

ORDINANCE NO. 449

AN ORDINANCE OF THE CITY OF MALIBU IMPLEMENTING THE 2008-2014 GENERAL PLAN HOUSING ELEMENT BY AMENDING THE LOCAL COASTAL PROGRAM LOCAL IMPLEMENTATION PLAN, MALIBU MUNICIPAL CODE TITLE 17 AND ZONING MAP TO ADD AN AFFORDABLE HOUSING OVERLAY DISTRICT FOR THREE SPECIFIC SITES (FOUR LOTS): 28517 PACIFIC COAST HIGHWAY; 28401 PACIFIC COAST HIGHWAY; AND A PORTION OF 23465 CIVIC CENTER WAY FORMERLY KNOWN AS 3700 LA PAZ LANE; ACKNOWLEDGING RECEIPT OF THE CALIFORNIA COASTAL COMMISSION RESOLUTION OF CERTIFICATION FOR LOCAL COASTAL PROGRAM AMENDMENT NO. 12-002 WITH SUGGESTED MODIFICATIONS AND ADOPTING REVISIONS TO LOCAL COASTAL PROGRAM AMENDMENT NO. 12-002, ZONING TEXT AMENDMENT NO. 12-002 AND ZONING MAP AMENDMENT NO. 13-002 TO INCORPORATE THE CALIFORNIA COASTAL COMMISSION'S SUGGESTED MODIFICATIONS; REPEALING ORDINANCE NO. 375; AND FINDING THE SAME EXEMPT FROM AND PROPERLY STUDIED UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

SECTION 1. Recitals.

A. On December 6, 2011, the City submitted its first draft of the 2008-2014 Draft Housing Element to California Housing and Community Development (HCD).

B. On July 27, 2012, the City received a letter from HCD stating that Malibu's Housing Element "will comply with State housing element law (Article 10.6 of the Government Code) when adopted and submitted to the Department pursuant to Government Code Section 65585(g)."

C. During the following months, City staff worked on the correlating amendments to the Local Coastal Program (LCP), Malibu Municipal Code (MMC) and General Plan that would be required to implement the programs of the 2008-2014 Housing Element.

D. On August 5, 2013, the Planning Commission held a duly noticed public hearing, and adopted Resolution No. 13-73, recommending the City Council adopt the proposed amendments.

E. On August 26, 2013, the City Council held a duly noticed public hearing to consider the certification of Environmental Review (EIR) No. 11-002, 2008-2014 Housing Element Update, and corollary amendments to the General Plan, MMC, and LCP. The City Council adopted Resolution No. 13-34 certifying the EIR and adopting the General Plan Amendment No. 10-002 (2008-2014 Housing Element), adopted Ordinance No. 375 amending the LCP Local Implementation Plan (LIP), the MMC and Zoning Map to implement the 2008-2014 Housing Element, pending certification of the LCP amendment

by the California Coastal Commission (CCC), and directed staff to submit the LCPA to the CCC.

F. On December 30, 2013, the LCP amendments were submitted to the CCC and deemed complete on March 26, 2018.

G. On May 9, 2019, the CCC conditionally certified LCP-4-MAL-13-0241-1 (LCPA No. 12-012) subject to eleven modifications as set forth in the Resolution of Certification contained in the CCC staff report dated April 25, 2019.

H. On June 13, 2019, a Notice of City Council Public Hearing to be held on July 8, 2019 was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties; regional, state, and federal agencies affected by the amendment; local libraries and media; and the CCC.

I. On July 8, 2019, prior to the opening of the public hearing, the City Council continued the hearing to the August 26, 2019 Regular City Council meeting.

## SECTION 2. Environmental Review.

The Malibu City Council considered and adopted the Environmental Impact Report (EIR No. 11-002) for the proposed amendments and in doing so found that the amendments would not have significant adverse environmental impacts. As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendments will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A). Per Public Resources Code Section 21166, the City Council finds no further review is required. Furthermore, per Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment, and thus does not apply to this ordinance. This ordinance is for an amendment to the LCP, which must be certified by the CCC before it takes effect. Local Implementation Plan (LIP) Section 1.3.1 states that the provisions of the LCP take precedence over any conflict between the LCP and the City's Zoning Ordinance. In order to prevent an inconsistency between the LCP and the City's Zoning Ordinance, if the LCP amendment is approved, the City must also approve the corollary amendment to the Zoning Ordinance. This corollary amendment is required by the adoption of the LCP Amendment to avoid conflicts between the LCP and MMC and as it shall only be implemented if the LCP Amendment is approved and is dependent upon, related to, and duplicative of, the exempt activity, it is subject to the same CEQA exemption.

SECTION 3. Local Coastal Program Amendment Findings.

Based on evidence in the whole record, the City Council hereby finds that the proposed amendment meets the requirements of, and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act.

A. The development standards specific to multi-family development facilitates development of affordable housing in compliance with state housing element law, while maintaining standards to require that uses within the City's jurisdiction of the Coastal Zone advance the overarching goals of protecting coastal resources and public viewsheds and providing public access. Additionally, the amendments allow for the preservation, improvement and development of housing for all economic segments of the community as well as those individuals with special needs.

B. As a part of the LCP Local Implementation Plan (LIP), the updated multi-family development standards ensure that future development projects and land uses within specific zoning districts conform to applicable LCP policies, goals, and provisions, while taking into consideration the protection and enhancement of visual resources, public access, and recreation opportunities. Incorporating specific requirements for multi-family development projects achieves LIP Sections 1.2(D) and (G) (guides future growth and development), LIP Section 1.2(F) (promotes public health, safety, and general welfare), and LIP Section 1.2(K) (assures adequate public uses, facilities, and improvements).

SECTION 4. Local Coastal Program Amendment No. 12-002, Amendments to the Local Implementation Plan.

The City Council hereby amends the LIP as follows:

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 or for rent to moderate, 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 who works full or part-time (twenty-four (24) hours or more per week) in the service of a commercial agricultural operation.

**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.

**COMMERCIAL AGRICULTURE** - the growing of crops for food or fiber, or grazing or raising of livestock with the intent to sell the products for profit. Commercial agriculture does not include crops or agriculture grown for personal consumption or equestrian uses.

**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.

**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.

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. Supportive housing is a residential use subject only to the same regulations and procedures that apply to other residential uses of the same type in the same zone.

TRANSITIONAL HOUSING – a building or buildings configured as rental housing development occupied by the “target population”, but operated

under program 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. Transitional housing is a residential use subject only to the same regulations and procedures that apply to other residential uses of the same type in the same zone.

**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. All 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 (unless otherwise specified), 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:

3.4.5 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. 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, subject to the provisions set forth below. All

requirements for the Malibu LIP that are not inconsistent with the criteria listed below shall remain in effect for those parcels in the Affordable Housing Overlay.

B. Description of Area Subject to LIP Section 3.4.5.

| Site Number | APNs                          | Address   |
|-------------|-------------------------------|---|
| 1           | 4467-013-022 and 4467-013-023 | 28517 Pacific Coast Highway and adjacent vacant lot   |
| 2           | 4467-012-005                  | 28401 Pacific Coast Highway   |
| 3           | 4458-022-023 and 4458-022-024 | A 2.3 acre portion of 23465 Civic Center Way (La Paz Site and formerly known as 3700 La Paz Lane) |

C. Permitted Uses.

1. Affordable housing development is permitted in the AHO subject to the development standards set forth in this Section. Specifically, on AHO Site Number 3 (2.3 acre portion of 23465 Civic Center Way also known as the La Paz site) an affordable housing development is only permitted if the affordable housing development is either directly developed/constructed by the City, or if the City partners with an affordable housing developer; and 80 percent of the units are affordable for lower and moderate households, to serve as a public benefit to the City.

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 (3.4.5). 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. For Sites 1 and 2, 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 F below. A minimum of 50 percent of all units in excess of the six (6) dwellings units per acre shall be deed restricted (“restricted units”) as very-low or low-income multi-family dwelling units. For Site 3, 80 percent of the units within an affordable housing development, exclusive of a manager’s unit or units, shall be

affordable to lower and moderate income households as set forth in Subsection F below. A minimum of 50 percent of the affordable units shall be deed restricted as very-low or low-income multi-family dwelling units.

- E. Development Standards.
  - 1. Site of Construction. Structures may be constructed on slopes flatter than 1½:1.
  - 2. 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 square feet, exclusive of any appurtenant structures.
- G. Amend LIP Section 3.6.H. to read as follows:
- H. Development Area. Except for an affordable housing development within the AHO Overlay, every 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:
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. "Green or living walls" shall not be considered landscaping for the purpose of this paragraph. 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 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 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 dwelling unit and any other approved structures to minimize required fuel modification.

L. LIP Section 3.6.N.3 (Agricultural Employee Housing Standards)

A. The purpose of this section is to establish standards to ensure that the development of agricultural employee housing does not adversely impact adjacent parcels or the surrounding neighborhood and that they are developed in a manner which protects the health, safety, and general welfare of the nearby residents and businesses, and the character of the City of Malibu.

B. The provisions of this section shall apply to Commercial Recreational (CR) and Rural Residential (RR) zones where agricultural uses are allowed. Agricultural employee housing is allowed as an accessory use in conjunction with a commercial agricultural use.

C. Agricultural employee housing shall be occupied only by farm employees (and their families) engaged in agricultural labor on the same parcel as the commercial agriculture use and shall not be otherwise occupied or rented.

D. No more than thirty-six (36) beds in a group quarters or up to twelve (12) units are allowed on an individual parcel.

E. At least one parking space per unit or one space per three beds, whichever is more, shall be provided.

F. Agricultural employee housing shall meet the applicable policies and provisions of the LCP, including the setback, lot coverage, height, and other development standards applicable to the zone in which it is located. Additionally, agricultural housing shall be located not less than seventy-five feet from barns, pens, or other structures that house livestock or poultry, and not less than fifty feet from any other agricultural and non-agricultural use.

G. Agricultural employee housing shall be sited on the flattest area of the project site, except where there is an alternative location that would be more protective of visual resources or ESHA, and shall be located as close to existing roads as feasible. Additionally, agricultural housing shall be clustered with existing development to the maximum extent feasible and minimize grading, landform alteration, and the need for construction of new roads.

H. The property owner shall obtain all permits and/or approvals from the City of Malibu, as applicable, and the State Department of Housing and Community

Development (HCD) pursuant to Title 25 of the California Code of Regulations. Agricultural housing shall also require a coastal development permit pursuant to the provisions of Chapter 13 of this LCP.

I. Prior to submittal of the permit application for agricultural employee housing, the property owner shall provide appropriate evidence to the satisfaction of the Planning Director of an active commercial agricultural operation. An equestrian related use is not considered evidence of commercial agriculture for agricultural employee housing.

J. Agricultural employee housing shall be removed from the property or converted to another permitted use that is approved through a CDP within 90 days of termination of the property's use from agricultural production.

K. Within thirty days after approval from the City of Malibu for agricultural employee housing, the applicant shall record in the office of the County Registrar-Recorder/County Clerk a covenant running with the land for the benefit of the City of Malibu, declaring that the agricultural employee housing will continuously be maintained as such in accordance with the LCP and that:

1. The applicant will obtain and maintain, for as long as the agricultural employee housing is operated, the appropriate permit(s) from State Department of Housing and Community Development (HCD) pursuant to the Employee Housing Act and the regulations promulgated thereunder;
2. The improvements required by the City of Malibu related to agricultural employee housing shall be constructed and/or installed, and continuously maintained by the applicant; and
3. The applicant will submit the annual verification form as required by LIP 3.6(N)(3)(M) to the Planning Director.

L. Agricultural housing for five or more employees is subject to the permitting requirements of the California Housing Employee Act. The property owner shall obtain and maintain a permit(s) with the State Department of Housing and Community Development (HCD), pursuant to the Employee Housing Act and the California Code of Regulations, Title 25, Division 1, Chapter 1, Sections 600 through 940, prior to occupancy of the housing units. A copy of the HCD permit shall be provided to the Planning Director within fourteen (14) days of issuance or at the time of building permit application submittal, whichever is earlier.

M. On an annual basis, the property owner must file a verification form with the Director of the Planning Department stating that the commercial agricultural operation is still taking place on the property and that the tenants are employed as farm employees and thereby renew the agricultural certificate for the farm employee housing. Failure to file the verification form will be interpreted as indicating the commercial agriculture has ceased operation and may be the basis for building permit revocation.

The verification form shall be submitted annually by May 15th of each year to the Planning Director, or designee, in a form acceptable to the Planning Director, that

all the dwelling units or sleeping quarters are being rented to and occupied by persons who meet the definition of an agricultural employee established in LIP 2.1 (“Agricultural employee”).

M. 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 of the Local Coastal Program. The intent of the following regulations is to ensure that the provisions of Government Code Sections 65915 through 65918 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.

##### B. Eligibility.

A density bonus may be granted to an eligible housing development in any residential district through approval by the city council (after recommendation from the planning commission) of a CDP. 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 ensure 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 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 coastal resource protection standards in 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 coastal resource protection policies of the LCP and purpose and intent of this section.
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 LCP. The “otherwise maximum allowable residential density” shall mean the maximum density determined by applying all site-specific environmental development constraints applicable under the LCP.
  4. Any housing development approved pursuant to Government Code Section 65915 shall be consistent with all applicable certified local coastal program coastal resource protection policies and development standards, with the exception of the density provisions. 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 avoid impacts to coastal resources, as required by relevant LCP policies, while still providing the density increase permitted by law.
  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. Affordable Housing Agreement

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 CDP and 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. Affordable Housing Fund

- A. Fund Revenues. The fund shall receive all in-lieu fees paid under Section 3.7.1(E)(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.
- N. 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 allowed subject to a coastal development permit, unless determined to be exempt pursuant to Section 13.4, consistent with the LCP and 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. Coastal Development Permit applications for emergency shelters shall be reviewed by the appropriate decision making authority in accordance with Section 13.7.

O. 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. The provisions of this Section are applicable in the Commercial General (CG) zoning district.

- 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 reviewing authority.

- 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 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.
- P. Amend LIP Section 3.14.3 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                      One space for every two beds and one space for every employee  
  
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)<br><br>In addition, 2 spaces for the resident manager |
| Small Residential Care Facility | 2 enclosed and 2 unenclosed spaces  |

Q. 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:

R. 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.

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 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 LCP 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, public views and/or other coastal resources;
    - 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 CDP, then the applicant shall file the application submittal information together with the application for the CDP 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 a CDP application shall be reviewed by the authority reviewing the CDP application.

E. Findings.

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

1. The housing, which is the subject of the request, will be occupied by a person with a disability as defined in subsection B.3 above.
2. The approved reasonable accommodation is necessary to make housing available to a person with a disability as defined in subsection B.3 above.
3. The approved reasonable accommodation would not impose an undue financial or administrative burden on the City.
4. The approved reasonable accommodation would not require a fundamental alteration in the nature of the LCP.
5. The approved reasonable accommodation would not adversely impact coastal resources.

6. The project that is the subject of the approved reasonable accommodation conforms to the applicable provisions of the LCP and the applicable provisions of this section, with the exception of the provision(s) for which the reasonable accommodation is granted.
- 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 E. 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.
- S. 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.

KEY TO TABLE (In addition to a coastal development permit, MCUP, CUP, LFDC, & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)

|      |   |
|------|---|
| P    | Permitted use   |
| MCUP | Requires the approval of a minor Conditional Use Permit by the Director |
| CUP  | Requires the approval of a Conditional Use Permit                       |
| A    | Permitted only as an accessory use to an otherwise permitted use        |
| LFDC | Requires the approval of a Large Family Day Care permit                 |
| WTF  | Requires the approval of a Wireless Telecommunications Facility         |
| •    | Not permitted (Prohibited)  |

RESIDENTIAL

| USE  | RR | SF | MF                | MFBF              | MHR | CR | BPO | CN | CC              | CV-1 | CV-2 | CG  | OS | I | PRF | RVP |
|--|----|----|-------------------|-------------------|-----|----|-----|----|-----------------|------|------|-----|----|---|-----|-----|
| Single family residential <sup>175</sup>   | P  | P  | P                 | P                 | •   | •  | •   | •  | •               | •    | •    | •   | •  | • | •   | •   |
| Multi-family residential (including duplexes, condominiums, stock cooperatives, apartments, and similar development <sup>168</sup> ) | •  | •  | CUP <sup>19</sup> | CUP <sup>19</sup> | •   | •  | •   | •  | P <sup>20</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 |
|--|----|----|-----|------|-----|-----|-----|----|----|------|------|----|----|---|-----|-----|
| Agricultural employee housing, as an accessory use, animal related | A  | •  | •   | •    | •   | CUP | •   | •  | •  | •    | •    | •  | •  | • | •   | •   |
| Agricultural employee housing, as an accessory use crop related    | A  | A  | CUP | •    | •   | •   | •   | •  | •  | •    | •    | •  | •  | • | •   | •   |

**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 |
|--------------------|----|----|----|------|-----|----|-----|----|----|------|------|----|----|---|-----|-----|
| Emergency Shelters | •  | •  | •  | •    | •   | •  | •   | •  | •  | •    | •    | P  | •  | P | •   | •   |

Notes:

17. 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.

18. 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.

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

20. Multi-family development is only permitted in the CC zone if it is associated with an affordable housing development project within the Affordable Housing Overlay (APNs 4458-022-023 and 4458-022-024 only), in compliance with Section 3.4.5.

T. 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 23465 Civic Center Way also known as the La Paz site (APN 4458-022-023 and -024), attached hereto as Exhibit A.

**SECTION 5. Zoning Map Amendment No. 13-002.**

Subject to the contingency of Section 12 the City of Malibu Zoning Map is hereby amended to include the 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 23465 Civic Center Way also known as the La Paz site (APN 4458-022-023 and -024).

SECTION 6. Finding for Zoning Map Amendment.

The City Council hereby finds that the zoning map amendment (ZMA) is necessary for the proposed LCP amendment and approves ZMA on the condition that the ZMA only take effect if the LCP amendment is certified by the California Coastal Commission. Pursuant to MMC Section 17.74.050(E), the City Council further finds that the ZMA is consistent with the objectives, policies and general land uses in the General Plan, as amended by the LCP amendment. The ZMA will allow the MMC to be amended and be consistent with the amended LCP zoning map and is only a corollary of that action.

SECTION 7. Malibu Municipal Code Title 17 Zoning Text Amendment No. 12-002.

The City Council hereby finds that the ZTA is necessary for the proposed LCP amendment and approves the ZTA on the condition that the ZTA only take effect if the LCP amendment is certified by the California Coastal Commission. Furthermore, the amendment is required to implement the goals, objectives, policies and implementation programs, as set forth in the 2008-2014 General Plan Housing Element, relative to the provision of housing for all income levels consistent with all applicable state housing element laws. The ZTA will allow the text of the MMC to be amended consistent with the amended LCP and is only corollary of that action. Based on evidence in the whole record, the City Council hereby finds that the proposed amendment meets the requirements of, and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act.

SECTION 8. Zoning Text Amendment No. 12-002, Corollary Amendments to Title 17 of the Malibu Municipal Code.

The City Council hereby amends the MMC as follows:

A. Add new definitions inserted in alphabetical order to MMC Section 17.02.060 (Definitions) to read as follows:

“Adjusted Regional Housing Needs Assessment (RHNA)” means the unmet very-low and low-income RHNA after crediting units by income category constructed during the current planning period.

“Affordable Housing Agreement” means 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 17.41 of the Municipal Code.

“Affordable housing / affordable residential unit” means a housing unit which is available for sale or for rent to moderate, low and/or very-low income households, as those terms are defined in this Section.

“Affordable Housing Development” - is a multi-family residential development in which all of the affordable bonus units are affordable to low and moderate income households.

“Affordable rent” means 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” means a person who works full or part-time (twenty-four (24) hours or more per week) in the service of a commercial agricultural operation.

“Agricultural employee housing” means 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.

“Commercial Agriculture” means the growing of crops for food or fiber, or grazing or raising of livestock with the intent to sell the products for profit. Commercial agriculture does not include crops or agriculture grown for personal consumption or equestrian uses.

“Concessions” means 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” means 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” means 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” means those additional residential units gained pursuant to the provisions of the Density Bonus Ordinance.

“Emergency shelter” means 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 Household” means 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” means a development project for five or more residential units. Within Section 17.41 of the Municipal Code, 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” means 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” means 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” means 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” means 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 residents” means persons 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)” means 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” A “large residential care facility” is 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” A “small residential care facility” is 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” means a dwelling unit that is affordable to very-low, low-, and moderate-income persons.

“Senior citizen housing development” means 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” means 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” means 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.

“Supportive housing” means 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. Supportive housing is a residential use subject only to the same regulations and procedures that apply to other residential uses of the same type in the same zone.

“Transitional housing” means a building or buildings configured as rental housing development occupied by the “target population”, but operated under program 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. Transitional housing is a residential use subject only to the same regulations and procedures that apply to other residential uses of the same type in the same zone.

“Target population” means 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” means 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 MMC Section 17.02.060 (Definitions).

C. Amend MMC Section 17.04.220(A) to read as follows:

A. Any person aggrieved by a decision or any portion of the decision made by the director under the provisions of this title in connection with a site plan review, variance, stringline modification, conditional use permit, reasonable accommodation request, determination of permitted use, sign permit, cultural resources review, highway dedication or improvement, or temporary use permit application may appeal such action to the planning commission. Any person aggrieved in a similar manner by such a decision made by the planning commission may appeal such action to the city council.

D. Add MMC Section 17.08.020.C.6. to read as follows:

2. Agricultural employee housing, crop related.

E. Add MMC Section 17.08.020.K. to read as follows:

K. Transitional and supportive housing permitted in the same manner as a single-family residence and subject to all the restrictions that apply to single-family residential uses.

F. Amend MMC Section 17.10.020.C.1. to read as follows:

1. Accessory buildings customarily ancillary to single-family residences including, but not limited to, guest units nine hundred (900) square feet maximum), detached garages, barns, pool houses, gazebos, storage sheds, and greenhouses (noncommercial),

G. Add Section 17.10.020.C.6. to read as follows:

6. Agricultural employee housing, crop related,

H. Add Section 17.10.020.H. to read as follows:

- H. Transitional and supportive housing permitted in the same manner as a single-family residence and subject to all the restrictions that apply to single-family residential uses.
- I. Add MMC Section 17.12.020 subsections H and I to read as follows:
  - H. Transitional and supportive housing permitted in the same manner as a multi family residence and subject to all the restrictions that apply to multi-family residential uses.
  - I. Affordable housing development projects.
- J. Add MMC Section 17.14.020 subsections F, G, and H to read as follows:
  - F. Transitional and supportive housing permitted in the same manner as a multi family residence and subject to all the restrictions that apply to multi-family residential uses.
  - G. Small residential care facilities involving six or fewer persons.
  - H. Affordable housing development projects.
- K. Add MMC Section 17.18.030.G. to read as follows:
  - G. Agricultural employee housing, crop related.
- L. Add MMC Section 17.24.020.D. to read as follows:
  - D. Affordable housing development projects.
- M. Add MMC Section 17.30.020 subsections D and E to read as follows:
  - D. Emergency shelters.
  - E. Single-room occupancy facilities.
- N. Add MMC Section 17.30.030.I. to read as follows:
  - I. Large residential care facilities involving seven or more persons.
- O. Add MMC Section 17.34.020.F. to read as follows:
  - F. Emergency shelters.
- P. Amend MMC Section 17.40.040.A. to read as follows:
  - A. All residential development shall be subject to the following development standards:

Q. Amend MMC Section 17.40.040.A.3. to read as follows:

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

R. Amend MMC Section 17.40.040.A.4.b. to read as follows:

a. For each multifamily dwelling unit, not less than three hundred (300) square feet, exclusive of any appurtenant structures.

S. Amend MMC Section 17.40.040.A.9.a. to read as follows:

a. Maximum Quantity. In conjunction with any grading, so that the maximum is not greater than one thousand (1,000) cubic yards (exclusive of remedial grading) cut and fill may be allocated as follows: (i) balanced cut and fill up to one thousand (1,000) cubic yards; or (ii) export of no more than one thousand (1,000) cubic yards; or (iii) import of no more than five hundred (500) cubic yards, where additional grading on site does not exceed five hundred (500) cubic yards in conjunction with any landform alteration so that the maximum is no greater than one thousand (1,000) cubic yards; or (iv) any combination of the above that does not exceed one thousand (1,000) cubic yards per lot for single-family residential development or per acre of multi-family residential development.

T. Amend MMC Section 17.40.040.A.10. to read as follows:

10. Development Area. Except for an affordable housing development within the AHO Overlay, every residential development shall be contained within a convex-shaped enclosure that shall not exceed two acres.

U. Amend MMC Section 17.40.040.A.11. to read as follows:

11. Impermeable Coverage. Use of permeable surfaces is encouraged, especially for driveways.

a. Single-family. Including the single-family residence, impermeable surfaces are permitted for lot areas (excluding slopes equal to or greater than 1:1), up to one-quarter acre at forty-five (45) percent, for lot areas greater than one-quarter acre but a one-half acre or less, at thirty-five (35) percent and

for lots greater than one-half acre at thirty (30) percent up to a maximum of twenty-five thousand (25,000) square feet. Beachfront lots shall not be subject to this subsection.

- b. 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. "Green or living walls" shall not be considered landscaping for the purpose of this paragraph. The required five (5) foot landscape buffer around the perimeter of parking areas 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.

V. Amend MMC Section 17.40.040.A.13. to read as follows without affecting subsections:

13. Structure Size. Except as specifically provided herein, 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 on a legal lot equal to or greater than five acres shall not exceed a total of eleven thousand one hundred seventy-two (11,172) square feet. On lots five thousand (5,000) square feet or less, the total development square footage shall not exceed one thousand eight hundred eighty-five (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 one-half acre, total square footage shall be seventeen and seven-tenths ( $17 \frac{7}{10}$ ) percent of lot area plus one thousand (1,000) square feet; for lot areas greater than one-half acre and up to one acre, total development square footage shall be increased by ten (10) percent of the amount of lot area exceeding one-half acre; for lot areas greater than one acre and up to one and one-half acre, total development square footage shall be increased by five percent of the amount of lot area exceeding one acre; for lot areas greater than one and one-half acres and up to five acres, total development square footage shall be increased by two percent of the amount of the lot area exceeding one and one-half 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 provisions of this subsection.

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:

W. Add MMC Chapter 17.41 to read as follows:

Chapter 17.41 AFFORDABLE HOUSING

17.41.010. Residential Density Bonus

- A. Purpose. This section is intended to implement the provisions of:
1. State Government Code Sections 65915 through 65918, which require a local jurisdiction to provide incentives for the production of affordable housing units; and
  2. The City's General Plan Housing Element policies relating to the provision of affordable housing.
- 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 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. As required by Government Code Section 65915, the City of Malibu shall consider a density bonus and provide incentives or concessions for a Housing Development that shall be 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 ensure 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. The procedures for implementing this section shall be as follows:
  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. Required findings. In addition to the findings required for use permits generally, all of the following findings shall be made by the city council in approving any use permit granting a density bonus:
    - a. The number of units is compatible with the existing and planned infrastructure and service facilities serving the site;

- b. The developer has demonstrated that the 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 17.41 of this Title; and
  - d. The proposed project is compatible with the goals and policies of the general plan and purpose and intent of this code.
3. Affordable Housing Agreement. Prior to the issuance of a building permit for any dwelling unit in a development for which "density bonus units" have been awarded or incentives been given, the developer shall submit documentation in accordance with Section 17.41.020 of this Title.
- 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.
    - 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.

## 17.41.020. Affordable Housing Agreement.

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.

#### 17.41.030. Affordable Housing Fund.

- A. Fund Revenues. The fund shall receive all in-lieu fees paid under Section 17.41.010(E)(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.

X. Amend MMC Section 17.48.030 to read as follows:

A. Residential Units

|  |  |
|--|--|
| Emergency Shelters                             | For each 10 adult beds, one space plus one additional space per employee on the largest shift.   |
| Large Residential Care Facility                | For every two beds, one space and one space for every employee<br><br>In addition, one off-street parking space for each outside employee shall be provided and maintained.  |
| Multi-family units spaces which (market rate)  | For each efficiency dwelling unit, two 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 units or fraction thereof, one space. |
| Multi-family units dwelling unit, (affordable) | For each efficiency or one-bedroom 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, one space inclusive of guest parking. Resident manager parking, two spaces.   |

Small Residential Care Facility      For each facility, two enclosed and two unenclosed spaces.

Y. Add MMC Section 17.40.120 to read as follows:

17.40.120. Emergency Shelters.

- 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 an allowed use, subject to the issuance of an administrative plan review (per Section 17.62.030 of this Chapter) if the facility already exists or subject to a coastal development permit, unless determined to be exempt pursuant to Section 13.4, 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.

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- 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. At a minimum, 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 17.48.030 of this Chapter.
- 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. If the proposed use meets the requirements of this

Section and is consistent with Section 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.

Z. Add MMC Section 17.40.130 to read as follows:

17.40.130. Single-Room Occupancy Facilities.

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. The provisions of this Section are applicable in the Commercial General (CG) zoning district.

- 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 reviewing authority.
- G. Off-street Parking. Parking shall be provided in accordance with Section 17.48.003.
- 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 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.

AA. Add MMC Section 17.40.140 to read as follows:

A. The purpose of this section is to establish standards to ensure that the development of agricultural employee housing does not adversely impact adjacent parcels or the surrounding neighborhood and that they are developed in a manner which protects the health, safety, and general welfare of the nearby residents and businesses, and the character of the City of Malibu.

B. The provisions of this section shall apply to Commercial Recreational (CR) and Rural Residential (RR) zones where agricultural uses are allowed. Agricultural employee housing is allowed as an accessory use in conjunction with a commercial agricultural use.

C. Agricultural employee housing shall be occupied only by farm employees (and their families) engaged in agricultural labor on the same parcel as the commercial agriculture use and shall not be otherwise occupied or rented.

D. No more than thirty-six (36) beds in a group quarters or up to twelve (12) units are allowed on an individual parcel.

E. At least one parking space per unit or one space per three beds, whichever is more, shall be provided.

F. Agricultural employee housing shall meet the applicable policies and provisions of the LCP, including the setback, lot coverage, height, and other development standards applicable to the zone in which it is located. Additionally, agricultural housing shall be located not less than seventy-five feet from barns, pens, or other structures that house livestock or poultry, and not less than fifty feet from any other agricultural and non-agricultural use.

G. Agricultural employee housing shall be sited on the flattest area of the project site, except where there is an alternative location that would be more protective of visual resources or ESHA, and shall be located as close to existing roads as feasible. Additionally, agricultural housing shall be clustered with existing development to the maximum extent feasible and minimize grading, landform alteration, and the need for construction of new roads.

H. The property owner shall obtain all permits and/or approvals from the City of Malibu, as applicable, and the State Department of Housing and Community Development (HCD) pursuant to Title 25 of the California Code of Regulations. Agricultural housing shall also require a coastal development permit pursuant to the provisions of Chapter 13 of this LCP.

I. Prior to submittal of the permit application for agricultural employee housing, the property owner shall provide appropriate evidence to the satisfaction

of the Planning Director of an active commercial agricultural operation. An equestrian related use is not considered evidence of commercial agriculture for agricultural employee housing.

J. Agricultural employee housing shall be removed from the property or converted to another permitted use that is approved through a CDP within 90 days of termination of the property's use from agricultural production.

K. Within thirty days after approval from the City of Malibu for agricultural employee housing, the applicant shall record in the office of the County Registrar-Recorder/County Clerk a covenant running with the land for the benefit of the City of Malibu, declaring that the agricultural employee housing will continuously be maintained as such in accordance with the LCP and that:

1. The applicant will obtain and maintain, for as long as the agricultural employee housing is operated, the appropriate permit(s) from State Department of Housing and Community Development (HCD) pursuant to the Employee Housing Act and the regulations promulgated thereunder;
2. The improvements required by the City of Malibu related to agricultural employee housing shall be constructed and/or installed, and continuously maintained by the applicant; and
3. The applicant will submit the annual verification form as required by LIP 3.6(N)(3)(M) to the Planning Director.

L. Agricultural housing for five or more employees is subject to the permitting requirements of the California Housing Employee Act. The property owner shall obtain and maintain a permit(s) with the State Department of Housing and Community Development (HCD), pursuant to the Employee Housing Act and the California Code of Regulations, Title 25, Division 1, Chapter 1, Sections 600 through 940, prior to occupancy of the housing units. A copy of the HCD permit shall be provided to the Planning Director within fourteen (14) days of issuance or at the time of building permit application submittal, whichever is earlier.

M. On an annual basis, the property owner must file a verification form with the Director of the Planning Department stating that the commercial agricultural operation is still taking place on the property and that the tenants are employed as farm employees and thereby renew the agricultural certificate for the farm employee housing. Failure to file the verification form will be interpreted as indicating the commercial agriculture has ceased operation and may be the basis for building permit revocation.

The verification form shall be submitted annually by May 15th of each year to the Planning Director, or designee, in a form acceptable to the Planning Director, that all the dwelling units or sleeping quarters are being rented to and occupied by persons who meet the definition of an agricultural employee established in LIP 2.1 ("Agricultural employee").

AB. Add MMC Section 17.42.020.L. to read as follows:

L. Affordable Housing Overlay District

1. 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. 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 Affordable Housing Overlay District may be developed with an Affordable Housing Development, subject to the provisions set forth below.

2. Permitted Uses.

Affordable housing development is permitted in the AHO subject to the development standards set forth in this Section. Specifically, on AHO Site Number 3 (2.3 acre portion of 23465 Civic Center Way also known as the La Paz site), an affordable housing development is only permitted if the affordable housing development is either directly developed/constructed by the City, or if the City partners with an affordable housing developer; and 80 percent of the units are affordable for lower and moderate households, to serve as a public benefit to the City.

3. Standards. The Residential Development Standards contained in Section 17.40.040 of this Title, as well as all other applicable Municipal Code provisions, shall apply, unless specifically modified by standards detailed in this Section (17.42.020(L)). The following special specific regulations shall apply to the AHO sites identified in Table 1 below.

a. Density. Affordable housing developments in the AHO shall:

- i. Have a minimum density of twenty (20) units per net acre.
- ii. Have a maximum density of one dwelling unit per 1,613 square feet of lot area, including the additional density bonus pursuant to Section 17.41.010 of this Title.
- iii. Have a minimum of sixteen (16) dwelling units.
- iv. For Sites 1 and 2, 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 5 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. For Site 3, 80 percent of the units within an affordable housing development, exclusive of a manager’s unit or units, shall be affordable to lower and moderate income households as set forth in

Subsection 5 below. A minimum of 50 percent of the affordable units shall be deed restricted as very-low or low-income multi-family dwelling units.

| Site Number | APNs                          | Address   |
|-------------|-------------------------------|---|
| 1           | 4467-013-022 and 4467-013-023 | 28517 Pacific Coast Highway and adjacent vacant lot   |
| 2           | 4467-012-005                  | 28401 Pacific Coast Highway   |
| 7           | 4458-022-023 and 4458-022-024 | A 2.3 acre portion of 23465 Civic Center Way (La Paz Site and formerly known as 3700 La Paz Lane) |

4. Development Standards.
  - a. Site of Construction. Structures may be constructed on slopes flatter than 1½:1.
  - b. Hillside Development. Properties within this Overlay District are exempt from the hillside development standards of 17.40.040(A)(20) of this Title.
  - c. General Guidelines. The lower-income multi-family dwelling units required under this Section:
    - i. May either be rental or for-sale dwellings;
    - ii. Shall be comparable in number of bedrooms, exterior appearance and overall quality of construction to non-restricted units;
    - iii. May be comprised of up to 33 percent less square footage than market rate units of the same bedroom count;
    - iv. The construction materials and practices shall be comparable to those used for the market rate units;
    - v. The exterior grounds shall be landscaped and well maintained; and
    - vi. The units shall be disbursed throughout the project site and not clustered in a single location.
5. Affordability.
  - a. 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 17.41.020 of this Title for a period of not less than 55 years.
  - b. 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.

AC. Add Chapter 17.63 to read as follows:

17.63. 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 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 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, public views and/or other coastal resources;
  - 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: CDP, 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 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 a CDP application shall be reviewed by the authority reviewing the CDP application.
- E. Findings.
1. A written decision to grant, grant with conditions, or deny a request for reasonable accommodation shall make all of the following findings:
    - a. The housing, which is the subject of the request, will be occupied by a person with a disability as defined in subsection B.3. above.
    - b. The approved reasonable accommodation is necessary to make housing available to a person with a disability as defined in subsection \B.3 above.
    - c. The approved reasonable accommodation would not impose an undue financial or administrative burden on the City.
    - d. The approved 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.
    - e. The approved reasonable accommodation would not adversely impact coastal resources.
    - f. The project that is the subject of the approved reasonable accommodation conforms to the applicable provisions of the LCP and the applicable provisions of this section, with the exception of the provision(s) for which the reasonable accommodation is granted.
  2. A written decision to grant, grant with conditions, or deny a request for reasonable accommodation shall make all of the following findings:
    - a. The housing, which is the subject of the request, will be occupied by a person with a disability as defined in subsection 1 above.

- b. The request for reasonable accommodation is necessary to make housing available to a person with a disability as defined in subsection 1 above.
  - c. The requested reasonable accommodation would not impose an undue financial or administrative burden on the City.
  - d. 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.
  - e. 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.
  - f. 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 E of this Section.

H. Appeals.

The process set forth in Section 17.04.220 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 unless the application for reasonable accommodation is submitted with a CDP application then the process set forth in LIP Section 13.20 shall apply.
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 vacates, 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 Title 17 of the Municipal Code;
  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.

AD. Amend Title 17, Appendix 1 -PERMITTED USES TABLE to make the following modifications within columns as indicated, together with additional footnotes. All other portions of the PERMITTED USES TABLE shall remain unaffected.

|  |   |
|--|---|
| KEY TO TABLE (In addition to a coastal development permit, MCUP, CUP, LFDC, & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.) |   |
| P  | Permitted use   |
| MCUP   | Requires the approval of a minor Conditional Use Permit by the Director |
| CUP  | Requires the approval of a Conditional Use Permit                       |
| A  | Permitted only as an accessory use to an otherwise permitted use        |
| LFDC   | Requires the approval of a Large Family Day Care permit                 |
| WTF  | Requires the approval of a Wireless Telecommunications Facility         |

|   |                            |
|---|----------------------------|
| • | Not permitted (Prohibited) |
|---|----------------------------|

| USE  | RR | SF | MF                | MFBF                | MH | CR | BPO | CN | CC              | CV-1 | CV-2 | CG  | OS | I | PRF | RVP |
|--|----|----|-------------------|---------------------|----|----|-----|----|-----------------|------|------|-----|----|---|-----|-----|
| One single family residence per lot <sup>28</sup>  | P  | P  | P                 | P                   | •  | •  | •   | •  | •               | •    | •    | •   | •  | • | •   | •   |
| Multi-family residential (including duplexes, condominiums, stock cooperatives, apartments, and similar development. <sup>29</sup> | •  | •  | CUP <sup>30</sup> | CUP <sup>2,30</sup> | •  | •  | •   | •  | P <sup>31</sup> | •    | •    | •   | •  | • | •   | •   |
| USE  | RR | SF | MF                | MFBF                | MH | CR | BPO | CN | CC              | CV-1 | CV-2 | CG  | OS | I | PRF | RVP |
| 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   | •  | • | •   | •   |

| USE  | RR | SF | MF  | MFBF | MHR | CR  | BPO | CN | CC | CV-1 | CV-2 | CG | OS | I | PRF | RVP |
|--|----|----|-----|------|-----|-----|-----|----|----|------|------|----|----|---|-----|-----|
| Agricultural employee housing, as an accessory use, animal related | A  | •  | •   | •    | •   | CUP | •   | •  | •  | •    | •    | •  | •  | • | •   | •   |
| Agricultural employee housing, as an accessory use, crop related   | A  | A  | CUP | •    | •   | •   | •   | •  | •  | •    | •    | •  | •  | • | •   | •   |

**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 |
|--------------------|----|----|----|------|-----|----|-----|----|----|------|------|----|----|---|-----|-----|
| Emergency Shelters | •  | •  | •  | •    | •   | •  | •   | •  | •  | •    | •    | P  | •  | P | •   | •   |

Notes:

28. 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.

29. 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.

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

31. Multi-family development is only permitted in the CC zone if it is associated with an affordable housing development project within the Affordable Housing Overlay (APNs 4458-022-023 and 4458-022-024 only), in compliance with Section 3.4.5 of the LIP.

SECTION 9. Approval of Ordinance No. 449 and Repealing Ordinance No. 375.

The City Council hereby adopts LCPA No. 12-002, ZTA No. 12-002 and ZMA No. 13-002 amending the LCP and M.M.C as modified by the CCC. Ordinance No. 375 is hereby repealed and any amendments to the LIP and Title 17 of the MMC authorized by Ordinance No. 375 are superseded by the amendments set forth in Sections 5 through 8 of this Ordinance.

A. Pursuant to the CCC's Administrative Regulations Section 13544.5, the LCPA certification shall not be deemed final and effective until all of the following occur: 1) the City Council: a) acknowledges receipt of the CCC's Resolution of Certification, including any terms or modifications suggested for final certification; b) accepts and agrees to any such terms and modifications and takes whatever formal action is required to satisfy the terms and modifications; and c) agrees to issue coastal development permits for the total area included in the certified LCP; 2) the Executive Director of the CCC determines in writing that the City's action is legally adequate to satisfy any specific requirements set forth in the CCC's certification order and the Director reports the determination to the CCC at its next regularly scheduled meeting; 3) if the Director finds that the City's action does not conform to the CCC's order, the CCC shall review the City action as if it were a resubmittal; and 4) notice of the certification shall be filed with the Secretary of the Resources Agency for posting and inspection.

B. The City Council acknowledges receipt of the CCC's modifications to LCPA No. 12-002. The City Council further accepts and agrees to the modified language suggested by the CCC pertaining to the LIP and approves revisions to LCPA No. 12-002 without further changes.

C. The City of Malibu agrees to issue coastal development permits for the total area included in the certified LCP.

The proposed amendments to the LIP meet the requirements of, and are in conformance with the policies and requirements of Chapter 3 of the California Coastal Act to the extent necessary to achieve the basic State goals specified in Public Resources Code Section 30001.

SECTION 10. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit LCPA No. 12-002 to the California Coastal Commission per Title 14, California Code of Regulations Section 13554.5(a).

SECTION 11. Severability.

If any section, subsection, sentence, clause, portion, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, portions, or phrases of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, portion, or phrase without regard to whether any other section,

subsection, sentence, clause, portion, or phrase of this Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 12. Effectiveness.

The LCP amendment, ZMA, and ZTA approved in this Ordinance shall become effective only upon certification by the California Coastal Commission of this amendment to the LCP.

SECTION 13. Certification.

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

PASSED, APPROVED AND ADOPTED this 9<sup>th</sup> day of September 2019.

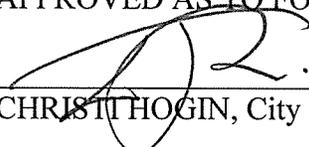
  
\_\_\_\_\_  
JEFFERSON WAGNER, Mayor

ATTEST:

  
\_\_\_\_\_  
HEATHER GLASER, City Clerk  
(seal)

Date: 9/9/19

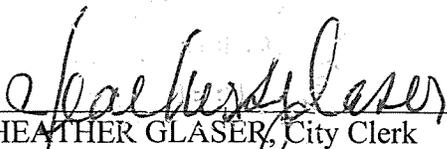
APPROVED AS TO FORM:

  
\_\_\_\_\_  
CHRISTI HUGIN, City Attorney

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the Malibu Municipal Code and Code of Civil Procedure.

I CERTIFY THAT THE FOREGOING ORDINANCE NO. 449 was passed and adopted at the Regular City Council meeting of September 9, 2019, by the following vote:

AYES: 5 Councilmembers: Mullen, Peak, Pierson, Farrer, Wagner  
NOES: 0  
ABSTAIN: 0  
ABSENT: 0

  
\_\_\_\_\_  
HEATHER GLASER, City Clerk  
(seal)

