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and VINCENT P. BERTONI

[ADDITIONAL COUNSEL ON NEXT PAGE]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

FIX THE CITY, INC., a California nonprofit  
corporation,

Petitioner and Plaintiff,

v.

CITY OF LOS ANGELES, a municipal  
corporation; LOS ANGELES CITY  
PLANNING COMMISSION; VINCENT P.  
BERTONI, in his capacity as Director of City  
Planning for the City of Los Angeles and  
DOES 1 through 100, inclusive,

Respondents and Defendants.

530 NORTH FRANCISCA, LLC,  
a California limited liability corporation;  
BANARSI AGARWAL; and  
ROES 1 through 100, inclusive,

Real Parties in Interest.

Case No. 20STCP03529

Related Case No. 19STCP03740 (Lead Case)  
Related Case No. 20STCP01569

Assigned for All Purposes to:  
Hon. Mitchell L. Beckloff, Dept. 86

**REQUEST FOR JUDICIAL NOTICE  
OF RESPONDENTS AND REAL  
PARTIES IN INTEREST IN SUPPORT  
OF JOINT OPPOSITION BRIEF**

**[Submitted Herewith:  
Joint Opposition Brief and  
Objections to Palmer Declaration]**

Date: February 25, 2022  
Time: 9:30 a.m.  
Dept.: 86

Action Filed: October 26, 2020  
Trial Date: February 25, 2022

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1 as records of a court of this state. Exhibit 2 is document filed with the Los Angeles Superior Court.  
2 Exhibit 2 is relevant to this case as it was considered by the Court in ruling on the City's TOC  
3 Program, the implementation of which is also at issue in this case. In addition, the Court's Briefing  
4 Order states that the "Parties agree to submit via Request for Judicial Notice the relevant briefing  
5 from the Related cases for purposes of completing the record before the Court in this action."

6 (3) Respondents' Request For Judicial Notice in Support of Opposition Briefs, with  
7 Exhibits A – H, filed May 10, 2021, in the Lead Action, a true and correct copy of which is attached  
8 hereto as **Exhibit 3**. Judicial notice of Exhibit 3 is appropriate pursuant to Evidence Code section  
9 452(d) as records of a court of this state. Exhibit 3 is document filed with the Los Angeles Superior  
10 Court. Exhibit 3 is relevant to this case as it was considered by the Court in ruling on the City's  
11 TOC Program, the implementation of which is also at issue in this case. In addition, the Court's  
12 Briefing Order states that the "Parties agree to submit via Request for Judicial Notice the relevant  
13 briefing from the Related cases for purposes of completing the record before the Court in this  
14 action."

15 (4) Notice of Intention to Withdraw Accommodations from Rent or Lease for 10757–  
16 10759, West Wilkins Avenue, Los Angeles, California, as recorded in the Los Angeles County  
17 Recorder's Office on July 18, 2003, a true and correct copy of which, as certified on January 19,  
18 2022, is attached hereto as **Exhibit 4**. Judicial notice of Exhibit 4 is appropriate pursuant to  
19 Evidence Code section 452(h) as "[f]acts and propositions that are not reasonably subject to dispute  
20 and are capable of immediate and accurate determination...." (*Trinity Park, L.P. v. City of*  
21 *Sunnyvale* (2011) 193 Cal.App.4th 1014, 1025-1027 [taking judicial notice of city records and  
22 agreement entered between city and property owner pursuant to section 452(h)].) Exhibit 4 is an  
23 official record obtained from the files of the Los Angeles County Recorder. Exhibit 4 is relevant to  
24 this case as it pertains to the issue of whether or not replacement affordable housing units are  
25 required as a part of the project at issue as alleged by Petitioner Fix the City, Inc. ("FTC").

26 (5) ZIMAS Terms and Conditions page from the City's Zone Information and Map  
27 Access System ("ZIMAS") website, a true and correct copy of which is attached hereto as **Exhibit 5**.  
28 This page is admissible as a record maintained by a public entity and the authenticity of the

1 document can be easily verified online through the City’s Department of City Planning website at  
2 <http://zimas.lacity.org/Terms.aspx>. The ZIMAS website is routinely updated and is, therefore,  
3 admissible as an official act of the City and as an easily verifiable fact through reference to the City  
4 Planning Department’s website. (Evid. Code §§ 452(c), 452(h). *See also Geraghty v. Shalizi*, 8  
5 Cal.App.5th 593, 602 (2017) [taking judicial notice of city budget report for purpose of providing  
6 context to local legislative enactment]; *People v. Kelly* (2013) 215 Cal.App.4th 297, 304 [taking  
7 judicial notice of information posted on agency website].) In addition, documents on an official  
8 website may be judicially noticed where the authenticity of the document can be easily verified.  
9 (*Scott v. JPMorgan Chase Bank, N.A.* (2013) 214 Cal.App.4th 743, 753.) The ZIMAS Terms and  
10 Conditions page is relevant to this case as it pertains to the issue of whether or not replacement  
11 affordable housing units are required as a part of the project at issue as alleged by FTC.

12 (6) Disclaimer page from the City’s Los Angeles Housing Department (“LAHD”)  
13 website, a true and correct copy of which is attached hereto as **Exhibit 6**. This page is admissible  
14 as a record maintained by a public entity and the authenticity of the document can be easily verified  
15 online through the City’s LAHD website at <https://housing.lacity.org/about-us/disclaimer>. The  
16 LAHD website is routinely updated and is, therefore, admissible as an official act of the City and as  
17 an easily verifiable fact through reference to the City Planning Department’s website. (Evid. Code  
18 §§ 452(c), 452(h). *See also Geraghty*, 8 Cal.App.5th at 602; *People v. Kelly*, 215 Cal.App.4th at  
19 304.) In addition, documents on an official website may be judicially noticed where the authenticity  
20 of the document can be easily verified. (*Scott*, 214 Cal.App.4th at 753.) The LAHD Disclaimer  
21 page is relevant to this case as it pertains to the issue of whether or not replacement affordable  
22 housing units are required as a part of the project at issue as alleged by FTC.

23 (7) The administrative record of proceedings for the City’s adoption of the TOC  
24 Guidelines, pages AR000 1 to AR 0385, as certified on December 31, 2020 (“TOC Administrative  
25 Record”), and lodged with the Court in the Lead Action. A true and correct copy of the TOC  
26 Administrative Record will be lodged with the Court in this action prior to the final merits hearing.  
27 Judicial notice of the TOC Administrative Record is appropriate pursuant to Evidence Code section  
28 452(d) as records of a court of this state. The TOC Administrative Record is relevant to this case

1 as it was considered by the Court in ruling on the City's TOC Program, the implementation of which  
2 is also at issue in this case. In addition, the Court's Briefing Order states that the "Parties agree to  
3 submit via Request for Judicial Notice the relevant briefing from the Related cases for purposes of  
4 completing the record before the Court in this action."

5  
6 DATED: January 26, 2022

MEYERS NAVE

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8 By: 

SHIRAZ D. TANGRI

Attorneys for Respondents and Defendants

CITY OF LOS ANGELES,

LOS ANGELES CITY PLANNING COMMISSION

and VINCENT P. BERTONI

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12 DATED: January 26, 2022

GLASER WEIL FINK HOWARD

AVCHEN & SHAPIRO LLP

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15 By: /s/ Elisa L. Paster [email authorization provided]

ELISA L. PASTER

Attorneys for Real Parties in Interest

530 NORTH FRANCISCA, LLC and

BANARSI AGARWAL

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# **EXHIBIT 1**

AUG 09 2021

**FIX THE CITY, INC. v. CITY OF LOS ANGELES**

Case Number: 19STCP03740 (Lead) [20STCP01569 (Related)]

Hearing Date: July 14, 2021

Sherri R. Carter, Executive Officer/Clerk of Court

**INTERLOCUTORY ORDER REMANDING AS TO BULLETIN 2017-129 AND DENYING  
ALL OTHER CLAIMS OF PETITION FOR WRIT OF MANDATE (19STCP03740)**  
[Santa Monica Project]

**ORDER DENYING PETITION FOR WRIT OF MANDATE (20STCP01569)**  
[Olympic Project]

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Petitioner, Fix the City, Inc., challenges the approval of two housing development projects by the City of Los Angeles through two separate but related petitions:

First, Petitioner seeks to set aside the City's approvals of the development at 10400 Santa Monica Boulevard (the Santa Monica Project) in Case No. 19STCP03740.

Second, Petitioner seeks to set aside the City's approvals of the development at 5877-5891 West Olympic Boulevard (the Olympic Project) in Case No. 20STCP01569.

Respondent, the City, opposes the petitions.<sup>1</sup>

The developers for each project also oppose the petitions: Real Parties in Interest, Elliot Nayssan, Robhana, Inc., and NHD Terrace, LLC, for the Santa Monica Project and Real Party in Interest, 5891 Boulevard LP, for the Olympic Project.

The unopposed requests for judicial notice (RJN) are granted.

The petition for the Santa Monica Project (Case No. 19STCP03740) is denied as to all claims except as to the claim made based on Bulletin 2017-129. As to that claim, the court makes an interlocutory order remanding the matter to the City to explain how, if at all, the City considered Bulletin 2017-129's setback requirements for the project and any related reasoning on the issue.

The petition for the Olympic Project (Case No. 20STCP01569) is denied.

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<sup>11</sup> While Petitioner named three respondents—the City, its planning commission and Vincent Bertoni (in his capacity as Director of City Planning)—all respondents are, in fact, a single entity, the City.



## **I. TRANSIT ORIENTED COMMUNITIES GUIDELINES CHALLENGE<sup>2</sup>**

### **STATEMENT OF THE CASE**

#### ***Measure JJJ:***

On November 11, 2016, the City's voters approved a ballot measure known as Measure JJJ: "Affordable Housing and Labor Standards Related to City Planning." (Pet.'s RJN Ex. 1, p. 6, Ex. 6, p. 1; AR 23.)

#### **Section 5: "Affordable Housing and Good Jobs"**

Section 5 of Measure JJJ provides in part:

"To be eligible for a discretionary General Plan amendment . . . , or any zone change or height-district change that results in increased allowable residential floor area, density or height, or allows a residential use where previously not allowed, Projects with 10 or more residential dwelling units shall meet one of the following on-site affordability provisions, or satisfy one of the alternative options in subdivision (b) and shall comply with the job standards in subdivision (i)." (AR 8.)

Among other things, Section 5 requires compliance with affordable housing requirements (both rental and for-sale) (AR 8-9) and provides for alternative compliance options. (AR 10-12.) Section 5 also entitled developers "to three incentives or concessions specified in . . . Government Code Section 65915(k) . . . " where a developer provides the required affordable housing. (AR 13.) Section 5 contains no geographic limitations.

Finally, Section 5 contains a workforce standards provision. The workforce standards provision provides for construction worker residency and qualification. (AR 14.) The workforce provision also requires a developer pay construction workers the "area standard wages in the project area." (AR 14.)

#### **Section 6: "Transit Oriented Communities Affordable Housing Overlay"**

Section 6 of Measure JJJ amended the Los Angeles Municipal Code (LAMC) to add a new subdivision to subsection A of LAMC section 12.22.<sup>3</sup> (AR 18.) The amendment establishes a

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<sup>2</sup> The arguments in Petitioner's Opening Brief for both cases related to the Transit Oriented Communities Guidelines are substantively identical. Citations to the Administrative Record and Opening Brief are therefore to Case No. 19STCP03740 (the Santa Monica Project), the lead action, unless otherwise indicated.

<sup>3</sup> LAMC section 12.22, part of the City's zoning law, is entitled "Exceptions."

transit oriented communities (TOC) affordable housing incentive program. The incentive program applies to all housing developments within a one-half mile radius of a major transit stop. (See Pub. Resources Code § 21155, subd. (b).) Thus, Section 6 has geographic limitations.

Section 6 also directs the City's Director of Planning to "prepare TOC Affordable Housing Incentive Program Guidelines ('TOC Guidelines') that provide the eligibility standards, incentives, and other necessary components of this TOC Incentive Program . . . ." (AR 19.) The TOC Guidelines provide the eligibility standards, incentives as well as the other necessary components of the TOC incentive program. (AR 19.) The TOC Guidelines promote the purposes of the TOC affordable housing incentive program. (AR 19.)

### ***The TOC Guidelines***

On September 20, 2017, the City's planning commission (CPC) recommended the TOC Guidelines be adopted. (AR 285; Resp. RJN, Ex. C, p. 50.) On September 22, 2017, the City released the TOC Guidelines and made them effective. (AR 307.)

To implement the requirements of the TOC affordable housing incentive program, the City developed a four-tiered structure for incentive awards. A project's placement in a particular tier is "based on the shortest distance between any point on the [project's] lot and a qualified Major Transit Stop . . . ." (AR 349.) A project's tier dictates the Base Incentives available for the project. (AR 354-356.) Base Incentives address residential density (number of dwelling units and floor area ratio [FAR] and automobile parking). (AR 354-356.)

In addition to Base Incentives, the TOC Guidelines provide for discretionary Additional Incentives the City might grant for a project. A project's tier also governs the availability of Additional Incentives. Additional Incentives address components of yard/setback such as front, side and rear yards, lot coverage, lot width and height. (AR 356-359.)

The TOC Guidelines provide two methods by which project developers may obtain TOC incentives:

#### **" 1. Procedures.**

- a. Projects Requesting only Base Incentives (Residential Density and Parking).** Projects receiving only Base Incentives shall be reviewed ministerially by the Department of Building and Safety per LAMC 12.22.A.25(g)(1).
- b. Projects Requesting Additional Incentives.** Projects requesting Additional Incentives shall be reviewed by the Department of City Planning per the procedures in LAMC 12.22.A.25(g)(2)." (AR 297-298.)

### ***The Projects at Issue:***

The City approved the Santa Monica Project and Olympic Project and granted incentives for the projects pursuant to the TOC Guidelines. Thus, the projects' approvals are dependent upon the validity of the TOC Guidelines.

#### ***The Santa Monica Project***

The Santa Monica Project is a seven-story, 120-unit residential building with 12 units set aside for Extremely Low-Income households. (AR 838.) The Santa Monica Project is located on five vacant lots measuring 25,869 square feet. (AR 848, 510.) The Santa Monica Project is located within 2,640 feet from the intersection of Metro Bus and Rapid Bus lines. In addition, the Century City stop for the future Purple Line will be within 2,650 feet of the Santa Monica Project. (AR 849.)

The City's General Plan designation for the five lots for the Santa Monica Project is General Commercial. The zoning for the lots is C2-1VL; the "VL" designation denotes a height district with both density and height limitations. (AR 369, 438, 848.) Based on the Santa Monica Project site's underlying zoning, the by-right unit count is limited to 71 units. (AR 440.) The zoning limits the FAR to 1.5:1. (AR 441.) Height is limited to 45 feet in the zone, but under LAMC section 12.21.1(B)(2), due to the property's slope which exceeds grade by more than 20 feet, the project is generally entitled to an additional 12 feet in height. (AR 594.)

The City approved three Base Incentives for the Santa Monica Project. (AR 812.) The City awarded the Base Incentives—density, FAR and automobile parking—under the TOC Guidelines based on the project's Tier 3 status. (AR 811-812.)

The City also approved three Additional Incentives for the Santa Monica Project. The City allowed the project's height to exceed the C2-1VL zoning by 22 feet.<sup>4</sup> (AR 369 [TOC Guidelines], 812 [CPC appeal recommendation].) The City also permitted a reduced side yard setback of five feet (from the required 10 feet) as well as a reduction in required open space. (AR 813.)

#### ***The Olympic Project***

The Olympic Project is a 67-foot high 46-unit apartment building, including five units designated for Extremely Low-Income households, over two levels of parking providing 49 automobile parking spaces and 51 bicycle parking spaces. (Related Case AR 701.) The Olympic Project is located on 14,072 square feet of property divided into two parcels at 5877-5891 West Olympic Boulevard. (Related Case AR 701.) The zoning for the two parcels is C2-1 and R3-1. (Related

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<sup>4</sup> The Santa Monica Project obtained approval for a building height of 79 feet. Generally, the maximum building height for the zone is 45 feet. Given the lots' grade, however, the maximum height permitted is 57 feet. The TOC Guidelines' Additional Incentives allowed another 22 feet in height. (AR 812.)

Case AR 701.) The Olympic Project is within 2,640 feet of the Wilshire/Fairfax station on the Purple Line and has Tier 3 status under the TOC Guidelines. (Related Case AR 702.)

The City approved three Base Incentives for the Olympic Project based on the project's Tier 3 status. The City awarded the project a 70-percent density increase, a 50-percent increase in the FAR, and decreased the parking required from 81 spaces to 49 spaces. (Related Case AR 702-703, 946-947.)

The City also approved three Additional Incentives for the Olympic Project related to side yard setbacks, height and averaging. (Related Case AR 702-703, 947.)

## **STANDARD OF REVIEW**

Petitioner brings this action pursuant to Code of Civil procedure sections 1085 and 1094.6.

Petitioner's challenge to the City's adoption of the TOC Guidelines is a properly brought under Code of Civil Procedure section 1085.

Under Code of Civil Procedure section 1085, a writ of mandate will lie "to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust or station; or to compel the admission of a party to the use and enjoyment of a right or office to which he is entitled . . . ." (Code Civ. Proc. § 1085.) A successful traditional mandate claim requires (1) a clear, present and usually ministerial duty on the part of the respondent and (2) a clear, present and beneficial right in the petitioner to performance of that duty. (*Hutchinson v. City of Sacramento* (1993) 17 Cal.App.4th 791, 796.) While a writ of mandate is not available to control the discretion exercised by a public official, it is available to correct an abuse of that discretion. (*Glendale City Employees' Assn., Inc. v. City of Glendale* (1975) 15 Cal.3d 328, 344.)

Finally, "[m]andamus is . . . appropriate for challenging the constitutionality or validity of statutes or official acts." (*Jolicoeur v. Mihaly* (1971) 5 Cal.3d 565, 570, fn. 2; *Wenke v. Hitchcock* (1972) 6 Cal.3d 746, 751.)

## **ANALYSIS**

Petitioner's challenge to the TOC Guidelines is identical in both petitions.

Petitioner argues the TOC Guidelines "fatally conflict" with Measure JJJ. Petitioner makes two attacks. First, Petitioner contends the TOC Guidelines fail to condition eligibility for incentives on the workforce standards set forth in Section 5 of Measure JJJ. Second, Petitioner asserts the TOC Guidelines represent an improper amendment to Measure JJJ and the City's zoning law. The City, according to Petitioner, exceeded its authority with the TOC Guidelines by creating its tiered incentive system allowing more than three incentives as well as "Additional Incentives" for project developers.

***The Briefing Reveals no Real Dispute Between the Parties as to City's Authority to Adopt the TOC Guidelines***

Despite the parties' extensive briefing on the issue, the parties agree the City could adopt (through its Director of Planning and the CPC) the TOC Guidelines to administer Section 6 of Measure JJJ. The parties also agree the City could not adopt TOC Guidelines that contradict or exceed the scope of Measure JJJ.<sup>5</sup> (Opposition 14:16-15:19; see also Reply 6:11-13. ["If the TOC Guidelines simply administered the program provided in Measure JJJ, they would arguably fall within the powers of Director of Planning as delegated by Measure JJJ, consistent with the Municipal Code."])

To prevail, Petitioner must demonstrate either a conflict between the TOC Guidelines and Section 6 of Measure JJJ, or the City exceeded the scope of Measure JJJ with some provision of the TOC Guidelines. Under either circumstance, adoption of the TOC Guidelines would exceed the City's authority, and a legislative process would have been required for adoption. (Opening Brief 12:9-16. ["There is simply no authority granted in Measure JJJ for Planning or CPC to step into the shoes of the legislative body and adopt incentives that were not enacted in any ordinance or approved by the voters. . . . In order to depart from the incentives established in the ordinance, a legislative process is required."])

***The TOC Guidelines Do Not Conflict with the Measure JJJ or Exceed its Scope***

Petitioner contends the TOC Guidelines contradict Section 6 of Measure JJJ in two ways. First, Petitioner argues the TOC Guidelines expand eligibility for incentives beyond that permitted by Measure JJJ. Second, Petitioner asserts the TOC Guidelines provide more incentives than authorized by Measure JJJ.

"As a general rule, regulations enacted by an agency exercising delegated powers 'must conform to the legislative will if we are to preserve an orderly system of government' and hence, for example, may not validly conflict with the enabling statute." (*Salmon Trollers Marketing Assn. v. Fullerton* (1981) 124 Cal.App.3d 291, 301 [quoting *Morris v. Williams* (1967) 67 Cal.2d 733, 737].)

Construction of a municipal ordinance is governed by the same general rules as the construction of statutes. (*Stolman v. City of Los Angeles* (2003) 114 Cal.App.4th 916, 926.) Courts construe a statute enacted by a citizens' initiative, such as Measure JJJ, "under the same principles of construction applicable to statutes enacted by the Legislature." (See *Farmers Ins. Exchange v. Superior Court* (2006) 137 Cal.App.4th 842, 851. ["Our task is to ascertain the intent of the electorate so as to effectuate the purpose of the law."])

Courts first "examine the statutory language, giving the words of the statute their ordinary and usual meaning and construing them in the context of the statute as a whole and the overall

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<sup>5</sup> There is no dispute that the TOC Guidelines were not adopted by ordinance.

statutory scheme.” (*Ibid.*) “Extrinsic materials, such as analyses and arguments contained in the official ballot pamphlet, may be used to interpret ambiguous language or to confirm the plain meaning of the provision.” (*Protect Our Benefits v. City & County of San Francisco* (2015) 235 Cal.App.4th 619, 633.) Such extrinsic materials, however, “may not be used to add to or rewrite the provision to conform to an assumed intent that is not apparent in its language.” (*Id.* [internal citations omitted].)

### **1. Eligibility Requirements**

Petitioner argues the TOC Guidelines conflict with Measure JJJ because they “omit the requirement for Section 5-compliant labor to qualify for incentives.” (Opening Brief 16:18-19.) As result, according to Petitioner, the TOC Guidelines “expanded eligibility in a way that has sabotaged the labor standards, rather than increasing the ‘good jobs’ the voters were promised.” (Opening Brief 16:23-25.)

Section 6 of Measure JJJ—now codified at LAMC section 12.22.31.A(b)(1)—references Measure JJJ’s Section 5 workforce eligibility requirement:

“A Housing Development located within a TOC Affordable Housing Incentive Area shall be eligible for TOC Incentives if it provides minimum required percentages of On-Site Restricted Affordable Units, meets any applicable replacement requirements of California Government Code Section 65915(c)(3), and is not seeking and receiving a density or development bonus under the provisions of California Government Code Section 65915 or any other State or local program that provides development bonuses. Minimum required percentages of On-Site Restricted Affordable Units shall be determined by the Department of City Planning and set forth in the TOC Guidelines at rates that meet or exceed 11 % of the total number of dwelling units affordable to Very Low income households; or 20% of the total number of dwelling units affordable to Lower Income households. The Department of City Planning shall also establish an option for a Developer to qualify for the TOC Incentives by providing a minimum percentage of units for Extremely Low Income Households, which shall be set at no less than 7%. In calculating the required Restricted Affordable Units, the percentage shall be based on the total final project unit count, and any number resulting in a fraction shall be rounded up to the next whole number. In creating the TOC Guidelines, the Department of City Planning shall identify incentives for projects that adhere to the labor standards required in Section 5 of this Ordinance provided, that no such incentives will be created that have the effect of undermining the affordable housing incentives contained herein or in Government Code Section 65915.” (AR 19 [emphasis added].)

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The TOC Guidelines provide:

**“6. Projects Adhering to Labor Standards.** Projects that adhere to the labor standards required in LAMC 11.5.11 may be granted two Additional Incentives from the menu in Section VII of these Guidelines (for a total of up to five Additional Incentives.” (AR 297.)

Petitioner contends the City improperly construed Section 6 of Measure JJJ as allowing for *additional* incentives where a developer meets Section 5’s workforce standards. Petitioner argues Section 6 instead *requires* a developer to comply with Section 5’s workforce standards to obtain any TOC incentives. That is, Section 6’s reference to Section 5 “clarifies that the requirements” for any TOC incentives include compliance with Section 5’s workforce standards. (Opening Brief 11:24-26.)

The court disagrees with Petitioner’s interpretation of the relevant provisions of Measure JJJ.

First, by its plain language, Section 5’s workforce standards only apply under Measure JJJ where a developer seeks certain discretionary approvals from the City (General Plan amendment, zone change or height district change) “that results in increased allowable residential floor area, density or height, or allows a residential use where previously not allowed” for 10 or more residential dwelling units. (Pet. RJN, Ex. 1, p. 25.)

Second, Section 6 is clear. There are four requirements for TOC incentive eligibility: The project (1) is located in a “TOC Affordable Housing Incentive Area”; (2) provides required percentages of affordable units; (3) meets replacement unit requirements of Government Code Section 65915; and (4) is “not seeking and receiving” a development bonus under another state or local program. (AR 19-21; City’s RJN, Ex. C p. 50 [LAMC § 12.22.A.31(b)(1)].) Nothing more is required for eligibility. Notably, none to the requirements reference or implicate Section 5’s workforce standards. Under Section 6, where a developer meets the four requirements, the developer is entitled to TOC Incentives.

Third, Section 6’s reference to Section 5’s workforce standards suggests additional incentives may be awarded where a developer meets the four basic requirements to obtain TOC incentives *and* also complies with Section 5’s workforce standards. Unlike the Base Incentives (density/FAR and automobile parking) specified in Section 6, Section 6 instructs “the Department of City Planning shall identify incentives” for a project that complies with Section 5’s workforce standards. Section 6 thus recognizes there will be projects that meet the basic four requirements for TOC incentives as well as Section 5’s workforce standards.

Finally, if compliance with Section 5’s workforce standards were required to obtain TOC incentives, Section 6 would have no reason to instruct the City to “identify incentives for projects that adhere to the labor standards required in Section 5 . . . .” Section 6 already identifies available TOC incentives. Section 6’s reference to Section 5 suggests different and

additional incentives to be determined by the City for a developer based on the developer's compliance with Section 5's workforce standards.

Based on the foregoing, the court cannot find the TOC Guidelines provision allowing for up to two Additional Incentives where a developer meets Section 5's workforce standards conflicts with, is inconsistent with, or exceeds the scope of Measure JJJ. Section 6's reference to Section 5's workforce standards is not a basic eligibility requirement for TOC incentives—it is a pathway to Additional Incentives to incentivize developers to comply with Section 5's workforce standards.

## ***2. Incentive Requirements and Tiers***

Petitioner argues the TOC Guidelines' use of Additional Incentives and the tiered classification system to award incentives is inconsistent with Measure JJJ. (Pet., ¶¶ 23, 71.) Petitioner contends the TOC Guidelines therefore "alter[] the land use regulations and standards established in duly-enacted ordinances of the City." (Opening Brief 15:28-16:1.) Petitioner alleges the TOC Guidelines "create what is essentially a zoning overlay, giving greater rights to building intensity and density to lots with the same underlying zoning on the basis of the distance to transit." (Opening Brief 16:4-6.)

The petition alleges:

"Measure JJJ provides that the TOC Guidelines shall contain incentives 'consistent with the following' which include a residential density increase, adjustments to minimum square feet per dwelling unit, floor area ratio, or both, as well as parking reductions. The TOC Guidelines include additional incentives for reductions in required yards and setback, open space, and lot width; increases in maximum lot coverage, height, and transitional height requirements. Each of these 'additional' incentives alters otherwise applicable limitations in the municipal code without complying with the procedural requirements for zone changes, height district amendments and general plan amendments or variances, all of which provide due process and full transparency." (Pet., ¶ 23.)

Measure JJJ made the TOC Affordable Housing Incentive Program applicable to all Housing Developments within one-half mile of Major Transit Stops. Section 6 of Measure JJJ—now codified at LAMC section 12.22.A.31(a) provides:

**"Application of TOC Affordable Housing Incentive Program.** This Transit Oriented Communities Affordable Housing Incentive Program, and the provisions contained in the TOC Affordable Housing Incentive Program Guidelines, shall apply to all Housing Developments that are located within a one-half mile radius of a Major Transit Stop, as defined in subdivision (b) of Section 21155 of the California Public Resources Code. Each one-half mile radius around a Major Transit Stop



shall constitute a unique Transit Oriented Communities Affordable Housing Incentive Area.” (Emphasis added.)

Section 6 of Measure JJJ—now codified at LAMC section 12.22.A.31(b)(2)—provides:

“**TOC Incentives.** An Eligible Housing Development shall be granted TOC Incentives, as determined by the Department of City Planning consistent with the following:

- (i) **Residential Density Increase.** An Eligible Housing Development shall be granted increased residential density at rates that shall meet or exceed a 35% increase. In establishing the density allowances, the Department of City Planning may allow adjustments to minimum square feet per dwelling unit, floor area ratio, or both, and may allow different levels of density increase depending on the Project’s base zone and density.
- (ii) **Parking.** An Eligible Housing Development shall be granted parking reductions consistent with . . . Government Code section 65915(p).
- (iii) **Incentives and Concessions.** An Eligible Housing Development may be granted up to either two or three incentives or concessions based upon the requirements set forth in . . . Government Code Section 65915(d)(2).”<sup>6</sup> (AR 19-20. LAMC § 12.22.A.31(b)(2) [underline emphasis added].)

Despite the City’s decision to establish tiers to promote the policies of Measure JJJ, there is no question, any Eligible Housing Development, no matter where it falls within the City’s four-tiered system, is entitled to increased residential density of at least 35 percent. For example, an Eligible Housing Development located in Tier 1—the farthest tier from Major Transit Stops—receives a 50 percent increase in the maximum number of dwelling units than under applicable zoning.<sup>7</sup> (AR 354.) The same project would receive an increase in FAR of up to 40 percent. (AR 355.) Both incentives are consistent with Section 6 of Measure JJJ.

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<sup>6</sup> As discussed during the hearing, (iii) must refer to something other than residential density increases and parking reductions. First, LAMC section 12.22.A.31(b)(2) requires TOC incentives be granted by use of the word “shall be granted” in its introductory sentence. Second, at paragraph (iii), the provision refers to “concessions.” Measure JJJ is otherwise silent about concessions. If paragraph (iii) intended to include only residential density increase and parking incentives, paragraph (iii) would not have referred to “concessions,” a term used in the state’s density bonus law at Government Code section 65915. Finally, if paragraph (i) and paragraph (ii) required incentives to be awarded, paragraph (iii) would be superfluous and its provision vesting discretion with the City would have no meaning.

<sup>7</sup> While there is an exception for the RD (restricted density multiple family) zone, a Tier 1 project nonetheless would receive a 35 percent increase in the maximum number of dwelling units than under applicable zoning. (AR 354-355.)

The remaining three tiers also receive—consistent with Measure JJJ—"residential density rates that . . . meet or exceed a 35% increase." (AR 19-20, 354-355.) Tier 4 projects—those closest to Major Transit Stops—receive the highest incentives thereby promoting housing near Major Transit Stops. (See AR 354.) The City "structured the Guidelines to provide levels of incentives linked to the quality and proximity to a transit stop." (AR 54.) Within Measure JJJ's requirement that Eligible Housing Developments receive at least a 35 percent density increase, the City created a "system that provides different levels of development for a project located a half-mile from regular bus lines than for one located adjacent to a Metro Rail Station." (AR 54.)

Accordingly, the court finds the City's tier-based system to award incentives is consistent with Measure JJJ because every Eligible Housing Development within a one-half mile radius of a Major Transit Stop receives no less than a 35 percent increase in density. The City's structure does not exceed the scope of Measure JJJ because the TOC Guidelines ensure "increased residential density at rates that shall meet or exceed a 35% increase" within a one-half mile radius of a Major Transit Stop. (AR 19-20.)

Petitioner contends the TOC Guidelines use of incentives beyond residential density increases and parking (Base Incentives) alters the LAMC "without complying with the procedural requirements for zone changes, height district amendments and general plan amendments or variances, all of which provide due process and full transparency." (Pet., ¶ 23.) Petitioner contends the incentives selected by the City as Additional Incentives are not "consistent with" those incentives set forth in Measure JJJ. (Opening Brief 15:11-16; AR 19.)

Measure JJJ's "consistent with" list of incentives allows incentives and concessions based upon the state's density bonus law. (AR 20; Gov. Code § 65915.) The state's density bonus law<sup>8</sup> provides incentives in the form of a "reduction in site development standards," "a reduction in set back and square footage requirements," and other reductions in development standards "including, but not limited to, a height limitation, a setback requirement, a floor area ratio, [and] an onsite open-space requirement . . . ." (Gov. Code § 65915, subs. (k)(1) and (o)(1).) The Additional Incentives permitted by the TOC Guidelines are "consistent with" those incentives specified by Measure JJJ.<sup>9</sup>

Based on the foregoing, the court finds the TOC Guidelines are consistent with and do not exceed the scope of Measure JJJ. Petitioner is not entitled to relief on its claims related to the TOC Guidelines.

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<sup>8</sup> Under the state density bonus law, a local agency must grant the density bonus for a qualifying project, but also that it must grant (1) other incentives or concessions if requested by the applicant, (2) waivers or reductions of development standards if requested by the applicant, and (3) reduced parking ratios in certain instances. (Gov. Code § 65915.) Under subdivision (d)(2), incentives or concessions are based on the percentage of total units that meet certain affordability standards.

<sup>9</sup> As discussed during argument, Measure JJJ's use of the word concessions must mean something different than and in addition to incentives. (See LAMC § 12.22.A.31(b)(2)(iii).)

**Affirmative Defense: Statute of Limitations:**

The parties' dispute whether Petitioner's claims attacking the TOC Guidelines are timely.<sup>10</sup> The court previously considered the issue in the context of the City's motion to strike in the Santa Monica Project action. On August 31, 2020, the court denied the motion to strike finding "Petitioner[s] claims include a Measure JJJ as-applied attack on the Project." (Order, August 31, 2020, p. 6.) Relying on *Travis v. County of Santa Cruz* (2004) 33 Cal. 4th 757, the court found "[h]aving timely brought its as-applied attack, nothing limits the legal theories or claims Petitioner may assert." (Order, August 31, 2020 pp. 6-7.)

The City argues "every argument asserted in Petitioner's Opening Brief relates to the adoption of the TOC Guidelines or whether the adopted TOC Guidelines are consistent with voter initiative Measure JJJ." (Opposition 27:26-28.) As such, the City and Real Parties contend Petitioner's challenge is entirely facial. The court agrees.

The City "approved the TOC Guidelines" through its CPC. (Santa Monica Project Pet., Intro. ¶ 2; see Olympic Project Pet., ¶ 49.) The CPC released the TOC Guidelines on September 27, 2017. (Santa Monica Project Pet., ¶ 19.) Petitioner did not file its action until August 30, 2019 (the Santa Monica Project) and May 1, 2020 (the Olympic Project). As Petitioner had only 90 days to mount a facial challenge to the TOC Guidelines under Government Code section 65009, subdivision (c)(1), the City contends Petitioner's actions are time barred.

Government Code section 65009, subdivision (c)(1) creates a 90-day statute of limitations for challenges to certain decisions made by the City. *Stockton Citizens for Sensible Planning v. City of Stockton* (2012) 210 Cal.App.4th 1484, 1491 explains:

" 'Section 65009 is located in division 1 (Planning and Zoning) of title 7 (Planning and Land Use) of the Government Code. It is intended "to provide certainty for property owners and local governments regarding decisions made pursuant to this division" (§ 65009, subd. (a)(3)) and thus to alleviate the "chilling effect on the confidence with which property owners and local governments can proceed with projects" (*id.*, subd. (a)(2)) created by potential legal challenges to local planning and zoning decisions.' [Citation.] [¶] To this end, Government Code section 65009, subdivision (c) establishes a short 90-day statute of limitations, applicable to both the filing and service of challenges to a broad range of local zoning and planning decisions. [Citation.] . . . After expiration of the limitations period, 'all persons are

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<sup>10</sup> Despite the court having tentatively rejected Petitioner's claims concerning the TOC Guidelines, the City and Real Parties contend the court must address the statute of limitations issue. The City and Real Parties argue under Petitioner's theory, anyone with standing could wage a facial challenge to the TOC Guidelines whenever the City's approval of a development project relies on the TOC Guidelines. Petitioner acknowledges there are "numerous other projects" like those at issue here. (Santa Monica Project Pet., Intro. ¶ 2.)

barred from any further action or proceeding.’ (§ 65009, subd. (e); [citation].)’ (*Honig v. San Francisco Planning Dept.* (2005) 127 Cal.App.4th 520, 526 [].)”

The 90-day statute of limitations applies to any action “To attack, review, set aside, void, or annul any decision on the matters listed in Government Code section 65901 and 65903 . . . .”

Government Code section 65901, subdivision (a) specifies in addition to hearing conditional use permit matters, the “[b]oard of zoning adjustment or zoning administrator may also exercise any other powers granted by local ordinance . . . .” The City does not have a board of zoning adjustment. Instead, it has its CPC, Area Planning Commissions, a Director of Planning and an Office of Zoning Administration<sup>11</sup> who exercise planning and zoning authority. (See Charter for the City of Los Angeles §§ 550, 551, 552, 553 and 561.) Under such circumstances, the Government Code specifies the CPC shall exercise the duties of the board of zoning adjustment or zoning administrator.

The CPC acted based upon powers granted to it by local ordinance and pursuant to Government Code section 65901. To the extent Petitioner challenges the CPC’s authority to have adopted and released the TOC Guidelines or the CPC’s authority to do so,<sup>12</sup> Petitioner’s challenge must have been made within 90 days of September 27, 2017.

The court recognizes *Anza Parking Corp. v. City of Burlingame* (1987) 195 Cal.App.3d 855, 860-861 provides some support to Petitioner’s claim it may attack the TOC Guidelines as void without regard to the statute of limitations. The case, however, has been criticized and not followed by other cases:

“In any event, were *Anza* on point, we would likely decline to follow it. The opinion, which in effect holds there is no statute of limitations for claims that a conditional use permit is void, stands on its head the Legislature’s intent to ensure the quick resolution of challenges to local planning and zoning decisions. Three other published opinions apparently have misgivings about *Anza*; they do their best to distance themselves from it (*Ponderosa Homes, Inc. v. City of San Ramon* (1994) 23 Cal.App.4th 1761, 1772 []; *California Ranch Homes Development Co. v. San Jacinto Unified School Dist.* (1993) 17 Cal.App.4th 573, 580 []; *California Coastal Com. v. Superior Court* (1989) 210 Cal.App.3d 1488, 1501, fn. 9 []). We

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<sup>11</sup> The City’s Office of Zoning Administration performs its duties through Zoning Administrators. (City of Los Angeles Charter § 561.)

<sup>12</sup> For example, Section 6 of Measure JJJ provides the CPC “shall review the TOC Guidelines and shall by vote make a recommendation to adopt or reject the TOC Guidelines.” (AR 20.) Petitioner contends the City did not properly adopt the TOC Guidelines: “The Guidelines were adopted by Planning, not CPC. (AR0799) . . . . The TOC Guidelines, as approved, were outside Planning’s power to adopt.” (Opening Brief 11:6-9.) The CPC, however, recommended adoption of the TOC Guidelines. (AR 50.)

have found no case which endorses *Anza* and no case beyond the three mentioned which cites it.”

(*Gonzalez v. County of Tulare* (1998) 65 Cal.App.4th 777, 790; *Ponderosa Homes, Inc. v. City of San Ramon* (1994) 23 Cal.App.4th 1761, 1772 [noting *Anza* “has never been relied upon by any other appellate court decision” to find a limitations period does not apply].)

Given the conflict in the appellate authorities, the court finds the opinion in *Gonzalez v. County of Tulare* (1998) 65 Cal.App.4th 777 to be better reasoned considering the express legislative purpose of Government Code section 65009. Accordingly, this court follows *Gonzalez v. County of Tulare*, *supra*, 65 Cal.App.4th at 777 and finds Petitioner’s facial challenge to the TOC Guidelines time barred.

As noted, the court earlier denied the City’s motion to strike based on the statute of limitations. The court did so relying on *Travis v. County of Santa Cruz*, *supra*, 33 Cal.4th at 757. In *Travis v. County of Santa Cruz*, the Supreme Court considered two challenges to conditions on permits to construct second dwelling units. The county conditioned the permits based on an ordinance that had been enacted by the county in the early 1980’s. (*Id.* at 763.) The trial court denied the plaintiffs’ petition challenging the conditions as facial challenges to the validity of the long-standing ordinance; the Court of Appeal affirmed. (*Id.* at 765.) The Supreme Court reversed as to the one plaintiff who filed suit within 90 days of the denial of his administrative appeal but affirmed as to the plaintiff who failed completely to challenge the condition administratively or commence litigation within 90 days of the conditioned approval. (*Id.* at 767.) The Supreme Court explained that even though the plaintiff’s challenge was a general challenge to the permit conditions as unconstitutional, and not an as-applied issue, the court held “[s]ection 65009, subdivision (c)(1)(E), in setting a time limit for actions challenging permit conditions, does not purport to restrict the legal theories or claims that may be made in such an action.” (*Id.* at 767.)

*Travis v. County of Santa Cruz*, *supra*, 33 Cal.4th at 757, however, turned on the nature of the plaintiff’s challenge. The plaintiff

“was allowed to press his facial claims [to the ordinance] only because he had brought a timely as-applied challenge to the conditions imposed on his permit. As the Supreme Court explained, ‘[t]his is not a case in which the plaintiff complains of injury *solely* from a law’s enactment.’ [Citation.] It emphasized that when a property owner challenges an adjudicatory decision applying an ordinance to his or her property, ‘the validity of the legislation cannot be the *only* issue at stake . . .’ [Citation.]” (*County of Sonoma v. Superior Court* (2010) 190 Cal.App.4th 1312, 1329.)

Petitioner could not “evade the statute of limitations for facial challenges” to the TOC Guidelines “merely by filing something it terms an ‘as-applied’ challenge. It is the nature or gravamen of the . . . action that determines when the limitations period begins, not the label [Petitioner] affixes to its pleadings.” (*Id.* at 1329-1330.)

It is clear Petitioner's challenge to the TOC Guidelines is a facial one. Accordingly, Petitioner's facial challenge brought years after the guidelines' adoption is time barred.

## **II. PROJECT SPECIFIC CHALLENGES**

### **Affirmative Defense: Exhaustion of Administrative Remedies**

Real Parties in Interest in both actions argue Petitioner failed to exhaust its administrative remedies. Acknowledging Petitioner had no authority under the LAMC to appeal, they argue Petitioner should nonetheless have tried to appeal the City's approvals of the projects. They contend Petitioner strategically elected not to appeal the projects' approval, and therefore, Petitioner should be barred from judicial review.

Under the doctrine of exhaustion of administrative remedies, "where an administrative remedy is provided by statute, relief must be sought from the administrative body and this remedy exhausted before the courts will act." (*Abelleira v. District Court of Appeal* (1941) 17 Cal.2d 280, 292.) The rule "is not a matter of judicial discretion, but is a fundamental rule of procedure laid down by courts of last resort, followed under the doctrine of stare decisis and binding upon all courts." (*Id.* at 293.) Exhaustion of administrative remedies is, in short, "a jurisdictional prerequisite to resort to the courts." (*Ibid.*) Its rationale is the prevention of interference with the jurisdiction of administrative tribunals by the courts, which are only authorized to review final administrative determinations. (*Hayward v. Henderson* (1979) 88 Cal.App.3d 64, 70.) "The essence of the exhaustion doctrine is the public agency's opportunity to receive and respond to articulated factual issues and legal theories before its actions are subjected to judicial review." (*Coalition for Student Action v. City of Fullerton* (1984) 153 Cal.App.3d 1194, 1198.)

Real Parties in Interest, Elliot Nayssan, Robhana, Inc., and NHD Terrace, LLC, for the Santa Monica Project specifically argue:

"The Los Angeles Municipal Code ('LAMC') provides applicable procedures for administratively appealing the Project prior to review by the courts. LAMC § 12.22.A.25(g)(2)(ii) provides the administrative procedures applicable for the Project, given the Project's multiple discretionary actions and number of incentives. (Real Parties Request for Judicial Notice ("RJN"), Exh. A, p. 25; see also RJN, Exh. A, p. 34 [LAMC § 12.22.A.31(e) incorporating procedures outlined in LAMC § 12.22.A.25(g) to TOC projects].) LAMC § 12.22.A.25(g)(2)(ii) incorporates the procedures of LAMC § 12.36. (RJN, Exh. A, p. 25.) In turn, LAMC § 12.36.C.4 incorporates the appeal procedures of LAMC § 16.05.H. (RJN, Exh. A, p. 52.) LAMC § 16.05.H provides in pertinent part "[a]ppeals shall be in writing and shall set forth specifically the reasons why the decision should not be upheld. Appeals shall be filed in any public office of the Department of City Planning, upon required forms and accompanied by applicable fees, within 15 days of the mailing of the

decision to the applicant. An appeal not properly or timely filed shall not be accepted.” (RJN, Exh. A, p. 56, emphasis added.)” (RPI Opposition 5:10-5:22.)

The Santa Monica Project Real Parties in Interest argue Petitioner failed to exhaust its administrative remedies by failing to appeal the City’s approval of the Santa Monica Project—the only appeal was filed by a homeowners’ association (HOA). (AR 694.) The HOA, while mentioning the Alquist-Priolo Earthquake Fault Zoning Act (Pub. Resources Code 2621 *et seq.*) (the Act), did not assert an error by the City based upon the Act. (AR 642-643.) The appeal also did not challenge the validity of the TOC Guidelines.

Well after the time for appeal had run,<sup>13</sup> on May 6, 2019, Petitioner submitted a comment letter in connection with the HOA’s appeal. Those comments advised the City it had approved the project in violation of the Act. (AR 782-792.)

Petitioner acknowledges the applicable LAMC provisions governing the Santa Monica Project’s appeal. (Reply 5:16-19.) Petitioner also appears to concede it did not exhaust its administrative remedies. (Reply 5:13-27.)

Petitioner argues, however, it did not have an opportunity to appeal the Santa Monica Project because it did not receive notice of the public hearing. (AR 579 [affidavit of mailing]; Lake Decl., ¶¶ 3-4.)<sup>14</sup>

Real Party in Interest, 5891 Boulevard LP, for the Olympic Project makes similar arguments. It asserts Petitioner did not appeal approval of the Olympic Project. Instead, Petitioner submitted a comment letter opposing the Olympic Project. (Related Case AR 935-940.)

In response to the claim Petitioner failed to exhaust its administrative remedies, Petitioner argues it lacked an adequate administrative remedy through which it could challenge either project. Petitioner is correct. The City’s restrictions on the administrative appeal process—and here there is no dispute the City’s municipal code restricted Petitioner’s ability to administratively appeal—cannot be used to bar judicial review.<sup>15</sup>

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<sup>13</sup> The last day to appeal the project’s approval was February 1, 2019. (AR 637.)

<sup>14</sup> Petitioner does not suggest there was any failure to comply with notice requirements as prescribed under the law.

<sup>15</sup> The court is not persuaded Petitioner’s ability to obtain judicial review should be dependent upon Petitioner having “tried” to obtain administrative review where the LAMC and written information provided by the City clearly indicate Petitioner had no right to an administrative appeal. “The law neither does nor requires idle acts.” (Civ. Code § 3532.) Further, that “Petitioner’s members are residents and taxpayers of the City . . .” does not change the analysis. (Pet., ¶ 5.) Petitioner does not allege all residents of the City are its members such that it could honestly allege it’s members are abutting property owners or tenants.

First, under the Santa Monica Project's letter of decision (AR 580, 615), LAMC Section 12.22A.25(g)(2)(i)(f) did not permit Petitioner to appeal the project. The City's letter of decision advised appeal is possible only by an applicant, abutting property owner and/or tenant. Thus, Petitioner had no ability under the LAMC to appeal the City's approval of the Santa Monica Project. (AR 615.)

Further, based on the letter of decision, Petitioner could not bring an appeal to the CPC (as an applicant or any person aggrieved by the Site Plan Review) because Petitioner had no challenge to the City's findings for the Site Plan Review. (AR 615.)

Thus, Petitioner had no administrative remedy to exhaust as to the Santa Monica Project because Petitioner challenged the City's award of incentives to the project based on the TOC Guidelines and the City's failure to comply with the setback requirements of the Act in the absence of an off-site investigation.

As to the Olympic Project, Petitioner makes a similar argument—Petitioner did not have access to the administrative proceeding and thus had no administrative remedies to exhaust. In fact, Real Party in Interest, 5891 Boulevard LP, recognizes Petitioner had no avenue to appeal approval of the Olympic Project based on the City's award of incentives because appeals for such entitlement programs are limited to adjacent and abutting property owners or occupants. (RPI Opposition 14:13-18.)

The court finds Petitioner's arguments on exhaustion persuasive. Accordingly, under these facts, as Petitioner had no authority and/or ability to participate in the administrative appeals process, Petitioner is excused from exhausting its administrative remedies for both projects.

#### **A. The Santa Monica Project**

#### **STATEMENT OF THE CASE**

The Santa Monica Project is a seven-story, 120-unit residential building with 12 units set aside for Extremely Low-Income households. (AR 838.) The Santa Monica Project is located on five vacant lots measuring 25,869 square feet. (AR 848, 510.) The Santa Monica Project is located within 2,640 feet from the intersection of Metro Bus and Rapid Bus lines. In addition, the Century City stop for the future Purple Line will be within 2,650 feet of the Santa Monica Project. (AR 849.)

The City's General Plan designation for the five lots for the Santa Monica Project is General Commercial. The zoning for the lots is C2-1VL; the "VL" designation denotes a height district with both density and height limitations. (AR 369, 438, 848.) Based on the Santa Monica Project site's underlying zoning, the by-right unit count is limited to 71 units. (AR 440.) The zoning limits the FAR to 1.5:1. (AR 441.) Height is limited to 45 feet in the zone, but under LAMC section 12.21.1(B)(2), due to the property's slope, which exceeds grade by more than 20 feet, any



project is generally entitled to an additional 12 feet in height. (AR 594.) Neighboring residential properties are generally low-rise and around four stories in height. (AR 772-773, 1428.)

## **ANALYSIS**

Petitioner makes two project-specific challenges to the Santa Monica Project. First, Petitioner argues the Santa Monica Project's approval rests entirely upon the incentives provided by the City's improper expansion of incentives contained in the TOC Guidelines—a reiteration of its general TOC Guidelines claim. Second, Petitioner argues the Project fails to comply with the Act and related City requirements.

### ***TOC Guidelines Incentive Arguments:***

Petitioner notes the Santa Monica Project received six incentives from the City: increased density, increased floor area, decreased parking requirements, increased height, reduced side yards, and reduced open space.

Petitioner argues under Measure JJJ the Santa Monica Project was entitled only to “two or three incentives.” (AR 20.) As Measure JJJ was codified into the LAMC, “additional” incentives violate the provisions of ordinances included in the municipal code. (Project Opening Brief 10:14-17.) Petitioner also argues that by allowing the Santa Monica Project to circumvent a zone or height district change request under LAMC section 12.32, the City permitted the Santa Monica Project to circumvent the requirements of Section 5 of Measure JJJ. That is, “[t]he awarding of discretionary incentives not encompassed in Section 6 of Measure JJJ means that the Project did not have to obtain the kind of discretionary entitlements like zone changes or height-district changes that would fall within Section 5 and necessitate compliance with the labor standards.” (Project Opening Brief 11:16-19.)

Petitioner's arguments merely reiterate its general claims concerning the TOC Guidelines and Measure JJJ. Accordingly, Petitioner's project specific challenge to the Santa Monica Project based on the TOC Guidelines is denied.

### ***Alquist-Priolo Earthquake Fault Zoning Act and Bulletin 2017-129 Argument:***

#### ***1. Standard of Review***

Petitioner does not suggest the appropriate standard of review for its challenge to the City's approval of the Santa Monica Project given the Act. As the Act does not require a hearing before an agency considers a proposed project and the Act, the court finds Petitioner's challenge is in traditional mandamus under Code of Civil Procedure section 1085. (*Better Alternatives for Neighborhoods v. Heyman* (1989) 212 Cal.App.3d 663, 672, fn. 6; see also *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392, fn. 5. [“This action appears to be one of traditional mandamus because the agency did not conduct a hearing at which evidence was taken in a judicial (adjudicative) sense, but we need not decide

this issue. As the Court of Appeal noted, the dispute is mostly academic because the standard of review is essentially the same under either section, i.e., whether substantial evidence supports the agency's determination.”)]

“ ‘In determining whether an abuse of discretion has occurred, a court may not substitute its judgment for that of the administrative board [citation], and if reasonable minds may disagree as to the wisdom of the board's action, its determination must be upheld [citation].’ (*California Oak Foundation v. Regents of University of California* (2010) 188 Cal.App.4th 227, 247.) “ ‘In general . . . the inquiry is limited to whether the decision was arbitrary, capricious, or entirely lacking in evidentiary support . . . .’ [Citation.]” (*Ibid.*) “Where a petitioner's challenge in a mandamus action rests on the sufficiency of the evidence, ‘the court does not have the power to judge the intrinsic value of the evidence or to weigh it.’ ” (*Ibid.*)

## **2. Analysis**

It is undisputed the Santa Monica Project is located within an earthquake fault zone and is subject to the Act. (AR 783-784, 1316-1320; Pet.'s RJN Ex. 2 [Beverly Hills Quadrangle Earthquake Fault Zone Map].) Petitioner argues the City, through the CPC, approved the project without considering the Act's requirements. Specifically, Petitioner claims the City ignored state law by approving the project's construction within 50 feet of an area presumed to be underlain by surface faults without the statutorily required 50-foot setback from the property line.

The legislature adopted the Act to prohibit the location of occupied structures across the trace of active faults. (Pub. Resource Code § 2621.5; Cal. Code Regs., tit. 14, (Guidelines) § 3603, subd. (a).) The State Mining and Geology Board promulgated regulations to implement the Act. The board's purpose is to set forth policies “governing the exercise of city . . . responsibilities to prohibit the location of developments and structures for human occupancy across the trace of active faults.” (Guidelines § 3600.) The Act's implementing regulations provide:

“No structure for human occupancy . . . shall be permitted to be placed across the trace of an active fault. Furthermore, as the area within fifty (50) feet of such active faults shall be presumed to be underlain by active branches of that fault unless proven otherwise by an appropriate geologic investigation and report and report prepared as specified in Section 3603(d) of this subchapter, no such structures shall be permitted in this area.” (Guidelines § 3603, subd. (a).)<sup>16</sup>

“The approval of a project by a city . . . shall be in accordance with policies and criteria established by the State Mining and Geology Board and the findings of the State Geologist. . . . Cities . . . shall require, prior to the approval of a project, a geologic report defining and delineating any hazard of surface fault rupture.” (Pub. Resources Code § 2623.) The local

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<sup>16</sup> A “fault trace” is defined in the regulations as the “line formed by the intersection of a fault and the earth's surface;” a fault is considered “active” if it “has had surface displacement within Holocene time (about the last 11,000 years) . . . .” (Guidelines § 3601, subds. (a) and (b).)

authority also may establish policies that are more stringent than required by state law. (Pub. Resource Code § 2624.)

Citing the City's Department of Building and Safety Information Bulletin 2002-044, "Implementation of the Alquist-Priolo Earthquake Fault Zoning Act," Petitioner suggests the City's own policies for fault investigations are consistent with the state regulation. That is, the City requires that all applications for structures for human occupancy in earthquake fault zones must include a geologic-seismic report. (AR 789.) Further, "[n]o structure for human occupancy shall be permitted to be placed on or across an inferred fault trace. Furthermore, the area within 50 feet of the inferred fault trace shall be assumed to be underlain by active branches of that fault unless and until proven otherwise by a geologic-seismic report." (AR 789.)

Moreover, in the City's Department of Building and Safety Information Bulletin 2017-129 (Bulletin 2017-129), the City mandates that "[w]here exploration does not extend 50 feet beyond a property line within a fault investigation zone, an active trace at the property line must be considered present and require a setback." (AR 787 [quoting Los Angeles Department of Building and Safety "Surface Fault Rupture Hazard Investigations" information bulletin P/BC 2017-129]; see also Pet.'s RJN Ex. 3.)

Based on the foregoing, Petitioner argues the Act clearly requires the City to have fully assessed the risk of a surface fault rupture before it approves projects located in mapped earthquake fault zones. Petitioner argues the Santa Monica Project did not comply with the requirements the Act and the City's own guidance. Thus, the issue is twofold: the requirements of the Act and the requirements of the City through its Bulletin 2017-129.

Here, in December 2016, during the approval process, Real Parties in Interest submitted a "Geologic Fault Study Report" (the Geologic Report) to the City's Department of Building and Safety. (AR 1313.) The Geologic Report's conclusions were based a series of seven "Cone Penetrometer soundings" and two "continuous core borings." (AR 1319.) All of the cone penetrometer soundings were along a north-south transect within the bounds of the property, roughly along a nearly central axis. (AR 1332.)

Based on the findings of the onsite survey, and "review of prior investigations by others as well as several published and unpublished maps and reports," the Geologic Report concluded that "the site is not underlain by the Santa Monica fault or fault splay." (AR 1325 [emphasis added].) However, because "exploration was confined to the subject property limits. . . [the exploration was] not able to distinguish or refute the existing evidence of faulting within 50 feet of the property boundaries, as is required by the city." (AR 1325 [emphasis added].) As a result of the uncertainty the Geologic Report recommended that unless study off site were conducted "a thick slab 'mat' foundation should be utilized, as a form of engineered mitigation against fault rupture within close proximity to the proposed building." (AR 1326.)

Petitioner notes the Geologic Report did not consider points located near the eastern or western edges of the property. In addition, the Geologic Report did not offer any conclusions beyond the project site boundaries.

The Geologic Report's conclusions relied on a combination of seven cone penetrometer soundings and two continuous core borings because the geologists determined that trenching was not suitable for the location. (AR 1318-1319.) The Geologic Report relied upon core samples based on the known location the Santa Monica fault and based on past fault line studies. (AR 1320-1321.) The Geologic Report states its "approach to the site-specific fault study was to advance two continuous core borings and seven CPT soundings in the northwest-southeast alignment across the project area, research of geological literature, and [their] professional engineering-geologic judgment, to determine whether an active trace of the fault underlies the subject site." (AR 1321.) Based on this foundation and the result of the testing, the Geologic Report determined "that the site is not underlain by the Santa Monica fault or fault splay." (AR 1325.)

As noted above, Guideline section 3603 limits construction to within 50 feet of active faults "unless proven otherwise by appropriate geologic investigations and report." (Guidelines § 3603, subd. (a).) The Geologic Report did just that—it demonstrated the site is not underlain by active branches of an earthquake fault.<sup>17</sup> Therefore, Guideline section 3603 does not prohibit placing a structure for human habitation on the site. The City's approval of the Santa Monica Project did not violate the Act.

Bulletin 2017-129, however, imposes requirements in addition to those in the Act. Notably, Section III of Bulletin 2017-129, entitled "Setback Requirements" states in relevant part:

"Building setbacks from active fault traces are key recommendations provided in fault investigations. The default building setback from an active fault is 50 feet. Reduced setbacks can be considered if the location, trend and nature of a particular fault trace are accurately established by several data points.

Where exploration does not extend 50 feet beyond a property line within a fault investigation zone, an active trace at the property line must be considered present and require a setback. Data from adjacent or nearby sites can be used to *possibly* reduce a property line setback. Setbacks and buildable areas shall be clearly shown on the geologic map/site plan, and included in the report.

Special/reinforced foundations may be used to mitigate minor ground displacements that could occur near a more significant fault trace. If special

---

<sup>17</sup> Thus, even assuming there is an inferred fault trace at the property line, the Geological Report establishes "the site is not underlain by the Santa Monica fault or fault splay." (AR 1325.)

foundations are used, the report shall show a special foundation area on the geologic map/site plan.” (City’s RJN, Ex. H, p. 7 [emphasis added].)

Based on the City’s Bulletin 2017-129, the City argues its decision to permit a reinforced mat foundation to reduce the required setback is supported by substantial evidence.

The City states:

“the Geologic Report acknowledged that offsite areas immediately adjacent to the Project site may be presumed to contain an active fault or fault splay, as required by Bulletin 2017-129, due to the limitations in offsite fault investigation. (AR 1325-26; Resps.’ RJN, p. 104 [Ex. H p. 7].) Overall, however, the Geologic Report relied on multiple data sets from adjacent sites (AR 1316-1317), and field exploration that included boring data (AR 1319, AR 1338-45), cone penetrometer readings (AR 1346-49), and carbon dating (AR 1323) to confirm soil depth and age. All of this data supported the conclusion that no active fault or fault splays were found to be underlying the Project site, and that the proposed reinforced mat foundation would protect against any potential surface fault rupture in close proximity to the Project. LADBS reviewed the Geologic Report, concurred in its findings, and imposed 38 conditions which were attached to the Project site plan. (AR 1436-39.)” (Project Opposition 13:17-27.)

Petitioner argues the evidence is inadequate because these “adjacent” data sites were multiple city blocks from the project site. (AR 1331.) Petitioner contends, while the second paragraph of Bulletin 2017-129 applies to the project, the Santa Monica Project could not “possibly reduce a property line setback” because the Geologic Report did not provide any data from nearby sites. (Reply 11:11-14.)

There is no question the Geologic Report did not extend 50 feet beyond the property:

“Because of space constraints, our fault investigation did not extend 50 feet north of the northern property boundary and 50 feet south of the southern property boundary, as is requested by the city and CGS for fault investigations in general. Beyond the northern boundary of the subject site, the ‘local access’ south Santa Monica Boulevard is roughly thirty feet wide and drilling in the alley was complicated by the presence of several utilities, including gas and sewer. Moreover, the alley south of the site is only 20’ wide, making drilling 50 feet directly south of the site impossible.” (AR 1325.)

The Geologic Report continued:

“Due to these practical limitations of conducting the fault study offsite, our exploration was confined to the subject property limits. Since we were not able to distinguish or refute the existing evidence of faulting within 50 feet of the property boundaries, as is

required by the city, we must recognize the possibility of the existence of the fault or fault splay within less than 50 feet of either property boundary, or just beyond the explored areas.” (AR 1325-1326.)

Bulletin 2017-129 “require[s] a setback” where “exploration does not extend 50 feet beyond a property line within a fault investigation zone . . . .” While a property line setback could permissibly be reduced under Bulletin 2017-129, the court cannot determine whether and to what extent, if at all, the City considered its default building setback requirement and any reduction to that default setback.

The City argues Petitioner selectively cites the setback provisions under Bulletin 2017-129 while omitting the alternative compliance provision permitting reduced setbacks. (See City’s RJN, Ex. H [Bulletin 2017-129].) Bulletin 2017-129 does not address the use of a “thick slab ‘mat’ foundation” in lieu of a required setback. (AR 1326.)

The City’s decisions related to Bulletin 2017-129 did not require a hearing or findings, and there are none. Accordingly, the court cannot evaluate the City’s decision making and Petitioner’s challenge without an explanation. The court cannot determine whether the City considered Bulletin 2017-129, the required setback given the limited geological exploration and whether the City decided a reduced setback was permissible. The court finds remand is appropriate here to provide the City with an opportunity to explain on this record how approval of the project complied with Bulletin 2017-129’s mandatory setback requirements.

After remand, the parties will be given an opportunity to brief the setback issue. The court will thereafter hear argument on the issue.

## **B. The Olympic Project**

Petitioner’s project specific claims are based on the validity of the TOC Guidelines. Petitioner’s arguments are identical to its general claims about the TOC Guidelines.

As a project specific claim, Petitioner notes the Olympic Project received six incentives: increased density, increased floor area, decreased parking requirements, increased height allowance, reduced side yards, and averaging. (Project Opening Brief 5:25-26.) Petitioner argues under Measure JJJ the City could grant only “two or three incentives” to the Olympic Project. (Project Opening Brief 5:27.) Petitioner argues “additional” incentives under the TOC Guidelines violate the LAMC. (Project Opening Briefs 5:28-6:2.) Petitioner also argues “[t]he awarding of discretionary incentives not encompassed in Section 6 of Measure JJJ means that the Project did not have to obtain the kind of discretionary entitlements like zone changes or height-district changes that would fall within Section 5 and necessitate compliance with the labor standards.” (Project Opening Briefs 6:27-7:2.)

Petitioner's arguments merely reiterate its general claims concerning the TOC Guidelines and Measure JJJ. Accordingly, Petitioner's project specific challenge to the Olympic Project is denied.

### **Affirmative Defense: Standing**

Real Party, 5891 Boulevard LP, also contends Petitioner lacked standing to bring this action. According to Real Party, Petitioner's petition for writ of mandate is premised on the fact that another person appealed the City's approval of the Project.

Petitioner argues its beneficially interested party as required by Code of Civil Procedure section 1086. Petitioner alternatively argues it has standing under a public interest theory.

“ ‘[W]here the question is one of public right and the object of the mandamus is to procure the enforcement of a public duty, the [petitioner] need not show that he has any legal or special interest in the result, since it is sufficient that he is interested as a citizen in having the laws executed and the duty in question enforced.’ ” [Citation.] This ‘ “public right/public duty” exception to the requirement of beneficial interest for a writ of mandate’ ‘promotes the policy of guaranteeing citizens the opportunity to ensure that no governmental body impairs or defeats the purpose of legislation establishing a public right.’ [Citations.] We refer to this variety of standing as ‘public interest standing.’ [Citation.]” (*Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155 166.)

5891 Boulevard LP's standing argument appears to conflate exhaustion of administrative remedies with standing.

Moreover, Petitioner has demonstrated a sufficient special interest as a nonprofit public benefit corporation whose “mission is to improve neighborhoods and advocate for sufficient critical infrastructure and public services throughout the City of Los Angeles.” (Pet., ¶ 6.) Petitioner is comprised of the City's residents and taxpayers, and advocates for maintaining and improving public infrastructure and quality of life in the City. Petitioner also seeks to protect residents from negative infrastructure and considers safety impacts of development projects. (Pet., ¶ 54.)

Finally, 5891 Boulevard LP provides no developed argument undermining Petitioner's assertion it may enforce the mandatory duty in question in this action on a public interest theory of standing.

According, 5891 Boulevard LP has not persuaded the court Petitioner lacks standing to bring its challenge to the Olympic Project.

### **CONCLUSION**

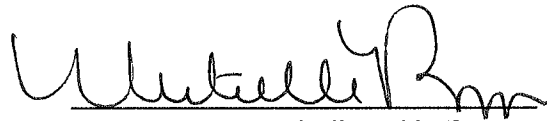
Based on the foregoing, the petition challenging the Olympic Project is denied. All claims raised challenging the Santa Monica Project are denied except the issue of Bulletin 2017-129's setback

requirement. On that issue, as an interlocutory order, the matter is remanded to the City for an explanation as discussed herein.

The court sets a status of the remand/further trial setting date on the remand issue for October 27, 2021 at 9:30 a.m. The court intends to set an expedited briefing and argument schedule after the City has complied with the court's remand order.

**IT IS SO ORDERED.**

August 9, 2021

A handwritten signature in black ink, appearing to read "Mitchell Beckloff", written over a horizontal line.

Hon. Mitchell Beckloff  
Judge of the Superior Court



<b>SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES</b>		Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Stanley Mosk Courthouse 111 North Hill Street, Los Angeles, CA 90012		<b>FILED</b> Superior Court of California County of Los Angeles <b>08/09/2021</b>
PLAINTIFF/PETITIONER: Fix the City, Inc., a California nonprofit corporation		Sherri R. Carter, Executive Officer / Clerk of Court By: <u>F. Becerra</u> Deputy
DEFENDANT/RESPONDENT: City of Los Angeles, a municipal corporation et al		
<b>CERTIFICATE OF MAILING</b>		CASE NUMBER: 19STCP03740

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Minute Order (Ruling on Submitted Matter-Hearing on Petition for Writ of Ma...) of 08/09/2021, INTERLOCUTORY ORDER REMANDING AS TO BULLETIN 2017-129 AND DENYING ALL OTHER CLAIMS OF PETITION FOR WRIT OF MANDATE upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

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Dated: 08/9/2021

By: F. Becerra  
Deputy Clerk

**CERTIFICATE OF MAILING**

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EXEMPT FROM FILING FEES  
GOV'T CODE § 6103

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

FIX THE CITY, INC., a California nonprofit  
corporation,

Petitioner and Plaintiff,

v.

CITY OF LOS ANGELES, a municipal  
corporation; LOS ANGELES CITY  
PLANNING COMMISSION; VINCENT P.  
BERTONI, in his capacity as Director of City  
Planning for the City of Los Angeles; and  
DOES 1 through 100, inclusive,

Respondents and Defendants.

ELLIOT NAYSSAN; ROBhana, INC.;  
NHD TERRACE, LLC; and ROES 1 through  
100, inclusive,

Real Parties in Interest.

Case No. 19STCP03740

Assigned for All Purposes to:  
Hon. Mitchell L. Beckloff, Dept. 86

**RESPONDENTS' OPPOSITION BRIEF  
ON ISSUES RELATED TO TRANSIT  
ORIENTED COMMUNITIES PROGRAM**

**[FILED HEREWITH:  
RESPONDENTS' OPPOSITION BRIEF  
ON PROJECT SPECIFIC ISSUES;  
REQUEST FOR JUDICIAL NOTICE  
(EXHIBITS A – H)]**

Trial Date: July 14, 2021  
Trial Time: 9:30 a.m.  
Dept.: 86

Action Filed: August 30, 2019

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1 **I. INTRODUCTION**

2 In November 2016, City of Los Angeles (“City”) voters approved Measure JJJ, an initiative  
3 ordinance that amended City laws in order to increase affordable housing production. The text at  
4 Section 6 of Measure JJJ codified a new Transit Oriented Communities (“TOC”) Affordable  
5 Housing Incentive Program in the zoning “Exceptions” section of the Los Angeles Municipal Code  
6 (“TOC Program”). The TOC Program incentivizes new housing in areas of the City well-served  
7 by public transit. It allows projects that provide specified percentages of affordable housing to  
8 obtain density increases and other development standard exceptions, also known as “incentives.”  
9 The TOC Program has become a critical voter-approved strategy to address the chronic shortage –  
10 and pervasive unaffordability – of housing for City residents. Since its adoption, the TOC Program  
11 has generated more than 35,000 housing units, including over 7,500 affordable housing units.

12 By challenging a 120-unit residential TOC project at 10400 Santa Monica Boulevard  
13 (“Project”), Petitioner Fix The City, Inc., attempts to undo this strategic voter-approved response  
14 to the housing shortage. Petitioner uses the City’s June 2019 Project approval as a vehicle to  
15 collaterally attack the 2017 TOC Guidelines that implement the TOC Program (“TOC  
16 Guidelines”). Petitioner claims the TOC Guidelines “fatally conflict” with Measure JJJ because  
17 they were not adopted by ordinance, fail to adequately require labor standards compliance, and  
18 constitute an improper amendment to Measure JJJ and the City’s zoning codes due to the use of a  
19 “Tier” system that provides a range of more than three incentives. These arguments conflict with  
20 express provisions of Measure JJJ and try to unlawfully control the City’s discretion in interpreting  
21 its zoning code and implementing reasonable guidelines.

22 The legislative record shows that the City’s preparation, adoption and implementation of  
23 the TOC Guidelines thoughtfully followed the process and authority outlined by Measure JJJ and  
24 other City laws. In addition, Petitioner’s Opening Brief on Issues Related to Transit Oriented  
25 Communities Program (“Opening Brief”) fails to meet the high burden of proof required to show  
26 that the City’s actions were clearly erroneous. Measure JJJ, Section 6, expressly provides the  
27 Department of City Planning (“DCP”) and City Planning Commission (“CPC”) with the authority  
28 to prepare and adopt the TOC Guidelines. That authority is entirely consistent with the City



1 Charter. The case law cited in the Opening Brief also shows that there is no unlawful delegation  
2 of legislative authority here. The initiative expressly established minimum eligibility thresholds,  
3 and expressly directed the DCP to implement those thresholds based on proximity to public transit.

4 The plain language and legislative history of Measure JJJ explain that compliance with the  
5 construction Labor Standards in Measure JJJ, Section 5A, (“Labor Standards”) is not a threshold  
6 eligibility requirement for the TOC Program. The TOC Program at Measure JJJ, Section 6, does  
7 not list the Labor Standards as a threshold eligibility requirement for the approval of “TOC  
8 Incentives” defined by Section 6 (“TOC Incentives”). Instead, Section 6 lists the Labor Standards  
9 as an optional method of qualifying for a category of additional, undefined “incentives.” In  
10 contrast, Measure JJJ, Section 5A lists the Labor Standards as a threshold eligibility requirement  
11 for specified legislative approvals, like zone changes. Petitioner asks this Court to impose an  
12 asserted requirement on the TOC Program where none exists. Notably, the Labor Standards do not  
13 apply to the Project here because the Project did not use this optional method of qualifying for  
14 incentives and did not seek any of the legislative approvals listed in Measure JJJ, Section 5A.

15 The TOC Guidelines provide a range of development standard incentives based on four  
16 Tiers that correspond to a project’s proximity to public transit. This incentive system is legally  
17 supported and entitled to deference as the City’s official interpretation of the codified TOC  
18 Program. The TOC Program is one of many zoning code “Exceptions” that allow a project to  
19 deviate from regular development standards without a legislative amendment. The use of a Tier  
20 system refines Measure JJJ text that identifies the TOC Program incentive area as “each one-half  
21 mile radius” around a “Major Transit Stop.” The variety of development standards subject to an  
22 incentive (*i.e.*, height, parking) reflects the fact that Measure JJJ refrains from limiting the types of  
23 development standards subject to an incentive. It also reflects the broad understanding of the term  
24 “incentives” in Measure JJJ, Government Code Section 65915, and the Los Angeles Municipal  
25 Code (“LAMC”). Lastly, the number of incentives provided by the TOC Guidelines is delineated  
26 by the text of Measure JJJ itself. The City thus adopted valid TOC Guidelines that met the  
27 fundamental policy directives of the TOC Program, and accordingly awarded valid incentives to  
28 the Project.

1 As the Opening Brief confirms, all of Petitioner’s claims regarding the TOC Guidelines are  
2 untimely facial challenges. The facts of the Project add no material to Petitioner’s purported “as  
3 applied” claims. The gravamen of each claim in the Opening Brief is to attack the provisions of  
4 the TOC Guidelines or the manner of their adoption. These claims are not unique to the Project,  
5 and could have been asserted when the TOC Guidelines were adopted in 2017. Consequently, the  
6 claims are now barred by the 90-day statute of limitations in Government Code Section 65009.  
7 The Petition should therefore be denied in its entirety.

## 8 9 **II. STATEMENT OF FACTS**

### 10 **A. Voters Passed Measure JJJ With Access to Voter Information That Described** 11 **Its Distinct Sections Including The Transit Oriented Communities Program.**

12 In June 2016, the City Council placed Initiative Ordinance JJJ, commonly referred to as  
13 “Measure JJJ,” on the November 2016 ballot, where it ultimately passed (hereafter “Measure JJJ”).  
14 (*See* Request for Judicial Notice in Support of Petitioner’s Opening Brief [“Pet.’s RJN”], Ex. 2 &  
15 Ex. 6, p. 1.) The Voter Information Pamphlet published the full text of Measure JJJ and contained  
16 the City’s official summary of the ordinance. The summary identifies those provisions that apply  
17 to specified legislative requests like general plan amendments and zone changes. (Pet.’s RJN,  
18 Ex. 1, p. 17.) It separately explained the TOC Program which would require the City to “create an  
19 affordable housing incentive program for developments located near major transit stops.” (*Id.*)

20 Measure JJJ explained to voters its multiple program sections. Measure JJJ included  
21 Section 6, titled “Transit Oriented Communities Affordable Housing Overlay”. (Pet.’s RJN, Ex. 1,  
22 pp. 36-39.) It then separately enumerated the provisions that would apply to legislative actions,  
23 such as Section 5.A titled: Affordable Housing and Good Jobs (“Section 5A”). (Pet.’s RJN, Ex. 1,  
24 pp. 25-33.) Section 5A mandated compliance with certain affordable housing provisions and  
25 “Labor Standards” for projects seeking specified legislative approvals. (*Id.*, pp. 17, 25-33 [Section  
26 5(A)].) Other Measure JJJ sections added new monitoring and reporting requirements for  
27 community plans, and revisions to the Affordable Housing Trust Fund administration. (*Id.*, p. 17,  
28 20-24 [Sections 3 and 4], 33-36 [Section 5(B)].)

1 The voter pamphlet also contained arguments that explained these separate programs. In  
2 the voter pamphlet’s Argument in Favor of Initiative Ordinance JJJ, the proponents emphasized  
3 when the Section 5A Labor Standards apply: “If a developer wants planning or zoning changes,  
4 then 30% of the construction workers must be from local communities who need jobs the most,  
5 including veterans” (emphasis in original). (*See, e.g.*, Pet.’s RJN, Ex. 1, p. 9.) Then in a separate  
6 paragraph, it distinctly referred to the TOC Program under Section 6, stating, “Angelenos ... are  
7 being pushed farther and farther away from their jobs adding more and more traffic throughout the  
8 City. [Measure JJJ] will build more housing near transit stops to reduce congestion.” (*Id.*)

9 **B. Measure JJJ Amended City Law To Create Distinct Standards Related to**  
10 **Specified Legislative Approvals, Housing Trust Fund Projects, And TOC**  
**Program Approvals.**

11 Measure JJJ consists of five sections that each amended different sections of the Los  
12 Angeles Municipal Code (“LAMC”) and Los Angeles Administrative Code (“LAAC”). Sections  
13 3, 4, 5A, 5B, and 6 are discussed in detail below.

14 1. Section 6 Added the TOC Program to the LAMC As An Exception to City  
15 Zoning Code Requirements With A Labor Standards Option.

16 Measure JJJ, Section 6 (“Section 6”), amended LAMC Section 12.22, titled: “Exceptions.”  
17 It added Subdivision 31, titled “Transit Oriented Communities Affordable Housing Incentive  
18 Program” (“TOC Program”), to LAMC Section 12.22, Subsection A. (AR 0008, AR 0018.) This  
19 amendment codified the TOC Program under the City’s “Comprehensive Zoning Plan” at LAMC  
20 Chapter I, Article 2. (AR 0018. *See also* Respondent’s Request for Judicial Notice (“Resps.’  
21 RJN”), pp. 25, 50 [Ex. C – LAMC § 12.22].) Los Angeles Municipal Code Section 12.22 includes  
22 other zoning exceptions, such as the City’s State Law Density Bonus Program (“Density Bonus  
23 Program”) which exempts specified affordable housing projects from height standards, setbacks,  
24 and other development standards. (Resps.’ RJN, pp. 34-42 [Ex. C – (LAMC § 12.22.A.25)].) Like  
25 the Density Bonus Program, the TOC Program also authorizes a suite of relaxed development  
26 standards that a developer may request in exchange for specified levels of affordable units.  
27 Developers cannot utilize both programs, but may elect to participate in either. (AR 0019.)

28 The TOC Program text provides that:

1 A Housing Development located within a TOC Affordable Housing Incentive Area  
2 shall be eligible for TOC Incentives if it provides minimum required percentages  
3 of On-Site Restricted Affordable Units, meets any applicable replacement  
4 requirements of California Government Code Section 65915(c)(3), and is not  
seeking and receiving a density or development bonus under the provisions of  
California Government Code Section 65915<sup>1</sup> or any other State or local program.

5 (AR 0019 [LAMC § 12.22.A.31(b)(1)].) The TOC Program text directs the DCP<sup>2</sup> to grant three  
6 categories of “TOC Incentives” labeled: “Residential Density Increase,” “Parking,” and  
7 “Incentives and Concessions” (collectively “TOC Incentives”). For a Residential Density Increase,  
8 the text directs the DCP to create “rates that shall meet or exceed a 35% increase” in residential  
9 density, through adjustments to floor area ratios, minimum square feet per dwelling unit (or both),  
10 and different levels of density depending on base zone and density. (AR 0019-20 [LAMC  
11 § 12.22.A.31(b)(1)].) The text also directs the DCP to develop standards for allowing parking  
12 reductions, and for awarding “up to” three additional “incentives or concessions,” such as open  
13 space reductions or exceptions to other development standards. (*Id.*) The text does not proscribe  
14 the range or type of development standard exceptions that constitute the category of three additional  
15 “incentives or concessions.”

16 The text expresses no threshold Labor Standards requirement for every TOC project. It  
17 instead provides an optional Labor Standards path to incentives, stating that the DCP “shall identify  
18 incentives for projects that adhere to the Labor Standards required in Section 5.” (AR 0019 [LAMC  
19 § 12.22.A.31(b)(1)]; Pet.’s RJN, Ex. 1, p. 37.)

20 The TOC Program required that the DCP prepare TOC Guidelines to provide “eligibility  
21 standards, incentives and other necessary components” of the TOC Program, and then required the  
22 CPC to “make a recommendation to adopt or reject” them. (AR 0019-20 [LAMC § 12.22.A.31(b),  
23 (c)].) The TOC Program includes its own definitions, which differ substantively from the separate  
24 definitions provided in Section 5A of Measure JJJ. (*Compare* AR 0015 [defining “Project” under  
25 Section 5A] *to* AR 0020-21 [defining “Eligible Housing Development” under Section 6].)

26  
27 <sup>1</sup> Government Code section 65915 comprises the State Density Bonus Law.

28 <sup>2</sup> The “DCP” in this Opposition Brief refers to both the Department of City Planning, and the  
Director of Planning (“Planning Director”), acting in his or her official capacity.

1                   2.       Section 5A Imposed Threshold Affordable Housing and Labor Standard  
2                               Requirements Only in Connection with Projects Requesting Certain  
3                               Legislative Approvals.

4           Measure JJJ, Section 5A, added a new Section 11.5.11 to LAMC Chapter I, at Article 1.5  
5 that is titled “Comprehensive Planning Program.” (AR 0008, Resps.’ RJN, p. 69 [Ex. D, p. 1].)  
6 Section 5A amended provisions for administering the City’s general plan by stating:

7           To be eligible for a discretionary General Plan amendment... or any zone change  
8           or height-district change that results in increased allowable residential floor area,  
9           density or height, or allows a residential use where previously not allowed...  
10          Projects with ten or more residential dwelling units shall meet... on-site  
11          affordability provisions, or satisfy one of the alternative options... and shall comply  
12          with the job standards in subdivision (i) [of Section 5].)

13          (See AR 0008-16; Pet.’s RJN, Ex. 1, pp. 25-33.) Section 5A’s “affordability provisions” require  
14 projects to provide varying levels of affordable housing, depending on the density increase  
15 proposed by the plan or zoning amendment. (AR 0008-0009, Pet.’s RJN, Ex. 1, pp. 25-26.)

16          Section 5A also requires a project to comply with the construction “job standards in  
17 subdivision (i)” (“Labor Standards”), in order to be eligible for these amendments. (AR 0008;  
18 AR 0014.) The Section 5A Labor Standards include residency requirements for project contractors,  
19 licensing and certification requirements, payment of “standard wages,” and requirements to source  
20 labor from apprenticeship programs. (AR 0014; Pet.’s RJN, Ex. 1, p. 31.)

21                   3.       Sections 3, 4, and 5B Amended City Code Sections Related to Plan  
22                               Amendments And Trust Administration That Operate Independently of the  
23                               TOC Program Or Expressly Contemplate Labor Standards Compliance

24          Sections 3, 4 and 5(B) of Measure JJJ amended code sections in Chapter I, Article 1.5 of  
25 the LAMC and Section 5.522 of the LAAC. (AR 0003, 0007, 0016.) Each of these amended  
26 sections operate independently of the TOC Program. Section 3 amended LAMC Section 11.5.6 to  
27 guide the processing of general plan amendments for residential projects that are located in  
28 proximity to major transit stops and comply with the Labor Standards at Measure JJJ, Section 5A.  
(See AR 0003-07; Resps.’ RJN, p. 69 [Ex. D, p. 1]. See also Pet.’s RJN, Ex. 1, pp. 20-24 & Ex. 4,  
pp. 50-54.) Section 4 amended LAMC Section 11.5.8 to add new monitoring and assessment  
requirements related to job access and affordable housing, relative to the City adopting material  
changes to its community plans. Section 5(B) amended LAAC Section 5.522 to expressly require

1 projects using monies from the City's Affordable Housing Trust Fund to comply with labor  
2 standards that are substantially similar to the Labor Standards at Section 5A.

3  
4 **C. The Planning Director and CPC Approved The TOC Guidelines In  
Accordance With The TOC Program**

5 In accordance with the TOC Program text, the Planning Director, through staff, prepared  
6 the TOC Guidelines, obtained a recommendation to adopt the guidelines from the CPC on May 25,  
7 2017, and released them on September 22, 2017. (*See* AR 0050; AR 0307; AR 0019-20, Resps.'  
8 RJN, p. 50 [Ex. C – LAMC 12.22.A.31(b), (c)].) Technical clarifications to the TOC Guidelines  
9 were submitted to the CPC on February 26, 2018, and also subsequently released for use.  
10 (AR 0345.) The TOC Guidelines provide a limited set of "by-right" "Base Incentives" and a menu  
11 of "Additional Incentives" that are approved through a public review process. (AR 0057.)

12 The Planning Director's May 25, 2017, Recommendation Report explained that the TOC  
13 Guidelines were developed within the context of Measure JJJ "as well as the City's existing Density  
14 Bonus program, while considering the range of existing zoning and development intensity."  
15 (AR 0061-62.) To implement the requirements of the TOC Program, the DCP developed Tiers 1  
16 through 4 to award TOC Incentives (*i.e.*, increased floor area ratios, height) that allow greater  
17 density and building intensity at increasing levels based on proximity to transit. (AR 0057. *See*  
18 *also* AR 0350 [defining Tiers 1-4], and 0354-56 [providing tier-based incentives].) For example,  
19 Tier 3 projects must be located less than 750 feet from a Metrolink Rail Station or bus stop with  
20 both Regular and Rapid services, less than 1,500 feet from a bus stop that has two intersecting  
21 Rapid bus lines, or less than one half-mile from a Metro Rail Station. (AR 0350.) Tier 3 projects  
22 are awarded a higher level of density, a greater floor area ratio, and greater reductions in parking,  
23 setbacks, and other development standards, in contrast to Tier 1 projects that may be up to 2,640  
24 feet from a transit stop. (AR 0354-57.) Tier 3 projects must also provide a higher percentage of  
25 affordable housing. (AR 0352.)

26 The Planning Director made refinements to the TOC Guidelines in response to public  
27 comments. (AR 0063-68.) The DCP considered an economic analysis that compared the initially  
28 proposed incentives with the resulting increase in development costs. (AR 0060-61, 0038-49



1 [Keyser Marston Associates, Density Analysis Summary, TOC Program].) It also reduced density  
2 increases in certain zones to ensure compatibility with existing communities. (AR 0354-55.)

3 Since adoption of the TOC Guidelines, the City has published a “Housing Progress  
4 Dashboard” that summarizes the total units proposed, approved, and constructed as a result of the  
5 TOC Program, City Density Bonus Program, and through legislative approvals such as zone  
6 changes. (Resps.’ RJN, p. 71-74 [Ex. E].) As of 2019 and 2020, the TOC Program generated 42%  
7 and 37% of all new housing proposals. (Resps.’ RJN, p. 84 [Ex. F, p. 1].) “Since its inception, the  
8 TOC Program has generated 35,060 units of housing, including 7,540 units of affordable housing.”  
9 (Resps.’ RJN, p. 91 [Ex. G, p. 1].)

### 11 **III. STANDARD OF REVIEW**

12 Courts construe a local ordinance enacted by a citizens’ initiative, like Measure JJJ, “under  
13 the same principles of construction applicable to statutes enacted by the Legislature.” (*Farmers*  
14 *Ins. Exch. v. Superior Ct.* (2006) 137 Cal.App.4th 842, 851.) Courts first look to the plain language  
15 to “examine the statutory language, giving the words of the statute their ordinary and usual meaning  
16 and construing them in the context of the statute as a whole and the overall statutory scheme.”  
17 (*Ibid.*) “Extrinsic materials, such as analyses and arguments contained in the official ballot  
18 pamphlet, may be used to interpret ambiguous language or to confirm the plain meaning of the  
19 provision.” (*Protect Our Benefits v. City & Cty. of San Francisco* (2015) 235 Cal.App.4th 619,  
20 633.) Such materials, however, “may not be used to add to or rewrite the provision to conform to  
21 an assumed intent that is not apparent in its language.” (*Id.* [internal citations omitted].)

22 The TOC Guidelines serve as the DCP’s interpretation of the TOC Program codified at  
23 LAMC Section 12.22.A.31, and as a result it “is entitled to great weight unless it is clearly  
24 erroneous or unauthorized.” (*Berkeley Hills Watershed Coal. v. City of Berkeley* (2019) 31  
25 Cal.App.5th 880, 896; citing *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th  
26 1173, 1193. See also *Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1,  
27 12.) “Greater deference is accorded an agency’s interpretation where the agency has expertise and  
28 technical knowledge, especially where the legal text to be interpreted is ... entwined with issues of

1 fact, policy, and discretion.” (*Berkeley Hills Watershed Coal.*, 31 Cal.App.5th at 896 [substantial  
2 deference should be provided to city attorney’s interpretation of zoning ordinance, due to technical  
3 expertise regarding zoning requirements, knowledge of impacts to neighborhoods and local  
4 community, familiarity with rationale for the ordinance, responsibility for its implementation, and  
5 special knowledge about practical implications of possible interpretations].)

#### 6 7 **IV. ARGUMENT**

##### 8 **A. The City Charter and Municipal Code Expressly Authorize the Adoption of** 9 **the TOC Guidelines by the Planning Director and City Planning Commission.**

10 Petitioner’s argument that the DCP and CPC exceeded their authority in adopting the TOC  
11 Guidelines is contrary to explicit provisions in the City Charter, LAMC, and Measure JJJ. (*See*  
12 *Opening Brief at 10:9-11:10.*) Section 6 of Measure JJJ amended the LAMC to expressly authorize  
13 the DCP and CPC to adopt the TOC Guidelines through the procedure that was followed in 2017.  
14 These specific voter-approved authorizing provisions are entirely consistent with the DCP and  
15 CPC’s more general authorization to adopt guidelines found in the City Charter and LAMC.

16 As a charter city, the City of Los Angeles and its voters are entitled to enact zoning  
17 provisions in the municipal code, like the TOC Program provisions at LAMC Section 12.22.A.31.  
18 The City’s zoning code and general plan provisions are governed primarily by the LAMC, Chapter  
19 I and the City Charter. Charter cities have the power of “municipal home rule” with respect to all  
20 matters of local concern. (*Lindell Co. v. Bd. of Permit Appeals of City & Cty. of San Francisco*  
21 *(1943) 23 Cal.2d 303, 310* [internal citations omitted].) The adoption of zoning procedures and  
22 development regulations within a charter city’s limits is “undeniably a municipal affair over which  
23 a charter city has supreme control.” (*Ibid.*, citing *Brougher v. Board of Public Works (1930) 107*  
24 *Cal.App. 15, 24* [denying challenge to a zoning ordinance that allowed varying height requirements  
25 within the same district].) The electorate, through a valid citizen’s initiative, may also enact zoning  
26 provisions in a charter city’s municipal code. (*San Diego Bldg. Contractors Assn. v. City Council*  
27 *(1974) 13 Cal.3d 205. See also Resps.’ RJN, p. 2* [Ex. A – Los Angeles Charter § 450 (authorizing  
28 any ordinance that the City Council may adopt to be adopted by a vote of the electors of the City)].)



1       The City Charter and LAMC – including the provisions cited in Petitioner’s Opening Brief  
2 – expressly authorize the CPC to prepare and adopt guidelines for implementing the City’s zoning  
3 code, or to delegate that authority to the DCP. (*See* Opening Brief, p. 10, [*citing* City Charter,  
4 § 550, which provides, “[the DCP] shall have and exercise all the powers and duties provided for  
5 it in the Charter or by ordinance”]; *id.*, pp. 10-11, citing LAMC, § 11.5.4 [authorizing the CPC to  
6 adopt guidelines for administering the zoning code, and the delegation of such authority to “others  
7 by adoption of a resolution by Council”]. *See also* Resps.’ RJN, pp. 7-8 [Ex. B – LAMC § 12.03  
8 (defining “City Planning Commission” as having the authority to adopt guidelines and to delegate  
9 such authority by ordinance)].) The passage of Measure JJJ as a citizen’s initiative satisfies the  
10 requirement that the delegation of authority occur by ordinance of the City Council. (*San Diego*  
11 *Bldg. Contractors Assn.*, *supra*, 13 Cal.3d at 210; Resps.’ RJN, p. 2 [Ex. A – City Charter § 450].)

12       The TOC Program text indisputably requires the DCP to prepare the TOC Guidelines in  
13 conjunction with the CPC: “the Director of Planning shall prepare TOC Affordable Housing  
14 Incentive Program Guidelines ... that provide the eligibility standards, incentives, and other  
15 necessary components of this TOC Incentive Program.” (AR 0019-20; Resps.’ RJN, p. 50 [Ex. C  
16 – LAMC § 12.22.A.31(b), (c)].) This delegation of authority to the DCP is entirely consistent with  
17 City Charter Section 550 and LAMC Sections 12.03 and 11.5.4. The initiative ordinance also  
18 specifies that the CPC “shall review ... and shall by vote make a recommendation to adopt or reject  
19 the TOC Guidelines.” (AR 0020.) That is the process followed here. (*See* AR 0050; AR 0307).

20       Petitioner’s argument that the City was required to adopt the TOC Guidelines by ordinance  
21 (Opening Brief at 10:10-23) ignores the above laws and well-established case law upholding  
22 legislative and administratively approved exceptions to underlying zoning. (*Tustin Heights Assn.*  
23 *v. Bd. of Supervisors of Orange Cty.* (1959) 170 Cal.App.2d 619, 633–34; *Rubin v. Board of*  
24 *Directors* (1940) 16 Cal.2d 119, 124 [distinguishing “spot zoning” and zoning amendments from  
25 variances or exceptions that allow administrative approval of zoning standard deviations]. *Accord*,  
26 *San Diego Cty. v. McClurken* (1951) 37 Cal.2d 683, 691 [“the granting or denial of variances rests  
27 largely in the discretion of the body designated by the zoning ordinance for that purpose, and a  
28 denial of a variance will not be disturbed in the absence of a clear showing of abuse of discretion”].)

1 The TOC Guidelines do not need to be directly adopted by ordinance because Measure JJJ,  
2 codified the TOC Program in the LAMC. The TOC Program text then expressly delegated  
3 authority to the DCP and CPC to adopt TOC Guidelines, and then administratively award TOC  
4 Program incentives to projects consistent with the guidelines. (AR 0019-21.)

5 **B. Measure JJJ Set Fundamental Policy And Provided Adequate Public**  
6 **Safeguards To Avoid An Unlawful Delegation of Legislative Authority When**  
7 **The DCP Adopted the TOC Guidelines**

8 The Opening Brief cites no authority supporting its claim that an ordinance process was  
9 required to adopt the TOC Guidelines. The purpose of the unlawful delegation doctrine “is to  
10 assure [1] that truly fundamental issues will be resolved by the Legislature and [2] that a grant of  
11 authority is accompanied by safeguards adequate to prevent its abuse.” (*Kugler v. Yocum* (1968)  
12 69 Cal.2d 371, 376.) There was no unlawful delegation of legislative power to the DCP or CPC,  
13 and the cases cited by Petitioner admonish against finding an unlawful delegation here.

14 A fundamental policy set forth in the TOC Program text is that the TOC Guidelines “shall  
15 apply to all Housing Developments located within a one-half mile radius of a Major Transit Stop.”  
16 (AR 0019; Resps.’ RJN, p. 50 [Ex. C – LAMC § 12.22.A.31(a)].) Developing affordable housing  
17 in close proximity to public transportation therefore constitutes the fundamental policy priority of  
18 the TOC Program. (*See* AR 00309.) The TOC Program text established minimum thresholds for  
19 three categories of TOC Incentives, and instructed the DCP to implement those thresholds by  
20 adopting and implementing the TOC Guidelines. (AR 0019-20 [LAMC § 12.22.A.31(b)(2): DCP  
21 shall grant increased residential density “at rates that meet or exceed a 35% increase” and provide  
22 “up to either two or three incentives or concessions” (emphasis added)].)

23 In *Kugler*, the California Supreme Court ruled that a local ordinance may lawfully delegate  
24 authority to inferior boards provided that the ordinance includes adequate safeguards to protect the  
25 public against the arbitrary or unreasonable exercise of power by the lower board. (*Id.* at 381, fn.  
26 8.) The important consideration is whether the delegation of legislative power “furnishes adequate  
27 safeguards to those who are affected by the administrative action.” (*Id.* at 381–82.) As a result,  
28 the *Kugler* Court directed lower courts to apply the unlawful delegation doctrine sparingly: “Only  
in the event of a total abdication of [legislative] power, through failure either to render basic policy

1 decisions or to assure that they are implemented as made, will [a] court intrude on legislative  
2 enactment because it is an ‘unlawful delegation....’” (*Kugler*, 69 Cal.2d at 384. *Accord*, *Hess*  
3 *Collection Winery v. Agric. Lab. Rels. Bd.* (2006) 140 Cal.App.4th 1584, 1605.) More recently, in  
4 *Sacramentans for Fair Planning v. City of Sacramento* (2019) 37 Cal.App.5th 698, 716, the court  
5 denied an unlawful delegation claim where a general plan authorized projects with significantly  
6 increased density based on staff findings that the project would provide “community benefits.”

7       Here, the TOC Program text directed the DCP to develop guidelines based on specific,  
8 minimum standards for density increases and affordability requirements. The criteria set forth by  
9 the TOC Program were much more specific than the general standards upheld in *Sacramentans for*  
10 *Fair Planning*. In the two cases cited by Petitioner alleging unlawful delegation, the courts denied  
11 both claims. (*Kugler*, *supra*, 69 Cal.2d at 377 [formula for establishing city firemen’s salaries did  
12 not constitute unlawful delegation]; *Groch v. City of Berkeley* (1981) 118 Cal.App.3d 518 [city did  
13 not unlawfully delegate authority to inferior board in making findings according to “general welfare  
14 standard” or that demolition would be “materially detrimental” to the City’s housing needs].)

15       The text of the TOC Program provided adequate safeguards for the DCP to prepare and  
16 implement the TOC Guidelines. It did so by establishing proximity to transit as the overarching  
17 policy, and by providing three general categories of TOC Incentives as minimum thresholds that  
18 the TOC Guidelines were required to implement in more detail. The TOC Guidelines provide a  
19 prescriptive, menu-based suite of TOC Incentives that were informed in part by economic  
20 forecasting and public comments. (AR 0060-61, AR 0038-49, AR 0352-53. *See also* AR 0432-37  
21 [TOC Program application referral form].) The TOC Program text also required the TOC  
22 Guidelines to be submitted to the CPC for review and recommendation, thus providing a public  
23 review process that imposed additional safeguards. (AR 0020.) In fact, the CPC directed certain  
24 changes to the TOC Guidelines, and the DCP incorporated these changes prior to releasing the final  
25 public draft. (AR 285. *See also* AR 1785, 1878-82.) These measures confirm that Measure JJJ  
26 provided adequate safeguards to prevent the DCP from adopting arbitrary TOC Guidelines.

27       Based on the above, Petitioner’s application of the unlawful delegation doctrine in this case  
28 is impermissibly broad. The TOC Guidelines were designed to carry out the fundamental transit-

1 oriented and affordable housing policies of the TOC Program. In preparing the TOC Guidelines,  
2 the DCP reasonably established Tiers 1-4 to implement the minimum thresholds required for  
3 density increases and other zoning exceptions provided by the TOC Program.

4  
5 **C. The Plain Language And Legislative History of Measure JJJ Establish  
Optional Labor Standards Compliance Under the TOC Program**

6 The TOC Program at Measure JJJ, Section 6, references Labor Standards compliance as an  
7 optional path to additional “incentives,” but not as a basic eligibility requirement for the statutorily  
8 defined class of “TOC Incentives.” The Labor Standards for projects seeking legislative approvals  
9 authorized by Measure JJJ, Section 5A, do not apply to every TOC Program approval separately  
10 authorized by Measure JJJ, Section 6. Petitioner misconstrues the plain language of Measure JJJ  
11 when it argues that the TOC Guidelines alter the basic eligibility requirements of the TOC Program  
12 by making this distinction. (*See* Opening Brief at 11:11-13:8.) Both the initiative’s text and  
13 legislative history support the City’s interpretation memorialized by the current TOC Guidelines.

14 The plain text of Measure JJJ supports the validity of the TOC Guidelines. Measure JJJ,  
15 Section 6 does not list the Section 5A Labor Standards among the basic eligibility criteria for TOC  
16 Incentives. Section 6 states that a “Housing Development” is “eligible for TOC Incentives if” it:  
17 (1) is located in a “TOC Affordable Housing Incentive Area”; (2) provides required percentages of  
18 affordable units; (3) meets replacement unit requirements of Government Code Section 65915; and  
19 (4) is “not seeking and receiving” a development bonus under another state or local program.  
20 (AR 0019-21; Resps.’ RJN, p. 50 [Ex. C – LAMC § 12.22.A.31(b)(1)].)

21 None of the other basic eligibility provisions in Section 6 reference or implicate the Labor  
22 Standards of Section 5A. Section 6 states: “This Transit Oriented Communities Affordable  
23 Housing Incentive Program, and the provisions contained in the TOC Affordable Housing  
24 Incentive Program Guidelines, shall apply to all Housing Developments that are located within a  
25 one-half mile radius of a Major Transit Stop.” (AR 0019; Resps.’ RJN, p. 50 [Ex. C – LAMC  
26 § 12.22.A.31(a)].) An “Eligible Housing Development” is “a Housing Development that includes  
27 On-Site Restricted Affordable Units at a rate that meets or exceeds the minimum requirements to  
28 satisfy the TOC Incentives, as determined by the [DCP] and as set forth in paragraph (b)(1) above.”

1 (AR 0020-21; Resps.’ RJN, p. 50 [Ex. C – LAMC § 12.22.A.31(g)].) “Housing Development” is  
2 defined as the construction, or addition of five or more residential units, remodeling of a building  
3 with five or more residential units or a mixed use development with residential units. (AR 0021.)

4 The TOC Program text requires the DCP to identify a category of “incentives” for Labor  
5 Standards compliant projects, not the defined category of “TOC Incentives.” The text expressly  
6 refers to Labor Standards only once, at language codified as LAMC Section 12.22.A.31(b)(1):

7 In creating the TOC Guidelines, the DCP shall identify incentives for projects that  
8 adhere to the Labor Standards required in Section 5 of [Measure JJJ] provided, that no  
9 such incentives will be created that have the effect of undermining the affordable  
housing incentives contained herein. (AR 0019 [emphasis added].)

10 The sentence does not state that all projects “shall adhere” to Labor Standards, or that DCP shall  
11 only identify incentives for projects that comply with Labor Standards. It also does not direct the  
12 DCP to identify the defined class of “TOC Incentives,” and instead uses the term “incentives,”  
13 signaling an avoidance of the meaning associated with the term “TOC Incentives.” “Where  
14 different words or phrases are used in the same connection in different parts of a statute, it is  
15 presumed the Legislature intended a different meaning.” (*Briggs v. Eden Council for Hope &*  
16 *Opportunity* (1999) 19 Cal.4th 1106, 1117.)

17 In contrast, the text applicable to legislative projects at Measure JJJ, Section 5A, expressly  
18 states that projects “shall comply with the job standards in subdivision (i),” and that “[a]ll building  
19 and construction work on the project will be performed at all tiers by contractors which [meet the  
20 Labor Standards].”) (AR 0008, 0014 [Measure JJJ, § 5.A(a), (i) (emphasis added)].) Measure JJJ’s  
21 plain language makes it unreasonable for Petitioner to infer that the Labor Standards are a basic  
22 TOC Incentive eligibility requirement. The initiative’s text confirms that eligibility criteria  
23 between Sections 5A and 6 cannot be mixed and matched because the TOC Program text refrains  
24 from including Labor Standards as a basic eligibility requirement.

25 A review of the Measure JJJ legislative history is unnecessary to reach these conclusions,  
26 because the above referenced plain language expressly identifies where the Labor Standards apply,  
27 if at all. (*See Farmers Ins. Exch. v. Superior Ct.* (2006) 137 Cal.App.4th 842, 851.) Petitioner’s  
28 argument that the legislative history requires Labor Standards compliance for all TOC Incentives

1 (Opening Brief at 13:8-15:25), impermissibly seeks to rewrite Measure JJJ “to conform to an  
2 assumed intent that is not apparent in its language.” (*Protect Our Benefits, supra*, 235 Cal.App.4th  
3 at 633.) Courts may consider legislative history where it buttresses the plain meaning of a statute  
4 – not to override its clear terms. (*Briggs, supra*, 19 Cal.4th at 1120-21.)

5 Measure JJJ’s organizing structure, its legislative amendments, and the distinct eligibility  
6 and programmatic elements of each initiative section, are also factors that may be considered in  
7 supporting the City’s plain language reading of Measure JJJ. (*Berkeley Hills Watershed Coal.,*  
8 *supra*, 31 Cal.App.5th at 896.) The initiative’s overall structure of distinct programs confirms that  
9 Labor Standards compliance may not reasonably be implied as a basic threshold requirement for  
10 all TOC projects. Each section of Measure JJJ enacted distinct amendments to the LAMC and  
11 LAAC. The Section 6 TOC Program operates independently of the provisions in Sections 3  
12 through 5 regarding community plan amendments, trust fund projects and other legislative project  
13 approvals. As Petitioner’s Opening Brief noted, the TOC Program is more akin to a ministerial or  
14 quasi-adjudicatory program, which is a significant distinction between the other sections of  
15 Measure JJJ involving specified types of legislative approvals, or affordable housing trust fund  
16 projects. (*See* Opening Brief at 5:22-23.) Because these programs are distinct, the Labor Standards  
17 have been distinctly referenced in Section 6 to facilitate an elective path to additional “incentives.”  
18 The internal structure of the TOC Program text at Section 6 also supports the City’s interpretation.  
19 (*See Farmers Ins. Exch., supra*, 137 Cal.App.4th at 851.) The TOC Program is structured to  
20 provide an elective, menu-based suite of TOC Incentives that developers may request in exchange  
21 for satisfying listed eligibility criteria. As discussed earlier, the Labor Standards are not referenced  
22 as an eligibility requirement for the statutorily defined class of “TOC Incentives,” but as an  
23 eligibility requirement for additional “incentives.”

24 The legislative history of Measure JJJ further confirms that the TOC Program is  
25 independent of the other Measure JJJ programs, and therefore has an independent use for the Labor  
26 Standards. The creation of a standalone TOC Program was clearly referenced and enumerated in  
27 the ballot question, impartial analysis, and official summary for Measure JJJ. (*See* Pet.’s RJN, Ex.  
28 1, p. 7 [Ballot Question – dividing Measure JJJ into discrete components including “an affordable



1 housing incentive program for developments near major transit stops”]; *id.*, p. 8, [Impartial  
2 Summary – Measure JJJ “creates an affordable housing incentive program with increased density  
3 and reduced parking requirements in areas within a one-half mile radius around a major transit  
4 stop”]; *id.*, p. 17 [Official summary – five components of Measure JJJ, with fifth component an  
5 “affordable housing incentive program for developments located near major transit stops”].)

6       There is no basis for implying that Labor Standards are a basic eligibility requirement for  
7 all TOC projects merely because voter information discussed the Labor Standards as an important  
8 consideration for voters. The Impartial Analysis cited by Petitioner focused its discussion on the  
9 general plan provisions of Measure JJJ, likely because those provisions comprised the bulk of the  
10 initiative’s text. In fact, approximately twelve pages of Measure JJJ’s text was spent on the general  
11 plan provisions in Sections 3, 4 and 5A, whereas the TOC Program under Section 6 was  
12 approximately three pages. (AR 0003-0021; Pet.’s RJN, Ex. 1, pp. 20-39.)

13       Lastly, none of the cases cited in the Opening Brief support Petitioner’s argument. In  
14 *People v. Valencia* (2017) 3 Cal.5th 347, for example, the ballot materials in that case “did not  
15 make any reference to three strike inmates.” (Opening Brief, p. 15, citing *People v. Valencia*,  
16 *supra*, at 365 [emphasis added].) Here, as noted above, the ballot question, impartial analysis, and  
17 official summary clearly referenced and enumerated the creation of a separate TOC Program with  
18 separate eligibility criteria. In *Farmers Ins. Exchange v. Superior Court* (2006) 137 Cal.App.4th  
19 842, the court refused to imply a private right of action against insurers. Although the initiative  
20 provided a right to initiate any proceedings permitted by “this chapter”, the applicable chapter of  
21 the Insurance Code did not provide the required clear expression of legislative intent in order to  
22 create a private right of action. (*Id.*) Here, on the other hand, the City Charter and Measure JJJ  
23 expressly delegated authority to the DCP to prepare TOC Guidelines, and expressly omitted Labor  
24 Standards from the eligibility criteria for the defined class of TOC Incentives.

25       **D.       The Tier System Of Development Standard Exceptions Based on Proximity To**  
26       **Transit, Or Incentives, Reasonably Implements the TOC Program And Is**  
27       **Entitled to Deference.**

28       The Planning Director’s May 25, 2017, Recommendation Report explained the DCP’s basis  
for tiering TOC Incentives according to proximity to transit. The Recommendation Report shows

1 that implementation of the TOC Guidelines required the DCP to use its significant technical  
2 expertise regarding the City’s zoning code, and familiarity with related policies. This is especially  
3 true where the TOC Program text incorporated provisions of the City and state density bonus law,  
4 and where it required harmonization with existing general plan and zoning policies.

5 In developing the Tier system the DCP noted, “[r]ather than creating incentives to allow for  
6 uniform 50% bigger, higher, and denser buildings, the TOC Guidelines propose a more strategic  
7 approach that reflects the City’s priority policy objectives, including the protection of areas that  
8 have been purposefully planned for lower intensity and allowing greater intensity of incentives near  
9 high quality transit stations.” (AR 0058-59.) As a result, the TOC Guidelines were designed to  
10 “provide incentive increases ranging from 50% to 80% in the number of allowable units on a given  
11 site, depending on the Tier. For projects located in a Restricted Density (RD) Zone, these increases  
12 are limited to a range of 35% to 45%.” (AR 0058-59.) In addition, the DCP obtained an economic  
13 analysis of the TOC Program from City consultants and responded to numerous public comments  
14 regarding the TOC Program. (AR 0038-49; AR 0063-68.)

15 Petitioner cites no authority supporting its argument that the creation of “Tiers” constituted  
16 unlawful legislative amendments to the City’s zoning code or Measure JJJ. (Opening Brief at  
17 15:26-17:23.) This argument ignores the plain language of Measure JJJ, which codified the TOC  
18 Program under the Exceptions section of the zoning code. As such, the TOC Program authorizes  
19 development standard exceptions, or incentives, without the need for a further legislative  
20 amendment to the zoning code. The Tier system in no way amends the zoning of any property, or  
21 Measure JJJ. Rather, the TOC Guidelines provide housing development incentives, or exceptions  
22 to development standards, for those who voluntarily choose to take advantage of the TOC Program.

23 The City’s interpretation of the TOC Program, codified in the LAMC, is entitled to  
24 substantial deference by this Court. As noted above, the City’s interpretation of its own zoning  
25 code “is entitled to great weight unless it is clearly erroneous or unauthorized.” (*Berkeley Hills*  
26 *Watershed Coal.*, *supra*, 31 Cal.App.5th at 896.) In *Berkeley Hills Watershed Coalition*, the court  
27 applied the well-established *Yamaha* rule in determining the standard of review where an agency  
28 is directed to prepare guidelines or regulations: “Greater deference is accorded an agency’s



1 interpretation where the agency has expertise and technical knowledge, especially where the legal  
2 text to be interpreted is... entwined with issues of fact, policy, and discretion.” (*Id.*, citing *Yamaha*  
3 *Corp. of America, supra*, 19 Cal.4th 1, 12)

4 The DCP’s interpretation, expressed by the current TOC Guidelines, is afforded greater  
5 deference because the TOC Program directed the DCP to prepare and implement TOC Guidelines.  
6 (*Id.*) In doing so, the DCP was required to use considerable expertise to craft and implement the  
7 TOC Guidelines consistent with the TOC Program, and within the context of the City’s existing  
8 ordinances and policies. The technical, economic considerations, and public comments disclosed  
9 in the record demonstrate that the DCP applied a significant level of expertise in preparing the TOC  
10 Guidelines and implementing the TOC Program. As such, the TOC Guidelines should be accorded  
11 substantial deference in line with the factors discussed in *Berkeley Hills Watershed Coalition*.

12 The TOC Guidelines should be upheld because they faithfully execute the clear policy  
13 direction of the TOC Program text. The DCP reasonably established Tiers 1-4 to award TOC  
14 Incentives in increasing amounts, based on proximity to public transit. This was done to account  
15 for variations in base zone densities, respond to public concerns, and harmonize the TOC Program  
16 with the City’s existing zoning policies. As a result, the Tiers must be upheld because Petitioner  
17 has failed to prove that the DCP’s interpretation of the TOC Program is clearly erroneous.

18 **E. The Offer Of Additional Incentives And Labor Incentives Reasonably**  
19 **Implements the TOC Program And Is Entitled to Deference.**

20 Petitioner’s argument that the TOC Guidelines’ allowance of Additional Incentives or  
21 Labor Standards incentives constituted an impermissible amendment to the zoning code or Measure  
22 JJJ is also unsupported. (Opening Brief at 15:26-17:23.)

23 The TOC Program text authorizes the award of three Base Incentives, up to three Additional  
24 Incentives, and optional Labor Standards incentives. The TOC Program describes three categories  
25 of “TOC Incentives”: (1) a “Residential Density Increase” consisting of density increases that meet  
26 or exceed a 35% increase in total units, through adjustments to minimum square feet, floor area  
27 ratio, *or both*; (2) “Parking” reductions; and (3) up to three “Incentives and Concessions” in  
28 accordance with Government Code Section 65915(d)(2). The TOC Guidelines expressly define

1 the density increases, adjustments of floor area ratio, and parking reductions as the “Base  
2 Incentives,” and the last category of three incentives and concessions as the menu of “Additional  
3 Incentives.” (AR 0019-20; Resps.’ RJN, p. 50 [Ex. C – LAMC 12.22.A.31(b)(2)(i), (ii), (iii)];  
4 AR 0501-06 [TOC Guidelines, VI, VII].) Finally, the TOC Program directs the DCP to identify  
5 additional “incentives” (plural) for projects that adhere to the Labor Standards under Measure JJJ,  
6 Section 5. The TOC Guidelines define these as “two Additional Incentives from the menu” of  
7 Additional Incentives in the TOC Guidelines. (AR 0019; Resps.’ RJN, p. 50 [Ex. C – LAMC  
8 § 12.22.A.31(b)(1)]; AR 0500, 0503-05 [TOC Guidelines, IV.6, VII].)

9 The TOC Guidelines correctly provide three Additional Incentives and two Labor Standards  
10 incentives according to the plain language of the TOC Program text; this interpretation is entitled  
11 to substantial deference. (*Berkeley Hills Watershed Coal.*, *supra*, 31 Cal.App.5th at 896.)

12 **F. The City Has Discretion To Understand The Term “Incentive” Through City**  
13 **and State Density Bonus Law, Thus The 10400 Santa Monica Boulevard**  
14 **Project Received Valid TOC Incentives**

14 Deviations from height, yard and open space development standards are valid TOC  
15 Incentives because they fall within the third category of TOC Incentives. (AR 0020. *See also*  
16 Resps.’ RJN, p. 50 [Ex. C – LAMC § 12.22.A.31(b)(2)(iii)].) The City has discretion to broadly  
17 define this third category of TOC Incentives because the TOC Program text does not define the  
18 term “incentives”, proscribe the types of development standards that fall into to this third category,  
19 or restrict the types of development standards that fall into this third category. As a result, the term  
20 “incentives” includes exceptions to the wide range of development standards expressed in the TOC  
21 Guidelines. This understanding is supported by the TOC Guidelines, the TOC Program text,  
22 LAMC Section 12.22.A.25, State Density Bonus Law, and Section 5 of Measure JJJ. Petitioner  
23 fails to invalidate the height, yard, open space, and TOC Guideline Additional Incentives.

24 Departures from height, yard, and open space requirements indisputably fall within the  
25 understanding of “incentives” in the TOC Guidelines. This is because the Menu of Additional  
26 Incentives (“Menu”) in the TOC Guidelines explicitly includes deviations, or exceptions, from City  
27 development standards involving yards, open space, and height among other specified types of  
28 development standards. (AR 0503-05 [TOC Guidelines, VII].)

1       The TOC Program text gave the Planning Director and CPC the discretion to define the  
2 types of development standard variations that would constitute the third category of TOC  
3 Incentives. The TOC Program text authorized the Director of Planning and CPC to prepare and  
4 adopt the TOC Guidelines that provide the incentives for the TOC Program. (AR 0019-20; Resps.’  
5 RJN, p. 50 [Ex. C – LAMC § 12.22.A.31(b), (c)].) Except for the directive to prepare guidelines  
6 that provide “incentives,” the TOC Program text did not restrict the type or range of development  
7 standards constituting “incentives.” (AR 0020. *See also* Resps.’ RJN, p. 50 [Ex. C – LAMC  
8 § 12.22.A.31(b)(2)(iii)]; *Cal. Assn. for Health Serv’s. at Home v. State Dept. of Health Serv’s.*  
9 (2007) 148 Cal.App.4th 696, 708-710 [court compelled review but not discretionary setting of rates  
10 stating, “it is not a function of the writ of mandamus in this setting to compel the setting of rates,  
11 regardless of plaintiffs’ showing of inadequacy [of the rates].”].)

12       A broad definition of “incentives” for the TOC Program is informed and supported by the  
13 broad definition of “incentive” in the City’s Density Bonus Program. It is appropriate to consider  
14 the City’s Density Bonus Program, because it is also codified in the development standards  
15 “Exceptions” section, LAMC Section 12.22, and referenced in the TOC Program text at LAMC  
16 Section 12.22.A.31(e). In this other Exceptions program, the term “incentive” is broadly defined  
17 as “a modification to a City development standard or requirement of Chapter I of this Code  
18 (zoning).” (Resps.’ RJN, p. 35 [Ex. C – LAMC § 12.22.A.25(b)].) A review of the Density Bonus  
19 Program Menu of Incentives shows some of the different types of development standards that arise  
20 from LAMC Chapter I, and are subject to exception. These development standards include, height,  
21 yard, and open space, similar to the list of Additional Incentives in the TOC Guidelines. (*See*  
22 *generally*, Resps.’ RJN, p. 39 [Ex. C – LAMC § 12.22.A.25(f) Density Bonus Program Menu of  
23 Incentives listing potential modifications to requirements in LAMC Chapter I].)

24       Case law supports the Court and the City giving the term “incentives” in the TOC Program  
25 the same range of meaning as the term “incentive” in the City’s Density Bonus Program, because  
26 it is in the same “Exceptions” section of the LAMC. (Resps.’ RJN, pp. 34-42, 50-51 [Ex. C –  
27 LAMC § 12.22.A.25, § 12.22.A.31].) “When a term appears in different parts of the same act, or  
28 in related sections of the same code, the term should be construed as having the same meaning in

1 each instance.” (*Lewis v. Superior Ct.* (1999) 19 Cal.4th 1232, 1268 [construing the term “heard’  
2 or one of its cognate forms” as equivalent across multiple sections of the Code of Civil Procedure].)

3       The text of Measure JJJ also demonstrates that the initiative drafters intended a broad  
4 definition of the term “incentives” in the TOC Program based on the understanding of that term in  
5 State Law Density Bonus at Government Code Section 65915. First, Measure JJJ defined the term  
6 “incentives” at Measure JJJ, Section 5 by incorporating the broad State Density Bonus Law  
7 definition of “incentives” in Government Code Section 65915. Second, the TOC Program text  
8 demonstrated an understanding and acceptance of State Density Bonus Law through multiple  
9 references to Government Code Section 65915 and directing the City to grant up to three  
10 “incentives or concessions” based on the requirements in Section 65915(d)(2). (*See* AR 0013  
11 [LAMC § 11.5.11(e), “incentives or concessions” refers to Gov. Code § 65915(k)]; AR 0019-20;  
12 Resps.’ RJN, p. 50 [Ex. C – LAMC § 12.22.A.31(b)(1), (2)]; Gov. Code § 65915(k)(1)  
13 [“concession or incentive” means a “reduction in site development standards or a modification of  
14 zone code requirements”]; Gov. Code § 65915(o)(1) [“development standard” includes “a site or  
15 construction condition, including but not limited to, a height limitation, a setback requirement...an  
16 onsite open-space requirement...”].) Thus, the City’s understanding of the term “incentives”  
17 memorialized by the TOC Guidelines is well supported, and entitled to substantial deference.  
18 (*Berkeley Hills Watershed Coal.*, *supra*, 31 Cal.App.5th at 896.)

19       The Opening Brief’s final argument about incentives fails because it reflects the flaws in  
20 each of Petitioner’s prior assertions regarding the same, disputed features of the TOC Guidelines –  
21 Tiers, Additional Incentives and Labor Standards. (Opening Brief at 17:24-18:19.) Petitioner is  
22 correct that the Project’s approval is dependent on the incentives provided by the TOC Guidelines.  
23 However, Petitioner fails to identify any authority preventing the City from approving the 10400  
24 Santa Monica Boulevard Project with the incentives for height, yard and open space. The City  
25 awarded valid TOC Incentives to the Project through a code exception, which makes a legislative  
26 approval unnecessary. No legislative approval, such as a height district amendment or zone change,  
27 is required as discussed in above Section IV(B). The TOC Program and its guidelines constitute a  
28 voter-created exception that avoids the need for a legislative approval.

1 The Project meets all applicable criteria under the TOC Guidelines for Tier 3 Base and  
2 Additional Incentives. It is located within one-half mile from the future Purple line Century City  
3 and Constellation rail station. (AR 0810, AR 0849.) This is a Major Transit Stop as defined by  
4 the TOC Guidelines. (AR 0496 [TOC Guidelines, II.6, (allowing consideration of stops under  
5 construction or included on the plan), III.1 (referencing Pub. Res. Code 21155 definition of Major  
6 Transit Stop)]; Pub. Res. Code § 21155(b).) Accordingly, the Project is located within a one-half  
7 mile radius of a Major Transit Stop. (AR 0019.) The DCP correctly determined that, based on the  
8 proximity of the Project to transit, the Project qualified for Tier 3 incentives. (AR 0850.) The  
9 Project proposes the construction of a 120-unit residential building with 12 units set aside for  
10 Extremely Low Income households. (AR 0838.) Thus, the Project meets the definition of an  
11 Eligible Housing Development under the TOC Program. (AR 0020-21.)

12 Petitioner does not dispute these facts, but instead argues that the Project received three  
13 “Additional Incentives” not authorized by the TOC Program text: reduced side yards, an additional  
14 height increase, and reduced open space requirements. As discussed above, the plain language of  
15 the TOC Program provides Eligible Housing Developments with three Additional Incentives.  
16 (AR 0019-20.) The Project received Base Incentives of increased residential density, an adjusted  
17 floor area ratio and reduced parking, each of which is specifically identified in the “TOC  
18 Incentives” provision of the TOC Program text. That provision also provides that an Eligible  
19 Housing Development “may be granted up to either two or three incentives or concessions.”  
20 (AR 0020.) Based on the 12 Extremely Low Income Units, the Project was entitled to receive the  
21 approved three Additional Incentives for its Tier 3 Project. (AR 0812.)

22 Based on the above, the Opening Brief has failed to identify any grounds to invalidate the  
23 list of Tiers or incentives in the TOC Guidelines, or to invalidate their application to the Project.

#### 24 **G. Petitioner’s Attack On The TOC Guidelines Is Time-Barred.**

25 All of Petitioner’s challenges to the TOC Program are time-barred pursuant to Government  
26 Code Section 65009(c)(1). As discussed above, every argument asserted in Petitioner’s Opening  
27 Brief relates to the adoption of the TOC Guidelines or whether the adopted TOC Guidelines are  
28 consistent with voter initiative Measure JJJ. The gravamen of each of these claims is a pure facial

1 attack on the TOC Program which could have been timely asserted within 90 days after the TOC  
2 Guidelines were adopted by the CPC on September 27, 2017. As this action was not filed until  
3 August 30, 2019, Petitioner’s claims should thus be dismissed based on the statute of limitations.

4 Government Code Section 65009 identifies multiple grounds under which the TOC  
5 Guidelines are protected by the 90-day limitations period. First, the TOC Guidelines are protected  
6 as quasi-legislative rules attached to an initiative ordinance. (*See* Gov. Code § 65009(c)(1)(C).)  
7 Second, they are the result of City Planning Commission and Director of Planning actions pursuant  
8 to initiative ordinance Measure JJJ. (*See* Gov. Code § 65009(c)(1)(E).) Third, case law also  
9 indicates the TOC Guidelines are separately protected because they have the dignity of the enabling  
10 initiative ordinance Measure JJJ. (*See Yamaha Corp. of America v. State Bd. Of Equalization*  
11 (1998) 19 Cal.4th 1, 10.) As a consequence, the TOC Guidelines are also protected by the 90-day  
12 limitations period as a “zoning ordinance.” (Gov. Code § 65009(c)(1)(B).) Section 65009 has  
13 been broadly interpreted to apply to a variety of planning and zoning actions. (*See 1305 Ingraham*  
14 *LLC v. City of Los Angeles* (2019) 32 Cal.App.5th 1253, 1260-61 (scope of Gov. Code § 65009  
15 broadly interpreted to cover a “decision” by operation of law); *Honig v. San Francisco Planning*  
16 *Dept.* (2005) 127 Cal.App.4th 520, 527-28 (applying Gov. Code § 65009(c)(1)(E) to bar untimely  
17 challenge to planning commission building permit approval pursuant to Gov. Code § 65903).)

18 Petitioner will undoubtedly argue that the statute of limitations defense should be denied  
19 based on this Court’s August 31, 2020 Order Denying Respondent’s Motion to Strike Portions of  
20 the Petition (“Order”). However, that Order addressed only whether the Petition alleged sufficient  
21 grounds to survive a motion to strike. The Order concluded that Petitioner pleaded as-applied  
22 challenges to the project approvals for 10400 Santa Monica Boulevard, citing *Travis v. County of*  
23 *Santa Cruz* (2004) 33 Cal.4th 757. (*See* Order at 6, citing Pet., ¶¶ 5, 6, 28.)

24 By contrast, Petitioner’s merits briefing raises no as-applied claims – only facial challenges.  
25 The Project here provides no value to the claims against the TOC Guidelines. Section A of the  
26 Opening Brief argues that the CPC and DCP lacked authority to adopt the TOC Guidelines.  
27 Sections B and C assert that the guidelines failed to implement the Labor Standards. Sections D  
28 and E claim that the incentives and Tiers are inconsistent with Measure JJJ. Section F then argues



1 that the Project’s approval dependent upon the TOC Guidelines is invalid, solely because the  
2 guidelines are facially invalid based on the earlier arguments. Petitioner’s interest in bringing this  
3 lawsuit has little to do with the specific Project. Rather, Petitioner’s states its primary aim is to  
4 uphold the “good jobs” and affordable housing promises to voters. (Opening Br. at 4:20-23.)<sup>3</sup>

5 *Travis* should be held to its facts, and should not be expanded to allow a third-party non-  
6 applicant like Petitioner to bring facial claims under a purported “as-applied” theory each time a  
7 project is approved under the TOC Guidelines. Expanding *Travis* beyond the facts of an owner-  
8 applicant-petitioner allows all third-parties to “evade the statute of limitations for facial challenges  
9 to a zoning ordinance merely by filing something it terms an ‘as-applied’ challenge. It is the nature  
10 or gravamen of the [petitioner’s] action that determines when the limitations period begins, not the  
11 label the [petitioner] affixes to its pleadings.” (*County of Sonoma v. Superior Court* (2010) 190  
12 Cal.App.4th 1312, 1329-30; *accord*, *616 Croft Ave., LLC v. City of West Hollywood* (2016) 3  
13 Cal.App.5th 621, 627-28 [2nd Appellate Dist. barred a challenge brought more than 90 days after  
14 ordinance enactment, stating “[t]his 90-day limitation applies even if the facial challenge is part of  
15 an as-applied challenge.”]). Applying *Travis* beyond its facts improperly divorces the language of  
16 that opinion from the facts and issues before that court. (*Kinsman v. Unocal Corp.* (2005) 37  
17 Cal.4th 659, 680 [“language in a judicial opinion is to be understood in accordance with the facts  
18 and issues before the court. An opinion is not authority for propositions not considered.”].)

19 All of Petitioner’s claims thus challenge the manner of adoption of the TOC Guidelines, or  
20 the specific terms of the TOC Guidelines adopted by the CPC in 2017. Unlike the plaintiff in  
21 *Travis*, this action does not involve any approval or permit sought by Petitioner, or otherwise alter

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22 <sup>3</sup> Petitioner’s request for equitable relief to restrain current City process that follows the TOC  
23 Guidelines on a theory that the current process violates Measure JJJ is an attempt to recast a direct  
24 attack on the TOC Guidelines. (See Opening Brief at 6, fn.2.) That claim is time-barred by  
25 Government Code Section 65009. (See *Venice Coalition to Preserve Unique Community*  
26 *Character v. City of Los Angeles* (2019) 31 Cal.App.5th 42, 51 [barring under Government Code  
27 Section 65009 a challenge to the approval process “embodied in the specific plan,” stating, “Venice  
28 Coalition claims it is only challenging the City’s ongoing failure to ensure that [Venice Sign-Off]  
projects ‘respect the scale, massing, character, and landscape of existing neighborhoods’ as  
required by the [Venice Land Use Plan or LUP]. This argument, however, is an attempt to recast  
what is essentially a challenge to the specific plan itself as being inconsistent with the LUP.”].)

1 any real property interest of Petitioner. (*See* 33 Cal.4th at 764.) There, the California Supreme  
2 Court ruled that the facial challenges to an ordinance were in substance challenging the  
3 enforcement of the ordinance and the imposition of conditions on plaintiffs’ own property, as  
4 opposed to “injury *solely* from a law’s enactment.” (*Id.* at 767-68.) The claim was deemed timely  
5 because “to the extent Travis seeks a finding that the Ordinance cannot be applied against him, and  
6 relief in the form of removal of the conditions on his permit, his challenge is to the County’s  
7 adjudicatory decision imposing the conditions and comes within section 65009, subdivision  
8 (c)(1)(E).” (*Id.* at 769.) Petitioner here was not the recipient of the Project approval challenged,  
9 and thus has no takings claim analogous to the *Travis* plaintiffs. The facial challenges to the TOC  
10 Guidelines have nothing to do with enforcing land use regulations against Petitioner or its property.

11 Each of Petitioner’s arguments was ripe upon the adoption of the TOC Guidelines, and  
12 nothing prevented Petitioner from filing its challenge at that time. For these reasons, all of  
13 Petitioner’s merits claims are now time-barred by Government Code Section 65009(c)(1).  
14

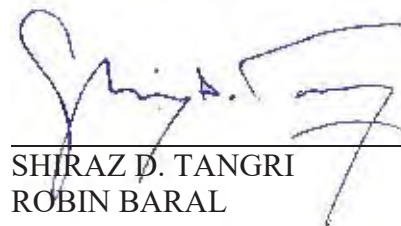
15 **V. CONCLUSION**

16 For the reasons set forth above, the City respectfully requests that the Court deny the  
17 Petition in its entirety, and grant such further relief as the Court may deem necessary and proper.  
18

19 DATED: May 10, 2021

MEYERS NAVE

20  
21 By:



22 SHIRAZ D. TANGRI  
23 ROBIN BARAL

24 Attorneys for Respondents and Defendants  
25 CITY OF LOS ANGELES,  
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STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

On May 10, 2021, I served true copies of the following document(s) described as **RESPONDENTS' OPPOSITION BRIEF ON ISSUES RELATED TO TRANSIT ORIENTED COMMUNITIES PROGRAM** on the interested parties in this action as follows:

**BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a copy of the document(s) to be sent from e-mail address [tstephens@meyersnave.com](mailto:tstephens@meyersnave.com) to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Executed on May 10, 2021, at Los Angeles, California.

Teresa Stephens  
Teresa Stephens

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**SERVICE LIST**  
***Fix The City, Inc. v. City of Los Angeles, et al.***  
**Case No. 19STCP03740 (Lead Case)**

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**SERVICE LIST**  
***Fix the City, Inc. v. City of Los Angeles, et al.***  
**LASC Case No. 20STCP01569 (Related Case)**

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# **EXHIBIT 3**

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EXEMPT FROM FILING FEES  
GOV'T CODE § 6103

Attorneys for Respondents and Defendants  
CITY OF LOS ANGELES,  
LOS ANGELES CITY PLANNING COMMISSION,  
and VINCENT P. BERTONI

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

FIX THE CITY, INC., a California nonprofit  
corporation,

Petitioner and Plaintiff,

v.

CITY OF LOS ANGELES, a municipal  
corporation; LOS ANGELES CITY  
PLANNING COMMISSION; VINCENT P.  
BERTONI, in his capacity as Director of City  
Planning for the City of Los Angeles; and  
DOES 1 through 100, inclusive,

Respondents and Defendants.

ELLIOT NAYSSAN; ROBhana, INC.;  
NHD TERRACE, LLC; and ROES 1 through  
100, inclusive,

Real Parties in Interest.

Case No. 19STCP03740

Assigned for All Purposes to:  
Hon. Mitchell L. Beckloff, Dept. 86

**RESPONDENTS' REQUEST FOR  
JUDICIAL NOTICE IN SUPPORT  
OF OPPOSITION BRIEFS;  
EXHIBITS A – H**

**[FILED HEREWITH:  
RESPONDENTS' OPPOSITION BRIEF  
ON ISSUES RELATED TO TRANSIT  
ORIENTED COMMUNITIES PROGRAM;  
RESPONDENTS' OPPOSITION BRIEF  
ON PROJECT SPECIFIC ISSUES]**

Trial Date: July 14, 2021  
Trial Time: 9:30 a.m.  
Dept.: 86

Action Filed: August 30, 2019

1 **TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that pursuant to Evidence Code section 452, Respondents and  
3 Defendants the City of Los Angeles, Los Angeles Planning Commission, and Vincent P. Bertoni  
4 in his capacity as Director of City Planning (collectively, “Respondents” or the “City”) submit this  
5 Request for Judicial Notice (“RJN”) in Support of Respondents’ Opposition Brief on Transit  
6 Oriented Communities Program and Respondents’ Opposition Brief on Project Related Issues.

7 The City respectfully requests that the Court take notice of the following documents:

8 1. Attached as **Exhibit A** to this RJN is a true and correct copy of Los Angeles City  
9 Charter Section 450. The Court should take judicial notice of City Charter Section 450 because it  
10 constitutes a legislative enactment of a public entity pursuant to Evidence Code Section 452,  
11 subdivision (b). (*See also Edgerly v. City of Oakland* (2012) 211 Cal.App.4th 1191, 1194; *City of*  
12 *Monterey v. Carrnshimba* (2013) 215 Cal.App.4th 1068, 1077, fn 5.) In addition, documents on  
13 an official website may be judicially noticed where the authenticity of the document can be easily  
14 verified. (*Scott v. JPMorgan Chase Bank, N.A.* (2013) 214 Cal.App.4th 743, 753.) Los Angeles  
15 City Charter Section 450 is available online at [https://codelibrary.amlegal.com/codes/](https://codelibrary.amlegal.com/codes/los_angeles/latest/laac/0-0-0-1767)  
16 [los\\_angeles/latest/laac/0-0-0-1767](https://codelibrary.amlegal.com/codes/los_angeles/latest/laac/0-0-0-1767). Charter Section 450 is relevant to this case to show that Los  
17 Angeles residents are authorized to enact local zoning ordinances by voter initiative.

18 2. Attached as **Exhibit B** to this RJN is a true and correct copy of Los Angeles  
19 Municipal Code Section 12.03. Section 12.03 is admissible as a legislative enactment issued by a  
20 public entity and the authenticity of the document can be easily verified online through the City’s  
21 official municipal code website at [https://codelibrary.amlegal.com/codes/los\\_angeles/latest/](https://codelibrary.amlegal.com/codes/los_angeles/latest/lamc/0-0-0-108304#JD_12.03)  
22 [lamc/0-0-0-108304#JD\\_12.03](https://codelibrary.amlegal.com/codes/los_angeles/latest/lamc/0-0-0-108304#JD_12.03). (Evid. Code § 452(b). *See also Edgerly, supra*, 211 Cal.App.4th  
23 at 1194; *City of Monterey, supra*, 215 Cal.App.4th at 1077, fn 5; *Scott, supra*, 214 Cal.App.4th at  
24 753.) Section 12.03 is relevant to this case as it sets forth some of the authorities of the City  
25 Planning Commission including the adoption of guidelines to administer the City’s zoning code,  
26 and the delegation of that authority to others.

27 3. Attached as **Exhibit C** to this RJN is a true and correct copy of Los Angeles  
28 Municipal Code Section 12.22. Section 12.22 is also admissible as a legislative enactment issued

1 by a public entity and the authenticity of the document can be easily verified online through the  
2 City’s official municipal code website at [https://codelibrary.amlegal.com/codes/los\\_angeles/latest/](https://codelibrary.amlegal.com/codes/los_angeles/latest/lamc/0-0-0-114455)  
3 [lamc/0-0-0-114455](https://codelibrary.amlegal.com/codes/los_angeles/latest/lamc/0-0-0-114455). (Evid. Code § 452(b). *See also Edgerly, supra*, 211 Cal.App.4th at 1194; *City*  
4 *of Monterey, supra*, 215 Cal.App.4th at 1077, fn 5; *Scott, supra*, 214 Cal.App.4th at 753.) Section  
5 12.22 is relevant to this case as it contains the provisions of the City’s “Affordable Housing  
6 Incentives – Density Bonus” program (LAMC § 12.22.A.25), which is referenced in part by  
7 Measure JJJ, and it also includes the provisions of Measure JJJ, Section 6, which was incorporated  
8 into the Los Angeles Municipal Code as the “Transit Oriented Communities Affordable Housing  
9 Incentive Program.” (LAMC § 12.22.A.31).

10 4. Attached as **Exhibit D** to this RJN is a true and correct copy of portions of the Los  
11 Angeles Municipal Code, Article 1.5, which is admissible as a legislative enactment issued by a  
12 public entity and the authenticity of the document can be easily verified online through the City’s  
13 official municipal code website at [https://codelibrary.amlegal.com/codes/los\\_angeles/latest/lamc/](https://codelibrary.amlegal.com/codes/los_angeles/latest/lamc/0-0-0-114455)  
14 [0-0-0-114455](https://codelibrary.amlegal.com/codes/los_angeles/latest/lamc/0-0-0-114455). (Evid. Code § 452(b). *See also Edgerly, supra*, 211 Cal.App.4th at 1194; *City of*  
15 *Monterey, supra*, 215 Cal.App.4th at 1077, fn 5; *Scott, supra*, 214 Cal.App.4th at 753.) Article 1.5  
16 is relevant to this case to show that Measure JJJ, Sections 5 and 6 were incorporated into separate  
17 articles of the Los Angeles Municipal Code.

18 5. Attached as **Exhibit E** to this RJN is a copy of the City’s Housing Progress  
19 Dashboard webpage, which is posted on the City Planning Department’s official website at:  
20 <https://planning.lacity.org/resources/housing-reports>. As provided therein, the Housing Progress  
21 Dashboard is updated quarterly; the Housing Progress Dashboard therefore is admissible as an  
22 official act of the City and as an easily verifiable fact through reference to the City Planning  
23 Department’s website. (Evid. Code §§ 452(c), 452(h). *See also Geraghty v. Shalizi*, 8 Cal.App.5th  
24 593, 602 (2017) [taking judicial notice of city budget report for purpose of providing context to  
25 local legislative enactment]; *People v. Kelly* (2013) 215 Cal.App.4th 297, 304 [taking judicial  
26 notice of information posted on agency website].) Documents on an official website may be  
27 judicially noticed where the authenticity of the document can be easily verified. (*Scott, supra*, 214  
28 Cal.App.4th at 753.) The Housing Progress Dashboard is relevant to this case to illustrate how the

1 City has implemented the provisions of Measure JJJ, Section 6 (the “TOC Program”) since the  
2 enactment of Measure JJJ by Los Angeles voters in 2016.

3         6. Attached as **Exhibit F** to this RJN is a certified copy of a presentation entitled  
4 “Housing Proposed through Planning Entitlements” from the City’s Housing Progress Dashboard,  
5 which is posted on the City Planning Department’s official website at:  
6 <https://planning.lacity.org/resources/housing-reports>. As provided therein, the Housing Progress  
7 Dashboard is updated quarterly; the Housing Progress Dashboard therefore is admissible as an  
8 official act of the City and as an easily verifiable fact through reference to the City Planning  
9 Department’s website. (Evid. Code §§ 452(c), 452(h). *See also Geraghty, supra*, 8 Cal.App.5th  
10 at 602; *Kelly, supra*, at 304.) Documents on an official website may be judicially noticed where  
11 the authenticity of the document can be easily verified. (*Scott, supra*, 214 Cal.App.4th at 753.)  
12 The presentation is relevant to this case to illustrate how the City has implemented the provisions  
13 of the TOC Program since the enactment of Measure JJJ by Los Angeles voters in 2016.

14         6. Attached as **Exhibit G** to this RJN is a certified copy of a presentation entitled “A  
15 Closer Look at Density Bonus and Transit Oriented Communities (TOC) Incentive Programs” from  
16 the City’s Housing Progress Dashboard, which is posted on the City Planning Department’s official  
17 website at: <https://planning.lacity.org/resources/housing-reports>. As provided therein, the  
18 Housing Progress Dashboard is updated quarterly; the Housing Progress Dashboard therefore is  
19 admissible as an official act of the City and as an easily verifiable fact through reference to the City  
20 Planning Department’s website. (Evid. Code §§ 452(c), 452(h). *See also Geraghty, supra*,  
21 8 Cal.App.5th at 602; *Kelly, supra*, at 304.) Documents on an official website may be judicially  
22 noticed where the authenticity of the document can be easily verified. (*Scott, supra*, 214  
23 Cal.App.4th at 753.) The presentation is relevant to this case to illustrate how the City has  
24 implemented the provisions of the TOC Program since the enactment of Measure JJJ by Los  
25 Angeles voters in 2016.

26         8. Attached as **Exhibit H** to this RJN is a certified copy of Los Angeles Department  
27 of Building Safety Bulletin 2017-129. Bulletin 2017-129 is admissible as a regulation issued by a  
28 public entity, as an official act of the City, and as an easily verifiable fact that is not subject to

1 dispute. (Evid. Code §§ 452(b), 452(c), 452(h).) The admissibility of Bulletin 2017-129 is not in  
2 dispute by Petitioner as a non-certified copy was provided in Petitioner's Request for Judicial  
3 Notice. In addition, although Bulletin 2017-129 was superseded by Bulletin 2020-129, the Court  
4 may take notice of prior versions of a city ordinance or regulation. (*See Linda Vista Vill. San Diego*  
5 *Homeowners Assn., Inc. v. Tecolote Invs., LLC* (2015) 234 Cal.App.4th 166 [accepting judicial  
6 notice of prior versions of city charter].)  
7

8 DATED: May 10, 2021

MEYERS NAVE

9  
10 By: 

11 SHIRAZ D. TANGRI

12 ROBIN R. BARAL

13 Attorneys for Respondents and Defendants

14 CITY OF LOS ANGELES,

15 LOS ANGELES CITY PLANNING

16 COMMISSION, and VINCENT P. BERTONI  
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# EXHIBIT A

**Sec. 450. Subject of Initiative.**

(a) Any proposed ordinance which the Council itself might adopt may be submitted to the Council by a petition filed with the City Clerk, requesting that the ordinance be adopted by the Council or be submitted to a vote of the electors of the City. Any proposed ordinance amending or repealing an ordinance previously adopted by a vote of the electors may be submitted to the Council by a petition filed with the City Clerk requesting that the ordinance be submitted to a vote of the electors of the City.

(b) Petitions to amend the Charter shall be governed by provisions of the California Constitution and applicable provisions of state law concerning Charter amendments.

# EXHIBIT B

## SEC. 12.03. DEFINITIONS.

For the purpose of Article 2 to 6 inclusive of this chapter, certain terms and words are herewith defined as follows:

**ABANDONED AUTOMOBILE.** Any motor vehicle, which when operated upon a highway is required to be registered by the California Vehicle Code, whose registration has been expired for a period of six months or more. Notwithstanding the foregoing definition, a motor vehicle stored within a permitted building or structure shall not be considered to be an abandoned automobile. **(Added by Ord. No. 131,925, Eff. 4/11/66.)**

**ACCESSORY BUILDING.** A detached subordinate building, the use of which is customarily incidental to that of the main building or to the main use of the land and which is located in the same or a less restrictive zone and on the same lot with the main building or use. The relationship between the more restrictive and the less restrictive zones shall be determined by the sequence of zones set forth in Sec. 12.23 B.1.(c). **(Amended by Ord. No. 106,571, Eff. 1/1/56.)**

**ACCESSORY DWELLING UNIT (ADU).** An attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same lot as the single-family or multifamily dwelling is or will be situated. ADUs include efficiency units as defined in Section 17958.1 of the Health and Safety Code, manufactured homes as defined in Section 18007 of the Health and Safety Code, and Movable Tiny Houses. **(Added by Ord. No. 186,481, Eff. 12/19/19.)**

**ACCESSORY LIVING QUARTERS.** An accessory building used solely as the temporary dwelling of guests of the occupants of the premises; such dwelling having no kitchen facilities and not rented or otherwise used as a separate dwelling unit. **(Added by Ord. No. 107,884, Eff. 9/23/56.)**

**ACCESSORY USE.** **(Amended by Ord. No. 182,095, Eff. 5/7/12.)** A use, which is customarily incidental to that of the main building or the main use of the land and which is located in the same zone or a less restrictive zone and on the same lot with a main building or main use. The relationship between the more restrictive zones and the less restrictive zones shall be determined by the sequence of zones set forth in Section 12.23 B. of this Code.

The garaging, maintaining or storage of any commercial vehicle on private property which exceeds a registered net weight of 5,600 pounds shall not be considered an accessory use in the "R" Zones. The rental, storage, or storage for rental purposes of a commercial vehicle which exceeds a registered net weight of 5,600 pounds shall not be considered an accessory use in any zone more restrictive than the MR-1 Zone, except as approved by conditional use.

An accessory use shall also include the keeping of domestic animals, subject to other provisions of this article; and the keeping of wild animals, under an appropriate permit issued by the Department of Animal Services as provided for in Section 53.38 of the Code, but in no event including the following wild animals: bear, civet, coyote, eagle, eland, elephant, elk, giraffe, gnu, gorilla, hyena, hippopotamus, jaguar, leopard, lion, lynx, moose, orangutan, venomous reptile, puma, rhinoceros, sea lion, tiger, vulture, walrus, wart hog, wolf or yak.

The sale of not more than one dog or cat litter from a domestic household in a 12- month period shall be considered accessory to a residential use.

The noncommercial keeping of birds (not including fowl) without regard to their number shall be an accessory use in the RA, RE, RS, R1, RU and RZ Zones. However, if the Department of Animal Services determines that the keeping of birds or the keeping of a particular number of birds at a particular location constitutes a nuisance or a health or safety hazard, then the keeping of birds under those circumstance shall not be an accessory use.

For the purposes of this section, the occasional sale of birds which is incidental to the keeping of birds as a hobby, does not constitute a commercial use.

Garage and/or yard sales shall be considered accessory to a residential use, if the sale is only incidental to the individual's residential occupancy of the premises; and

1. The sales are confined to the sale of used items which were originally received or purchased for use in the household; and
2. The sales are restricted to a maximum of five sales events per calendar year as a means of disposing of used items originally received or purchased for use in the household; and
3. The sales are limited to not more than two consecutive days per event; and
4. The sales are limited to not more than ten days per calendar year total; and
5. The sales are limited to the hours between 9 a.m. and 5 p.m.

For purposes of this section, the term accessory use shall not apply to any garage and/or yard sales where new goods or

merchandise, or items that were not intended to be used in the household are offered or displayed for sale or exchange. (**“Department of Animal Regulation” renamed “Department of Animal Services” by Ord. No. 174,735, Eff. 9/13/02.**)

**ADDITION, GROUND FLOOR.** An expansion of the exterior perimeter of a building measured at five feet or more above adjacent grade at any point. (**Added by Ord. No. 169,775, Eff. 6/2/94.**)

**ADJACENT GROUND ELEVATION.** Same as grade. (**Amended by Ord. No. 131,309, Eff. 4/24/66.**)

**ADMINISTRATOR** – See “**Zoning Administrator**”.

**AGRICULTURAL WASTE.** All plant materials generated from the growing and harvesting of agricultural crops, vegetables and fruits. (**Added by Ord. No. 170,054, 11/13/94.**)

**AIRPORT OR AIRCRAFT LANDING FIELD.** Any runway landing area or other facility designed, used, or intended to be used either publicly or privately by any person for the landing and taking off of aircraft including all necessary taxiways, aircraft storage and tiedown areas, hangars and other necessary buildings and open spaces.

**ALZHEIMER'S/DEMENTIA CARE HOUSING.** Residential housing that is licensed by the California Department of Social Services and provides 24-hour care for people suffering from Alzheimer's disease or other disorders resulting in dementia. The residential units shall be guest rooms only. The housing may be a component of an Eldercare Facility. (**Added by Ord. No. 178,063, Eff. 12/30/06.**)

**ANIMAL KEEPING ENCLOSURE.** Any structure or fence which establishes the perimeter of an animal keeping and maintenance area. (**Added by Ord. No. 157,144, Eff. 11/22/82.**)

**ANIMAL KEEPING STRUCTURE.** Any structure, as defined by this Code, which has a roof and may have one or more sides and is used in whole or in part for the housing or shelter of animals. (**Amended by Ord. No. 161,352, Eff. 7/20/86.**)

**APARTMENT.** Same as dwelling unit. (**Added by Ord. No. 107,884, Eff. 9/23/56.**)

**APARTMENT HOTEL.** A residential building designed or used for both two or more dwelling units and six or more guest rooms or suites of rooms. (**Amended by Ord. No. 107,884, Eff. 9/23/56.**)

**APARTMENT HOUSE.** A residential building designed or used for three or more dwelling units or a combination of three or more dwelling units and not more than five guest rooms or suites of rooms. (**Amended by Ord. No. 107,884, Eff. 9/23/56.**)

**APIARY.** (**Added by Ord. No. 183,920, Eff. 12/6/15.**) The place where bees are kept and maintained, usually in a collection of hives or colonies.

**AREA PLANNING COMMISSIONS.** (**Added by Ord. No. 173,268, Eff. 7/1/00, Oper. 7/1/00; and Amended by Ord. No. 173,374, Eff. 8/3/00.**) Each Area Planning Commission shall consist of five members. Members shall be appointed and removed in the same manner as members of the City Planning Commission, except that residency in the area served by the Area Planning Commission shall be a qualification for appointment. Except as provided in Paragraph (d), Area Planning Commissions are quasi-judicial agencies.

Each Area Planning Commission, with respect to matters concerning property located in the area served by the Area Planning Commission, shall have and exercise the power to:

- (a) hear and determine appeals where it is alleged there is error or abuse of discretion in any order, requirement, decision, interpretation or other determination made by a Zoning Administrator;
- (b) hear and make decisions on any matter normally under the jurisdiction of a Zoning Administrator when that matter has been transferred to the jurisdiction of the Area Planning Commission because the Zoning Administrator has failed to act within the time limits prescribed by ordinance;
- (c) hear and determine applications for, or appeals related to, conditional use permits and other similar quasi-judicial approvals, in accordance with procedures prescribed by ordinance;
- (d) make recommendations with respect to zone changes or similar matters referred to it from the City Planning Commission pursuant to Charter Section 562; and
- (e) hear and determine other matters delegated to it by ordinance.

Notwithstanding the above, the City Planning Commission shall make decisions on any matter that would otherwise be heard by an Area Planning Commission if the matter involves a project which crosses the boundaries of the area served by more than one Area Planning Commission.

**ASSISTED LIVING CARE HOUSING.** Residential housing that is licensed by the California Department of Social Services and provides assistance to people 62 years of age or older who require assistance with two or more non-medical activities of daily

living as defined in the Department of Social Services licensing requirements. The residential units may consist either of dwelling units or guest rooms. Full time medical services shall not be provided on the premises. The housing may be a component of an Eldercare Facility. **(Added by Ord. No. 178,063, Eff. 12/30/06.)**

**ATTENDED BICYCLE PARKING SERVICE.** A service by which a bicycle is left in the care of an attendant(s) with provision for identifying the bicycle's owner. Once stored, a bicycle left in the care of an attendant(s) shall be accessible only to the attendant(s), with the storage location not necessarily in the same location as the pick-up and drop-off point. **(Added by Ord. No. 185,480, Eff. 5/9/18.)**

**AUTOMOBILE DISMANTLING YARD.** Any property or place where the business of an automobile dismantler, as defined by California Vehicle Code Section 220, is conducted. **(Added by Ord. No. 152,770, Eff. 9/15/79.)**

**AUTOMOBILE FOR HIRE.** An automobile for hire is a motor vehicle, other than a commercial vehicle with registered net weight in excess of 5,600 pounds, which is let or rented or offered for rental, lease or hire to another for consideration. **(Added by Ord. No. 148,857, Eff. 10/31/76.)**

**AUTOMOBILE AND TRAILER SALES AREA.** An open area other than a street, used for the display, sale or rental of new or used automobiles or trailers, and where no repair work is done except minor incidental repair of automobiles or trailers to be displayed, sold or rented on the premises.

**AUTOMOTIVE FUELING AND SERVICE STATION.** A business which dispenses automotive fuel to the public and may provide the following incidental services: tube and tire repairing, battery servicing, automotive lubrication, mechanical adjustments, changing of spark plugs and other similar maintenance activities. **(Added by Ord. No. 169,130, Eff. 12/16/93.)**

**AUTOMOTIVE REPAIR.** A use involving the diagnosing of malfunctions, repairing or maintaining of motor vehicles. Included in this definition are body shops, paint shops, tire stores, muffler shops, auto electric shops, van conversions, lubrication centers, auto-sound shops, auto-alarm shops, auto upholstery shops, wheel alignment shops and other similar automotive related repair or installation businesses; automotive repair does not include automotive fueling and service stations as defined in this section and installers of automotive telecommunication devices and computers. **(Added by Ord. No. 169,130, Eff. 12/16/93.)**

**AUTOMOTIVE USE.** The primary sale of used automobiles. In addition, this phrase shall include automotive repair and automobile and trailer sales area, as defined in this section. **(Added by Ord. No. 178,382, Eff. 3/24/07.)**

**BACHELOR APARTMENT.** Same as Efficiency Dwelling Unit. **(Amended by Ord. No. 138,456, Eff. 5/30/69.)**

**BASE FLOOR.** That story of a main building, at or above grade, which is not considered a basement, and which has the greatest number of square feet confined within the exterior walls, including the area of the attached covered parking at the same story. **(Amended by Ord. No. 184,802, Eff. 3/17/17.)**

**BASEMENT.** Any level below the First Story of a Building. The ceiling of a Basement shall not be more than four vertical feet higher than the finished floor level of the First Story. **(Amended by Ord. No. 184,802, Eff. 3/17/17.)**

**BED AND BREAKFAST FACILITY.** A building or portion thereof which is used as a temporary lodging place for fewer than thirty consecutive days and which does not contain more than five guest rooms and one kitchen. **(Added by Ord. No. 172,792, Eff. 10/4/99.)**

**BEE.** **(Added by Ord. No. 183,920, Eff. 12/6/15.)** Any stage of life of the common domestic honey bee (*Apis Mellifera*).

**BEEKEEPING, BACKYARD.** **(Added by Ord. No. 183,920, Eff. 12/6/15.)** The keeping or maintenance of an apiary in a hive as an accessory use.

**BICYCLE CAGE.** A locked bicycle parking area that has been fenced off to prohibit access by the general public. Bicycle cages shall contain bicycle racks that provide a means of securing the bicycle frame at two points to a securely anchored rack. **(Added by Ord. No. 182,386, Eff. 3/13/13.)**

**BICYCLE CORRAL.** Any on-street public parking space in which multiple short-term bicycle parking racks have been installed. **(Added by Ord. No. 182,386, Eff. 3/13/13.)**

**BICYCLE ROOM.** A locked bicycle parking area that has been walled off to prohibit access by the general public. Bicycle rooms shall contain bicycle racks that provide a means of securing the bicycle frame at two points to a securely anchored rack. **(Added by Ord. No. 182,386, Eff. 3/13/13.)**

**BICYCLE SHARE DOCK.** A device designed to receive a bicycle for locked storage as part of a system that directly rents bicycles on a short-term basis. **(Added by Ord. No. 185,480, Eff. 5/9/18.)**

**BICYCLE SHARE SERVICE PROVIDER.** An entity operating a system that directly provides bicycles for rent on a short-term basis. **(Added by Ord. No. 185,480, Eff. 5/9/18.)**

**BICYCLE SHARE STATION.** A combination of multiple bicycle share docks, automated payment equipment, and related equipment associated with bicycle share. **(Added by Ord. No. 185,480, Eff. 5/9/18.)**

**BLOODMOBILE.** A vehicle, or portable structure transported by a vehicle, easily transportable in one or more sections, which is used to provide blood collection services on a temporary basis in any one location. **(Added by Ord. No. 166,045, Eff. 8/17/90.)**

**BOARD.** **(Repealed by Ord. No. 173,268, Eff. 7/1/00, Oper. 7/1/00.)**

**BOARDING OR ROOMING HOUSE.** A dwelling containing a single dwelling unit and not more than five guest rooms or suites of rooms, where lodging is provided with or without meals, for compensation. **(Amended by Ord. No. 107,884, Eff. 9/23/56.)**

**BUILDABLE AREA.** **(Amended by Ord. No. 171,662, Eff. 8/17/97.)** All that portion of a lot located within the proper zone for the proposed main building, excluding those portions of the lot which must be reserved for yard spaces, building line setback space, or which may only be used for accessory buildings or uses. For the purpose of computing the height district limitations on total floor area in buildings of any height, the buildable area that would apply to a one-story building on the lot shall be used.

Notwithstanding the above, in computing the height district limitations on total floor area for any development of residential dwelling units, or of both residential dwelling units and commercial uses, in the C2, C4, or C5 zones, buildable area shall have the same meaning as lot area. The additional square footage permitted by this calculation for residential use shall not result in an increase in the number of dwelling units beyond that which would have otherwise been permitted but may only be used to increase the floor area or number of habitable rooms within individual dwelling units.

This alternate definition of buildable area shall not apply within the following specific plan areas: Central City West, Century City North, Century City South, Coastal Bluffs, Devonshire/Topanga Corridor, Foothill Boulevard Corridor, Granada Hills, Oxford Triangle, Pacific Palisades Commercial Village/Neighborhoods, Playa Vista Area D, Porter Ranch Land Use/Transportation, San Pedro, Valley Village, and Westwood Village. This alternative definition shall also not apply to any lot for which a "Q" or "D" limitation setting forth a floor area limitation had been imposed before July 1, 1997. In the event of a conflict with any other adopted specific plan, the most restrictive provision shall prevail.

**BUILDING.** Any structure having a roof supported by columns or walls, for the housing, shelter or enclosure of persons, animals, chattels or property of any kind. **(Amended by Ord. No. 107,884, Eff. 9/23/56.)**

**BUNGALOW COURT.** A group of three or more single, duplex, or triplex dwelling structures oriented around a shared outdoor space on a single parcel. **(Added by Ord. No. 185,462, Eff. 4/18/18.)**

**CARGO CONTAINER.** Any container (refrigerated or non-refrigerated) that permits the temporary storage and protection of cargo, and which may be transported by ship, rail or truck without intermediate loading and unloading of the contents of the container. **(Added by Ord. No. 177,244, Eff. 2/18/06.)**

**CARGO CONTAINER STORAGE YARD.** An open-air site or facility, the primary use of which is the keeping of empty cargo containers, and equipment, and may have as accessory uses the storage of container chassis and truck cabs, repair facilities, warehouses and offices associated with the movement or storage of cargo containers. This definition does not include draying, freighting or trucking yards or terminals. **(Added by Ord. No. 177,244, Eff. 2/18/06.)**

**CEMETERY.** Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

**CHILD CARE FACILITY.** A facility in which non-residential care is provided for children, 16 years of age or under, when licensed as a day care facility for children by the State of California or other agency designated by the State, under the categories defined in Section 30019 of Title 22 of the State of California Administrative Code. **(Added by Ord. No. 145,474, Eff. 3/2/74.)**

**CHIPPING/GRINDING FACILITY.** Any facility which temporarily stores and/or processes source-separated green waste and/or wood waste by means of chipping, grinding, mixing and/or screening to produce a material of varying particle size. The material produced by the above described processes may be used as ground cover, biofuel, wood chips, animal bedding, worm food or other similar uses. This definition shall not include any chipping and/or grinding of green waste and/or wood waste conducted for noncommercial, nonprofit purpose. **(Added by Ord. No. 170,054, 11/13/94.)**

**CITY PLANNING COMMISSION.** **(Added by Ord. No. 173,268, Eff. 7/1/00, Oper. 7/1/00 and Amended by Ord. No. 173,374, Eff. 8/3/00.)** The Board of Commissioners of the City Planning Department shall be known as the City Planning Commission and shall consist of nine members. It shall:

- (a) give advice and make recommendations to the Mayor, Council, Director of Planning, municipal departments and agencies with respect to City planning and related activities and legislation;
- (b) make recommendations concerning amendment of the General Plan and proposed zoning ordinances in accordance



with Charter Sections 555 and 558;

(c) make reports and recommendations to the Council and to other governmental officers or agencies as may be necessary to implement and secure compliance with the General Plan;

(d) perform other functions prescribed by the Charter or ordinance;

(e) make decisions on any matter that would otherwise be heard by an Area Planning Commission if the matter involves a project which crosses the boundaries of the area served by more than one Area Planning Commission; and

(f) adopt guidelines for the administration of the provisions of this chapter if it determines that guidelines are necessary and appropriate. Authority to adopt guidelines for the administration of the provisions of this chapter may be delegated to others by adoption of a resolution by Council. Existing provisions of this chapter that delegate authority for the adoption of guidelines to others shall continue to apply with respect to those provisions.

**COMMERCIAL COACH.** A vehicle with or without motive power, designed and equipped for human occupancy for industrial, professional or commercial purposes. **(Added by Ord. No. 161,716, Eff. 12/6/86.)**

**COMMERCIAL CORNER DEVELOPMENT.** **(Amended by Ord. No. 175,223, Eff. 6/30/03.)**

(1) Any commercially used corner lot located in a C or M zone in Height District Nos. 1, 1-L, 1-VL or 1-XL, the lot line of which adjoins, is separated only by an alley adjacent to, or is located across the street from, any portion of a lot zoned A or R, or improved with any residential use (except in an M zone), or

(2) Any multi-family residentially used corner lot located in a C zone in Height District Nos. 1, 1-L, 1-VL or 1-XL, the lot line of which adjoins, is separated only by an alley adjacent to, or is located across the street from, any portion of a lot zoned RW1 or more restrictive zone.

For purposes of this definition, a Commercial Corner Development can be located on more than one lot only if the lots are adjacent, not divided by a public street, have a common parking area, and one or more buildings are erected or are proposed to be erected upon the lots.

**COMMISSION.** **(Repealed by Ord. No. 173,374, Eff. 8/3/00.)**

**COMMUNITY APARTMENT PROJECT.** The same as defined by Section 11004 of the California Business and Professions Code. **(Added by Ord. No. 151,432, Eff. 10/12/78.)**

**COMPACTION.** The densification of a Fill by mechanical means. **(Added by Ord. No. 181,624, Eff. 5/9/11.)**

**COMPOSTING FACILITY.** Any facility which processes source- separated organic materials to a stabilized state through controlled biological decomposition where the resultant material is beneficial to plant growth or soil structure when used as a soil amendment. Materials may initially be chipped, shredded, and/or screened on site prior to being composted. Composting may be conducted in an in-vessel system or in the open, such as windrow composting or aerated static pile composting. This definition shall not include any composting of green waste and/or wood waste conducted for noncommercial, nonprofit purpose. **(Added by Ord. No. 170,054, 11/13/94.)**

**CONDOMINIUM.** The same as defined by Section 783 of the California Civil Code. **(Added by Ord. No. 151.432. Eff. 10/12/78.)**

**CONVERSION PROJECT, COMMERCIAL/INDUSTRIAL.** An existing building used exclusively for commercial or industrial purposes, or both, proposed for conversion to a condominium or stock cooperative to be used exclusively for such purposes through approval of a tract or parcel map. For purposes of this definition, the term “existing” means that the building was constructed prior to 1945, or if it was built after 1945, a certificate of occupancy was issued for the building prior to the time of map application. **(Added by Ord. No. 154,960, Eff. 4/3/81.)**

**CONVERSION PROJECT, COMMERCIAL/INDUSTRIAL TO RESIDENTIAL.** An existing building used exclusively for commercial or industrial purposes, or both, proposed for conversion to a condominium, stock cooperative or community apartment to be used exclusively for residential purposes through approval of a tract or parcel map. For purposes of this definition, the term “existing” means that the building was constructed prior to 1945 or, if it was built after 1945, a certificate of occupancy was issued for the building prior to the time of map application. **(Added by Ord. No. 154,960, Eff. 4/3/81.)**

**CONVERSION PROJECT, RESIDENTIAL.** An existing apartment house, apartment hotel, hotel, multiple dwelling or group dwelling used exclusively for residential purposes proposed for conversion to a condominium, stock cooperative, or community apartment project to be used exclusively for residential purposes through approval of a tract or parcel map. For purposes of this definition, the term “existing” means that the building was constructed prior to 1945 or, if it was built after 1945, a certificate of occupancy has been issued for the building prior to the time of map application. **(Amended by Ord. No. 154,960, Eff. 4/3/81.)**



**CONVERSION PROJECT, RESIDENTIAL TO COMMERCIAL/INDUSTRIAL.** An existing apartment house, apartment hotel, hotel, multiple dwelling or group dwelling used exclusively for residential purposes proposed for conversion to a condominium or stock cooperative which is to be used exclusively for commercial or industrial purposes through approval of a tract or parcel map. For purposes of this definition, the term “existing” means that the building was constructed prior to 1945 or, if it was built after 1945, a certificate of occupancy was issued for the building prior to the time of map application. **(Added by Ord. No. 154,960, Eff. 4/3/81.)**

**CORPORATE HEADQUARTERS OR REGIONAL HOME OFFICE.** **(Added by Ord. No. 169,366, Eff. 4/1/94.)** The main administrative center or centers of one or more enterprises whose day-to-day functions is the retrieval and/or dissemination of information to a subsidiary and/or client business in and outside the City’s jurisdiction, through the means of electronic or data processing.

**COUNSELING AND REFERRAL FACILITY .** **(Added by Ord. No. 149,517. Eff. 5/26/77.)** A neighborhood facility which provides counseling services and subsequently refers applicants to appropriate licensed social service agencies offering professional remedial assistance. Counseling and referral services may be offered in one or more of the following areas: welfare, housing, employment, health, education, legal matters, job development, consumer action, recreation, family problems, juvenile problems, probation, and neighborhood improvement. Tutoring and legal aid shall be permitted as an accessory use only.

The facility may also administer the implementation of government funded programs established to provide low-income housing, job development classes and recreation.

The facility shall:

- (a) permit no more than 5 employees, and;
- (b) where located in a residentially developed area, maintain the residential character of the exterior of the building.

**CURB LEVEL.** The level of the established curb in front of the building measured at the center of such front. Where no curb level has been established, the City Engineer shall establish such curb level or its equivalent for the purpose of this article.

**CURING FACILITY.** Any composting facility, as defined by this Code, where additional and/or final biological stabilization is attained after most of the readily metabolized material has been decomposed, and where no chipping, grinding, or screening of material takes place. This definition shall not include any curing of green waste and/or wood waste conducted for noncommercial, nonprofit purpose. **(Added by Ord. No. 170,054, 11/13/94.)**

**CUT.** A portion of land surface or areas from which earth has been removed or will be removed by excavation. **(Added by Ord. No. 181,624, Eff. 5/9/11.)**

**DANCE HALL.** Any place where public dances are held or conducted, other than when incidental to the operation of a hotel, apartment hotel, banquet room, catering hall, church, school or lodge. **(Amended by Ord. No. 169,990, Eff. 9/17/94.)**

**DANCE HALL, HOSTESS.** Any dance hall or place conducting public dances where partners are provided for dancing or social contacts by those conducting, managing, maintaining or operating such public dances for patrons or guests and for which such patrons or guests pay a fee or other consideration. **(Added by Ord. No. 155,718, Eff. 8/6/81.)**

**DANCE, PUBLIC.** A gathering of persons in or upon any premises where dancing is participated in and to which premises the public is admitted. **(Added by Ord. No. 155,718, Eff. 8/6/81.)**

**DAY CARE FACILITY.** Same as Child Care Facility. **(Added by Ord. No. 145,474, Eff. 3/2/74.)**

**DAY-CARE HOME.** **(Deleted by Ord. No. 173,085, Eff. 3/19/00.)**

**DAY-CARE HOME, LARGE FAMILY.** **(Deleted by Ord. No. 173,085, Eff. 3/19/00.)**

**DAY-CARE HOME, SMALL FAMILY.** **(Deleted by Ord. No. 173,085, Eff. 3/19/00.)**

**DESTROYED.** Damaged so as to not be habitable as determined by the Department of Building and Safety. **(Added by Ord. No. 153,144, Eff. 12/28/79.)**

**DINING AREA.** A recess from a room or an alcove, adjoining and interconnected with the kitchen by a door or opening. **(Added by Ord. No. 146,421, Eff. 9/14/74.)**

**DIRECTOR OF PLANNING (DIRECTOR).** **(Amended by Ord. No. 173,455, Eff. 9/22/00.)** The chief administrative officer of the Department of City Planning shall be known as the Director of Planning and shall be appointed and removed as provided in Charter Section 508. The Director shall be chosen on the basis of administrative and technical qualifications, with special reference to actual experience in and knowledge of accepted practice in the field of city planning. The Director shall interpret the meaning of the General Plan and specific plans in instances when there is a lack of clarity in the meaning of those

regulations, subject to appellate review. The Director may appoint a designee to act on his or her behalf, in which case, references in this Code and other land use ordinances to Director shall include this designee, unless otherwise stated.

In accordance with Charter Section 553, the Director of Planning or his or her designee shall:

- (a) prepare the proposed General Plan of the City and proposed amendments to the General Plan;
- (b) prepare all proposed zoning and other land use regulations and requirements, including maps of all proposed districts or zones;
- (c) make investigations and act on the design and improvement of all proposed subdivisions of land as the advisory agency under the State Subdivision Map Act; and
- (d) have additional powers and duties as are provided by ordinance.

**DISASTER.** Fire, flood, wind, earthquake, or other calamity, act of God or the public enemy. **(Added by Ord. No. 153,144, Eff. 12/28/79.)**

**DORMITORY.** A guest room designed, intended or occupied as sleeping quarters by more than two persons. Every 100 square feet of superficial floor area in a dormitory shall be considered as a separate guest room. **(Added by Ord. No. 107,884, Eff. 9/23/56.)**

**DOWNTOWN DESIGN GUIDE PROJECT AREA.** **(Added by Ord. No. 181,557, Eff. 3/15/11.)** Those portions of the Central City Community Plan Area as shown in the shaded portion of Map A, dated April 30, 2010, and attached to Council File No. 10-1196, generally bounded by:

U.S. Highway 101 on the north, Alameda Street on the east, Second Street on the south, and Harbor Freeway (110 Freeway) on the west;

Fourth and Fifth Streets on the north, the alley easterly of Hill Street (Lindley Place), Grand Avenue, and Olive Street on the east, Olympic Boulevard and James M. Wood Boulevard on the south, and Harbor Freeway (110 Freeway) on the west;

Olympic Boulevard and Eleventh Street on the north, Figueroa Street on the east, Santa Monica Freeway (Interstate 10) on the south, and the Harbor Freeway (110 Freeway) on the west; and,

Ninth Street on the north, Crocker Street on the east, Twelfth Street on the south, and Main Street on the west.

**DRIVE-THROUGH FAST-FOOD ESTABLISHMENT.** Any establishment which dispenses food for consumption on or off the premises to an individual in a vehicle. **(Added by Ord. No. 166,904, Eff. 5/18/91.)**

**DWELLING.** Any residential building, other than an Apartment House, Hotel or Apartment Hotel. **(Amended by Ord. No. 107,884, Eff. 9/23/56.)**

**DWELLING, GROUP.** Two or more one-family, two-family or multiple dwelling, apartment houses or boarding or rooming houses, located on the same lot. **(Amended by Ord. No. 107,884, Eff. 9/23/56.)**

**DWELLING, MULTIPLE.** A dwelling containing two dwelling units and not more than five guest rooms. **(Amended by Ord. No. 107,884, Eff. 9/23/56.)**

**DWELLING, ONE-FAMILY.** A detached dwelling containing only one dwelling unit. **(Amended by Ord. No. 107,884, Eff. 9/23/56.)**

**DWELLING, TWO-FAMILY.** A dwelling containing two dwelling units. **(Amended by Ord. No. 107,884, Eff. 9/23/56.)**

**DWELLING UNIT.** A group of two or more rooms, one of which is a kitchen, designed for occupancy by one family for living and sleeping purposes. **(Amended by Ord. No. 107,884, Eff. 9/23/56.)**

**DWELLING UNIT, LOW INCOME.** **(Deleted by Ord. No. 180,308, Eff. 12/7/08.)**

**DWELLING UNIT, MODERATE INCOME.** **(Deleted by Ord. No. 180,308, Eff. 12/7/08.)**

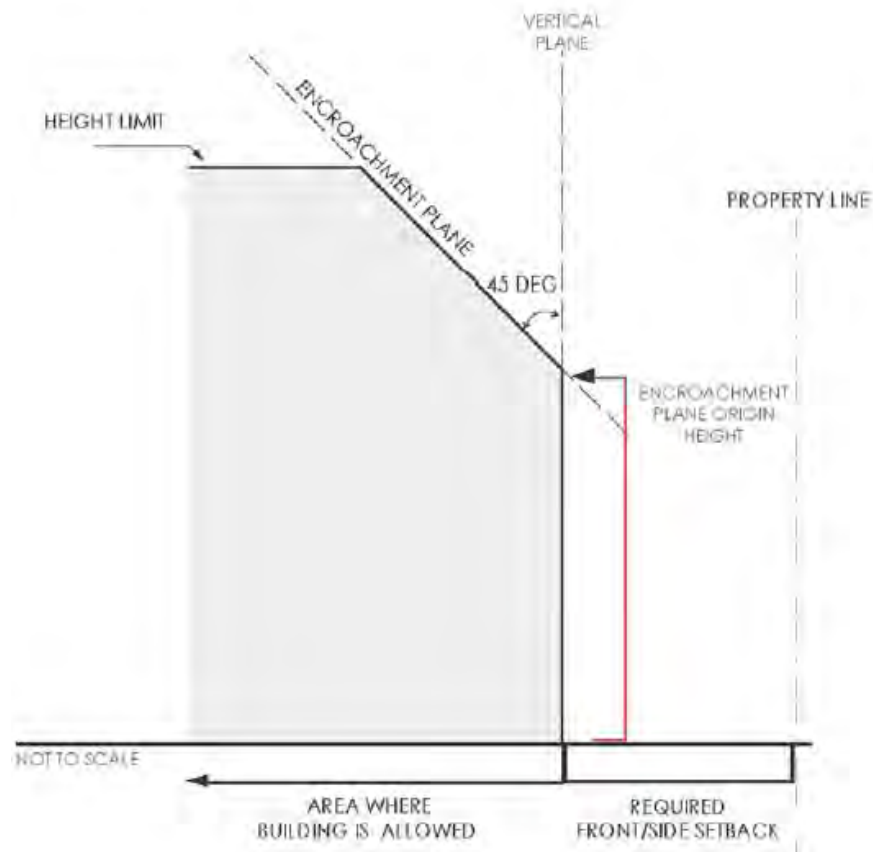
**EDUCATIONAL INSTITUTIONS.** Colleges or universities supported wholly or in part by public funds and other colleges or universities giving general academic instruction as prescribed by the State Board of Education.

**EFFICIENCY DWELLING UNIT.** A room located within an apartment house or apartment hotel used or intended to be used for residential purposes which has a kitchen and living and sleeping quarters combined therein, and which complies with the requirements of Section 91.4930.2 of this Code. **(Added by Ord. No. 138,456, Eff. 5/30/69.)**

**ELDERCARE FACILITY.** One functionally operated facility, which provides residential housing for persons 62 years of age and older, and which combines in one facility, two or more of the following housing types: Senior Independent Housing, Assisted Living Care Housing, Skilled Nursing Care Housing, and/or Alzheimer's/Dementia Care Housing. A minimum of 75 percent of the floor area, exclusive of common areas, shall consist of Senior Independent Housing and/or Assisted Living Care Housing. (Added by Ord. No. 178,063, Eff. 12/30/06.)

**ELEVATION.** Vertical distance in feet above sea level. (Added by Ord. No. 181,624, Eff. 5/9/11.)

**ENCROACHMENT PLANE.** An invisible inclined plane sloping inward at a forty-five degree angle from the vertical extension of the required front and side yard setbacks that originates at a specified height. A building may not intersect the encroachment plane. The encroachment plane restriction does not apply to roof structures and equipment as allowed by Section 12.21.1 B.3. For the purpose of this definition, height shall be measured from the existing or finished grade, whichever is lower, along the required front and side yard setbacks. (Added by Ord. No. 184,802, Eff. 3/17/17.)



**Figure 12.03-1: Encroachment Plane diagram.**

Different zones have different encroachment plane origin heights. (Added by Ord. No. 184,802, Eff. 3/17/17.)

**EQUINE.** Any horse, pony, donkey, burro, or mule which is 12 months of age or older and is issued a current Equine License by the City Department of Animal Services. An animal which is under 12 months of age and is the offspring of or is unweaned and being nursed by a female equine lawfully kept on the property where said animal is kept shall not be considered an equine and shall be allowed by right on said property. (“Department of Animal Regulation” renamed “Department of Animal Services” by Ord. No. 174,735, Eff. 9/13/02.)

**EQUINE ENCLOSURE.** Any structure or fence which establishes the perimeter of an equine keeping and maintenance area. (Added by Ord. No. 157,144, Eff. 11/22/82.)

**FACTORY-BUILT HOME.** A residential building, dwelling unit, or individual dwelling room or combination of rooms, or building component, assembly, or system manufactured in such a manner that all concealed parts or processes of manufacture cannot be inspected before installation at the building site without disassembly of, or damage or destruction to the part. This home shall comply with all applicable provisions of the California State Factory-Built Housing law. The term “**factory-built home**” shall not include a mobilehome, mobile accessory building or structure, recreational vehicle, or commercial coach. (Added by Ord. No. 161,716, Eff. 12/6/86.)

**FAMILY.** One or more persons living together in a dwelling unit, with common access to, and common use of all living, kitchen, and eating areas within the dwelling unit. (Amended by Ord. No. 177,325, Eff. 3/18/06.)

**FAMILY DAY CARE HOME** - A dwelling unit that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family day care home or a small family day care home. **(Added by Ord. No. 173,085, Eff. 3/19/00.)**

**FAMILY DAY CARE HOME, LARGE** - A family day care home for 9 to 14 children, including children under the age of 10 years who reside at the home, as set forth in Health and Safety Code Section 1597.465. **(Amended by Ord. No. 176,545, Eff. 5/2/05.)**

**FAMILY DAY CARE HOME, SMALL** - A family day care home for 8 or fewer children, including children under the age of 10 years who reside at the home, as set forth in Health and Safety Code Section 1597.44. **(Amended by Ord. No. 176,545, Eff. 5/2/05.)**

**FARMING.** The cultivation of berries, flowers, fruits, grains, herbs, mushrooms, nuts, ornamental plants, seedlings or vegetables for use on-site or sale or distribution on-site or off-site. **(Added by Ord. No. 181,188, Eff. 7/18/10.)**

**FILL.** The depositing of soil, rock or other earth materials by artificial means. **(Added by Ord. No. 181,624, Eff. 5/9/11.)**

**FLOOR AREA.** **(Amended by Ord. No. 182,386, Eff. 3/13/13.)** The area in square feet confined within the exterior walls of a Building, but not including the area of the following: exterior walls, stairways, shafts, rooms housing Building-operating equipment or machinery, parking areas with associated driveways and ramps, space dedicated to bicycle parking, space for the landing and storage of helicopters, and Basement storage areas.

Buildings on properties zoned RA, RE, RS, and R1, except properties in the Coastal Zone which are not designated as Hillside Area, are subject to the definition of Residential Floor Area.

**FLOOR AREA, RESIDENTIAL.** **(Amended by Ord. No. 184,802, Eff. 3/17/17.)** The area in square feet confined within the exterior walls of a residential or non-residential Building on a Lot in an RA, RE, RS, or R1 Zone. Any floor or portion of a floor with a ceiling height greater than 14 feet shall count as twice the square footage of that area. The area of stairways and elevator shafts shall only be counted once regardless of ceiling height. Area of an attic or portion of an attic with a ceiling height of more than 7 feet shall be included in the Residential Floor Area calculation.

Except that the following areas shall not be counted:

**1. Required Covered Parking.**

(a) The total area of 200 square feet per parking space that is required to be covered, up to a maximum of 400 square feet, shall be exempted from being counted as Residential Floor Area if all of said parking, whether detached or attached, is located in accordance with the following criteria:

(1) Said parking is located within the rear half of the Lot, or at least 55 feet from a Front Lot Line.

(2) On a Through Lot with no Rear Lot Line, said parking is set back from both Front Lot Lines a distance of at least 40 feet.

(b) If the parking that is required to be covered is not located in accordance with Paragraph (a) above, then only 200 square feet shall be exempted from being counted as Residential Floor Area.

(c) In any event, the required parking area exempted from counting as Residential Floor Area by this exception shall be limited to 400 square feet per Lot.

**2. Detached Accessory Buildings.** Detached Accessory Buildings not exceeding 200 square feet; however, the total combined area exempted of all the Detached Accessory Buildings on a Lot shall not exceed 400 square feet.

**3. Lattice Roof Porches, Patios, and Breezeways.** Porches, patios, and breezeways that have a Lattice Roof, as defined in this section.

**4. Basements.** For Lots not located in the Hillside Area or Coastal Zone, any Basement when the Elevation of the upper surface of the floor or roof above the Basement does not exceed 2 feet in height at any point above the finished or natural Grade, whichever is lower.

For Lots located in the Hillside Area, any Basement when the Elevation of the upper surface of the floor or roof above the Basement does not exceed 3 feet in height at any point above the finished or natural Grade, whichever is lower, for at least 60 percent of the perimeter length of the exterior Basement walls.

For all Lots, the following shall not disqualify said Basement from this exemption:

(a) A maximum of one (1), 20-foot wide depressed driveway with direct access to the required covered parking spaces; and

(b) A maximum of two (2) light-wells which are not visible from a public right-of-way and do not project more than three feet from the exterior walls of the Basement and no wider than 6 feet.

**FLOOR AREA RATIO (FAR).** A ratio establishing relationship between a property and the amount of development permitted for that property, and is expressed as a percentage or a ratio of the Buildable Area or Lot size (example: "3 times the Buildable Area" or "3:1"). **(Added by Ord. No. 181,624, Eff. 5/9/11.)**

**FLOOR AREA RATIO, RESIDENTIAL (RFAR).** A ratio establishing the relationship between a property and the amount of development permitted for that property, expressed as a percentage or a ratio of the Lot size (example: "0.45 of the Lot size"). **(Added by Ord. No. 184,802, Eff. 3/17/17.)**

**FOSTER CARE HOME.** A dwelling unit in which full-time care is provided for unrelated children, 16 years of age or under, as part of the family, when such use is licensed by the State of California or other agency designated by the State as a full-time foster home. Foster care children may be in addition to those permitted under the definition of "Family" contained in this section. **(Added by Ord. No. 145,474, Eff. 3/2/74)**

**FRONTAGE.** All property fronting on one (1) side of a street between intersecting or intercepting streets, or between a street and right-of-way, waterway, end of dead-end street, or city boundary measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts.

**GARAGE, PRIVATE.** An accessory building or portion of a main building designed or used for parking or storage of motor vehicles of the occupants of a residential use. **(Amended by Ord. No. 144,082, Eff. 12/11/72.)**

**GARAGE, PUBLIC.** A building or portion of a building designed or used for the repairing, equipping or servicing of motor vehicles, or for the parking or storage of motor vehicles for remuneration, hire, sale, or convenience of the occupants of the premises or the general public, but not including a private garage. **(Amended by Ord. No. 144,082, Eff. 12/11/72.)**

**GENERAL PLAN.** A General Plan is a comprehensive declaration of purposes, policies and programs for the development of the city, which includes, where applicable, diagrams, maps and text setting forth objections, principles, standards and other features, and which has been adopted by the City Council. **(Added by Ord. No. 138,800, Eff. 6/13/69, Oper. 6/23/69.)**

**GRADE (ADJACENT GROUND LEVEL).** Is the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than 5 feet from the building, between the building and a line 5 feet from the building. This definition does not apply to any building or structure located within the boundaries of the Century City North or Century City South Specific Plans and which is subject to Section 12.21.2 of this Code. **(Amended by Ord. No. 160,657, Eff. 2/17/86, Oper. 6/17/86.)**

**GRADE, HILLSIDE AREA.** For the purpose of measuring height on an R1, RS, RE, or RA zoned Lot in the Hillside Area, pursuant to Section 12.21 C.10. of this Code, Hillside Area Grade shall be defined as the Elevation, at the perimeter of a Building or Structure, of the finished or natural surface of the ground, whichever is lower, or the finished surface of the ground established in conformance with a grading plan approved pursuant to a recorded tract or parcel map action. Retaining walls shall not raise the effective Elevation of Grade for purposes of measuring Height of a Building or Structure **(Amended by Ord. No. 184,802, Eff. 3/17/17.)**

**GRADING.** Any Cut or Fill, or combination thereof, or recompaction of soil, rock or other earth materials. **(Added by Ord. No. 181,624, Eff. 5/9/11.)**

**GRADING, LANDFORM.** A contour grading method which creates artificial Slopes with curves and varying Slope ratios in the horizontal plane designed to simulate the appearance of surrounding natural terrain. The graded Slopes are non-linear in plan view, have varying Slope gradients, and significant transition zones between human-made and natural Slopes resulting in pad configurations that are irregular. The concept of Landform Grading incorporates the created ravine and ridge shapes with protective drainage control systems and integrated landscaping designs. **(Added by Ord. No. 181,624, Eff. 5/9/11.)**

**GRADING, REMEDIAL.** For the purposes of Section 12.21 C.10. of this Code, Remedial Grading shall mean grading recommended by a California Licensed Geologist and/or Licensed Engineer prepared in accordance with Sections 91.7006.2, 91.7006.3, and 91.7006.4 of this Code, and approved by the Department of Building and Safety - Grading Division, that is necessary to mitigate a geologic or geotechnical hazard on a site (including for access driveways), including, but not limited to: 1) correction of hazardous soil and earth conditions, when notified by the Department of Building and Safety in accordance with Section 91.7005.7 of this Code, 2) removal and re-compaction of soil for a Building site to remediate expansive, compressible or seismically unstable soils, 3) grading required to provide a minimum factor of safety of 1.5 for stability of slopes, and/or 4) grading to bring existing steep non-conforming graded slopes into conformance with current Code requirements for fill and excavated slope gradients. **(Added by Ord. No. 181,624, Eff. 5/9/11.)**

**GREATER DOWNTOWN HOUSING INCENTIVE AREA.** Those portions of the Central City and Southeast Community Plan Areas generally bounded by the 101 Freeway on the north, the 110 freeway and Figueroa Street (south of Adams Blvd) on the west, Alameda and Grand Avenue (south of 21st Street) on the east, and Washington Boulevard and Martin Luther King Jr. Blvd (west of Broadway) on the south as shown in the shaded portion of Map A, dated January 23, 2007, attached to Council File



**GREEN WASTES.** All yard trimmings and/or leaves, grass clippings, agricultural wastes and vegetative landscaping materials generated from the maintenance of yards, parks or other similar facilities. (Added by Ord. No. 170,054, 11/13/94.)

**GROUND FLOOR.** The story or basement within a portion of a building that has an access door that is directly accessible to and fronts on the street, and the elevation of the floor level is within three feet above or below the adjacent curb. The point on the adjacent curb is determined by drawing a line perpendicular to the door between the centerline of such door and the curb of the street. No portion of a ground floor can be located directly above or below another ground floor. (Added by Ord. No. 174,999, Eff. 1/15/03.)

**GUEST HOUSE.** A dwelling containing not more than five guest rooms or suites of rooms, but with no kitchen facilities. (Amended by Ord. No. 107,884, Eff. 9/23/56.)

**GUEST ROOM.** Any habitable room except a kitchen, designed or used for occupancy by one or more persons and not in a dwelling unit. (Added by Ord. No. 107,884, Eff. 9/23/56.)

**HEIGHT OF BUILDING OR STRUCTURE.** Is the vertical distance above grade measured to the highest point of the roof, structure, or the parapet wall, whichever is highest. Retaining walls shall not be used for the purpose of raising the effective elevation of the finished grade for purposes of measuring the height of a building or structure. This definition does not apply to any building or structure located within the boundaries of the Century City North and Century City South Specific Plans and which is subject to Section 12.21.2 of this Code. (Added by Ord. No. 160,657, Eff. 2/17/86, Oper. 6/17/86.)

**HIGHWAY, MAJOR.** Any street designated as a major highway on the Highways and Freeways maps of the Transportation Element of the General Plan. (Amended by Ord. No. 172,840, Eff. 11/4/99.)

**HIGHWAY, SECONDARY.** Any street designated as a secondary highway on the Highways and Freeways maps of the Transportation Element of the General Plan. (Amended by Ord. No. 172,840, Eff. 11/4/99.)

**HILLSIDE AREA.** Any land designated as Hillside Area as shown in the shaded portion of the Department of City Planning Hillside Area Map, dated September 23, 2009, attached to Council File No. 09-1390. The map is maintained by the Department of City Planning as part of the Geographic Information Systems database. (Amended by Ord. No. 181,128, Eff. 5/3/10.)

**HISTORIC VEHICLE COLLECTION.** One or more vehicles, as defined by Sections 5004(a)(1), (2) and (3) of the California Vehicle Code, special interest vehicles, as defined by Section 5051(b) of the California Vehicle Code, out-of-production vehicles of historical importance, as determined by the Zoning Administrator or parts cars, as defined in Section 5051(c) of the California Vehicle Code, which are collected, restored, or maintained for non-commercial hobby or historical purposes. (Added by Ord. No. 161,931, Eff. 3/2/87.)

**HIVE.** (Added by Ord. No. 183,920, Eff. 12/6/15.) A structure that houses a bee colony.

**HOME OCCUPATION.** An occupation carried on by the occupant or occupants of a dwelling as a secondary use in connection with the main use of the property, subject to the regulations of Section 12.05 A.16. of this Code. For dwelling units where a home occupation is conducted, the home occupation shall be considered a residential use for zoning purposes. (Amended by Ord. No. 171,427, Eff. 1/4/97, Oper. 3/5/97.)

**HOME-SHARING.** An accessory use of a Host's Primary Residence for a maximum of 120 days in a calendar year for the purpose of providing Short-Term Rental in compliance with the registration and other requirements of Los Angeles Municipal Code Section 12.22 A.32. For purposes of this definition, the terms "Host", "Short-Term Rental" and "Primary Residence" shall have the same meaning as defined in Section 12.22 A.32. of this Code. (Added by Ord. No. 185,931, Eff. 7/1/19.)

**HOSTEL.** A one-family dwelling, boarding or rooming house, dormitory, apartment hotel or apartment house which is advertised as a hostel or which is listed with any recognized national or international hostel organization. (Added by Ord. No. 167,689, Eff. 5/9/92.)

**HOTEL.** A residential building designated or used for or containing six or more guest rooms, or suites of rooms, which may also contain not more than one dwelling unit, but not including any institution in which human beings are housed or detained under legal restraint. (Amended by Ord. No. 138,685, Eff. 7/10/69.)

**HOUSEHOLD, LOW INCOME.** (Deleted by Ord. No. 180,308, Eff. 12/7/08.)

**HOUSEHOLD, MODERATE INCOME.** (Deleted by Ord. No. 180,308, Eff. 12/7/08.)

**HOUSEHOLD MOVING RENTAL TRUCK.** Any motor vehicle which is displayed, stored or offered for rental without a driver, used and maintained solely for the transportation of property, primarily used for the do-it-yourself movement of personal or household goods by private individuals on a short-term basis, having only two axles, and equipped with a body of no more than 22 feet in length measured at the vehicle chassis nor more than 12 feet in height measured from the surface upon which the involved truck rests. Such vehicle may exceed 5600 pounds in registered net weight. (Amended by Ord. No. 151,717, Eff.

**HOUSING AUTHORITY. (Deleted by Ord. No. 180,308, Eff. 12/7/08.)**

**HOUSING DEVELOPMENT.** The construction pursuant to a building permit of, or the proposed conversion to condominium ownership pursuant to a final subdivision tract map submitted for approval of any apartment house, apartment hotel, multiple dwelling or group dwelling, residential condominium development or cooperative apartment home having five or more dwelling units. **(Added by Ord. No. 145,927, Eff. 6/3/74.)**

**HOUSING DIRECTOR. (Deleted by Ord. No. 180,308, Eff. 12/7/08.)**

**INOPERABLE VEHICLE.** Any motor vehicle or trailer which is incapable of immediate and sustained movement for which it was designed. **(Added by Ord. No. 176,840, Eff. 9/4/05.)**

**IN-VESSEL COMPOSTING.** A process in which compostable material is enclosed in a drum, silo or similar structure where the environmental conditions are controlled and the compostable material is aerated and mechanically agitated. This process allows for accelerated decomposition. **(Added by Ord. No. 170,054, 11/13/94.)**

**JOINT LIVING AND WORK QUARTERS.** A residential occupancy of one or more rooms or floors used as a dwelling unit with adequate work space reserved for, and regularly used by, one or more persons residing there. **(Amended by Ord. No. 181,133, Eff. 5/11/10.)**

**JUNIOR ACCESSORY DWELLING UNIT (JADU).** A unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A Junior Accessory Dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure. **(Added by Ord. No. 186,481, Eff. 12/19/19.)**

**JUNK YARD.** Any property or place where the business of a junk dealer, as defined by either Section 21601 of the California Business and Profession's Code or Section 103.305 of the Los Angeles Municipal Code, is conducted – other than wholly within an enclosed building. In addition, a junk yard shall include property used for the storage of impounded, abandoned, partially dismantled, obsolete or wrecked automobiles – other than wholly within an enclosed building. Junk Yard does not include an Historic Vehicle Collection when maintained as an Accessory Use as defined by Section 12.03 of the Municipal Code, or Scrap Metal Processing Yard as defined in the Municipal Code. **(Amended by Ord. No. 161,931, Eff. 3/2/87.)**

**KENNEL.** Any lot, building, structure, enclosure or premises where four or more dogs that are each at least four months of age are kept or maintained, with the exception of a Pet Shop. **(Amended by Ord. No. 186,372, Eff. 12/10/19.)**

A municipality may lawfully regulate the number of dogs that may be kept and may also prescribe an age limit.  
*Miller v. City of Arcadia*, (1932) 121 Cal. App. 660.

**KITCHEN.** Any room or any portion of a dwelling unit, whether an enclosing subdivision thereof or otherwise, used or intended or designed to be used for cooking and preparing food except a light housekeeping room or that portion of a recreation room in a multiple residential use, or in an accessory building appurtenant thereto, containing the facilities for the cooking and preparation of food. **(Amended by Ord. No. 140,191, Eff. 5/15/70, Operative 10/12/70.)**

**LEACHATES.** Any liquid which has come into contact with or percolated through composting or curing materials and contains extracted or dissolved substances therefrom, or any other liquid which has been generated by the decomposition process. **(Added by Ord. No. 170,054, 11/13/94.)**

**LIGHT HOUSEKEEPING ROOM.** Any guest room which is designed and used as a bedroom and for the cooking and preparing of food, in a conformance with the provisions of Section 91.4930.1 of Article 1, Chapter 9 of this Code. For the purpose of applying the lot area and automobile parking space requirements of the various zones, each light housekeeping room shall be considered as a separate guest room. **(Added by Ord. No. 113,548, Eff. 6/10/59.)**

**LOADING SPACE.** An off street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

**LOT.** A parcel of land occupied or to be occupied by a use, building or unit group of buildings and accessory buildings and uses, together with the yards, open spaces, lot width and lot area as are required by this chapter and fronting for a distance of at least 20 feet upon a street as defined here, or upon a private street as defined in Article 8 of this chapter. The width of an access-strip portion of a lot shall not be less than 20 feet at any point. In a residential planned development or an approved small lot subdivision a lot need have only the street frontage or access as is provided on the recorded subdivision tract or parcel map for the development. **(Amended by Ord. No. 176,354, Eff. 1/31/05.)**

**LOT – AIR SPACE. (Added by Ord. No. 156,681, Eff. 6/21/82.)** A division of the space above or below a lot as defined in this section with a finite width, length, and upper and lower elevation occupied or to be occupied by a use, building or portion thereof, unit group of buildings or portions thereof, and accessory buildings or portions thereof or accessory uses. An air space lot shall be identified on a final map or a parcel map recorded in the office of the County Recorder with a separate and distinct number or letter.

An air space lot shall have such access to a street (as defined in this section) or private street (as defined in Article 8 of this chapter) by means of one or more easements or other entitlements to use in a form satisfactory to the Advisory Agency and the City Engineer.

**LOT, CORNER.** A lot situated at the intersection of two (2) or more streets having an angle of intersection of not more than one hundred thirty five (135) degrees.

**LOT, DOWNHILL.** A Lot for which the Front Lot Line, or Street which serves as the primary vehicular access point for the required parking, is at a higher Elevation than the Rear Lot Line. **(Added by Ord. No. 181,624, Eff. 5/9/11.)**

**LOT, FLAG.** A lot so shaped and designed that the main building site area is set back from the street on which it fronts and includes an access strip not less than 20 feet in width at any point connecting the main building site area to the frontage street. **(Added by Ord. No. 137,956, Eff. 3/2/69.)**

**LOT, INTERIOR.** A lot other than a corner lot.

**LOT, KEY.** The first interior lot to the rear of a reversed corner lot and not separated therefrom by an alley.

**LOT, REVERSED CORNER.** A corner lot the side street line of which is substantially a continuation of the front line of the first lot to its rear.

**LOT, THROUGH.** A lot having a frontage on two parallel or approximately parallel streets, but not including those lots having frontage on a street and frontage on a navigable public canal or waterway parallel or approximately parallel to said street. **(Amended by Ord. No. 184,802, Eff. 3/17/17.)**

**LOT, TRANSITIONAL.** The first 100 feet of a lot in an RA or R Zone having a side line adjoining or separated only by an alley from a lot in a C or M Zone. **(Amended by Ord. No. 111,049, Eff. 5/3/58.)**

**LOT, UPHILL.** A Lot for which the Front Lot Line, or Street which serves as the primary vehicular access point for the required parking, is at a lower Elevation than the Rear Lot Line. **(Added by Ord. No. 181,624, Eff. 5/9/11.)**

**LOT, VACANT.** A lot on which no building, temporary or permanent, is erected. **(Added by Ord. No. 153,361, Eff. 3/2/80.)**

**LOT AREA.** The total horizontal area within the lot lines of a lot.

**LOT DEPTH.** The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

**LOT LINE, FRONT.** In the case of an interior lot, the line separating the lot from the street or place, and in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street, except in those cases where the latest tract deed restrictions specify another line as the front lot line.

**LOT LINE, REAR.** A lot line which is opposite and most distant from the front lot line and, in the case of an irregular, triangular, or gore-shaped lot, a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front line.

**LOT LINE, SIDE.** Any lot boundary line not a front lot line or a rear lot line.

**LOT WIDTH.** The horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

**LOW TO MODERATE COST HOUSING.** Housing for which the rent does not exceed the current Fair Market Rent for Existing Housing standards applicable to Los Angeles City as established for Section 8 and 23 Housing Assistance Payments Program by the United States Department of Housing and Urban Development. **(Added by Ord. No. 151,432, Eff. 10/12/78.)**

**MAJOR REMODEL - HILLSIDE.** Any remodeling of a main building on a lot in the Hillside Area whenever the aggregate value of all alterations within a one-year period exceeds 50 percent of the replacement cost of the main building. **(Added by Ord. No. 168,159, Eff. 9/14/92.)**

**MANUFACTURED HOME.** The term "manufactured home" shall include a factory-built home and mobilehome but shall not include a recreational vehicle, or commercial coach. **(Added by Ord. No. 161,716, Eff. 12/6/86.)**

**MINI-SHOPPING CENTER.** **(Amended by Ord. No. 175,223, Eff. 6/30/03.)** A building or group of buildings located on a lot or lots, having all of the following characteristics:

- (1) Size - comprised of less than 65,000 square feet of lot area before any dedications required in connection with the building permit or other permits for the Mini-Shopping Center;



- (2) Use - used for more than one retail establishment, such as a store, shop, business, service or facility;
- (3) Zoning - located in the C or M1, M2 or M3 Zones; and
- (4) Improvements - improved with a structure or structures that do not exceed a height of three stories.

For purposes of this definition, a Mini-Shopping Center can be located on more than one lot only if the lots are adjacent, not divided by a public street, have a common parking area, and one or more buildings are erected or are proposed to be erected upon the lots.

The definition of Mini-Shopping Center shall not include the following:

An automobile service station, including service bay areas, where accessory food sales do not exceed 600 square feet of floor area and other accessory uses do not exceed 500 square feet of floor area; or

Commercial buildings composed of general business or professional offices, including those of a real estate or stock broker, or an insurance or building and loan company, with 30% or less of the total square footage containing related commercial/retail uses that are located on the first and second floors, so long as parking is provided for the commercial/retail uses as required by Section 12.21 A.4.

**MINOR EMERGENCY REPAIRS.** Those repairs to a currently State licensed motor vehicle owned by the occupants of the property which do not require the complete immobilization of the vehicle in excess of 24 hours duration or does not require the removal of the engine transmission, rear-end or more than one wheel. Minor emergency repairs does not include body and fender work. **(Added by Ord. No. 137,210, Eff. 10/12/68.)**

**MOBILE MEDICAL FACILITY.** A vehicle, or portable structure transported by a vehicle, easily transportable in one or more sections, which is used to provide primarily diagnostic or preventive medical services on a temporary basis in any one location. **(Added by Ord. No. 166,045, Eff. 8/17/90.)**

**MOBILEHOME.** When used in Sections 12.08.1, 12.09.3, and 12.24 of this Code, this term shall mean a structure transportable in one or more sections, designed and equipped to be used as a dwelling unit or accessory to a dwelling unit. This structure shall comply with all applicable provisions of the California State Mobilehomes – Manufactured Housing Act. The term “mobilehome” shall not include a factory-built home, recreational vehicle, or commercial coach. **(Amended by Ord. No. 164,904, Eff. 7/6/89.)**

**MOBILEHOME PARK.** When used in Sections 12.09.3, 12.24, and 17.50 of this Code, this term shall mean any lot or portion of a lot used to provide rental or lease sites for two or more individual mobilehomes or trailers used as one-family dwellings. **(Amended by Ord. No. 164,904, Eff. 7/6/89.)**

**MOBILEHOME SITE.** When used in Section 12.24 of this Code, this term shall mean that portion of a mobilehome park set aside and designated for the occupancy of a mobilehome or trailer and including the area set aside or used for parking and buildings or structures such as awnings, cabanas or ramadas which are accessory to the mobilehome or trailer. **(Added by Ord. No. 161,716, Eff. 12/6/86.)**

**MODEL DWELLING.** **(Deleted by Ord. No. 172,839, Eff. 11/1/99.)**

**MOVABLE TINY HOUSE.** **(Added by Ord. No. 186,481, Eff. 12/19/19.)** An enclosed space intended for separate, independent living quarters of one Family as defined in Section 12.03 of this Code and that meets all of the following:

- (a) Is licensed and registered with the California Department of Motor Vehicles;
- (b) Meets the American National Standards Institute (ANSI) 119.5 requirements or the National Fire Protection Association (NFPA) 1192 standards, and is certified for ANSI or NFPA compliance;
- (c) Cannot move under its own power;
- (d) Is no larger than allowed by California State Law for movement on public highways; and
- (e) Is no smaller than 150 and no larger than 430 square feet as measured within the exterior faces of the exterior walls.

**MULCH.** A woody vegetative material used as a nonnutritive ground cover to control erosion, improve water retention and retard weed growth. **(Added by Ord. No. 170,054, 11/13/94.)**

**MULCHING FACILITY.** Any facility which receives, temporarily stores and processes primarily source-separated carbonaceous wood waste and/or yard trimmings into a mulch. Examples of such materials include clean wood waste, tree and shrub trimming, leaves and other high carbon, low nitrogen material which decompose at a slow rate and have little leachate or odor-causing potential. Processing of such materials is achieved by chipping and screening to attain a uniform particle size and

may include limited aging of the material to achieve a desired appearance. This definition shall not include any mulching of green waste and/or wood waste conducted for noncommercial, nonprofit purpose. **(Added by Ord. No. 170,054, 11/13/94.)**

**NATURE PRESERVE.** An area in its natural state which serves as a habitat for flora and/or fauna indigenous to the area, or as a corridor linking such habitats, including but not limited to a bird sanctuary, and which is designated as a nature preserve on the applicable community or district plan by footnote or other means, and where permitted uses are only incidental to the preservation and enhancement of the preserve. **(Added by Ord. No. 166,168, Eff. 10/3/90.)**

**NONCONFORMING BUILDING.** A building, structure or portion thereof, which does not conform to the regulations of this chapter and which lawfully existed at the time the regulations, with which it does not conform, became effective.

**NONCONFORMING LOT.** A lot whose width, area or other dimensions does not conform to the regulations of this chapter and which lawfully existed at the time the regulations with which it does not conform became effective. **(Amended by Ord. No. 127,777, Eff. 8/1/64.)**

**NONCONFORMING USE.** A use of building or land which does not conform to the regulations of this chapter and which lawfully existed at the time the regulations with which it does not conform became effective.

**OUTDOOR EATING AREA.** When used in Sections 12.12.2, 12.13, 12.14, 12.21.1 and 12.24, this term shall refer to a covered or uncovered portion of a ground floor restaurant which is not completely enclosed within the building; is used primarily for the consumption of food and/or drinks by the patrons of the restaurant; and is not larger than 50 percent of the dining area of the ground floor restaurant. A “**ground floor**” restaurant refers to any restaurant with an average finished floor elevation either below or not more than three feet above natural grade as measured from any point along the exterior building wall closest to the restaurant. **(Amended by Ord. No. 165,403, Eff. 2/17/90.)**

**PARALLEL PARKING STALL .** A parking stall having its length parallel with its access aisle. **(Amended by Ord. No. 142,306, Oper. 2/9/72.)**

**PARKING AREA, PRIVATE .** An open area located on the same lot with a dwelling, apartment house, hotel or apartment hotel, for the parking of automobiles of the occupants of such building. **(Amended by Ord. No. 138,859, Eff. 8/21/69.)**

**PARKING AREA, PUBLIC .** Any open area other than a street or a private parking area, used for the parking of more than four automobiles.

**PARKING BAY.** The width of two rows of parking stalls and the aisle between, or on a single loaded aisle with width of one row of parking stalls and the access aisle. **(Added by Ord. No. 142,306, Oper. 2/9/72.)**

**PARKING. BUILDING .** Any garage designed and used primarily for the parking of automobiles. **(Amended by Ord. No. 144,082, Eff. 12/11/72.)**

**PARKING SPACE, AUTOMOBILE .** Space within a building or a private or public parking area, exclusive of driveways, ramps, columns, office and work areas, for the parking of one (1) automobile.

**PARKING STALL.** Same as Parking Space, Automobile. **(Added by Ord. No. 142,306, Oper. 2/9/72.)**

**PET SHOP.** Any retail or commercial establishment, store or department of any store, or any place of business open to the public where dogs, cats, rabbits, birds, reptiles or any other animals are kept and offered for adoption or sale, for hire, or sold, irrespective of the age of the animals, provided that the facility operates pursuant to a pet shop permit issued by the Department of Animal Services, and is not used for the breeding of dogs, cats or rabbits or the commercial boarding of animals. The term "Pet Shop" shall include "Pet Store", and "Animal Adoption Facility". **(Added by Ord. No. 186,372, Eff. 12/10/19.)**

**PHILANTHROPIC INSTITUTION.** A nonprofit, charitable institution devoted to the housing, training or care of children, or of aged, indigent, handicapped or underprivileged persons, but not including the following: office buildings, except as an accessory to and located on the same lot with an institutional activity, as listed above; hospitals, clinics or sanitariums, correctional institutions, institutions or homes for the insane or those of unsound mind; lodging houses or dormitories providing temporary quarters for transient unemployed persons; organizations devoted to collecting and salvaging new or used materials, or organizations devoted principally to distributing food, clothing or supplies on a charitable basis.

**POOL.** Any constructed pool used for swimming, bathing or wading or as a fishpond or similar use. **(Added by Ord. No. 109,714, Eff. 8/26/57.)**

**PRINCIPAL USE.** The main permitted use of land or structures as distinguished from an accessory use. **(Added by Ord. No. 152,467, Eff. 7/14/79.)**

**RECREATION ROOM.** A room contained in either a main building or an accessory building, designed to be utilized primarily for games, the pursuit of hobbies, social gatherings, and such activities. Such a room may contain such plumbing fixtures as are utilized in a bar or for hobby activities. Such a room in a single-family or two-family dwelling or in an accessory building appurtenant to a single-family or two-family dwelling, may not include facilities for the cooking and preparation of food.

However, in a multiple residential use or in an accessory building appurtenant thereto, a recreation room which is for the common use of all the dwelling units therein may contain the facilities for the cooking and preparing of food. **(Added by Ord. No. 138,685, Eff. 7/10/69.)**

**RECREATIONAL VEHICLE.** A portable vehicle mounted on wheels, with or without motive power, and primarily designed and constructed to provide human habitation for recreational, camping, travel or emergency purposes. **(Added by Ord. No. 161,716, Eff. 12/6/86.)**

**RECREATIONAL VEHICLE PARK.** Any lot or portion of a lot permitted by conditional use to provide rental or lease sites for individual recreational vehicles which are occupied for temporary purposes. **(Added by Ord. No. 161,716, Eff. 12/6/86.)**

**RECYCLABLE MATERIALS.** Items or materials to be recycled or reused, including but not limited to yard waste, paper, plastic, glass, metal, newspaper, and cardboard. **(Added by Ord. No. 171,687, Eff. 8/19/97.)**

**RECYCLING AREA OR ROOM.** An outdoor space or a room within a building which is designated for the collection of Recyclable Materials generated by the use(s) occupying only that site, is approved by the Fire Department and the Department of Building and Safety, and has the space to accommodate Recycling Receptacles. **(Added by Ord. No. 171,687, Eff. 8/19/97.)**

**RECYCLING CENTER, MOBILE.** A receptacle, usually a trailer, for the collection of recyclable materials that is drawn by motor power and bears a valid state license. **(Added by Ord. No. 158,503, Eff. 1/1/84.)**

**RECYCLING CENTER OPERATOR OR JUNK DEALER.** A person having a fixed place of business in the City and engaging in, conducting, managing or carrying on the business of buying, selling or otherwise charging or re-selling for reuse, materials approved for collection at an approved Recycling Center or Buyback Center, Recycling Materials Processing Facility, Recycling Materials Sorting Facility or Junk Yard as defined by this Code. **(Amended by Ord. No. 171,687, Eff. 8/19/97.)**

**RECYCLING CENTER OR SITE.** **(Definition Deleted by Ord. No. 171,687, Eff. 8/19/97.)**

**RECYCLING CHUTE.** Any vertical smooth shaft used to convey recyclable materials from the upper floors of a building to a recyclable storage bin or room at the bottom end of the chute. **(Added by Ord. No. 181,227, Eff. 9/1/10.)**

**RECYCLING COLLECTION OR BUYBACK CENTER.** A facility where Recyclable Materials are deposited or redeemed for monetary value, and which may include baling or crushing operations for the purposes of efficiency of storage and transfer (volume reduction), but shall not include sorting or processing activities for other than temporary storage purposes. **(Added by Ord. No. 171,687, Eff. 8/19/97.)**

**RECYCLING MATERIALS PROCESSING FACILITY.** A facility which accepts Recyclable Materials for sorting and processing on the site. For the purpose of this definition, processing shall mean the process of changing the physical characteristics of a Recyclable Material, including the shredding, smelting, grinding and crushing of cans, bottles, and other materials, for other than temporary storage purposes. **(Added by Ord. No. 171,687, Eff. 8/19/97.)**

**RECYCLING MATERIALS SORTING FACILITY.** A facility which accepts commingled or source-separated Recyclable Materials of various types, which are separated on the site using a manual or automated system. For the purpose of this definition, source-separated Recyclable Materials are those which are separated from the waste stream at their point of generation for the purpose of recycling. This may include baling or crushing operations for the purposes of efficiency of storage and transfer (volume reduction), but shall not include processing activities for other than temporary storage purposes. **(Added by Ord. No. 171,687, Eff. 8/19/97.)**

**RECYCLING RECEPTACLE.** A container which is suitable for the collection of Recyclable Materials. Containers shall be covered, durable, waterproof, rustproof, and of incombustible construction, and shall provide protection against the environment or be in completely enclosed indoor recycling areas. Containers must be clearly labeled to indicate the type of material to be deposited. **(Added by Ord. No. 171,687, Eff. 8/19/97.)**

**REGISTERED NET WEIGHT.** Registered net weight of a commercial vehicle is the unladen weight, as that term is defined by State Vehicle Code Section 660 and evidenced on the registration card kept within a commercial vehicle pursuant to State Vehicle Code Section 4454 or 4455 as the registration weight of a commercial vehicle pursuant to State Vehicle Code Section 9400. **(Added by Ord. No. 148,857, Eff. 10/30/76.)**

**RENTABLE FLOOR AREA.** The floor area in a building, exclusive of corridors, stairs, elevator shafts, laboratories, flues and janitor's storage closets.

**RESIDENTIAL BUILDING.** A building or portion thereof designed or used for human habitation. **(Added by Ord. No. 107,884, Eff. 9/23/56.)**

**RESIDENTIAL PLANNING DEVELOPMENT.** A group of residential buildings and appurtenant structures located and arranged in accordance with the requirement of the RPD - residential planned development district (Sec. 13.04) in which the property is located. A residential planned development may include schools. It may also include churches, hospitals, infirmaries, recreational and commercial uses, as an integral part of the development and intended for use by its occupants, to an extent

commensurate with the planned population of the RPD district. **(Added by Ord. No. 141,474, Eff. 2/27/71.)**

**RESIDENTIAL VEHICLE.** A mobilehome, or a travel trailer containing a minimum of two hundred and twenty (220) square feet of superficial floor area exclusive of bath, closet and water closet areas, as defined by the California Health and Safety Code Sections 18211 and 18219. Such residential vehicle shall contain cooking, eating, sleeping, toilet and bathing facilities and shall display a California Department of Housing and Community Development insignia issued within one year prior to the date of application for the use of land permit herein required and a valid current California vehicle license. **(Added by Ord. No. 153,144, Eff. 12/28/79.)**

**RETIREMENT HOTEL.** A building with guest rooms and/or dwelling units in which 90 percent or more of the occupants are age 62 or older and for which a covenant running with the land is recorded limiting the use as such for as long as the building contains any guest rooms. **(Added by Ord. No. 159,714, Eff. 4/8/85.)**

**REVERSE VENDING MACHINE.** An automated mechanical device which accepts one or more types of empty beverage containers including aluminum cans, glass and plastic bottles, and which issues a cash refund or a redeemable credit slip with a value not less than the container's redemption value as determined by the State of California. A reverse vending machine may sort and process containers mechanically, provided that the entire process is enclosed within the machine. **(Added by Ord. No. 168,662, Eff. 4/29/93.)**

**REVERSE VENDING MACHINE COMMODITY STORAGE BIN.** A non-automated container which is covered and made of durable, incombustible, rustproof and waterproof construction, which is used to store the processed aluminum cans, glass and plastic bottles that are removed from a reverse vending machine. **(Added by Ord. No. 168,662, Eff. 4/29/93.)**

**ROOF, LATTICE.** A roof covering constructed as an Open Egg-Crate Roof or Spaced Roof. An Open Egg-Crate roof is constructed of lattice members so that a sphere of 10 inches minimum in diameter can pass through. All lattice members must have a minimum nominal width of 2 inches. A Spaced Roof is constructed of members running in one direction only with a minimum clear spacing between the members of not less than 4 inches. In addition, beams supporting and placed perpendicular to the members shall be spaced not less than 24 inches on center. All members or beams must have a minimum nominal width of 2 inches. **(Added by Ord. No. 181,624, Eff. 5/9/11.)**

**ROOM, HABITABLE.** **(Amended by Ord. No. 146,421, Eff. 9/14/74.)** An enclosed subdivision in a residential building commonly used for living purposes, but not including any lobby, hall, closet, storage space, water closet, bath, toilet, slop sink, general utility room or service porch. A recess from a room or an alcove (other than a dining area) having 50 square feet or more of floor area and so located that it could be partitioned off to form a habitable room, shall be considered a habitable room.

For the purpose of applying the automobile parking space requirements of this article, any kitchen as defined herein shall be considered a habitable room and, if it is a part of a room designed for other than food preparation or eating purposes, such remaining portion shall also be considered a habitable room.

For the purpose of applying the lot area requirements of this article, a kitchen less than 100 square feet of room area from wall to wall shall not be considered a habitable room.

For the purpose of applying the open space requirements of Section 12.21 G., a kitchen as defined herein shall not be considered a habitable room. **(Fourth Para. Added by Ord. No. 171,753, Eff. 11/17/97.)**

**SCHOOLS, ELEMENTARY AND HIGH.** An institution of learning which offers instruction in several branches of learning and study required to be taught in the public schools by the Education Code of the State of California. High schools include Junior and Senior.

**SCRAP METAL PROCESSING YARD .** Any establishment or place of business which is maintained, used or operated solely for the processing and preparing of scrap metal for remelting by steel mills and foundries. **(Added by Ord. No. 145,040, Eff. 10/15/73.)**

**SENIOR INDEPENDENT HOUSING.** Residential housing that consists of dwelling units for persons 62 years of age and older and may include common dining areas or other community rooms. Full time medical services shall not be provided on the premises. It may be a component of an Eldercare Facility. **(Added by Ord. No. 178,063, Eff. 12/30/06.)**

**SERVANTS QUARTERS .** An accessory building located on the same premises with the main building, used solely as the dwelling of persons employed on the premises, such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling unit. **(Added by Ord. No. 107,884, Eff. 9/23/56.)**

**SHELTER FOR THE HOMELESS.** A facility operated by a "provider", other than a "community care facility" as defined in California Health and Safety Code Section 1502, which provides temporary accommodations to homeless persons and/or families and which meets the standards for shelters contained in Title 25, Division 1, Chapter 7 of the California Code of Regulations. The term "temporary accommodations" means that a homeless person or family will be allowed to reside at the shelter for a time period not to exceed six months. For the purpose of this definition, a "provider" shall mean a government agency, religious institution, non-profit charitable organization, or private non-profit organization which provides, or contracts with recognized community organizations to provide, emergency or temporary shelter for the homeless, and which has been certified by the

Housing and Community Investment Department of the City of Los Angeles to meet all applicable requirements contained in the California Health and Safety Code and the California Code of Regulations. **(Amended by Ord. No. 184,836, Eff. 3/31/17.)**

**SHOWCASE THEATER.** **(Added by Ord. No. 148,910, Eff. 11/17/76.)** A theater which meets all of the following criteria:

- (1) seats 90 persons or less;
- (2) is nonprofit and tax-exempt;
- (3) provides live entertainment; and
- (4) employs fewer than five persons (exclusive of performers).

**SKILLED NURSING CARE HOUSING.** Residential housing that is licensed by the California Department of Health and provides acute, intermediate, or long-term skilled nursing care and consists only of guest rooms for its residents. Full time medical services may be provided on the premises. It may be a component of an Eldercare Facility. **(Added by Ord. No. 178,063, Eff. 12/30/06.)**

**SLOPE.** An inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance (i.e. 2:1 or 1:1) or as a percentage (i.e. 50% or 100%). **(Added by Ord. No. 181,624, Eff. 5/9/11.)**

**SLOPE BAND.** The area of a property contained within a defined Slope interval as identified in Section 12.21 C.10. of this Code and shown on a Slope Analysis Map prepared by a licensed surveyor based on a survey of the natural/existing topography. Slope bands need not necessarily be located in a contiguous manner and can be one or more areas as small or as large as they exist on said property. **(Added by Ord. No. 181,624, Eff. 5/9/11.)**

**SOLID WASTE ALTERNATIVE TECHNOLOGY PROCESSING FACILITY.** A facility that has one or more technological systems which extracts, recovers or generates usable materials and/or energy from solid waste, as defined in Section 40191 of California Public Resources Code. **(Added by Ord. No. 181,272, Eff. 9/28/10.)**

**SPECIFIC PLAN.** A specific plan is a definite statement adopted by ordinance of policies, standards and regulations, together with a map or description defining the locations where such policies, standards and regulations are applicable. **(Added by Ord. No. 138,800, Eff. 6/13/69.)**

**STABLE, PRIVATE.** A detached accessory building which has a roof and may have one or more sides and is used in whole or in part for the housing or shelter of an equine or equines owned by the occupants of the premises and not kept for remuneration, hire or sale. **(Amended by Ord. No. 157,144, Eff. 11/22/82; Clarified by Ord. No. 157,219, Eff. 12/3/82.)**

**STABLE, PUBLIC.** A stable other than a private stable.

**STANDARD HILLSIDE LIMITED STREET** — a street (public or private) with a minimum width of 36 feet and paved to a minimum roadway width of 28 feet, as determined by the Bureau of Engineering. **(Amended by Ord No. 169,961, Eff. 8/29/94.)**

**STOCK COOPERATIVE.** The same as defined by Section 11003.2 of the California Business and Professions Code. **(Added by Ord. No. 153,024, Eff. 1/10/79.)**

**STORAGE BUILDING FOR HOUSEHOLD GOODS.** **(Added by Ord. No. 173,979, Eff. 6/29/01.)** A building that offers secure self-storage for household goods in individual rooms, compartments, lockers or containers to which clients bring goods for storage and retrieve them any time during normal business hours without any assistance from the operator of the building. For purposes of this definition, storage of these goods may not be in containers, such as boxes, barrels and/or drums set on pallets or racks, or that require the use of forklifts or other similar mechanical equipment for access or mobility. A storage building for household goods does not include the storage of commercial inventory to be sold, displayed, rented or otherwise relocated for sale.

**STORY.** The space in a Building between two vertically adjacent finished floor levels or, for the topmost level of a Building, the space between its finished floor level and the roof directly above it. Finished floor levels within four vertical feet of each other shall be deemed a single Story. Any space that is defined as a Basement is not considered a Story. **(Amended by Ord. No. 184,802, Eff. 3/17/17.)**

**STORY, FIRST.** The lowest Story of a Building where the finished floor level directly above the Story is more than six feet above grade for more than 50 percent of the total perimeter of the Building or is more than 12 feet above grade at any point. If no such Story exists, then the topmost Story of a Building shall be deemed the First Story. **(Added by Ord. No. 184,802, Eff. 3/17/17.)**

**STREET.** Any public thoroughfare other than an alley or walk, except that in those cases where a subdivision has been recorded containing lots which abut only on an alley or walk, said alley or walk may be considered to be a street.

**STREET – COLLECTOR.** Any street designated as a collector street on an adopted community plan element of the general



plan. (Added by Ord. No. 150,799, Eff. 6/5/78.)

**STRUCTURAL ALTERATIONS**. Any change which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

**STRUCTURE**. Anything constructed or erected which is supported directly or indirectly on the earth, but not including any vehicle which conforms to the California State Vehicle Act. (Amended by Ord. No. 107,884, Eff. 9/23/56.)

**SUBSTANDARD HILLSIDE LIMITED STREET**. A Street which does not meet the minimum requirements of a Standard Hillside Limited Street as defined in Section 12.03 of this Code (public or private) with a width less than 36 feet and paved to a roadway width of less than 28 feet, as determined by the Bureau of Engineering. (Amended by Ord. No. 181,624, Eff. 5/9/11.)

**SUITE**. A group of habitable rooms designed as a unit, and occupied by only one family, but not including a kitchen or other facilities for the preparation of food, with entrances and exits which are common to all rooms comprising the suite. (Added by Ord. No. 138,685, Eff. 7/10/69.)

**SUPPORTIVE HOUSING**. Housing with no limit on length of stay for persons with low incomes who have one or more disabilities and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people. The housing is linked to onsite or offsite Supportive Services, and any Floor Area used for the delivery of Supportive Services shall be considered accessory to the residential use. (Added by Ord. No. 185,489, Eff. 4/20/18.)

**SUPPORTIVE SERVICES**. Services that are provided on a voluntary basis to residents of Supportive Housing and Transitional Housing, including, but not limited to, a combination of subsidized, permanent housing, intensive case management, medical and mental health care, substance abuse treatment, employment services, benefits advocacy, and other services or service referrals necessary to obtain and maintain housing. (Added by Ord. No. 185,489, Eff. 4/20/18.)

**TEMPORARY GEOLOGICAL EXPLORATORY CORE HOLE**. A seismic test hole or exploratory core hole used or intended to be used exclusively for geophysical, geological, and other exploratory testing for oil, natural gas or other hydrocarbon substances. (Amended by Ord. No. 152,744, Eff. 9/10/79.)

**TENANT**. A person who rents, leases or sub-leases, through either a written or oral agreement, residential real property from another. (Added by Ord. No. 151,432, Eff. 10/12/78.)

**TENNIS OR PADDLE TENNIS COURT**. A game court designed for the purpose of playing tennis, paddle tennis or similar game, utilizing a concrete slab or other conventionally accepted hard playing surface, an enclosing fence and frequently overhead lighting fixtures. (Added by Ord. No. 151,466, Eff. 10/27/78.)

**TOWNHOUSE**. A dwelling unit, structurally separated from another dwelling unit or other dwelling units in a building containing two or more dwelling units, and complying with the provisions of Section 91.2305(k)(2) of this Code, and which may be sold jointly with the lot upon which the dwelling unit is situated. Provided, however, that common roofing, flashing, and siding are permitted so as to enclose the airspace resulting from said structural separation. (Added by Ord. No. 141,474, Eff. 2/27/71.)

**TRAILER OR AUTOMOBILE TRAILER**. A vehicle without motive power, designed to be drawn by a motor vehicle and to be used for human habitation or for carrying persons and property, the terms “trailer” and “automobile trailer” shall not include a mobilehome. (Amended by Ord. No. 161,716, Eff. 12/6/86.)

**TRANSIENT OCCUPANCY RESIDENTIAL STRUCTURE**. A residential building designed or used for one or more dwelling units or a combination of three or more dwelling units and not more than five guest rooms or suites of rooms wherein occupancy, by any person by reason of concession, permit, right of access, license, or other agreement is for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. (Added by Ord. No. 167,689, Eff. 5/9/92.)

**TRANSITIONAL HOUSING**. A building where housing linked to Supportive Services is offered, usually for a period of up to 24 months, to facilitate movement to permanent housing for persons with low incomes who may have one or more disabilities, and may include adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people. (Added by Ord. No. 185,489, Eff. 4/20/18.)

**TRASH CHUTE**. Any vertical smooth shaft used to convey rubbish, trash, or garbage from the upper floors of a building to a trash storage bin or room at the bottom end of the chute. (Added by Ord. No. 181,227, Eff. 9/1/10.)

**TRUCK GARDENING**. The cultivation of berries, flowers, fruits, grains herbs, mushrooms, nuts, ornamental plants, seedlings or vegetables for use on-site or sale or distribution off-site. (Added by Ord. No. 181,188, Eff. 7/18/10.)

**UNDERFLOOR SPACE**. A space between the ground and the floor directly above. (Added by Ord. No. 109,714, Eff. 8/26/57.)

**URBAN AGRICULTURE INCENTIVE ZONE.** (Added by Ord. No. 185,023, Eff. 8/6/17.) Any land designated as being eligible for the Urban Agriculture Incentive Zone Act, in accordance with California Government Code Sections 51040 - 51042 and County of Los Angeles Planning and Zoning Code Sections 22.52.3400, et seq., as may be amended from time to time, and as also shown in the Department of City Planning's Urban Agriculture Incentive Zone Map, dated August 2016, attached to Council File No. 14-1378. The map is maintained by the Department of City Planning as part of the Geographic Information Systems database, and identifies all current farming and gardening zones, which may be amended from time to time.

The map shall be used by the Director of Planning, or his/her designee, to determine eligibility for the City of Los Angeles' Urban Agriculture Incentive Zone Program, as set forth in Los Angeles Administrative Code Sections 19.170, et seq., based on the criteria outlined in California Government Code Sections 51040 through 51042, the County of Los Angeles Planning and Zoning Code Sections 22.52.3430 through 22.52.3450, as may be amended from time to time.

**USE.** The purpose for which land or a building is arranged, designed or intended or for which either land or a building is or may be occupied or maintained.

**UTILITY RENTAL TRAILER.** Any non-passenger carrying, box- type open or van designed to be towed by a passenger vehicle, not exceeding 3,500 pounds gross vehicle weight (GVW), and not exceeding 96 inches in total width, nor 72 inches in box width, nor 14 feet in box length. (Added by Ord. No. 148,857, Eff. 10/30/76.)

**VEHICLE, COMMERCIAL.** Any vehicle, excluding Household Moving Rental Trucks, and Utility Rental Trailers, which when operated upon a highway is required to be registered as a commercial vehicle by the Vehicle Code of the State of California or by any other jurisdiction and which is used or maintained for the transportation of persons for hire, compensation, or profit, or designed, used or maintained primarily for the transportation of property. (Amended by Ord. No. 148,857, Eff. 10/30/76.)

**WINDROW COMPOSTING.** The process in which compostable material is placed in elongated piles or windrows which are mechanically turned or aerated to encourage decomposition and to reduce odors. (Added by Ord. No. 170,054, 11/13/94.)

**WOOD WASTES.** Any untreated and/or unpainted wood material such as pallets, plywood and other construction related scrap lumber, stumps and tree trimming. (Added by Ord. No. 170,054, 11/13/94.)

**YARD.** An open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this article.

**YARD, FRONT.** A yard extending across the full width of a lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot.

**YARD, REAR.** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and a line parallel thereto on the lot. (Amended by Ord. No. 121,925, Eff. 6/4/62.)

**YARD, SIDE.** A yard more than six (6) inches in width between a main building and the side lot line, extending from the front yard or the front lot line where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the main building.

**ZONING ADMINISTRATOR.** (Amended by Ord. No. 173,492, Eff. 10/10/00.) The Zoning Administrator shall mean the Chief Zoning Administrator or an Associate Zoning Administrator. The Director may appoint the Zoning Administrator to act as the Director's designee or as a Hearing Officer for the Director.

# EXHIBIT C



## SEC. 12.22. EXCEPTIONS.

### A. Use.

1. **Private Garage Not Required – Topography** – Where a lot abuts upon a street or place which due to topographic conditions or excessive grades is not accessible by automobile, and such lot is to be occupied by not more than a one-family dwelling, no private garage shall be required.

2. **Public Utilities and Public Services** – The provisions of this article shall not be so construed as to limit or interfere with the construction, installation, operation and maintenance for public utility purposes of water and gas pipes, mains and conduits, electric light and electric power transmission and distribution lines, telephone and telegraph lines, oil pipe lines, sewers and sewer mains, and incidental appurtenances.

3. **Family Day Care Homes. (Title and Subdiv. Amended by Ord. No. 173,085, Eff. 3/19/00.)** Notwithstanding any other provisions of this article to the contrary, and in all zones wherein residential uses are permitted by right the following shall apply:

(a) **Small Family Day Care Homes:** Any dwelling unit may be used as a small family day care home, with up to eight children, as defined in Section 12.03, if it is licensed by the State of California as a small family day care home. **(Amended by Ord. No. 176,545, Eff. 5/2/05.)**

(b) **Large Family Day Care Homes:** Any dwelling unit may be used as a large family day care home, with up to 14 children, as defined in Section 12.03, if it is licensed by the State of California as a large family day care home, and if it complies with the conditions set forth in Subparagraph (1) below. **(Amended by Ord. No. 176,545, Eff. 5/2/05.)**

(1) **Conditions.** A large family day care home shall comply with the following conditions:

(i) Provide drop-off facilities, such as curb spaces or driveway area, which are necessary to avoid interference with traffic and promote the safety of the children;

(ii) Comply with any standards adopted by the State Fire Marshal pursuant to Subdivision (d) of Section 1597.46 of the California Health and Safety Code relating to large family day care homes;

(iii) Comply with all provisions of the Los Angeles Municipal Code relating to large family day care homes and dwelling units;

(iv) The use shall not create an unreasonable level of disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties;

(v) Name plates and signs shall conform to the provisions of Section 12.21 A.7.;

(vi) Play equipment, swings, sandboxes, or structures shall be located in the rear yard only;

(vii) No loud speaker or public address system shall be installed or operated on any open portion of the premises, and any phonograph, radio or other recorded music used in connection with any activity shall be sufficiently modulated to ensure that the use does not disturb the adjoining and neighboring residents;

(viii) The existing residential character of the building and site shall be maintained, including the exterior facade, landscaping, fences, walls, lawn area, and driveways;

(ix) The floor space of any dwelling unit used for the operation of a large family day care home shall not be increased for such use, and the floor space shall not be altered to reasonably preclude its continued use as a dwelling unit; and

(x) There shall be at least 300 feet between the lot containing the building where the proposed large family day care home will be located and the building housing any existing large family day care home. This distance is to be measured along the shortest street route between the two lots as determined by the Department of Recreation and Parks. **(Second Sentence Amended by Ord. No. 181,192, Eff. 7/27/10.)**

(2) **Notice of Intention to Operate Large Family Day Care Home. (Amended by Ord. No. 173,492, Eff. 10/10/00.)** A Notice of Intention to Operate a Large Family Day Care Home shall be filed in the public office of the Department of City Planning, on forms provided by the Department. The forms shall be accompanied by all information deemed necessary by the Department. The notice shall include verification provided by the Department of Recreation and Parks that the large family day care home is in compliance with the concentration and spacing condition set forth in Section 12.22 A.3.(b)(1)(x) above. **(Sentence Amended by Ord. No. 181,192, Eff. 7/27/10.)** No fee shall be charged and no public hearing shall be required in connection with the filing of the notice.

(3) **Exemption from Concentration and Spacing Condition.** If a proposed Large Family Day Care Home is

not in compliance with the concentration and spacing condition set forth in Section 12.22 A.3.(b)(1)(x) above, then the operator may apply to the Zoning Administrator for an exemption from this condition pursuant to Section 12.24 X.25. **(Amended by Ord. No. 176,545, Eff. 5/2/05.)**

**(4) Violation of Conditions - Authority of Zoning Administrator to Require Modification of Conditions of Operation or Discontinuance of Large Family Day Care Homes.** Notwithstanding any other provision of this Code, the Zoning Administrator may require a modification of the conditions of operation or the discontinuance of a large family day care home if the Zoning Administrator finds that as operated or maintained there has been a violation of any of the conditions or standards set forth in Subparagraph (1) of Paragraph (b) of this subdivision, or that such use:

- (i) jeopardizes or endangers the public health or safety of persons residing in, working on, or occupying the premises; or
- (ii) constitutes a public nuisance; or
- (iii) violates any provision of this chapter or any other city, state or federal regulations, ordinance or statute.

The procedure for the modification of the conditions of operation or discontinuance of a large family day care home shall be as provided for in Section 12.27.1 of this Code.

**4. Sale of Christmas Trees** – Notwithstanding any provisions of this article to the contrary, the annual retail sale, including sales by philanthropic, political, patriotic, and charitable associations, of Christmas trees and ornaments shall be permitted in all zones, except the RE, RS, R1, RU, RZ, and RMP Zones, between December first and twenty-fifth, inclusive, and the necessary permits and licenses may be issued provided that: **(Amended by Ord. No. 164,904, Eff. 7/6/89.)**

- (a) Any lights used to illuminate the site shall be arranged to reflect the light away from any adjacent residentially-zoned property except that this restriction does not apply to frosted light bulbs of 100 watts or less; and
- (b) There shall be no use of any sound equipment in the residential zone in conjunction with the retail sale of Christmas trees; and
- (c) The operator of such a sale of Christmas trees shall post a Two Hundred Dollar (\$200.00) cleanup deposit with the Office of the City Clerk prior to any lot preparation or sales; and
- (d) The operator of such a sale of Christmas trees shall comply with all other applicable provisions of the Los Angeles Municipal Code.

**5. (Title and First Para. Deleted by Ord. No. 172,489, Eff. 4/16/99.)**

(a) **(Amended by Ord. No. 173,492, Eff. 10/10/00.)** Notwithstanding any other provisions of Articles 2 and 3 of this chapter to the contrary, no oil well, controlled drill site or temporary geological exploratory hole may be permitted in an A, R, P or C Zone within the area located between the mean high tide line of the City's shoreline and a line 1,000 yards landward from that line. This prohibition shall not be construed or interpreted as affecting:

- (1) any shore line areas within the Los Angeles Harbor except for Cabrillo Beach;
- (2) any oil well, controlled drill site or a facility for the production of oil gases or other hydrocarbon substances in existence on the effective date of this subdivision;
- (3) any connected subterranean gas holding areas and facilities that are operated as a public utility pursuant to Section 14.00; and
- (4) subsurface drilling and producing operations more than 500 feet below the surface of this area.

(b) Ordinances 159,607, 159,608 and 159,609, which created Oil Drilling Districts U-171-A, U-172-A and U-173-A, respectively, to allow exploration and production of oil within 1,000 yards of the mean high tide in the City of Los Angeles, are hereby repealed.

(c) This subdivision shall apply to all supplemental use districts within this area for which a vested right for production of oil has not accrued as of the effective date of this subdivision

(d) If any provision or clause of this Ordinance or the application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other Ordinance provisions thereof which can be implemented without the invalid provision, clause or application, and to this end the provisions and causes of this ordinance are declared to be severable.

**6. Infrequent Helicopter Landings.**(Amended by Ord. No. 150,623, Eff. 4/13/78.) – Notwithstanding any provision of this article to the contrary, helicopters may land and take off in any zone except RA, R, C1 and CR Zones, provided that a permit therefore has first been obtained from the Fire Department under the provisions of Division 5, Article 7 of Chapter 5 of this Code. Such helicopter landings and takeoffs shall not exceed three per day in or upon any single location or premises except that the Fire Department may permit as many such landings and takeoffs in or upon any single location or premises in a day as it determines are required by the individual nature of each such helicopter use, including occasions of civic interest, and are consistent with the public health, safety, general welfare and intent of this article. In the RA, R, C1 or CR Zones helicopters may land and take off in or upon any single location not more than two times per calendar year in a park, school ground or other similar type of public open space, for educational programs sponsored by the Los Angeles Police Department or the Los Angeles City Unified School District, provided that the Fire Department permit referred to above has first been obtained. Nothing herein shall prevent nor curtail the operation of emergency helicopter landing facilities as required in Section 57.4705 of the Los Angeles Municipal Code.

The provisions of this subdivision shall not be construed or interpreted as permitting the establishment of a regularly operating airport, aircraft landing field, heliport or helistop.

**7. Temporary Operations of Carnivals and Rides.** (Added by Ord. No. 130,076, Eff. 5/26/65.) – Notwithstanding any provisions of this article to the contrary, carnival shows and amusement enterprises of a similar type may be operated in the P Zone for a period of not to exceed five consecutive days in any 30 day period in or upon any single location, provided that:

- (1) All such operations are conducted at least 200 feet from any school or adjoining occupied property classified in any A or R Zone.
- (2) Such operations do not cause or produce any dust, gas, smoke, noise, fumes, odors, or vibrations detrimental to other property in the neighborhood or to the welfare of the occupants thereof.
- (3) Any lights used to illuminate the event are arranged so as to reflect the light away from any adjacent residentially used premises.
- (4) No public address system in connection with the event is installed on the property unless it is modulated so as not to be disturbing to occupants of any nearby dwelling units.
- (5) All structures, apparatus and appurtenances shall be removed from the premises the next day following the closing of the carnival.
- (6) The hours of such operation to be limited between the hours of 10:00 a.m. and 10:00 p.m.

**8. Occasional Use of Private Homes for Adult Education Classes.** (Added by Ord. No. 132,573, Eff. 8/5/66.) – Notwithstanding any provision of this article to the contrary, adult education classes shall be permitted in homes in the RA or R Zones and no additional off-street parking shall be required in conjunction therewith, provided that:

- (a) Classes are held not more than one day a week for a period not to exceed three hours per day and each class does not meet for more than fifteen weeks in any one semester.
- (b) Classes are purely incidental to the use of the property as a home and no more than thirty persons are permitted to attend each class.
- (c) Classes primarily involve oral discussions and no laboratory equipment, heavy machinery, or large tools are used in connection therewith, except small record players, slide projectors and other similar audiovisual teaching aids.
- (d) All classes are scheduled on the first floor of the building.

For the purpose of this subdivision "adult education classes" shall mean any educational programs conducted by University Extension of University of California or any other comparable university.

No certificate of occupancy shall be required in connection with the use authorized by this ordinance.

**9. Maintenance of Accessory Structures.** (Amended by Ord. No. 172,839, Eff. 11/1/99.) Notwithstanding any provisions of this article to the contrary, an accessory building or structure may be maintained on a lot without a main building and a residential building may be maintained on a lot without the required off-street parking for the periods of time as authorized by the Advisory Agency in conformance with Article 7 of Chapter 1 of this Code.

**10. Model.** (Amended by Ord. No. 174,999, Eff. 1/15/03.) Notwithstanding any other provision of this article, a model or models, as defined in Article 7 of Chapter 1 of this Code, may be erected and maintained on any lot or site designated by the Advisory Agency as a site for a model or models on an approved or conditionally approved tentative map, in the A, RE, RS, R1, RU, RZ, RMP, or RW1 Zones with respect to one-family homes, and in the R2, RD, RW2, R3, RAS3, R4, RAS4, or R5 Zones

with respect to multiple unit structures, i.e., buildings containing more than one dwelling unit, for a period of time as determined by the Advisory Agency, provided that:

(a) In an “H” hillside or mountainous area, a grading plan for the entire approved or conditionally approved subdivision or any final map unit thereof has been approved by the Grading Division of the Department of Building and Safety and a Grading Certificate has been issued for the property involved or that the grading is being carried on under the authorization of a valid grading permit.

(b) Necessary easements for the installation of water system facilities and underground utilities have been dedicated and the developer has guaranteed the cost of relocation or future adjustment of these facilities to the satisfaction of the Department of Water and Power.

(c) The owner assumes liability for any damage caused to water system facilities and underground utilities prior to final street improvements in a manner satisfactory to the Department of Water and Power.

(d) Adequate fire protection facilities are provided to the satisfaction of the Fire Department.

(e) Adequate sewer facilities are provided to the satisfaction of the Bureau of Engineering and the Los Angeles County Health Department.

(f) A paved access roadway at least 20 feet in width is provided which is satisfactory to the Department of Building and Safety.

(g) Off-street parking be provided as follows:

(1) For multiple unit structures, the numbers and location of the off-street parking facilities shall be determined by the Advisory Agency;

(2) For one-family detached structures, one lot for each six model dwellings or fraction thereof shall be located contiguous to the model dwelling sites. All off-street parking facilities and driveways shall be dust-proofed with asphaltic surfacing or with decomposed granite which is sprinkled at sufficient intervals to prevent dust, or by an alternate method of dust control satisfactory to the Department of Building and Safety.

(h) The model dwelling sites are attractively maintained and, with respect to one-family detached structures, attractively landscaped.

(i) Not more than one sign is placed on each designated model dwelling. Said sign shall not exceed 12 square feet in area and shall be used only for identification or directional purposes. Prohibited are banners, posters, pennants, ribbons, streamers, string of light bulbs, spinners, or other similarly moving devices.

(j) Any furnishings placed in the model dwelling are maintained solely for purposes accessory to the display of the model dwelling and in no way are used to sell or promote the sale of such furnishings.

(k) Prior to the issuance of any building permit for a model dwelling, the property owner shall first execute and file with the Superintendent of Building a notarized agreement assuming all risks and agreeing to all of the conditions set forth in this Subdivision 10. With respect to one-family detached structures, the agreement shall further provide that in the event that a final map which includes the property whereon the model dwelling is located is not recorded, all buildings or structures authorized by said permit shall be removed, within 90 days from the expiration of the tentative tract, and that if all buildings and structures are not completely removed as required above, they may be confiscated and removed or demolished by the City without further notice. Prior to the erection of any model dwelling that is a one-family detached structure, authorized pursuant to the approval of any subdivision and contingent thereon, the property owner shall post in the Department of Building and Safety a bond in favor of the City of Los Angeles (to be approved by the City Attorney and duplicates to be furnished to him) in an amount satisfactory to the Department of Building and Safety sufficient to defray any expense incurred by the City in the removal or demolition of the model dwelling or dwellings. The bond shall be released to the property owner or person legally entitled thereto either upon recordation of the subdivision tract map or upon removal of the concerned structures or buildings, as the case may be, to the satisfaction of the Superintendent of Building. **(Amended by Ord. No. 158,561. Eff. 1/14/84.)**

(l) This subdivision shall apply to approved or conditionally approved tentative tract maps which include model dwelling units and which have not been recorded as of the effective date of this ordinance. **(Added by Ord. No. 158,561, Eff. 1/14/84.)**

11. **(Amended by Ord. No. 145,410, Eff. 2/16/74.)** Notwithstanding any other provisions of this article, a real estate tract sales office may be established and maintained in one model dwelling approved in accordance with the provisions of Section 12.22 A.10. or in a dwelling constructed on a recorded lot previously designated as a model dwelling site by the Advisory Agency and temporarily serving as an example of houses or units built or to be built in the same subdivision, provided that:

(a) No general real estate brokerage business is conducted on the premises, and any business transacted thereon is

limited to the original sale of vacant or improved land shown on the tentative map or units of airspace shown on the condominium plan.

(b) All name plates and signs conform to the provisions of Section 12.21 A.7.

(c) The tract sales office is attractively maintained and, where located in a one-family detached structure, is attractively landscaped.

(d) The property owner has first executed and filed with the Superintendent of Building a notarized agreement agreeing to comply with all other provisions of this Subdivision and, further, agreeing that after all dwelling units in the development are initially sold or rented, all tract sales being conducted within the structure will cease; all signs will be entirely removed from the premises; any residential type of sliding glass door in a private garage doorway will be replaced with a conventional private garage door, and any sales office activity located in a private garage will be discontinued and this area reconverted for the storage of private vehicles. **(Amended by Ord. No. 158,561, Eff. 1/14/84.)**

12. **(Added by Ord. No. 149,472, Eff. 5/14/77.)** Notwithstanding any other provision of this article, equipment and material storage yards used exclusively in connection with public facilities projects may be located in the A, R and C Zones, provided the following conditions are complied with.

(a) That such storage activities not be commenced prior to the execution of the construction contract with the governmental entity authorizing such work, and such storage activity be terminated within 30 days of the expiration of the contract or 30 days after completion of the construction, whichever comes first.

(b) That no storage or related activities be located closer than 25 feet to any residential improvement unless a solid 8 foot high fence be constructed along the entire property line adjoining such improvement, except at parking of employees' personal vehicles shall be permitted within the 25 foot buffer area, and such parking area need not comply with the requirements of Section 12.21 A.6. of this article.

(c) That the premises and grounds be frequently sprinkled and watered to prevent dust from becoming a nuisance to the neighboring residents.

(d) That there be no stockpiling of materials above 8 feet.

(e) That hours of operation including servicing and maintenance of all stored equipment be only between 7:00 a.m. and 6:00 p.m., and at no time on Saturdays, Sundays or holidays except in emergencies.

Prior to the use of any land for equipment and material storage activities pursuant to this Subdivision, the operator or operators of such storage yard shall obtain a certificate of occupancy of land as provided for in Section 12.26 E. of the Los Angeles Municipal Code. Where it can be shown to the satisfaction of the Superintendent of Building that the conditions of this Subdivision are not being complied with, the Superintendent may revoke the certificate of occupancy. Such revocation may be appealed to the Board of Building and Safety Commissioners pursuant to the provisions of Section 98.0403 of this Code.

13. **Infrequent Use of Property for Commercial Filming. (Amended by Ord. No. 170,516, Eff. 6/18/95.)** Notwithstanding any of the provisions of this article to the contrary, property in all zones may be used for the purpose of infrequent filming of commercial motion pictures and still photographs, provided that a permit therefor has first been obtained from the City Council, or whomever the Council by order, resolution or ordinance may delegate such authority. The City Council, or whomever the Council by order, resolution or ordinance may delegate such authority shall adopt such rules and regulations concerning the issuance of said permits as may be necessary to assure that filming will be conducted at such times and in such a manner as to cause a minimum of interference with the enjoyment and use of adjacent property, and consistent with public health, safety and general welfare.

14. **(None)**

15. **Parking Requirements For Showcase Theaters. (Added by Ord No 148,910, Eff. 11/18/76.)** Notwithstanding any provision of this article to the contrary, the parking for showcase theaters required under Section 12.21 A.4.(e) (g) (i) (m); Section 12.21 A.5.; and Section 12.26 C. and 12.26 E.5. may be provided on the site, or off the site under a written agreement approved by the City Attorney and the Superintendent of Building. Where off-site parking is provided under any written agreement other than a Parking Covenant, such agreement shall be for a minimum of one year and shall be signed by the theater operator and the lessee or owner of the property upon which the required parking spaces shall be located. This agreement shall remain in effect for the duration of the existence of the showcase theater. Such agreement shall be filed with the Department of Building and Safety.

Where the parking covenant or other written agreement provides for parking on a lot which does not meet the design standards set forth in Section 12.21 A.5. and 12.21 A.6., but which parking area met the applicable Municipal Code design standard when originally established, such spaces shall be accepted for purposes of this Subdivision without compliance with the provisions of Section 12.21 A.5. and 12.21 A.6.

16. **Outside Automobile Hoists. (Amended by Ord. No. 172,468, Eff. 4/1/99.)** Any type of outside automobile hoist in the



C2, C4, C5, CM or M1 Zones is prohibited.

**17. Temporary Residency in Residential Vehicle Pending Reconstruction of Disaster – Destroyed Dwelling. (Added by Ord. No. 153,144, Eff. 12/28/79.)**

(a) **Use of Land Permit.** Notwithstanding any other provision of this Code to the contrary, the Department of Building and Safety may issue a use of land permit to any resident-owner of a single-family dwelling destroyed by disaster to temporarily place and reside in a residential vehicle upon the subject property. Such use of land permit shall be limited to a period of one year from the date of the subject disaster, during which period a building permit for the reconstruction of the subject dwelling unit must be obtained. When such a building permit is obtained the use of land permit shall be valid for an additional period to total no more than two years from the date of the subject disaster or until the dwelling unit is complete, whichever occurs first. No other extension of time shall be granted for such use of land permit.

(b) **Fence Requirement.** Where a residential vehicle is placed within a required yard area, such residential vehicle shall be screened from public view by a fence constructed to the specifications of Section 91.4401 (c) of this Code; on corner lots, the restrictions of Section 62.200 of this Code shall also apply. Such fence shall be maintained in good condition and appearance.

(c) **Yard Area Requirements.** Such residential vehicle must observe five-foot front, side and rear yards and adequate access shall be assured to permit the removal of such residential vehicle after reconstruction of the disaster-destroyed dwelling unit.

(d) **Site Restoration.** Within thirty (30) days of the removal of the residential vehicle, all equipment and utilities accessory to such residential vehicle and any nonconforming fence constructed pursuant to this section shall be removed and the site restored to permitted use and condition.

**18. Developments Combining Residential and Commercial Uses.** Except where the provisions of Section 12.24.1 of this Code apply, notwithstanding any other provision of this chapter to the contrary, the following uses shall be permitted in the following zones subject to the following limitations: **(Amended by Ord. No. 163,679, Eff. 7/18/88.)**

(a) Any use permitted in the R5 Zone on any lot in the CR, C1, C1.5, C2, C4 or C5 Zones provided that such lot is located within the Central City Community Plan Area or within an area designated on an adopted community plan as "Regional Center" or "Regional Commercial". Any combination of R5 uses and the uses permitted in the underlying commercial zone shall also be permitted on such lot. **(Amended by Ord. No. 182,452, Eff. 4/4/13.)**

(b) Any use permitted in the CR, C1, C1.5, C2, C4 or C5 Zones on any lot in the R5 Zone provided that the lot is located within the Central City Community Plan Area. Any combination of these commercial and residential uses shall also be permitted on the lot. Commercial uses or any combination of commercial and residential uses may be permitted on any lot in the R5 Zone by conditional use pursuant to Section 12.24 W.15. outside the Central City Community Plan Area. **(Amended by Ord. No. 182,452, Eff. 4/4/13.)**

(c) **Yards.** Except as provided herein, the yard requirements of the zone in which the lot is located shall apply.

(1) The yard requirements of the C2 Zone shall apply to buildings located on lots in the R5 Zone in a redevelopment project area approved by the City Council if such buildings are used exclusively for commercial uses.

(2) The following yard requirements shall apply to buildings located on lots in the R5 Zone which are used for any combination of commercial and residential uses:

(i) The yard requirements of the C2 Zone shall apply to the portions of such buildings used exclusively for commercial uses.

(ii) No yard requirements shall apply to the portions of such buildings which are used exclusively for residential uses and which abut a street, private street or alley, if the first floor of such buildings at ground level is used for commercial uses or access to the residential portions of such buildings.

(3) No yard requirements shall apply to the residential portions of buildings located on lots in the CR, C1, C1.5, C2, C4, and C5 Zones used for combined commercial and residential uses, if such portions are used exclusively for residential uses, abut a street, private street or alley, and the first floor of such buildings at ground level is used for commercial uses or for access to the residential portions of such buildings.

(4) No yards shall be required along air space lot boundaries within the interior of buildings.

(d) The residential and commercial density, maximum floor area or height otherwise permitted for any lot shall not be increased by reason of the existence of one or more air space lots.

(e) **Pedestrian Bridges.** Residential uses in a building combining residential and commercial uses shall be limited to

the floors above the level of a connecting pedway or pedestrian bridge except that the Director of Planning may modify or waive this requirement if the Director finds unusual topography or other special circumstances justify such modification or waiver.

(f) **(Amended by Ord. No. 173,492, Eff. 10/10/00.)** In the event of a conflict between the terms of this subdivision and the terms of a specific plan enacted prior to December 31, 1981, the terms of the specific plan shall prevail. The terms of this subdivision shall not apply within the boundaries of the Century City North Specific Plan.

**19. Dwelling Adjacent to An Equinekeeping Use. (Amended by Ord. No. 173,492, Eff. 10/10/00.)** Notwithstanding any provision of this Code to the contrary, the City shall not issue a building permit for a residential building (excluding non-habitable rooms) that is less than 35 feet from a legally established equine use, unless the Zoning Administrator makes an exception in accordance with Section 12.24 X.5.

**20. Adult Entertainment Businesses. (Amended by Ord. No. 161,111, Eff. 5/18/86.)**

**(a) Exceptions from Section 12.70 C.**

(i) A person may establish and maintain, or continue to operate, an adult entertainment business on a lot within 500 feet of an “A” or “R” Zone, or within the “CR”, “C1” or “C1.5” Zones, if a site consistent with Section 12.70 C. is not reasonably available elsewhere in the City for the establishment or relocation of the subject adult entertainment business. This exception shall only apply to an adult entertainment business which is otherwise in compliance with all other provisions of this chapter including Section 12.70 C.

A site is “**reasonably available**” elsewhere in the City if it meets all of the following criteria:

- (1) Its use as the proposed adult entertainment business is consistent with all applicable zoning regulations, including Section 12.70 C.
- (2) It is available for use, purchase, or rental as an adult entertainment business.
- (3) It has adequate street access, street lighting, and sidewalks.
- (4) It is at least 500 feet away from any uses which are or may become obnoxious or offensive by reason of emission of odor, dust, smoke, noise, gas, fumes, cinders, refuse matter or water carried waste.

This exception shall not apply to massage parlors or sexual encounter establishments.

(ii) **(Amended by Ord. No. 173,492, Eff. 10/10/00.)** To apply for an exception, an applicant shall file an application with the Department of City Planning, on a form provided by the Department, identifying the present or proposed location of the adult entertainment business, and accompanied by data supporting the proposed exception and the fee provided for in Section 19.01 of this Code.

The procedures described in Section 12.24 shall be followed to the extent applicable. However, a hearing shall be held and a decision made within 60 days from the date of filing of an application. This time limit may be extended by mutual written consent of the applicant and the Zoning Administrator. An exception shall be approved if it meets the requirements of Subparagraph (i) above.

An appeal from the determination of the Zoning Administrator on whether a proposed exception meets the requirements of Subparagraph (i) may be taken to the Area Planning Commission in the same manner as prescribed in Section 12.24 I. The Area Planning Commission’s decision may be appealed to the City Council. The appeal to the Council shall follow the procedures set forth in Section 12.24 I. However, a decision on any appeal shall be made within 30 days of the expiration of the appeal period. This time limit may be extended by mutual written consent of the applicant and the Area Planning Commission or Council, whichever then has jurisdiction over the appeal.

If the Zoning Administrator, Area Planning Commission or Council disapproves an exception, then it shall make findings of fact showing how a site consistent with Section 12.70 C. is reasonably available elsewhere in the City for the establishment or relocation of the subject adult entertainment business.

**(b) Extensions of the Section 12.70 C. Amortization Period.**

(i) An adult entertainment business existing on March 6, 1986 and operating within 500 feet of a lot in an “A” Zone or “R” Zone or, within the “CR”, “C1”, or “C1.5” Zones may be continued, as specified below:

- (1) If the adult entertainment business is otherwise in compliance with all other provisions of this chapter including Section 12.70 C.; and
- (2) If the adult entertainment business is subject to a written lease, entered into prior to March 6, 1986,

with a termination date extending beyond March 6, 1988, then the adult entertainment business may continue until the expiration of the present term of the lease but no later than March 6, 1991; or

(3) If the adult entertainment business invokes the investment of money in real property, improvements, or stocks in trade such that a termination date beyond March 6, 1988 is necessary to prevent undue financial hardship, then it may be continued until March 6, 1991.

(ii) **(Amended by Ord. No. 173,492, Eff. 10/10/00.)** To apply for an extension of time, an applicant shall file an application with the Department of City Planning, on a form provided by the Department, identifying the present or proposed location of the adult entertainment business, and accompanied by data supporting the extension request and the fee provided for in Section 19.01 of this Code. An extension shall be approved if it meets the requirements of Subparagraph (i) above.

The procedures described in Section 12.24 shall be followed to the extent applicable. However, a hearing shall be held and a decision made within 60 days from the date of filing. This time limit may be extended by mutual written consent of the applicant and the Zoning Administrator.

An appeal from the determination of the Zoning Administrator on whether a proposed exception meets the requirements of Subparagraph (i) may be taken to the Area Planning Commission in the same manner as prescribed in Section 12.24I. The Area Planning Commission's decision may be appealed to the City Council. The appeal to the Council shall follow the procedures set forth in Section 12.24I. However, a decision on any appeal shall be made within 30 days of the expiration of the appeal period. This time limit may be extended by mutual written consent of the applicant and the Area Planning Commission or Council, whichever then has jurisdiction over the appeal.

If the Zoning Administrator, Area Planning Commission or Council disapproves an extension, then it shall make findings of fact showing how the proposed extension fails to meet the requirements of Subparagraph (i).

21. **(Deleted by Ord. No. 171,687, Eff. 8/19/97.)**

22. **(Deleted by Ord. No. 170,752, Eff. 12/14/95.)**

23. **Mini-Shopping Centers and Commercial Corner Development. (Amended by Ord. No. 175,223, Eff. 6/30/03.)** If the requirements set forth in Paragraph (a) and the conditions set forth in Paragraph (b) of this subdivision are met, and the proposed use or uses are not enumerated in Section 12.24 W.27., then a conditional use approval pursuant to Section 12.24 W.27. shall not be required for any new use, change of use or addition of floor area to a Mini-Shopping Center or a Commercial Corner Development.

**(a) Development Standards.**

(1) **Height.** Buildings or structures located in Height District Nos. 1 and 1-L shall not exceed a maximum height of 45 feet. However, buildings or structures shall comply with the provisions of Section 12.21.1 A.10., "Transitional Height," of this Code.

(2) **Front Yard.** The front yard requirements set forth in Sections 12.12.2 C., 12.13 C.1. and 12.13.5 B.1. of this Code shall not apply to Mini-Shopping Centers or Commercial Corner Developments.

(3) **Windows.** The exterior walls and doors of a ground floor containing non- residential uses that front adjacent streets shall consist of at least fifty percent transparent windows, unless otherwise prohibited by law.

**(4) Parking.**

(i) Notwithstanding Section 12.21 A.5.(h) of this Code to the contrary, no tandem parking shall be permitted, except those spaces reserved exclusively for residential use.

(ii) Bicycle parking shall be provided as required by Section 12.21 A.16. of this Code.

(iii) Parking in the Downtown Business District shall be provided as required by Section 12.21 A.4.(i) of this Code.

(5) **Lighting.** All public areas of the lot or lots not covered by a building shall have night lighting for safety and security. All other open exterior areas, such as walkways and trash areas, shall have low-level, security-type lighting. All exterior lighting shall be directed onto the lot or lots, and all flood lighting shall be designed to eliminate glare to adjoining properties. All parking areas shall have a minimum of 3/4 foot-candle of flood lighting measured at the pavement.

**(6) Signs.**



(i) In addition to the requirements set forth in Division 62 of this Code, no person shall erect on the lot or lots the following signs, as defined in Section 91.6203 of this Code without first obtaining a conditional use permit: pole signs; projecting signs; or roof signs.

(ii) Monument signs and information signs shall be located only within the landscape-planted areas of the lot or lots.

(7) **Utilities.** All new utility lines which directly service the lot or lots shall be installed underground. If underground service is not currently available, then provisions shall be made for future underground service.

(8) **Walls and Trash Storage.** A solid masonry wall at least six feet in height shall be erected along the lot lines of the lot or lots where the lot or lots abut or are across an alley from any residential zone or use, except for that portion of the lot line where an access driveway is required by the City. Trash storage bins shall be located within a gated, covered enclosure constructed of materials identical to the exterior wall materials of the building.

(9) **Recycling Area or Room.** Every Mini-Shopping Center or Commercial Corner Development shall conform to the requirements of Section 12.21 A.19.(c) of this Code.

(10) **Landscaping.** All landscaping shall comply with Sections 12.41, 12.42 and 12.43 of this Code and the following requirements:

(i) **Landscaping - Setback. (Amended by Ord. No. 177,103, Eff. 12/18/05.)** A landscaped, planted area having a minimum inside width of five feet shall be required along all street frontages of the lot and on the perimeters of all parking areas of the lot or lots which abut a residential zone or use.

Notwithstanding the above, in the Downtown Business District as defined in Section 12.21 A.4.(i) of this Code, a landscape (planted) area having a minimum inside width of five feet shall be required on the perimeters of all parking areas of the lot which abut a residential zone or use.

(ii) **Irrigation System.** An automatic irrigation system shall be provided for all landscaped areas. This system shall be installed prior to the issuance of any certificate of occupancy.

(b) **Conditions of Operation.** A Mini-Shopping Center or a Commercial Corner Development shall comply with the following conditions:

(1) **Maintenance.** The condition of the lot or lots, including but not limited to parking areas, exterior walls, required lighting, and landscaped areas, shall at all times be maintained in a safe and sanitary condition and in a state of good repair. Exterior wall surfaces shall at all times be kept free from graffiti and any marks of vandalism.

(2) **Debris Removal.** The lot or lots shall at all times be kept clear of weeds, rubbish, and all types of litter and combustible materials. Trash receptacles shall be located throughout the open areas of the lot or lots.

(3) **Hours.** Parking lot cleaning and sweeping, and trash collections from and deliveries to a Mini-Shopping Center or Commercial Corner Development, shall occur no earlier than 7 a.m., nor later than 8 p.m., Monday through Friday, and no earlier than 10 a.m., nor later than 4 p.m., on Saturdays and Sundays.

(4) **Landscape Maintenance.** Maintenance of landscaped areas shall include continuous operations of watering, removal of weeds, mowing, trimming, edging, cultivation, reseeding, plant replacement, fertilization, spraying, control of pests, insects, and rodents, or other operations necessary to assure normal plant growth. All trees, shrubs and ground cover shall be maintained as healthy and vigorous at all times. Irrigation systems, installed pursuant to the requirements in Subsubparagraph (a)(10)(ii) above shall be continuously maintained in accordance with Section 12.41 B.5. of this Code.

(5) **Covenant.** Prior to the issuance of a building permit or land use permit, the owner of the lot or lots shall execute and record a covenant and agreement in a form satisfactory to the Director of Planning, acknowledging that the owner shall implement each of the conditions set forth in Paragraph (b) of this subdivision, and shall not permit the erection of any of the signs enumerated in Paragraph (a)(6) of this subdivision or the establishment of any uses enumerated in Section 12.24 W.27. of this Code without first obtaining a conditional use approval. The covenant and agreement shall run with the land and be binding upon the owners, and any assignees, lessees, heirs, and successors of the owners. The City's right to enforce the covenant and agreement is in addition to any other remedy provided by law.

(c) **Existing Building Changed to Mini-Shopping Center or Commercial Corner Development.**

(1) An existing building or buildings may be converted to a Mini-Shopping Center or to a Commercial Corner Development without first obtaining a conditional use approval if all of the following requirements are met:

(i) all alterations result in no more than a twenty percent increase in the existing floor area of all of the

buildings on a lot or lots;

(ii) the proposed Mini-Shopping Center or the Commercial Corner Development use or uses are not enumerated in Section 12.24 W.27.;

(iii) no sign identified in Paragraph (a)(6) of this subdivision shall be erected on the site; and

(iv) the proposed Mini-Shopping Center or the Commercial Corner Development complies with the conditions of operation of Paragraph (b) of this subdivision.

(2) For an existing Mini-Shopping Center, or existing Commercial Corner Development use, no person shall establish as a new use, any of the uses enumerated in Section 12.24 W.27. of this subdivision without first obtaining a conditional use approval.

(d) **Exemptions.** The following Projects shall not be subject to this subdivision:

(1) A Mixed Use Project as defined in Section 13.09 B.3. that consists of predominantly residential uses and does not contain commercial uses enumerated in Section 12.24 W.27.;

(2) Adaptive Reuse Projects as defined in Section 12.22 A.26.; and

(3) Libraries, governmental offices, police stations, fire stations, and other government owned related facilities or uses.

(e) **Specific Plan Compliance.** If, as determined by the Director of Planning or his/her designee, the provisions of this Section conflict with those of an adopted Specific Plan, then the provisions of the Specific Plan shall prevail.

**24. Mobile Medical Facilities and Bloodmobiles. (Added by Ord. No. 166,045, Eff. 8/17/90.)**

(a) Notwithstanding any provision of this article to the contrary, any mobile medical facility may operate once a month for no more than 72 consecutive hours, in any single established parking area, in the P, PB, CR, C1, C1.5, C2, C4, CM, M1, M2 and M3 Zones, provided the parking area meets all requirements of the Municipal Code for a parking area and the operation of the facility does not obstruct any driveway access aisle or required parking space.

(b) Notwithstanding any provision of the article to the contrary, any bloodmobile may operate once a month for no more than 72 consecutive hours, in any single established parking area in any zone, provided the parking area meets all requirements of the Municipal Code for a parking area and the operation of the bloodmobile does not obstruct any driveway access aisle or required parking space.

(c) Notwithstanding any provision of this article to the contrary, any mobile medical facility may operate once a week for no more than 72 consecutive hours, in any single established hospital parking area, in the P, PB, CR, C1, C1.5, C2, C4, CM, M1, M2 and M3 zones, provided the parking area meets all requirements of the Municipal Code for a parking area and the operation of the facility does not obstruct any driveway access aisle or required parking space. **(Added by Ord. No. 170,161, Eff. 1/16/95.)**

**25. Affordable Housing Incentives - Density Bonus. (Amended by Ord. No. 179,681, Eff. 4/15/08.)**

(a) **Purpose.** The purpose of this subdivision is to establish procedures for implementing State Density Bonus requirements, as set forth in California Government Code Sections 65915-65918, and to increase the production of affordable housing, consistent with City policies.

(b) **Definitions.** Notwithstanding any provision of this Code to the contrary, the following definitions shall apply to this subdivision:

**Affordable Housing Incentives Guidelines** - the guidelines approved by the City Planning Commission under which Housing Development Projects for which a Density Bonus has been requested are evaluated for compliance with the requirements of this subdivision.

**Area Median Income (AMI)** - the median income in Los Angeles County as determined annually by the California Department of Housing and Community Development (HCD) or any successor agency, adjusted for household size.

**Density Bonus** - a density increase over the otherwise maximum allowable residential density under the applicable zoning ordinance and/or specific plan granted pursuant to this subdivision.

**Density Bonus Procedures** - procedures to implement the City's Density Bonus program developed by the Departments of Building and Safety, City Planning and Housing.

**Disabled Person** - a person who has a physical or mental impairment that limits one or more major life activities, anyone who is regarded as having that type of an impairment or, anyone who has a record of having that type of an impairment.

**Floor Area Ratio** - the multiplier applied to the total buildable area of the lot to determine the total floor area of all buildings on a lot.

**Housing Development Project** - the construction of five or more new residential dwelling units, the addition of five or more residential dwelling units to an existing building or buildings, the remodeling of a building or buildings containing five or more residential dwelling units, or a mixed use development in which the residential floor area occupies at least fifty percent of the total floor area of the building or buildings. For the purpose of establishing the minimum number of five dwelling units, Restricted Affordable Units shall be included and density bonus units shall be excluded.

**Incentive** - a modification to a City development standard or requirement of Chapter I of this Code (zoning).

**Income, Very Low, Low or Moderate** - annual income of a household that does not exceed the amounts designated for each income category as determined by HCD or any successor agency.

**Residential Hotel** - any building containing six or more Guest Rooms or Efficiency Dwelling Units, which are intended or designed to be used, or are used, rented, or hired out to be occupied, or are occupied for sleeping purposes by guests, so long as the Guest Rooms or Efficiency Dwelling Units are also the primary residence of those guests, but not including any building containing six or more Guest Rooms or Efficiency Dwelling Units, which is primarily used by transient guests who do not occupy that building as their primary residence.

**Residential Unit** - a dwelling unit or joint living and work quarters; a mobilehome, as defined in California Health and Safety Code Section 18008; a mobile home lot in a mobilehome park, as defined in California Health and Safety Code Section 18214; or a Guest Room or Efficiency Dwelling Unit in a Residential Hotel.

**Restricted Affordable Unit** - a residential unit for which rental or mortgage amounts are restricted so as to be affordable to and occupied by Very Low, Low or Moderate Income households, as determined by the Housing and Community Investment Department. **(Amended by Ord. No. 182,718, Eff. 10/30/13.)**

**Senior Citizens** - individuals who are at least 62 years of age, except that for projects of at least 35 units that are subject to this subdivision, a threshold of 55 years of age may be used, provided all applicable City, state and federal regulations are met.

**Senior Citizen Housing Develop- ment-** a Housing Development Project for senior citizens that has at least 35 units.

**Specific Adverse Impact** - 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.

**Transit Stop/Major Employment Center** - any one of the following:

- (1) A station stop for a fixed transit guideway or a fixed rail system that is currently in use or whose location is proposed and for which a full funding contract has been signed by all funding partners, or one for which a resolution to fund a preferred alignment has been adopted by the Los Angeles County Metropolitan Transportation Authority or its successor agency; or
- (2) A Metro Rapid Bus stop located along a Metro Rapid Bus route; or, for a Housing Development Project consisting entirely of Restricted Affordable Units, any bus stop located along a Metro Rapid Bus route; or
- (3) The boundaries of the following three major economic activity areas, identified in the General Plan Framework Element: Downtown, LAX and the Port of Los Angeles; or
- (4) The boundaries of a college or university campus with an enrollment exceeding 10,000 students.

(c) **Density Bonus.** Notwithstanding any provision of this Code to the contrary, the following provisions shall apply to the grant of a Density Bonus for a Housing Development Project:

(1) **For Sale or Rental Housing with Low or Very Low Income Restricted Affordable Units.** A Housing Develop- ment Project that includes 10% of the total units of the project for Low Income households or 5% of the total units of the project for Very Low Income households, either in rental units or for sale units, shall be granted a minimum Density Bonus of 20%, which may be applied to any part of the Housing Development Project. The bonus may be increased according to the percentage of affordable housing units provided, as follows, but shall not

exceed 35%:

**Percentage  
Low Income Units**

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

**Percentage  
Density Bonus**

20  
21.5  
23  
24.5  
26  
27.5  
29  
30.5  
32  
33.5  
35

**Percentage  
Very Low Income Units**

5  
6  
7  
8  
9  
10  
11

**Percentage  
Density Bonus**

20  
22.5  
25  
27.5  
30  
32.5  
35

(2) **For Sale or Rental Senior Citizen Housing (Market Rate).** A Senior Citizen Housing Development or a mobile- home park that limits residency based on age requirements for housing for older persons pursuant to California Civil Code Sections 798.76 or 799.5 shall be granted a minimum Density Bonus of 20%.

(3) **(Deleted by Ord. No. 181,142, Eff. 6/1/10.)**

(4) **A Common Interest Develop-ment That Includes Moderate Income Restricted Affordable Units. (Amended by Ord. No. 181,142, Eff. 6/1/10.)** A common interest development as defined in Section 1351 of the Civil Code that includes at least 10% of its units for Moderate Income households shall be granted a minimum Density Bonus of 5%. The bonus may be increased according to the percentage of affordable housing units provided, as follows, but shall not exceed 35%:

**Percentage**

**Moderate Income Units**

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

**Percentage**

**Density Bonus**

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
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(5) **Land Donation.** An applicant for a subdivision, parcel map or other residential development approval that donates land for housing to the City of Los Angeles satisfying the criteria of California Government Code Section 65915(h)(2), as verified by the Department of City Planning, shall be granted a minimum Density Bonus of 15%.

(6) **Child Care.** A Housing Development Project that conforms to the requirements of Subparagraphs (1), (2), (3), (4) or (5) of this paragraph and includes a child care facility located on the premises of, as part of, or adjacent to, the project, shall be granted either of the following:

(i) an additional Density Bonus that is, for purposes of calculating residential density, an increase in the floor area of the project equal to the floor area of the child care facility included in the project.

(ii) An additional Incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

(7) **Fractional Units.** In calculating Density Bonus and Restricted Affordable units, any number resulting in a fraction shall be rounded up to the next whole number.

(8) **Other Discretionary Approval.** Approval of Density Bonus units shall not, in and of itself, trigger other discretionary approvals required by the Code.

(9) **Other Affordable Housing Subsidies.** Approval of Density Bonus units does not, in and of itself, preclude projects from receipt of other government subsidies for affordable housing.

(10) **Additional Option for Restricted Affordable Units located near Transit Stop/Major Employment Center.** In lieu of providing the requisite number of Restricted Affordable Units in a Housing Development Project located in or within 1,500 feet of a Transit Stop/Major Employment Center that would otherwise be required under this subdivision, an applicant may opt to provide a greater number of smaller units, provided that:

(i) the total number of units in the Housing Development Project including Density Bonus units does not exceed the maximum permitted by this subdivision;

(ii) the square footage of the aggregate smaller Restricted Affordable units is equal to or greater than the square footage of the aggregate Restricted Affordable Units that would otherwise be required under this subdivision;

(iii) the smaller Restricted Affordable units are distributed throughout the building and have proportionally the same number of bedrooms as the market rate units; and

(iv) the smaller Restricted Affordable Units meet the minimum unit size requirements established by the Low Income Housing Tax Credit Program as administered by the California Tax Credit Allocation Committee (TCAC).

(11) **Common Interest Development with Low or Very Low Income restricted Affordable Units for Rent.** In a common interest development as defined in California Government Code Section 1351, such as a condominium, Restricted Affordable Units may be for sale or for rent.

(12) **Condominium Conversion.** A Housing Development Project that involves the conversion of apartments into condominiums and that includes 33 percent of its units restricted to households of Low or Moderate income or

15 percent of its units restricted to households of Very Low Income shall be granted a Density Bonus of 25 percent or up to three incentives as provided in Paragraph (e) of this subdivision.

(d) **Parking in a Housing Development Project.** Required parking spaces for a Housing Development Project that is for sale or for rent and qualifies for a Density Bonus and complies with this subdivision may be provided by complying with whichever of the following options requires the least amount of parking: applicable parking provisions of Section 12.21 A.4. of this Code, or Parking Option 1 or Parking Option 2, below. Required parking in a Housing Development Project that qualifies for a Density Bonus may be sold or rented separately from the dwelling units, so that buyers and tenants have the option of purchasing or renting a unit without a parking space. The separate sale or rental of a dwelling unit and a parking space shall not cause the rent or purchase price of a Restricted Affordable Unit (or the parking space) to be greater than it would otherwise have been.

(1) **Parking Option 1.** Required parking for all residential units in the Housing Development Project (not just the restricted units), inclusive of handicapped and guest parking, shall be reduced to the following requirements:

- (i) For each Residential Unit of 0-1 bedroom: 1 on-site parking space.
- (ii) For each Residential Unit of 2-3 bedrooms: 2 on-site parking spaces.
- (iii) For each Residential Unit of 4 or more bedrooms: 2-1/2 on-site parking spaces.

(2) **Parking Option 2.** Required parking for the Restricted Affordable Units only shall be reduced as set forth in Subparagraphs (i) and (ii) below. Required parking for all other non-restricted units in the Housing Development Project shall comply with applicable provisions of Section 12.21 of this Code.

(i) One parking space per Restricted Affordable Unit, except:

- a. 0.5 parking space for each dwelling unit restricted to Low or Very Low Income Senior Citizens or Disabled Persons; and/or
- b. 0.25 parking space for each Restricted Affordable Unit in a Residential Hotel.

(ii) Up to 40% of the required parking for the Restricted Affordable Units may be provided by compact stalls.

(e) **Incentives.**

(1) In addition to the Density Bonus and parking options identified in Paragraphs (c) and (d) of this subdivision, a Housing Development Project that qualifies for a Density Bonus shall be granted the number of Incentives set forth in the table below.

Number of Incentiv.es	Required Percentage* of Units Restricted for Very Low Income Households	Required Percentage* of Units Restricted for Low Income Households	Required Percentage* of Units Restricted for Moderate Income Households (For Sale Only)
One Incentive	5% or	10% or	10%
Two Incentives	10% or	20% or	20%
Three Incentives	15% or	30% or	30%

\* Excluding Density Bonus units.

(2) To be eligible for any on-menu incentives, a Housing Development Project (other than an Adaptive Reuse project) shall comply with the following:

- (i) The facade of any portion of a building that abuts a street shall be articulated with a change of material or with a break in plane, so that the facade is not a flat surface.
- (ii) All buildings must be oriented to the street by providing entrances, windows, architectural features and/or balconies on the front and along any street-facing elevations.
- (iii) The Housing Development Project shall not be a contributing structure in a designated Historic Preservation Overlay Zone and shall not be on the City of Los Angeles list of Historical-Cultural Monuments.
- (iv) The Housing Development Project shall not be located on a substandard street in a Hillside Area or



in a Very High Fire Hazard Severity Zone as established in Section 57.4908 of this Code.

(f) **Menu of Incentives.** Housing Development Projects that meet the qualifications of Paragraph (e) of this subdivision may request one or more of the following Incentives, as applicable:

(1) **Yard/Setback.** Up to 20% decrease in the required width or depth of any individual yard or setback except along any property line that abuts an R1 or more restrictively zoned property provided that the landscaping for the Housing Development Project is sufficient to qualify for the number of landscape points equivalent to 10% more than otherwise required by Section 12.40 of this Code and Landscape Ordinance Guidelines "O."

(2) **Lot Coverage.** Up to 20% increase in lot coverage limits, provided that the landscaping for the Housing Development Project is sufficient to qualify for the number of landscape points equivalent to 10% more than otherwise required by Section 12.40 of this Code and Landscape Ordinance Guidelines "O".

(3) **Lot Width.** Up to 20% decrease from a lot width requirement, provided that the landscaping for the Housing Development Project is sufficient to qualify for the number of landscape points equivalent to 10% more than otherwise required by Section 12.40 of this Code and Landscape Ordinance Guidelines "O".

(4) **Floor Area Ratio.**

(i) A percentage increase in the allowable Floor Area Ratio equal to the percentage of Density Bonus for which the Housing Development Project is eligible, not to exceed 35%; or

(ii) In lieu of the otherwise applicable Floor Area Ratio, a Floor Area Ratio not to exceed 3:1, provided the parcel is in a commercial zone in Height District 1 (including 1VL, 1L and 1XL), and fronts on a Major Highway as identified in the City's General Plan, and

a. the Housing Development Project includes the number of Restricted Affordable Units sufficient to qualify for a 35% Density Bonus, and

b. 50% or more of the commercially zoned parcel is located in or within 1,500 feet of a Transit Stop/Major Employment Center.

A Housing Development Project in which at least 80% of the units in a rental project are Restricted Affordable Units or in which 45% of the units in a for-sale project are Restricted Affordable Units shall be exempt from the requirement to front on a Major Highway.

(5) **Height.** A percentage increase in the height requirement in feet equal to the percentage of Density Bonus for which the Housing Development Project is eligible. This percentage increase in height shall be applicable over the entire parcel regardless of the number of underlying height limits. For purposes of this subparagraph, Section 12.21.1 A.10. of this Code shall not apply.

(i) In any zone in which the height or number of stories is limited, this height increase shall permit a maximum of eleven additional feet or one additional story, whichever is lower, to provide the Restricted Affordable Units.

(a) No additional height shall be permitted for that portion of a building in a Housing Development Project that is located within fifteen feet of a lot classified in the R2 Zone.

(b) For each foot of additional height the building shall be set back one horizontal foot.

(ii) No additional height shall be permitted for that portion of a building in a Housing Development Project that is located within 50 feet of a lot classified in an R1 or more restrictive residential zone.

(iii) No additional height shall be permitted for any portion of a building in a Housing Development Project located on a lot sharing a common lot line with or across an alley from a lot classified in an R1 or more restrictive zone. This prohibition shall not apply if the lot on which the Housing Development Project is located is within 1,500 feet of a Transit Stop but no additional height shall be permitted for that portion of a building in the Housing Development Project that is located within 50 feet of a lot classified in an R1 or more restrictive residential zone.

(6) **Open Space.** Up to 20% decrease from an open space requirement, provided that the landscaping for the Housing Development Project is sufficient to qualify for the number of landscape points equivalent to 10% more than otherwise required by Section 12.40 of this Code and Landscape Ordinance Guidelines "O".

(7) **Density Calculation.** The area of any land required to be dedicated for street or alley purposes may be included as lot area for purposes of calculating the maximum density permitted by the underlying zone in which the project is located.

(8) **Averaging of Floor Area Ratio, Density, Parking or Open Space, and permitting Vehicular Access.** A Housing Development Project that is located on two or more contiguous parcels may average the floor area, density, open space and parking over the project site, and permit vehicular access from a less restrictive zone to a more restrictive zone, provided that:

- (i) the Housing Development Project includes 11% or more of the units as Restricted Affordable Units for Very Low Income households, or 20% of the units for Low Income households, or 30% of the units for Moderate Income households; and
- (ii) the proposed use is permitted by the underlying zone(s) of each parcel; and
- (iii) no further lot line adjustment or any other action that may cause the Housing Development Project site to be subdivided subsequent to this grant shall be permitted.

(g) **Procedures.**

(1) **Density Bonus and Parking.** Housing Development Projects requesting a Density Bonus without any Incentives (which includes a Density Bonus with only parking requirements in accordance with Paragraphs (c) and (d) of this subdivision) shall be considered ministerial and follow the Affordable Housing Incentives Guidelines and the Density Bonus Procedures. No application for these projects need be filed with the City Planning Department.

(2) **Requests for Incentives on the Menu.**

(i) The applicant for Housing Development Projects that qualify for a Density Bonus and that request up to three Incentives on the Menu of Incentives in Paragraph (f) of this subdivision, and which require no other discretionary actions, the following procedures shall apply:

a. **Application.** The request shall be made on a form provided by the Department of City Planning, as set forth in Section 11.5.7 B.2.(a) of this Code, accompanied by applicable fees.

b. **Authority. (Amended by Ord. No. 182,106, Eff. 5/20/12.)** The Director shall be the initial decision maker for applications seeking on Menu incentives.

**EXCEPTION:** When the application is filed as part of a project requiring multiple approvals, the initial decision maker shall be as set forth in Section 12.36 of this Code; and when the application is filed in conjunction with a subdivision and no other approval, the Advisory Agency shall be the initial decision-maker.

c. **Action.** The Director shall approve a Density Bonus and requested Incentive(s) unless the Director finds that:

(i) The Incentive is not required in order to provide for affordable housing costs as defined in California Health and Safety Code Section 50052.5, or Section 50053 for rents for the affordable units; or

(ii) The Incentive will have a Specific Adverse Impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the Specific Adverse Impact without rendering the development unaffordable to Very Low, Low and Moderate Income households. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

d. **Transmittal of Written Decision.** Within three business days of making a decision, the Director shall transmit a copy by First Class Mail to the applicant and to all owners of properties abutting, across the street or alley from, or having a common corner with the subject property, and to the local Certified Neighborhood Council.

e. **Effective Date of Initial Decision.** The Director's decision shall become effective after an elapsed period of 15 calendar days from the date of the mailing of the written decision unless an appeal is filed to the City Planning Commission.



f. **Appeals. (Amended by Ord. No. 182,106, Eff. 5/20/12.)** An applicant or any owner or tenant of a property abutting, across the street or alley from, or having a common corner with the subject property aggrieved by the Director's decision may appeal the decision to the City Planning Commission pursuant to applicable procedures set forth in Section 11.5.7 C.6. of this Code that are not in conflict with the provisions of this paragraph (g)(2)(i). The appeal shall include a filing fee pursuant to Section 19.01 B. of this Code. Before acting on any appeal, the City Planning Commission shall set the matter for hearing, with written notice of the hearing sent by First Class Mail at least ten days prior to the meeting date to: the applicant; the owner(s) of the property involved; and the interested parties who have requested notice in writing. The appeal shall be placed on the agenda for the first available meeting date of the City Planning Commission and acted upon within 60 days from the last day of the appeal period. The City Planning Commission may reverse or modify, in whole or in part, a decision of the Director. The City Planning Commission shall make the same findings required to be made by the Director, supported by facts in the record, and indicate why the Director erred making the determination.

**EXCEPTION:** When the application is filed as part of a project requiring multiple approvals, the appeals procedures set forth in Section 12.36 of this Code shall govern. When the application is filed in conjunction with a Parcel Map and no other approval, the appeals procedures set forth in Section 17.54 of this Code shall govern. When the application is filed in conjunction with a tentative map and no other approval, the appeals procedures set forth in Section 17.06 A.3. of this Code shall govern, provided that such applications shall only be appealable to the Appeal Board, as defined in Section 17.02 of this Code, and shall not be subject to further appeal to the City's legislative body.

(ii) For Housing Development Projects that qualify for a Density Bonus and for which the applicant requests up to three Incentives listed in Paragraph (f), above, and that require other discretionary actions, the applicable procedures set forth in Section 12.36 of this Code shall apply.

a. The decision must include a separate section clearly labeled "Density Bonus/ Affordable Housing Incentives Program Determination".

b. The decision-maker shall approve a Density Bonus and requested Incentive(s) unless the decision-maker, based upon substantial evidence, makes either of the two findings set forth in Subparagraph (2)(i)(c), above.

**(3) Requests for Waiver or Modification of any Development Standard(s) Not on the Menu.**

(i) For Housing Development Projects that qualify for a Density Bonus and for which the applicant request a waiver or modification of any development standard(s) that is not included on the Menu of Incentives in Paragraph (f), above, and that are not subject to other discretionary applications, the following shall apply:

a. The request shall be made on a form provided by the Department of City Planning, accompanied by applicable fees, and shall include a pro forma or other documentation to show that the waiver or modification of any development standard(s) are needed in order to make the Restricted Affordable Units economically feasible.

b. **Notice and Hearing.** The application shall follow the procedures for conditional uses set forth in Section 12.24 D. of this Code. A public hearing shall be held by the City Planning Commission or its designee. The decision of the City Planning Commission shall be final.

c. The City Planning Commission shall approve a Density Bonus and requested waiver or modification of any development standard(s) unless the Commission, based upon substantial evidence, makes either of the two findings set forth in Subparagraph (g)(2)(i)c., above.

(ii) For Housing Development Projects requesting waiver or modification of any development standard(s) not included on the Menu of Incentives in Paragraph (f) above, and which include other discretionary applications, the following shall apply:

a. The applicable procedures set forth in Section 12.36 of this Code shall apply.

b. The decision must include a separate section clearly labeled "Density Bonus/ Affordable Housing Incentives Program Determination".

c. The decision-maker shall approve a Density Bonus and requested waiver or modification of any development standard(s) unless the decision-maker, based upon substantial evidence, makes either of the two findings set forth in Subparagraph (g)(2)(i)c., above.

(h) **Covenant.** Prior to issuance of a Building Permit, the following shall apply:

(1) For any Housing Development Project qualifying for a Density Bonus and that contains housing for Senior Citizens, a covenant acceptable to the Housing and Community Investment Department shall be recorded with the Los Angeles County Recorder, guaranteeing that the occupancy restriction to Senior Citizens shall be observed for at least 30 years from the issuance of the Certificate of Occupancy or a longer period of time if required by the construction or mortgage financing assistance program, mortgage assistance program, or rental subsidy program. **(Amended by Ord. No. 182,718, Eff. 10/30/13.)**

(2) For any Housing Development Project qualifying for a Density Bonus and that contains housing for Low or Very Low Income households, a covenant acceptable to the Housing and Community Investment Department shall be recorded with the Los Angeles County Recorder, guaranteeing that the affordability criteria will be observed for at least 30 years from the issuance of the Certificate of Occupancy or a longer period of time if required by the construction or mortgage financing assistance program, mortgage assistance program, or rental subsidy program. **(Amended by Ord. No. 182,718, Eff. 10/30/13.)**

(3) For any Housing Development Project qualifying for a Density Bonus and that contains housing for Moderate Income households for sale, a covenant acceptable to the Housing and Community Investment Department and consistent with the for sale requirements of California Government Code Section 65915(c)(2) shall be recorded with the Los Angeles County Recorder guaranteeing that the affordability criteria will be observed for at least ten years from the issuance of the Certificate of Occupancy. **(Amended by Ord. No. 182,718, Eff. 10/30/13.)**

(4) If the duration of affordability covenants provided for in this subdivision conflicts with the duration for any other government requirement, the longest duration shall control.

(5) Any covenant described in this paragraph must provide for a private right of enforcement by the City, any tenant, or owner of any building to which a covenant and agreement applies.

(i) **Fee Deferral.** At the option of the applicant, payment of fees may be deferred pursuant to Sections 19.01 O. and 19.05 A.1. of this Code.

(j) **Applicability.** To the extent permitted under applicable State law, if a conflict arises between the terms of this subdivision and the terms of the City's Mello Act Settlement Agreement, Interim Administrative Procedures for Complying with the Mello Act or any subsequent permanent Mello Ordinance, Procedures or Regulations (collectively "Mello Terms"), the Mello Terms preempt this subdivision.

**26. Downtown Adaptive Reuse Projects. (Amended by Ord. No. 174,315, Eff. 12/20/01.)**

(a) **Purpose.** The purpose of this Subdivision is to revitalize the Greater Downtown Los Angeles Area and implement the General Plan by facilitating the conversion of older, economically distressed, or historically significant buildings to apartments, live/work units or visitor-serving facilities. This will help to reduce vacant space as well as preserve Downtown's architectural and cultural past and encourage the development of a live/work and residential community Downtown, thus creating a more balanced ratio between housing and jobs in the region's primary employment center. This revitalization will also facilitate the development of a "24-hour city" and encourage mixed commercial and residential uses in order to improve air quality and reduce vehicle trips and vehicle miles traveled by locating residents, jobs, hotels and transit services near each other.

(b) **Application.** If the provisions of Subparagraph (2) of Paragraph (h) and of Subparagraphs (1), (2) or (3) of Paragraph (j) of this subdivision conflict with those of any specific plan, supplemental use district, "Q" condition, "D" limitation, or citywide regulation, any of which were adopted or imposed by City action prior to the effective date of this ordinance, then this Subdivision shall prevail.

(c) **Definition of Adaptive Reuse Project.** Notwithstanding any other provisions of this chapter to the contrary, for the purposes of this subdivision, an Adaptive Reuse Project is any change of use to dwelling units, guest rooms, or joint living and work quarters in all or any portion of any eligible building.

(d) **Eligible Buildings.** The provisions of this subdivision shall apply to Adaptive Reuse Projects in all or any portion of the following buildings in the CR, C1, C1.5, C2, C4, C5, CM and R5 Zones in the Downtown Project Area:

(1) Buildings constructed in accordance with building and zoning codes in effect prior to July 1, 1974. A Certificate of Occupancy, building permit, or other suitable documentation may be submitted as evidence to verify the date of construction.

(2) Buildings constructed in accordance with building and zoning codes in effect on or after July 1, 1974, if:

(i) Five years have elapsed since the date of issuance of final Certificates of Occupancy; and

(ii) A Zoning Administrator finds that the building is no longer economically viable in its current use or uses, pursuant to Section 12.24 X.1.(c). **(Amended by Ord. No. 175,588, Eff. 12/1/03.)**

(3) Buildings designated on the National Register of Historic Places, the California Register of Historical Resources, or the City of Los Angeles List of Historic-Cultural Monuments. Contributing Buildings in National Register Historic Districts or Contributing Structures in Historic Preservation Overlay Zones (HPOZ) established pursuant to Section 12.20.3 of this Code are also eligible buildings.

(e) **M Zones.** The Zoning Administrator may, upon application, permit Adaptive Reuse Projects in all or any portion of any eligible building in the MR1, MR2, M1, M2 and M3 Zones in the Downtown Project Area, pursuant to Section 12.24 X.1.(b). **(Amended by Ord. No. 175,588, Eff. 12/1/03.)**

(f) **Floor Area Averaging.** The Zoning Administrator may, upon application, permit floor area averaging in unified Adaptive Reuse Projects, pursuant to Section 12.24 X.1.(d). **(Amended by Ord. No. 175,588, Eff. 12/1/03.)**

(g) **Downtown Project Area.** The Downtown Project Area includes the following areas:

(1) The Central City Community Plan Area as shown on the General Plan of the City of Los Angeles; and

(2) All that real property in the City of Los Angeles, described by the following boundary lines: Bounded northerly by the centerline of Freeway Number 10 (commonly called the Santa Monica Freeway); bounded southerly by the centerline of Vernon Avenue; bounded easterly and southeasterly by the following centerline courses: beginning at the intersection of the Santa Monica Freeway and Grand Avenue, then southerly along Grand Avenue to the most easterly line of Freeway Number 110 (commonly called the Harbor Freeway), then southerly along that right of way to the centerline of Martin Luther King, Jr. Boulevard, then easterly along Martin Luther King, Jr. Boulevard to the centerline of Grand Avenue, then southerly along Grand Avenue to the centerline of Vernon Avenue. Bounded westerly and northwesterly by the following centerline courses: beginning at the intersection of Vermont Avenue and Vernon Avenue, then northerly along Vermont Avenue to Jefferson Boulevard, then easterly along Jefferson Boulevard to University Avenue, then northerly along University Avenue to 28th Street, then westerly along 28th Street to Severance Street, then northerly along Severance Street to Adams Boulevard, then westerly along Adams Boulevard to Scarff Street, then northerly along Scarff Street to 23rd Street, then southerly along 23rd Street to Bonsallo Avenue, then northerly along Bonsallo Avenue to Washington Boulevard, then westerly along Washington Boulevard to Oak Street, then northerly along Oak Street and its northerly prolongation to the Santa Monica Freeway.

(h) **Incentives.** Notwithstanding any other provisions of this chapter to the contrary, Adaptive Reuse Projects shall be entitled to the incentives set forth below. Except for the provision concerning mezzanines set forth in Subparagraph (1) below, these incentives shall not apply to any new floor area that is added to an Adaptive Reuse Project.

(1) **Mezzanines.** Loft spaces in joint living and work quarters, dwelling units and guest rooms which do not exceed more than 33 percent of the floor area of the space below shall not be considered new floor area. Mezzanines may be included in the calculation of floor area for the purpose of determining compliance with the standards set forth in Paragraph (i) of this subdivision.

(2) **Density.** Dwelling units, joint living and work quarters and guest rooms shall not be subject to the lot area requirements of the zone or height district.

(3) **Off-Street Automobile Parking.** The required number of parking spaces shall be the same as the number of spaces that existed on the site on June 3, 1999, and shall be maintained and not reduced. Adaptive Reuse Projects shall otherwise be exempt from the provisions of Section 12.21 A.4.(m) of this Code.

(4) **Mini-Shopping Center and Commercial Corner Development Regulations.** Adaptive Reuse Projects shall be exempt from the mini-shopping center and commercial corner development regulations set forth in Section 12.22 A.23.

(5) **Site Plan Review.** Adaptive Reuse Projects shall be exempt from the requirements for Site Plan Review set forth in Section 16.05.

(6) **Loading Space.** Where an existing loading space is provided, the provisions of Section 12.21 C.6.(h) shall apply. If no loading spaces exist, then a loading space shall not be required in conjunction with the development of an Adaptive Reuse Project.

(i) **Standards.** Adaptive Reuse Projects permitted pursuant to this subdivision shall be developed in compliance with the following standards:

(1) **Dwelling Units and Joint Living and Work Quarters.** **(Amended by Ord. No. 175,588, Eff. 12/1/03.)** The minimum floor area for new dwelling units and joint living and work quarters shall be 450 square feet,

provided however, that the average floor area of all such units and quarters in a single eligible building, including those that existed prior to June 3, 1999, shall be at least 750 square feet. That minimum average size shall be maintained and not reduced.

Floor area, as defined in Section 12.03 of the Code, shall also not include hallways or other common areas. The floor area of both the living space and the work space shall be combined to determine the size of joint living and work quarters.

(2) **Guest Rooms.** Guest rooms shall include a toilet and bathing facilities.

(j) **Exceptions.** Notwithstanding the nonconforming provisions of Section 12.23, the following exceptions shall apply to the buildings in which Adaptive Reuse Projects are located. These exceptions shall also apply to any building in which new floor area or height was added or observed yards changed on or after July 1, 1974, as evidenced by a valid Certificate of Occupancy.

(1) **Floor Area.** Existing floor area which exceeds that permitted by the zone, height district, specific plan, supplemental use district, or any other land use regulation shall be permitted.

(2) **Height.** Existing height which exceeds that permitted by the zone, height district, specific plan, supplemental use district, or any other land use regulation shall be permitted.

(3) **Yards.** Existing observed yards which do not meet the yards required by the zone, height district, specific plan, supplemental use district, or any other land use regulation shall be permitted.

(k) **Uses.** Notwithstanding the nonconforming provisions of Section 12.23, dwelling units, guest rooms, and joint living and work quarters shall be permitted in Adaptive Reuse Projects, so long as the use is permitted by the underlying zone.

**27. Reasonable Accommodation - Fair Housing Protections for Individuals with Disabilities. (Added by Ord. No. 177,325, Eff. 3/18/06.)**

(a) **Purpose.** The purpose of this provision is to establish a formal procedure for an Individual with a Disability seeking equal access to housing to request a reasonable accommodation as provided by the federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act, and to establish criteria to be used when considering these requests. Reasonable accommodation means providing an Individual with a Disability or developers of housing for an Individual with a Disability, flexibility in the application of land use and zoning regulations or policies (including the modification or waiver of certain requirements), when it is necessary to eliminate barriers to housing opportunities.

(b) **Definitions.**

**Acts** - the Federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act.

**Individual with a Disability** - As defined under the Acts, a person who has a physical or mental impairment that limits one or more major life activities, anyone who is regarded as having that type of impairment or, anyone who has a record of that type of impairment.

(c) **Procedures.**

(1) A written request for reasonable accommodation from a land use or zoning regulation or policy shall be made on a form provided by the Department of City Planning by any Individual with a Disability, his or her representative or a developer or provider of housing for an Individual with a Disability.

(2) A request for reasonable accommodation shall state the basis of the request including but not limited to a modification or exception to the regulations, standards and practices for the siting, development and use of housing or housing related facilities that would eliminate regulatory barriers and provide an Individual with a Disability equal opportunity to housing of his or her choice.

(3) The Director may request additional information necessary for making a determination on the request for reasonable accommodation that complies with the fair housing law protections and the privacy rights of the Individual with a Disability to use the specified housing. If additional information is requested, the 45-day time period for making a determination on the request stops running until the additional information is provided.

(4) Prior to the issuance of any permits relative to an approved reasonable accommodation, the Director may require the applicant to record a covenant in the County Recorder's Office acknowledging and agreeing to comply with the terms and conditions established in the determination. The covenant shall be required only if the Director finds that a covenant is necessary to provide notice to future owners that a reasonable accommodation has been approved.

(d) **Time to Act.**

(1) The Director shall issue a written determination to either grant, grant with modifications, or deny a request for reasonable accommodation within 45 days of the date the application is deemed complete, or within an extended period as mutually agreed upon in writing by the applicant and the Director.

(2) While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.

(e) **Findings.** The written decision to grant, grant with modifications or deny a request for reasonable accommodation shall include the following findings:

(1) that the housing, which is the subject of the request for reasonable accommodation, will be used by an Individual with a Disability protected under the Acts;

(2) that the requested accommodation is necessary to make housing available to an Individual with a Disability protected under the Acts;

(3) that the requested accommodation would not impose an undue financial or administrative burden on the City; and

(4) that the requested accommodation would not require a fundamental alteration in the nature of the City's land use and zoning program.

(f) **Applicability.** If the Director grants the request, the request shall be granted to an individual and shall not run with the land unless the Director determines that (1) the modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with the Code or (2) the accommodation is to be used by another Individual with a Disability.

(g) **Notice.** Notice of the determination shall be provided to the applicant and to abutting owners of the property, which is the subject of the request for reasonable accommodation. All written decisions shall give notice of the right to appeal and to request reasonable accommodation in the appeals process as set forth in Subsection (h), below.

(h) **Appeal of Determination.**

(1) A determination by the Director shall be final unless appealed to the City Council within 15 calendar days of the date of mailing of the determination.

(2) Only the aggrieved applicant and abutting owners who received notice of the reasonable accommodation determination have a right to appeal the decision.

(3) An appeal shall be made in writing, pursuant to procedures established in Section 12.24 I.2. through 5. of this Code.

(i) **Coastal Zone Properties.** For housing located in the Coastal Zone, a request for reasonable accommodation under this section shall be approved by the City if it is consistent with the requisite findings above, with Chapter 3 of the California Coastal Act of 1976, and with the Interpretative Guidelines for Coastal Planning and Permits as established by the California Coastal Commission dated February 11, 1977, and any subsequent amendments, and, within the Venice Community Plan, with the certified Local Coastal Program Land Use Plan.

Where a request for reasonable accommodation is not consistent with the regulations identified in the paragraph above, the City may waive compliance with an otherwise applicable provision of these regulations and approve the request for reasonable accommodation if the City finds:

(1) that the requested reasonable accommodation is consistent, to the maximum extent feasible, with the regulations identified in this subsection; and,

(2) that there are no feasible alternative means for providing an accommodation at the property that would provide greater consistency with the regulations identified in this subsection.

28. **Automotive Use. (Added by Ord. No. 178,382, Eff. 3/24/07.)** In the C2 or less restrictive zones, a new automotive use, change of use or addition of floor area to an existing automotive use may be established without first obtaining an approval pursuant to Section 12.24 W.4. of this Code if the development standards set forth in Paragraph (a) and the operating conditions set forth in Paragraph (b) of this subdivision are met. Notwithstanding the above, new automobile dealership franchises, and their associated activities, are exempt from the requirements of this subdivision.

(a) **Development Standards.**



(1) **Windows.** The exterior walls and doors of any building, excluding bay doors and/or security grills, housing an automotive use, which are parallel to a street, shall consist of at least 50 percent transparent windows, unless otherwise prohibited by law.

(2) **Bay Doors.** Bay doors or vehicle entrances, exits and openings shall not face any school, lot with a Certificate of Occupancy for a one-family dwelling, multiple-family dwelling, or mixed use project containing a residential use, or A or R zone that is within 100-feet from the face of the building containing the bay door, vehicle entrance, exit or opening.

(3) **Wash Rack.** Every wash rack shall be constructed or arranged so that entrances, exits and openings shall not face any school, lot with a Certificate of Occupancy for a one-family dwelling, multiple-family dwelling, or mixed use project containing a residential use, or A or R zone within 100-feet of the side of the building containing the bay door, vehicle entrance, exit or opening.

(4) **Fences.** Fences or walls erected along the front lot line shall not exceed 36-inches in height.

(5) **Automotive hoists.** Automotive hoists of any type or size, shall be located and operated only inside a building enclosed on at least three sides.

(6) **Signs.**

(i) In addition to the requirements set forth in Sections 91.6201 et seq. of this Code, no person shall erect a pole sign or projecting sign, as defined in Section 91.6203 of this Code, on the lot or lots without first obtaining a conditional use permit pursuant to Section 12.24 W.4. of this Code.

(ii) Monument signs and information signs may only be located within the landscape-planted areas of the lot or lots.

(7) **Utilities.** All new utility lines which directly service the lot or lots shall be installed underground. If underground service is not available at the time the application is submitted and fees paid for plan check, then provisions should be made for future underground service to the satisfaction of the Bureau of Engineering, if determined necessary by the Department of Water and Power.

(8) **Walls and Trash Storage.** A solid masonry wall at least six feet in height shall be erected along the lot lines of the lot or lots where the lot or lots abut or are across an alley from any school, lot with a Certificate of Occupancy for a one-family dwelling, multiple-family dwelling, or mixed use project containing a residential use, or A or R zone, except for that portion of the lot line where an access driveway is required by the City as determined by the Department of Building and Safety. Trash storage bins shall be located within a gated enclosure constructed of solid masonry and finished to match the exterior wall materials of the main building.

(9) **Landscaping.** All landscaping shall comply with Sections 12.41, 12.42 and 12.43 of this Code and the following requirements:

(i) **Landscaping - Setback.** A landscaped, planted area having a minimum width of five feet shall be required along all street frontages of the lot or lots, except for that portion of the lot line where an access driveway is required by the City as determined by the Department of Building and Safety, and on the perimeters of all parking areas of the lot or lots that abut a residential zone or use.

(ii) **Irrigation System.** An automatic irrigation system shall be provided for all landscaped, planted areas. The system shall be installed and operational prior to the issuance of any certificate of occupancy.

(10) **Lighting.** All exterior and flood lighting shall be directed onto the lot or lots and shall be designed to eliminate any glare to adjoining properties.

(b) **Operating Conditions.**

(1) Spray painting shall not be conducted.

(2) Junkyard or automobile dismantling activities shall not be conducted.

(3) Public address system shall not be permitted.

(4) Site cleaning, sweeping, trash collection, and deliveries to the site shall be limited to the following hours: Monday through Friday, 7:00 AM to 7:00 PM and Saturday and Sunday 8:00 AM to 5:00 PM. Notwithstanding the above, trash collection shall not be allowed on Sundays or legal holidays.

(5) Hours of operation shall be limited to: Monday through Friday, 7:00 AM to 7:00 PM; Saturday, 9:00 AM to

8:00 PM; and Sunday, 11:00 AM to 8:00 PM.

(6) All loading, including those of vehicles, shall occur on-site.

(7) Vehicles being repaired shall be stored on-site. Any off-site parking shall comply with Section 12.21 A.6. of this Code.

(8) Accessory sales activities shall not occur outside a fully enclosed building.

(9) Trailers and/or temporary modular buildings shall not be permitted as a work area.

(10) Arcades or game machines shall not be permitted.

(11) Temporary canopy tents shall not be permitted when the tents are visible from the street.

(12) The site where the automotive use is located shall be kept clear of weeds, rubbish, and all types of litter and combustible materials at all times. One trash receptacles shall be located for every 200 square feet of open space and shall be uniformly distributed throughout the open areas of the site.

(13) Any automotive laundry or wash rack, in which power driven or steam cleaning machinery is used, shall maintain noise levels below the levels provided in Table II of Section 111.03 of this Code. The comparison between the noise emanating from the automotive laundry or wash rack and from Table II shall be made in the manner set forth in Section 111.02(a) of this Code.

(14) Any automotive sound shop or automotive alarm shop shall be wholly conducted within a fully enclosed building. No portion of the building or its associated parking area shall be within 50 feet of any school, lot with a Certificate of Occupancy for a one-family dwelling, multiple-family dwelling, or mixed use project containing a residential use, A or R zoned lot.

(15) All operational conditions imposed by the Department of Building and Safety in its annual inspections of automotive repair and used vehicle sales area pursuant to Section 12.26 I. of this Code shall be followed.

(16) On-site pennants, banners, ribbons, streamers, spinners, balloons and supergraphic signs are prohibited.

(17) All windows and glass doors shall be maintained free of any signs.

(18) **Covenant.** Prior to the issuance of a building permit or land use permit, the owner of the lot or lots shall execute and record a covenant and agreement in a form satisfactory to the Director of Planning, acknowledging that the owner shall implement each of the conditions set forth in this paragraph, and shall not permit the establishment of any uses enumerated in Section 12.24 W.4. of this Code without first obtaining a conditional use approval. The covenant and agreement shall run with the land and be binding upon the owners, and any assignees, lessees, heirs, and successors of the owners. The City's right to enforce the covenant and agreement is in addition to any other remedy provided by law.

(c) **Existing Building Changed to Automotive Use and/or an Existing Automotive Use Being Expanded or Remodeled.** An existing building or buildings may be converted or an existing automotive use may be expanded without first obtaining a conditional use approval if all of the following requirements are met:

(1) All alterations result in no more than a 20 percent increase in the existing floor area of all of the buildings on a lot or lots cumulatively over the previous five years.

(2) The proposed automotive use complies with all the conditions of operation of Paragraph (b) above.

(3) Any reuse of an existing structure that is required to go through a CUP process shall have all standards established by the Zoning Administrator.

(d) **Specific Plan Compliance.** Notwithstanding any other provision of this Code to the contrary, if the Director determines that the provisions of this subdivision conflict with those of an adopted Specific Plan, pedestrian oriented, commercial and artwork, community design overlay, historic preservation overlay or transit-oriented district, area or zone, then the provisions of that Specific Plan, district, area or zone shall prevail.

29. **Floor Area Bonus for the Greater Downtown Housing Incentive Area. (Added by Ord. No. 179,076, Eff. 9/23/07.)**

(a) **Definitions.**

**Area Median Income (AMI)** - the median income in the Los Angeles County as determined annually by the United States Department of Housing and Urban Development (HUD), or any successor agency, adjusted for household size.

**Floor Area Bonus** - an increase in floor area greater than the otherwise maximum allowable floor area, as set forth in Section 12.21.1 of the Code.

**Income, Very Low, Low or Moderate** - annual income of a household that does not exceed amounts designated for each income category as determined by HUD, or any successor agency.

**Income, Workforce** - the annual income of a household that does not exceed 150% of the Area Median Income as determined by HUD, or any successor agency.

**Restricted Affordable Unit** - a residential unit for which rental or mortgage amounts are restricted so as to be affordable to and occupied by Very Low, Low, Moderate or Workforce Income households, as determined by the Housing and Community Investment Department. **(Amended by Ord. No. 182,718, Eff. 10/30/13.)**

(b) **Eligibility for Floor Area Bonus.** A residential (including Apartment Hotel and mixed-use) building in the Greater Downtown Housing Incentive Area containing the requisite number of Restricted Affordable Units as determined by the Department of City Planning and as set forth in Subparagraphs (1), (2) and (3) below shall be granted the following incentives in accordance with Paragraph (c) below:

(1) 5% of the total number of dwelling units shall be provided for Very Low Income households; and

(2) One of the following shall be provided:

(i) 10% of the total number of dwelling units for Low Income households; or

(ii) 15% of the total number of dwelling units for Moderate Income households; or

(iii) 20% of the total number of dwelling units for Workforce Income households.

(3) Any dwelling unit or guest room occupied by a household earning less than 50% of the Area Median Income that is demolished or otherwise eliminated shall be replaced on a one-for-one basis within the Community Plan Area in which it is located.

(4) Fractional Units. In calculating Restricted Affordable Units, any number resulting in a fraction shall be rounded up to the next whole number.

(c) **Incentives.**

(1) A 35% increase in total floor area. In computing the total floor area of a residential building or residential portion of a building, any public area accessible to all residents, including public common areas that serve both residential and commercial uses, and any unenclosed architectural features and areas of a building shall not be considered part of the total floor area of a residential or residential portion of a building. The floor area shall be measured to the center line of partitions separating public and non-public common areas.

(2) The open space required by Section 12.21 G. of this chapter shall be reduced by one-half, provided that a fee equivalent to the amount of the relevant park fee, pursuant to Section 19.17, shall be paid for all dwelling units, with the following exception: units qualifying under Section 12.33 C.3.(d) shall be allowed to reduce the open space requirement by one-half without payment of such fee. The in-lieu fee shall be placed in a trust fund with the Department of Recreation and Parks for the purpose of acquisition, development and maintenance of open space and/or streetscape amenities within the Greater Downtown Housing Incentive Area, and within the Community Plan Area in which the project is located. The in-lieu fee is independent of any required park and recreation impact fee. **(Amended by Ord. No. 184,505, Eff. 1/11/17.)**

(3) No parking space shall be required for dwelling units or guest rooms dedicated to or set-aside for households that earn less than 50% of the Area Median Income as determined by the Housing and Community Investment Department. **(Amended by Ord. No. 182,718, Eff. 10/30/13.)**

(4) No more than one parking space (including spaces allocated for guest parking) shall be required for each dwelling unit.

(d) **Covenant.** Prior to issuance of a building permit to create a residential or mixed-use building or an Apartment Hotel, the following shall apply:

(1) For any project qualifying for a Floor Area Bonus that contains rental housing for Low, Very Low, Moderate or Workforce Income households, a covenant acceptable to the Housing and Community Investment Department shall be recorded with the Los Angeles County Recorder, guaranteeing that the affordability criteria will be observed for at least 30 years from the issuance of the Certificate of Occupancy or a longer period of time if required by the construction or mortgage financing assistance program, mortgage assistance program, or rental



subsidy program. **(Amended by Ord. No. 182,718, Eff. 10/30/13.)**

(2) For any project qualifying for a Floor Area Bonus that contains for-sale housing for Moderate or Workforce Income households, a covenant acceptable to the Housing and Community Investment Department and consistent with the for-sale requirements of California Government Code Section 65915(c)(2) shall be recorded with the Los Angeles County Recorder. **(Amended by Ord. No. 182,718, Eff. 10/30/13.)**

(3) If the duration of affordability covenants provided for in this subdivision conflicts with the duration for any other government requirement, the longest duration shall control.

**30. Downtown Design Guide. (Added by Ord. No. 181,557, Eff. 3/15/11.)**

(a) **Purpose.** The purpose of this Subdivision is to implement the standards and guidelines in the Downtown Design Guide (the "Design Guide"), adopted by the City Planning Commission and incorporated as part of the Central City Community Plan, an element of the General Plan of the City of Los Angeles. Given the importance of Downtown Los Angeles as the civic, cultural, institutional, governmental, social and economic center of the region, the urban form is critical to its continued vitality and economic viability and the preservation and enhancement of its historic fabric. The Downtown Design Guide regulates projects that have the potential to affect the urban form, pedestrian orientation and street-level activity, and its implementation will ensure a quality built environment.

(b) **Definition of Project. (Amended by Ord. No. 186,325, Eff. 11/11/19.)** For the purposes of this Subdivision, a Project is the construction, erection, addition to or alteration, of any building or structure, or a use of land or change of use on a lot located in whole or in part within the Downtown Design Guide Project Area, as defined in Section 12.03 and shown on the adopted ordinance map, which requires the issuance of a grading permit, foundation permit, building permit, sign permit or use of land permit.

A Project does not include any of the following: (1) demolition; (2) adaptive reuse of an existing building which conforms to Section 12.22 A.26. of this Code; (3) remodeling of designated historic resources; (4) alterations of or additions to any existing building or structure in which the aggregate value of the work, in any one 24-month period, is less than 50% of the Building or Structure's replacement value before the alterations or additions, as determined by the Department of Building and Safety; and (5) interior remodeling of any other existing Building, unless the interior alterations are to the ground floor and will result in the alteration of windows, display windows, entrances, storefronts or otherwise minimize ground floor transparency.

(c) **Downtown Design Guide.** Every project within the Project Area must comply with the Downtown Design Guide standards and guidelines. The Director shall have the authority to review projects for compliance with the Downtown Design Guide prior to the issuance of a building permit in the Project Area.

(1) **Exception.** Projects conforming to the Downtown Design Guide shall be exempt from the mini-shopping center and commercial corner development regulations set forth in Section 12.22 A.23. of this Code.

**(d) Administrative Clearance - Authority of the Director for Sign Off.**

(1) **Application, Form and Contents.** To apply for an Administrative Clearance, an applicant shall file an application with the Department of City Planning, on a form provided by the Department, and include all information required by the instructions on the application and any additional submission requirements. The Director shall determine if the application qualifies for Administrative Clearance and whether the Project complies with all applicable District regulations.

(2) **Application Fees.** The application fee for an Administrative Clearance shall be as set forth in Section 19.01 E. or 19.01 I. of this Code. The fee in Section 19.01 E. shall be charged for administrative clearance of new construction permits only. The fee in Section 19.01 I. shall be charged for all other building permit sign-offs.

(3) **Procedures.** Applicants for Projects that comply with the provisions of the Downtown Design Guide shall submit plans to the Director for conformance review and administrative sign off. The Director or his/her designee shall review the Project for compliance with the standards and guidelines in the Downtown Design Guide. Projects that fail to demonstrate compliance with the Downtown Design Guide shall follow relief procedures set forth below.

(e) **Adjustment - Authority of the Director with Appeals to the Area Planning Commission.** If an application fails to conform to the provisions of the Downtown Design Guide, the Director or the Director's designee shall have initial decision-making authority to grant an Adjustment in accordance with Section 11.5.7 E.1.(a) and with the procedures set forth in Section 11.5.7 C.4. - 6. of this Code.

(1) **Limitations.** An Adjustment shall be limited to deviations from regulations which do not substantially alter the execution or intent of those regulations as applicable to a proposed Project.

(2) **Findings.** The determination by the Director shall include written findings in support of the determination.

In order to approve a proposed project pursuant to this subsection, the Director must find that:

- (a) There are special circumstances applicable to the project or project site which make the strict application of the Design Guide regulations impractical;
- (b) In granting the adjustment, the Director has imposed project requirements and/or decided that the proposed project will substantially comply with the purpose and intent of all Design Guide regulations;
- (c) In granting the adjustment, the Director has considered and found no detrimental effects of the adjustment on surrounding properties and public rights-of-way;
- (d) The project incorporates mitigation measures, monitoring of measures when necessary, or alternatives identified in the environmental review which would mitigate the negative environmental effects of the project, to the extent physically feasible; and
- (e) The project is compatible with the neighborhood character of the surrounding district.

**31. Transit Oriented Communities Affordable Housing Incentive Program. (Added by Ord. No. 184,745, Eff. 12/13/16.)**

(a) **Application of TOC Affordable Housing Incentive Program.** This Transit Oriented Communities Affordable Housing Incentive Program, and the provisions contained in the TOC Affordable Housing Incentive Program Guidelines, shall apply to all Housing Developments that are located within a one-half mile radius of a Major Transit Stop, as defined in subdivision (b) of Section 21155 of the California Public Resources Code. Each one-half mile radius around a Major Transit Stop shall constitute a unique Transit Oriented Communities Affordable Housing Incentive Area.

(b) **Preparation and Content of TOC Incentive Guidelines.** Within 90 days of enactment of this Ordinance, the Director of Planning shall prepare TOC Affordable Housing Incentive Program Guidelines ("TOC Guidelines") that provide the eligibility standards, incentives, and other necessary components of this TOC Incentive Program described herein. Nothing in the TOC Guidelines shall restrict any right authorized in the underlying zone or height district. The TOC Guidelines shall be drafted consistent with the purposes of this Subdivision and shall include the following:

(1) **Eligibility for TOC Incentives.** A Housing Development located within a TOC Affordable Housing Incentive Area shall be eligible for TOC Incentives if it provides minimum required percentages of On-Site Restricted Affordable Units, meets any applicable replacement requirements of California Government Code Section 65915(c)(3), and is not seeking and receiving a density or development bonus under the provisions of California Government Code Section 65915 or any other State or local program that provides development bonuses. Minimum required percentages of On-Site Restricted Affordable Units shall be determined by the Department of City Planning and set forth in the TOC Guidelines at rates that meet or exceed 11% of the total number of dwelling units affordable to Very Low income households; or 20% of the total number of dwelling units affordable to Lower Income households. The Department of City Planning shall also establish an option for a Developer to qualify for the TOC Incentives by providing a minimum percentage of units for Extremely Low Income Households, which shall be set at no less than 7%. In calculating the required Restricted Affordable Units, the percentage shall be based on the total final project unit count, and any number resulting in a fraction shall be rounded up to the next whole number. In creating the TOC Guidelines, the Department of City Planning shall identify incentives for projects that adhere to the labor standards required in Section 5 of this Ordinance provided, that no such incentives will be created that have the effect of undermining the affordable housing incentives contained herein or in Government Code Section 65915.

(2) **TOC Incentives.** An Eligible Housing Development shall be granted TOC Incentives, as determined by the Department of City Planning consistent with the following:

(i) **Residential Density increase.** An Eligible Housing Development shall be granted increased residential density at rates that shall meet or exceed a 35% increase. In establishing the density allowances, the Department of City Planning may allow adjustments to minimum square feet per dwelling unit, floor area ratio, or both, and may allow different levels of density increase depending on the Project's base zone and density.

(ii) **Parking.** An Eligible Housing Development shall be granted parking reductions consistent with California Government Code Section 65915(p).

(iii) **Incentives and Concessions.** An Eligible Housing Development may be granted up to either two or three incentives or concessions based upon the requirements set forth in California Government Code Section 65915(d)(2).

(c) **Approval of TOC Guidelines and Incentives.** The City Planning Commission shall review the TOC Guidelines and shall by vote make a recommendation to adopt or reject the TOC Guidelines.

(d) **Process for Changing TOC Incentives and Eligibility.** The TOC Incentives and the required percentages for On-Site Restricted Affordable Units may be adjusted for an individual TOC Affordable Housing Incentive Area through a Community Plan update, Transit Neighborhood Plan, or Specific Plan, provided that the required percentages for On-Site Restricted Affordable Units may not be reduced below the percentages set forth in subdivision (b).

(e) **Procedures.** Application for the TOC Incentives shall be made on a form provided by the Department of City Planning, and shall follow the procedures outlined in Los Angeles Municipal Code Section 12.22 A.25.(g).

(f) **Covenant.** Prior to issuance of a building permit to create a Housing Development, the following shall apply:

(1) For any Housing Development qualifying for a TOC Incentive that contains rental housing for Extremely Low, Very Low, or Lower Income households, a covenant acceptable to the Los Angeles Housing and Community Investment Department shall be recorded with the Los Angeles County Recorder, guaranteeing that the affordability criteria will be observed for 55 years or longer.

(2) For any Housing Development qualifying for a TOC Incentive that contains for-sale housing, a covenant acceptable to the Housing and Community Investment Department and consistent with the for-sale requirements of California Government Code Section 65915(c)(2) shall be recorded with the Los Angeles County Recorder.

(3) If the duration of affordability covenants provided for in this subdivision conflicts with the duration for any other government requirement, the longest duration shall control.

(g) **Definitions.**

"**Eligible Housing Development**" shall mean a Housing Development that includes On-Site Restricted Affordable Units at a rate that meets or exceeds the minimum requirements to satisfy the TOC Incentives, as determined by the Department of City Planning and as set forth in paragraph (b)(1) above.

"**Extremely Low-Income Households**" is defined in Section 50106 of the Health and Safety Code.

"**Housing Development**" shall mean the construction of five or more new residential dwelling units, the addition of five or more residential dwelling units to an existing building or buildings, the remodeling of a building or buildings containing five or more residential dwelling units, or a mixed use development containing residential dwelling units.

"**Lower Income Households**" is defined in Section 50079.5 of the Health and Safety Code.

"**On-Site Restricted Unit**" shall mean a residential unit for which rental or mortgage amounts are restricted so as to be affordable to and occupied by Extremely Low, Very Low, or Lower income households, as determined by the Housing and Community Investment Department.

"**Very Low-Income Households**" is defined in Section 50105 of the Health and Safety Code.

32. **Home-Sharing. (Added by Ord. No. 185,931, Eff. 7/1/19.)** In all zones wherein residential uses are permitted by right, the following shall apply:

(a) **Purpose.** The purpose of this subdivision is to allow for the efficient use and sharing of a residential structure which is a Host's Primary Residence, without detracting from the surrounding residential character or the City's available housing stock.

(b) **Definitions.** The following definitions shall apply to this subdivision:

(1) **Administrative Guidelines.** The Department of City Planning or Office of Finance may promulgate regulations, which may include, but are not limited to, application requirements, interpretations, conditions, reporting requirements, enforcement procedures, and disclosure requirements, to implement the provisions, and consistent with the intent, of this subdivision.

(2) **Booking Service.** Any reservation and/or payment service provided by a Person that facilitates a Short-Term Rental transaction between a Person and a prospective guest or Transient user, and for which the Person collects or receives, directly or indirectly through an agent or intermediary, a fee in connection with the reservation and/or payment of services provided for the transaction.

(3) **Citation.** Includes any enforcement citation, order, ticket or similar notice of violation, relating to the condition of or activities at a Person's Primary Residence or property, issued by the Los Angeles Department of Building and Safety, Los Angeles Housing and Community Investment Department, Los Angeles Police Department or Los Angeles Fire Department, including an Administrative Citation issued pursuant to Article 1.2 of the Los Angeles Municipal Code.

(4) **Extended Home-Sharing.** Home-Sharing that is permitted for an unlimited number of days in a calendar year.

(5) **Hosting Platform.** A Person that participates in Short-Term Rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a Booking Service transaction using any medium of facilitation.

(6) **Host.** An individual who is registered for Home-Sharing as the term is defined in Section 12.03 of this Code.

(7) **Person.** Shall have the same meaning as that term is defined in Section 21.7.2 of this Code.

(8) **Platform Agreement.** A signed agreement between a Home-Sharing Hosting Platform (Platform) and the City, which, among other things, provides that the Platform will collect and submit the Transient Occupancy Tax to the City on behalf of Hosts and Persons listed for Short Term Rentals.

(9) **Primary Residence.** The sole residence from which the Host conducts Home-Sharing and in which the Host resides for more than 6 months of the calendar year.

(10) **Rental Unit.** A Dwelling Unit, Guest Room, Accessory Living Quarters, other residential structure, or portion thereof.

(11) **Short-Term Rental.** A Rental Unit, rented in whole or in part, to any Person(s) for transient use of 30 consecutive days or less. Rental Units within City-approved Hotels, motels, Transient Occupancy Residential Structures and Bed and Breakfasts shall not be considered a Short-Term Rental.

(12) **Transient.** Shall have the same meaning as that term is defined in Section 21.7.2 of this Code.

(c) **Home-Sharing Registration.**

(1) **Application.** To register for Home-Sharing, an applicant shall file an application with the Department of City Planning in a manner provided by the Department, and shall include: information needed to verify the Host's identification and Primary Residence; identification of a local responsible contact person; a list of all Hosting Platforms to be used; whether Home-Sharing is for an entire Rental Unit or a portion thereof; and any other information required by the instructions on the application and/or by the guidelines promulgated by the Director of Planning. Payment of any filing fee required under Section 19.01 E. shall be included with the application. If the required information for registration, including any filing fee, is not received within 45 days of submittal of the application, the Home-Sharing registration will be considered withdrawn.

(2) **Eligibility Requirements.** The following requirements must be met at the time of submitting an application for Home-Sharing registration:

(i) The applicant has obtained a Transient Occupancy Registration Certificate from the Office of Finance pursuant to Section 21.7.6 of this Code, unless the applicant exclusively lists his or her Primary Residence on Hosting Platforms that have a Platform Agreement with the City of Los Angeles.

(ii) The proposed Home-Sharing is consistent with the provisions of this subdivision and is limited to the Host's Primary Residence.

a. A renter or lessee shall not engage in Home-Sharing without prior written approval of the landlord. A renter or lessee shall provide copies of the landlord's written approval to the City at the time of filing the application for registration. A landlord may proactively prohibit Home-Sharing by tenants at any or all of the owner's properties by submitting a notification in writing to the Department of City Planning.

b. A Primary Residence that is subject to affordable housing covenants, and/or Chapter 15 of the Los Angeles Municipal Code ("Rent Stabilization Ordinance"), and/or are income-restricted under City, state or federal law, is not eligible for Home-Sharing.

c. No Primary Residence which is the subject of any pending Citation may be registered for Home-Sharing.

d. No Person may apply for or obtain more than one Home-Sharing registration or otherwise operate more than one Home-Sharing Rental Unit at a time in the City of Los Angeles.

(3) **Expiration and Renewal.** A Home-Sharing registration is valid for one year from the date of issuance. It may not be transferred or assigned and is valid only at the Host's Primary Residence. A Home-Sharing registration may be renewed annually if the Host: (1) pays the renewal fee; (2) has complied with the provisions

of this subdivision for the past year; (3) provides information concerning any changes to the previous application for, or renewal of, the Home-Sharing registration; and (4) submits Home-Sharing records described in Subparagraph (e)(2) for the last year to demonstrate compliance with this subdivision, unless the Host lists exclusively on a Hosting Platform with a Platform Agreement that includes a provision for pass-through registration for applicants for a Home-Sharing registration. The records described in Subparagraph (e)(2) shall be made public to the extent required by law.

(4) **Suspensions and Revocations.** Notwithstanding any other provision of this Code to the contrary, the Director may require the suspension, modification, discontinuance or revocation of any Home-Sharing registration if it is found that the Host has violated this subdivision or any other city, state, or federal regulation, ordinance or statute.

(i) **Suspension.** If a Host receives two Citations, the Host's Home-Sharing registration shall be suspended for 30 days or as long as at least one Citation is open, whichever is longer. The suspension shall become effective 15 days after the mailing of a Notice of Intent to Suspend the Host. If a Host initiates an appeal of either Citation, the suspension will take effect only if the appeal is not resolved entirely in the Host's favor.

a. A Host may challenge a Citation by submitting an appeal to the City department that issued the Citation and providing notice to the Department of Planning as described in the Administrative Guidelines.

b. Where no process is described in the Citation, a Host may challenge a Citation by submitting an appeal to the Director of Planning in accordance with the process in Section 12.24 Z. of this Code, with no further appeal to a Commission or City Council.

(ii) **Revocation.** If three Citations have been issued to the Host and have been sustained (after exhaustion of any related remedies, including appeals) within a registration year, the Host's Home-Sharing registration shall be revoked. The revocation of a Host's Home-Sharing registration shall become effective 15 days after the mailing of a Notice of Intent to Revoke to the Host.

a. A Host may challenge a Notice of Intent to Revoke by submitting an appeal to the Director of Planning in accordance with the process in Section 12.24 Z. of this Code, with no further appeal to a Commission or City Council.

b. Pursuant to the revocation, the Host shall be prohibited from participating in Home-Sharing for one year from the effective date of the Notice of Intent to Revoke.

(iii) **Modification.** The Director may modify, discontinue or revoke any Home-Sharing registration based upon an order to show cause, pursuant to Section 12.27.1 B. of this Code, why any proposed modifications, discontinuances or revocations of any Home-Sharing registration should not be issued. The Director shall provide notice to the Host and/or recorded owner and lessee(s) of the Host's Primary Residence to appear at a public hearing at a time and place fixed by the Director to respond to the Director's order to show cause.

(d) **Prohibitions.**

(1) No Person shall offer, advertise, book, facilitate or engage in Home Sharing or Short-Term Rental activity in a manner that does not comply with this subdivision.

(2) A Host may not participate in Home-Sharing unless all advertisements clearly list the City-issued Home Sharing registration number or pending registration status number.

(3) No Host shall engage in Home-Sharing for more than 120 days in any calendar year unless the City has issued the Host an Extended Home-Sharing registration pursuant to Paragraph (h).

(4) Accessory Dwelling Units for which a complete building permit application was submitted on or after January 1, 2017, to the Department of Building and Safety pursuant to Section 12.26 A.3. may not be used for Home-Sharing, unless an applicant demonstrates the Accessory Dwelling Unit is the applicant's Primary Residence.

(5) No Host shall offer, advertise, or engage in Home-Sharing in a non-Residential Building, including but not limited to, a vehicle parked on the property, a storage shed, trailer or any temporary structure, including, but not limited to, a tent.

(6) If a Host lists a Primary Residence on multiple listings on multiple Hosting Platforms, only one listing may be booked at any given time.



(7) A Host may not rent all or a portion of his Primary Residence for the purposes of Home-Sharing to more than one group of guests or under more than one booking, at any given time.

(8) Home Sharing is not permitted in buildings that have been converted from units subject to Chapter 15 of the Los Angeles Municipal Code ("Rent Stabilization Ordinance") to single family homes until five years after the date of conversion.

(9) Except for allowable Home Occupations, non-residential uses including, but not limited to, sales or exchange of products, events that charge a fee, or the promotion, display or servicing of any product shall not be permitted during Home-Sharing activity.

(10) A Host shall only advertise on a Hosting Platform that was listed on the Host's Home-Sharing application form, unless the Host has submitted a written request and received written approval from the Department of City Planning to use another Hosting Platform.

(11) No more than 2 overnight guests (not including children) are allowed per habitable room, not including kitchens, during Home-Sharing activities.

(12) There shall be no use of sound amplifying equipment, as that term is defined in Section 111.01(j) of this Code after 10:00 pm and no evening outdoor congregations of more than 8 people (excluding children) during Home-Sharing activities. Home-Sharing activities are subject to the noise regulations in the Los Angeles Municipal Code.

(13) A Host whose Home-Sharing registration has been suspended is prohibited from participating in Home-Sharing for the duration of the suspension.

(14) A Host whose Home-Sharing registration has been revoked may not participate in Home-Sharing unless and until a new registration is authorized.

**(e) Host Requirements.**

(1) A Host may be responsible for any nuisance violations, as described in Section 12.27.1 B. of this Code, arising at the Host's Primary Residence during Home-Sharing activities. The Host, or owner of the Host's Primary Residence if the Host does not own it, may be assessed a minimum inspection fee, as specified in Section 98.0412 of this Code for each site inspection.

(2) The Host shall keep and preserve, for a minimum period of three years, all records regarding each Home-Sharing stay, including the length of stay and the price paid for each stay, and any other records required by Administrative Guidelines promulgated by the Director.

(3) On the Home-Sharing registration application, a Host shall acknowledge and consent to Office of Finance and other City agencies' inspection of records at all reasonable times and places for purposes of enforcement of this Subdivision.

(4) The Host shall fully comply with all the requirements of Article 1.7 of the Los Angeles Municipal Code (establishing the Transient Occupancy Tax) and successor Sections.

(5) The Host shall pay a per-night fee for each night of Home-Sharing, which will be deposited into the Short Term Rental Enforcement Fund per the requirements in Section 5.576 of the Los Angeles Administrative Code. The City Council shall adopt, by resolution, a per-night fee based on an analysis of the cost of implementing, maintaining, and enforcing this subdivision.

(6) Every Host shall provide and maintain working fire extinguishers, smoke detectors, and carbon monoxide detectors, in compliance with fire, life and safety codes; information related to emergency exit routes on the property and contact information, including the contact information of the Host or a designated responsible agent of the Host.

(7) Every Host that lists a Primary Residence located in a Very High Fire Hazard Severity Zone designated by the City of Los Angeles Fire Department pursuant to Government Code Section 51178 shall include in all Host listings and post written notices on any patio or deck that smoking is not permitted in any exterior of the property.

(8) Every Host shall provide a code of conduct to guests that includes the relevant provisions of this Subdivision and other information to address behavioral, safety, security, and other matters, as required in the Department's Administrative Guidelines.

(9) Every Host shall authorize any Hosting Platform on which his or her Primary Residence is listed to provide to the City the Host listing and other information described in in Subsection (f)(4).

(10) Every Host must consent to receive all City notices and citations regarding their Home-Sharing registration by U.S. mail.

**(f) Hosting Platform Responsibilities.**

(1) Hosting Platforms shall not process or complete any Booking Service transaction for any Person unless the Person has a valid Home-Sharing registration number issued by the City or a pending registration status number.

(2) Hosting Platforms shall not process or complete any Booking Service transaction for any Host listing that has exceeded the authorized 120-day limit in one calendar year unless the Host has obtained an Extended Home-Sharing approval.

(3) Within 45 days of the effective date of this Ordinance, Hosting Platforms with listings located in the City shall provide to the Department of City Planning contact information for an employee or representative responsible for responding to requests for information, including requests related to possible violations of this Subdivision. Hosting Platforms that commence listings in the City after the effective date must provide this information prior to facilitating Home-Sharing activity or providing Booking Services within the City.

(4) Subject to applicable laws, a Hosting Platform with listings in the City shall provide to the Department of City Planning, on at least a monthly basis, in a format as specified by the City, the Home-Sharing registration number of each listing, the name of the person responsible for each listing, the street address of each listing and, for each booking that occurs within the reporting period, the number of days booked.

(5) In the event a Hosting Platform has entered into an agreement with the Office of Finance to collect and remit Transient Occupancy Tax pursuant to Los Angeles Municipal Code Section 21.7.1 et seq., and a Host has assigned the responsibilities for the collection and remittance of the Transient Occupancy Tax to the Hosting Platform, then the Hosting Platform and the Host shall have the same duties and liabilities, including but not limited to the collection and remittance of the tax to the City on a monthly basis.

(6) **Exception.** The provisions of this paragraph shall not apply to a Hosting Platform whenever it (a) complies with the Administrative Guidelines, issued by DCP and approved by resolution of the City Council, that describe how the Platform shall satisfy the Hosting Platform responsibilities in this paragraph, or (b) enters into a Platform Agreement, the terms of which shall be set forth in a master Platform Agreement approved by the City Council, that establishes the manner in which the Hosting Platform supports the City's enforcement of this subdivision and meets the purposes of the Platform responsibilities in this paragraph. Each individual Platform Agreement shall be approved by the City Council.

**(g) Enforcement of Violations.**

(1) The provisions in this Subsection shall be in addition to any criminal, civil or other legal remedy established by law that may be pursued to address violations of this Subdivision.

(2) Any Person who has failed to comply with the provisions of this Subdivision may be subject to the provisions of Section 11.00 of this Code. The owner and/or operator of any property used for Short Term Rentals, including the Host or owner of any Host Primary Residence, may be assessed a minimum inspection fee, as specified in Section 98.0412 of this Code for each site inspection.

(3) The Director may, at any time, require the modification, discontinuance, or revocation of any Home-Sharing registration in the manner prescribed in Subparagraph (c)(4).

(4) The ACE program in Article 1.2 of this Chapter may be utilized to issue administrative citations and impose fines pursuant to this Subdivision. The citation shall be served by personal service or by depositing in the mail for delivery by the United States Postal Service, in a sealed envelope, postage prepaid, addressed to the operator of the Short Term Rental, the Host, and/or the property owner, if different than the operator or Host, shown on the County's last equalized property tax assessment roll. Fines for violations of this subdivision shall be as follows:

(i) Hosting Platform: a \$1,000 fine per day shall be imposed for any of the following violations:

a. Completing a Booking Service transaction for each listing without a valid City Home-Sharing registration number or pending registration status number.

b. Completing a Booking Service transaction for each listing where more than one property is affiliated with a single Host, or each listing where the Host's home address does not match the listing location.

c. Completing a Booking Service transaction for any listing for a Rental Unit where the Host's Home-Sharing or Extended Home-Sharing registration has been revoked or suspended by the City.

d. Completing a Booking Service transaction for any Rental Unit lacking Extended Home-Sharing approval that has exceeded the authorized 120-day limit for hosting Short-Term Rentals in one calendar year.

(ii) Owner of Primary Residence and/or Host and/or Person:

a. A daily fine of \$500, or two times the nightly rate charged, whichever is greater, for advertising a Rental Unit for the purposes of Short-Term Rental in violation of this Subdivision.

b. A daily fine of \$2,000, or two times the nightly Rent charged, whichever is greater, for each day of Home-Sharing activity beyond the 120 day limit in a calendar year, unless the Host has a valid Extended Home-Sharing Registration.

c. For all other violations of this subdivision, the administrative fine shall be levied according to the amounts described in Section 11.2.04(a)(2) of this Code. The square footage for the use in calculating the fine shall be the amount of indoor space to which the Transient guest has access. If the square footage is unable to be ascertained, it shall be deemed to be between 500 and 2,499 square feet.

(iii) The fine amounts listed above shall be updated annually, from the date of effective date of this ordinance, according to the Consumer Price Index for All Urban Consumers (CPI-U).

(h) **Extended Home-Sharing.** For Hosts who participate in Extended Home-Sharing, the following shall apply:

(1) **Application and Eligibility Requirements.**

(i) **Ministerial Approval.** Extended Home-Sharing may be approved by the Director if, in addition to the eligibility requirements for Home-Sharing, all of the following requirements are met:

a. The Host maintains a current Home-Sharing registration and has maintained a Home-Sharing registration for at least six months or has hosted for at least 60 days based on substantial evidence provided by the Host or Hosting Platform;

b. No more than one Citation was issued within the prior three years; and

c. The Host provides proof of mailing of a notification concerning commencement of Extended Home-Sharing, which includes a Director-issued publication outlining the complaint process, to adjacent and abutting owners and occupants on a form provided by the Department.

(ii) **Discretionary Approval.** A discretionary review of an Extended Home-Sharing application is required if the Host complies with Subparagraph (h)(1)(i)a., but two Citations have been issued within the prior three years.

a. If the Director finds that the matter may have a significant effect on neighboring properties, the Director may set the matter for public hearing. Written notice of the hearing shall be sent by First Class Mail at least 21 days prior to the hearing to the applicant, owners and tenants of the property involved, owners and tenants of all properties adjacent and abutting the proposed Extended Home-Sharing activity, the City Councilmember representing the area in which the property is located, and the applicable Neighborhood Council. If the Director determines that the matter will not have a significant effect on neighboring properties, no hearing shall be held.

b. The Extended Home-Sharing application may only be approved if, in addition to the eligibility requirements for Home-Sharing, all of the following requirements are met, to the satisfaction of the Director of Planning:

1. The Host provides proof of mailing of a notification, which includes a Director-issued publication outlining the complaint process, to adjacent and abutting owners and occupants on a form provided by the Department;

2. In consideration of any comments received by the public on the application, the Director finds the use is in substantial conformance with the following findings:

A. That the Extended Home-Sharing will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city or region;



B. That the Extended Home-Sharing operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, the availability of housing, or the public health, welfare, and safety;

C. That the Extended Home-Sharing substantially conforms with the purpose, intent, and provisions of the General Plan, the applicable community plan, and any applicable specific plan; and

D. That there is no substantial evidence of continued nuisance behavior from the location.

c. If no appeal is filed within 15 days from the date of the Director's determination approving or denying an Extended Home-Sharing application, the Director's decision is final. An appeal to the Area Planning Commission may be filed by the applicant or any adjacent and abutting owner and occupant. An appeal shall be filed at the public counter of the Planning Department within 15 days of the date of the Director's decision. The appeal shall set forth specifically how the appellant believes the Director's findings and decision are in error. The Area Planning Commission may grant, conditionally grant or deny the appeal. The failure of the Commission to act upon an appeal within 75 days after the expiration of the appeal period, or within an additional period as may be agreed upon by the applicant and the Director, shall be deemed a denial of the appeal and the original action on the matter shall become final.

(2) **Ineligibility.** If the Host's Home-Sharing registration has been suspended or revoked, the Host is not eligible to apply for Extended Home-Sharing for two years from the effective date of the revocation or suspension or as long as a Citation remains open or unresolved, whichever is later.

(3) **Expiration and Renewal.** An Extended Home-Sharing registration is valid for one year from the date of issuance. An Extended Home-Sharing registration is subject to the same expiration and renewal terms described in Subparagraph (c)(3) and may be renewed annually if the Host meets the same renewal requirements in that subparagraph.

(4) **Revocations.** An Extended Home Sharing approval shall be revoked if there are two Citations within a registration year in accordance with the process set forth in Paragraph (c)(4). Pursuant to the revocation, the Host shall be prohibited from participating in Home-Sharing for two years from the effective date of the Notice of Revocation or as long as a Citation remains open or unresolved, whichever is later.

(i) **Administration and Regulations.** No Person shall fail to comply with the Administrative Guidelines.

(j) **Effective Date.** This ordinance shall take effect on July 1, 2019.

(k) **Severability.** If any provision of this Subdivision is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this Subdivision which can be implemented without the invalidated provisions, and to this end, the invalid provisions of this Subdivision are declared to be severable. The City Council hereby declares that it would have adopted each and every provision and portion thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would subsequently be declared invalid or unconstitutional.

### 33. **Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU).** (Added by Ord. No. 186,481, Eff. 12/19/19.)

(a) **Purpose.** The purpose of this subdivision is to provide for the creation of ADUs and JADUs consistent with California Government Code Sections 65852.2 and 65852.22, as amended from time to time.

(b) **Applicability.** The following development standards shall apply:

(1) A detached ADU shall be approved if in compliance with all of the provisions provided in Paragraphs (c) and (d).

(2) An attached ADU shall be approved if in compliance with all of the provisions provided in Paragraphs (c) and (e).

(3) A Movable Tiny House (MTH) shall be approved if in compliance with all of the provisions in Paragraph (c), except for those provisions in Paragraph (c) which apply solely to buildings and structures; and all of the provisions in Paragraph (f).

(4) A JADU shall be approved if in compliance with all of the provisions provided in Sections 65852.2(c)(1)

(A) and 65852.22 of the Government Code.

(5) An ADU described by Section 65852.2(e)(1)(A) or (C) of the Government Code shall be approved if in compliance with all of the applicable provisions in Section 65852.2(e) of the Government Code.

(6) An ADU described by Section 65852.2(e)(1)(B) or (D) of the Government Code shall be approved if in compliance with all of the applicable provisions in Section 65852.2(e) of the Government Code; and all of the applicable provisions of Paragraphs (c), (d) and (e) of this subdivision, except for those provisions which do not allow such an ADU otherwise in compliance with all applicable provisions in Section 65852.2(e) of the Government Code; and all of the provisions provided in Paragraph (g).

**(c) Development Standards.**

(1) Comply with all applicable objective provisions required pursuant to Chapter 1 of this Code, including provisions stated in the underlying applicable zone and height district, Specific Plan, Historic Preservation Overlay Zone, Community Planning Implementation Overlay and other applicable zoning ordinances, policies or other documents established pursuant to Chapter 1, Article 3 of this Code. In any instance where there is conflict, this subdivision shall govern. Notwithstanding the prior two sentences and notwithstanding anything to the contrary in this Subdivision 33:

(i) No minimum lot size requirement shall apply to an ADU;

(ii) No minimum square footage requirement for either an attached or detached ADU shall apply that prohibits an efficiency unit;

(iii) No other minimum or maximum size for an ADU, including size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, shall apply for either attached or detached dwellings that does not permit at least an 800 square foot ADU that is at least 16 feet in height with 4-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(2) An ADU which complies with this subdivision shall not require a discretionary planning approval. The ADU project shall be reviewed in a ministerial and administrative manner, limited to only considering the project's compliance with the applicable objective standards. An application to create an ADU shall be acted upon within 60 days from the date the City receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an ADU unit is submitted with a permit application to create a new single-family dwelling on the lot, the City may delay acting on the permit application for the ADU until the City acts on the permit application to create the new single-family dwelling. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.

(3) Except where otherwise prohibited by this subdivision, an ADU is permitted in all zones where residential uses are permitted by right.

(4) No ADU is permitted on any lot that is located in both a Very High Fire Hazard Severity Zone designated by the City of Los Angeles Fire Department pursuant to Government Code Section 51178 and a Hillside Area as defined by the Hillside Area Map pursuant to Section 12.03 of this Code, unless it meets one of the following exceptions:

(i) The ADU is located within the boundaries of either the Northeast Los Angeles Community Plan Area or the Silver Lake - Echo Park - Elysian Valley Community Plan Area; or

(ii) The ADU complies with all of the following requirements:

a. Notwithstanding Subparagraph (c)(10) below, the ADU is protected throughout with an approved automatic fire sprinkler system, in compliance with the Los Angeles Plumbing Code;

b. Notwithstanding Subparagraph (c)(12) below, one off-street parking space is provided for the ADU; and

c. The ADU is located on a lot fronting on a street that is improved with a roadway width of 20 feet or more in unobstructed width, as measured along the entire frontage of the subject property, after any associated dedication and improvement. In the event the ADU is located on a Through Lot or a Corner Lot, the lot must front on at least one street that is improved with a roadway width of 20 feet or more in unobstructed width after any associated dedication and improvement.

(5) Except as otherwise permitted by this subdivision, only one ADU is permitted per lot.

(6) An ADU may only be created on a lot that contains a proposed or existing dwelling. Other non-residential

uses and accessory residential uses may be permitted on the lot, consistent with the uses permitted by the zone.

(7) No passageway for an ADU, nor space between buildings, as per LAMC 12.21 C.2. and LAMC 12.21 C.5.(d), is required in conjunction with the construction of an ADU. Building Code separation requirements still apply.

(8) No additional setbacks shall be required for an existing living area or accessory structure, or a structure constructed in the same location and to the same dimensions as an existing structure, converted to an ADU or portion of an ADU. A setback of no more than 4 feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(9) ADUs are required to comply with all applicable Building and Residential Codes for the proposed use.

(10) ADUs are not required to provide fire sprinklers if they are not required for the primary residence.

(11) ADUs located where a private sewage disposal system is being used, shall require approval by the local health officer.

(12) Parking Requirements:

(i) **ADU Parking.** One parking space is required for an ADU, except that no parking is required for an ADU that is:

a. Located within one-half mile walking distance of a public transit. For this purpose, public transit means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public; or

b. Located within one block of a designated pick-up and drop-off location of a car share vehicle; or

c. Located in an architecturally and historically significant district listed in or formally determined eligible for listing in the National Register of Historic Places or California Register of Historical Resources or located in any City Historic Preservation Overlay Zone; or

d. Part of the proposed or existing primary residence or an accessory structure.

(ii) **ADU Parking Location.** ADU parking is allowed in any yard area or passageway. When located in a required front yard, the parking must be located on an existing driveway. Parking may be provided through tandem parking where two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another. Driveway access areas located in the required front yard shall not be expanded to provide required parking. Other objective parking and driveway standards in the LAMC apply, including those found in Sections 12.21 A.5. and 12.21 A.6. However, Section 12.21 A.6.(d) of this Code shall not apply to parking required for an ADU.

(iii) **Replacement Parking.** No replacement parking shall be required when a garage, carport or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU.

(d) **Detached Accessory Dwelling Unit Requirements.** Detached ADUs, except those described in Paragraph (f), below, must comply with all provisions of Paragraph (c) and all of the following provisions provided in this Paragraph (d). In addition, Detached ADUs must comply with all applicable provisions of Section 12.21 C.5. that are not in conflict with these Paragraphs (c) and (d).

(1) The Floor Area for a detached ADU shall not exceed 1,200 square feet. Limits on Floor Area on a lot apply separately and may further limit allowable Detached ADU square footage, except as otherwise provided by this Subdivision 33.

(2) Structures containing a detached ADU shall not be greater than two stories.

(3) Detached ADUs shall not be located between a proposed or existing dwelling unit and the street adjoining the front yard, except in the following cases:

(i) Where the ADU is on a Through Lot and complies with LAMC Section 12.21 C.5.(k); or

(ii) Where the ADU is being added to a lawfully existing garage or accessory structure building.

(e) **Attached Accessory Dwelling Unit Requirements.** Attached ADUs can be either attached to or completely contained within an existing or proposed dwelling, and must comply with all provisions in Paragraph (c) and all of the following provisions in this Paragraph (e):

- (1) If there is an existing primary dwelling, the Floor Area of an attached ADU may not exceed 50 percent of the existing primary dwelling.
- (2) Limits on Floor Area on a lot apply separately and may further limit allowable attached ADU square footage, except as otherwise provided by this Subdivision 33.
- (3) Nothing in this subdivision shall prohibit an attached ADU with a Floor Area of less than 850 square feet, or less than 1,000 square feet for an attached ADU that provides for more than one bedroom.

(f) **Requirements for Movable Tiny Houses as Accessory Dwelling Units.** A Movable Tiny House must comply with all of the provisions provided in Paragraph (c) except for any provisions in Paragraph (c) which apply solely to buildings and structures; and this Paragraph (f):

- (1) Only one Movable Tiny House is allowed to be located on a lot and no lot may be approved for more than one moveable tiny house in a twelve month period.
- (2) When sited on a lot, the undercarriage (wheels, axles, tongue and hitch) shall be hidden from view.
- (3) The wheels and leveling or support jacks must sit on a paved surface compliant with LAMC 12.21 A.6.(c).
- (4) Mechanical equipment shall be incorporated into the structure and not located on the roof.
- (5) Movable Tiny Houses shall be connected to water, sewer and electric utilities.
- (6) Moveable Tiny Houses are not required to have separate street addresses from the primary dwelling unit.
- (7) Movable Tiny Houses are not required to have sprinklers, but shall follow the ANSI A119.5 or NFPA 1192 standards relating to health, fire and life-safety.
- (8) Movable Tiny Houses shall have the following design elements:
  - (i) **Cladding and Trim.** Materials used on the exterior of a moveable tiny house shall exclude single piece composite, laminates, or interlocked metal sheathing.
  - (ii) **Windows and Doors.** Windows shall be at least double pane glass and labelled for building use, and shall include exterior trim. Windows and doors shall not have radius corners.
  - (iii) **Roofing.** Roofs shall have a minimum of a 12:2 pitch for greater than 50 percent of the roof area, and shall not be composed of wooden shingles.
  - (iv) **Extensions.** All exterior walls and roof of a moveable any tiny house used as an ADU shall be fixed with no slide-outs, tip-outs, nor other forms of mechanically articulating room area extensions.
- (9) Movable Tiny Houses shall not be greater than two stories.
- (10) Movable Tiny Houses shall not be located between the proposed or existing single-family dwelling unit and the street adjoining the front yard, except where the Movable Tiny House is on a Through Lot and complies with LAMC 12.21 C.5.(k).

(g) **Accessory Dwelling Units Otherwise Required By State Law.** An application for a building permit shall be approved to create an ADU pursuant to Section 65852.2(e)(1)(B) or (D) of the Government Code within a residential or mixed-use zone, in compliance with all of the applicable provisions in Section 65852.2(e) of the Government Code; and all of the applicable provisions of Paragraphs (c), (d) and (e) of this subdivision, except for those provisions which do not allow such an ADU otherwise in compliance with all applicable provisions in Section 65852.2(e) of the Government Code; and all of the following requirements:

- (1) An ADU created pursuant to Section 65852.2(e)(1)(B) of the Government Code shall have a Floor Area of not more than 800 square feet and a height of no more than 16 feet; and
- (2) An ADU created pursuant to Section 65852.2(e)(1)(B) or (D) of the Government Code shall not be located on any lot that is located in both a Very High Fire Hazard Severity Zone designated by the City of Los Angeles Fire Department pursuant to Government Code Section 51178 and a Hillside Area as defined by the Hillside Area Map pursuant to Section 12.03 of this Code, unless it meets one of the exceptions stated in Subparagraph (4) of Paragraph (c) of this subdivision.

(h) **General Provisions.** The following general provisions apply to all ADUs, JADUs, and lots where any ADU or JADU is located.

(1) In the event where an ADU or JADU would be created as a result of a conversion of an entire existing dwelling unit, any newly constructed dwelling unit located between the ADU or JADU, and the rear lot line, shall not exceed 1,200 square feet.

(2) In cases where additional dwelling units are added to a lot after the creation of the ADU or JADU, an ADU and JADU will be counted towards the overall number of dwelling units as permitted by the zone.

(3) ADUs and JADUs may be rented but shall not be sold separate from the existing or proposed dwelling unit on the same lot. Movable Tiny Houses may be sold when removed from the lot.

(4) Applicants for ministerial approval of a permit application for the creation of an ADU or JADU shall not be required to correct nonconforming zoning conditions. For this purpose, nonconforming zoning condition means a physical improvement on a property that does not conform to current zoning standards.

(5) A certificate of occupancy for an ADU or JADU shall not be issued before a certificate of occupancy for the primary dwelling.

(i) **Zoning Administrator Authority.** It is the intent of the City to retain all portions of this subdivision regarding ADUs and JADUs not in conflict with state law. The Zoning Administrator shall have authority to clarify, amend or revoke any provision of this subdivision as may be necessary to comply with any state law regarding ADUs or JADUs.

(j) **Interpretation Consistent with State Law.** This subdivision is not intended to conflict with state law. This subdivision shall be interpreted to be compatible with state enactments.

(k) **California Coastal Act.** Nothing in this subdivision shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 [Division 20 (commencing with Section 30000) of the Public Resources Code], except that the Department shall not be required to hold public hearings for coastal development permit applications for ADUs or JADUs.

(l) **Enforcement.** Enforcement of building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an ADU described in paragraph (1) or (2) below, upon request of an owner of an ADU, shall be delayed subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The ADU unit was built before January 1, 2020.

(2) The ADU was built on or after January 1, 2020, in a local jurisdiction that, at the time the ADU was built, had a noncompliant ADU ordinance, but the ordinance is compliant at the time the request is made.

## **B. (None)**

## **C. AREA.**

1. **Building Lines** – Where a Building Line or Setback Line has been established by ordinance, the space between such Building or Setback Line and the front or side lot line may be used as the front or side yard, as the case may be, in lieu of the front or side yard required by this article.

2. **Side Yard Waived for First Story Garage** – Where a residential building is more than two stories or 28 feet in height and the first story is designed and used solely for automobile parking or other accessory purpose, the required side yard need not be increased in width for said first story; provided that the floor surface above such story is not more than seven feet above the adjacent ground elevation at any point, except that the floor surface may be eight feet above the adjacent ground elevation at the exits and entrances to the automobile parking area. **(Added by Ord. No. 109,714, Eff. 8/26/57.)**

3. **Incentives to Produce Housing in the Greater Downtown Housing Incentive Area. (Amended by Ord. No. 179,076, Eff. 9/23/07.)** Notwithstanding any other provision of this chapter to the contrary, for lots in the R4, RAS4, R5, CR, C2, C4, and C5 zones in the Greater Downtown Housing Incentive Area, the following shall apply:

(a) No yard requirements shall apply except as required by the Downtown Design Guide as approved by the City Planning Commission. The Director of Planning or his/her designee shall stamp and sign the plans showing the required yards. The applicant shall submit the stamped and signed plans to the Department of Building and Safety along with the plans submitted for a building permit. **(Amended by Ord. No. 186,325, Eff. 11/11/19.)**

(b) For the purpose of calculating the buildable area for residential (including Apartment Hotel or mixed-use) buildings, the buildable area shall be the same as the lot area.



(c) The maximum number of dwelling units or guest rooms permitted shall not be limited by the lot area provisions of this chapter so long as the total floor area utilized by guest rooms does not exceed the total floor area utilized by dwelling units.

(d) Notwithstanding the provisions of Section 12.21 G.2. of this Code to the contrary, there shall be no prescribed percentage of the required open space that must be provided as either common open space or private open space.

4. **(Repealed by Ord. No. 181,076, Eff. 3/28/10.)**

5. **(Repealed by Ord. No. 181,076, Eff. 3/28/10.)**

6. **Front Yard – Sloping Lot** – Where the elevation of the ground at a point fifty (50) feet from the front lot line of a lot and midway between the side lot lines differs ten (10) feet or more from the curb level, the front yard need not exceed fifty (50) percent of that required in the zone.

7. **(None)**

8. **Front Yard – Unit Development** – Where all the lots in a frontage in an “R” Zone are developed as a unit with one-family dwellings, the required front yard may be reduced by not more than five feet on part of the lots, provided the average of the front yard depth for the entire frontage is not less than the minimum front yard required in the zone in which the property is located.

9. **Side Yards Reduced** – Where all the lots in a frontage are developed as a unit with residential buildings, the required side yard may be reduced on one side of each lot, provided that:

(a) The total combined width of the side yards on each lot is not less than the sum of the widths of the side yards required in the zone in which the property is located; and

(b) The buildings are so located that the narrow side yard on one lot adjoins the wide side yard on the adjoining lot; and

(c) No side yard is less than three feet in width for buildings two stories or less in height, nor less than three feet in width, plus the increased width for additional stories above two stories where required by the area regulations of the zone in which the property is located. **(Amended by Ord. No. 138,685, Eff. 7/10/69.)**

Where lots comprising 50% or more of a frontage are developed with buildings having varying side yards conforming to the above regulations, or where all the lots in a frontage have deed restrictions requiring such varying side yards, all the lots in such frontage may be developed in the same manner.

10. **Rear Yard – Includes One-Half Alley**. Except in the RS, R1, RU, RZ, RMP, and R2 Zones, in computing the depth of a rear yard where the rear yard opens onto an alley or in the RW Zone onto a court of not more than 30 feet in width, one-half the width of the alley or court may be assumed to be a portion of the required rear yard. **(Amended by Ord. No. 177,103, Eff. 12/18/05.)**

11. **Rear Yard – Includes Loading Space** – Loading space provided in accordance with this article may occupy a required rear yard or portion thereof but in no case shall any portion of a street or alley be counted as part of the required loading space.

12. **Accessory Buildings in Yards**. Accessory buildings may be located in a required yard in conformance with the provisions of Section 12.21 C.5. **(Amended by Ord. No. 125,278, Eff. 9/16/63.)**

13. **Lots Affected by Acquisitions for Public Use**. **(Amended by Ord. No. 144,536, Eff. 5/3/73.)** Where a building or structure is located upon a lot portion of which is acquired for any public use, (by condemnation, purchase, dedication, or otherwise) by any governmental entity, or if all or a part of a separate off-street automobile parking area serving such building or structure is acquired for public use, such building or structure may be maintained, and may thereafter be used, maintained or repaired without relocating or altering the same to comply with the area regulations or off-street automobile parking requirements of this article. Further, if such building or structure is partially located upon the area being acquired for public use, it may be relocated upon the same lot or premises or remodeled or reconstructed without observing the required yard space adjacent to the new lot line created by such acquisition, and without reducing the number of dwelling units to conform to the area regulations of the zone in which it is located and without observing the off-street automobile parking requirements of this article. The exemptions provided in this paragraph permit compliance only to the extent that such non-compliance is caused by an acquisition for public use.

If only a portion of an existing building or structure is acquired for public use, the repair, remodeling or reconstruction of the remainder of said building or structure which was made necessary by said acquisition, shall conform to the provisions of the building code. Any portion of the building or structure which is not required to be repaired, remodeled or reconstructed by reason of said acquisition shall not be required to be made to conform to the provisions of the building code, unless it would otherwise be required to conform thereto independently of and in the absence of said acquisition of only a portion of the building or structure.

If a lot resulting from the acquisition of all or a portion of a parcel for public use does not comply with the area requirements of the zone in which it is located, or if a legally existing nonconforming lot is further reduced in size because of such acquisition, said lot may be utilized and a building permit shall be issued for any purpose permitted in the zone, so long as the lot is not smaller in size or width than one-half (1/2) of the minimum area or width required for the zone. **(Amended by Ord. No. 150,362, Eff. 1/13/78.)**

14. **(None)**

15. **(None)**

16. **Lot Area – Includes One-Half Alley.** In computing the number of dwelling units allowed by the minimum lot area per dwelling unit requirements of this article on a lot abutting upon one or more alleys, one-half the width of such alley or alleys may be assumed to be a portion of the lot. **(Added by Ord. No. 121,925, Eff. 6/4/62.)**

17. **Lot Area Acreage – Includes One-Half Street.** In computing the lot area of a lot in the A1 and A2 Zones, that portion of the width of all abutting streets or highways, which would normally revert to the lot if the street were vacated, may be assumed to be a portion of the lot. **(Amended By Ord. No. 133,218, Eff. 11/19/66.)**

18. **Lot Area in Hillside Subdivisions** – On land located within an RA or RE Zone and also within the “H” Hillside or mountainous area, there may be lots having less than the minimum lot area specified within said zones and there may be a single-family dwelling on each lot if the lot is shown with a separate letter or lot number on a recorded Subdivision Tract Map or Parcel Map. **(Amended By Ord. No. 139,736, Eff. 1/31/70.)**

19. **Through Lot – May Be Two Building Site** – Where a through lot has a depth of 150 feet or more, each half of the lot may be improved as though it is a separate lot, with the rear line of each approximately equidistant from the front lot lines. The location of all buildings and the number of dwelling units therein shall comply with the requirements of the zone in which the through lot is located, except that in any case there may be at least one single-family dwelling on each half. **(Amended By Ord. No 116,389, Eff. 6/29/60.)**

The provisions of this subdivision shall not apply to lots in the RE Zone, or to lots in any zone that are also within the “H” Hillside or Mountainous Area. **(Amended by Ord. No. 127,777, Eff. 8/1/64.)**

20. **Projections Into Yards.**

(a) A canopy above an entrance and extending over a driveway which leads to a detached garage or a parking space not abutting a dwelling, for the temporary shelter of automobiles, commonly referred to as a porte-cochere, may project into a required side yard, but not nearer than 30 in to any lot line, provided such structure is not more than one story in height and 20 feet in length, and is entirely open on at least three sides except for the necessary supporting columns and customary architectural features. **(Amended by Ord. No. 138,685, Eff. 7/10/69.)**

(b) Cornices, belt courses, sills, or other similar architectural features (not including bay windows or vertical projections), may project into a required side yard, other than the side yard adjoining the street lot line of a corner lot, not more than two inches for each one foot of width of such yard, and may project into a required front yard, rear yard, side yard adjoining the street lot line of a corner lot, passageway, or other open space not more than 30 inches, except as provided in Section 12.08.5 C1.(c), provided the width of a side yard adjoining the street lot line of a corner lot is not reduced to less than three feet. Eaves may project into a required side yard, other than the side yard adjoining the street lot line of a corner lot, not more than four inches for each one foot of width of such side yard, provided the width of such side yard is not reduced to less than two and one-half feet. Eaves may also project into a required front yard, rear yard, side yard adjoining the street lot line of a corner lot, passageway, or other open space not more than 30 inches, provided the width of a side yard adjoining the street lot line of a corner lot is not reduced to less than two and one-half feet. Chimneys may project into a required passageway not more than one foot and may project into a required front yard, rear yard, side yard, or other required open space, except as provided in Section 12.08.5 C.1.(c), not more than two feet, provided the width of any required side yard is not reduced to less than three feet. **(Amended by Ord. No. 138,685, Eff. 7/10/69.)**

(c) Fire escapes may extend or project into any front, side or rear yard not more than four (4) feet.

(d) **(Amended by Ord. No. 138,685, Eff. 7/10/69.)** Except in an RW Zone, where a required passage may not be reduced in any manner, open, unenclosed stairways or balconies, not covered by a roof or canopy, may extend or project into a required rear yard not more than four feet, and such balconies may extend into a required front yard, passageway, other open space, or the side yard adjoining the street lot line of a corner lot, not more than 30 inches, provided the width of a side yard adjoining the street lot line of a corner lot is not reduced to less than 30 inches.

(e) Open, unenclosed porches, platforms, or landing places (including access stairways thereto) not covered by a roof or canopy, which do not extend above the level of the first floor of the building, may extend or project into the required front yard, side yard, rear yard, passageway, or other open space, not more than six feet, provided that in no event shall any such porch, platform or landing space be more than six feet above the natural ground level adjacent thereto. **(Amended by Ord. No. 138,685, Eff. 7/10/69.)**

(f) **Fences and Walls in the A and R Zones. (Amended by Ord. No. 154,798, Eff. 2/20/81.)**

(1) **Fences and Walls.** For the purposes of Article 2 through 6 of this chapter, the terms “fence” and “wall” shall include latticework, ornamental fences, screen walls, hedges or thick growths of shrubs or trees. Fence and wall height shall be measured from the natural ground level adjacent thereto.

(2) **Front Yards. (Amended by Ord. No. 173,754, Eff. 3/5/01.)** In the R Zones, fences, walls, and landscape architectural features of guard railing around depressed ramps, not more than three and one-half feet in height above the natural ground level adjacent to the feature, railing or ramp, may be located and maintained in any required front yard. In the A Zones (including the RA Zone), a fence or wall not more than six feet in height may be located and maintained in the required front yard. In both the A and R Zones, a fence or wall not more than eight feet in height may be located and maintained in the required front yard when authorized by a Zoning Administrator pursuant to Section 12.24 X.7.

In both the A and R zones, an unobstructed chainlink fence not more than ten feet in height may be located and maintained in all yards when required by the Department of Building and Safety pursuant to the provisions of Sections 91.3303 and 91.6103 and Division 89 of Article 1 of Chapter IX of this Code.

(3) **Side Yards, Rear Yards and Other Spaces . (Amended by Ord. No. 173,492, Eff. 10/10/00.)** A fence or wall not more than eight feet in height may be located and maintained within the required side yard, rear yard or other open space of any lot in an RW Zone and within the required side yard, rear yard or other open space of a lot within any other A or R zone which is 40 feet or more in width, provided the lot is not located within the boundary of a “Hillside Area”, as defined in Section 91.7003 of this Code.

A fence or wall not more than six feet in height may be located and maintained within the required side yard, rear yard or other open space of any lot in an A or R Zone, other than an RW Zone, which is less than 40 feet in width or which is located within the boundary of a “Hillside Area”, as defined in Section 91.7003 of this Code, except that in either case a fence or wall not more than eight feet in height may be located in the yards or other open space when authorized by a Zoning Administrator pursuant to Section 12.21A2.

In the A Zones (including the RA Zone), a fence or wall not more than eight feet in height may be located on the side street lot line of any reversed corner lot; provided, however, that if the lot is located within the boundary of a “Hillside Area”, as defined in Section 91.7003, the fence or wall shall not exceed six feet in height.

In the R Zones, other than the RW Zones, a fence or wall located within five feet of the side street lot line of a reversed corner lot may not exceed three and one-half feet in height. In the RW Zones, a fence or wall located within three feet of the side street lot line of either a corner lot or a reversed corner lot may not exceed three and one-half feet in height.

(4) **Access Ways.** Access ways shall be maintained in accordance with the provisions of Section 12.22C20(1).

(5) **Maintenance of Fences and Walls.** Fences shall be maintained in accordance with the provisions of Section 12.21A9.

(6) **Masonry and Concrete Walls. (Amended by Ord. No. 173,492, Eff. 10/10/00.)** A masonry or concrete fence or wall over three and one-half feet in height shall be built in accordance with the provisions of Section 91.106.1 of this Code.

(7) **Fences and Walls Enclosing Parking Areas.** Fences and walls enclosing parking areas shall be provided in accordance with the provisions of Section 12.21A6.

(8) **Fences and Walls Around Pools. (Amended by Ord. No. 173,492, Eff. 10/10/00.)** A fence or wall not exceeding four and one-half feet in height, as required by Section 91.6109 of this Code, may be erected and maintained to enclose a swimming pool, fish pond or other body of water existing in a required yard prior to June 1, 1956.

(9) **Fences and Walls Around Schools.** An open mesh type fence to enclose an elementary or high school site may be located and maintained in any required yard.

(10) **Fences and Walls Around Tennis Courts.** The provisions of Section 12.20 C 20(m) shall control with respect to tennis court fences.

(11) **Fences and Walls at Street Intersections.** Fences and Walls at street intersections shall comply with the provisions of 62.200 of this Code.

(g) **(None)**

(h) A one-story covered passageway, commonly referred to as a breezeway, not over five feet in width, extending from



a main residential building to a private garage or other accessory building may be erected and maintained in a required rear yard. Such passageway shall be located not less than five feet from all lot lines and shall be unenclosed, except that on a corner lot there may be a wall or fence not over six feet in height along the street side of such passageway.

(i) Landscape features such as trees, shrubs, flowers or plants, shall be permitted in any required front, side, or rear yard, passageway or other open space, provided that they do not produce a hedge effect contrary to the provisions of Paragraphs (f) and (g) above. **(Amended by Ord. No. 107,884, Eff. 9/23/56.)**

(j) Name plates, signs, and advertising matter, as permitted by this article, may be located in any required front yard, side yard, rear yard, passageway or other open space; provided that the total area of all identification signs in any required yard, shall not exceed 12 square feet, and any sign appertaining to the sale of farm products raised or produced on the premises shall be located at least ten feet from any side lot line. **(Amended by Ord. No. 107,884, Eff. 9/23/56.)**

(k) Awnings or canopies without enclosing walls or screening may be attached to the exterior walls of a Group R or Group H Occupancy, provided that: such awnings or canopies do not extend more than four feet into a required front yard or building line space at the front of a lot, and have no vertical support within said yard or space; such awnings or canopies do not extend more than 30 inches into a required side yard, rear yard, building line space at the side of a lot, passageway or other open space, but in no event nearer than 30 inches to an interior lot line; and where such awnings or canopies project into a required front or side yard, passageway or other open space, they may extend only over the windows or doors to be protected and for 12 inches on each side thereof. **(Amended by Ord. No. 121,925, Eff. 6/4/62.)**

(l) Notwithstanding the provisions of this subdivision, no architectural feature, fire escape, porch, balcony, or other projection permitted in a yard, passageway or other open space, shall be located and maintained so as to preclude complete access about and on each side of and in close proximity to main buildings and accessory living quarters at all times. Where a fence or wall is provided or maintained, a gate or other suitable opening at least two and one-half feet in width shall be deemed adequate for access through said fence or wall; provided further that where such fence or wall is located adjacent to an alley and is over six feet in height, adequate access shall be provided through such wall or fence onto the adjacent alley. At least five feet of clear and open space shall be maintained between any two main buildings, including the projections, on any one lot. **(Amended by Ord. No. 154,798, Eff. 2/20/81.)**

(m) **(Added by Ord. No. 151,466, Eff. 10/27/78.)** Tennis or paddle tennis courts, including fences and light which are accessory to a primary residential use on the same lot in the A or R Zones may extend into a portion of the required rear yard of such lot if such court and its appurtenances meet all of the following conditions:

(i) The court surface is not more than 2 feet above the natural adjacent grade at any point.

(ii) The court is enclosed with a fence no higher than 10 feet above the court surface and all portions of such fence above a height of six feet are an open chain link type fence.

(iii) Any light standards and fixtures are no higher than 20 feet above the court surface.

(iv) The court is located a distance from the rear lot line at least equal to the width of the side yard required for a one-story main building in the zone but in no event less than 5 feet.

**21. Lot Widths and Yard Requirements for RE15-H Zones.** Lot widths and yard area requirements for the R1 Zone shall apply to lots in the RE15-H Zone if said lots are shown as numbered lots on a tentative subdivision tract map or parcel map approved by the Advisory Agency or the Director of Planning for the City of Los Angeles prior to January 1, 1967 and recorded in the Office of the Los Angeles County Recorder prior to July 1, 1967. **(Added by Ord. No. 134,673, Eff. 7/31/67.)**

**22. Width and Area Flag Lots in Mountainous Areas.** Where a flag lot is situated in the "H" Hillside or the Very High Fire Hazard Severity Zone pursuant to Section 57.4908 of the Municipal Code, the lot width may be calculated by measuring the width of the main buildable portion of said flag lot on a straight line parallel to the general direction of the frontage street and midway between the rear and front lines of the main buildable portion of the flag lot provided, however, that the main buildable portion contains the lot width and not less than 90% of the lot area required for lots in the zone classification in which the flag lot is situated, said lot area to be calculated exclusive of the area contained within the access strip portion of the flag lot. **(Amended by Ord. No. 176,943, Eff. 10/5/05.)**

**23. (Repealed by Ord. No. 164,145, Eff. 12/8/88.)**

**24. Zero Side Yard Lots – Remain Separate Lots.** If several lots are developed with building crossing lot lines, as permitted by Section 12.08.3 B.1. of this Code, they shall remain separate lots, notwithstanding such construction across the lot lines. **(Added by Ord. No. 159,532, Eff. 1/3/85.)**

**25. Zero Side and Rear Yard Development in Multiple Residential Zones.** In the R2, RD, R3, RAS3, R4, RAS4, and R5 Zones, lots may be developed with either attached dwellings crossing lot lines or detached dwellings not crossing lot lines. These dwellings may contain one dwelling unit on a lot and may observe the lot width, yard, passageway and other requirements for development in the RZ Zone. Every lot so developed shall have a minimum lot area of 2,500 square feet. No lots may be developed in accordance with this subdivision unless the lots and uses are approved in connection with a preliminary parcel map,

tentative tract map or modification approved subsequent to January 1, 1985. Development so approved shall meet the density requirement of the zone in which the lots are located. **(Amended by Ord. No. 174,999, Eff. 1/15/03.)**

**26. Yards Required for Historically Significant Buildings.** Notwithstanding any provision of the Los Angeles Municipal Code to the contrary, in connection with any change of use in an historically significant building, the yards required shall be the same as the yards observed by the existing structures on the site. An historically significant building is defined as a structure that is designated on the National Register of Historic Places, including Contributing Buildings in National Register Historic Districts, the California Register of Historical Resources, the City of Los Angeles List of Historic-Cultural Monuments, or a Contributing Structure in an Historic Preservation Overlay Zone (HPOZ) established pursuant to Section 12.20.3 of this Code. **(Added by Ord. No. 172,792, Eff. 10/4/99.)**

**27. Small Lot Subdivision. (Amended by Ord. No. 185,462, Eff. 4/18/18.)** The purpose of this provision is to create alternative fee-simple home ownership within the multi-family and commercial zones. A small lot subdivision shall be permitted in the RD, R3, R4, R5, RAS and the P and C zones pursuant to an approved tract or parcel map. A subdivision for the purposes of small lots enables the construction of new small lot homes and provides opportunities for the preservation of existing residential dwelling units located on a single lot to be rehabilitated as for-sale dwellings on individual small lots.

(a) **Construction of New Small Lots.** Notwithstanding any provisions of this Code relating to minimum lot area, in the RD, R3, R4, R5, RAS and the P and C zones, parcels of land may be subdivided into lots which may contain one, two or three dwelling units, provided that the density of the subdivision complies with the minimum lot area per dwelling unit requirement established for each zone, or, in the case of a P zone, the density of the subdivision shall comply with the minimum lot area per dwelling unit of the least restrictive abutting commercial or multi-family residential zone(s).

(1) A parcel map or tract map, pursuant to Section 17.00 et seq. of this Code, shall be required for the creation of a small lot subdivision. The parcel map or vesting tentative tract map must comply with the Advisory Agency Small Lot Map Standards; and

(2) For small lot subdivision projects, no demolition, grading, building permit or certificate of occupancy shall be issued unless the Director of Planning has reviewed the application and determined that the small lot subdivision project complies with the City Planning Commission's Small Lot Design Standards. The Director of Planning's sign-off as to compliance with the Commission's Small Lot Design Standards is a ministerial administrative clearance.

(i) The Director is authorized to designate one or more members of the professional staff of the Department of City Planning to perform any of the Director's duties in this section. The Director shall establish an administrative process, guidelines, procedures, requirements, and forms as may be necessary to conduct the review of the administrative clearance to determine conformance with the Small Lot Design Standards.

(ii) The application for this administrative clearance shall be filed concurrent with the tract or parcel map application and at any time a subsequent alteration or addition is proposed.

(iii) As a condition of approval, all small lot subdivisions shall be required to conform to the plans approved by the Director of Planning.

(3) The minimum lot width shall be 18 feet and the minimum lot area shall be 600 square feet. The Advisory Agency shall designate the location of front yards in the subdivision tract or parcel map approval.

(4) Access shall be provided to a lot containing a dwelling unit and to its required parking spaces, pursuant to Section 12.21 A.4.(a) by way of a public or private street, an alley, or an access easement.

(5) The lot area coverage by all structures shall not exceed 75% of an approved small lot, unless the tract or parcel map provides an open space easement equivalent to 25% of the lot area of each lot not meeting this provision.

(6) No front, side, or rear yard shall be required between interior lot lines created within an approved small lot subdivision.

(7) The provisions of the front yard of the underlying zone shall apply to the Front Lot Line of the perimeter of the subdivision.

(8) The following shall apply to the perimeter of the subdivision:

(i) For any subdivision that shares a property line with an R1 or more restrictive single family zone, the provisions of the front yard, side yard and rear yard of the underlying zone shall apply. A minimum five-foot side yard shall be required.

(ii) For any subdivision that does not share a property line with an R1 or more restrictive single family

zone, the following shall apply:

- a. A minimum five-foot yard shall be required along the Side Lot Line of the perimeter of the subdivision; and
- b. A minimum ten-foot yard shall be required along the Rear Lot Line of the perimeter of the subdivision, except that where the Rear Lot Line abuts an alley a minimum five-foot rear yard shall be required along the perimeter of the subdivision.

(9) No passageway pursuant to Section 12.21 C.2. of this Code shall be required.

(10) In a P zone, lots may be developed as a small lot subdivision, provided that the General Plan land use designation of the lot is "commercial" or "multiple family residential".

(11) A dwelling unit in a small lot subdivision shall not be required to comply with Paragraphs (a), (b), and (f) of Section 12.21 A.17. of this Code.

(12) Fences and walls within the yard setback areas adjacent to a public right-of-way, except alleys, and along the perimeter of the proposed subdivision shall be no more than three and one-half feet in height in accordance with Section 12.22 C.20. of this Code. Fences and walls within the yard setback areas along the perimeter, not adjacent to the public right-of-way, of the proposed subdivision shall be no more than six feet in height in accordance with Section 12.22 C.20. of this Code.

(13) Lots created within a small lot subdivision are exempt from the "frontage" requirement as defined in the definition of "Lot" pursuant to Section 12.03.

(b) **Small Lot Subdivisions of Existing Dwelling Units.** The purpose of this Subsection is to further facilitate fee-simple home ownership opportunities through the preservation of existing housing within the City.

Existing Group Dwellings, Bungalow Courts, and detached single, duplex, and triplex dwelling structures maintained under a single ownership with an original building permit issued more than 45 years prior to the date of submittal of the application for subdivision, or where information submitted with the subdivision application indicates that the building(s) is/are more than 45 years old based on the date the application is submitted may be subdivided into small lots and shall comply with Subparagraphs (1), (2) (4), and (9) through (13) of Paragraph (a) of this Subdivision. All existing structures shall be legally constructed with an issued building permit or Certificate of Occupancy.

(1) Notwithstanding any provisions of this Code relating to minimum lot area to the contrary, in the RD, R3, R4, R5, RAS and the P and C zones, parcels of land may be subdivided into lots which may contain one, two or three dwelling units, provided that the density of the subdivision complies with the minimum lot area per dwelling unit requirement established for each zone, or in the case of a P zone, the density of the subdivision shall comply with the minimum lot area per dwelling unit of the least restrictive abutting commercial or multi-family residential zone(s). Bungalow courts and existing structures that are nonconforming as to use, density, yards, or parking may be subdivided provided that the subdivision does not further increase the density nor reduce the yards, and that existing required parking be maintained, respectively.

(2) A nonconforming building, structure, or improvements may be maintained or repaired or structurally altered provided it conforms to Section 12.23 A. of this Code. However, alterations to existing structures shall also be in conformance with the "Bungalow Court and Existing Structure" Small Lot Design Standards adopted by the City Planning Commission.

(3) All existing dwellings shall provide parking as required on each dwelling's most recently issued permit. No additional parking is required.

(4) All new dwellings added to the small lot subdivisions of existing dwelling units shall be subject to subparagraphs (1) through (13) of Paragraph (a) of this Subdivision, including current setback requirements, parking, and applicable Small Lot Design Standards.

(c) **Exceptions.** The provisions of this section do not apply to any of the following projects, which shall comply with the regulations in effect prior to the effective date of this ordinance, as applicable:

(1) Any small lot subdivision entitlement application filed and accepted and deemed complete prior to the effective date of this ordinance as determined by the Department of City Planning.

(2) Any project for which the City has approved a small lot subdivision discretionary land use entitlement as of the effective date of this ordinance, but that has not yet submitted plans and appropriate fees to the Department of Building and Safety for plan check, as determined by the Department of City Planning.

# EXHIBIT D

## ARTICLE 1.5

### PLANNING COMPREHENSIVE PLANNING PROGRAM

(Added by Ord. No. 138,800, Eff. 6/13/69, Oper. 6/23/69.)

#### Section

- 11.5.1 Title.
- 11.5.2 Area Planning Commissions.
- 11.5.3 Director of Planning (Director).
- 11.5.4 City Planning Commission.
- 11.5.5 Mandatory Referrals – Authority of Commission – Requirements.
- 11.5.6 General Plan.
- 11.5.7 Specific Plan Procedures.
- 11.5.8 General Plan Review.
- 11.5.9 Withdrawal of Application.
- 11.5.10 Withdrawal of Appeal.
- 11.5.11 Affordable Housing.
- 11.5.12 Delegation of Council's Authority to Consent to Extensions of Time for Council Action.
- 11.5.13 CEQA Procedures.
- 11.5.14 Redevelopment Plan Procedures.

#### SEC. 11.5.1. TITLE.

This article shall be known as the “**Comprehensive Planning Program of the City of Los Angeles**”.

#### SEC. 11.5.2. AREA PLANNING COMMISSIONS.

(Amended by Ord. No. 173,492, Eff. 10/10/00.)

**A. Boundaries.** In accordance with Charter Section 552, there are hereby established seven Area Planning Commissions. The Area Planning Commissions, and their boundaries are as follows:

1. **North Valley Area Planning Commission:** To serve those areas included within the boundaries of the following community plans:

(a) Arleta - Pacoima Community Plan, as adopted on November 6, 1996, the boundaries of which are shown on a map in Council File No. 95-1396.

(b) Chatsworth - Porter Ranch Community Plan, as adopted on July 14, 1993, the boundaries of which are shown on a map in Council File No. 91-1045-43.

(c) Granada Hills - Knollwood Community Plan, as adopted on July 10, 1996, the

# EXHIBIT E

# Housing Progress Reports

## Housing Progress Dashboard

City Planning is pleased to present a comprehensive look at Los Angeles's housing pipeline through the new Housing Progress Dashboard, launched in November 2019. This interactive dashboard displays housing activity and trends across the City of Los Angeles from 2015 to present at a level of detail not available until now.

The dashboard allows City Planning to share an expanded range of housing information in a visual way, including an in-depth accounting of affordability levels, geographic locations, and more. Each graph in the Housing Progress Dashboard is fully interactive—click on a bar, line, pie, or map area to change the information presented in the graphs on that page. For example, in the chart “Percentage of Units Proposed by Entitlement Type,” clicking on the 2016 bar will update the surrounding figures to show data for 2016 only.

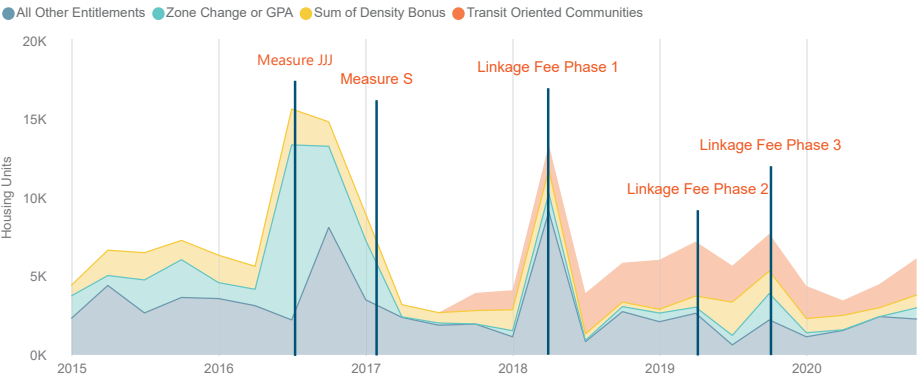
Below, explore the dashboard and the progress City Planning has made toward meeting the housing needs of our communities.



Housing Proposed through Planning Entitlements

January 2015 - December 2020

Housing Units Proposed by Entitlement Type



Year	All Other Entitlements	Zone Change or GPA	Density Bonus**	Transit Oriented Communities	Total Units Proposed*
2016	17,075	18,387	7,062	0	42,524
2015	13,096	6,570	5,264	0	24,930
2019	7,623	3,234	4,501	11,321	26,679
2017	9,749	3,972	3,959	1,127	18,807
2018	13,866	1,969	3,552	7,949	27,336
2020	7,429	1,012	3,210	6,883	18,625
Total	68,838	35,144	27,548	27,280	158,901

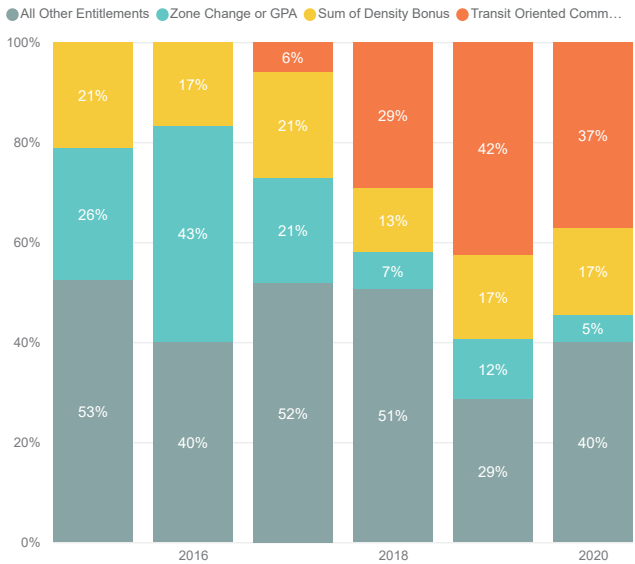
\*Summary totals do not include Hotels, Motels, and Hostels

\*\*Density Bonus totals reflect only projects where the Density Bonus was not requested in combination with a Zone Change or GPA

Total Units Proposed \*

158,901

Percentage of Units Proposed by Entitlement Type



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On September 22, 2017, City Planning adopted the Transit Oriented Communities (TOC) Incentive Program in accordance with Measure JJJ—a voter-approved initiative passed in November 2016 to incentivize affordable housing near transit. The TOC Program has created a new tier-based system of incentives for certain residential projects. Projects that qualify can request additional building incentives in exchange for a specific set-aside of restricted affordable units. Density Bonus is another incentive program that allows housing developers to build an additional number of units in exchange for providing affordable units. The dashboards below show how the TOC and Density Bonus Programs have been used to generate affordable housing throughout the City.

A Closer Look at Density Bonus and Transit Oriented Communities (TOC) Incentive Programs

**What is an incentive program?**  
Affordable housing incentive programs work by granting housing developers increased flexibility on development standards in exchange for providing affordable housing units within a development.

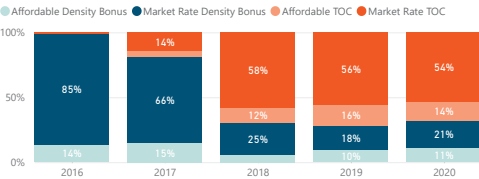
**What Is Affordable Housing?**  
In general, housing is considered affordable when individuals and households pay no more than 30% of their income for housing related costs. "Restricted affordable" or "covenanted affordable" units are required to be made available at rental or sale rates affordable to families that earn less than 120% of the Area Median Income (AMI). These units have both income and price restrictions in order to help lower-income families secure affordable housing. Moderate income is defined as earning between 80% and 120% of AMI — \$58,200 for a one-person household. Low income is 80% of AMI — \$54,250. Very Low Income is 50% of AMI — \$33,950; and Extremely Low Income is 30% of AMI — \$20,350 for one person.

**What is TOC?**  
The Transit Oriented Communities (TOC) Program offers a tier-based system to incentivize affordable housing in residential projects within ½ mile of a qualifying transit stop. Projects that qualify can request building incentives, such as increased density or reduced parking, in exchange for setting aside a

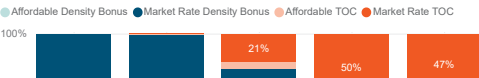
Since its inception, the TOC program has generated 35,060 units of housing, including 7,540 units of affordable housing. Since 2015, 34,728 units of housing have been added to the development pipeline through the Density Bonus program, including 6,784 units of affordable housing.

More information about the geographical distribution and targeted income levels for these units can be found by exploring this dashboard!

Percentage of Proposed Units via Density Bonus and TOC



Percentage of Approved Units via Density Bonus and TOC

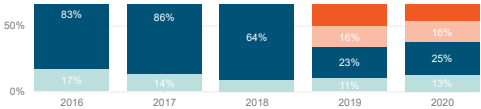


**What's a By-Right TOC project?**  
Projects that use only the density, floor area, and parking incentives of the TOC Program may proceed by-right, applying directly for a building permit without prior City Planning review. This allows the efficient addition of new affordable dwelling units into the City's housing pipeline.

**What is the Density Bonus?**  
State law established the contemporary Density Bonus program via the passage of SB1818 in 2004. This program allows for larger projects, or for other building incentives, if a certain percentage of units in the project is set aside for affordable housing. Unlike TOC, projects do not have to be located near transit to qualify for the Density Bonus.

**Why compare Density Bonus\* & TOC ?**  
Taken together, these two programs generated 62% of all Planning-approved units in the City in 2020 and more than 2/3 of all affordable units. By comparing the two programs, we gain insight into the types of incentives that most effectively move units of affordable housing into the market. This insight can assist policy makers and communities as

specific percentage of units for low-income households. City Planning adopted the TOC Program on September 22, 2017, in accordance with Measure JJJ—a voter-approved initiative passed in November 2016. For more information, see the [LA City Planning TOC Information Page](#).



they develop tools to further increase the production of affordable units throughout the City.

*\*The figures in this dashboard represent all projects which requested Density Bonus incentives, including those projects requesting multiple entitlements.*

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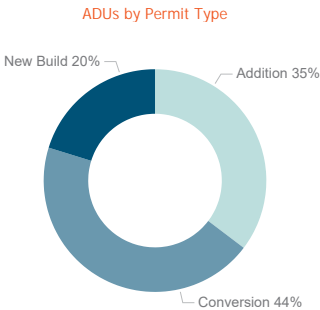
Microsoft Power BI



Accessory Dwelling Unit (ADU) Permit Applications\*

January 2017 - December 2020

Year  
2017 2020



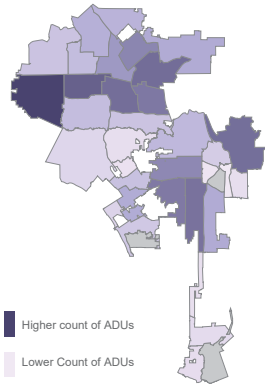
Since State law changed in January 2017, a total of **19,731** ADU applications have been submitted, **14,280** have been issued, and **7,699** have been granted Certificates of Occupancy.

- Addition 6,970
- Conversion 8,771
- New Build 3,990

**Permit Type**  
ADUs can be created through additions or alterations to existing structures, such as garages, or through brand-new construction.

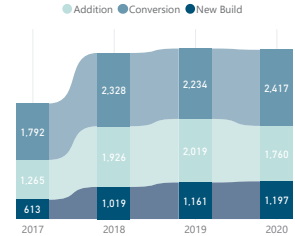
- Project Stage**  
Building an ADU requires three steps:
1. Submission of a permit application
  2. Issuance of a permit allowing construction to proceed
  3. Issuance of a Certificate of Occupancy for habitation

Total Submitted ADU Applications  
**19,731**  
Distribution of ADUs by Plan Area



Plan Area	Total Submitted
Reseda - West Van Nuys	1,207
Sun Valley - La Tuna Canyon	1,144
Van Nuys - North Sherman Oaks	1,136
Northeast Los Angeles	1,132
South Los Angeles	1,105
North Hollywood - Valley Village	1,071
West Adams - Baldwin Hills - Leimert	1,057
Arleta - Pacoima	966
Wilshire	949
Total	19,731

ADUs by Permit Type & Year



*\*Data provided by Los Angeles Department of Building and Safety*

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**Microsoft Power BI**

The Housing Progress Dashboard, updated quarterly, replaces the Housing Progress Report publication, which has been incorporated into City Planning's Quarterly Report (<https://planning.lacity.org/resources/publications#quarterly>). Archived issues of the Housing Progress Report remain available below. Please email questions or data requests (<https://planning.lacity.org/resources/data-requests>) to [planning.metrics@lacity.org](mailto:planning.metrics@lacity.org) (<mailto:planning.metrics@lacity.org>).



([https://planning.lacity.org/odocument/c795255d-9367-4fdf-](https://planning.lacity.org/odocument/c795255d-9367-4fdf-9568-0a34077720ef)

9568-0a34077720ef)

2019 | Q2 Housing Report (<https://planning.lacity.org/odocument/c795255d-9367-4fdf-9568-0a34077720ef>)



(<https://planning.lacity.org/odocument/c82e412b-9d5a-4306->

[8e19-48bd17ebd752](https://planning.lacity.org/odocument/c82e412b-9d5a-4306-8e19-48bd17ebd752))

2019 | Q1 Housing Report (<https://planning.lacity.org/odocument/c82e412b-9d5a-4306-8e19-48bd17ebd752>)



([https://planning.lacity.org/odocument/42cb2634-2885-4c33-](https://planning.lacity.org/odocument/42cb2634-2885-4c33-9ff4-31c8f33c34d1)

[9ff4-31c8f33c34d1](https://planning.lacity.org/odocument/42cb2634-2885-4c33-9ff4-31c8f33c34d1))

<https://planning.lacity.org/resources/housing-reports>



2018 | Q4 Housing Report (<https://planning.lacity.org/odocument/42cb2634-2885-4c33-9ff4-31c8f33c34d1>)



(<https://planning.lacity.org/odocument/7b7f2d26-d4a2-428b->

8c19-0e846fd443a4)

<https://planning.lacity.org/resources/housing-reports>

2018 | Q3 Housing Report (<https://planning.lacity.org/odocument/7b7f2d26-d4a2-428b-8c19-0e846fd443a4>)



(<https://planning.lacity.org/odocument/480ec28c-4fde-4714->

8590-e689a5fe116c)

## 2018 | Q2 Housing Report (<https://planning.lacity.org/odocument/480ec28c-4fde-4714-8590-e689a5fe116c>)

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### HELPFUL LINKS

[City of Los Angeles \(https://www.lacity.org\)](https://www.lacity.org)

[City Departments, Agencies, and Bureaus \(https://www.lacity.org/your-government/departments-commissions/departments-bureaus\)](https://www.lacity.org/your-government/departments-commissions/departments-bureaus)

[2020 Census \(https://census.lacity.org/\)](https://census.lacity.org/)

[Community Resource Guide \(/resources/community-resource-guide\)](/resources/community-resource-guide)

[Site Map \(/sitemap\)](/sitemap)

### CONTACT US

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[\(https://www.linkedin.com/company/los-angeles-department-of-city-planning/\)](https://www.linkedin.com/company/los-angeles-department-of-city-planning/)



[/videos\)](https://www.youtube.com/channel/UChI2PmRhAzUf158o0vZjnHw/videos)



(<https://play.google.com/store/apps/details?id=org.lacity.ladcp.planningToolkit&hl=en>)



(<https://itunes.apple.com/TR/app/id787467145>)

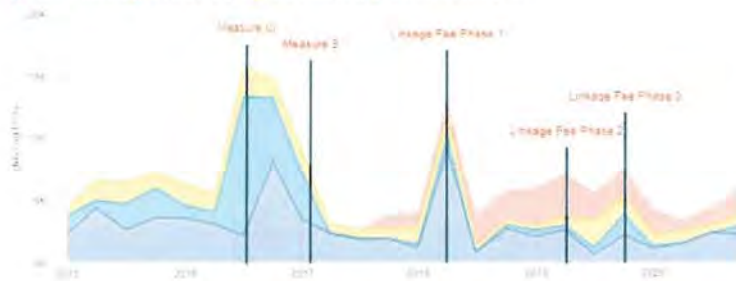
# EXHIBIT F

## Housing Proposed through Planning Entitlements

January 2013 - December 2020

### Housing Units Proposed by Entitlement Type

All Other Entitlements Zone Change or GPA Density Bonus Transit Oriented Communities



Year	All Other Entitlements	Zone Change or GPA	Density Bonus**	Transit Oriented Communities	Total Units Proposed*
2016	17,075	18,387	7,062	0	42,524
2015	13,096	6,570	5,264	0	24,930
2019	7,623	3,234	4,501	11,321	26,679
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2018	13,866	1,969	3,552	7,949	27,336
2020	7,429	1,012	3,210	6,883	18,625
<b>Total</b>	<b>68,838</b>	<b>35,144</b>	<b>27,548</b>	<b>27,280</b>	<b>158,901</b>

\*Summary totals do not include Hotels, Motels, and Hostels

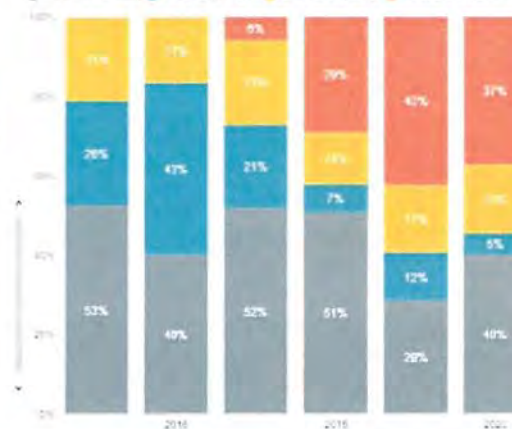
\*\*Density Bonus totals reflect only projects where the Density Bonus was not requested in combination with a Zone Change or GPA

Total Units Proposed

158,901

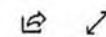
### Percentage of Units Proposed by Entitlement Type

All Other Entitlements Zone Change or GPA Density Bonus Transit Oriented Communities



Microsoft Power BI

1 of 6



I hereby certify and attest this to be a true and correct copy of the official record on file in the office of the Department of City Planning of the City of Los Angeles

designated as Housing Progress Presentation  
Beatrice Pacheco 5/4/21  
 Custodian of Records

6 pages

## Housing Approved through Planning Entitlements

July 2013 - December 2020

Total Units Approved

● Affordable ● Market

162,706

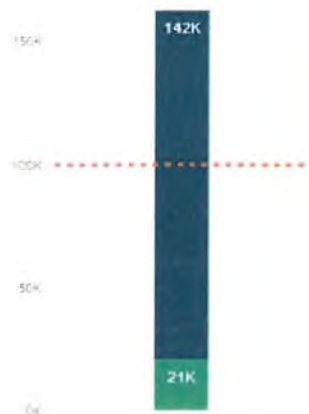
Total Units Approved

20,591

Affordable Units Approved

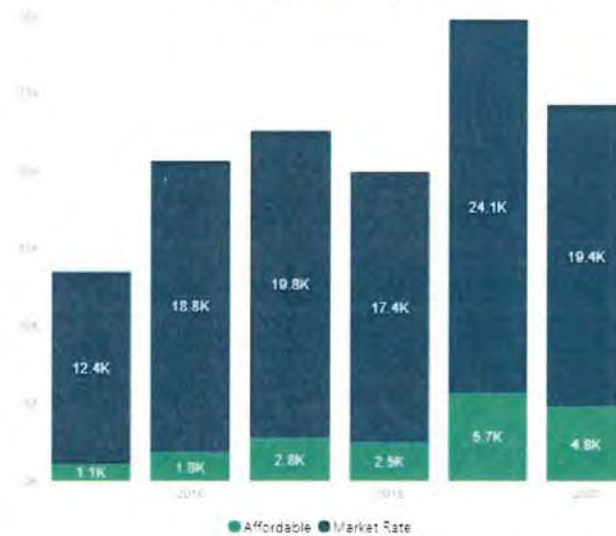
13%

Affordable



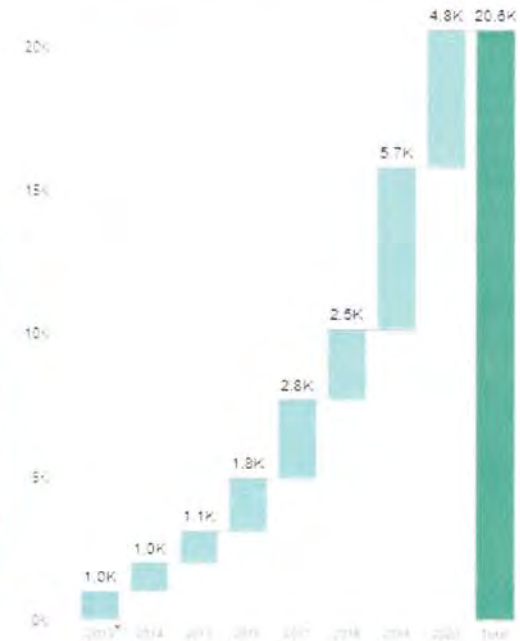
Mayor Garcetti set a goal of permitting **100,000 new units** of housing by 2021. City Planning continues to approve new housing entitlements to support this goal.

### Units Approved by Year



● Affordable ● Market Rate

### Affordable Units Approved by Year<sup>1</sup>



<sup>1</sup>2013 data is for July 1 - December 31 only. 2012 and 2014 data are estimated.



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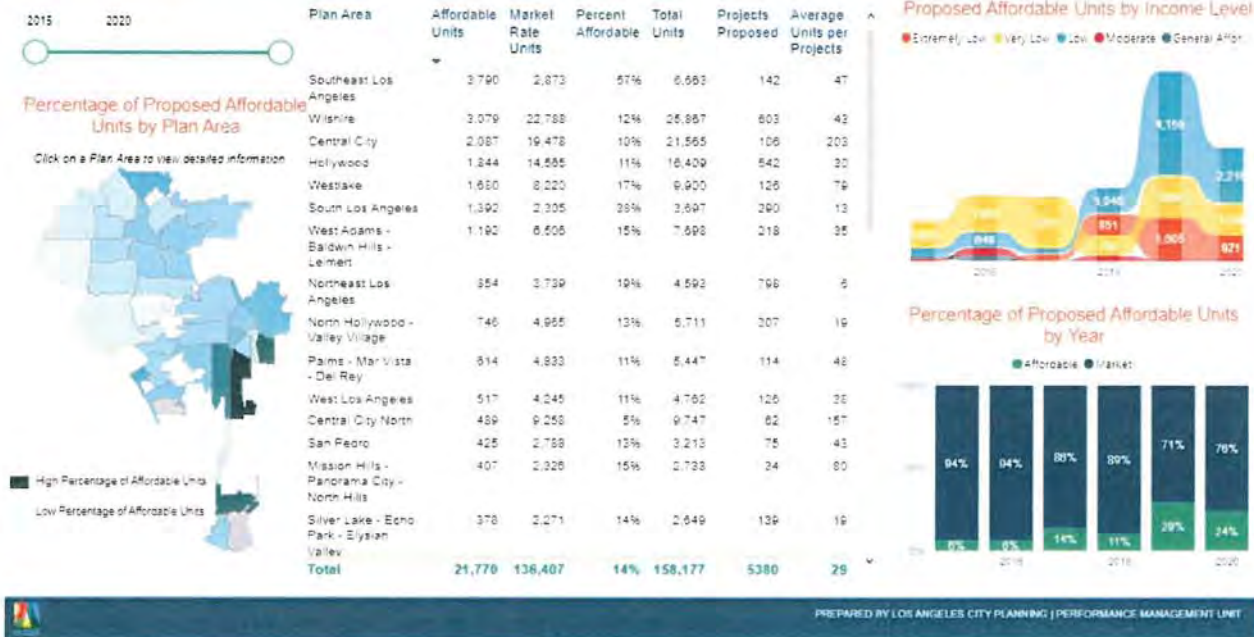
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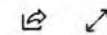
## Affordable Housing Proposed through Planning Entitlements

January 2015 - December 2020



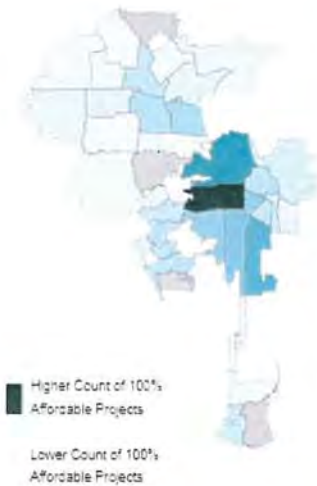
Microsoft Power BI

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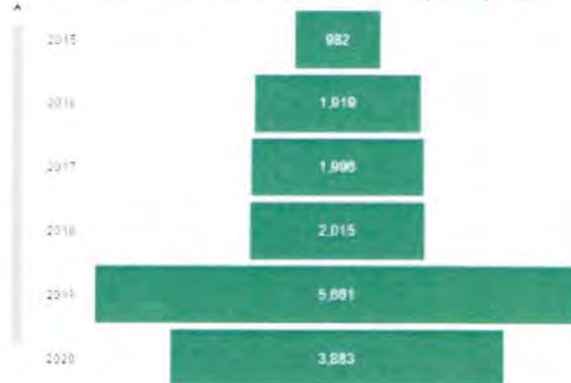
## 100% Affordable Housing Proposed through Planning Entitlements

January 2015 - December 2020



Plan Area	Total Units in 100% Affordable Projects	100% Affordable Projects Proposed
Wilshire	2,338	151
Hollywood	1,501	76
Southeast Los Angeles	3,221	59
South Los Angeles	1,098	42
West Adams - Baldwin Hills - Leimert	1,049	35
Westlake	1,250	35
North Hollywood - Valley Village	515	24
Van Nuys - North Sherman Oaks	277	21
Silver Lake - Echo Park - Elysian Valley	195	19
Westchester - Playa del Rey	198	19
Central City	1,762	18
Palms - Mar Vista - Del Rey	321	18
Mission Hills - Panorama City - North Hills	389	16
San Pedro	359	14
West Los Angeles	291	14
Central City North	385	13
Northeast Los Angeles	257	11
Beverly Hills - West Van	142	8
<b>Total</b>	<b>16,456</b>	<b>648</b>

### Count of Units in 100% Affordable Projects by Year

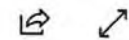


Plan Area	Case Number	Total Units in 100% Affordable Projects
Southeast Los Angeles	TT-82633	1,077
Wilshire	CPC-2019-5598-GPAJ-ZCJ-SP-SPP-SPP	446
Central City	CPC-2017-614-GPAJ-ZCJ-HD-SPP	378
North Hollywood - Valley Village	CPC-2019-7239-GPAJ-VZCJ-HD-SP-SN-BL	311
<b>Total</b>	<b>CPC-2017-614-GPAJ-ZCJ-HD-SPP</b>	<b>16,456</b>

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< 4 of 6 >



## Affordable Housing Approved through Planning Entitlements

January 2013 - December 2020



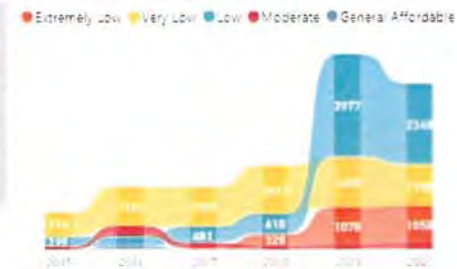
### Percentage of Approved Affordable Units by Plan Area

Click on a Plan Area to view detailed information



Plan Area	Affordable Units	Market Rate Units	Total Units	% Affordable Approved	Projects Approved	Avg Units per Projects
Southeast Los Angeles	2,981	2,857	5,838	51%	112	52
Wilshire	2,437	17,445	19,882	12%	566	35
Central City	1,858	17,241	19,109	10%	91	210
Hollywood	1,881	11,883	13,564	12%	452	30
Westlake	1,626	7,374	9,000	18%	96	94
West Adams - Baldwin Hills - Leimert	978	4,734	5,712	17%	181	32
South Los Angeles	843	1,389	2,232	38%	244	9
Northeast Los Angeles	791	2,501	3,292	24%	802	5
West Los Angeles	591	4,057	4,658	13%	139	34
Palms - Mar Vista - Del Rey	493	3,627	4,120	12%	117	35
North Hollywood - Valley Village	380	3,650	4,030	9%	278	14
Van Nuys - North Sherman Oaks	336	2,552	2,888	12%	117	25
Mission Hills -	299	1,784	2,083	14%	80	34
<b>Total</b>	<b>17,671</b>	<b>111,116</b>	<b>128,787</b>	<b>14%</b>	<b>4,756</b>	<b>27</b>

### Approved Affordable Units by Income Level



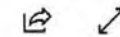
### Percentage of Approved Affordable Units by Year



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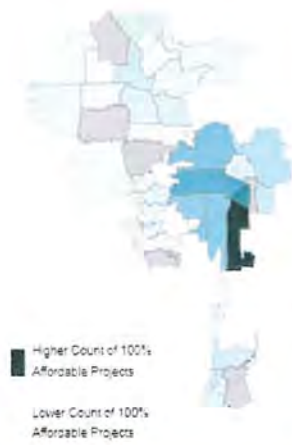
Microsoft Power BI

< 5 of 6 >



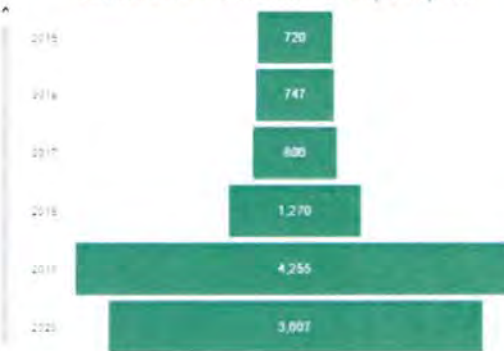
## 100% Affordable Housing Approved through Planning Entitlements

January 2015 - December 2020



Plan Area	Total Units in 100% Affordable Projects	100% Affordable Projects Approved
Southeast Los Angeles	2,610	48
South Los Angeles	730	32
Hollywood	799	25
Wishire	1,074	21
West Adams - Baldwin Hills - Leimert	745	20
Venice	90	15
Westlake	1,123	16
Boyle Heights	275	14
Central City	1,621	12
Northeast Los Angeles	271	11
San Pedro	195	11
Mission Hills - Panorama City - North Hills	209	10
Van Nuys - North Sherman Oaks	173	9
North Hollywood - Valley Village	160	8
Palms - Mar Vista - Del Rey	95	6
Silver Lake - Echo Park - Elysian Valley	162	5
West Los Angeles	129	5
Harbor Gateway	4	4
Sherman Oaks - Studio	5	3
<b>Total</b>	<b>11,405</b>	<b>295</b>

Count of Units in 100% Affordable Projects by Year

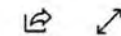


Plan Area	Case Number	Total Units in 100% Affordable Projects
Southeast Los Angeles	TT-82633	1,073
Wishire	CPC-2019-5596-GPAJ-ZCJ-SP-SPR-SPR	454
Central City	CPC-2017-814-GPAJ-ZCJ-HD-SPR	382
Central City	CPC-2017-569-GPAJ-ZCJ-HD-SPR	302
<b>Total</b>		<b>11,405</b>

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< 6 of 6



# EXHIBIT G



## A Closer Look at Density Bonus and Transit Oriented Communities (TOC) Incentive Programs

### What is an incentive program?

Affordable housing incentive programs work by granting housing developers increased flexibility on development standards in exchange for providing affordable housing units within a development.

### What Is Affordable Housing?

In general, housing is considered affordable when individuals and households pay no more than 30% of their income for housing related costs. "Restricted affordable" or "covenanted affordable" units are required to be made available at rental or sale rates affordable to families that earn less than 120% of the Area Median Income (AMI). These units have both income and price restrictions in order to help lower-income families secure affordable housing. Moderate income is defined as earning between 80% and 120% of AMI — \$58,200 for a one-person household. Low income is 80% of AMI — \$54,250. Very Low Income is 50% of AMI — \$33,950; and Extremely Low Income is 30% of AMI — \$20,350 for one person.

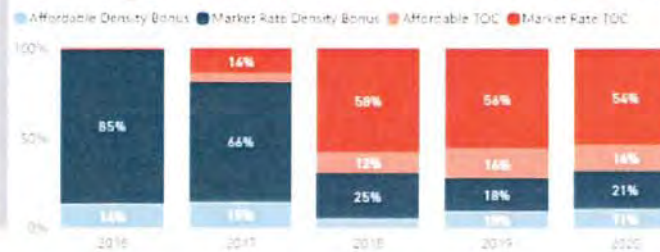
### What is TOC?

The Transit Oriented Communities (TOC) Program offers a tier-based system to incentivize affordable housing in residential projects within ½ mile of a qualifying transit stop. Projects that qualify can request building incentives, such as increased density or reduced parking, in exchange for setting aside a specific percentage of units for low-income households. City Planning adopted the TOC Program on September 22, 2017, in accordance with Measure JJJ—a voter-approved initiative passed in November 2016. For more information, see the [LA City Planning TOC Information Page](#).

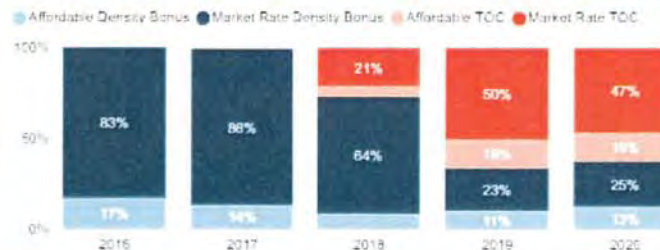
Since its inception, the TOC program has generated **35,060** units of housing, including **7,540** units of affordable housing. Since 2015, **34,728** units of housing have been added to the development pipeline through the Density Bonus program, including **6,784** units of affordable housing.

More information about the geographical distribution and targeted income levels for these units can be found by exploring this [dashboard](#)!

### Percentage of Proposed Units via Density Bonus and TOC



### Percentage of Approved Units via Density Bonus and TOC



### What's a By-Right TOC project?

Projects that use only the density, floor area, and parking incentives of the TOC Program may proceed by-right, applying directly for a building permit without prior City Planning review. This allows the efficient addition of new affordable dwelling units into the City's housing pipeline.

### What is the Density Bonus?

State law established the contemporary Density Bonus program via the passage of SB1818 in 2004. This program allows for larger projects, or for other building incentives, if a certain percentage of units in the project is set aside for affordable housing. Unlike TOC, projects do not have to be located near transit to qualify for the Density Bonus.

### Why compare Density Bonus\* & TOC ?

Taken together, these two programs generated 62% of all Planning-approved units in the City in 2020 and more than 2/3 of all affordable units. By comparing the two programs, we gain insight into the types of incentives that most effectively move units of affordable housing into the market. This insight can assist policy makers and communities as they develop tools to further increase the production of affordable units throughout the City.

\*The figures in this dashboard represent all projects which requested Density Bonus incentives, including those projects requesting multiple entitlements.



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1 of 6



I hereby certify and attest this to be a true and correct copy of the official record on file in the office of the Department of City Planning of the City of Los Angeles

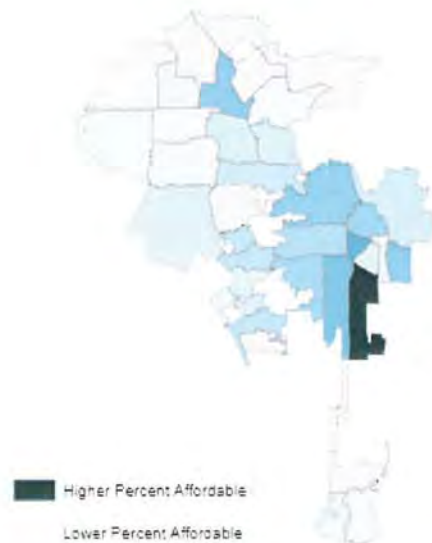
designated as Density Bonus / TOC Presentation  
Beatrice Pacheco 5/14/21  
 Custodian of Records  
 6 pages

## Housing Proposed through Transit Oriented Communities (TOC) Incentive Program (Discretionary)

January 2017 - December 2020

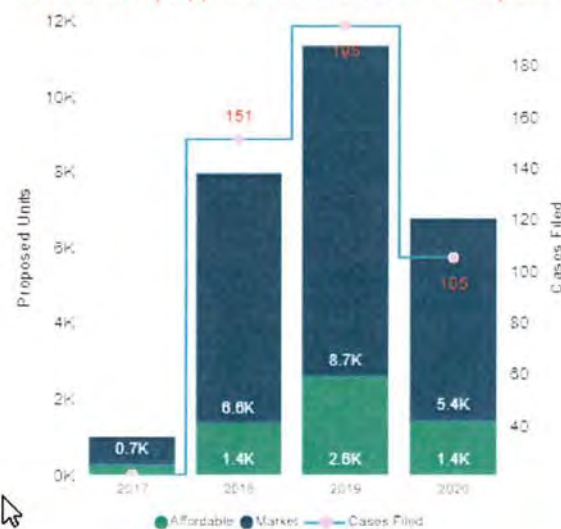


Discretionary TOC Units Proposed by Percent Affordable

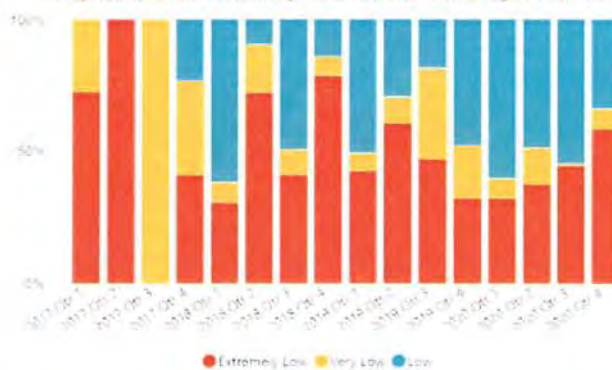


**27,150** discretionary units of housing have been proposed through the TOC program.  
**21%** of these units are affordable.

Discretionary Applications Filed & Units Proposed



Proposed Discretionary Affordable Units by Income



<b>27,150</b> Proposed Discretionary Units	<b>5,593</b> Affordable Units
<b>21,557</b> Market Rate Units	<b>21%</b> Affordable



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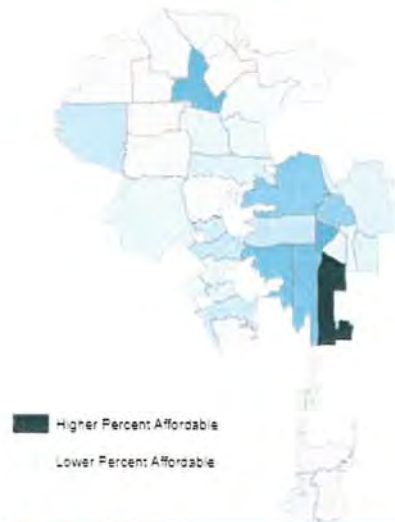


## Housing Approved through Transit Oriented Communities (TOC) Incentive Program (Discretionary)

January 2018 - December 2020

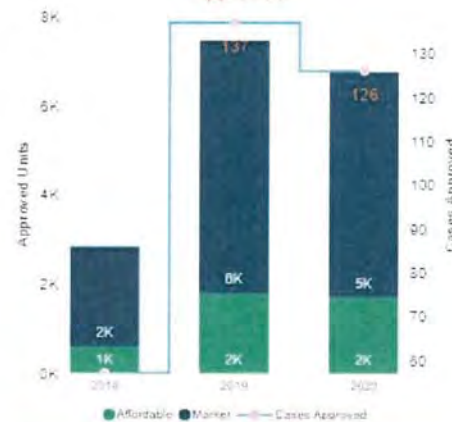


Discretionary TOC Units Approved by Percent Affordable

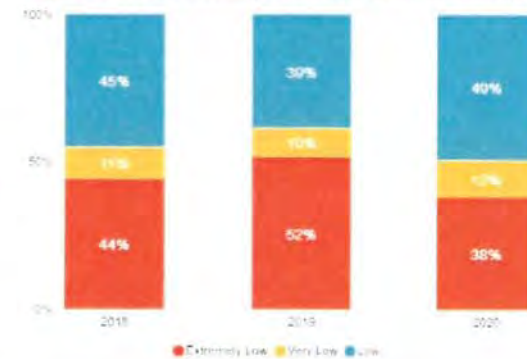


**17,134** units of TOC housing have been approved by City Planning through the TOC program. **24%** of these units are affordable.

Discretionary Applications Completed & Units Approved



Approved Discretionary Affordable Units by Income



**17,134**  
Approved Discretionary Units

**4,158**  
Affordable Units

**12,976**  
Market Rate Units

**24%**  
Affordable Units



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## By-Right TOC Permit Applications

October 2017 - December 2020



### Percent Affordable By-Right Units



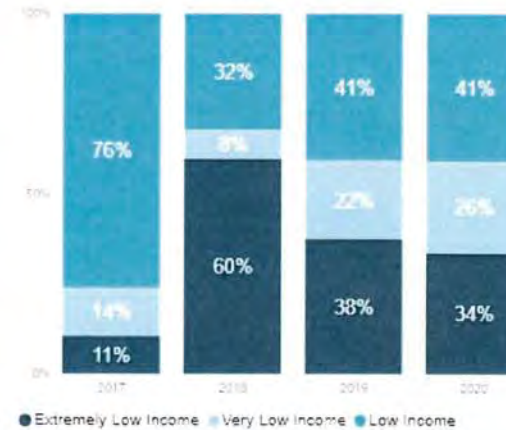
7,910  
Total By-right Units

25%  
Affordable

1,947  
Affordable Units

5,963  
Market Rate

### Percentage of Affordable By-Right Units by Income\*



\*Unit counts are estimates until the building permit has been issued. For accuracy, these are finalized at time of permit issuance.

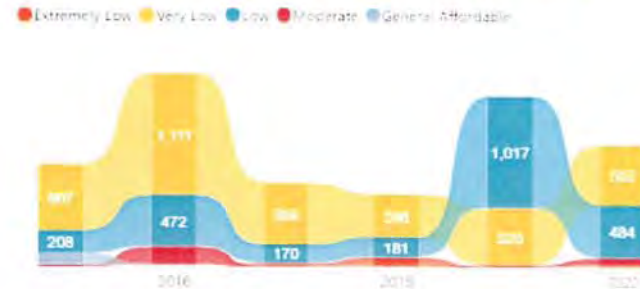
## Discretionary Housing Proposed with Density Bonus Incentives

January 2015 - December 2020

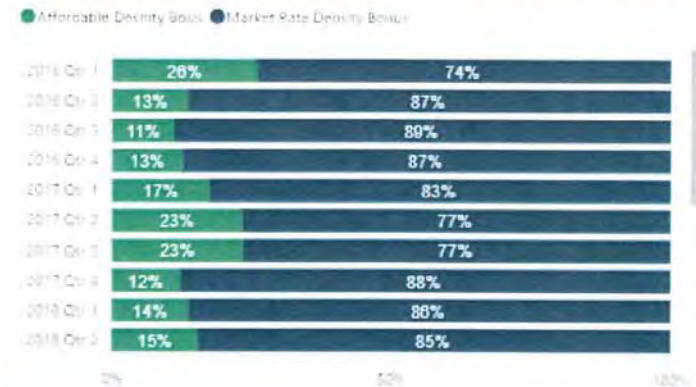


Plan Area	Affordable Units	Market Rate Units	Total Units	% Affordable
Wilshire	950	5,318	6,268	15%
Hollywood	807	5,141	5,948	14%
West Adams - Baldwin Hills - Leimert	613	1,138	1,751	35%
Westlake	521	1,919	2,440	21%
Southeast Los Angeles	490	815	1,305	38%
Northeast Los Angeles	447	848	1,295	35%
North Hollywood - Valley Village	307	1,292	1,599	19%
Palms - Mar Vista - Del Rey	302	1,823	2,125	14%
Van Nuys - North Sherman Oaks	271	1,028	1,299	21%
Mission Hills - Panorama City - North Hills	250	405	655	38%
Central City North	243	2,171	2,414	10%
South Los Angeles	175	355	530	33%
Central City	172	106	278	62%
West Los Angeles	171	1,018	1,189	14%
Boyle Heights	129	81	210	61%
Westchester - Playa del Rey	122	217	339	36%
<b>Total</b>	<b>6,784</b>	<b>27,944</b>	<b>34,728</b>	<b>20%</b>

### Proposed Density Bonus Units by Income



### Percentage of Proposed Affordable Density Bonus Units



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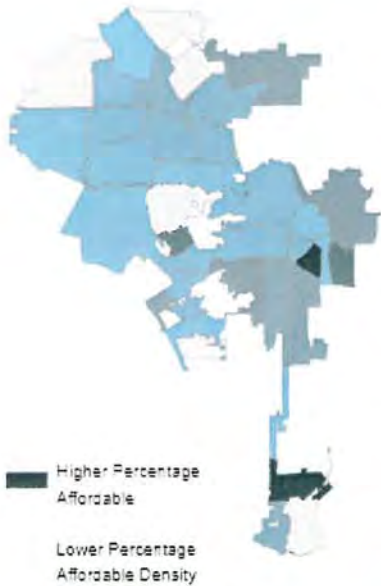


## Discretionary Housing Units Approved with Density Bonus Incentives

January 2015 - December 2020

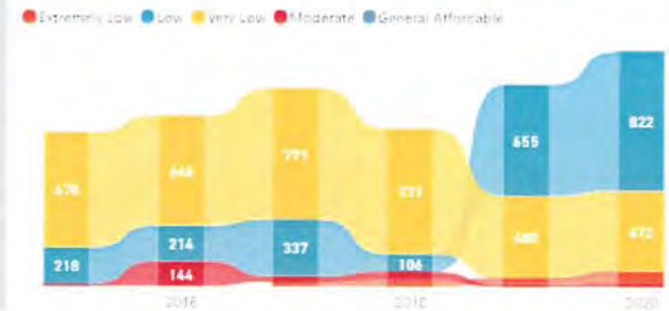
2015 2020

Percentage Approved Affordable Density Bonus Units

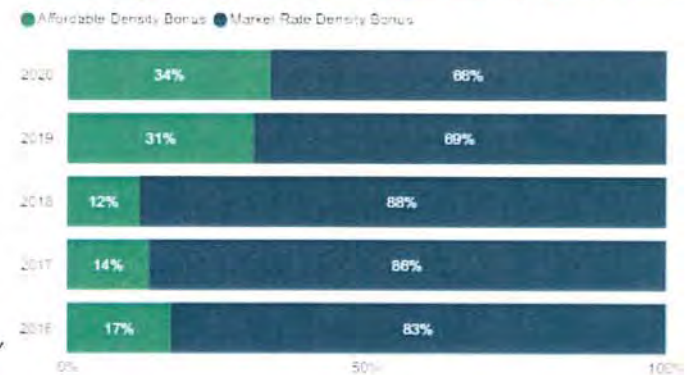


Plan Area	Affordable Units	Market Rate Units	Total Units	% Affordable
Central City	150	0	150	100%
Wilmington - Harbor City	174	2	176	99%
Boyle Heights	206	88	294	70%
Westwood	37	21	58	64%
West Adams - Baldwin Hills - Leimert	507	532	1,039	49%
Northeast Los Angeles	398	442	840	47%
Venice	84	98	182	46%
Sunland - Tujunga - Lake View Terrace - Shadow Hills - East La Tuna Canyon	63	82	145	43%
Southeast Los Angeles	438	616	1,054	42%
South Los Angeles	165	274	439	38%
San Pedro	121	250	371	33%
Mission Hills - Panorama City - North Hills	126	411	539	24%
Sun Valley - La Tuna Canyon	52	205	257	20%
Van Nuys - North Sherman Oaks	282	1,116	1,398	20%
North Hollywood - Valley Village	295	1,246	1,541	19%
<b>Total</b>	<b>6,587</b>	<b>27,831</b>	<b>34,418</b>	<b>19%</b>

### Approved Density Bonus Units by Income



### Percentage of Approved Affordable Density Bonus Units



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# EXHIBIT H

## **SURFACE FAULT RUPTURE HAZARD INVESTIGATIONS**

This information bulletin provides a general guideline for conducting surface fault rupture hazard investigations (fault investigation) within the City of Los Angeles. Fault investigation reports submitted to the Los Angeles Department of Building and Safety (LADBS) shall be based upon sufficient geologic data to determine the location or nonexistence of active fault trace(s) on the site. In addition to this Information Bulletin, geologists conducting fault investigations should use California Geological Survey (CGS) [Special Publication 42](#) and [Note 49](#), which provide detailed guidelines and suggested format for fault investigations.

### **I. AREAS REQUIRING FAULT INVESTIGATIONS**

Fault investigations are required by the City of Los Angeles for projects located within an official or preliminary Aquist-Priolo Earthquake Fault Zone (APEFZ); and/or within a City of Los Angeles Preliminary Fault Rupture Study Areas (PFRSA). The PFRSA's have been established along faults considered active within the City boundaries that the CGS has not yet zoned; including the Palos Verdes, and Santa Monica. The City's previous PFRSA for the east Hollywood/West Raymond fault has been superseded by the CGS's preliminary revised APEFZ for the Los Angeles Quadrangle issued December 15, 2016. An official APEFZ for this area is expected in March of 2017. See [NavigateLA](#) for the locations of the City PFRSA's. Projects exempted from fault investigations are discussed in [P/BC 2017-44](#).

### **II. GENERAL REQUIREMENTS**

Fault investigations must be conducted by a licensed California Certified Engineering Geologist or Professional Geologist who is experienced with fault investigations, at the discretion of the Grading Division of LADBS.

#### **A. Research**

A licensed professional shall conduct research as outlined below.

1. Review published literature and maps regarding regional geology, faults, and other pertinent information.
2. Search City and State records for fault investigation reports for properties in the site vicinity. The geotechnical reports may also provide useful information, including geologic units and groundwater levels.
3. View stereographic aerial photographs and/or old U.S. Geological Survey maps to evaluate geomorphic features, soil or vegetation contrasts, or lineaments suggestive of faulting.
4. Evaluate site-specific maps and plans to assess appropriate scope of the field investigation. A site visit is highly recommended prior to planning the field work.

## **B. Field Investigation**

An important goal of a fault investigation is to directly observe continuous strata of late Pleistocene age to rule out State defined active faults (see [Special Publication 42](#) for further information on definitions, etc.). Direct observation by exploratory trenching is the best method of investigation. However, consultants are encouraged to discuss the proposed scope of work with the Grading Division reviewing geologist prior to conducting the field work. The reviewing geologist shall be invited to observe open trenches.

The following is an outline of various exploratory methods, associated requirements and suggested considerations:

1. **Trenches:** As stated above, trenches are the preferred method of fault exploration. Trench excavation shall be done in a safe manner. The following is required by the Department:
  - a) Consulting firms conducting trench exploration are required to have their annual CalOSHA permit current. Proof of the annual permit and notification to CalOSHA of the specific project shall be on site at all times.
  - b) Underground Service Alert must be notified at least 2 days prior to excavation. Consideration should also be given for the use of a private utility locator utilizing electromagnetic utility locating techniques and/or ground penetrating radar to map out the location of known or suspected utilities.
  - c) Permits from the Department of Public Works are required for excavations in the public right-of-way.
  - d) CalOSHA regulations regarding trench safety shall be followed, with appropriate shoring and/or benching, ladders and/or exit ramps, etc.
  - e) Trenches left overnight shall be secured by locked fencing. In some cases it may be appropriate to cover the trenches with steel plates or chain link fencing for an added precaution.
  - f) The Department's reviewing geologist shall be invited to observe the trench after they are secured; shored or benched; cleaned; and a string line or grid reference system is in place. A completed field log is preferred but not necessary.
  - g) For major projects, invitation to CGS geologists and other paleoseismic experts to view trenches is strongly encouraged.
  - h) A grading permit is required to backfill the trench with primary or secondary certified fill. Otherwise, backfill will be considered uncertified.
  - i) Spoil piles should be protected from erosion during the rainy season and not encroach neighboring property.
  - j) Trenches should not remove lateral support from adjoining property, buildings on or off the site, or public right-of-way.
2. **Logging:** Trench walls must be sufficiently cleaned to expose geologic features and to conduct proper logging. A leveled string line with stationing is usually required. The minimum scale for logging is 1 inch = 5 feet. All geologic features should be logged and described in

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detail. Emphasis should be placed on defining and describing contacts between recognized geologic units. Use Munsell color chart and notation to describe color. Pedologic development features should be described, if present.

3. **Transects:** Transects of borings and Cone Penetrometer Tests (CPT's): Many properties within the City of Los Angeles are occupied by structures with little room outside the building footprint. As such, there is typically not enough room to trench, especially where significant depth is required to reach Pleistocene sediments. In this case a series of borings, either down-hole logged bucket auger borings or continuous core borings should be used. The borings should be sufficient in number and spacing to allow valid correlations and interpretations. Boring depth must be sufficient to expose geologic features used to support conclusions, which usually requires two or more Pleistocene units or marker beds. Borings should be logged in detail, similar to a fault trench. Intermittently sampled geotechnical borings are not adequate for fault investigations, although they may provide supplemental information.
4. **Cone Penetrometer Testing (CPT):** CPTs can be used to supplement boring transects. They should not be used as the only method of exploration. Continuously cored borings are required to identify and correlate units indicated in CPT soundings.
5. **Data Point Spacing:** For boring/CPT transects, the exploration points should be sufficiently spaced to adequately identify continuous beds (marker beds) of Pleistocene age. While the spacing of the initial exploration may be relatively wide, 25 to even 50 feet apart, depending on the depositional environment, the geologist should plan on additional borings and/or CPTs after the initial exploration where continuous bedding is not clear. Thus, exploration should typically have at least two stages. Discussing the results of the initial exploration with the reviewing City geologist is encouraged and preferable relative to submitting a report that is not supported by sufficient exploration.
6. **Orientation of Exploration:** Trenches and transects should be oriented perpendicular to the regional trend(s) of faulting.
7. **Data Point Location:** Trench terminations, boring, CPT and fault locations should be surveyed by a licensed surveyor.
8. **Groundwater:** If groundwater is encountered in borings, measure the static depth, which usually requires waiting some of time after drilling. However, be careful when groundwater is perched. In that case, the saturated limits may only be able to be determined during drilling.
9. **Geophysical methods:** High resolution seismic reflection, ground penetrating radar, residual gravity and other geophysical surveys may be used as indirect methods to target subsurface exploration or supplement subsurface exploration. However, geophysical methods should **not** be considered as an alternative to subsurface exploration.

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### C. Age-Dating Techniques

Determining the age of geologic units is critically important in assessing the age of fault activity. The following methods may be used for age-dating.

1. **Radiocarbon ( $^{14}\text{C}$ ) dating:** This isotopic method produces a numerical-age and has optimum resolution in the age range of interest for evaluating active faulting. However, this method depends on the availability and preservation of carbon. It is also subject to errors due to contamination. In general, true detrital carbon is the optimal sample. Bulk samples are likely subject to contamination from organic compounds in groundwater, especially if there is little original carbon in the soil. Testing bulk soil samples with little organic content is not encouraged by the Department. Laboratory documentation should be included in a report that contains radiocarbon dates. A color photograph of the tested sample is also encouraged.
2. **Thermoluminescence (TL) and Optical Stimulated Luminescence (OSL) dating:** TL/OSL dating is a relatively new method of dating late Quaternary sediments. Laboratory documentation should be included in a report that contains TL or OSL dates.
3. **Soil-Profile Development:** The relative age of soils are commonly determined by the degree of soil development. Ages are estimated based on comparisons with other published and dated soil profiles, such as using the Soil Development Index discussed in Harden (1982). All geologists conducting fault investigations within the City should be familiar with the basic principles of soil development, as well as Quaternary climatic cycles upon which chronostratigraphic units are commonly correlated. The glacial and interglacial periods designated by Marine Isotope Stages (MIS), or also referred to as Oxygen Isotope Stages (OIS), is a common reference for delineating chronostratigraphy. Detailed soil profiles should be described using standard procedures and terms such as those provided in the Field Book for Describing and Sampling Soils (available from the National Soil Survey Center's website). In addition, there are experts in this field that should be subcontracted if the project geologist is not experienced and confident to provide adequate descriptions and age estimates.

### D. Report Contents

Once the field exploration and geologic analysis are completed, the geologist should carefully assess whether there is enough data to provide definite conclusions and recommendations. Geologic consultants should advise their clients that it is common for additional exploration to be required if data from the initial phase is inconclusive. If there is doubt, the geologist may discuss the results with the Department's geologic reviewer before submitting a report.

The contents of a typical Fault-Rupture Hazard Report are outlined below:

#### 1. Introduction

- a. Purpose of investigation
- b. Description of site location, size, configuration and existing conditions
- c. Description of proposed project

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As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability and, upon request, will provide reasonable accommodation to ensure equal access to its programs, services and activities.

## **2. Scope of Investigation**

Describe the methods and procedures used to evaluate the fault rupture hazards at the site.

## **3 Geologic Setting**

Describe the major geomorphic and geologic features in the area of the site based on published or unpublished literature, maps and reports from nearby sites. The discussion should include the following:

- a. Geomorphic and physiographic features of the site area
- b. Geologic/stratigraphic units and geochronology
- c. Geologic structure
- d. Groundwater
- e. Geologic history

## **4. Site Specific Geology**

Describe the geomorphology and geology of the site based on the data obtained from the field exploration and data analysis. The discussion should include the following:

- a. **Stratigraphy and Geochronology:** Describe the stratigraphic and pedological units. Describe contacts, unconformities, sedimentary environment, and other relationships of the geologic units.
- b. **Geologic Structure:** Describe the attitudes of bedding, fractures, joints, faults, etc. Provide details on the fault features (e.g. gouge, breccia, continuity, flower structures, slickensides, etc.). Discuss folding and warping, if present.
- c. **Fault Characteristics:** Discuss relative displacement of units across faults and include continuity of the thickness of geologic units across faults. Discuss the latest age of unfaulted sediment. Describe the width of fault/deformation zones. If possible, describe features that indicate multiple events and earthquake history.

## **5. Conclusions**

- a. Provide a specific professional opinion regarding the existence or absence of active, potentially active or inactive faults on the site, per State definitions.
- b. Provide an assessment of the probability of minor off-fault ground rupture in areas in close proximity to fault traces.

## **6. Recommendations**

- a. If an active fault is located on or adjacent to the site, recommend an appropriate structural setback zone (see III and IV).

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- b. If appropriate, reduced structural setbacks where the possibility of minor off-fault rupture may exist, reinforced foundations can be considered. Provide an estimate of the anticipated horizontal and vertical offsets.

## 7. References

Cite all pertinent published and unpublished literature, reports, documents, maps, aerial photographs, or other information used in support of the investigations, conclusions and professional opinions.

## 8. Illustrations

- a. Index or Location Map – Show the site on a USGS 7.5 minute quadrangle map. If in or near an A-P Zone, use the A-P map as a base.
- b. Local Fault Map – Show the site on a map with previously mapped fault locations.
- c. Geomorphic Map – Show the site on the old (>1930's) USGS topographic map with the prominent geomorphic features labeled, such as alluvial fans, major drainages, uplifted terraces or slopes, possible scarps, flood plains, etc.
- d. Geologic Map – Include a detailed site geologic map with immediate vicinity. This map should be at a regular engineering scale, no smaller than 1" = 40'. Include the following:
  - All geologic contacts, including buried contacts. Query marks can be used where uncertain. If a thin layer of artificial fill covers the site, it need not be included on the map.
  - All geologic structures, including faults, shear zones, and folds. Show attitudes for all bedding and structural features.
  - All exploration; trenches, test pits, borings and CPTs. Significant locations, such as active faults, trench limits, borings and CPTs should be surveyed.
  - Static groundwater depths with date of reading.
  - Locations of Geologic Cross Sections
  - Setback zones and buildable areas if needed.
- e. Geologic Cross Sections/Transects – In general, include geologic features described above. Include horizontal and vertical scales (these should generally be the same). Show the orientation of the cross section and any intersections with other cross sections. Label all prominent marker beds and paleosols. Indicate the distance and boring or CPT is projected to the cross section. For the PDF version of the report, allow the layers of the drawing to be turned off so that just the raw CPT data can be seen (i.e. tip resistance and/or sleeve friction).

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- f. **Graphic Logs of Exploratory Excavations** – For all exploration logs, include date of exploration and indicate the identity of the logger.
- **Trench Logs** – Trenches should be logged in detailed at a minimum scale of 1" = 5'. The logs should not be generalized or diagrammatic and should include vertical and horizontal scale (no vertical exaggeration). The bearing of each linear trench or linear trench segment should be indicated. A legend of symbols and detailed description of the recognized units should be presented on each log sheet. Show the entire trench profile. Benches, slopes and shoring should be indicated, but should not obscure geologic details represented on the log. Emphasis should be placed on defining and describing contacts and intervening units. Include bedding and fault attitudes. Show and describe sedimentary structures and paleosols. Include chronostratigraphic data if possible. Show locations of radiocarbon samples.
  - **Continuous Core Borings** – Include a detailed graphic log and/or photograph of the retrieved core. Include core runs and percent recovery. Indicate prominent marker beds and paleosols, groundwater depth, etc.
  - **CPTs** – High quality color prints of the CPT logs should be provided as well as the numerical data.
- g. **Photographs** – It is commonly appropriate to include color photographs of trenches, transect locations, etc.

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### **III. SETBACK REQUIREMENTS**

Building setbacks from active fault traces are key recommendations provided in fault investigations. The default building setback from an active fault is 50 feet. Reduced setbacks can be considered if the location, trend and nature of a particular fault trace are accurately established by several data points.

Where exploration does not extend 50 feet beyond a property line within a fault investigation zone, an active trace at the property line must be considered present and require a setback. Data from adjacent or nearby sites can be used to possibly reduce a property line setback. Setbacks and buildable areas shall be clearly shown on the geologic map/site plan, and included in the report.

Special/reinforced foundations may be used to mitigate minor ground displacements that could occur near a more significant fault trace. If special foundations are used, the report shall show a special foundation area on the geologic map/site plan.

The amount of anticipated horizontal and vertical offset shall be provided in the report to provide design criteria to the structural engineer.

### **IV. REQUIREMENTS FOR SINGLE-FAMILY RESIDENCES**

The City requires investigations for single-family residences, even if an existing residence is to be replaced. See Information Bulletin [P/BC 2017-44](#) for exemptions. Consultants are encouraged to call the Grading Division's reviewing geologists if considering reducing a fault investigation scope. The requirement to explore 50 feet beyond the property does not apply for single-family residences.



1 **PROOF OF SERVICE**

2 **Fix The City, Inc. v. City of Los Angeles, et al.**  
3 **Case No. 19STCP03740**

4 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

5 At the time of service, I was over 18 years of age and not a party to this action. I am  
6 employed in the County of Los Angeles, State of California. My business address is 707 Wilshire  
7 Blvd., 24th Floor, Los Angeles, CA 90017.


8 On May 10, 2021, I served true copies of the following document(s) described as  
9 **RESPONDENTS' REQUEST FOR JUDICIAL NOTICE IN SUPPORT**  
10 **OF OPPOSITION BRIEFS; EXHIBITS A – H** on the interested parties in this action as  
11 follows:

12 **SEE ATTACHED SERVICE LIST**

13 **BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a copy of the document(s)  
14 to be sent from e-mail address tstephens@meyersnave.com to the persons at the e-mail addresses  
15 listed in the Service List. I did not receive, within a reasonable time after the transmission, any  
16 electronic message or other indication that the transmission was unsuccessful.

17 I declare under penalty of perjury under the laws of the State of California that the foregoing  
18 is true and correct.

19 Executed on May 10, 2021, at Los Angeles, California.

20   
21 \_\_\_\_\_  
22 Teresa Stephens  
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**SERVICE LIST**  
***Fix The City, Inc. v. City of Los Angeles, et al.***  
**Case No. 19STCP03740 (Lead Case)**

Fredric D. Woocher, Esq. Beverly Grossman Palmer, Esq. Strumwasser & Woocher LLP 10940 Wilshire Blvd., Ste. 2000 Los Angeles, CA 90024 Tel: (310) 576-1233 Fax: (310) 319-0156 Email: bpalmer@strumwooch.com	<i>Attorneys for Petitioner and Plaintiff</i> Fix The City, Inc.
Alexander M. DeGood Cox, Castle & Nicholson, LLP 2029 Century Park East, Suite 2100 Los Angeles, CA 90067 Tel: (310) 284-2205 Email: ADeGood@coxcastle.com	<i>Attorneys for Real Parties in Interest</i> Elliot Nayssan, Robhana Inc., and NHD Terrace

**SERVICE LIST**  
***Fix the City, Inc. v. City of Los Angeles, et al.***  
**LASC Case No. 20STCP01569 (Related Case)**

Fredric D. Woocher Beverly Grossman Palmer STRUMWASSER & WOOCHEER LLP 10940 Wilshire Boulevard, Suite 2000 Los Angeles, California 90024 Telephone: (310) 576-1233 Facsimile: (310) 319-0156 E-mail: bpalmer@strumwooch.com	<i>Attorneys for Petitioner and Plaintiff</i> Fix the City, Inc.
Allan B. Cooper acooper@ecjlaw.com Elizabeth ("Ellia") M. Thompson ethompson@ecjlaw.com ERVIN COHEN & JESSUP LLP 9401 Wilshire Boulevard, Ninth Floor Beverly Hills, California 90212-2974 Telephone: (310) 273-6333 Facsimile: (310) 859-2325	<i>Attorneys for Real Parties in Interest</i> 5891 BOULEVARD LP and GRAMERCY HOLDINGS 26 LLC



# **EXHIBIT 4**

**ERA - Real Estate Records**  
**Print Transaction Cover Sheet**

Date: 1/19/2022 10:57:28 AM

Location: NORWALK DEPARTMENT HEADQUARTERS

Transaction: 202201190400012



Name:

Luis Alas

Address:

200 North Main Street

Luis Alas  
200 North Main Street  
LOS ANGELES  
CA 90012



Los Angeles County Registrar-Recorder/County Clerk

DEAN C. LOGAN  
Registrar-Recorder/County Clerk

If this document contains any restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code by submitting a “Restrictive Covenant Modification” form, together with a copy of the attached document with the unlawful provision redacted to the county recorder’s office. The “Restrictive Covenant Modification” form can be obtained from the county recorder’s office and may be available on its internet website. The form may also be available from the party that provided you with this document. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

RR18-12/21

This page is part of your document - DO NOT DISCARD

RECORDING REQUESTED BY  
WHEN RECORDED MAIL TO

03 2062851

Name:

Joe Nunez

Mailing

Address

977 N. Wilson

City, State

Zip Code

PASADENA CA 91104

RECORDED/FILED IN OFFICIAL RECORDS  
RECORDER'S OFFICE  
LOS ANGELES COUNTY  
CALIFORNIA

2:41 PM JUL 18 2003

TITLE(S) :

NOTICE OF INTENT TO WITHDRAW



LEAD SHEET

FEE	49 J
DAF	2
C-20	

15

D.T.T

CODE

20

CODE

19

NCPF Code 19 \$45.00

CODE

24

CODE

9

Assessor's Identification Number (AIN)

To be completed by Examiner OR Title Company in black ink.

Number of Parcels Shown

THIS FORM NOT TO BE DUPLICATED

Recorded At Request of and Mail To:

Joe Nunez

977 N. WILSON

PASADENA CA 91104

03 2062851

Space Above This Line For Recorders Use

**MEMORANDUM SUMMARIZING NON-CONFIDENTIAL PROVISIONS  
OF NOTICE OF INTENTION TO WITHDRAW ACCOMMODATIONS FROM RENT OR LEASE**

Submitted For Recording Pursuant To: California Government Code Section 7060.4(a); and City of Los Angeles, Rent Stabilization Ordinance, Chapter XV, Art.1, L.A.M.C.

The owner(s) of the property described in this Memorandum intend(s) to withdraw all accommodations (as defined by California Government Code Section 7060(b)) described herein from rent or lease pursuant to California Government Code Sections 7060 et seq. All interested parties are hereby put on notice that the future use of this property will be subject to certain restrictions, pursuant to California Government Code Sections 7060.2 and 7060.3 and Chapter 15 of the City of Los Angeles Rent Stabilization Ordinance. This Memorandum summarizes the non-confidential terms of a Notice Of Intent To Withdraw Accommodations From Rent or Lease, which notice will be filed with the Rent Stabilization Division, Los Angeles Housing Department.

- 1 **NAMES OF PROPERTY OWNERS** Names should be listed as they appear on vesting instrument. Attach additional sheet if necessary.

JERRY SCHWARTZ  
Robert C. DAVIS

- 2 **LEGAL DESCRIPTION OF PROPERTY BEING WITHDRAWN FROM RENT OR LEASE** Attach additional sheet if necessary.

TR 7803 BLOCK 29 LOT 15

- 3 **COMMON DESCRIPTION (Street Addresses) OF PROPERTY BEING WITHDRAWN FROM RENT OR LEASE**

10757-10759 W. WILKINS AVE LA CA  
90024

- 4 **SIGNATURES**  
All owners must sign, and all signatures must be notarized. Notary jurats must be attached. If there are more than two owners, copy this page and attach extra sheets.)

I/we declare under penalty of perjury under the laws of the State of California that the information contained in this Memorandum Summarizing Non-Confidential Terms of Notice of Intention to Withdraw Accommodations From Rent or Lease is true and correct.

Executed on 7/16/03 at LOS ANGELES, CALIF  
(month, day & year) (city & state)

MONTANA EQUITIES, LLC.

By: [Signature]  
(signature) Jerry Schwartz, Member/Manager

Executed on 7/16/03  
(month, day & year)

at LOS ANGELES, CALIF  
(city & state)

By: [Signature]  
(signature) Robert C. Davis, Member/Manager

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3

**JURAT**

State of California }  
County of Los Angeles } ss.



Subscribed and sworn to (or affirmed) before me

this 16<sup>th</sup> day of July, 2003, by  
Date Month Year

(1) Jerry Schwartz  
Name of Signer(s)

(2) Robert C. Davis  
Name of Signer(s)

[Signature]  
Signature of Notary Public

**OPTIONAL**

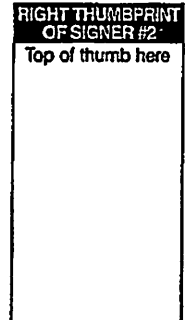
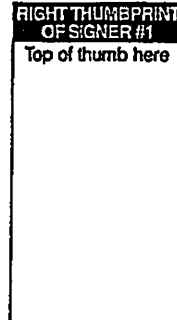
*Though the information in this section is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: Landlord intent to evict - Wilkins

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_



4

ORDINANCE NO 173868

03 2062851

An Ordinance amending Chapter XV. of the Los Angeles Municipal Code, known as the Rent Stabilization Ordinance, in order to implement provisions of Government Code Section 7060 et seq, known as the Ellis Act, as it relates to the withdrawal of rental units from rental housing use

**WHEREAS**, the City of Los Angeles, by the adoption of the Rent Stabilization Ordinance, has in effect controls or a system of control on the price at which accommodations are offered for rent or lease, and

**WHEREAS**, the Rent Stabilization Ordinance establishes criteria and procedures for the eviction of tenants when a landlord seeks to recover possession of a rental unit, and

**WHEREAS**, Government Code Section 7060 4 permits municipalities, among other things, to require landlords to provide all tenants with 120 days notice or one year if they are more than 62 years of age or disabled when units are to be withdrawn from the rental market; and

**WHEREAS**, it is the intent of Council to adopt an ordinance which implements Government Code Section 7060.4

**NOW THEREFORE,**

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

**Section 1** Subdivision 4 of Subsection C of Section 151.09 is amended to read

**4 Statement of Purpose** Government Code Section 7060 4 permits municipalities among other things, to require landlords to provide all tenants with 120 days notice or one year if they are more than 62 years of age or disabled when units are to be withdrawn from the rental market It is the purpose of this subdivision to implement Government Code Section 7060.4

Therefore notwithstanding any provision of this chapter to the contrary, if the termination of tenancy is based on the ground set forth in Paragraph a of Subdivision 9 of



Subsection A, or Subdivision 10 of Subsection A, then the following provisions shall apply.

**a Notice of Intent to Withdraw** The landlord shall notify the Department of an intention to withdraw a rental unit from rental housing use. This Notice of Intent to Withdraw shall contain the following statements, under penalty of perjury on the form and in the number prescribed by the Department, stating that the landlord intends to evict in order to demolish the rental unit or to remove the rental unit permanently from rental housing use, the address or location of the rental unit, the number of rental units to be demolished or removed permanently from rental housing use, the names of the tenants of each rental unit, the date on which the rental unit will be withdrawn from rental housing use and the rent applicable to that rental unit

The Department shall have the authority to promulgate forms and procedures to assist in the implementation of this Subdivision

**b. Recordation of Non-Confidential Memorandum and Extension of the Date of Withdrawal from Rental Housing Use.** The landlord shall record with the County Recorder a memorandum summarizing the provisions of the Notice of Intent to Withdraw, other than those provisions that are confidential

The landlord shall submit a copy of that memorandum to the Department concurrently with the Notice of Intent to Withdraw with a certification that actions have been initiated as required by law to terminate any existing tenancies

Information respecting the name or names of the tenants, the rent applicable to any rental unit, or the total number of units is confidential information and shall be treated as confidential information by the Department for purposes of the Information Practices Act of 1977, as contained in Chapter 1 (commencing with Section 1798) of Title 18 of Part 4 of Division 3 of the Civil Code

The date on which the accommodations are withdrawn from rental housing use shall be at least 120 days from the date of the delivery in person or by first-class mail of the Notice of Intent to Withdraw to the City.

If the tenant is at least 62 years of age or disabled (as defined in Government Code Section 12955.3) and has lived in his or her accommodations for at least one year prior to the date of delivery to the City of the Notice of Intent to Withdraw pursuant to Paragraph a, then the date of withdrawal of the accommodations of

that tenant shall be extended to one year after the date of delivery of that notice to the City

This extension shall take place, if and only if, the tenant gives written notice of his or her entitlement to an extension to the landlord within 60 days of the date of delivery to the City of the Notice of Intent to Withdraw. In that situation, the following provisions shall apply

- (1) The tenancy shall be continued on the same terms and conditions as existed on the date of delivery to the City of the Notice of Intent to Withdraw, subject to any adjustments otherwise available under the Rent Stabilization Ordinance.
- (2) No party shall be relieved of the duty to perform any obligation under the lease or rental agreement
- (3) The landlord may elect to extend the date of withdrawal on any other rental units up to one year after the date of delivery to the City of the Notice of Intent to Withdraw, subject to Subparagraphs (1) and (2)
- (4) Within 30 days of the notification by the tenant to the landlord of his or her entitlement to an extension, the landlord shall give written notice to the City of the claim that the tenant is entitled to stay for one year after the date of delivery to the City of the Notice of Intent to Withdraw
- (5) Within 90 days of the date of delivery to the City of the Notice of Intent to Withdraw, the landlord shall give written notice to the City and the affected tenant of the landlord's election to extend the date of withdrawal and the new date of withdrawal under Subparagraph (3).

**c Notice to the Tenants of Pending Withdrawal** Within five days of delivery to the City of the Notice of Intent to Withdraw with the certification, and a copy of the recorded memorandum, the landlord shall notify, by delivery in person or by first-class mail, to each affected tenant of the following:

- (1) That the City has been notified pursuant to Paragraph a, including the date of the delivery of the Notice of Intent to Withdraw to the Department,
- (2) That the notice to the City specified the name and the amount of rent paid by the tenant as an occupant of the accommodations,

(3) The amount of rent the landlord specified in the notice to the City,

(4) Notice to the tenant of his or her rights under Paragraph (4) of subdivision (a) of Government Code Section 7060 2, and

(5) Notice to the tenant of the following

(a) If the tenant is at least 62 years of age or disabled, and has lived in his or her accommodations for at least one year prior to the date of delivery to the City of the Notice of Intent to Withdraw, then the tenancy shall be extended to one year after the date of delivery to the City of the Notice of Intent to Withdraw, provided that the tenant gives written notice of his or her entitlement to the landlord within 60 days of the date of delivery to the City of the Notice of Intent to Withdraw,

(b) The extended tenancy shall be continued on the same terms and conditions as existed on the date of delivery to the City of the Notice of Intent to Withdraw, subject to any adjustments otherwise available under the Rent Stabilization Ordinance, and

(c) No party shall be relieved of the duty to perform any obligation under the lease or rental agreement during the extended tenancy

**Sec 2 URGENCY CLAUSE** The City Council finds and declares that this Ordinance is required for the immediate preservation of the public peace, health and safety. There is a shortage of decent, safe and sanitary housing in the City of Los Angeles resulting in a critically low vacancy factor. Landlords have the right to withdraw their rental units from rent or lease but that action can lead to the displacement of tenants on short notice.

Tenants displaced must relocate but as a result of the housing shortage are unable to find decent, safe and sanitary housing at affordable rent level within the currently short time limit for notice. This situation has had a detrimental effect on renters in the City, especially creating hardships on senior citizens and the disabled. State law allows for the adoption of local ordinances that provide for extended notice periods when a landlord proposes to withdraw a rental unit for from rental housing use.

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This ordinance implements state law and will, therefore, reduce the problems and hardships which result from displacements on short notice.

Therefore, this Ordinance shall become effective upon publication pursuant to Charter Section 253

(T34041)

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Sec 3 The City Clerk shall certify to the passage of this ordinance and have it published in a daily newspaper printed and published in the City of Los Angeles

I hereby certify that the foregoing ordinance was introduced at the meeting of the Council of the City of Los Angeles MAR 16 2001 and was passed by a vote of not less than three-fourth of all of its members, at its meeting of MAR 27 2001

J. MICHAEL CAREY, City Clerk

By Louad Carter  
Deputy

Approved APR 05 2001

[Signature]  
Mayor

Approved as to Form and Legality

MAR 15 2001

JAMES K. HAHN, City Attorney

By Carmen Hawkins  
CARMEN D HAWKINS  
Deputy City Attorney

File No C.F. No. 00-1618

**CONSENT CERTIFICATE OF ACTION BY MEMBERS FOR THE  
ORGANIZATIONAL MEETING OF MEMBERS OF  
MONTANA EQUITIES, LLC,  
A CALIFORNIA LIMITED LIABILITY COMPANY**

We, the undersigned, being all of the Members of Montana Equities, LLC, a California limited liability company ("Company") organized under the laws of the State of California, consent to and adopt the following resolutions as the action of the Company in lieu of a formal or organizational meeting as permitted under Section 17104(j) of the California Limited Liability Company Act.

**1. ARTICLES OF ORGANIZATION**

The Members have been informed that the original Articles of Organization have been filed in the Office of the California Secretary of State on November 10, 1997 as document number 101997314046. A certified copy of the Articles of Organization is hereby directed to be inserted in the Minute Book of the Company. A copy is attached as Exhibit A. Accordingly, we hereby unanimously consent to and adopt the following resolution:

**RESOLVED**, that a copy of the Articles of Organization of this Company, as certified by the California Secretary of State, be inserted in the Minute Book of this Company.

**RESOLVED**, further, that this Company shall indemnify and save the organizers harmless for all acts taken by them as organizers of this Company, and shall pay all costs and expenses incurred by or imposed upon them as a result of the same, including compensation based upon the usual charges for any time expenditures required of them in pursuit of the defense against any liability arising on the account of acting as organizers or arising on the account of enforcing the indemnification right hereunder, and this Company releases them from all liability or any such act as organizer not involving willful or grossly negligent misconduct.

**2. OPERATING AGREEMENT**

We have been presented with a proposed Operating Agreement attached to this Certificate as Exhibit B and incorporated in this Certificate by this reference. We understand that the Operating Agreement regulates the business and affairs of the Company. After having duly considered the substance of the proposed Operating Agreement, we hereby unanimously consent to and adopt the following resolution:

**RESOLVED**, that the Operating Agreement attached to this Certificate as Exhibit B is adopted as the Operating Agreement of this Company and a copy of such Operating Agreement is ordered to be inserted in the Minute Book of the Company; and

**RESOLVED FURTHER**, that the President is further instructed to maintain a certified copy of such Operating Agreement in the principal office of the Company in California open for inspection by the Members at all reasonable times during office hours.

### 3. COMPANY RECORDS

The Members wish to have a minute book maintained for the purpose of collecting and having all of the important documents of the Company readily available. Accordingly, we hereby unanimously consent to and adopt the following resolution:

RESOLVED, that the Company shall maintain as part of its Company records a Company Minute Book, which shall include the Articles of Organization and any amendments thereto, and the Operating Agreement and any amendments thereto, the minutes of all meetings (or consents in lieu of meetings) of the Members of the Company and all other important Company documents; and

RESOLVED FURTHER, that the attorney for the Company is authorized and directed to obtain such Minute Book and to present it to the President of the Company.

### 4. PRESIDENT

We wish to elect a President of the Company. Accordingly, we hereby unanimously consent to and adopt the following resolution:

RESOLVED, that JERRY SCHWARTZ is elected as President of this Company. By signing this Certificate, JERRY SCHWARTZ hereby accepts his appointment as President.

### 5. PRINCIPAL PLACE OF BUSINESS

The principal place of business in the State of California of this Company is as follows:

1402 Wellesley Avenue  
Los Angeles, California 90025

### 6. RESIDENT AGENT IN CALIFORNIA

The Fourth Article of Organization identifies the name and address of its registered agent within the State of California as follows:

JERRY SCHWARTZ  
1402 Wellesley Avenue  
Los Angeles, California 90025

### 7. BANK RESOLUTIONS

We have discussed management of the fiscal affairs of the Company. We have determined to provide for the deposit of the funds of the Company and to authorize certain Members and officers to deal with those funds. Accordingly, we hereby unanimously consent to and adopt the following resolutions:



RESOLVED, that the Members of this Company, acting together or separately, are hereby authorized to do the following acts:

- a. To designate one or more banks, trust companies, or other similar institutions as depositories of the funds, including without limitation, cash and cash equivalents of this Company;
- b. To open, keep and close general and special bank accounts, including general deposit accounts, payroll accounts, including general de posit accounts, payroll accounts and working fund accounts with any such depository;
- c. To cause to be deposited in such accounts with any such depository, from time to time, such funds, including without limitations, cash and cash equivalents of this Company as such Members deem necessary or advisable, and to designate or change the designation of the officer or officers and agent or agents of this Company who would be authorized to make such deposits and to endorse checks, drafts or other instruments for such deposits;
- d. From time to time to designate or change the designation of the officer or officers and agent or agents of this Company who will be authorized to sign or countersign checks, drafts or other orders for the payment of money issued in the name of this company against any funds deposited in any of such accounts, and to revoke any such designation;
- e. To authorize the use of facsimile signatures for the signing or countersigning of checks, drafts or other orders for the payment of money, and to enter into such agreements as banks and trust companies customarily require as a condition for permitting the use of facsimile signatures;
- f. To make such general and special rules and regulations with respect to such accounts as either of them may deem necessary or advisable; and
- g. To complete, execute and/or certify a customary printed blank signature card forms in order to conveniently exercise the authority granted by this resolution, and any resolutions printed thereon shall be deemed adopted as a part hereof.

RESOLVED FURTHER, that all form resolutions required by any such depository as presented to and considered by such Members prior to the execution of this Certificate are hereby adopted in such forms utilized by the depository, and the President of this Company is hereby authorized to certify such resolutions as having been adopted by the Members and is directed to attach such forms to this Certificate as an Exhibit and insert the forms of such resolutions in the Company Minute Book along with this Certificate.

RESOLVED FURTHER, that any such depository to which a copy of these resolutions, certified by the President of this Company, shall have been delivered shall be entitled to rely thereon for all purposes until it shall have received written notice of the revocation of amendment of these resolutions by the Members of this Company.

#### 8. PAYMENT OF EXPENSES OF ORGANIZATION

We hereby unanimously adopt the following resolution:

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RESOLVED, that each of the Members of this Company is authorized and directed to cause this Company to pay the expenses of its organization, and to reimburse the persons advancing funds to the Company.

#### 9. CONTRIBUTIONS/ISSUANCE OF MEMBERSHIP INTERESTS

We hereby unanimously consent to and adopt the following resolutions:

RESOLVED, the Company accepts as consideration for the percentage interest of each Member the contributions set forth in the Company Operating Agreement attached hereto as Exhibit B.

RESOLVED FURTHER, that all Members are hereby authorized and instructed to sell and issue to the persons named in the Company Operating Agreement, the membership interests indicated reflected upon receipt of the consideration indicated therein for such percentage interest; and

RESOLVED FURTHER, that the Members of the Company are authorized, empowered, and directed to take all actions that may be necessary and proper for this Company to issue and sell the above-listed percentage interests to the persons named, in accordance with applicable laws, and that those actions shall include, where necessary: filing with the California Commissioner of Corporations an appropriate notice under Section 25102(f) or 25102(h) of the California Corporations Code or obtaining qualification of the offer and sale of such percentage interest from the California Commissioner of Corporations; and doing all acts that may be necessary under the federal securities laws; and doing all acts necessary to expedite these transactions or conform them, or any of them, to the requirements of any applicable law, ruling, or regulation.

#### 10. FEDERAL TAX IDENTIFICATION NUMBER

RESOLVED, that the President is hereby authorized and directed to complete, execute, and file or to have completed, executed and filed the "application for employer identification number" (Federal Form SS-4).

#### 11. ADOPTION OF ACCOUNTING METHOD

RESOLVED, that the Company shall maintain its financial records on the basis of the cash method of accounting.

#### 12. ADOPTION OF TAX ACCOUNTING PERIOD

RESOLVED, that the taxable year of the Company shall be the calendar year.

#### 13. APPOINTMENT OF TAX MATTERS PARTNER

RESOLVED, that JERRY SCHWARTZ is appointed as "Tax Matters Partner."

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## 14. OTHER NECESSARY ACTS

RESOLVED, that each of the Members of this Company and the President of this Company are authorized and directed to make such filings and applications and to execute and deliver such documents and instruments and to do such acts and to obtain such licenses, authorizations, and permits as are necessary or desirable for the Company's business, to fulfill such legal requirements as are applicable to this Company or its business, or to complete the organization of this Company or its qualification to do business where it does or desires to do business, or to take any other action necessary or advisable to carry out the purposes of this resolution.

This CONSENT CERTIFICATE may be executed by the Members in any number of counterparts, all of which when executed and delivered shall have the force and effect of an original, and shall be effective as of the date of the Articles of Organization.

Effective Date: November 10, 1997

  
Jerry Schwartz  
Robert C. Davis

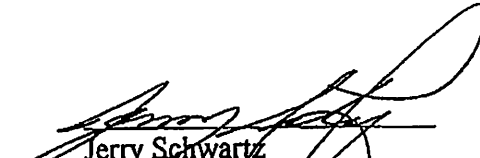
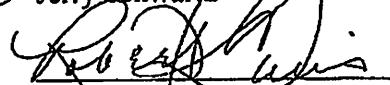
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**DESIGNATION BY ORGANIZERS OF THE ORIGINAL MEMBERS  
OF  
MONTANA EQUITIES, LLC  
AND RESIGNATION OF ORGANIZERS**

The Undersigned, Organizers of Montana Equities, LLC ("Company") name the following initial members of the Company and lists their respective Percentage Interest, effective November 10, 1997, the date on which the Secretary of State of California accepted for filing the Articles of Organization of the Company:

<u>MEMBER NAME</u>	<u>PERCENTAGE INTEREST</u>
Jerry Schwartz	50%
Robert C. Davis	50%

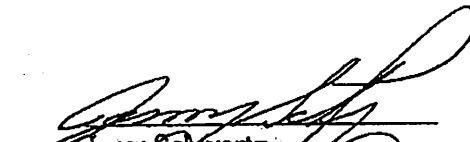
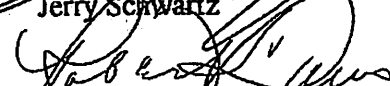
Organizers:

  
Jerry Schwartz  
  
Robert C. Davis

Dated: November 10, 1997

The Undersigned resign as Organizers on the effective date set forth above, at the close of business.

Organizers:

  
Jerry Schwartz  
  
Robert C. Davis

This is a true and certified copy of the record  
if it bears the seal, imprinted in purple ink,  
of the Registrar-Recorder/County Clerk

JAN 19 2022

*Deane C. Logan* REGISTRAR-RECORDER/COUNTY CLERK  
LOS ANGELES COUNTY, CALIFORNIA



# **EXHIBIT 5**

# ZIMAS



## ZIMAS TERMS AND CONDITIONS

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Done



# **EXHIBIT 6**

# Disclaimer

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 [housing.lacity.org/about-us/disclaimer](https://housing.lacity.org/about-us/disclaimer)

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(Visited 11 times, 1 visits today)

1 **PROOF OF SERVICE**

2 *Fix the City, Inc., v. City of Los Angeles, et al.*  
3 Case No. 20STCP03529

4 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

5 At the time of service, I was over 18 years of age and not a party to this action. I am  
6 employed in the County of Los Angeles, State of California. My business address is 707 Wilshire  
7 Blvd., 24th Floor, Los Angeles, CA 90017.

8 On January 26, 2022, I served true copies of the following document(s) described as  
9 **REQUEST FOR JUDICIAL NOTICE OF RESPONDENTS AND REAL PARTIES IN**  
10 **INTEREST IN SUPPORT OF JOINT OPPOSITION BRIEF** on the interested parties in this  
11 action as follows:

12 **SEE ATTACHED SERVICE LIST**

13 **BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a copy of the  
14 document(s) to be sent from e-mail address tstephens@meyersnave.com to the persons at the e-  
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*Fix the City, Inc., v. City of Los Angeles, et al.*  
Case No. 20STCP03529

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