

**SEC. 11.5.11 . AFFORDABLE HOUSING.**  
(Added by Ord. No. 184,745, Eff. 12/13/16.)

(a) **Affordable Housing.** To be eligible for a discretionary General Plan amendment pursuant to Subdivision B. of Section [11.5.6](#) of the Los Angeles Municipal Code or otherwise, 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 ten 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).

1. **Rental Projects** shall provide the following:

(i) No less than the affordability percentage corresponding to the level of density increase as provided in California Government Code Section 65915(f), inclusive of any Replacement Units; or

(ii) If the General Plan amendment, zone change or height district change results in a residential density increase greater than 35%, then the Project shall provide no less than 5% of the total units at rents affordable to Extremely Low Income households, and either 6% of the total units at rents affordable to Very Low Income households or 15% of the total units at rents affordable to Lower Income households, inclusive of any Replacement Units; or

(iii) If the General Plan amendment, zone change or height district change allows a residential use where not previously allowed, then the Project shall provide no less than 5% of the total units at rents affordable to Extremely Low Income households, and either 11% of the total units at rents affordable to Very Low Income households or 20% of the total units at rents affordable to Lower Income households, inclusive of any Replacement Units.

2. **For-sale Projects** shall provide the following:

(i) No less than the affordability percentage corresponding to the level of density increase as provided in California Government Code Section 65915(f), inclusive of any Replacement Units; or

(ii) If the general plan amendment, zone change or height district change results in a residential density increase greater than 35% or allows a residential use where not previously allowed, then the Project shall provide no less than 11% of the total units at rents affordable to Very Low Income households, or 20% of the total units at rents affordable to Lower Income households, or 40% of the total units at rents affordable to Moderate Income households, inclusive of any Replacement Units.

3. **100% affordable.** Each residential unit in the Project, exclusive of a manager's unit or units, is affordable to, and occupied by, either a Lower or Very Low Income household.

4. **Projects with both for-sale and rental units.** When a Project includes both for-sale and rental dwelling units, the provisions of this Section that apply to for-sale residential development shall apply to that portion of the Project that consists of for-sale dwelling units, while the provisions of this Section that apply to rental dwelling units shall apply to that portion of the development that consists of rental dwelling units.

All Projects qualifying for development bonuses pursuant to this Section shall be required to meet any applicable replacement requirements of California Government Code Section 65915(c)(3).

A Developer 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 shall not be eligible for the development bonuses pursuant to this Section. For purposes of this provision, development bonuses shall include discretionary General Plan amendments, zone changes, and height district changes.

**(b) Alternative compliance options.** A Project may satisfy the affordability provisions of this section through the following off-site options in lieu of providing affordable units on site:

1. **Off-site Construction.** The affordability provisions of this Section may be satisfied by constructing off-site affordable units at the following rate:

(i) No less than the same number of on-site affordable units, at the same or greater mix of unit type and affordability levels as provided in paragraph (a), if constructed within one-half mile of the outer edge of the Project;

(ii) No less than 1.25 times the number of on-site affordable units, at the same or greater mix of unit type and affordability levels as provided in paragraph (a), if constructed within 2 miles of the outer edge of the Project;

(iii) No less than 1.5 times the number of on-site affordable units, at the same or greater mix of unit type and affordability levels as provided in paragraph (a), if constructed within 3 miles of the outer edge of the Project.

The off-site units created pursuant to this paragraph must be on a site that is zoned for residential development at a density to accommodate at least the number of otherwise required units; is suitable for development of the units in terms of configuration, physical characteristics, location, access, adjacent uses and other relevant planning and development criteria; and environmental review has been completed to the satisfaction of the City prior to acceptance of the site by the City. The development of off-site affordable units shall include integration of community space and services as required by the Housing and Community Investment Department for comparable affordable housing development. The first Certificate of Occupancy for the off-site units shall be issued prior to or concurrent with the first Certificate of Occupancy for the original Project. In no event shall the Certificate of Occupancy for the market rate units for the original project be issued prior to the Certificate of Occupancy for the affordable off-site units. Individual affordable units constructed as part of an off-site project under this Section shall not receive development subsidies

from any Federal, State or local program established for the purpose of providing affordable housing, and shall not be counted to satisfy any affordable housing requirement for the off-site development. Other units in the same offsite project may receive such subsidies. In addition, subsidies may be used, only with the express written permission by the Department of Housing and Community Investment, to deepen the affordability of an affordable unit beyond the level of affordability required by this Section.

2. **Off-site Acquisition.** The affordability provisions of this Section may be satisfied by the acquisition of property containing At-Risk Affordable Units and converting the units to non-profit, Community Land Trust, and/or tenant ownership prior to issuance of the Certificate of Occupancy for the original Project. Prior to transferring ownership to a qualified entity, the At-Risk Affordable Units shall achieve a minimum of a C2 rating based on the Fannie Mae Uniform Appraisal Dataset Property Condition Ratings, as assessed and certified by the Housing and Community Investment Department (HCID), or as required by HCID to be completed by the Developer and subsequently certified by HCID. Any entity taking ownership of At-Risk Affordable Units pursuant to this Section shall record an affordability covenant, consistent with the provisions of subsection (d), guaranteeing affordability to Lower or Very Low Income Households. The number of At Risk Affordable Units that must be acquired and converted to non-profit or tenant ownership under this subdivision shall be as follows:

(i) No less than the same number of on-site affordable units, at the same or greater mix of unit type and affordability levels as provided in paragraph (a), if acquired within one-half mile of the outer edge of the Project;

(ii) No less than 1.25 times the number of on-site affordable units, at the same or greater mix of unit type and affordability levels as provided in paragraph (a), if acquired within 1 mile of the outer edge of the Project;

(iii) No less than 1.5 times the number of on-site affordable units, and affordability levels as provided in paragraph at the same or greater mix of unit type if acquired within 2 miles of the outer edge of the Project.

3. **In-Lieu Fee.** The affordability provisions of this Section may be satisfied by the payment of a fee to the City in lieu of constructing the affordable units within the Project. The in lieu fee shall be determined by the City based on the following:

(i) The number of units equivalent to 1.1 times the required number of on-site affordable units pursuant to paragraph (a), in the same proportion of affordability, multiplied by the applicable Affordability Gap, as defined herein.

(ii) No later than 90 days from the enactment of this ordinance, the City shall produce a study identifying the Affordability Gap for rental and ownership units of each bedroom size (studio, 1 bedroom, 2 bedroom and 3 bedroom) for each required affordability level. For rental housing, the study shall collect and determine, by unit type and affordability level, the following information from recently completed affordable housing projects funded by the City's Affordable Housing Trust Fund: total development costs and operating expenses. The study shall also determine the

amounts of permanent financing available based on restricted rents and prevailing interest rates. The difference between the total development cost and permanent financing amount shall be the Affordability Gaps per unit by unit type and affordability level. For ownership housing, the study shall identify the market median sales prices by unit type in the 37 Community Plan areas. It shall determine the restricted sales prices of for-sale units by unit type and affordability level. The difference between the market median sales price and the restricted sales price shall be the Affordability Gaps per unit by unit type and affordability level.

(iii) The City shall adjust the fee every two years, based on the results of a new Affordability Gaps study (as defined Section 5(b)(3)(ii)). An Affordability Gaps study, the proposed adjusted Affordability Gaps, and the adjusted fees shall be published within 2 years of the date that the original Affordability Gaps study is released, and consecutively thereafter by the date that is 2 years after the release of the previous Gaps study.

The fee is due and payable to the Affordable Housing Trust Fund at the time of and in no event later than issuance of the first building permit, concurrent with and proportional to project phases. The Developer shall have an option to defer payment of all or a portion of the fee upon agreeing to pay a Deferral Surcharge, with the fee and the Deferral Surcharge due and payable at the time of and in no event later than issuance of the Certificate of Occupancy. The Deferral Surcharge will be assessed at the Wall Street Journal Prime Rate plus 200 basis points at the time such fee is due, at the issuance of the building permit. The Deferral Surcharge fee shall be deposited into the Affordable Housing Trust Fund and accounted for and used as provided in Section (c).

**(c) Use of Funds.** All monies contributed pursuant to this Section shall be deposited in the City's Affordable Housing Trust Fund. All funds collected under this Section shall be used in the following manner:

1. Except as provided in Subdivision (2) below, the funds collected under this Section shall be used to create and/or preserve housing affordable to Extremely Low-, Very Low-, and Lower-Income households.

2. The City shall designate and separately account for all Deferral Surcharge payments that it receives under this Section to support the creation and/or preservation of affordable housing within one-half mile of a Major Transit Stop ("TOC area"), with priority to TOC Areas where there is a demonstrated decline in units affordable to and/or occupied by Extremely Low, Very Low and/or Lower Income households. Use of the Deferral Surcharge funds shall include but not be limited to the following:

(i) Acquisition and/or remediation of land, and/or acquisition, construction, rehabilitation, and/or financing of housing units by a Community Land Trust or non-profit entity which guarantees perpetual affordability of these units for Extremely Low, Very Low and/or Lower-Income Households or a term of affordability of these units that has a duration of a minimum of 55 years.

(ii) Funding for proactive enforcement of the City's Rent Stabilization Ordinance.

**(d) Continuing Affordability / Standards for Affordable Units.**

1. All affordable rental housing units created or acquired pursuant to this Section shall be subject to an affordability covenant acceptable to the Housing and Community Investment Department, and recorded with the Los Angeles County Recorder, guaranteeing continuing affordability to the targeted income group for no less than 55 years. In addition, when units are acquired and conveyed pursuant to the Off-Site Acquisition option, the Developer and/or entity taking ownership of the units shall create and implement a plan to prevent involuntary displacement of current tenants. Affordable units provided under this Section shall be comparable to the market rate units in the Project (or off-site location in the case of off-site affordable units) in terms of unit type, number of bedrooms per unit, quality of exterior appearance, energy efficiency, and overall quality of construction.

2. All for-sale housing units created pursuant to this Section shall be subject to an affordability covenant acceptable to the Los Angeles Housing and Community Investment Department, and recorded with the Los Angeles County Recorder, consistent with the for-sale requirements of California Government Code Section 65915(c)(2).

3. A longer term of affordability may be required if the Project receives a subsidy which requires a longer term of affordability. If the duration of affordability covenants provided for in this subsection conflicts with any other government requirement, the longest duration shall control.

**(e) Developer Incentives.** In addition to the requested General Plan amendments, zone changes and/or height district changes, a Project that provides affordable housing consistent with this Section shall also be entitled to three incentives or concessions specified in California Government Code Section 65915(k) or the applicable Affordable Housing Incentive Program.

**(f) Processing.** A Project that provides affordable housing consistent with this Section shall be entitled to review and processing by the Expedited Processing Section of the Planning Department dedicated solely to processing entitlements for such Projects with the goal of expediting such Projects.

**(g) City Council Approved Adjustments to Affordable Housing Set-asides Contained Herein.** The City may, by majority vote of City Council, adjust the affordable housing percentages set forth in this Section upon a showing of substantial evidence that such adjustments are necessary to maximize affordable housing while ensuring a reasonable return on investment for Developers.

**(h) Waiver/Adjustment.** Notwithstanding any other provision of this Section, the requirements of this Section maybe waived or adjusted only if a Project applicant shows, based on substantial evidence, that compliance with its requirements would result in a deprivation of the applicant's constitutional rights. The applicant shall bear the burden of presenting substantial evidence to support the request and set forth in detail the factual and legal basis for the claim, including all supporting technical documentation.

In determining whether an applicant has presented substantial evidence to support the request for waiver/adjustment, if upon legal advice provided by or at the behest of the City Attorney, it is determined that applying the requirements of this Section would effectuate an unconstitutional taking of property or otherwise have an unconstitutional application to the property, the requirements of this Section shall be adjusted or waived only to the extent necessary to avoid an unconstitutional result. If an adjustment or waiver is granted, any change in the use within the project shall invalidate the adjustment or waiver. If it is determined that no violation of the United States or California Constitutions would occur through application of this Section, the requirements of this Section remain fully applicable.

(i) All building and construction work on the project will be performed at all tiers by contractors which (a) are licensed by the State of California and the City of Los Angeles; (b) shall make a good-faith effort to ensure that at least 30% of all their respective workforces' construction workers' hours of Project Work shall be performed by permanent residents of the City of Los Angeles of which at least 10% of all their respective workforces' construction workers' hours of Project Work shall be performed by Transitional Workers whose primary place of residence is within a 5-mile radius of the covered project; (c) employ only construction workers which possess all licenses and certifications required by the State of California and the City of Los Angeles; (d) pay their construction workers performing project work the area standard wages in the project area; and (e) have at least 60% of their respective construction workforces on the project from: (1) workers who have graduated from a Joint Labor Management apprenticeship training program approved by the State of California, or have at least as many hours of on-the job experience in the applicable craft which would be required to graduate from such a state approved apprenticeship training program, and (2) registered apprentices in an apprenticeship training program approved by the State of California or an out-of-state, federally-approved apprenticeship program. The Department of Public Works, Bureau of Contract Administration, shall bear administrative responsibilities for the labor standards required by this subsection.

**(j) Definitions.**

"**At-Risk Affordable Unit**" shall mean any residential dwelling unit that receives government assistance under prescribed federal, State, and/or local programs, or any combination of rental assistance and is eligible to convert to market rate due to termination (opt-out) of a rent subsidy contract, prepayment of a subsidized mortgage, or expiration of rental restrictions. These assistance programs include, but are not limited to, Housing Choice Vouchers [formerly Section 8], project-based rental assistance, subsidized mortgage programs (e.g., FHA), or expiring rent/deed restrictions with the use of State or local funding programs, including Community Redevelopment Agency Covenants.

"**Community Land Trust**" shall mean a California nonprofit corporation that: (1) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; (2) is neither sponsored by, controlled by, nor under the direction of a for-profit organization; (3) has a corporate membership of adult residents of a particular geographic area as described in the bylaws of the corporation; (4) has a board of directors that: (A) includes a majority of members who are elected by the corporate membership; (B) includes representation by persons occupying and/or leasing any structural improvements on the land; and (C) includes representation by persons

residing within the geographic area specified in the bylaws of the corporation who neither lease land from the corporation nor occupy structural improvements controlled by the corporation; (5) acquires and retains parcels of land, primarily for conveyance under long-term ground leases; (6) transfers ownership of many or all of the structural improvements located on such leased parcels to the lessees; and (7) retains a preemptive option to purchase such structural improvements at a price determined by formula that is designed to ensure that the improvements remain affordable to low and moderate income households in perpetuity.

**"Developer"** shall mean the owner of the Project and, if different from the owner, any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which develops or causes to be developed the residential housing project and, if applicable, provides off-site affordable units, together with their successors and assigns, but does not include a lender, any governmental entity or the general contractor working for any developer.

**"Economically Disadvantaged Area"** means a zip code that includes a census tract or portion thereof in which the median annual household income is less than \$40,000 per year, as measured and reported by the U.S. Census Bureau in the 2010 U.S. Census and as updated by the parties upon the U.S. Census Bureau issuing updated Median Annual Household Income data by census tract in the American Community Survey.

**"Extremely Economically Disadvantaged Area"** means a zip code that includes a census tract or portion thereof in which the median annual household income is less than \$32,000 per year, as measured and reported by the U.S. Census Bureau in the 2010 U.S. Census and as updated by the parties upon the U.S. Census Bureau issuing updated Median Annual Household Income data by census tract in the American Community Survey.

**"Extremely Low-Income Households"** is defined in Section 50106 of the Health and Safety Code.

**"Lower Income Households"** is defined in Section 50079.5 of the Health and Safety Code.

**"Project"** shall mean the construction, erection, alteration of, or addition to a structure. The term Project shall not include interior or exterior improvements that do not increase the floor area over that of an existing structure, and shall not mean any construction for which a building permit or demolition permit is required to comply with an order issued by the Department of Building and Safety to repair, remove, or demolish an unsafe or substandard condition, or to rebuild as a result of destruction by fire, earthquake or natural disaster, provided that the development is not prohibited by any provision of the Los Angeles Municipal Code and the development does not increase the square footage beyond what previously existed on the site.

**"Replacement Unit"** shall mean any unit that would need to be replaced pursuant to California Government Code Section 65915(c)(3) if the Project was seeking a density bonus.

**"Transitional Worker"** means an individual who, at the time of commencing work on the project, resides in an Economically Disadvantaged Area or Extremely Economically Disadvantaged Area and faces at least two of the following barriers to employment: (1) being

homeless; (2) being a custodial single parent; (3) receiving public assistance; (4) lacking a GED or high school diploma; (5) having a criminal record or other involvement with the criminal justice system; (6) suffering from chronic unemployment; (7) emancipated from the foster care system; (8) being a veteran; or (9) being an apprentice with less than 15% of the apprenticeship hours required to graduate to journey level in a program.

**"Very Low-Income Households"** is defined in Section 50105 of the Health and Safety Code.