very-low and low-income RHNA after crediting units by income category constructed during the current planning period.

AFFORDABLE HOUSING AGREEMENT – a legally binding agreement between an applicant and the City of Malibu to ensure that continued affordability of the Affordable Housing Units persists and the units are maintained in accordance with Section 3.7 of the Local Implementation Plan.

AFFORDABLE HOUSING / AFFORDABLE RESIDENTIAL UNIT – a housing unit which is available for sale to moderate income households or for rent to low and/or very-low income households, as those terms are defined in this chapter.

AFFORDABLE HOUSING DEVELOPMENT - a multi-family residential development in which all of the affordable bonus units are affordable to low and moderate income households.

AFFORDABLE RENT – monthly rent charged to low and very-low income households for housing units as calculated in accordance with Section 50053 of the California Health and Safety Code.

AGRICULTURAL EMPLOYEE – a person employed for the purpose of engaging in agriculture, including: farming in all its branches, and, among other things, includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in Section 1141j(g) of Title 12 of the United States Code), the raising of livestock, bees, furbearing animals, or poultry, and any practices performed by a farmer or on a farm as an incident or in

conjunction with such farming operations, including preparation for market and delivery to storage or to market or to carriers for transportation to market.

AGRICULTURAL EMPLOYEE HOUSING – any living quarters or accommodations of any type specifically for agricultural employees and which comply with Health and Safety Code Sections 17008 and 17021.6 and other applicable provisions of the Employee Housing Act.

CONCESSIONS – regulatory allowances which include, but are not limited to, the reduction of site development standards or zoning code requirements, approval of mixed use zoning in conjunction with the Housing Development, or any other regulatory incentive which would result in an identifiable, financially sufficient, and actual cost reductions that are offered in addition to a density bonus.

CONVERSION – a change of a residential dwelling, including a mobile home, as defined in Section 18008 of the Health and Safety Code, or a mobile home lot in a mobile home park, as defined in Section 18214 of the Health and Safety Code, or a residential hotel, as defined in paragraph (1) of subdivision (b) of Section 50519 of the Health and Safety Code, to a condominium, cooperative, or similar form of ownership, or to a non-residential use.

DENSITY BONUS – a density increase for residential units over the otherwise allowed residential density under the applicable zoning and land use designation on the date an application is deemed complete.

DENSITY BONUS UNITS – those additional residential units gained pursuant to the provisions of the Density Bonus Ordinance.

DWELLING, SUPPORTIVE HOUSING – a building or buildings configured as rental housing development with no limit on length of stay, that is occupied by a “target population”, and that is linked to on- or off-site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

DWELLING, TRANSITIONAL HOUSING – a building or buildings configured as rental housing development occupied by the “target population”, but operated under programs requirements that call for termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.

EMERGENCY SHELTER – housing with minimal supportive services for homeless persons, which is limited to occupancy of six months or less by a homeless person and is operated by a government agency or private non-profit organization.

EMPLOYEE HOUSING – means “employee housing” as defined in Health and Safety Code Section 17008.

EXTREMELY-LOW INCOME (ELI) HOUSEHOLD – a household whose income does not exceed 30 percent of the area median income for Los Angeles County, as published and periodically updated by the State Department of Housing and Community Development, pursuant to Section 50052.5 of the California Health and Safety Code.

HOMELESS SHELTER – see EMERGENCY SHELTER.

HOUSING DEVELOPMENT – a development project for five or more residential units. Within the Density Bonus Ordinance, it shall also include a subdivision or common interest development, a project which rehabilitates and converts a commercial building to a residential use and a condominium conversion of an existing multi-family building.

INCENTIVES – see CONCESSIONS.

INITIAL SUBSIDY – the fair market value of the home at the time of initial sale, minus the initial sale price to the moderate income household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value (e.g.  $X$  (fair market value of the home to be purchased) –  $Y$  (the price the moderate income household paid for the home) +  $Z$  (amount of any down payment assistance) = Initial Subsidy).

LOW INCOME HOUSEHOLD – a household whose income does not exceed 80 percent of the area median income for Los Angeles County, as published and periodically updated by the State Department of Housing and Community Development, pursuant to Section 50079.5 of the California Health and Safety Code.

LOWER INCOME HOUSEHOLDS – include persons and families whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. Lower income households include Very-Low Income Households, as defined in Section 50105 of the California Health and Safety Code, and Extremely-Low Income Households, as defined in Section 50106 of the California Health and Safety Code.

MODERATE INCOME HOUSEHOLD – a household whose gross income does not exceed 120 percent of the area median for Los Angeles County, as published and periodically updated by the State Department of Housing and Community Development, pursuant to Sections 50079.5 and 50052.5 of the California Health and Safety Code.

PROPORTIONATE SHARE OF APPRECIATION – the ratio of the local government's Initial Subsidy as defined to the fair market value of the home at the time of initial sale (e.g.  $X$  (initial subsidy) /  $Y$  (fair market value) = Proportionate Share of Appreciation).

QUALIFYING RESIDENT – a person 62 years of age or older, or 55 years of age or older in a senior citizen housing development, as defined in Section 51.2 of the California Civil Code.

REGIONAL HOUSING NEEDS ASSESSMENT (RHNA) - the projected housing need by income category for the current planning period pursuant to Government Code Section 65583.2(h), as adopted by the Southern California Association of Governments in accordance with Government Code Section 65584.

RESIDENTIAL CARE FACILITY, LARGE – any family home or group care facility serving seven or more persons in need of personal services, supervision or assistance essential for sustaining the activities of daily living or for the protection of the individual, excluding jails or other detention facilities.

RESIDENTIAL CARE FACILITY, SMALL - any family home or group care facility serving six or fewer persons in need of personal services, supervision or assistance essential for sustaining the activities of daily living or for the protection of the individual, excluding jails or other detention facilities.

RESTRICTED UNIT –a dwelling unit that is affordable to very-low, low-, and moderate-income persons.

SENIOR CITIZEN HOUSING DEVELOPMENT – a residential development developed, substantially rehabilitated or renovated, and having at least 35 dwelling units for senior citizens in compliance with the requirements of Sections 51.3 and 51.12 of the California Civil Code, or a mobile home park that limits residency based on age requirements for housing for older persons pursuant to Sections 798.76 or 799.5 of the California Civil Code.

SINGLE-ROOM OCCUPANCY FACILITY –a structure that provides living units that have separate sleeping areas and may have private or some combination of shared bath or toilet facilities. The structure may or may not have separate or shared cooking facilities for the residents.

SINGLE-ROOM OCCUPANCY UNIT –a room that is used, intended or designed to be used by no more than two persons as a primary residence, but which lacks either or both a self-contained kitchen or bathroom.

TARGET POPULATION – persons or families who are “homeless” (as that term is defined by Section 11302 of Title 42 of the United State Code), or who are “homeless youth” (as that term is defined by paragraph (2) of subdivision (e) of Section 11139.3 of the Government Code). Individuals and families currently residing in supportive housing meet the definition of “target population” if the individual or family was “homeless” as that term is defined by section 11302 of Title 42 of the United States Code, when approved for tenancy in the supportive housing project in which they currently reside.

VERY-LOW INCOME HOUSEHOLD – a household whose income does not exceed 50 percent of the area median income for Los Angeles County, as published and periodically updated by the State Department of Housing and Community Development, pursuant to Section 50105 of the California Health and Safety Code.

B. Delete “RESIDENTIAL CARE FACILITY” definition contained in LIP Section 2.1 (Definitions).

C. Amend LIP Section 3.4 (Overlay Zones) to read as follows:

Overlay zone regulations provide for the establishment of certain overlay zones in areas where, by reason of location, topography, existing development conditions, or other circumstances, development impacts may be greater or circumstances may necessitate additional site-specific regulation to further the purpose of this ordinance. Overlay zones may also be used to increase density and uses in underlying zones in order to facilitate affordable housing. Unless otherwise specified, aAll uses within the boundaries of an overlay zone shall comply with the provisions of the overlay zone in addition to applicable standards in the underlying zone, other provisions of this ordinance, and other provisions of law.

D. Add LIP Section 3.4.4 (Affordable Housing Overlay District) to read as follows:

3.4.4 Affordable Housing Overlay District

A. Purpose and Applicability.

The Affordable Housing Overlay (AHO) District is intended to identify sites within the City where affordable housing developments may be established and maintained in compliance with this Section. The AHO implements General Plan Housing Element Implementation Plan Program 2.2 by designating adequate sites to accommodate the City’s assigned lower-income housing need as

identified in the Regional Housing Needs Assessment (RHNA). The Zoning Map shall designate sufficient sites within the AHO to accommodate the Adjusted RHNA for the current Housing Element planning period. In addition to (and not as a limitation of) uses allowed within the underlying zoning district and any other applicable overlay, each property within the AHO District may be developed with an Affordable Housing Development, wholly independent of and not constrained by the underlying zoning district, subject to the provisions set forth below.

B. Description of Area Subject to LIP Section 3.4.4.

<u>Table 1 – AHO District Sites</u>		
<u>Site Number</u>	<u>APNs</u>	<u>Address</u>
<u>1</u>	<u>4467-013-022 and 4467-013-023</u>	<u>28517 Pacific Coast Highway and adjacent vacant lot</u>
<u>2</u>	<u>4467-012-005</u>	<u>28401 Pacific Coast Highway</u>
<u>3</u>	<u>4458-022-023 and 4458-022-024</u>	<u>A 2.3 acre portion of 3700 La Paz Lane (also known as 23465 Civic Center Way)</u>

C. Permitted Uses.

1. Affordable housing development is permitted in the AHO subject to the development standards set forth in this Section.

D. Standards.

The Residential Development Standards contained in Section 3.6 of the Malibu LIP, as well as all other applicable LCP provisions, shall apply, unless specifically modified by standards detailed in this Section (3.4.4). The following special specific regulations shall apply to the AHO sites identified in Table 1 above.

1. Density. Affordable housing developments in the AHO shall:
  - a. Have a minimum density of twenty (20) units per net acre.
  - b. Have a maximum density of one dwelling unit per 1,613 square feet of lot area including the additional density bonus pursuant to Section 3.7.1 of the Malibu LIP.
  - c. Have a minimum of sixteen (16) dwelling units.
  - d. All units in excess of the permitted base density of six (6) dwelling units per acre, shall be affordable to lower and moderate income households as set forth in Subsection E below. A minimum of 50 percent of all units in excess of the six (6) units per acre shall be deed restricted (“restricted units”) as very-low or low-income multi-family dwelling units.

- e. Notwithstanding, a mixed-use development consisting of an affordable housing development and commercial development may be allowed in the CC zoning district, provided that the residential portion of the project complies with the requirements of this Section, in addition to all other applicable requirements of the Malibu LIP, and the commercial portion of the project complies with the applicable requirements of Section 3.8 of the Malibu LIP.

E. Development Standards.

- 1. Site of Construction. Structures may be constructed on slopes flatter than 1½:1.
- 2. Hillside Development. Affordable housing development is exempt from the hillside development standards of 17.40.040(A)(20) of the Malibu Municipal Code.
- 3. General Guidelines. The lower-income multi-family dwelling units required under this Section:
  - a. May either be rental or for-sale dwellings;
  - b. Shall be comparable in number of bedrooms, exterior appearance and overall quality of construction to non-restricted units;
    - c. May be comprised of up to 33 percent less square footage than market rate units of the same bedroom count;
    - d. The construction materials and practices shall be comparable to those used for the market rate units;
    - e. The exterior grounds shall be landscaped and well maintained; and
    - f. The units shall be disbursed throughout the project site and not clustered in a single location.

F. Affordability.

- 1. Rental units. Prior to the issuance of any building permit for an Affordable Housing Development in the AHO, the property owner shall enter into and record an Affordable Housing Agreement per Section 3.7.2 of the Malibu LIP for a period of not less than 55 years.

2. For-sale or owner-occupied units. Prior to the issuance of any building permit for an Affordable Housing Development in the AHO, the property owner shall enter into and record in the office of the Los Angeles County Recorder a covenant in a form approved by the City restricting future sale prices to levels affordable to lower-income households and including procedures for verifying and maintaining compliance with income eligibility requirements for a period of not less than 55 years.

E. Amend LIP Section 3.6.C. to read as follows:

- C. Except as specifically provided herein, every single-family residence shall be not less than 20 feet in width. A single-family residence need only be a minimum of 18 feet wide when it is to be located on a lot or parcel of land less than 26 feet in width. In order to allow for flexibility and creativity of design, a single-family residence may be less than 20 feet wide, but not less than 12 feet, if the floor area, exclusive of appurtenant structures, is at least 900 square feet and the side or sides oriented toward a public street, highway or parkway have a dimension of at least 20 feet. Additions to single-family residences are not restricted as to width;

F. Amend LIP Section 3.6.D.2 to read as follows:

2. For each multi-family dwelling unit, not less than 300 ~~750~~ square feet, exclusive of any appurtenant structures.

G. Amend LIP Section 3.6.H. to read as follows:

- H. Development Area. Every single-family residential development shall be contained within a convex-shaped enclosure that shall not exceed 2 acres, except where otherwise restricted by provisions of the ESHA Overlay Chapter (Chapter 4), Scenic and Visual Resources Chapter (Chapter 6), or Grading Chapter (Chapter 8) of the Malibu LIP.

H. Amend LIP Section 3.6.I.1. and add LIP Section 3.6.I.2 to read as follows:

~~Impermeable Coverage. Use of permeable surfaces is encouraged, especially for driveways. However, including the primary structure, impermeable surfaces are permitted for residential lot areas (excluding slopes equal to or greater than 1:1), up to 1/4 acre at 45%; for lot areas greater than 1/4 acre but a 1/2 acre or less, at 35% and for lots greater than 1/2 acre at 30% up to a maximum of 25,000 square feet. Beachfront lots shall not be subject to this Paragraph.~~

1. Single Family. Use of permeable surfaces is encouraged, especially for driveways. However, including the primary structure, impermeable surfaces are permitted for residential lot areas (excluding slopes equal to or greater than 1:1), up to 1/4 acre at 45%; for lot areas greater than 1/4

acre but a 1/2 acre or less, at 35% and for lots greater than 1/2 acre at 30% up to a maximum of 25,000 square feet. Beachfront lots shall not be subject to this paragraph.

2. Multi-family. Twenty-five (25) percent of the lot area (excluding slopes equal to or greater than 1:1 and street easements) shall be devoted to landscaping. The required five (5) foot landscape buffer around the perimeter of parking areas pursuant to Section 3.12.5(E)(1) of the Malibu LIP shall count toward the twenty-five (25) percent requirement. An additional five (5) percent of the lot area (excluding slopes equal to or greater than 1:1 and street easements) shall be devoted to permeable surfaces.

- I. Amend LIP Section 3.6.K to read as follows without affecting subsections:

K. Residential Structure Size.

Except as specifically provided herein and where otherwise restricted by provisions of the ESHA Overlay Ordinance (Chapter 4), of the Malibu LIP, and as indicated on the Total Development Square Footage Structure Size Chart, the total development square footage associated with the construction of a single-family residence or ~~multiple-family residence~~ on a legal lot equal to or greater than 5 acres shall not exceed a total of 11,172 square feet. On lots 5,000 square feet or less, the total development square footage shall not exceed 1,885 square feet. Total development square footage shall be determined based on the following formula (slopes equal to or greater than 1:1 shall be excluded from the lot area calculation): for lot areas up to 1/2 acre, total square footage shall be 17.7% of lot area plus 1,000 square feet; for lot areas greater than 1/2 acre and up to 1 acre, total development square footage shall be increased by 10% of the amount of lot area exceeding 1/2 acre; for lot areas greater than 1 acre and up to 1 1/2 acre, total development square footage shall be increased by 5% of the amount of lot area exceeding 1 acre; for lot areas greater than 1 1/2 acres and up to 5 acres, total development square footage shall be increased by 2% of the amount of the lot area exceeding 1 1/2 acres. For the purposes of this subsection, arbors or trellis open to the sky shall not be calculated as part of the total development square footage. Beachfront lots shall be exempt from the total development square footage provisions of this paragraph.

For construction of a multi-family residence, except as specifically provided herein and where otherwise restricted by provisions of the ESHA Overlay Ordinance (Chapter 4) of the Malibu LIP, the TDSF associated with the construction of a multi-family residence on a legal lot shall be limited by the maximum density permitted onsite, the required setbacks, and the maximum height allowed.

For both single-family and multi-family residences the following standards apply:

- J. Amend LIP Section 3.6.N.1.b. to read as follows:
- b. A maximum of one second residential unit may be permitted as an accessory to a permitted or existing single-family dwelling. Development of a second residential unit shall require that a single-family primary dwelling unit be developed on the lot prior to or concurrent with the second residential unit.
- K. Amend LIP Section 3.6.N.2.b. to read as follows:
- b. Any permitted accessory structure shall be located within the approved development area for the project site and shall be clustered with the single-family primary dwelling unit and any other approved structures to minimize required fuel modification.
- L. Amend LIP Section 3.7 (Residential Density Bonus Ordinance) to read as follows:

### 3.7 AFFORDABLE HOUSING

#### 3.7.1 Residential Density Bonus

##### A. Purpose and Intent.

The purpose of this section is to implement the incentive program provided in the State density bonus regulations (Government Code Sections 65915 through 65918) in order to provide additional opportunities for the provision of affordable housing within the City of Malibu in compliance with the policies set forth in the General Plan Housing Element. Within the Coastal Zone, any housing development approved pursuant to Government Code Section 65915 shall be consistent with all applicable Local Coastal Program policies and development standards. The intent of the following regulations is to ensure that, to the maximum extent feasible, the provisions of Government Code Sections 65915 through 65918 ~~Government Code that allows developers of certain types of residential projects that comply with all standards set forth in Government Code Section 65915, to build no more than 25 percent more units than a property's zoning would ordinarily allow. In exchange for this density bonus, the owners must make the units affordable for 30 years if an incentive is utilized in addition to the density bonus specified in Government Code Section 65915(b) or for 10 years if an incentive or concession (identified in 65915(h)) is not utilized in addition to the~~

density bonus. This section insures that, to the maximum extent feasible, the provisions of Government Code section 65915 are implemented in a manner that is consistent with the policies of Chapter 3 of the Coastal Act and is most protective of coastal resources. In the event that any provision of this section conflicts with State law, State law shall control.

B. Eligibility.

A density bonus may be granted to an eligible housing development in any residential district through approval of a use permit by the city council (after recommendation from the planning commission). In order to qualify for a density bonus or other financial incentives of equivalent value as specified in Government Code Section 65915 the developer of a Housing Development project shall agree to construct one of the following:

1. At least 10 percent of the total units of a housing development for persons and families of lower income;
2. At least 5 percent of the total units of a housing development for very low income households;
3. A senior citizen housing development; or
4. At least 10 percent of the units in a common interest subdivision for persons and families of moderate income.

Only one density bonus up to a maximum of 35 percent shall be granted to each project regardless of the number of preceding qualifying commitments made by the developer.

C. General Provisions for Density Bonuses and Incentives/Concessions.

In accordance with Government Code Section 65915, the City shall consider a density bonus and provide incentives or concessions for a housing development subject to the following provisions:

1. Determination of unit count. When determining the percentage of housing units which are to be affordable, the density bonus units shall not be included.
2. Minimum project size. A project must contain at least five dwelling units in order to be considered for a density bonus.

3. Previous density bonuses. The density bonus provision shall not apply to any parcel or project area which has previously been granted increased density through a general plan amendment, zone change or other permit to facilitate affordable housing.
  4. Dispersal of affordable units. "Affordable" or "density bonus" units shall be generally dispersed throughout a development project and shall not differ in appearance from other units in the development.
  5. Regulatory incentives. In accordance with Government Code Section 65915, in addition to a density bonus the City shall grant at least one of the following regulatory concessions and/or incentives to insure that the residential project will be developed at a reduced cost:
    - a. A reduction in the site development standards or a modification of zoning code requirements including, but not limited to, reduced minimum lot size or dimensions; or reduced minimum setbacks.
    - b. Approval of mixed-use development in conjunction with a multi-family residential project if commercial, office, industrial or other land uses will reduce the cost of the housing development and if the project will be compatible internally as well as with the existing or planned development in the area where the proposed project will be located.
    - c. Other regulatory incentives or concessions proposed by the developer or the city which result in identifiable cost reductions.
- D. Procedures for Approval.
1. Notification to developer. The city shall, within 90 days of receipt of a written proposal to utilize a density bonus for affordable housing, notify the developer in writing of the procedures governing these provisions.
  2. Findings. When required by Government Code Section 65915, the City shall grant a density bonus that allows the applicant to build no more than 35 percent more units than a property's zoning would ordinarily allow, if the City finds:
    - a. The number of units permitted by the use permit is compatible with the existing and planned infrastructure and service facilities serving the site;
    - b. The developer has demonstrated that the density bonus and adjustment of standards is necessary to make the project economically feasible;

- c. The proposed increased density is consistent with Section 30604(f) of the California Coastal Act, Government Code Section 65915 and Section 3.7.1 of the Local Coastal Program;
  - d. If located within the coastal zone, the project is found to be in conformity with the Local Coastal Program (including but not limited to sensitive habitat, agriculture, public viewshed, public services, public recreational access and open space protections), with the exception of the density provisions; and
  - e. The proposed project is compatible with the goals and policies of the general plan and purpose and intent of this code.
3. In accordance with Government Code Section 65915(f), the density bonus shall be calculated based on the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan. The “otherwise maximum allowable residential density” shall mean the maximum density determined by applying all site-specific environmental development constraints applicable under the coastal zoning ordinances and land use plan certified by the Coastal Commission.
4. Any housing development approved pursuant to Government Code Section 65915 shall be consistent, to the maximum extent feasible and in a manner most protective of coastal resources, with all otherwise applicable certified local coastal program policies and development standards. If, however, the City determines that the means for accommodating the density increase proposed by the applicant will have an adverse effect on coastal resources, before approving a density increase, the City shall identify all feasible means of accommodating the density increase and consider the effects of such means on coastal resources. The City shall require implementation of the means that are most protective of significant coastal resources.
5. For the purposes of this section, “coastal resources” means any resource which is afforded protection under the policies of Chapter 3 of the Coastal Act, California Public Resources Code section 30200 et seq., including but not limited to public access, marine and other aquatic resources, environmentally sensitive habitat, and the visual quality of coastal areas.
6. For any housing development where the City approves a density bonus, prior to issuing the coastal development permit, the owner must record an affordable housing agreement pursuant to Section 3.7.2 of the Malibu LIP.
- E. Required Terms for Continued Availability of Affordable Units.

1. Low and Very-Low Income Households. An applicant providing Low and Very-Low income units in accordance with this chapter must continue to restrict those units to Low or Very-Low Income Households for a minimum of 55 years or longer term under another regulator agreement from the date of initial occupancy.
2. Moderate Income Households. In the case of a Housing Development providing Moderate income units, the initial occupant of the unit must be a Moderate Income Household and the sale price must be affordable to moderate income households and Household and the sale price must be affordable to moderate income households.
  - a. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment and the seller's proportionate share of appreciation. The local government shall recapture any Initial Subsidy and its Proportionate Share of Appreciation; which shall be used within five years for any of the purposes described in subsection (e) of Section 33334.2 of the California Health and Safety Code that promote home ownership. Any recaptured funds shall be deposited into a Housing Trust Account to be used in accordance with subsection (e) of Section 33334.2 of the California Health and Safety Code.

### 3.7.2. Applicability Affordable Housing Agreement

~~This section applies to a "housing development," as defined in Government Code section 65915(g), when the development is for the type of housing specified in Government Code section 65915(b)(1), (b)(2) or (b)(3). This section also applies only to projects where the land use designations in the LCP allow development of at least five residential units on the parcel or parcels where the project is located.~~

An applicant that chooses any option for satisfying the affordability requirements of this chapter shall enter into an Affordable Housing Agreement ("Agreement") with the City. The Agreement shall be executed in a recordable form prior to the issuance of a building permit for any portion of a project including affordable units, subject to the requirements of this chapter.

- A. The Agreement shall:
  1. Provide a description of the project, how the affordable housing requirements will be met by the applicant, and whether the affordable units will be rented or owner-occupied;
  2. Identify the type, size and location of each Affordable Housing Unit required hereunder;

3. Identify the incentive(s) and/or concession(s) provided by the City (if any) for a density bonus;
  4. Identify limits on income, rent, and sales price of affordable units;
  5. Identify the term of the agreement, which would define the term of affordability of the required units;
  6. Require that the Affordable Housing Units be constructed and completed by the applicant as specified in this chapter and in accordance with State law;
  7. Require that each Affordable Housing Unit be kept available only to members of the identified income group at the maximum affordable rent during the term of the Agreement;
  8. Describe procedures for tenant selection and the process for qualifying prospective households for income eligibility;
  9. Identify provisions and/or documents for resale restrictions, deeds of trust, rights of first refusal for owner-occupied units, or restrictions for rental units;
  10. Include performance guarantees (e.g., a cash deposit, bond, or letter of credit) as required by the City; and
  11. Include provisions for the enforcement and penalties for violation of the agreement.
  12. Identify the means by which such continued availability shall be secured and enforced and the procedures under which the Affordable Housing Units shall be leased and shall contain such other terms and provisions, the City may require.
- B. The Agreement, in its form and manner of execution, shall be in a form approved by the City Attorney and able to be recorded with the Los Angeles County Recorder. Additional rental or resale restrictions, deeds of trust, rights of first refusal and/or other documents shall also be recorded against owner-occupied affordable units.
- C. The affordability of the required units shall be monitored for compliance by Planning Department staff. The Planning Director is hereby expressly authorized to act as the City's agent to enter into the Agreement for the purpose of enforcing the terms of the Agreement consistent with this chapter. The agreement shall include a provision for reimbursement of the City's costs of monitoring.

### 3.7.3. Filing Requirements Affordable Housing Fund

~~In addition to other filing requirements in the LCP, an applicant who, pursuant to Government Code section 65915, is seeking approval of a density bonus or both a density bonus and an incentive or concession identified in Government Code section 65915(h), must provide:~~

~~A. The information required to demonstrate that the project meets all requirements of section 65915;~~

~~B. Information demonstrating that any requested incentive or concession is necessary in order to provide for affordable housing costs, as defined in Health and Safety Code section 50052.5, or for rents for the targeted units to be set as specified in Government Code section 65915(c);~~

~~C. A discussion of whether the method proposed by the applicant for accommodating the requested density bonus will have an adverse effect on coastal resources. If the applicant indicates, or if the City determines, that the method proposed for accommodating a requested density bonus will have an adverse effect on coastal resources, the applicant must submit an evaluation of: all feasible methods of accommodating the 25 percent density increase, the effects of each method on coastal resources, and the method that is most protective of significant coastal resources;~~

~~D. A discussion of whether any incentive or concession requested by the applicant will have an adverse effect on coastal resources. If the applicant indicates, or if the City determines, that an incentive or concession that is requested will have an adverse effect on coastal resources, the applicant must submit an evaluation of all feasible alternative incentives or concessions and their effects on coastal resources, and which of the feasible incentives or concessions is most protective of significant coastal resources.~~

A. Fund Revenues. The fund shall receive all in-lieu fees paid under Section 3.7.1(J)(2) and may also receive moneys from other sources.

B. Purpose and Limitations. Affordable Housing Fund moneys shall be used in compliance with the General Plan Housing Element and this chapter to construct, rehabilitate, or subsidize affordable housing or assist other governmental entities, private organizations or individuals to provide or preserve affordable housing. The fund may be used for the benefit of both rental and owner-occupied housing. Allowed uses of fund moneys include:

1. Assistance to housing development corporations;

2. Equity participation loans;
3. Grants;
4. Pre-home ownership co-investment;
5. Predevelopment loan funds;
6. Participation leases;
7. Other public-private partnership arrangements;
8. The acquisition of property and property rights;
9. Construction of affordable housing including costs associated with planning, administration, and design, as well as actual building or installation;
10. Costs of rehabilitation and maintenance of existing affordable housing when needed to preserve units that are at risk of going to a market rate or at risk of deterioration;
11. Other costs associated with the construction or financing of affordable housing;
12. Reasonable administrative charges or related expenses; and
13. Reasonable consultant and legal expenses related to the establishment and/or administration of the fund.

M. Add LIP Section 3.11.5 to read as follows:

3.11.5 Emergency Shelter Requirements

A. Purpose. The purpose of this Section is to provide development standards for emergency shelters in the City of Malibu.

B. Applicability. The provisions of this Section are applicable in the Commercial General (CG) and Institutional (I) zoning districts.

C. Regulations. An emergency shelter is a principal use allowed, subject to the issuance of an administrative plan review (per Section 17.62.030 of the Malibu Municipal Code) if the facility already exists or subject to a coastal development permit (per Section 13.6 of the Local Implementation Plan) if a new facility is proposed, subject to the following standards in each case:

1. Location. Emergency shelters shall be permitted only where adequate water supply and sewage disposal capabilities are available onsite as determined by the City Department of Environmental Sustainability, and shelters shall be located no further than 2,000 feet from a public transit stop.
2. Size Limit. The maximum number of individuals permitted to be served (eating, showering or sleeping) nightly shall not exceed the total number of beds provided within the shelter or one person per 125 square feet of floor area, whichever is less. In no case shall occupancy exceed 25 individuals at any one time. Total square footage of a new facility shall comply with the maximum square footage limit set forth for the underlying zoning district.
3. Facility Requirements.
  - a. Each occupant shall be provided a minimum of 50 square feet of personal living space, not including space for common areas.
  - b. Bathing facilities shall be provided in quantity and location as required by the California Plumbing Code (Title 24 Part 5), and shall comply with the accessibility requirements of the California Building Code (Title 24 Part 2).
  - c. Shelters must provide a storage area for refuse and recyclables that is enclosed by a six-foot high landscape screen, solid wall, or fence, which is accessible to collection vehicles on one side. The storage area must be large enough to accommodate the number of bins that are required to provide the facility with sufficient service so as to avoid the overflow of material outside of the bins provided.
  - d. The shelter may provide one or more of the following specific facilities and services onsite, including but not limited to:
    - i. Commercial kitchen facilities designed and operated in compliance with the California Retail Food Code;
    - ii. Dining area;
    - iii. Laundry room;
    - iv. Recreation room;
    - v. Support services (e.g. training, counseling, etc.); and
    - vi. Child care facilities.

4. Management. A shelter shall have an onsite management office, with at least one employee present at all times during which the shelter is in operation and is occupied by at least one resident.
5. Proximity to Other Shelters. No emergency shelter shall be located within 300 feet of another emergency shelter. The 300 foot separation shall be measured from the nearest points of the property lines on which the shelters are located.
6. Length of Stay. Individual occupancy in an emergency shelter is limited to six months in any 12 month period (Section 50801 of the Health and Safety Code).
7. Onsite Waiting and Intake Areas. A minimum of five percent of the total square footage of a shelter shall be designated for indoor onsite waiting and intake areas. In addition, an exterior waiting area shall be provided, the minimum size of which is equal to or larger than the minimum interior waiting and intake area.
  - a. Staging for drop-off, intake and pick-up should take place inside a building, at a rear or side entrance, or inner courtyard.
  - b. Shelter plans shall show the size and location of any proposed waiting or occupant intake areas, interior and exterior.
8. Off-Street Parking. Parking shall be provided, in accordance with Section 3.14.3 of the Local Coastal Program.

D. Reviewing Authority.

1. Applications for emergency shelters shall be reviewed by the Director or his/her designee, if no approval is sought other than the request for the use of an existing facility. An administrative plan review shall be required for a shelter use pursuant to Section 17.60.030 of the Municipal Code. If the proposed use meets the requirements of this Section and is consistent with Chapter 17.40, the Director shall issue a permit.
2. Applications for the emergency shelter use submitted for concurrent review with another discretionary land use application (e.g. a coastal development permit to construct the facility) shall be reviewed by the authority reviewing the discretionary land use application.

N. Add LIP Section 3.11.6 to read as follows:

### 3.11.6 Single-Room Occupancy Facility Requirements

The following standards shall apply to any single-room occupancy (SRO) facility development proposal in addition to all other commercial development standards set forth in this Chapter.

- A. SRO units shall be for the purposes of providing affordable housing and shall not serve the purpose of recreational or travel needs.
- B. Size / Occupancy. Minimum size of 150 square feet and maximum size of 400 square feet per SRO unit. Occupancy is a maximum of two individuals.
- C. Laundry facilities must be provided onsite.
- D. Bathroom. An SRO unit is not required to but may contain partial or full bathroom facilities. If a full bathroom is not provided, common bathroom facilities shall be provided in accordance with the California Building Code for congregate residences with at least one full bathroom per floor of the facility.
- E. Kitchen. An SRO unit is not required to but may contain partial or full kitchen facilities. If a kitchen is not provided, at least one common full kitchen shall be provided per floor of the facility.
- F. Management. The SRO facility must provide 24-hour onsite management. The applicant shall provide a copy of the proposed rules governing the SRO facility to the City. The management will be solely responsible for the enforcement of all rules that are reviewed and approved by the Planning Commission as part of a conditional use permit.
- G. Off-street Parking. Parking shall be provided in accordance with Section 3.14.3 of the Local Implementation Plan.
- H. Facilities must provide a storage area for refuse and recyclables that is enclosed by a six-foot high landscape screen, solid wall, or fence, which is accessible to collection vehicles on one side. The storage area must be large enough to accommodate the numb of bins that are required to provide the facility with sufficient service so as to avoid the overflow of material outside of the bins provided.

O. Amend LIP Section 3.12.3 to read as follows:

Residential Units

Emergency Shelters One parking space per 10 adult beds, plus one parking space per employee on the largest shift

Large Residential Care Facility For each unit, 2 enclosed and 2 unenclosed spaces

In addition, one off- street parking space for each outside employee shall be provided and maintained.

Multi-family units (market rate)

For each efficiency dwelling unit, two spaces which shall be either enclosed or covered

For each one-bedroom or two-bedroom unit, three spaces, two of which shall be enclosed

For each additional bedroom above two, one space which shall be enclosed or covered

Guest parking for each four (4) units or fraction thereof, one space

Multi-family units (affordable)

For each efficiency or one-bedroom dwelling unit, one space

For each two-bedroom or three-bedroom unit, two spaces, inclusive of guest parking

For each four-bedroom or larger unit, two and one-half spaces

Guest parking for each four units or fraction thereof, one space

Single-Room Occupancy

For two units, 1 space (inclusive of guest parking)

In addition, 2 spaces for the resident manager

Small Residential Care Facility    For each unit, 2 enclosed and 2 unenclosed spaces

P. Amend LIP Section 8.3(B) to read as follows:

B. Maximum Quantity of Grading. Notwithstanding any other provisions of the Malibu LIP, grading per lot of single-family residential development, per acre of multi-family residential development, per acre of commercial development, or per acre of institutional development (total cut and fill) is limited to 1,000 cubic yards as follows:

Q. Add LIP Section 13.30 to read as follows:

13.30. HOUSING ACCESSIBILITY – REQUEST FOR REASONABLE ACCOMMODATION

A. Purpose and Intent.

This section sets forth the procedures to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Housing Act and the California Fair Employment and Housing Act (the Acts) in the application of zoning laws and other land use regulations, policies and procedures.

It is the intent of this section that, notwithstanding time limits provided to perform specific functions, application review, decision making and appeals proceed expeditiously, especially where the request is time sensitive, and so as to reduce impediments to equal access to housing.

B. Applicability.

1. A request for reasonable accommodation may be made by any person with a disability, his/her representative or any property owner, when the application of a zoning law or other land use regulation, policy or practice acts as a barrier to fair housing opportunities. Requests related to deviation from the Building Code shall apply directly to the Environmental Sustainability Department.

2. A request for reasonable accommodation may include a modification or exception to the rules, standards, practices and procedures regulating the siting, development or use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.

3. A person with a disability is a person who has a physical or mental impairment that substantially limits or substantially limits one or more major life activities; anyone who is regarded as having such impairment;

or anyone who has a record of such impairment. This section shall only apply to those persons who are defined as disabled under the Acts.

C. Application Submittal.

1. Any person with a disability may file an application for a request for reasonable accommodation with the Planning Department, on a form approved by the Planning Director (Director), and shall contain the following information, accompanied by a fee established by resolution of the City Council:
  - a. Applicant's and/or property owner's name, mailing address, daytime phone number and email address;
  - b. The address of the property for which the request is being made;
  - c. Current actual use of the property;
  - d. The basis for the claim that the individual is considered disabled under the Acts;
  - e. The specific code provision, regulation, procedure or policy of the City from which reasonable accommodation is being requested including an explanation of how application of the existing code provision, regulation, procedure or policy precludes reasonable accommodation;
  - f. The length of time the reasonable accommodation is necessary;
  - g. An explanation of why the reasonable accommodation is necessary to make the specific property accessible to the individual;
  - h. A determination of whether or not the request would result in adverse impacts to wetlands, environmentally sensitive habitat area, public access and/or public views;
  - i. A site plan or illustrative drawing showing the proposed accommodation; and
  - j. Any other information required to make the findings required by subsection 5 of this Section consistent with the Acts.
2. A request for reasonable accommodation may be filed at any time that the accommodation may be necessary to ensure equal access to housing. If the project for which the request for reasonable accommodation is being made also requires a discretionary approval (including, but not limited to: conditional use permit, site plan review, etc.), then the applicant shall file

the application submittal information together with the application for discretionary approval for concurrent review.

3. A reasonable accommodation does not affect or negate an individual's obligations to comply with other applicable regulations not at issue with the requested accommodation.
4. If an individual needs assistance in making the request for reasonable accommodation, the City shall provide assistance to ensure that the process is accessible.

D. Reviewing Authority.

1. Applications for reasonable accommodation shall be reviewed by the Director or his/her designee, if no approval is sought other than the request for reasonable accommodation. The Director may, in his/her discretion, refer applications that may have had a material effect on surrounding properties (e.g., location of improvements in the front yard, would violate a specific condition of approval, improvements are permanent) directly to the Planning Commission for a decision.
2. Applications for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the authority reviewing the discretionary land use application.

E. Findings.

A written decision to grant, grant with conditions, or deny a request for reasonable accommodation shall consider all of the following factors:

1. Whether the housing, which is the subject of the request, will be occupied by a person with a disability as defined in subsection 1 above.
2. Whether the request for reasonable accommodation is necessary to make housing available to a person with a disability as defined in subsection 1 above.
3. Whether the requested reasonable accommodation would not impose an undue financial or administrative burden on the City.
4. Whether the requested reasonable accommodation would not require a fundamental alteration in the nature of a City program or law, including but not limited to land use and zoning.
5. Whether the requested reasonable accommodation would adversely impact wetlands, environmentally sensitive habitat area, public access

and/or public views, and, if it does have such an impact, whether the request can be accomplished under a feasible alternative approach that eliminates or minimizes those impacts. Mitigation shall be included to address significant impacts.

6. Whether the feasible alternative to be implemented is the feasible alternative resulting in the least adverse impact on wetlands, environmentally sensitive habitat area, public access and/or public views.

F. Decision.

1. The Director shall consider an application, and issue a written determination within 45 calendar days of the date of receipt of a completed application. If necessary to reach a determination on any request for reasonable accommodation, the review authority may request further information from the applicant consistent with this Section, specifying in detail what information is required. In the event a request for further information is made, the applicable time period to issue a written determination shall be stayed until the applicant responds to the request.
2. At least 10 calendar days before issuing a written determination on the application, the Director shall mail notice to the applicant and all abutting property owners and occupants and those immediately across the street that the City will be considering the application and inviting written comments on the requested accommodation.
3. Upon referral from the Director, the Planning Commission shall consider an application at the next reasonably available public meeting after submission of an application for reasonable accommodation. The Commission shall issue a written determination within 45 calendar days after such public meeting.
4. Notice of Planning Commission meeting to review and act on the application shall be made in writing, 10 calendar days prior to the meeting and mailed to the applicant and all abutting property owners and occupants as well as those immediately across the street.
5. The review authority's written decision shall set forth the findings, any conditions or approval, notice of the right to appeal and the right to request reasonable accommodation on the appeals process, if necessary. The decision shall be mailed to the applicant, and when the approving authority is the Director, to any person having provided written or verbal comment on the application.
6. The written decision of the reviewing authority shall be final unless appealed in the manner set forth in subsection 8 below.

7. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.
  8. Where the improvements or modification approved through reasonable accommodation would generally require a variance, a variance shall not be required.
- G. Conditions of Approval.

In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by subsection 4 of this Section.

H. Appeals.

The process set forth in Section 13.20 shall apply, as supplemented by the following:

1. The Planning Commission or the City Council, as applicable, shall hear the matter and render a determination as soon as reasonably practicable, but in no event later than 90 calendar days after an appeal has been filed. All determinations shall address and be based upon the same findings required to be made in the original determination from which the appeal is taken.
  2. The City shall provide notice of an appeal hearing to the applicant, adjacent property owners and any other person requesting notification at least 10 calendar days prior to the hearing. The appeal authority shall announce its findings within 30 calendar days of the hearing, unless good cause is found for an extension, and the decision shall be mailed to the applicant. The Council's action shall be final.
  3. If an individual needs assistance in filing an appeal on an adverse decision, the City shall provide assistance to ensure that the appeals process is accessible.
  4. Nothing in this procedure shall preclude an aggrieved individual from seeking other state or federal remedy available.
- I. Waiver of Time Periods. Notwithstanding any provisions in this Section regarding the occurrence of any action within a specified period of time, the applicant may request additional time beyond that provided for in this Section or may request a continuance regarding any decision or

consideration by the City of a pending appeal. Extensions of time sought by applicants shall not be considered delay on the part of the City, shall not constitute failure by the City to provide for prompt decisions on applications and shall not be a violation of any required time period set forth in this Section.

J. Discontinuance. Unless the review authority determines a reasonable accommodation runs with the land, a reasonable accommodation shall lapse if the rights granted by it are discontinued for 180 consecutive days. If the person initially occupying a residence or business vacate, the reasonable accommodation shall remain in effect only if the Director determines that:

1. The modification is physically integrated into a structure and cannot easily be removed or altered to comply with Chapter 3 of the Local Implementation Plan;
2. Its removal would constitute an unreasonable financial burden; and
3. The accommodation is necessary to give another disabled individual an equal opportunity to enjoy the dwelling or business.
  - a. The Director may request the applicant or his or her successor-in-interest to the property to provide documentation that subsequent occupants are persons with disabilities. Failure to provide such documentation within 10 days of the date of a request by the Director shall constitute grounds for discontinuance by the City of a previously approved reasonable accommodation.

R. Amend Appendix 1 -LIP Table B (Permitted Uses) to make the following modifications within columns as indicated, together with additional footnotes. All other portions of Table B shall remain unaffected.

**RESIDENTIAL**

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
Single family residential <sup>15</sup>	P	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•
Multi-family residential (including duplexes, condominiums, stock cooperatives, apartments, and similar development <sup>16</sup>	•	•	CUP <sup>17</sup>	CUP <sup>17</sup>	•	•	•	•	P <sup>18</sup>	•	•	•	•	•	•	•
Large residential care facilities (serving 7 or more persons)	•	•	•	•	•	•	•	•	•	•	•	CUP	•	•	•	•
Small Residential care facilities (serving 6 or fewer persons)	P	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•
Single Room Occupancy Facility	•	•	•	•	•	•	•	•	•	•	•	P	•	•	•	•

## AGRICULTURAL/ANIMAL-RELATED

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
<u>Agricultural employee housing, animal related</u>	<u>P</u>	•	•	•	•	<u>CUP</u>	•	•	•	•	•	•	•	•	•	•
<u>Agricultural employee housing, crop related</u>	A	A	<u>CUP</u>	•	•	•	•	•	•	•	•	•	•	•	•	•

## PUBLIC, QUASI-PUBLIC, OR NON-PROFIT USES

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
<u>Emergency Shelters</u>	•	•	•	•	•	•	•	•	•	•	•	<u>P</u>	•	<u>P</u>	•	•

### Notes:

15. Transitional and supportive housing is permitted in the same manner as one single family residence and is subject to all the restrictions that apply to single family residential uses.

16. Transitional and supportive housing is permitted in the same manner as a multi-family residential use and is subject to all the restrictions that apply to multi-family residential uses.

17. Multi-family development associated with an affordable housing development project is permitted by right.

18. Multi-family development is only permitted in the CC zone if it is associated with an affordable housing development project.

S Appendix 2 (Maps) in the LIP are hereby amended to include the Affordable Housing Overlay (AHO) District which shall include the three candidate sites: 28517 Pacific Coast Highway (APN 4467-013-022 and -023); 28401 Pacific Coast Highway (APN 4467-012-005); and 3700 La Paz Lane, also known as 23465 Civic Center Way (APN 4458-022-023 and -024)

(See Next Page)

# Affordable Housing Overlay District



**Legend**

-  Affordable Housing Overlay
-  Other Parcels

