

## ORDINANCE NO. 18-1044

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD, APPROVING A ZONE TEXT AMENDMENT TO TITLE 19, ZONING ORDINANCE, TO ADOPT NEW POLICIES REGULATING AFFORDABLE HOUSING IN ACCORDANCE WITH STATE LAW, CITYWIDE, IN THE CITY OF WEST HOLLYWOOD, CALIFORNIA.

THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City of West Hollywood initiated amendments to the Zoning Ordinance, Article 19 of the Municipal Code to adopt new regulations for affordable housing in response to recent changes in state law.

SECTION 2. Adoption of this item would allow a density bonus for development projects with units for transitional foster youth, disabled veterans, and homeless persons, implement procedures and timelines for processing density bonus applications, provide provisions for replacement of demolished affordable units, allow commercial developers to partner with affordable housing developers and receive certain incentives and concessions for their projects, allow density bonuses for projects with child care facilities, exempt accessory dwelling units from density bonus regulations, revise several fees related to density bonus projects, allow parking reductions for certain affordable housing projects, and revise several administrative practices.

SECTION 3. On April 5, 2018, the Planning Commission held a duly noticed public hearing regarding the proposed zone text amendment, received comments from the public, and provided comments and direction to staff. Proposed revisions to the proposed zone text amendment were considered by the Planning Commission at their duly noticed public hearing on July 19, 2018. The Planning Commission voted unanimously to recommend approval to the City Council.

SECTION 4. A public hearing was duly noticed for the City Council regular meeting of October 1, 2018 by publication in the Beverly Press newspaper, the West Hollywood Independent Newspaper, and the City website and by announcement on City Channel 6 by September 20, 2018. The City Council held a public hearing on October 1, 2018.

SECTION 5. The proposed zone text amendment is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 of the CEQA Guidelines. Section 15061 states that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen

with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Affordable housing developments will be required to meet all local, state, and federal health and safety regulations to ensure that there are no significant environmental impacts and will be subject to further CEQA review in accordance with the accompanying discretionary permit approval. These revisions implement the requirements of state law and the City's inclusionary housing program and do not change the physical characteristics of the projects themselves.

SECTION 6. The City Council of the City of West Hollywood hereby finds that Zone Text Amendment 18-0001 is consistent with the Goals and Policies of the General Plan, specifically the City's adopted 2013-2021 Housing Element encourages the creation of affordable housing through the inclusion of the goals and policies listed below. Adoption of the City's amended density bonus ordinance in compliance with state law will assist in implementing these goals/policies, including Goal H-5: Provide for a government environment that facilitates housing development and preservation and Policy H-5.1 – Provide incentives where feasible to offset or reduce the costs of affordable housing development, including density bonuses and flexibility in site development standards. This action implements General Plan 2035 by encouraging affordable housing and does not impede the City's ability to meet its other General Plan Goals and Policies. The adoption of this zone text amendment will improve overall effectiveness of the city's inclusionary and affordable housing programs and is in line with the city's long term goals and will not impede implementation of these goals.

SECTION 7. Subsection C1 of Section 19.03.020 of Chapter 19.03, Interpretation of Zoning Ordinance Provisions, of Title 19 of the West Hollywood Municipal Code is amended to read as follows:

1. In the case of calculating the maximum numbers of dwelling units allowed for a specified unit of land, numerical quantities that are fractions of whole numbers shall be rounded to the next lower whole number for development projects that contain dwelling units to be sold or rented at market rates, and rounded to the next higher whole number for projects which include affordable units.

SECTION 8. Chapter 19.22, Affordable Housing Requirements and Incentives, of Title 19 of the West Hollywood Municipal Code is amended to read as follows:

19.22.010 Purpose.

- A. This chapter provides requirements and incentives for the development of affordable housing units in conjunction with other residential and mixed use projects and commercial projects in partnership with affordable housing providers as provided under state law. These provisions are intended to implement General Plan policies encouraging the production of affordable housing for all economic groups, and housing for disabled and older residents, transitional foster youth, and disabled veterans, and homeless persons as defined in Government Code Section 65915, all

of which is integrated, compatible with and complements adjacent uses, and is located near public and commercial services.

- B. The incentives offered in this chapter are used by the city as one means of meeting its commitment to encourage housing affordable to all economic groups, and to meet its regional fair share requirements for the construction and rehabilitation of housing affordable to very low, low, moderate, and above moderate income persons.
- C. This Chapter shall be interpreted in a manner supplementary to and consistent with California Government Code Chapter 4.3 (State Density Bonus Law).

#### 19.22.020 Applicability.

- A. This chapter shall apply to the following:
  - 1. The construction of all residential units;
  - 2. Common interest developments created through the conversion of existing residential units that were not subject to the city's affordable housing requirement at the time of construction; and
  - 3. A residential or mixed commercial/residential development including a child care facility that will be located on the premises of, as part of, or adjacent to, such a housing development, under California Government Code Section 65915.
- B. Exemptions. The provisions of this chapter shall not be applicable to the following:
  - 1. A new single-family dwelling or the replacement of one single-family dwelling with another single-family dwelling;
  - 2. Accessory dwelling units and junior accessory dwelling units; and
  - 3. Commercial development projects, except as may be applicable to obtain development bonuses under California Government Code Section 65915.7, where the developer of a commercial project has entered into an agreement for partnered housing with an affordable housing developer and provides affordable housing through a joint project or through two separate projects encompassing affordable housing.

#### 19.22.025 Processing Density Bonus Applications

- A. The application for a density bonus and/or concessions shall be processed concurrently with the underlying land use permit and entitlement application and in accordance with the procedures set forth in Section 19.40.040. In addition to any other applicable application requirements, the application shall be made on a form supplied by the Development Services and Planning Department and shall include:
  - 1. A density bonus proposal that includes a description of the unit counts that make the project eligible for the requested density bonus, including any known income information for any tenants necessary to apply the requirements of 19.22.050.B below;
  - 2. A proposal for the specific concessions the applicant requests. For "other regulatory concessions" under 19.22.050.E.2.f other than an additional story, the applicant shall provide an explanation of the regulatory concession and how it results in identifiable and actual cost reductions for the project to offset the affordable housing costs, or for rents for the targeted units as specified in Government Code Section 65915. The intent of this requirement is to provide

- reasonable documentation to establish eligibility for the concession or to demonstrate the concession meets the definition set forth in Section 65915. The explanation may be, but is not required to be, in narrative form;
3. A proposal for any requested waiver or reduction of the development standard if compliance with a development standard would physically preclude construction of the project as proposed. The proposal shall include an explanation of how the development standard would physically preclude construction of the project as proposed; and
  4. A proposal for any requested reduction in parking ratios under 19.22.050.F and an explanation for how the project is eligible for the requested reduction.
- B. Review Authority. A request for density bonus or concession shall be reviewed concurrently with and by the same review authority as the underlying application for land use permits and entitlements as set forth in Section 19.40.020.
- C. Application for Density Bonus Housing Agreement. Once the land use permits, entitlements and any density bonus have been approved as described above, the applicant shall file an application, including the payment of any processing fees with the Housing Division for approval and finalization of the Agreement Imposing Restrictions on Real Property (Density Bonus Housing Agreement).

#### 19.22.030 Affordable Units Required.

- A. Requirement. Projects subject to this chapter shall permanently set aside the following number of units as affordable to and reserved for very low, low and moderate-income households as determined by eligibility requirements and a rental and sales price schedule established annually by Council resolution. Unless otherwise noted, inclusionary units provided shall be of comparable size and finish quality to the non-inclusionary units.
1. Projects of Ten or Fewer Units. One unit.
  2. Projects of Eleven to Twenty Units. Twenty percent of the unit count provided as units of comparable size and finish quality to the non-inclusionary units, or provided as units that are a minimum of one bedroom and minimum interior area of 650 square feet with finishes and appliances of "builder's quality" or better.
  3. Projects of Twenty-One to Forty Units. Twenty percent of the unit count provided as units of comparable size and finish quality to the non-inclusionary units, or 30 percent of the unit count of all non-inclusionary units provided with units that are a minimum of one bedroom and minimum interior area of 650 square feet with finishes and appliances of "builder's quality" or better.
  4. Projects of Forty-One Units or More. Twenty percent of the unit count provided as units of comparable size and finish quality to the non-inclusionary units, or if it would result in additional inclusionary units and units that better serve the affordable housing needs of the city, 20 percent of the gross residential floor area of all non-inclusionary units. If the floor area calculation is used, units provided shall be a minimum of one bedroom and a minimum interior area of 650 square feet with finishes and appliances of "builder's quality" or better.
  5. For mixed-use projects in the mixed-use overlay zone, applicants are permitted to choose their residential base unit count, provided it complies with the applicable FAR limitations and any size limitations for habitable units in the

Building Code (and all other applicable standards that could limit the size or number of units)

B. Common Interest Development Conversions. If the existing residential units to be converted to a common interest development include rental inclusionary housing units, the inclusionary units shall be sold as ownership affordable units, or upon approval from the city can be retained as affordable rental units.

1. If the city authorizes the affordable rental units to be retained, the owners shall record a covenant guaranteeing the affordability of the rental units and waiving certain rights granted by state law (Government Code Section 7060 et seq.) for the life of the project.
2. If the units are to be sold to targeted income groups, the owners shall record a covenant restricting future sales prices to levels affordable to the targeted income group and subject to the requirements in Section 19.22.090.
  - a. Before approval of a final map, the applicant shall post tenant relocation fees for each inclusionary unit in an escrow account approved by the Director and the Finance Director. The amount deposited for each inclusionary unit shall be the maximum amount of tenant relocation fees allowed under the Rent Stabilization Ordinance. Tenant relocation fees shall be paid in compliance with the Rent Stabilization Ordinance.
  - b. Any difference between the amount of fees deposited by the applicant and the amount payable to the displaced tenant shall be refunded to the applicant. Any costs associated with the escrow accounts shall be paid by the applicant.

C. Unit Size, Type, and Location.

1. Unless otherwise permitted by other sections of the Zoning Ordinance, inclusionary units shall be reasonably dispersed throughout the project, shall contain on average the same number of bedrooms as the non-inclusionary units in the project, and shall be comparable with the non-inclusionary units in terms of appearance, finished quality, and materials as approved by the review authority.
2. The Commission, or City Manager as a minor modification of an approved development agreement, may modify the requirements as to unit size or type if it finds that a modification would better serve the affordable housing needs of the city.
3. While the intent is for inclusionary units to be dispersed throughout the project as much as possible, inclusionary units may be clustered within a building if the review authority, or City Manager as a minor modification of an approved development agreement, determines that such clustering results in the creation of more affordable units than would otherwise be provided, or provides a documented public benefit, or due to circumstances unique to the project size, location or design otherwise better serves the affordable housing needs of the city.
4. The Commission, may modify the requirement that inclusionary units be reasonably dispersed throughout a project and approve placement of the units in a separate structure on the site if doing so would better serve affordable housing needs and if all of the following conditions are satisfied:

- a. The project contains a minimum of 30 inclusionary units and inclusionary units constitute at least 25 percent of the number of units in the market-rate portion of the project.
- b. The inclusionary units are of comparable quality and materials of the market-rate units unless it can be demonstrated that this is infeasible.
- c. The inclusionary units will be available for rental and will be actively marketed for rental at the same time as the market-rate units are available for occupancy, and rented within a time frame determined by the affordable housing agreement.
- d. The inclusionary units will be managed by an experienced non-profit housing provider that is familiar with the West Hollywood area, population and needs.
- e. Prior to issuance of any building permit for the project as a whole, the developer will provide a signed operating agreement with the non-profit housing provider acceptable to the City Council.
- f. Prior to issuance of any building permit for the project as a whole, the developer will enter into and record an affordable housing agreement with the City of West Hollywood further describing conditions and covenants affecting the building including, but not limited to, income and rent restrictions, reporting requirements, capital reserve requirements, and programming.
- g. The inclusionary units shall not be liable for any homeowners, condominium, or other fees or dues, and shall not be otherwise responsible for the debts or maintenance of the market rate portion of the project.
- h. Covenants, conditions and restrictions of the market rate portion of the project shall contain provisions that ensure access to facilities as described in the affordable housing agreement, including, but not limited to, parking, access, and amenities that will be shared; representation, if any on the Condominium Board, and requirements for mediation of disputes.
- i. The project will be owned by the developer or an affiliate of the developer for a period of time as designated in the affordable housing agreement, but in no event less than five years from issuance of a certificate of occupancy. The agreement will provide for a waiver of developer's and its successor's rights under Government Code Section 7060 et seq., to remove the inclusionary units from the rental market. If, after the period of ownership prescribed in the agreement the developer wishes to relinquish ownership, it may be sold subject to city approval under terms that will enable the non-profit operator to operate the project under the requirements of this section and the affordable housing agreement.
- j. An on-site resident manager will be in place to serve the tenants occupying the inclusionary units.
- k. The inclusionary units will receive the same quality of maintenance and capital improvements (excluding unit-specific upgrades) as the market-rate units. In addition, at a minimum, maintenance will be performed in accordance with Chapter 17.56 of this Code.
- l. The inclusionary units will be covered with comparable insurance protection as provided to the market-rate development and common areas.

- m. The developer will provide special services to the inclusionary unit tenants based on tenants' needs. These services shall be provided by a qualified non-profit provider. These services shall include a resident service coordinator and case management services. A full description of the services to be provided shall be included in the operating agreement.
  - n. The provision of affordable housing under this section will qualify the developer for bonus densities as provided in this Code and state law.
- D. Builders Quality. "Builders quality" appliances and materials shall mean those of durable, good and lasting quality, consistent with any applicable City Code requirements, and to the satisfaction of the Director of Community Development.
- E. Inclusionary units shall have the same number and type of appliances as non-inclusionary units. The exterior of inclusionary units shall be of the same appearance, finished quality and materials as the non-inclusionary units and shall be indistinguishable from the non-inclusionary units.
- F. When only one affordable dwelling unit is constructed, it may be allocated for a very low, low or moderate income household. When two or more affordable units are constructed, the units shall be allocated alternately with the first unit allocated for a low or very low income household and the second allocated for a moderate income household, alternating between low or very low, and moderate income until all units are assigned a level of affordability.

#### 19.22.040 Affordable Housing Fees.

- A. In-lieu Fee. Developers of residential projects with 10 or fewer units may choose to pay a fee, in-lieu of providing the required affordable unit on-site.
- B. Amount of Fee. The amount of the in-lieu fee shall be calculated in compliance with the Council's Fee Schedule.
- C. Timing of Payment. The fee required by this section shall be paid before issuance of a building permit for the approved project.
- D. Basis for Fee. Fees paid to fulfill the requirements of this section shall be computed based on the number and size of the units to be constructed. Unit size shall be gross livable floor area, including private balconies, decks and patios.
- E. Affordable Housing Trust Fund. Fees paid to fulfill the requirements of this chapter shall be placed in the city's Affordable Housing Trust Fund. The funds shall be used exclusively for projects which have a minimum of 60 percent of the dwelling units affordable to low- and moderate-income households, with at least 20 percent of the units available to low income households. Only tax exempt nonprofit corporations seeking to create or preserve the housing in the city shall be eligible to apply to the Council for funding. The funds may, at the discretion of the Council, be used for predevelopment costs, land or air rights acquisition, administrative costs, gap financing, or to lower the interest rate of construction loans or permanent financing. In a project that includes market-rate units, trust fund monies shall only be provided to assist in the acquisition and construction of those units affordable to lower- and moderate-income households.

#### 19.22.050 Affordable Housing Incentives.

This section provides density bonuses for specified housing projects and commercial projects that are affiliated with onsite or offsite affordable housing projects as set forth in 19.22.020.B.3. The provided affordable units qualifying a project for a bonus shall be affordable to and reserved for households at the income levels qualifying the project for the bonus for the length of time established by city council resolution and in compliance with state law. For standards and bonuses for congregate care and senior housing projects, see Section 19.36.110 (Congregate Care and Senior Residential Projects).

- A. Basis for Bonus. In order to encourage the construction of housing affordable to very low, low, and moderate income persons, transitional foster youth, disabled veterans, and homeless persons, and the replacement of residential rental units lost through new construction, density bonuses shall be allowed in compliance with this section.
- B. Limitation on Use of Bonus. A density bonus shall not be:
  1. Used in conjunction with a project paying a fee in-lieu of providing inclusionary units;
  2. Used with, or added to another density bonus provided for in the West Hollywood Municipal Code in the residential zoning district. This does not preclude a project that provides affordable housing from requesting any other incentives or concessions provided by Chapter 19.22;
  3. Used to increase any commercial floor area of a mixed-use project; the affordable housing density bonus shall only be applied to the residential floor area of the project, unless the project applies for a commercial density bonus under Government Code Section 65915.7 and referenced above in 19.22.020.B.3..
  4. Used in conjunction with a project that vacates or demolishes (1) rental units subject to Title 17 of this Code; (2) units subject to affordability restrictions that restrict rents to levels affordable to persons or families of lower or very low income; or (3) units otherwise occupied by lower or low income households within the five year period preceding the development application unless those units are replaced in accordance with Government Code Section 65915(c)(3) and provisions below.
    - a. "Replace" shall mean the following:
      - i. If any dwelling units described in subsection B.4 above are occupied on the date of application, the project shall provide at least the same number of units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy.
      - ii. For unoccupied dwelling units described in subsection B.4 above in a development with occupied units, the project shall provide at least the same number of units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy.
      - iii. If any dwelling units described in subsection B.4 above have been vacated or demolished within the five-year period preceding the



application, the proposed project shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known.

- iv. If the income category of the last household in occupancy, or of the persons or families in occupancy at the highpoint, is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. Rebuttably presumed means that it is presumed to be true unless evidence is presented to prove otherwise, as determined by the Director of Human Services and Rent Stabilization.
  - b. Except as provided in subsection 4.a.iv above, the replacement units shall be made available at affordable rent or affordable housing cost to, and occupied by, persons or families in the same or lower income category as the occupancy that determines the replacement requirement herein.
  - c. The affordable replacement units shall be subject to a recorded affordability restriction and Section 19.22.090.
  - d. The affordable replacement units shall be counted towards the affordable units provided for purposes of calculating the density bonus in subsection D below and the inclusionary requirements in 19.22.030.
  - e. All replacement calculations resulting in fractional units shall be rounded up to the next whole number.
  - f. "Equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.
- C. Permanently Dedicated Affordable Housing Density Bonus in R3 and R4 Zones. A density bonus equal to the percentage of units permanently dedicated to very low, low and moderate income persons may be permitted in the R3 and R4 zones if:
  - 1. The minimum percentage of all project units, including bonus units, permanently dedicated to very low, low, and moderate income persons is 50 percent; and
  - 2. The structure is maintained and operated by a non-profit organization.
- D. Density Bonus. As provided by State law and unless restricted by 19.22.050.B, projects may apply for housing density bonuses up to a maximum of 35 percent. Density bonuses shall be subject to the following:
  - 1. Density Bonuses Permitted. The amount of density bonus granted shall be based on the following table:

| <b>Unit Type</b> | <b>Minimum % of Units</b> | <b>Density Bonus Granted</b> | <b>Additional Bonus for each 1% Increase in Units</b> |
|------------------|---------------------------|------------------------------|---|
| Very Low Income  | 5%                        | 20%                          | 2.5%  |
| Low Income       | 10%                       | 20%                          | 1.5%  |

| Moderate Income   | 10% | 5%  | 1%  |
|---|-----|---|-----|
| Units for transitional foster youth, disabled veterans, or homeless persons, as those terms are defined in Government Code Section 65915, provided at the same affordability level as very low income units for 55 years. | 10% | 20% (of the same type of unit giving rise to the density bonus) | N/A |

2. A density bonus for a land donation for a childcare center or construction of a child care centers shall be provided as set forth in Government Code Section 65915.

3. Density Bonus Calculations.

a. For the purposes of calculating the permitted housing bonus in residential zones, “density” shall refer to the maximum allowable residential density per square foot of site area permitted in the zone in which the project is located. The density bonus may result in more market rate units than would otherwise be permitted by the zone. When the affordable housing density bonus is utilized on a project in a residential zoning district, no other bonus for additional density provided for in the West Hollywood Municipal Code (e.g., green building, senior housing, etc.) shall be applied to that project. The base number of units used to calculate the bonus does not include units added by a density bonus awarded pursuant to this section.

b. For the purposes of calculating the permitted housing bonus in commercial zones, “density” shall refer to the maximum floor area ratio (“FAR”) permitted in the zone in which the project is located, inclusive of applicable mixed-use bonuses. Because these projects are in the commercial zone, the FAR is not translated into a unit count for purposes of calculating the density bonus. In the commercial zones, the affordable housing density bonus authorized under this section shall only be used to increase the residential floor area of the project (unless otherwise authorized by Government Code 65915.7 as set forth in 19.20.020.B.3), but may be used in addition to any other applicable bonus available under the West Hollywood Municipal Code. In such event, the base FAR may be combined with any available mixed-use bonus to determine the density from which the affordable bonus will be calculated. Any other applicable bonus (e.g., senior housing, etc.) shall be added after the affordable housing density bonus calculation.

c. Any density calculation, including base density and bonus density, that results in a fractional number shall be separately rounded up to the next whole number.

4. All affordable units shall be constructed on-site.

E. Concessions. In compliance with state law, projects that request a density bonus to provide on-site affordable housing (and commercial projects that partner with affordable housing developers and provide at least 30 percent of the total units for low-income households or at least 15 percent of the total units for very low income

households authorized by Government Code 65915.7 as set forth in 19.20.020.B.3) are eligible for concessions as follows. The number of available concessions may be combined from different categories below for a maximum of three concessions per project.

1. Number of Concessions.

| <b>Percentage of Affordable Units</b>  | <b>Number of Concessions Permitted</b> |
|--|--|
| 5% Very Low, 10% Low, or 10% Moderate  | 1                                      |
| 10% Very Low, 20% Low, or 20% Moderate | 2                                      |
| 15% Very Low, 30% Low, or 30% Moderate | 3                                      |

2. Available Residential Concessions. The following concessions may be requested:

- a. Ten percent reduction in the minimum rear yard setback; or
- b. Ten percent reduction in the minimum front yard setback; or
- c. Ten percent reduction in the minimum side yard setback on one side; or
- d. Ten percent reduction in total common open space required; or
- e. Ten percent reduction in private open space for up to 50 percent of the units.
- f. An additional story, not to exceed 10 feet of the total project height, or other regulatory concessions that result in identifiable and actual cost reductions to provide for affordable housing costs, or for rents for the affordable units as specified in Government Code Section 65915.

3. Concessions may be denied by the review authority if one of the following findings can be made, based on substantial evidence:

- a. The concession or incentive does not result in identifiable and actual cost reductions to provide for affordable housing costs, or for rents for the targeted units to be set as specified in Section 65915 of the California Government Code;
- b. The concession would have a specific adverse impact, as defined in Section 65915 of the California Government Code, 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 low- and moderate-income households; or
- c. The concession would be contrary to state or federal law.

4. Review Authority:

- a. The review authority for requests for concessions under this subsection (f) shall be the Planning Commission.
- b. The review authority for requests for concessions under subsections a-e will be reviewed based on the number of unit threshold detailed in Table 4.2.

F. Parking Incentives. Density bonus housing development shall be granted the following parking space requirements when requested by the developer, inclusive of handicapped, which shall be granted to all units in the development:

| <b>Number of Bedrooms</b> | <b>Required Parking Spaces per Unit<sup>* **</sup></b> |
|---------------------------|--|
| 0 to 1 bedroom            | 1  |
| 2 to 3 bedrooms           | 2  |
| 4 or more bedrooms        | 2.5  |

<sup>\*</sup> If the total number of spaces required results in a fractional number, it shall be rounded up to the next whole number. A development project may provide on-site parking through a tandem and/or uncovered parking configuration.

<sup>\*\*</sup> If a residential or mixed residential/commercial development project includes the required (no-in-lieu payment) percentage of low, very low income, or includes a minimum 10 percent transitional foster youth, veteran, or homeless persons units, or provides for-rent housing for individuals who are 62 years of age or older, or is a special needs housing development and is located within one-half mile of a major transit stop where there is unobstructed access to a major transit stop from the development, then, upon the request of the developer, a parking ratio not to exceed 0.5 spaces per bedroom shall apply to the residential portion of the development.

Guest parking shall not be required for projects utilizing the affordable housing density bonus provided in this section.

G. Available Commercial Concessions. In addition to the other bonus and residential concessions provided in this Chapter, commercial development projects that partner with affordable housing developers and provide at least 30 percent of the total units for low-income households or at least 15 percent of the total units for very low income households in accordance with Government Code Section 65915.7 as set forth in 19.20.020.B.3 are eligible for the following that is mutually agreed upon by the applicant and review authority:

1. Up to a 20-percent increase in maximum allowable intensity in the General Plan.
2. Up to a 20-percent increase in maximum allowable floor area ratio.
3. Up to a 20-percent increase in maximum height requirements.
4. Up to a 20-percent reduction in minimum parking requirements.
5. Use of a limited-use/application elevator for upper floor accessibility.
6. An exception to a zoning ordinance or other land use regulation.

#### 19.22.070 Off-Site Construction of Inclusionary Units.

Developers of residential projects containing 11 units or more may apply for an exception to Section 19.22.030 to provide required inclusionary housing off-site, at one or more approved sites. Application materials for the off-site project shall be filed concurrently with application materials for the main project. The Commission may grant an exception allowing off-site inclusionary units only after first finding that:

- A. The number of units to be provided off-site would be at minimum 2-units and would be greater than the number required on-site;
- B. All off-site inclusionary units will contain on average the same number of bedrooms as the non-inclusionary units in the project, and be comparable with the non-inclusionary units in terms of appearance, finished quality, materials, and location within the building; the Commission may modify the requirements as to unit size or type if it finds that a modification would better serve the affordable housing needs of the City;
- C. All inclusionary off-site units would be constructed before or concurrently with the main project and final approval of the project shall be contingent upon completion and final approval of the inclusionary units;
- D. Off-site inclusionary units shall be allowed only in those areas which are designated in the General Plan for medium to high density residential development (e.g., R3 and R4 zoning districts);
- E. Off-site inclusionary units shall only be constructed and managed in conjunction with a nonprofit housing development corporation; and
- F. Approval of the off-site inclusionary units shall not result in an over concentration of low income housing in any specific neighborhood within the city.

#### 19.22.080 Implementation of Inclusionary Unit Provisions.

- A. Resolution of Approval. The resolution approving a development permit for any project which provides inclusionary units shall specify the following items:
  - 1. The density bonus being provided;
  - 2. Whether an in-lieu fee is required;
  - 3. The number and square footage of inclusionary units to be provided;
  - 4. The number and square footage of units at each applicable sales price or rent level, and the number of parking spaces provided to each unit; and
  - 5. A list of any other concessions, reductions or waivers approved by the city.
- B. Fee. If an in-lieu fee is required, the fee shall be determined in compliance with Chapter 19.64 (Development Fees) and shall be paid at the current rate before any building permit is issued for the project.
- C. Agreements. All projects that provide inclusionary units and/or use a density bonus, concession or waiver under this Chapter shall execute and record the City's Agreement Imposing Restrictions on Real Property before any building permit will be issued for the project. The agreement shall explain the affordability restrictions and requirements in clear and precise terms.
- D. Construction Schedule. All inclusionary affordable units in a market-rate development shall be constructed concurrently with or before the construction of the non-inclusionary units.
- E. Phasing. In the event a phased project is approved by the city, required affordable units shall be provided proportionally within each phase.
- F. Occupants. New inclusionary affordable units shall be occupied in the following manner:
  - 1. If residential rental units are being demolished and the existing tenants earn very low, low, or moderate incomes and meet all qualifying requirements, the tenants shall be given the right of first offer to occupy the new affordable units;

2. If there are no qualified tenants, or if the qualified tenants choose not to exercise the right of first offer, or if no demolition of residential rental units occurs, then qualified tenants shall be selected from the city's Inclusionary Housing Waiting List; or
3. If the new inclusionary unit is a sales unit and the existing tenants decline the unit or are not qualified applicants, the city shall conduct a lottery to select qualified prospective buyers.

#### 19.22.090 Rental, Sale and Re-Sale of Inclusionary and Affordable Units.

Any affordable unit provided to fulfill a requirement of this Chapter shall be permanently reserved for and occupied by qualified households meeting the affordable income requirement specified for the unit in the Resolution of Approval, Agreement Imposing Restrictions on Real Property, and all other eligibility requirements. Eligibility requirements and a rental and sales price schedule for very low, low, and moderate income households shall be established annually by Council resolution. Newly constructed inclusionary units shall first be offered to eligible households displaced by the demolition necessary to construct the project.

##### A. Rental of Units.

1. If units are offered for rent, the project owner or developer shall rent the units directly to the required number of very low-, low- and moderate-income households at the rental rate established by Council resolution.
2. The rental rate shall include charges for the unit, parking, pets, water and trash, and all building amenities, unless otherwise specified in the resolution of approval required by Section 19.22.080(A).
3. A security deposit equal to the greater of one month's rent or \$500 can be required.
4. A pet deposit may be in addition to, but cannot exceed 25-percent of the security deposit.

##### B. Limitations on Purchasers and Sales Prices.

1. The sale and resale of affordable units constructed for purposes of using a state density bonus under 19.22.050.D above shall be in accordance with California Government Code 65915(c)(2).
2. All purchasers of inclusionary units shall meet the city's income guidelines for the income range targeted for that unit. Proof of income eligibility shall be submitted to the Director. Resale of units shall require that the Director first verify the purchaser as very low, low or moderate income. This requirement shall be included in the recorded covenant
3. Newly constructed inclusionary units shall first be offered to eligible very low, low and moderate income households displaced by the demolition necessary to construct the project.
4. Secondly, the offer shall be made to other very low, low, or moderate displaced households in the city.
5. The remaining units, and all other newly constructed units and any inclusionary units in a building undergoing conversion to common interest development, shall be offered to very low, low, and moderate income households.

6. Lower income inclusionary units shall be sold at a price that is no more than two and one-half times 65 percent of the median income of the city, and adjusted by the "bedroom factor." Qualifying income levels shall be established annually by the Council.
  7. Moderate income inclusionary units shall be sold at a price that is no more than two and one-half times the median income of the city, and adjusted by the "bedroom factor." Qualifying income levels shall be established annually by the Council.
  8. The sales price of the inclusionary unit is dependent on the unit size and is therefore adjusted by the "bedroom factor" established annually by the Council.
  9. Expected homeowners' association fees shall be included in the calculation of total unit costs.
- C. Right of First Refusal. After offering the units to eligible households displaced by demolition, the developer of a project shall be required to give right of first refusal to purchase any or all inclusionary units to the city, or a city-designated agency or organization, for at least 60 days from the date of construction completion.
- D. Lottery. If the city chooses not to exercise its right of first refusal, it shall conduct a lottery to establish a list of eligible purchasers within that same time period. If the list is not provided, the developer may select the low- or moderate-income purchasers as long as the city verifies income eligibility and the units are sold at a price no more than two and one-half times the median income for the city.
- E. Resale of Units. Upon resale, the affordable units shall remain affordable to the targeted income group. The resale price shall be set as follows:
1. The price resulting from the total costs, including homeowners association fees, shall be:
    - a. Moderate income units: a total cost of no more than two and one-half times the median income for the city, for moderate income households.
    - b. Lower income units: a total cost of no more than two and one-half times 65 percent of the median income for the city for low income households.
    - c. The sales price of the inclusionary unit is dependent on the unit size and is therefore adjusted by the "bedroom factor."
    - d. Expected homeowners' association fees shall be included in the calculation of total unit costs.
  2. If, during the tenure of the most recent occupant, the homeowners' association fees have risen at a rate faster than the median income for the city, the resale price shall be the higher of:
    - a. The calculation in subsection (E)(1), above; or
    - b. The most recent previous sale price increased by the average rise over the last 10 years of the housing component of the Consumer Price Index, multiplied by the number of years of the owner's tenure.
  3. Resale of units shall be subject to an agreement in compliance with Section 19.22.080(C) (Agreements).
- F. Sales Price Schedule. Sales prices are adjusted annually based on the median income of the city and are subject to City Council approval.

**SECTION 9.** The following new definitions are added to the alphabetical list of definitions in Section 19.90.020 Definitions of Specialized Terms and Phrases, Chapter 19.20 of Title 19 of the West Hollywood Municipal Code to read as follows:

**Affordable Housing Developer.** A housing developer who has proposed developing an affordable housing project in conformance with Chapter 19.22 Affordable Housing Requirements and Incentives of the West Hollywood Municipal Code and in conformance with State of California Affordable Housing Law, including Government Code Section 65915.7.

**Clustering.** A grouping of affordable housing units positioned or occurring together in a residential development and not dispersed throughout the project.

**Density Bonus.** Means a density increase over the otherwise allowable maximum allowable residential density for a housing development or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density.

**Density Bonus (Affordable) Housing Agreement.** A recorded agreement between a developer and the city to ensure that the requirements of this chapter are satisfied. The agreement, among other things, shall establish the number of affordable units, their size, location, terms and conditions of affordability, and production schedule.

**Density Bonus Units.** Those residential units granted pursuant to the provisions of this chapter that exceed the otherwise allowable maximum residential density for the development site.

**Inclusionary Housing.** Regulation requiring new residential and mixed-use developments to include a specified number or percentage of new residential units to be provided for rent or sale on restricted terms deemed "affordable" to very low, low, or moderate income persons or families.

**Major Transit Stop.** Means an existing site, or a site included in the regional transportation plan, that contains a rail transit station or the intersection of two or more major bus routes each with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. A housing development is considered to be within one-half mile of a major transit stop if all parcels within the housing development have no more than 25 percent of their area farther than one-half mile from the stop and if not more than 10 percent of the units or 100 units, whichever is less, in the housing development are farther than one-half mile from the stop.

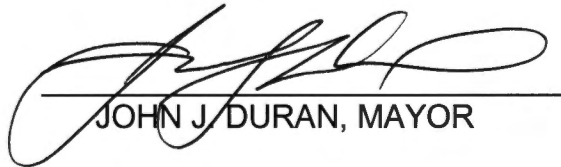
**Special Needs Housing.** Means any housing, including supportive housing, intended to benefit, in whole or in part, persons identified as having special needs relating to mental health; physical disabilities; developmental disabilities, including without limitation intellectual disability, cerebral palsy, epilepsy, and autism; and risk of homelessness, and housing intended to meet the housing needs of persons eligible for mental health



services funded in whole or in part by the Mental Health Services Fund, created by Cal. Welf. & Inst. Code § 5890.

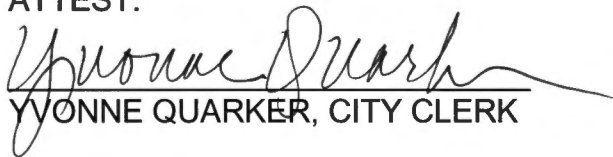
PASSED, APPROVED, AND ADOPTED by the City Council of the City of West Hollywood at a regular meeting held this 15<sup>th</sup> day of October, 2018 by the following vote:

|          |                |  |
|----------|----------------|--|
| AYES:    | Councilmember: | Heilman, Horvath, Meister, Mayor Pro Tempore D'Amico, and Mayor Duran. |
| NOES:    | Councilmember: | None.  |
| ABSENT:  | Councilmember: | None.  |
| ABSTAIN: | Councilmember: | None.  |



JOHN J. DURAN, MAYOR

ATTEST:



YVONNE QUARKER, CITY CLERK

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES    )  
CITY OF WEST HOLLYWOOD    )

I, YVONNE QUARKER, City Clerk of the City of West Hollywood, do hereby certify that the foregoing Ordinance No. 18-1044 was duly passed, approved, and adopted by the City Council of the City of West Hollywood at a regular meeting held on the 15<sup>th</sup> day of October, 2018, after having its first reading at the regular meeting of said City Council on the 1<sup>st</sup> day of October, 2018.

ground floor of an existing or proposed commercial building shall require approval of an administrative permit (See Section 19.44.020.B.a and b)

B. *Hours of Operation.* The hours and days of operation of the outdoor commercial uses shall be identified in the administrative permit.

C. *Lighting.* Illuminated outdoor commercial use areas shall incorporate lighting which is installed to prevent glare onto, or direct illumination of, any residential property or use.

D. *Noise.* An acoustical wall is required around the perimeter of the outdoor use area to ensure compliance with city noise standards unless the applicant presents an acoustical study which demonstrates that a wall is not needed to meet those standards.

E. *Cannabis Consumption Areas.* A cannabis consumption area that proposes to serve cannabis products within an outdoor area above the ground floor shall comply with the standards established by state law and operating requirements in Section 5.70.041 Cannabis Consumption Areas of the Municipal Code.

F. *Design Standards.* The following design standards are intended to ensure compatibility with surrounding uses and a high standard of design quality for commercial use areas above the ground floor.

1. Landscaping in the form of planters or other similar structures shall be provided within the commercial outdoor use area.

2. Design Compatibility. Outdoor commercial use areas and associated structural elements, awnings, covers, furniture, umbrellas, or other physical elements which are visible from the public rights-of-way or adjacent properties shall be compatible with the overall design of the main structure.

SECTION 11. A new Subsection A.8 is added to section 19.44.020 of Chapter 19.44 of Title 19 of the West Hollywood Municipal Code to read as follows:

19.44.020 Applicability.

1. New or expanded (including expanded hours of operation) outdoor dining areas and other outdoor commercial uses with similar light, noise, and impact characteristics as determined by the Planning and Development Services Director, located on rooftops, terraces, or other outdoor locations above the ground floor. The Director shall take action on outdoor commercial uses above the ground floor as follows:

a. Outdoor commercial areas located further than 100 feet from residential uses or located in the front portion of a commercial building where the commercial structure is located between the outdoor commercial use area and residential uses that meet the requirements of Section 19.36.240 shall be administratively approved by the Planning and Development Services Director.

b. Outdoor commercial uses that are above the ground floor and are located on an outdoor deck or rooftop area of a commercial building within direct line of sight of an adjacent residential use, or within 100 feet of a residential use, shall require the approval of an administrative permit by the Planning and Development Services Director at a duly noticed public hearing in accordance with Chapter 19.74.

SECTION 12. Based on the foregoing, the City Council approves Zone Text Amendment 2017-0001.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of West Hollywood at a regular meeting held this 15<sup>th</sup> day of October, 2018 by the following vote:

|          |                |  |
|----------|----------------|--|
| AYES:    | Councilmember: | Heilman, Mayor Pro Tempore D'Amico, and Mayor Duran. |
| NOES:    | Councilmember: | Horvath and Meister.                                 |
| ABSENT:  | Councilmember: | None.  |
| ABSTAIN: | Councilmember: | None.  |



JOHN J. DURAN, MAYOR

ATTEST:



YVONNE QUARKER, CITY CLERK

STATE OF CALIFORNIA        )  
COUNTY OF LOS ANGELES    )  
CITY OF WEST HOLLYWOOD    )

I, YVONNE QUARKER, City Clerk of the City of West Hollywood, do hereby certify that the foregoing Ordinance No. 18-1043 was duly passed, approved, and adopted by the City Council of the City of West Hollywood at a regular meeting held on the 15<sup>th</sup> day of October, 2018, after having its first reading at the regular meeting of said City Council on the 1<sup>st</sup> day of October, 2018.