

## COUNTY OF LOS ANGELES - MARINA DEL REY AFFORDABLE HOUSING POLICY (2023)

The County of Los Angeles (County) is the owner of all real property in the unincorporated territory of Marina del Rey, which includes a small craft harbor and adjacent lands, all within the Coastal Zone. The County Department of Beaches and Harbors (DBH) leases landside and waterside parcels in Marina del Rey for development on behalf of the County. The County Department of Regional Planning (DRP) serves as the primary land use regulatory authority for Marina del Rey through the Marina del Rey Local Coastal Program (LCP), including the Marina del Rey Specific Plan. The LCP, through the Specific Plan, establishes land use policy, development standards, and guidelines, which are the principal regulatory basis for future development, preservation, and reconstruction efforts in Marina del Rey. The Los Angeles County Development Authority (LACDA) monitors the compliance of affordable housing units for the County.

The Mello Act mandates that each local government, whose jurisdiction is situated in whole or in part within the Coastal Zone, require (1) replacement affordable housing units when it approves the conversion or demolition of those units in the Coastal Zone; and (2) new affordable housing units, where feasible, when it approves new housing developments in the Coastal Zone.

The purpose of the County's Marina del Rey Affordable Housing Policy (Policy) described herein, is to ensure that all new and existing residential rental development in Marina del Rey complies with the Mello Act, State and local laws, as well as the County Code, to further preserve and create new affordable housing in the Coastal Zone<sup>1</sup>. This is done by preserving existing affordable housing stock (replacement housing units), creating new affordable housing units from new residential developments (inclusionary housing units, where feasible), and from substantial rehabilitation projects (substantially rehabilitated set-aside units) while balancing the County's ability to generate revenues from its Marina del Rey ground leases for Countywide public benefit programs<sup>2</sup>.

Due to the County's unique position as the owner and land use regulator for all of unincorporated Marina del Rey, it is the County's intention to adopt and implement a Policy that is ambitious in scope for these publicly-owned lands.

### **EXECUTIVE SUMMARY**

Since the County is the fee owner of all land in unincorporated Marina del Rey, the County has an opportunity to implement this Policy that serves to further address County affordable housing needs, while complying with Mello Act requirements for affordable housing. The County's overall goal is to ensure that, at a minimum, 30% of all residential housing units in Marina del Rey are affordable housing units. The following are requirements for all housing development in unincorporated Marina del Rey.

All replacement housing, inclusionary housing, and substantial rehabilitation set-aside affordable housing units shall: 1) be equitably disbursed throughout the housing development; 2) be comparable in size and design to the market-rate units in the housing development; 3) include a land use covenant guaranteeing that the restricted affordable income and rent requirements for

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<sup>1</sup> This Policy applies to the unincorporated territory of Marina del Rey. The County of Los Angeles Inclusionary Housing Ordinance [Los Angeles County Code Chapter 22.121] does not apply to unincorporated Marina del Rey.

<sup>2</sup> To the extent that this Policy exceeds the requirements of the Mello Act, such provisions apply prospectively to new leases and new development projects. For leases that predate this Policy, the 30% Affordable Housing Units set-aside for Substantial Rehabilitation projects and the Centralized Waitlist shall only apply, as appropriate, when a lessee seeks a lease amendment requiring the County's discretionary approval.

each unit will be observed for the term designated in the land use covenant; and 4) be monitored annually for compliance with income and rents by the LACDA. The LACDA may impose fees to offset administrative costs incurred to monitor compliance of the affordable housing units.

No in-lieu fee program will be available to comply with any affordable housing obligations provided herein.

Mello Act and any other applicable obligations in Marina del Rey will be determined by the Director of DRP or the Regional Planning Commission (RPC) based upon a joint recommendation by DRP, LACDA, and DBH, consistent with this adopted Policy.

Guidelines for the implementation of this Policy shall be developed by County staff in consultation with the LACDA, the Marina del Rey Lessees' Association and Housing Advocates, and may be updated from time to time (Guidelines), with reasonable notice and opportunity to comment by each of these groups.

## **DEFINITIONS**

**Affordable Rent** means the definition set forth in California Health and Safety Code (HSC) section 50053, adjusted for unit size and as further defined in California Code of Regulations Title 25 Section 6918. DRP shall publish affordable rents on an annual basis.

**Affordable Housing Unit** means a residential unit occupied by persons or households of low or moderate income, as specified in HSC section 50093, inclusive of very low, extremely low, low, and moderate income.

**Coastal Zone** as defined in California Public Resources Code section 30000, et seq.

**Conversion** means (i) a change of one or more existing residential units to a condominium; cooperative or similar form of ownership; or a non-residential use, or (ii) a reduction in the number or size of existing residential units.

**Demolition** means the complete destruction or removal of a structure or the removal of more than 50 percent of the perimeter walls of a structure, consistent with the Mello Act.

**Feasible or Feasibility** means as defined in California Government Code section 65590, capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors.

**Inclusionary Housing Unit** means a unit with an affordable rent required to be provided in a newly constructed residential development.

### **Income:**

“Area Median Income” or “AMI”. The median annual household income for the County, as adjusted for household size and as defined, and periodically adjusted by the California Department of Housing and Community Development when determining Affordable Rent(s) and if such agencies no longer publish such information then a successor publication as determined by LACDA.

“Extremely Low Income”. An annual income for a household which does not exceed 30 percent (30%) of the AMI, as specified by HSC section 50106.

“Very Low Income”. An annual income for a household which does not exceed 50 percent (50%) of the AMI, as specified by HSC section 50105.

“Lower Income”. An annual income for a household which does not exceed 80 percent (80%) of the AMI, as specified by HSC section 50079.5.

“Moderate Income”. An annual income for a household which does not exceed 120 percent (120%) of the AMI, as specified by HSC section 50093.

**Mello Act** means California Government Code sections 65590 – 65590.1.

**Replacement Affordable Housing Unit** means an existing Affordable Housing Unit that shall be replaced with another Affordable Housing Unit at the same or lower affordability level.

**Residential Unit** means a unit, either an Affordable Housing Unit or market rate unit, which consists of one or more rooms, one of which will include a kitchen, designed for occupancy by one family for living and sleeping purposes.

**Substantial rehabilitation** means the:

- (1) replacement or substantial modification of any structural, electrical, plumbing, or mechanical systems that require a permit pursuant to State or local laws; **and**
- (2) the work cannot be reasonably accomplished in a safe manner with the tenant in place and requires the tenant to vacate the rental unit for at least fifteen (15) days.

**Exceptions:**

- (1) Cosmetic improvements alone, including painting, decorating, and minor maintenance repairs, or other work that can be performed safely without having the tenant vacate the rental unit, do not qualify as substantial rehabilitation.
- (2) Rehabilitation work that is required due to government code mandated changes (e.g., Building Code changes); repairs or restoration in connection with a natural disaster, fire, casualty, act of God, etc; repairs or replacements due to compliance with capital improvement or reserve fund obligations of leases; and/or like for like replacements do not qualify as substantial rehabilitation.

**Utility Allowance** shall mean the applicable utility allowance listed in the utility allowance schedule published by LACDA on an annual basis.

**REPLACEMENT HOUSING**

This Policy requires all projects involving the demolition and conversion, or substantial rehabilitation of existing Affordable Housing Units within Marina del Rey, to provide Replacement Affordable Housing Units. The number of Replacement Affordable Housing Units, the level of affordability, and the number of bedrooms to be constructed shall be determined by LACDA based on the results of a tenant income survey (if appropriate) on a project-by-project basis.

**Replacement Affordable Housing Unit Determination**

LACDA will determine the number of required Replacement Affordable Housing Units, the level of affordability, and the number of bedrooms for each Replacement Affordable Housing Unit, based on the results of a tenant income survey, if appropriate.

It is the burden of the developer to prove, with substantial evidence, that an existing Residential Unit is not an existing Affordable Housing Unit. LACDA will review all claims provided by the developer and make the final determination for the number of Replacement Affordable Housing Units.

Developers of projects requiring Replacement Affordable Housing Units shall be obligated, at their sole cost, to assist LACDA and/or its designee to complete a tenant income survey (if required).

Following completion of the tenant income survey, as well as the calculation of Replacement Affordable Housing Units, LACDA shall submit to DRP the following information for each project involving the demolition, substantial rehabilitation, or conversion of Residential Units within Marina del Rey:

- a. Total number of required Replacement Affordable Housing Units based upon the results of the tenant income survey;
- b. Total number of bedrooms for each Replacement Affordable Housing Unit; and
- c. Appropriate affordability level for each Replacement Affordable Housing Unit.

### **Replacement Affordable Housing Unit Requirements**

The Replacement Affordable Housing Units must adhere to the following requirements:

- a. The Replacement Affordable Housing Units must be of comparable size and design to the market-rate Residential Units at the site.
- b. The Replacement Affordable Housing Units obligation may be satisfied, in whole or in part, by an affordable housing set aside required as a condition of receiving a density bonus, and shall not be imposed in addition to any such set aside, except to the extent the density bonus set aside does not fully satisfy the Affordable Housing Unit obligations set forth in this Policy.

The rental levels of the Replacement Affordable Housing Units shall be set on a like-for-like basis as determined by the income level of the existing tenant whose income level triggers the Replacement Affordable Housing Units requirement or, if income information is not available, by comparison of the average of the previous year's monthly rent compared to the average affordable monthly rental rates for the same year.

All Replacement Affordable Housing Units shall be provided on-site or elsewhere within the Coastal Zone. If location within the Coastal Zone is not Feasible, the Replacement Affordable Housing Units shall be located within three miles of the Coastal Zone. In all circumstances, Replacement Affordable Housing Units shall be within the unincorporated County.

### **INCLUSIONARY HOUSING**

This Policy requires newly constructed residential development within unincorporated Marina del Rey to provide Affordable Housing Units, where Feasible. If not Feasible to provide Affordable Housing Units in a proposed new housing development, the developer must provide such Affordable Housing Units at another location within the County, either within the Coastal Zone or within three miles thereof. The County will require projects to meet the following standards:

1. The project must set aside 30% of the total Residential Units that would exist at the property after construction is complete, as Affordable Housing Units with 2/3 of those reserved for very low-income households and an additional 1/3 reserved for a mix of low- and moderate- income households.

2. If a project's replacement housing obligation is equal to or greater than 30% of the total units that would exist after construction is completed, then no additional Inclusionary Housing Units are required. If the replacement housing obligation amounts to less than 30% of the total units that would exist after construction is completed, then the project must provide additional Inclusionary Housing Units to meet the 30% inclusionary housing requirement.
3. The Inclusionary Housing Units must be equitably distributed throughout the residential component of the project, and the Residential Unit sizes and design must be comparable to market rate Residential Units included in the project.
4. The mix of Inclusionary Housing Unit types (i.e., studio, one bedroom, two bedroom, etc.; varying floorplans with the same number of bedrooms will be treated as different Residential Unit types) must be provided in the same proportion to the mix of Residential Unit types proposed for the entire development (Total Unit Type Ratio). The total unit type ratio for each Residential Unit type will be multiplied by the Product of the Inclusionary Housing Unit calculation to determine the number of each Residential Unit type to be distributed amongst the various affordable income levels.
5. The inclusionary housing obligation may be satisfied, in whole or in part, by an affordable housing set aside required as a condition of receiving a density bonus, and shall not be imposed in addition to any such set aside, except to the extent the density bonus set aside does not fully satisfy the affordable housing obligations listed in this Policy.

### **SUBSTANTIAL REHABILITATION**

This Policy requires all housing developments to set aside 30% Affordable Housing Units, when a property is Substantially Rehabilitated. Subject to a Project Feasibility Analysis, as referenced below, the 30% affordable housing requirement shall be calculated based on the total Residential Units that would exist after construction is completed, with 2/3 of the Affordable Housing Units reserved for very low-income households and an additional 1/3 reserved for a mix of low- and moderate- income households.

If the property has already set aside 30% of the total proposed Residential Units as Affordable Housing Units, no additional Affordable Housing Units shall be required. If the property has set aside less than 30% of the total Residential Units as Affordable Housing Units, then the project must provide additional Affordable Housing Units to meet the 30% affordable housing requirement. For example, if the project has set aside 18% of the total Residential Units as Affordable Housing Units, then the project must provide an additional 12%.

For partial Substantial Rehabilitations of a site, the developer must set aside 30% of all Substantially Rehabilitated Residential Units as Affordable Housing Units. If the property has already set aside 30% of the existing Residential Units as Affordable Housing Units before initiating the Substantial Rehabilitation project, no additional Affordable Housing Units shall be required. This policy shall not be triggered by repair or improvement projects affecting fewer than three units that are not part of a larger phased improvement project intended to renovate all or substantially all of the units on a property.

The Affordable Housing Units should be equitably distributed throughout the residential component of the project, and the Affordable Housing Unit types, sizes, and design should be comparable to market rate Residential Units in the project.

Affordable Housing Units for Substantial Rehabilitation projects shall be provided upon vacancy of the next comparable Residential Unit to prevent the permanent displacement of existing tenants. No existing tenant shall be displaced for purposes of complying with this policy.

All Affordable Housing Units for Substantial Rehabilitation projects shall be provided on-site or elsewhere within the Coastal Zone. If location within the Coastal Zone is not Feasible, the Affordable Housing Units shall be located within three miles of the Coastal Zone. In all circumstances, the Affordable Housing Units shall be within the unincorporated County.

For leases that predate this Policy, the 30% Affordable Housing Units set-aside for Substantial Rehabilitation projects shall only apply, as appropriate, when a lessee seeks a lease amendment requiring the County's discretionary approval.

### **CONVERSION TO NON-RESIDENTIAL USES**

In accordance with Mello Act requirements, the County will evaluate proposals to demolish or convert residential structures for the subsequent development of commercial uses that are not coastal dependent or coastal related (as defined in California Public Resources Code sections 30101 and 30101.3, respectively). No project will be approved unless the County determines that a residential use is no longer feasible at the proposed location. All such projects shall fully comply with the replacement affordable housing obligations as set forth above.

### **ADDITIONAL PROVISIONS**

1. The affordable income and rent requirements for Replacement, Inclusionary, and Substantially Rehabilitated Affordable Housing Units will be determined as follows:
  - a. The income standards for extremely low, very low, low and moderate income households will be based on California Health and Safety Code standards, as adjusted and annually published by the California Department of Housing and Community Development.
  - b. The utility allowance schedule will be published by LACDA on an annual basis.
  - c. The affordable housing rent as published by DRP, less the corresponding utility allowance, as applicable, shall be the maximum amount charged for occupancy of an Affordable Housing Unit.
  - d. Any Affordable Housing Units off-site will be the sole responsibility of the developer. The off-site Affordable Housing Units must be completed and available for occupancy prior to the issuance of the Certificate of Occupancy for the new market-rate development or within three years from the date when demolition or construction commences.
  - e. All calculations resulting in fractional numbers shall be rounded up to the next whole number.

### **FEASIBILITY ANALYSIS**

The developer must provide a project feasibility analysis (Project Feasibility Analysis) in support of its proposed affordable housing obligation. Final determination on project feasibility will be made by the County, and where applicable (replacement and inclusionary projects), consistent with the Mello Act. The project feasibility analysis must include:

- a. An evaluation of the impacts created by incentives available to the developer such as density bonuses; development standards relief; and available state and local assistance programs. (Note: County rent adjustments to comply with the inclusionary housing requirement are subject to negotiation on a project-by-project basis).
- b. An estimate of the developer's return that would be generated by the project.

- c. An evaluation of whether or not the project can be successfully completed within a reasonable period of time, taking into account economic, environmental, social and technical factors.

### **PROHIBITED HOUSING COSTS**

There shall be no separate, additional charges for use and occupancy of an Affordable Housing Unit or for housing services related thereto, including, but not limited to charges for parking spaces required to be assigned to the Affordable Housing Unit as a condition of the land use entitlement. Separate or additional charges for optional amenities (e.g., additional parking spaces, internet, cable, etc.) may be permitted, as long as the charges do not exceed those for market rate units.

### **REQUIRED COVENANTS, CONDITIONS & RESTRICTIONS**

1. The developer must work with LACDA to complete an Affordable Housing Plan (Plan), which shall set forth the number of Affordable Housing Units, location of Affordable Housing Units and all other details regarding provision of Affordable Housing Units as set forth in this Policy; no Building Permits will be issued for the project until the County approves the Plan.
2. The LACDA shall draft an affordability covenant, conditions and restrictions (Covenant) guaranteeing that the income and rent requirements for each Replacement, Inclusionary, and Affordable Housing Unit set aside due to Substantial Rehabilitation, will be observed for the term designated in the Covenant. The developer shall be responsible for sending a copy of the recorded Covenant to LACDA.
3. The LACDA shall draft a monitoring agreement (Agreement), and the developer will be required to comply with the monitoring requirements set forth in the Agreement annually throughout the Covenant term, which shall include a marketing plan to be approved by LACDA that will require, among other things, posting the availability of the Affordable Housing Units on the Los Angeles County Housing Resource Center Website for at least thirty (30) days prior to lease-up (<http://housing.lacounty.gov/>), and annual reports to LACDA with the latest updated Affordable Housing Unit waiting list.

### **CENTRALIZED WAITLIST**

1. The LACDA shall maintain a Centralized Waiting List (CWL) that will provide separate waiting lists for each of the Marina del Rey properties. Households who are eligible for an Affordable Housing Unit may register to join an open waiting list for one or more Marina del Rey properties. LACDA will audit each of the waiting lists on the CWL and will continue the monitoring and compliance of the lease-ups for each Marina del Rey residential property, as well as any vacancies for existing Affordable Housing Units. Preferences for referrals, not in the order listed below, shall include but are not limited to:
  - a. Marina del Rey households that completed an income survey and triggered a Replacement Affordable Housing Unit.
  - b. Households on existing Affordable Housing Unit waitlists for operating Marina del Rey properties.
  - c. Households that currently live in Los Angeles County.
  - d. Households that currently live in Los Angeles County and are experiencing homelessness.
2. All households that register for the CWL shall have access to an online portal where appropriate updates can be made at any time. The LACDA shall also provide a phone

number for any household in need of assistance in registering for or making updates to their information on the CWL portal.

3. The developer shall adhere to the CWL policies and procedures provided by LACDA at all times for initial lease-up of the Affordable Housing Units and for filling all vacancies thereafter. The developer shall be required to report screening outcomes for all households referred to available Affordable Housing Units within 48 hours of making a determination for denial or approval. All referrals shall have 15 days to appeal the decision and submit any further application material.
4. LACDA shall publish a CWL Policies and Procedures document at least 90 days prior to the launch of the CWL. This CWL Policies and Procedures shall provide further detail outlining the lease-up process for all Affordable Housing Units in Marina del Rey.
5. Nothing in this Policy should be construed as granting any household an entitlement to any of the Affordable Housing Units.

#### LACDA FEES

1. If LACDA elects to retain a consultant to perform any of its obligations under this Policy, said consultant shall be an independent third-party consultant who shall perform such work assigned to it at the sole direction of LACDA, and independent of the developer.
2. LACDA will levy the following fees:
  - a. The costs incurred directly by LACDA and those costs associated with engaging a consultant to undertake, distribute, conduct and/or evaluate the tenant income survey will be funded by the developer.
  - b. The costs associated with completing or auditing the Project Feasibility Analysis will be funded by the developer.
  - c. A one-time capitalized annual fee of \$170 per Affordable Housing Unit will be charged to defray the ongoing compliance monitoring, inspection and reporting costs associated with the replacement, inclusionary, and substantially rehabilitated set-aside units. This fee will be adjusted annually in accordance with changes in the Consumer Price Index (CPI).
  - d. The cost to establish a CWL on the Los Angeles County Housing Resource Center website (<http://housing.lacounty.gov/>) or on a new website created by LACDA. A document archive, and a tenant call response center shall be apportioned among the developers subject to this Policy. An annual site maintenance fee will be based upon the number of Affordable Housing Units in each development and calls made to the tenant call response center.
3. The LACDA fees shall only apply to development projects in Marina del Rey subject to all applicable laws for which land use entitlements have not been approved by the Regional Planning Commission and/or the Board of Supervisors as of the date of approval of this Policy by the Board of Supervisors (the Effective Date), and shall not apply to any previously approved project that must be reconsidered after the Effective Date, by order of a court of competent jurisdiction, on grounds other than compliance with all applicable laws.