

CITY OF BELVEDERE

ORDINANCE NO. 2024-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELVEDERE TO AMEND CHAPTERS 19.08, 19.20, 19.24, 19.26, AND 19.79 AND ADD CHAPTERS 19.41, 19.75, 19.95, AND 19.96 TO THE CITY OF BELVEDERE MUNICIPAL CODE, ALL TO COMPLY WITH STATE HOUSING LAW

WHEREAS, the City of Belvedere, California (“City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS State law authorizes cities to adopt and administer zoning ordinances to implement General Plans and requires that zoning regulations be consistent with the General Plan; and

WHEREAS, in recent years, the California Legislature has approved, and the Governor has signed into law, a number of bills that, among other things, amended the Government Code to streamline housing development approvals through use of objective standards for zoning, design review, and subdivision approvals, provide for affordable housing density bonuses and other incentives, require that certain types of housing be allowed by right (e.g., emergency shelters, low barrier navigation centers, manufactured housing, qualifying housing developments with affordable units, residential care facilities, supportive housing, and transitional housing), and impose new limits on local authority to regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) (collectively, “California Housing Laws”); and

WHEREAS, the California Housing Laws also require the City to revise and update the Housing Element component of its General Plan every eight years, pursuant to which requirements, the City adopted the Sixth Cycle Housing Element Update on January 24, 2023 (2023 Housing Element”); and

WHEREAS, on January 31, 2023, the City submitted the 2023 Housing Element to the California Department of Housing and Community Development (“Department”); and

WHEREAS, on May 1, 2023, the Department provided comments on 2023 Housing Element, indicating that the City should further revisions said document to better reflect the California Housing Laws and in particular requested changes to the City’s Zoning Ordinance to facilitate achievement of the City’s Regional Housing Needs Allotment (“RHNA”); and

WHEREAS, the City is in the process of preparing the Revised Sixth Cycle Housing Element Update (“Revised Housing Element”) pursuant to the Department’s

direction, which will require a series of implementing actions, including, without limitation, revisions to the City's Zoning Ordinance and Zoning Map ("Zoning Ordinance Amendments") and other local regulations and standards that are consistent with state law and implement the City's General Plan (collectively, "Implementing Actions"); and

WHEREAS, the City desires to amend its local regulatory scheme for zoning regulations to implement the General Plan and provisos of the California Government Code and the California Health & Safety Code governing local zoning and development approvals; and

WHEREAS, the California Housing Laws require the City to adopt any changes to its Zoning Ordinance need to accommodate lower income units on or before January 31, 2024; and

WHEREAS, the City conducted an Initial Study on the Revised Housing Element and the Implementing Actions (collectively, "Project") pursuant to the California Environmental Quality Act, California Public Resources Code Sections 21000 et seq. ("CEQA") and the CEQA Guidelines, 14 Cal. Code of Admin. Regs. Section 15000 et seq. ("CEQA Guidelines") and found that the Revised Housing Element and Implementing Actions could have significant adverse impacts on the environment and identified mitigation measures that would avoid or reduce such potential impacts to a less than significant level and would not themselves cause any significant adverse environmental effects; and

WHEREAS, based on the analysis and conclusions of the Initial Study, the City decided to prepare a Mitigated Negative Declaration for the Project, which the City published with the Initial Study on December 28, 2023, for public review and comment ("Draft IS/MND"); and

WHEREAS, the City's Planning Commission held a duly noticed public hearing on the draft Zoning Ordinance Amendments and Draft IS/MND on January 3, 2024, took public comments thereon; and

WHEREAS, after closing the public hearing on January 3, 2024, and considering all evidence in the record, the Planning Commission modified certain provisions of the draft Zoning Ordinance Amendments and thereafter adopted Resolution No. 2024-003, recommending that the City Council (i) adopt the IS/MND for the Revised Housing Element, Zoning Ordinance Amendments and other Implementing Actions; and (ii) adopt the Zoning Ordinance Amendments and Amendment to the City's Zoning Map, as modified; and

WHEREAS, the City published notice of the Belvedere City Council public hearing on the draft IS/MND and proposed Zoning Ordinance Amendments, as modified by the Planning Commission, on January 3, 2024 posting said notice at City Hall and to

the City's website; and

WHEREAS, the City Council has found that the Zoning Ordinance Amendments, as modified, are consistent with the goals and policies of the City's General Plan as they will be amended by the Revised Sixth Cycle Housing Element Update and with State law; and

WHEREAS, the City Council held a duly and properly noticed public hearing regarding the draft IS/MND and modified Zoning Ordinance Amendments on January 16, 2024, taking public testimony and considering all evidence in the record; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BELVEDERE DOES FIND AND ORDAIN AS FOLLOWS:

Section 1. The recitals above are each incorporated by reference and adopted as findings.

Section 2. The City Council makes the following additional findings based on the entirety of evidence in the record:

A. The IS/MND analyzes the potential adverse environmental effects of the Revised Housing Element the Implementing Actions and the Mitigation Measures described in the IS/MND.

B. The IS/MND represents the City Council's independent judgement.

C. Mitigation measures described in the IS/MND will avoid or reduce to a level of insignificance any significant adverse Project effects on the environment.

D. The record does not contain substantial evidence sufficient to support a fair argument that the Project as mitigated will have a significant adverse impact on the environment.

E. The proposed Zoning Ordinance and Zoning Map Amendments are consistent with the City's General Plan, as it will be modified by the Revised Housing Element.

Section 3. Title 19 of the Belvedere Municipal Code is hereby amended to include the changes and additions set forth in Exhibits A, B and C, attached hereto and incorporated herein by reference (deletions shown in ~~strikethrough~~ and additions shown in underline format). Ellipses ("...") denote where Code text is not shown because no changes are proposed.

Section 4. The Zoning Map is hereby amended, as shown in Exhibit C, to

delineate the boundaries of the MU Zone (Mixed Use), which replaces the C-1 zone on designated properties.

Section 5. All mitigation measures described in the IS/MND, and the Mitigation Monitoring Program set forth in Exhibit D, which is attached hereto and incorporated herein by reference, are hereby adopted.

Section 6. The City Council enacts this ordinance under the authority granted to cities by Article XI, Section 7 of the California Constitution and Government Code Sections 65852.21 et seq. and 66411.7 et seq.

Section 7. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, it is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences or phrases be declared unconstitutional or invalid or effective. To this end the provisions of this ordinance are declared to be severable.

INTRODUCED AT A PUBLIC HEARING on January 16, 2024, and adopted at a regular meeting of the Belvedere City Council on January 22, 2024 by the following vote:

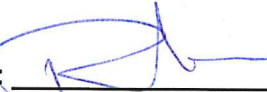
AYES: Cooper, Lynch, Wilkinson, Mark

NOES: None

ABSENT: Kemnitzer


ABSTAIN: None

APPROVED:



Peter Mark Mayor

ATTEST:



Beth Haener City Clerk

EXHIBIT A

This exhibit amends Chapters 19.08, 19.20, 19.24, 19.26, 19.28, 19.32, 19.36, 19.52, and 19.79 of Title 19 "Zoning" and adds chapters 19.41 and 19.75 to Title 19 "Zoning."

Chapter 19.08 Definitions

Chapter 19.08 Definitions are amended to add the following definitions in alphabetical order, and the section numbers are to be re-numbered accordingly.

Common Parking Space. "Common parking space" means unassigned parking spaces for use by guests, visitors, and residents.

Bungalow Court. "Bungalow court" means detached single-unit dwellings arranged around a common, shared courtyard that is wholly open to the street.

Dwelling, Townhouse. "Townhouse dwelling" means a group of two or more attached units where each unit has its own front access and individual garage and no unit is located over another unit. This development type include "fee simple" projects where each unit is separated by one or more common and fire-resistant walls and owners have fee simple title to the property.

Emergency Shelter. "Emergency shelter" means a temporary, short-term residence providing housing with minimal supportive services for homeless persons where occupancy is limited to six months or less by a homeless person, as defined in Section 50801 of the California Health and Safety Code. Medical assistance, counseling, and meals may be provided.

Employee housing, large. "Large employee housing" means housing consisting of more than 36 beds in group quarters used exclusively for employees working in the City or more than 12 units or spaces designed for use by a single family or household with one or more employees working in the City.

Employee housing, small. "Small employee housing" means housing serving no more than six employees working in the City shall be deemed a single-family structure, pursuant to California Health and Safety Code Section 17021.5.

Workers quarters. "Workers quarters" means a room or suite of rooms within or accessory to the main structure occupied by persons employed by the record owner to maintain the property or to care for the household or main dwelling, and which room(s) do not contain a kitchen. (Ord. 89-1 § 1, 1989.)

Family. "Family" means: 1) one or more persons occupying the same dwelling and living as a single housekeeping unit, including their workers, housekeepers or caregivers, and the spouse and children of any such employee, and as distinguished from a hotel, rooming house, etc. or (2)

Exhibit A

One or more individuals living together where the residents are a close group with social, economic and psychological commitments to each other and living together as a relatively permanent household.

Household: See “Family.”

Low barrier. “Low barrier” means best practices to reduce barriers to entry to temporary living facilities for the homeless and pursuant to State housing law may include, but is not limited to, the following:

- A. The presence of partners if it is not a population-specific site, such as for survivors of domestic violence or sexual assault, women, or youth;
- B. Pets;
- C. The storage of possessions; and
- D. Privacy, such as partitions around beds in a dormitory setting or in larger rooms containing more than two beds, or private rooms.

Low barrier navigation center. “Low barrier navigation center” means a housing-first, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing.

Major transit stop. “Major transit stop” means a site containing any of the following: (a) an existing rail or bus rapid transit station, (b) a ferry terminal served by either a bus or rail transit service or (c) The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

Ministerial approval. “Ministerial approval” means an administrative approval of an entitlement or permit application that involves little or no discretion to determine whether development standards and other applicable requirements are met based on the facts presented in an application. Ministerial approvals may include use of a checklist or similar compliance procedure.

Objective standard. “Objective standard” means a standard that involves no personal or subjective judgement by a public official or decision-making authority and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the applicant or development proponent and the public official or decision-maker prior to submittal of an application. This term includes “objective zoning standards,” “objective design standards”, and “objective subdivision standards.”

Residential Care, General. “General Residential care” means a facility that is licensed by the State of California to provide living accommodations and 24-hour, primarily non-medical care and supervision for more than six persons in need of personal services, supervision, protection, or assistance for sustaining the activities of daily living. Living accommodations are shared living quarters with or without separate kitchen or bathroom facilities for each room or unit. This

Exhibit A

use type includes facilities that are operated for profit as well as those operated by public or non-profit institutions, including hospices, nursing homes, convalescent facilities and group homes for minors, persons with disabilities, and people in recovery from alcohol or drug abuse.

Residential Care, Limited. “Limited residential care” means a small-scale facility that is licensed by the State of California to provide living accommodations and 24-hour, primarily non-medical care and supervision six or fewer persons in need of personal services, supervision, protection, or assistance for sustaining the activities of daily living.

Single Room Occupancy. “Single room occupancy” means a residential facility where living accommodations are individual secure rooms, with or without separate kitchen or bathroom facilities for each room, are rented to one or two-person households for a weekly or monthly period of time. This use classification is distinct from Supportive Housing, Transitional Housing, and a Hotel or Motor Court.

Supportive housing. “Supportive housing” means dwelling units with no limit on length of stay that are occupied by the target population as defined in subdivision (d) of Section 50675.14(b) of the Cal. Health and Safety Code or individuals eligible for services provided pursuant to the Lanterman Development Disabilities Act (Division 45 of the Welfare and Institutions Code), and that are linked to onsite or offsite services that assist supportive housing residents in retaining the housing, improving their health status, and maximizing their ability to live and, where possible, work in the community and where no onsite medical care is provided.

Transitional housing. “Transitional housing” means dwelling units configured as rental housing but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time, that shall be not less than six months from the beginning of assistance. Transitional housing may be designated for homeless or recently homeless individuals or families transitioning to permanent housing as defined in subdivision (h) of Section 50675.2 of the Cal. Health and Safety Code. Facilities may be linked to onsite or offsite supportive services designed to help residents gain skills needed to live independently. This classification includes domestic violence shelters.

Chapter 19.20 R ZONE

Sections:

- 19.20.010 Permitted uses.
- 19.20.020 Uses permitted under permit.
- 19.20.030 Prohibited uses.
- 19.20.035 Summary of development standards—R zone.
- 19.20.040 Design review required.

19.20.010 Permitted uses. The following uses are permitted in the R zone:

- A. Any public or private recreational use, including any beach, park, playground, boardwalk, esplanade, open walk, path, pier, wharf or other facilities for boats; provided, however, that construction of any new structure, or alteration, extension, enlargement or movement of any existing structure, shall only be permitted if authorized by the use permit specifically mentioned in Section 19.20.020;
- B. All uses permitted in the O zone.
- C. Emergency housing for up to three (3) beds and emergency shelters.

19.20.020 Uses permitted under permit. The following uses are permitted in the R zone with a use permit from the Planning Commission:

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19.20.050 Additional Development and Operating Standards for Emergency Housing and Emergency Shelters.

- A. No individual or household may be denied emergency shelter because of an inability to pay.
- B. At least two parking spaces shall be provided to accommodate all staff working in the emergency shelter. Additional spaces may be required under Section 19.68.020, and common or shared parking with other uses on the site may be approved. The City shall not require more parking for emergency shelters than other residential or commercial uses within the same zone.
- C. The size and location of exterior and interior onsite waiting and client intake areas shall be identified on the application.
- D. The operator shall provide 24-hour onsite management and security when the shelter is being used.
- E. Full-shielded security lighting shall be provided at entrances and in parking areas. This lighting shall be controlled by motion sensors and turned off when the shelter is not occupied.

Chapter 19.24 R-1 ZONE

Sections:

- 19.24.010 Permitted uses.
- 19.24.020 Uses permitted under permit.
- 19.24.030 Prohibited uses.
- 19.24.040 Summary of development standards—R-1C zone (Corinthian Island).
- 19.24.050 Summary of development standards—R-1L zone (Lagoon Area).
- 19.24.060 Summary of development standards—R-1W zone (West Shore Road area).
- 19.24.070 Design review required.

19.24.010 Permitted uses. The following uses are permitted in the R-1 zones:

- A. Single-family dwellings, including small employee housing, which shall be subject to the same standards as a single-family dwelling;
- B. Accessory Dwelling Units and Junior Accessory Dwelling Units;

...

Chapter 19.26 R-15 ZONE

Sections:

19.26.010	Permitted uses.
19.26.020	Uses permitted under permit.
19.26.030	Prohibited uses.
19.26.040	Summary of development standards.
19.26.050	Design review required.

19.26.010 Permitted uses. The following uses are permitted in the R-15 zone:

- A. Single-family dwellings, including small employee housing, which shall be subject to the same standards as a single-family dwelling;
- B. Accessory Dwelling Units and Junior Accessory Dwelling Units;

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Chapter 19.28: R-2 ZONE

Sections:

- 19.28.010 Permitted uses.
- 19.28.020 Uses permitted under permit.
- 19.28.030 Prohibited uses.
- 19.28.040 Development standards.
- 19.28.050 Design review required.

19.28.010 Permitted uses. The following uses are permitted in the R-2 zone:

- ~~A.~~ All uses and accessory uses permitted in the R-21 zone, ~~including, but not limited to, single family and two family dwellings~~ the R-15 zones, subject to the same requirements and regulations as are provided in Chapters 19.24 and 19.26 of this Title for the R-2 zone in Chapter ~~19.28~~ Two-1 and R-15 zones;
- ~~A.~~B. Two-family dwellings;
- ~~B.~~C. Accessory uses necessary to any of the above uses, and accessory buildings located on the same lot;
- ~~C.~~D. Structures, facilities and uses relating to or convenient or necessary for any function of municipal government;
- ~~D.~~E. Transitional and supportive housing facilities. (Ord. 2014-3 § 8, 2014; Ord. 89-1 § 1 (part), 1989.)

19.28.020 Uses permitted under permit. The following uses are permitted in the R-2 zone with a conditional use permit from the Planning Commission:

- A. Public buildings, parks and playgrounds;
- B. Electric substations, and other public utility facilities.
- C. Large residential or community care facilities serving seven or more individuals;
- D. Large family day care. (Ord. 2011-4 § 17, 2011; Ord. 89-1 § 1 (part), 1989.)

19.28.030 Prohibited uses. The following uses are prohibited in the R-2 zone: All uses not specified in Sections 19.28.010 or 19.28.020 of this Chapter, specifically including, but not limited to, any business, ~~single family dwellings~~, boarding house, rooming house, apartment court, apartment house, church, club building, hotel, rental office, roof decks, or any other use. (Ord. 89-1 § 1 (part), 1989.)

19.28.040 Development standards. The following standards apply to construction within the R-2 zone. The full text of the requirements summarized here are located in Chapters 19.44 through 19.68 of this Title. In addition, all applicable structures must receive Design Review approval pursuant to Chapter 20.04 of the Belvedere Municipal Code. In the event of a discrepancy between the following chart and the Code section, the Code section shall prevail.

Exhibit A

Minimum	lot size	6,000 square feet
	lot width	60 foot average
	lot frontage	60 feet
Lot Area/ Unit Density	<u>Units per net acre</u>	<u>5-20 units (as per General Plan designation, Medium Density MFR)</u>
Front yard setback <i>NOTE: For the full text of these requirements, please see Sections 19.48.010, 19.48.060, and Chapter 19.56 (Height Limits). Maximum Height is only allowed if there is no significant view blockage. See Chapter 19.56.</i>	Building less than 15 feet high within first 40 feet from front property line	5 feet
	Building less than 25 feet high within first 40 feet	10 feet
	Building over 25 feet high within first 40 feet	15 feet
Side yard setback <i>NOTE: See §19.48.145 and Chapter 19.56 (Height Limits). Maximum Heights are only allowed if there is no significant view blockage.</i>	For buildings 15 feet or less in height	5 feet
	For buildings 15-25 feet high	10 feet
	For buildings over 25 feet high	15 feet; one foot of setback is required for every foot of height over 15 feet.
Rear yard setback <i>NOTE: See §19.48.170 for additional comments</i>	Abutting another lot	20 feet
	Abutting a street	15 feet
	Abutting water , an alley or private way	<u>15</u> feet
	Abutting water	20 ft
Setbacks for conditional use	10 feet, or minimum for that yard, whichever is greater	
Maximum lot coverage	Structures, excluding uncovered decks, etc.	40 percent (increases to 50 percent if adjacent to water)
	Total coverage	60 percent
Maximum height <i>NOTE: See Chapter 19.56 for the full text of Height limitations requirements. Maximum Heights are only permitted if there is no significant view blockage.</i>	22 feet as measured from the highest point of the structure (excluding chimneys) to Base Flood Elevation plus one foot of freeboard. (See §19.56.040)	
	Up to 26 feet as measured from the highest point of the structure (excluding chimneys) to Base Flood Elevation plus one foot of freeboard may be allowed only as follows: A bonus of one foot of additional height may be allowed when an additional foot is added to the second story setbacks, to a maximum height of 26 BFE+1 and no structure may exceed a maximum height of 29 feet from Existing Grade as defined in §19.08.224. (See §19.56.090)	
Usable open space	300 square feet/unit/public	
	450 square feet/unit/private	
Off-street parking	2 spaces per unit, with a minimum of 4 units. Must be on the same lot as main building.	

Exhibit A

For all applicable regulations concerning the determination and measurement of slope, height, setbacks, floor area ratio and other development standards, see Chapters 19.44 through 19.68 of this Title. (Ord. 2015-3 Exhibit B, 2015; Ord. 89-1 § 1 (part), 1989.)

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Chapter 19.32 R-3C ZONE

Sections:

- 19.32.010 Permitted uses.
- 19.32.020 Uses permitted under permit.
- 19.32.030 Prohibited uses.
- 19.32.040 Development standards.
- 19.32.050 Design review required.

19.32.010 Permitted uses. The following uses are permitted in the R-3C zone:

- A. All uses and accessory uses permitted in the R-2 zone, including, but not limited to, single-family and two-family dwellings, subject to the same requirements and regulations as are provided for the R-2 zone in Chapter ~~19.28 Two-family dwellings: 19.28:~~
- B. Apartment courts;
- C. Apartment houses and multiple dwellings;
- D. Accessory uses necessary to any of the above uses, and accessory buildings located on the same lot;
- E. Structures, facilities and uses relating to or convenient or necessary for any function of municipal government.
- F. Transitional and supportive housing facilities. (Ord. 2014-3 § 9, 2014; Ord. 2011-4 § 18, 2011; Ord. 89-1 § 1 ~~(part),~~ 1989.)

...

19.32.030 Prohibited uses. The following uses are prohibited in the R-3C zone: All uses not specified in Sections 19.32.010 and 19.32.020 of this Chapter, including single-family dwellings and roof decks. (Ord. 89-1 § 1 (part), 1989.)

19.32.040 Development standards. The following standards apply to construction within the R-3C zone:

Minimum	lot size	6,000 square feet
	lot width	60 foot average
	lot frontage	60 feet
Lot Area/ Unit Density	<u>Units per net acre</u>	<u>5-20 units (as per General Plan designation, Medium density MFR)</u>
Front yard setback	Building less than 15 feet high within first 40 feet from front property line	5 feet
	Building less than 25 feet high within first 40 feet	10 feet
	Building over 25 feet high within first 40 feet	15 feet
Side yard setback	For building less than 15 feet high	5 feet
	<u>For buildings 15-25 feet high</u>	<u>10 feet</u>

Exhibit A

	For buildings over 25 feet	15 feet; one foot of setback is required for every foot of building height over 25 feet.
	For lot entirely abutting dedicated open space	0 feet
Rear yard setback	Abutting another lot	20 feet
	Abutting a street	15 feet
	Abutting water, an alley or private way	20 feet
Setbacks for conditional use	10 feet, or minimum for that yard, whichever is greater	
Maximum lot coverage	Structures, excluding uncovered decks, etc.	40 percent (increases to 50 percent if adjacent to open water)
	Total coverage	60 percent
Maximum height	Up to 34 feet as measured from the highest point of the structure (excluding chimneys) to Base Flood Elevation plus one foot of freeboard and a maximum of 36 feet as measured from existing grade as defined in §19.08.224.	
Maximum distance of buildings from Beach Rd.	100 feet maximum except docks	
Maximum building dimensions	75 feet wide	
	100 feet long	
Open space	50 percent of lot must remain in open water	
Usable open space	200 square feet/unit/public	
	300 square feet/unit/private	
Off-street parking	1.25 spaces for each unit with 2 or fewer bedrooms	
	2 spaces for each unit with 3 or more bedrooms, with a minimum of 2 spaces.	
	Shall NOT be located on any property within the R-3C zone, but must be on property in an abutting zone, within 300 feet of structure for which the spaces are required.	

Chapter 19.36 R-3 ZONE

Sections:

- 19.36.010 Permitted uses.
- 19.36.020 Uses permitted under permit.
- 19.36.030 Prohibited uses.
- 19.36.040 Development standards.
- 19.36.050 Design review required.

19.36.010 Permitted uses. The following uses are permitted in the R-3 zone:

All uses and accessory uses permitted in the R-3C zone, subject to the same requirements and regulations as are provided for the R-3C zone in Chapter 19.32, including, but not limited to, single-family dwelling, two-family dwellings, apartment courts, apartment houses, multiple dwellings, transitional and supportive housing, and structures, facilities and uses relating to or convenient or necessary for any function of municipal government. (Ord. 89-1 § 1 (part), 1989.)

19.36.020 Uses permitted under permit. The following uses are permitted in the R-3 zone with a use permit from the Planning Commission:

19.36.030 Prohibited uses. The following uses are prohibited in the R-3 zone: All uses not specified in Sections 19.36.010 or 19.36.020, including, but not limited to, ~~single family dwellings~~, boarding houses, rooming houses, hotels, motor courts, roof decks, and any other business or activity. (Ord. 89-1 § 1 (part), 1989.)

19.36.040 Development Standards. The following standards apply to construction within the R-3 zone:

Minimum	Lot size	6,000 square feet
	Lot width	60 foot average
	Lot frontage	60 feet
Lot Area/ Unit Density	Units per net acre	<u>5-20 units (as per General Plan designation, Medium Density MFR)</u>
Front yard setback	Building less than 15 feet high within first 40 feet from front property line	5 feet
	Building less than 25 feet high within first 40 feet	10 feet
	Building over 25 feet high within first 40 feet	15 feet
Side yard setback	For buildings 15 feet high or less in height	5 feet
	For buildings 16-25 feet high	10 feet

Exhibit A

	For buildings over 25 feet high	15 feet; one foot of setback is required for every foot of building height over 25 feet.
Rear yard setback	Abutting another lot	20 feet
	Abutting a street	15 feet
	Abutting water, an alley or private way	15 feet
	Abutting water	20 feet
Setbacks for conditional use	10 feet, or minimum for that yard, whichever is greater	
Maximum lot coverage	Structures, excluding uncovered decks, etc.	40 percent (increases to 50 percent in cases of multiple-family housing adjacent to open water and/or adjacent to commercial zoned properties)
	Total coverage	60 percent
Maximum height	Up to 34 feet as measured from the highest point of the structure (excluding chimneys) to Base Flood Elevation plus one foot of freeboard and a maximum of 36 feet as measured from existing grade as defined in §19.08.224. Up to a 38 foot maximum as measured from existing grade shall be provided if projects meet requirements of 19.36.040(A).	
Usable open space	200 square feet/unit/public	
	300 square feet/unit/private	
Off-street parking	1.25 spaces per apartment of 2 or fewer bedrooms	
	2 spaces per apartment of 3 or more bedrooms	
	2 spaces minimum per detached single-family dwelling unit	
	4 spaces minimum per detached two-family dwelling	
	For residential uses, must be located on same lot, or within 300 feet of dwellings for which parking is required.	
	For all other permitted uses, within 500 feet of use.	
	For duplex and multiple-family dwellings, in closed garage or covered carport.	
For nonresidential uses, may be in open lot, if landscaped and approved by the Planning Commission.		

For all regulations concerning the determination and measurement of slope, height; setbacks, floor area ratio and other development standards, see Chapters 19.44 through 19.68 inclusive of this Title.

A. Incentives for affordable housing. If a development project with new housing units or additions of over 3 units to an existing development: creates 20 percent of the new units as affordable to households making less than 80 percent of the area median income, the following standards shall apply, replacing the standards in the table above:

1. Lot area/unit. The maximum allowable density (i.e., minimum lot area/unit) shall

be calculated over the total combined area of contiguous parcels equal to or greater than 0.5 acres under common ownership;

2. Off-street parking: Only one ~~dedicated~~ parking space and 0.5 common parking space is required per unit;
3. Usable open space: 150 square feet of private open space and 150 square feet of public open space if the development site is within 1,000 linear feet of an existing park;
4. Maximum lot coverage: 45 percent
5. Maximum height: 38 feet for buildings with frontage on Beach Road

19.36.050 Design review required. All new structures, and all exterior remodeling, alteration, addition or other construction, including retaining walls, swimming pools, fences and the like, shall be subject to the design review process as required in Title 20 of this Code.

Chapter 19.41 MU ZONE

Sections:

<u>19.41.010</u>	<u>Purpose.</u>
<u>19.41.020</u>	<u>Permitted uses.</u>
<u>19.41.030</u>	<u>Uses permitted under permit.</u>
<u>19.41.040</u>	<u>Additional Use regulations</u>
<u>19.41.050</u>	<u>Development standards.</u>
<u>19.41.060</u>	<u>Building design</u>
<u>19.41.070</u>	<u>Landscape design</u>
<u>19.41.080</u>	<u>Parking facility design</u>

19.41.010 Purpose. The specific purposes of the MU zone are to:

- A. Provide for the orderly, well-planned, and balanced mixed-use development for development within Belvedere's downtown along Tiburon Boulevard;
- B. Coordinate with the Town of Tiburon to reduce or eliminate design, development, and review constraints;
- ~~B-C.~~ Encourage a mix of uses that promotes convenience, economic vitality, fiscal stability, and a pleasant quality of life;
- ~~C-D.~~ Promote pedestrian- and transit-oriented, mixed-use with residential development;
- ~~D-E.~~ Establish objective design standards that will govern the development in the MU zone; and
- ~~E-F.~~ Provide appropriate buffers and transition standards between commercial and residential uses and adjacent residential uses.

19.40.020 Permitted uses. The following uses are permitted in the MU zone:

- A. Retail store, including art supply stores, dry goods, grocery stores, candy, pharmacies, florists, furniture stores, garden supplies, hardware, paint, jewelry, clothing, shoes, music, sporting goods, stationery and office supplies, electronics, pet supplies, art galleries, souvenir shops, stamp & coin shops, toy stores, wine shops, and newsstands.
- B. Personal service business, including barber shops, beauty salons, nail salons, massage establishments, photography and art studios, dry cleaning establishments without on-site processing, laundromats, music/dance/art instruction, and travel agencies;
- C. Apartment courts, apartment houses, townhouse development, and multi-family dwellings, which may be in standalone buildings or in a mixed use structure;
 - 1. Pursuant to State law, any proposed residential development previously identified

in Belvedere's 5th Cycle Element Sites Inventory in Section 4, Table 41, page 86, shall be subject only to ministerial review to determine compliance with the objective standards of this title and the objective standards of Title 22. No discretionary design review shall be required.

- D. Bakeries (retail sales only);
- E. Banks and financial institutions;
- F. Business services, including advertising, blueprint services, equipment rental and leasing, mail forwarding and package delivery, office security, photocopying and printing, and real estate agencies,
- G. Low barrier navigation centers;
- H. Offices, including business and professional offices, medical offices and clinics, laboratories, and opticians/optometrists;
- I. Single room occupancy;
- J. Transitional and supportive housing facilities; and
- K. Accessory uses customarily incidental to any of the above uses and accessory buildings when located on the same lot, provided, that there shall be no accessory use constituting any industry unless the same is clearly incidental and essential to a business and unless all products of such accessory use are sold on the premises.

19.41.030 Uses permitted under permit. The following uses are permitted in the MU zone with a conditional use permit from the Planning Commission:

- A. Eating and drinking establishments, including, but not limited to: restaurants, bars/cocktail lounges, wine shops with on-site tasting, brewpubs, outdoor eating areas, any establishment serving any alcoholic beverage on the premises, convenience markets, liquor stores, catering/commercial food kitchens, and bakeries with on-site production.
- B. Fitness/recreational facilities, including gyms, dance studios, and spas.
- C. Public buildings, parks and playgrounds;
- D. Public parking facilities;
- E. Any essential public service, including public utility buildings and uses, electric substations and other public utility facilities;
- F. Off-street parking facilities;
- G. Hotels;
- H. Club buildings; and

I. Wireless telecommunication facilities.

19.41.040 Additional use regulations – Low Barrier Navigation Centers. Low barrier navigation centers (LBNCs) shall be located, developed, and operated in compliance with the development standards of the MU zone and with the following operational requirements; they are then allowed by right with design review. LBNCs shall comply with the requirements of the California Government Code § 65660 as follows:

- A. LBNCs shall offer services to connect people to permanent housing through a services plan that identifies services staffing.
- B. LBNCs shall be linked to a coordinated entry system, so that staff who co-locate in the facility may conduct assessments and provide services to connect people to permanent housing. In this context, a “coordinated entry system” means a centralized or coordinated assessment system developed pursuant to § 576.400(d) or § 578.7(a)(8), as applicable, of Title 24 of the Code of Federal Regulations, as amended, and any related requirements, intended to coordinate participant intake, assessment, and referrals.
- C. LBNCs shall comply with Chapter 6.5 (commencing with § 8255) of Division 8 of the California Welfare and Institutions Code.
- D. LBNCs shall have a working system for entering information regarding client stays, client demographics, client income, and exit destination through the local Homeless Management Information System, as defined by § 578.3 of Title 24 of the Code of Federal Regulations.
- E. The time periods for determining whether an LBNC application is complete and making a decision on a proposed LBNC shall be those set for in Cal Gov’t. Code § 65664.

19.41.050 Development standards. The standards that shall apply to development in the MU Zone are shown in Table 19.41-A and sections 19.41.060, 19.41.070, and 19.41.080. These standards supersede standards in Title 22 unless an applicant requests and qualifies for ministerial review and commits to meeting the requirements for low-income housing and State labor standards as established in California Government Code § 65912.123 and § 65913.4 (“State Streamlined Ministerial Approval Process”).

Table 19.41-A: Development Standards For MU Zone

Feature	Standard		Additional Regulations
	MU Zone		
Site Requirements			
Minimum Site Area (sq. ft.)	10,000		Note 1
Minimum Lot Width (ft.)	60		
Minimum; maximum density *dwelling units per net acre)	30; 35		
Maximum Floor Area Ratio	1.75		
Minimum Landscape Coverage (%)	15		See §19.40.070
Building Form and Location			
Maximum Building Height	3 stories, up to 45 feet		Note 2
Minimum Ground Floor Ceiling Height	12 feet non-residential; 9 feet residential		
Minimum Setbacks: See Note 5.			
Front	10 feet		Notes 3 and 4
Rear	20 feet abutting another lot; 15 abutting a street; 10 feet abutting an alley or private way		
Interior Side	5 feet; 10 feet if adjacent to a Residential zone		
Street Side	5 feet		Notes 3 and 4
Minimum Building Separations	15 feet		
Other Requirements			
Building setbacks	At least 75 percent of a street-facing elevation above the 2 nd story shall be setback at least 5 feet from the front and street side setback line. Building setbacks are not required for interior side and rear elevations.		
Off-street parking and loading	1 per unit, which may be provided as common or shared parking. Also see Note 5.		
Usable open space	400 square feet of which at least 200 square feet shall be private.		

Table 19.41-A: Development Standards For MU Zone

Feature	Standard		Additional Regulations
	MU Zone		
<p>Notes:</p> <p>[1] The minimum lot area for residential-only lots within a mixed use development is 6,000 square feet.</p> <p>[2] Allowable height shall include up to half the vertical height of a sloped roof (e.g., half of the distance between lowest eave and the highest point within principal roof volume). At least 75 percent of the street-facing elevation of a story above 30 feet shall be setback back a minimum of 10 feet from the front façade of the story below that height.</p> <p>[3] A minimum 20-foot setback must be provided for garages and carports facing a street, Awnings and canopies may project up to six feet into a required setback, and outdoor seating area shall be allowed with a use permit in a required setback.</p> <p>[4] Where ground-floor residential units are proposed with adjoining ground-floor decks along a street frontage, a two-foot landscaped front or corner side setback shall be provided between the deck and the street property line.</p> <p>[5] <u>Minimum setbacks are applicable to property lines abutting residential properties or abutting properties not under common ownership. The intent of the development standards is to reduce constraints on contiguous properties under common ownership that exist adjacent to each other in Tiburon and Belvedere. Setbacks will not be applied to property lines along the Tiburon/Belvedere boundary.</u></p>			

19.40.060 Building design.

- A. **Allowable projections into setbacks.** The following building elements may project into the required front and street side setbacks.
 - 1. **Arcades: 10 feet**
 - 2. **Awnings: 6 feet**
 - 3. **Cornices: 1 foot**
 - 4. **Eaves: 4 feet**
 - 5. **Stairs: up to the property line**
 - 6. **Balconies and bay windows: 30 inches; may not exceed 12 feet in width. No rooftop balconies or decks are permitted.**
 - 7. **Wall-mounted lighting and planters: 18 inches**

- B. **Required ground floor transparency for non-residential uses.** Exterior walls for non-residential ground-floor uses facing and within 20 feet of a front or street side property line shall include windows, doors, or other openings for at least 60 percent of the building wall area between 2 feet and 8 feet above the sidewalk. No street-facing wall shall run in a horizontal plane more than 25 feet without an opening.

Exhibit A

1. Openings fulfilling this requirement shall have transparent glazing and provide views into display areas, sales areas, work area, lobbies or other active spaces, and window displays shall be at least 3 feet in depth.
2. Parking garages are not required to meet these transparency requirements.
3. Alternatives to the building transparency requirement may be approved by the Planning Commission for uses that have unique operational requirements making windows or doors infeasible or for street-facing building walls that exhibit architectural relief and detail with landscaping that creates visual interest at the pedestrian level.

C. Building mass and scale.

1. To reduce upper-story building mass, floorplates for the third story shall not exceed 80 percent of the ground-floor floorplate.
2. Buildings that are more than 100 feet in length shall include a minimum 2-foot vertical variation in height for at least 50 feet.
3. To maintain a human-scale at the street level where ground floor commercial space is provided, building storefront widths shall not exceed 30 feet without a recess or a break, which may be a building entry or a separate display window.
4. Minimum ground floor height for commercial uses, including retail shops, restaurants, and offices: 14 feet.

D. Exterior finish materials. Allowable exterior building materials are set forth below. Materials not allowed include vinyl and aluminum products, including those intended to simulate wood, and rough sawn wood. Concrete block is not allowed, unless concealed by allowable materials listed below.

1. *For wall elements:* wood, stucco, and metal or fiber cement panels.
2. *For a building base or foundation:* concrete, brick, stone or stucco up to one story in height.
3. *For roof elements:* asphalt shingles, standing metal seam, asphalt roll roofing, tar, modified bitumen roofing, rubber or membrane roofing.
4. *Materials at corners.* Veneers and other surface applications shall not be discernable. Materials shall be continued horizontally around the entirety of allowable projections and at visible exterior building corners, unless the material would be concealed by an immediately abutting structure. The same materials shall extend around an outer corner until: 1) it meets an interior corner, or 2) for at least eight feet. The edge of wood finishes shall be concealed at exterior corners

by corner boards or miter joint.

5. **Wood.** Exterior application of wood shall be comprised of: 1) wood modules comprised of lap siding, vertical plank siding, horizontal plank siding, or shingles; or 2) exterior plywood with battens to cover joints and horizontally spaced not less than two feet on center.
6. **Stucco and concrete.** For exterior application of stucco and concrete, a horizontal expansion joint or control joint shall be placed at the level of each floor and roof, and a vertical expansion joint shall occur at least every fourteen feet. For stucco, expansion and control joints shall be reinforced with metal.
7. **Metal.** Metal panels and metalwork may be used but shall be non-reflective and shall not produce glare. Metal pieces, panels, fasteners, and detailing shall be resistant to corrosion.
8. **Brick and stone.** If brick and stone are used around a building opening, a soldier course or lintel shall be incorporated, which is above the opening and at least 8 inches tall.
9. **Facade color.** For building facades that can be seen from a street or public open space, pastel color finishes are not allowed, such that if not white, the color hue shall contain at least ten percent grey.

E. Windows.

1. **Window type.** Operable windows shall be limited to double-hung, awning, or casement type windows. Horizontal sliding and hopper windows are prohibited.
2. **Operable windows.** Rooms with exterior windows shall include one or more operable windows, except where exclusive use of fixed windows are needed to mitigate excessive noise or air quality impacts.
3. **Window materials.** Solid wood or steel sash windows are required. Hollow window sections are not allowed.
4. **Mullions.** Mullions may not be behind glass, such as within double glazed windows, but must project beyond the exterior of the glass surface.
5. **Clear glass.** Except for bathroom windows, exterior glass shall be clear in appearance having at least ninety percent light transmission within the visible spectrum, and shall not be mirrored, frosted, or opaque.
6. **Recessed glass.** Window glass shall be recessed at least two inches behind the facade plane.

7. Wood trim. Where a facade plane is surfaced with wood, windows shall be framed by wood.
8. Privacy. Within the same development project, facing windows shall be separated horizontally by at least twenty feet, offset horizontally by at least ten degrees perpendicular to window plane, have an interior sill height that is at least forty-eight inches above floor; or use obscured glass.

19.40.070 Landscape design.

- A. Landscaped setbacks. Setback areas shall be landscaped except for areas necessary for pedestrian access and vehicular access, and where utilities preclude landscaping. Landscaping shall be comprised of trees, shrubs, and groundcover shall be selected from lists provided by the City.
- B. Fences and walls. The standards of Section 20.04.150 (Fences and screening) shall apply.
- C. Lighting for parking and open space areas. All lighting fixtures shall be fully-shielded and shall conform with section 20.04.180 (Exterior lighting). The following standards also apply:
 1. Pole-mounted lighting fixtures shall not exceed a height of 16 feet;
 2. Within four feet of a building entryway, at least one wall-mounted exterior light fixture shall be provided; and
 3. Exterior lighting shall be downward facing and bulbs shall be covered. Exterior lighting shall not cast direct light beyond the side and rear property lines, based on lighting location, height, and fixture light-angle specifications.
- D. Landscape plan required. A landscape documentation package shall be provided with the development application that complies with the standards of the “Model Water Efficient Landscape Ordinance” (MWELo) adopted by the California Dept. of Water Resources in Chapter 2.7 of Div. 2 of Title 23 of the California Code of Regulations, which is hereby adopted by reference and shall apply the MWELo to all mixed use development projects with 500 square feet or more of landscape area. If the total landscaped area is 2,500 square feet or less, an applicant may use the prescriptive compliance option provided in Appendix D of the MWELo to streamline the review process.

19.40.080 Parking facility design.

The layout of parking spaces, loading berths, parking aisles, parking area landscaping, and parking facility lighting shall comply with Chapter 19.68 and the following standards.

- A. Parking spaces, loading berths and parking aisles, if outdoors, may be located within the required side and rear setbacks, and within the required front setbacks up to three feet

from the street right-of-way.

- B. Each parking stall and loading berth shall have vehicular access to the street, accessway, or alley, without passing over other parking spaces.
- C. Each parking stall shall have vehicular access to a street without backing into it or another stall. Building siting and parking facility design shall maximize opportunities for shared parking in order to minimize curb cuts.
- D. Each parking stall, aisle and driveway shall be graded, drained and surfaced so as to prevent dust, mud or standing water. For non-residential lots and uses, all parking spaces, aisles, circulation directions, motorcycle spaces, pedestrian spaces, no-parking spaces and the like shall be clearly marked with durable traffic paint. Raised wheel stops or similar devices shall be provided to protect adjacent walks, fences, walls, landscaping and the like.
- E. Landscaping, including trees and shrubs for shading and visual buffering, shall be required and shown as part of the parking layout. Landscaping shall be water-conserving types and shall be properly irrigated and maintained, consistent with the MWEL. Defective or dead landscaping shall be promptly replaced.
- F. Sufficient lighting shall be provided to protect the public in a parking area during the time it is accessible to the public after daylight; fully-shielded fixtures are required to prevent glare and spillover light on adjacent properties.
- G. Bicycle parking for retail and service commercial uses: one space per 2,500 square feet of floor area shall be provided in publicly-accessible locations, such as along public sidewalks, street-facing setbacks, and in publicly-accessible open space.
- H. Bicycle parking for residential uses: one space per unit shall be provided within 100 feet walking distance of the building entry in a secure location.

19.40.050 Design review required. All new structures, and all exterior remodeling, alteration, addition or other construction, including retaining walls, swimming pools, fences and the like, shall be subject to the design review process as required in Title 20 of this Code, unless the project qualifies for ministerial review under State law.

Chapter 19.52: DENSITY AND OPEN SPACE REQUIREMENTS

Sections:

Section numbers are to be re-numbered accordingly.

~~19.52.140~~ Minimum area for each apartment R-2, R-3C, and R-3 zones.

...

~~19.52.140~~ **Minimum area for each apartment R-2, R-3C, and R-3 zones.** There shall be provided on each lot the following minimum area for each apartment, with the total lot area being at least equal to the total area for all such apartment units on the lot:

~~R-2 zone.~~ A minimum of four thousand square feet for each unit of three or more bedrooms, and a minimum of three thousand square feet for each unit of two or fewer bedrooms;

~~R-3C and R-3 zones.~~ A minimum of three thousand square feet for each apartment unit of three or more bedrooms, a minimum of two thousand five hundred square feet for each apartment unit of two bedrooms, and a minimum of two thousand square feet for each apartment unit of one bedroom. (Ord. 89-1 § 1, 1989.)

Chapter 19.75 ADDITIONAL USE REGULATIONS FOR SPECIFIED USES

Sections:

<u>19.75.010</u>	<u>Purpose.</u>
<u>19.75.020</u>	<u>Applicability.</u>
<u>19.75.030</u>	<u>Application requirements.</u>
<u>19.75.040</u>	<u>Review authority.</u>
<u>19.75.050</u>	<u>Review procedure.</u>
<u>19.75.060</u>	<u>Findings and decision.</u>
<u>19.75.070</u>	<u>Appeal of determination.</u>

19.75.010 Purpose. The purpose of this Chapter is to establish objective standards for specific uses that are permitted or conditionally permitted in several zones. These standards are intended to minimize the impacts of these uses on adjacent properties and the City at large and to protect the health, safety, and welfare of their occupants and of the general public.

19.75.020 General Residential Care. General residential care facilities shall be located, developed, and operated in compliance with the following standards, where allowed by the land use regulations in chapters 19.28, 19.36, 19.40, and 19.41:

- A. **Minimum distance from any other residential care facility: 300 feet.**
- B. **Minimum usable open space.** At least 20 square feet of common open space on-site shall be provided for each person who resides in the facility. Common open space shall include landscaped areas and walks and other amenities, such as, patios, swimming pools, barbeque areas, or other such improvements as are appropriate to enhance the outdoor environment of the residential care facility for its residents and visitors. Landscaped

courtyard entries that are oriented towards the public street which create a welcoming entry feature are also considered common areas. All areas not improved with buildings, parking, vehicular accessways, trash enclosures, and similar items shall be developed as common areas with the types of attributes described above.

1. Minimum horizontal dimension: 15 feet
2. Usability: a surface shall be provided that provides for convenient use for outdoor living and/or recreation.
3. At least 15 percent of the common open space shall be shaded for seating areas. Such shading may be provided by canopy trees or shade structures.

19.75.030 Supportive housing Supportive housing shall be located, developed, and operated in compliance with the following standards, where allowed by the land use regulations in chapters 19.28, 19.36, 19.40, and 19.41:

- A. Supportive housing shall only be subject to the development standards that apply to other residential uses in the zone where such housing is proposed. The maximum number of allowable dwelling units or guest rooms for supportive housing shall be the same as number allowed for residential development projects in the zone where the supportive housing project is proposed.
- B. Supportive housing may be provided in a multiple-unit structure or group residential facility.
- C. Only design review is required for supportive housing projects.
- D. Applicants shall comply with all federal and California state licensing requirements and applicable building codes and fire codes, including maximum occupancy restrictions. No limits shall be established on the length of stay.
- E. Supportive housing facilities shall have the minimum amount of living space that meets the standards for an efficiency unit, shower and toilet facilities, laundry facilities, and secure storage areas for intended residents.
- F. Recreation rooms at least 600 square feet in area for a development of 16 or more dwelling units or guest rooms, or at least 400 square feet in area for a development of fewer than 16 dwelling units or guest rooms, may qualify as common open space, but shall not qualify for more than 40 percent of the total required open space.
- G. At least 90 square feet of space shall be provided as office space for on-site supportive services, which may include counseling, access to social services, medical and mental health care, housing and employment opportunities. Supportive services provided on-site are considered an accessory use and not subject to any additional standards or permitting requirements.

19.75.040 Transitional housing. Transitional housing shall be located, developed, and operated in compliance with the following standards, where allowed by the land use regulations in chapters 19.28, 19.36, 19.40, and 19.41:

- A. Transitional housing shall only be subject to the development standards that apply to other residential uses in the zone where such housing is proposed. The maximum number of allowable dwelling units for transitional housing shall be the same as number allowed for residential development projects in the zone where the transitional housing project is proposed.
- B. Transitional housing may be provided in a variety of rental housing types (e.g., multiple-unit dwelling, group residential, or single unit dwelling).
- C. Transitional housing providing accommodations for six or fewer individuals shall be deemed a single-family use; only design review is required.
- D. Transitional housing providing accommodations for more than six individuals also is a permitted use in zones where multi-family and mixed use development is allowed and shall require design review.
- E. No individual or family shall reside in transitional housing for more than 24 months. A minimum of 60 days shall be required between stays. The operator of the transitional housing shall maintain adequate documentation to demonstrate compliance with this provision.
- F. Applicants shall comply with all federal and California state licensing requirements and applicable building codes and fire codes, including maximum occupancy restrictions.
- G. Transitional housing facilities shall have the minimum amount of living space that meets the standards for an efficiency unit, shower and toilet facilities, laundry facilities, and secure storage areas for intended residents.
- H. Transitional housing may include office space for on-site supportive services, such as counseling, access to social services, medical and mental health care, housing and employment opportunities. On-site supportive services are considered an accessory use and not subject to any additional standards or permitting requirements.

Chapter 19.79 ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS

Amend Section 19.79.050 and 19.79.080 as follows:

19.79.040050 General requirements for accessory dwelling units and junior accessory dwelling units ~~Accessory dwelling unit development standards.~~ Unless otherwise provided in this chapter, accessory dwelling units and junior accessory dwelling units are subject to the following requirements:

...

...

K. Other Provisions. Number of Units. One accessory ~~Notwithstanding the above, any existing unit that does not exceed 500 square feet and is located within the primary dwelling unit and one junior accessory or that is detached and with 100 linear feet of the primary dwelling unit are permitted per residentially zoned lot that contains an existing or proposed single family dwelling. For ADUs where the property owner, and that obtains a deed restriction pursuant to Section 19.79.090, up to two Accessory Dwelling Units are permitted on lots that are 15,000 square feet or more in size.~~ shall be treated as a JADU for the purposes of assessing utilities and public service taxes and fees.

...

19.79.050-080 Exemptions from permit

An accessory dwelling unit ~~development standards.~~ ~~Accessory dwelling units are~~ ~~permit shall not be required in the following instances for projects located within a residential or mixed-use zone. Such projects will be ministerially approved upon valid application of a building permit. Projects exempt under this section remain subject to the following other applicable construction-related permit requirements unless exempted from an accessory dwelling unit permit pursuant to this chapter:~~ such as grading permits.

...

B. Maximum and Minimum Unit Size.

...

4. For ADUs where the property owner that obtains a deed restriction pursuant to Section 19.79.090, the following standards shall apply:

1. A Detached Accessory Dwelling Unit shall not exceed 1,000 square feet or 1,200 square feet with two or more bedrooms.

2. An Attached Accessory Dwelling Unit shall not exceed 1,000 square feet, or 50% of the existing living area of the primary dwelling unit, whichever is less. Existing

living area means the interior habitable area of the primary dwelling unit and includes basements and attics, but does not include garages or any accessory structures.

...

...

~~K. Other Provisions. Notwithstanding the above, any ADU that obtains a deed restriction pursuant to Section 19.79.090, that does not exceed 500 square feet and is located within 100 linear feet of the primary dwelling unit, shall be treated as a JADU for the purposes of assessing utilities and public service fees.~~

EXHIBIT B

Chapter 19.95 “Affordable Housing” is hereby added to Title 19 “Zoning” of the Belvedere Municipal Code as follows:

Chapter 19.95 **AFFORDABLE HOUSING**

Sections:

19.95.010 Purpose and Intent

19.95.020 Definitions

19.95.030 Exemptions

19.95.040 General Inclusionary Requirements

19.95.060 Alternative means of Fulfilling Inclusionary Housing Obligations

19.95.070 In-Lieu Affordable Housing Fee

19.95.080 Inclusionary Housing Agreement

19.95.090 Requirements for For-Sale Inclusionary Units:

19.95.100 Occupancy of Rental Units.

19.95.110 Appeals for Adjustments, Reductions, or Waivers

19.95.010 Purpose and Intent.

- A. The purpose of this chapter is to ensure that new residential and nonresidential development projects contribute to the availability and attainment of decent, affordable housing to a broad range of households with varying income levels throughout the City of Belvedere.
- B. These requirements implement the City’s Housing Element by assisting in meeting the City’s Regional Housing Needs Allocations and affirmatively furthering fair housing by ensuring that affordable housing is constructed in all parts of the City.
- C. A limited amount of land remains for development of new housing and replacement housing in Belvedere. The General Plan Housing Element has identified where it believes the most suitable sites for the construction of inclusionary housing units. To ensure that remaining residentially designated sites are utilized in a manner consistent with the city's housing policies and in a manner that furthers the city's strategy as set forth in the Housing Element, the city declares that each residential development creating three or more dwelling units shall participate in the provision of inclusionary units as set forth in this chapter.

19.95.020 Definitions.

For the purposes of this chapter, the following definitions apply:

- A. “Affordable housing fund” means the fund established pursuant to section 19.95.110 of this chapter.
- B. “Affordable Housing Agreement” means a legally binding agreement between an applicant and the City, in a form satisfactory to the City Manager and City Attorney

Exhibit B

and suitable for recording, setting forth those provisions necessary to ensure that the requirements of this chapter are, and will continue to be, satisfied.

- C. “Affordable housing unit” means a dwelling unit that shall be offered at an affordable rent or affordable ownership cost to very low-, low- or moderate-income households.
- D. “Affordable Rent” means the affordable rent for rental dwelling units as defined in California Health and Safety Code Section 50053.
- E. “Affordable Sales Price” means the maximum sales price for which a for-sale Inclusionary Unit may be sold, that will result in the purchaser paying an Affordable Housing Cost for the for-sale Inclusionary Unit, assuming a benchmark mortgage interest rate and minimum down payment as may be established by the City from time to time.
- F. “Applicant” or “developer” means a person, persons, or entity that applies to the City for one or more discretionary or residential permits required for the development of a Residential Development and also includes the owner or owners of the property if the Applicant does not own the property on which the development is proposed.
- G. “Common ownership or control” means property owned or controlled by the same person, persons, or entity, or by separate entities in which any shareholder, partner, member, or family member of an investor of the entity owns ten percent or more of the interest in the property.
- H. “Housing In-Lieu Fee” means the applicable fee established pursuant to section 19.95.070 of this chapter.
- I. “Inclusionary Housing Plan” means a plan containing all the information specified in and submitted in conformance with section 19.95.080 of this chapter specifying the manner in which Inclusionary Units will be provided in conformance with this chapter.
- J. “Inclusionary Unit” means a dwelling unit that is designated to meet the requirements set forth in this chapter, and that shall be made available, typically through a recorded deed restriction, at an affordable housing cost or an affordable rent to eligible moderate-, low- or very low-income households, as applicable to the unit.
- K. “Low-income households” or “low-income” means households with incomes no greater than the maximum income for low-income households for Marin County as published annually by the California Department of Housing and Community Development (HCD) in California Code of Regulations Title 25, Section 6932 (or successor provision).
- L. “Market-Rate Unit” means a dwelling unit in a Residential Development that is not an Inclusionary Unit.
- M. “Moderate income households” or “moderate income” means households with incomes no greater than the maximum income for moderate income households for Marin

County, as published annually by the California Department of Housing and Community Development (HCD) in California Code of Regulations Title 25, Section 6932 (or successor provision).

- N. ~~“Nonresidential development project” means an application for a planning permit or building permit that includes the new construction of gross square feet of nonresidential space or the conversion of a residential use to a nonresidential use.~~
- O. “Rental unit” means a dwelling unit that is intended to be offered for rent or lease and that cannot be sold individually in conformance with the Subdivision Map Act.
- P. “Very low-income households” or “very low-income” means households with incomes no greater than the maximum income for very low-income households for Marin County, as published annually by the California Department of Housing and Community Development (HCD) in California Code of Regulations Title 25, Section 6932 (or successor provision).

19.95.030 Exemptions.

- D. The subdivision of a lot into two lots, as authorized by Chapter 18.27 wherein no more than a combined total of four dwelling units total could be constructed under applicable zoning regulations on the resulting lots, shall not be subject to the provisions of this chapter.
- E. The reconstruction of any structures that have been destroyed by fire, flood, earthquake or other act of nature provided that the reconstruction of the site does not increase the number of residential units by three or more as permitted by FEMA guidelines
- F. Residential building additions, repairs or remodels; provided that such work does not increase the number of existing units by three or more.
- G. Residential developments that have been deemed complete by the City in accordance with Government Code Section 65589.5 or 65943 as of the effective date of this chapter.
- H. Any Accessory Dwelling Unit or Junior Accessory Dwelling Unit approved by the City.
- I. Any residential development project exempted by State law as may be amended from time to time.

19.95.040 General inclusionary requirements.

- J. Any residential development creating three through six dwelling units, shall provide 15 percent of the total number of units as affordable to moderate-income households ~~or make a pro-rata monetary contribution to the City's in-lieu affordable housing fund in accordance with the provisions of Section 19.95.070 (in lieu housing fee).~~
- K. Any residential development creating seven through twelve dwelling units shall:

Exhibit B

1. Provide 15 percent of the total number of units as affordable by very low, low, or moderate-income households; of which a minimum of five percent shall be affordable to very low- or low-income households. When only one affordable unit is required it may be for a moderate-income household
- L. In applying the 15 percent figure for the construction of dwelling units, any decimal fraction less than one-half may be disregarded and any decimal fraction equal to or greater than one-half shall be construed as requiring one affordable unit.
- M. Any residential development creating more than twelve dwellings shall:
1. Provide 20 percent of the total number as units affordable by very low, low, or moderate-income households; a minimum of which five percent shall be affordable to very low- or low-income households.
 2. In applying the 20 percent figure for construction of dwelling units, any decimal fraction less than one-half may be disregarded and any decimal fraction equal to or greater than one-half shall be construed as requiring one affordable unit. For payment of in-lieu fees, the fee shall be calculated using exact decimal fractions.
- N. If the City finds and determines that there exists physical and/or nongovernmental constraints to the provision of on-site inclusionary units that make the payment of in-lieu fees more effective in support of affordable housing projects being constructed in less constrained locations, the City may allow payment of in-lieu fees in accordance with Section 19.95.070 (amount of in-lieu housing fee).
- O. Any residential development creating five or more dwelling units shall be subject to conditions ensuring compliance with the provisions of this chapter. Such conditions may specify the timing of construction or purchase of inclusionary units (or payment of in-lieu fees), the number of inclusionary units and the specified affordability levels, provisions for income certification and screening of potential purchasers and/or renters of inclusionary units, and resale control mechanisms. Said conditions may require a written agreement between the applicant and the City and/or its designee, indicating the number, type, location, sales price, approximate size and construction scheduling of inclusionary units and such reasonable information as is required to determine compliance.
- P. All inclusionary units in a project shall be constructed concurrently with or prior to the construction of non-inclusionary units.
- Q. Inclusionary units shall be indistinguishable in exterior appearance from the non-inclusionary units. An exception may, in the city's reasonable discretion, be permitted in residential developments only as an incentive or concession made if the project qualifies for a density bonus under Section 19.52.160 (Implementation of State density bonus law)

- R. A reduced setback, reduced parking standard, or other reduction in site development standards may, in the city's reasonable discretion, be permitted in residential developments only as an incentive or concession made under the state density bonus law as provided for in Section 19.52.160 (Implementation of State density bonus law).
- S. The interior amenity level of the inclusionary units shall be generally the same as that of the non-inclusionary units. Any reduction of interior amenity level for inclusionary units may, in the city's reasonable discretion, if the project qualifies for a density bonus under Section 19.52.160 (Implementation of State density bonus law)
- T. The square footage of the inclusionary units shall be generally the same as that of the non-inclusionary units for the same number of bedrooms. Any reduction of square footage for inclusionary units may, in the city's reasonable discretion, be permitted only as an incentive or concession if the project qualifies for a density bonus under Section 19.52.160 (Implementation of State density bonus law)
- U. A residential development qualifying for a density bonus under provisions of Section 19.52.160 (Implementation of State density bonus law) shall receive the highest priority and efforts will be made by staff and decision-makers to:
 - 1. Provide technical assistance to potential affordable housing developers in processing requirements, including community involvement;
 - 2. Consider project funding and timing needs in the processing and review of the application; and
 - 3. Provide the fastest turnaround time possible in determining application completeness.

These measures shall each constitute an incentive or concession under any other circumstances.

- V. 19.95.060 Alternative means of Fulfilling Inclusionary Housing Obligations.

The alternative means of compliance set forth below are intended to implement the City's authority to promote the development of affordable housing, in accordance with the General Plan Housing Element and California Government Code § 65850, subdivision (g), and shall not be considered or construed as an ad hoc exaction, a mandate required to develop a specific property, or a requirement imposed to offset the development impacts of a specific project.

- A. **Off-site Development of Affordable Units.**

- 1. As an alternative to constructing Inclusionary Units on site, all or a portion of the inclusionary housing requirement may be fulfilled through the off-site construction of the unit pursuant to this chapter, subject to the following:

- i. Off-site development of the required affordable units is permitted provided the off-site units are located within one-half mile of the market-rate development that is the subject of the inclusionary housing requirement.
- ii. The off-site units shall not create an over-concentration of deed-restricted affordable dwelling units in any one neighborhood. For purposes of this chapter, “over concentration” is defined as more than 25 deed restricted very low or low-income dwelling units within ¼ mile of the site of the proposed Inclusionary Units.

B. Land Dedication.

2. As an alternative to constructing inclusionary units as required by this chapter, all or a portion of the inclusionary housing requirement may be fulfilled through the dedication of land to the City or a non-profit at no cost, subject to the following:
 - i. The land dedicated shall be zoned to allow residential use;
 - ii. The land shall be of sufficient size to accommodate the required units;
 - iii. The applicant shall provide evidence satisfactory to the City that the property does not contain any hazardous materials at the time of conveyance; shall disclose whether any hazardous materials were previously found on the property; and if hazardous materials were previously remediated from the property, the applicant shall provide evidence satisfactory to the City that such hazardous materials were remediated in accordance with all applicable laws and regulations;
 - iv. The land shall be fully improved with access infrastructure, adjacent utilities, and grading; and
 - v. A non-profit shall enter into an agreement with the City to construct the units within an agreed upon time period and the units constructed shall be subject to the affordability covenant as set forth in section 19.95.050.

19.95.070 In-Lieu Affordable Housing Fee

The City Council shall establish an in-lieu affordable housing fee following completion of a “nexus” study in order to provide alternatives to construction of inclusionary units on-site and to obtain financial support for the City's affordable housing programs from developers of projects with three or six residential units. The fee shall be charged on a percentage a basis of the projected construction costs of non-inclusionary dwelling units. Construction costs shall be calculated separately for each dwelling unit subject to this chapter, and the appropriate fee shall be paid for each unit within the project. The specific fee and the percentage basis shall be established by resolution of the City Council based on the findings of the nexus study.

19.95.080 Inclusionary Housing Agreement

No Residential Development subject to this chapter shall be approved or deemed approved without approval of an Inclusionary Housing Agreement as provided herein.

Submittal of proposed Inclusionary Housing Agreement: The applicant for a residential project subject to this chapter shall submit a proposed Inclusionary Housing Agreement in conjunction with its development application. The proposed Inclusionary Housing Agreement shall be in a form as required by the City and shall include the following information:

1. Whether the residential development is for-sale or rental;
2. How the inclusionary housing requirement will be satisfied pursuant to this chapter;
3. The number, unit type, tenure, number of bedrooms, approximate location, size and design, construction and completion schedule of all inclusionary units;
4. For off-site development of inclusionary units, such information as is required to demonstrate compliance with section 19.95.060;
5. Phasing of inclusionary units in relation to market rate units;
6. A plan for collecting sufficient reserves for the ongoing repair and maintenance of below-market rate units which shall not compromise the affordability of the below-market rate units.
7. Any other information reasonably requested by the City Manager to assist with evaluation of the plan under the requirements of this ordinance.
8. Acknowledgement that an instrument as specified by the City restricting the inclusionary unit(s) as affordable shall be recorded against every inclusionary unit and that a recordable Affordable Housing Agreement shall be entered into by the applicant and any other necessary party, and/or that all required in-lieu fees shall be paid at the time set forth in this chapter.

A. Approval of Inclusionary Housing Agreement.

1. In the event that the residential development requires discretionary approvals in order to be developed, the Inclusionary Housing Plan shall be considered with the application for such inclusionary approvals by the entity responsible for reviewing such discretionary approvals and may be appealed in accordance with the appeals procedures established for such approvals.
2. In the event that the residential redevelopment does not require discretionary approvals in order to be developed, the Inclusionary Housing Plan shall be considered by the City Manager and shall be approved prior to the issuance of any ministerial permits required for the residential development. The City Manager's decision is final unless a written appeal is filed with the City Clerk's office within

ten days from the date of issuance of the City Manager's decision under this title. The City Council's decision on appeal shall be final.

B. Recording of Affordable Housing Agreements.

1. An Affordable Housing Agreement in a form approved by the City shall be recorded against inclusionary units or the residential development in its entirety, as deemed appropriate by the City Manager in consultation with the City Attorney, prior to the issuance of any building permit for the residential development.
2. Resale restrictions, deeds of trust, and/or other documents as deemed necessary or appropriate by the City Manager shall be recorded against for-sale inclusionary units to ensure the continued affordability of the for-sale inclusionary units in compliance with this chapter.

- C. **Building permits:** The City shall not issue a building permit for a residential development subject to the requirements of this chapter without an Affordable Housing Agreement executed by the owner, the applicant (if not the owner) and the City Manager, and approved as to form by the City Attorney, and recorded against the property, or payment of In-lieu Fees in accordance with this chapter.

19.95.090. Requirements for For-Sale Inclusionary Units:

- . **Initial sales price and resale.** The initial sales price and resale price of the for-sale inclusionary unit will be at an affordable sales price that will ensure that the purchaser of the inclusionary unit will pay an affordable housing cost for the unit.
- A. **Transfer.** A resale restriction agreement will be entered into on each change of ownership of for-sale inclusionary units, to maintain the household income restriction on the inclusionary unit prior to the expiration of the required affordability period.
- B. **Owner occupancy required:** All for-sale inclusionary units are subject to the following regulations:
 1. **Principal residence.** The purchaser of the Inclusionary Unit shall use and occupy the Inclusionary Unit as purchaser's principal place of residence.
 2. **No rental.** Owner is expressly prohibited from leasing or renting the Inclusionary Unit unless the City has given its prior written consent to such lease or rental on the basis of a demonstrated hardship by the owner.
- C. **Annual report.** The owner of each for-sale inclusionary unit shall submit an annual report certifying occupancy of the unit by a qualified owner. The owner shall not be deemed to be in default of the affordable agreement and this program for any failure to deliver such annual report until 30 days after receipt by owner of written notice from the City requesting such report. The City shall have the option of establishing the type of form to be used for the report.

19.95.100 Occupancy of Rental Units.

- . **Occupancy of rental units:** Unless determined otherwise by the City Council, all rental inclusionary units required by this chapter shall be only rented to households in the appropriate income category for the inclusionary units.
- A. **Establishment of rental rates:** The maximum allowable rent of inclusionary units will be the affordable rent based on the applicable income levels for the inclusionary units.
- B. **Annual report:** The owner shall submit an annual report summarizing the occupancy of each rental inclusionary unit for the year. The City may require additional information if deemed necessary. The owner shall obtain and review documents that demonstrate the prospective renter's total income, such as income tax returns or W-2s for the previous calendar year, and submit such information on request on a form approved by the City.

19.95.110 Appeals for Adjustments, Reductions, or Waivers

- A. A developer of any project subject to the requirements of this chapter may appeal to the City Council for a reduction, adjustment or waiver of the requirements based upon the absence of any reasonable relationship between the impact of the development and either the amount of the in-lieu fee charged or the inclusionary requirement.
- B. Any such appeal shall be made in writing and filed with the City Clerk not later than ten days after the granting of a discretionary approval or a ministerial permit for the development. The appeal shall set forth in detail the factual and legal basis for the claim of waiver, reduction, or adjustment.
- C. The City Council shall consider the appeal at a duly-noticed public hearing within 60 days after the filing of the appeal. The appellant shall bear the burden of presenting substantial evidence to support the appeal, including comparable technical information to support appellant's position.
- D. The decision of the Council shall be final. If a reduction, adjustment, or waiver is granted, any subsequent change in use within the project shall invalidate the waiver, adjustment, or reduction of the fee or inclusionary requirement.

EXHIBIT C

Chapter 19.96, Senate Bill 10 Development, is hereby added to the Belvedere Municipal Code to read in its entirety as follows:

Chapter 19.96: SB 10 Projects

Sections:

19.96.010 Purpose and Intent

19.96.020 Definitions

19.96.30 Applicability; Eligibility Criteria

19.96.060 Alternative means of Fulfilling Inclusionary Housing Obligations

19.96.070 Permit Application and Review Procedures - SB 10-Projects 19.95.080

Inclusionary Housing Agreement

19.96.080 Additional Required Documentation 19.95.100 Occupancy of Rental Units.

19.96.010 Purpose & Intent.

- A. The purpose of this Chapter is to establish objective zoning standards and regulations to govern the development of qualified Senate Bill 10 (SB 10) projects on qualifying residentially zoned properties within the City. The establishment of these regulations will result in the development of affordable housing projects to affirmatively further fair housing as required by the General Plan, while ensuring that the new units are consistent with the City's character and do not create any significant impacts with regards to public infrastructure or public safety. The regulations are established to implement the requirements of Government Code Sections 65913.4 and 65913.5.
- B. The provisions of this Chapter shall be the primary regulations for SB 10 projects and for and development of SB 10 dwelling units. To the extent that an aspect of the development of SB 10 dwelling units is not addressed by the Chapter, other provisions of the Municipal Code shall apply. In the event of a conflict between this Chapter and another provision of the Municipal Code, as it applies to the development of SB 10 units, this Chapter shall prevail.

19.96.020 Definitions

- A. "Very low income household" has the meaning set forth in Health and Safety Code Section 50105.
- B. "Lower income household" has the meaning set forth in Health and Safety Code Section 50079.5.
- C. "Moderate income household" has the meaning set forth in Health and Safety Code Section 50093.
- D. "Through street" means a road or street that provides a continuous route for vehicular traffic. Through streets exclude cul-de-sacs and dead-end streets.

19.96.30 Applicability; Eligibility Criteria

The City may approve an SB 10 project of up to 10 dwelling units on a qualifying lot that meets the following criteria and the objective standards for development in Section 19:

- A. The property meets the definition of “urban infill” as included in Section 65913.5 (e)(3) of SB 10;
- B. The property is not on a current list of designated historic properties/structures maintained by the City as specified in Section 21.20.110;
- C. The lot is zoned R-15 and the ratio of the assessed value of improvements to the assessed value of land for the lot, as shown on parcel records of the Marin County Assessor, is less than 1:1, or the lot is zoned R-3 and has a floor area ratio less than 0.3; and
- D. The lot has a building site that is at least 0.25 acres in size;
- E. The lot fronts on a through street that connects to other through streets in the City (e.g., no parcels fronting cul-de-sacs or dead-end streets), has a minimum pavement width of 22 feet, and no special parking restrictions apply pursuant to Section 10.36.040.

19.96.040 Permitted Residential Building Types

A qualifying SB 10 project may include the following residential building types: two-family dwellings or duplexes, bungalow courts, townhouse development, and condominiums as well as accessory dwelling units and junior accessory dwelling units.

19.96.050 Development Standards

The development standards of Section 19.26.040 and 19.36.040 shall apply to all residential buildings in SB 10 projects with the following modifications:

- A. **Maximum lot coverage:** 45 percent, excluding decks.
- B. **Maximum floor area:** 40 percent. This maximum shall apply to the total floor area of all structures on the lot and supersedes the floor area ratio established in Section 19.52.115.
- C. **Maximum size of individual residential units:** 1,500 square feet.
- D. **Off-street parking:** A minimum of one off-street space for each studio or one bedroom dwelling unit and two off-street spaces for dwelling units with two or more bedrooms plus one guest space for each four units or fraction thereof.
- E. **Usable open space:** The minimum usable open space for individual units shall be the amount required for R-3 zones, as set forth in Section 19.52.150.

19.96.060 Housing Affordability

An SB 10 project shall provide affordable housing as follows:

- A. In projects that have five or fewer units, at least one rental unit shall be affordable to low income residents for a minimum of 55 years.
- B. In projects with six or more units, at least two rental units shall be affordable to low income residents for a minimum of 55 years.
- C. Household income qualifications shall be those established by the California Department of Housing and Community Development each year for Marin County, as adjusted for household size, pursuant to California Code of Regulations, Title 25, Section 6932, and Health and Safety Code Section 50093.
- D. Affordable rental units shall have the same bedroom and bathroom count ratio as the market rate units in a project, be equally distributed within the project, and have the same type or quality of appliances, fixtures, and finishes. The affordable housing units shall be integrated with other housing units in the housing development with regard to siting and placement within buildings and shall not differ in exterior appearance from the other housing units.
- E. All required affordable units shall be made available for occupancy prior to, or concurrently with, the market-rate units.
- F. Prior to the issuance of a building permit for any SB 10 project, the applicant shall enter into an Inclusionary Housing Agreement with the City ensuring the continued affordability of the affordable dwelling units for a period of not less than 55 years. The terms and conditions of the agreement shall be as specified in Section 19.95.080, shall be binding upon any successor and shall be recorded in the office of the Marin County Assessor-Recorder-Clerk. The agreement shall be executed by the owner and the City Manager and be in a form acceptable to the City Attorney.
- G. Provision of these affordable rental units shall constitute compliance with the City's inclusionary housing requirements in Chapter 19.95.

19.96.070 Permit Application and Review Procedures – SB 10 Projects.

- A. **Application and Review Authority.** An application for an SB 10 project shall be made by the property owner and filed with the Planning Department on a form prescribed by the Director of Planning and Building, containing such information as reasonably requested by the Director and accompanied by the appropriate fee.
- B. **Ministerial Review.** Sites identified in the 6th Cycle Housing Element to accommodate a RHNA shortfall pursuant to Government Code 65583.2(H) qualify for ministerial review.
- C. **Design Review.** An SB 10 project that does not qualify for ministerial review shall be subject to design review as required by Title 20 of this Code.
- D. **Review Timing.** The City shall act upon an application for an SB 10 project within the time limits specified in the Government Code.

- E. **Authority to Deny based on Specific Adverse Impacts.** In addition to the criteria listed in this chapter, a proposed SB 10 project may be denied if the City makes a written finding, based on a preponderance of the evidence, that the proposed SB 10 Project would have a specific, adverse impact upon public health and safety or the physical environment, for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. A "specific adverse impact" is a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation and eligibility to claim a welfare exemption are not specific health or safety impacts.

19.96.080 Additional Required Documentation

- A. **Affidavit.** If any existing housing is proposed to be altered or demolished, the owner of the property proposed for an SB 10 Project shall sign an affidavit, in the form approved by the City Attorney, stating that no units on the lot have been occupied by a tenant in the last three years and shall provide a comprehensive history of the occupancy of the units to be altered or demolished for the past three years.
- B. **Recorded Covenant.** Prior to issuance of an occupancy permit, the applicant shall record a restrictive covenant and agreement in the form prescribed by the City, which shall run with the land and provide for the following:
1. A prohibition against subdivision of the parcel using the SB 9 Lot Split procedures as provided for in Chapter 18.27;
 2. A limitation restricting the property to residential uses only; and
 3. A requirement that any dwelling units on the property may be rented or leased only for thirty days or longer. The City Manager or that person's designee is authorized to enter into the covenant and agreement on behalf of the City and to deliver any approvals or consents required by the covenant.