

ORDINANCE NO. 2019-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CULVER CITY, CALIFORNIA APPROVING ZONING CODE AMENDMENT P2017-0227-ZCA AND ZONING CODE AMENDMENT P2018-0158-ZCA, AMENDING CULVER CITY MUNICIPAL CODE (CCMC), TITLE 17 – ZONING (ZONING CODE) CHAPTERS 17.550 - VARIANCES, ADMINISTRATIVE MODIFICATIONS, REASONABLE ACCOMMODATIONS AND 17.610 - NONCONFORMING USES, STRUCTURES, AND PARCELS, , AS SET FORTH IN EXHIBIT "A" ATTACHED HERETO.

(ZONING CODE AMENDMENT, P2017-0227-ZCA AND
ZONING CODE AMENDMENT, P2018-0158-ZCA)

WHEREAS, on February 14 and June 27, 2018, after conducting a duly noticed public hearing on a City-initiated Zoning Code Text Amendment (P2017-0227-ZCA) amending Culver City Municipal Code (CCMC), Title 17 – Zoning (Zoning Code), Chapter 17.610 – Nonconforming Uses, Structures, and Parcels, fully considering all reports, studies, testimony, and environmental information presented, the Planning Commission determined, by a vote of 5 to 0, to recommend to the City Council approval of Zoning Code Amendment P2017-0227-ZCA; and,

WHEREAS, on September 12, 2018, after conducting a duly noticed public hearing on a City-initiated Zoning Code Text Amendment (P2018-0158-ZCA) amending Culver City Municipal Code (CCMC), Title 17 – Zoning (Zoning Code), Chapters 17.550 - Variances, Administrative Modifications, Reasonable Accommodations and 17.610 - Nonconforming Uses, Structures, and Parcels, fully considering all reports, studies, testimony, and environmental information presented, the Planning Commission determined, by a vote of 4 to 0, to recommend to the City Council approval of Zoning Code Amendment, P2018-0158-ZCA; and,

1 **WHEREAS**, on January 14, 2019, after conducting a duly noticed public hearing
2 on the Zoning Code Amendments, fully considering the Planning Commission's
3 recommendations and all reports, testimony and environmental information presented, the City
4 Council, by a vote of ___ to ___, introduced an ordinance to approve Zoning Code Amendments
5 P2017-0227-ZCA and P2018-0158-ZCA, as set forth herein below.
6

7 **NOW, THEREFORE**, the City Council of the City of Culver City, California, DOES
8 HEREBY ORDAIN as follows:

9 **SECTION 1.** Pursuant to the foregoing recitations and the provisions of the
10 CCMC, the following required findings for amendments to the Zoning Code, as outlined in
11 CCMC Section 17.620.030.A, are hereby made:
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- 13
14 **1. The proposed amendment ensures and maintains internal consistency with the**
15 **goals, policies, and strategies of all elements of the General Plan and will not**
16 **create any inconsistencies with this Title, in the case of a Zoning Code**
17 **amendment.**

18 For Zoning Code Amendment P2017-0227-ZCA, the proposed Zoning Code
19 Amendment is intended to correct ambiguities and clarify the nonconforming sections of
20 the Zoning Code in order to improve the implementation of the Zoning Code, which
21 implements the goals, objectives, and policies of the General Plan. The existing Zoning
22 Code language addresses nonconforming uses, structures, and parcels. The proposed
23 amendment will clarify and/or add code language regarding expansion of non-
24 conforming residential uses and demolition of nonconforming residential structures. The
25 proposed amendment creates internal consistency and guidelines consistent with
26 General Plan Land Use Element Implementation Measure 1.B – Code Revisions
27 because said amendment will define criteria for what should be permitted and
28 encouraged with regard to nonconforming residential uses and structures. The
29 amendment is consistent with General Plan Land Use Objective 1 – Neighborhood
Character because it will explicitly prohibit expansions of nonconforming residential uses
and establish thresholds for reconstruction of nonconforming residential structures,
thereby protecting the low- to medium-density character of residential neighborhoods.

For Zoning Code Amendment P2018-0158-ZCA, the proposed Zoning Code
Amendment is intended to correct ambiguities and clarify the Administrative Modification
and Nonconforming sections of CMC Title 17 – Zoning, Chapters 17.550 - Variances,
Administrative Modifications, Reasonable Accommodations and 17.610 -

1 Nonconforming Uses, Structures, and Parcels, in order to improve the implementation
2 of the Zoning Code, which implements the goals, objectives, and policies of the General
3 Plan. The existing Zoning Code language addresses administrative modifications and
4 nonconforming uses, structures, and parcels. The proposed amendment will clarify
5 and/or add code language that allows processing of Administrative Modification
6 requests for nonconforming parcels. The proposed amendment creates internal
7 consistency and guidelines that support General Plan Land Use Element
8 Implementation Measure 1.B – Code Revisions because said amendment will eliminate
9 impediments to reuse or rehabilitate nonconforming parcels that are considered legal
10 building sites with the granting of Administrative Modifications. The amendment is
11 consistent with General Plan Land Use Policy 1.E because it will allow the potential for
12 granting of Administrative Modifications if findings can be made that support a balanced
13 respect for the character of existing residences with new or remodeled structures on
14 nonconforming parcels.

15 Therefore the proposed Zoning Code Amendments do not conflict with the goals,
16 policies and strategies of any elements of the General Plan, nor create any
17 inconsistencies.

18 **2. The proposed amendment would not be detrimental to the public interest, health,
19 safety, convenience or welfare of the City.**

20 For Zoning Code Amendment P2017-0227-ZCA, the proposed Zoning Code
21 Amendment will help ensure that the Zoning Code is clear and internally consistent with
22 regard to nonconforming uses, structures, and parcels. It will provide clear language for
23 the expansion of non-conforming residential uses where the General Plan Land Use
24 Designation and Zoning are not consistent and ensure nonconforming residential
25 structures are reconstructed to code standards in instances of significant demolition.
26 Therefore the amendment will serve to improve the implementation of the
27 nonconforming section of the Zoning Code. Further, the proposed amendment will more
28 readily lead to compliance with current Code development standards and restrictions.

29 For Zoning Code Amendment P2018-0158-ZCA, the proposed Zoning Code
30 Amendment will ensure that the Zoning Code is clear and internally consistent with
31 regard to Administrative Modifications relating to legal nonconforming parcels. It will
32 provide clear language allowing Administrative Modification processing for legal
33 nonconforming parcels thereby permitting the continued improvement and development
34 of such parcels while respecting the character of surrounding residential areas. The
35 amendment will serve to improve the implementation of the nonconforming section of
36 the Zoning Code and restrict, if appropriate, improvements on nonconforming parcel,
37 should Administrative Modifications findings not be made.

38 Overall the amendments will result in a more balanced community as envisioned by the
39 General Plan Land Use Element and Zoning Code and will not be detrimental to the
40 public interest, health, safety, convenience and welfare of the City.

1 **3. The proposed amendment is in compliance with the provisions of the California**
2 **Environmental Quality Act (CEQA).**

3 The proposed Zoning Code Amendments (P2017-0227-ZCA and P2018-0158-ZCA) are
4 considered projects pursuant to the California Environmental Quality Act (CEQA)
5 (collectively, "Project"). The Project is considered exempt from CEQA pursuant to
6 CEQA Guidelines Section 15061(b) (3) because it can be seen with certainty that there
7 is no possibility that the Project to amend Zoning Code; Chapters 17.550 – Variances,
8 Administrative Modifications, Reasonable Accommodations and 17.610 –
9 Nonconforming Uses, Structures, and Parcels will have a significant effect on the
10 environment. The Project by itself, does not result in any physical changes in the
11 environment because it will only amend the code to limit construction of nonconforming
12 residential uses and structures and extend an existing zoning standard modification
13 process to nonconforming parcels that does not result in a density increase beyond
14 what the zone designation allows.

15 **SECTION 2.** Pursuant to the foregoing recitations and findings, the City Council
16 of the City of Culver City, California, hereby introduces the Ordinance approving Zoning Code
17 Amendments P2017-0227-ZCA and P2018-0158-ZCA, thereby amending Zoning Code,
18 Chapters 17.550 – Variances, Administrative Modifications, Reasonable Accommodations and
19 17.610 – Nonconforming Uses, Structures, and Parcels as set forth in Exhibit A attached hereto
20 and incorporated herein by reference.

21 **SECTION 3.** Pursuant to Section 619 of the City Charter, this Ordinance shall
22 take effect thirty (30) days after the date of its adoption. Pursuant to Sections 616 and 621 of
23 the City Charter, prior to the expiration of fifteen days after the adoption, the City Clerk shall
24 cause this Ordinance, or a summary thereof, to be published in the Culver City News and shall
25 post this Ordinance or a summary thereof in at least three places within the City.

26 **SECTION 4.** The City Council hereby declares that, if any provision, section,
27 subsection, paragraph, sentence, phrase or word of this ordinance is rendered or declared
28 invalid or unconstitutional by any final action in a court of competent jurisdiction or by reason
29 of any preemptive legislation, then the City Council would have independently adopted the

1 remaining provisions, sections, subsections, paragraphs, sentences, phrases or words of this
2 ordinance and as such they shall remain in full force and effect.
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4 APPROVED and ADOPTED this ____ day of January, 2019.
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8 THOMAS AUJERO SMALL, Mayor
9 City of Culver City, California

10 ATTESTED BY:

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12 JEREMY GREEN, City Clerk

13 A19-00011
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APPROVED AS TO FORM:

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13 CAROL SCHWAB, City Attorney
14 for

CHAPTER 17.550 - VARIANCES, ADMINISTRATIVE MODIFICATIONS AND REASONABLE ACCOMMODATIONS

17.550.010 APPLICABILITY.

A. Administrative Modification. The Director may grant an Administrative Modification for only the development standards identified in Table 5-2 (Administrative Modifications). An Administrative Modification may be granted only once for a specific type of request per parcel. A request exceeding the limitations identified in Table 5-2 (Administrative Modifications) shall require the filing of an application for a Variance. Nonconforming Parcels that comply with the criteria for a legal building site pursuant to Zoning Code Section 17.610.035 shall be eligible for an Administrative Modification request and may be granted an Administrative Modification provided findings pursuant to CCMC Section 17.550.020.A can be made.

Table 5-2 Administrative Modifications	
<i>Types of Administrative Modification Allowed</i>	<i>Maximum Adjustment</i>
1. Dwelling unit size. A decrease in the minimum square footage requirements for dwelling units.	10%
2. Fence, walls, or retaining walls. Fences, gates, pilasters, or walls in the side or rear yards that exceed 6 feet in height.	Not to exceed 8 feet
3. Distances between structures. A decrease in the minimum distance between a detached accessory structure and the main structure.	10%
4. Open space. A decrease in the minimum open space requirements.	10%
5. Parking. A decrease in the minimum number of parking spaces and parking lot and loading dimensions (e.g., aisle, driveway, and space widths).	10%
6. Projections. An increase in the allowed projections into setbacks in compliance with § 17.300.020 (Setback Regulations and Exceptions)	10%
7. Setbacks. A decrease in the minimum required setbacks.	10%
8. Structure height. An increase in the maximum allowable structure height; provided that the increase complies with the height limitation established by the 1990 City of Culver City initiative.	10%

17.550.020 FINDINGS AND DECISION.

A. Administrative Modification Findings. The Director shall record the decision in writing, with the findings on which the decision is based. The Administrative Modification may be approved, with or without conditions, only after making all of the following findings.

*Only sections of the Zoning Code that are to be amended and sections referenced in the amendment language are shown in this exhibit.

1. The strict application of the applicable development standard creates an unnecessary, involuntarily-created hardship, or unreasonable regulation that makes it obviously impractical to require compliance with the development standards.
2. Approval of the Administrative Modification would not be detrimental to the public health, interest, safety, or general welfare, and would not be detrimental or injurious to property or improvements in the vicinity and in the same zoning district.
3. The project is consistent with the General Plan and complies with all other applicable provision of this Title.

CHAPTER 17.610 - NONCONFORMING USES, STRUCTURES, AND PARCELS

17.610.010 – Nonconforming Uses

A. Continuation of Use.

1. Any nonconforming use, including a nonconforming use due to nonconforming density, may be maintained and continued, provided that there is no increase or enlargement of the area, space, or volume occupied by or devoted to the nonconforming use. Alterations that do not increase or enlarge a nonconforming use may be approved.
2. Increase or enlargement of the area, space, or volume occupied by or devoted to the nonconforming use, which is not allowed pursuant to this section shall mean, but not be limited to, increase in height; square footage additions; additions to existing rooms; construction of new rooms; replacement construction of units or portions of units; and construction of additional units.

17.610.020 - NONCONFORMING STRUCTURES

A. Alterations or Additions. The construction, enlargement, expansion, extension, or reconstruction of a nonconforming structure shall be subject to the following.

1. **Increase in area.** The work shall be allowed if it results in an increase or enlargement of the area, space, or volume of the structure only if the structure is nonconforming with respect to setbacks, height, distance between structures, architectural projections, staircase and landing area encroachments, and the requirements of the Uniform Building Code are met. New additions; and replacement structures or alterations shall meet the setback and height requirements of the zoning district in which the nonconforming structure is located except replacement structures required pursuant to Section 17.610.025 – Exemptions and Exceptions.
3. Improvements, reconstruction, and new construction to nonconforming single family, two family, and three family structure(s); accessory residential structures; and accessory dwelling units.

*Only sections of the Zoning Code that are to be amended and sections referenced in the amendment language are shown in this exhibit.

Exhibit A*

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- a. Reconstruction or partial reconstruction of a nonconforming single family, two family, and three family structure; accessory residential structure; or accessory dwelling unit that is/are not subject to Section 17.610.025 – Exemptions and Exceptions, and that results in more than 50% demolition of both the exterior wall surface area and building footprint, (measured from exterior wall to exterior wall), shall be completely reconstructed in conformance with current code required setbacks, height, and parking. For purposes of this section, exterior wall surface area shall mean full height exterior walls from grade to roof including existing framing, exterior sidings, and interior sidings of said exterior walls.
- b. If over a five (5) period, the cumulative demolition of a nonconforming single family, two family, and three family structure; accessory residential structure; or accessory dwelling unit exceeds 50% of both the exterior wall surface area and building footprint, (measured from exterior wall to exterior wall), that is/are not subject to Section 17.610.025 – Exemptions and Exceptions, then the nonconforming single family, two family, and three family structure; accessory residential structure; or accessory dwelling, shall be completely reconstructed in conformance with current code required setbacks, height, and parking. For purposes of this section, exterior wall surface area shall mean full height exterior walls from grade to roof including existing framing, exterior sidings, and interior sidings of said exterior walls.

17.610.025 – Exemptions and Exceptions

Nonconforming structures damaged or destroyed due to an involuntary catastrophic event (e.g., fire, earthquake, or other calamity) may be reconstructed or replaced, provided:

- A. **Development Standards.** The new structure(s) shall comply with the development standards (such as building envelope and footprint standards) in effect when the damaged or destroyed structure(s) was originally constructed; provided, however, that the new structure(s) shall contain no more dwelling units and/or floor area than the damaged structure(s).
- B. **Building and Fire Code Compliance.** All new construction shall comply with the current Building and Fire Code requirements; however, the Building Official may require compliance for areas other than the new construction, when deemed necessary.
- C. **Time Limits.** A building permit for reconstruction must be obtained no later than 18 months after the date of destruction, and construction must be pursued diligently to completion.
- D. **Current Requirements.** If the preceding requirements are not met, the replacement structure shall comply with all current requirements of this Title in effect on the date of application for the required building permit.
- E. **Extensions.** If the applicant submits a written request before expiration of the 18 months, containing reasonable justification for an extension, the Director may extend the deadline for issuance of the building permit for up to an additional 18 months.

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17.610.035 – Nonconforming Parcels

A nonconforming parcel of record that does not comply with the access, area, or width requirements of this Title for the zoning district in which it is located, shall be considered a legal building site, if it meets at least one of the criteria specified by this Section.

- A. Applicability.** It shall be the responsibility of the applicant to produce sufficient evidence to establish the applicability of one or more of the following:
- 1. Approved subdivision.** The parcel was created through a subdivision approved by the City;
 - 2. Variance or lot line adjustment.** The parcel was approved through the Variance procedure, in compliance with [Chapter 17.550](#) (Variances and Administrative Modifications), or resulted from a lot line adjustment; or
 - 3. Partial government acquisition.** The parcel was created in compliance with the provisions of this Title, but was made nonconforming when a portion of the parcel was acquired by a governmental entity.
- B. Further Division or Reduction of Parcel - Prohibited.** Where structures have been erected on a nonconforming parcel, the area where structures are located shall not be later divided so as to reduce the building site area and/or frontage below the requirements of the applicable zoning district or other applicable provisions of this Title, or to make the use of the parcel more nonconforming.
- C. Administrative Modification.** A nonconforming parcel may be granted an Administrative Modification pursuant to CCMC Chapter 17.550 provided Administrative Modification findings stipulated in CCMC Section 17.550.020.A can be made. An Administrative Modification approval shall not be considered an expansion of a legal nonconformity.

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