

ORDINANCE NO. 2021-_____

AN ORDINANCE OF THE CITY OF CULVER CITY,
CALIFORNIA, AMENDING CHAPTER 15.06, *NEW
DEVELOPMENT FEES*, OF THE CULVER CITY MUNICIPAL
CODE TO ADD A NEW SUBCHAPTER 15.06.500, ET SEQ.,
MOBILITY IMPROVEMENT FEES.

WHEREAS, state legislation, including Senate Bill (SB) 743 passed in 2013, the Complete Streets Act of 2008 (Assembly Bill [AB] 1358), the Global Warming Solutions Act of 2006 (AB 32), and the Sustainable Communities Act (SB 375), directs local jurisdictions to reprioritize transportation improvements to focus on access to transit and active transportation as strategies to reduce dependence on vehicular travel, vehicle miles traveled (VMT), and associated greenhouse gas emissions; and

WHEREAS, pursuant to SB 743, as of July 1, 2020, all lead agencies must use VMT, and will no longer be able to use LOS, to analyze transportation impacts under CEQA. While LOS was the default metric for determining transportation environmental impacts for many years, it is a vehicle operations focused measure that does not support statewide sustainability goals and is no longer a permissible metric for CEQA compliance. While LOS focused on impacts to drivers, VMT focuses on measuring the impact of driving on the environment. Cities may continue to use LOS for their local development review process to inform site access and traffic operations, outside of the environmental review process; and

WHEREAS, in response to SB 743, the City commenced the Travel Demand Forecast Model (TDFM) project, an inter-departmental effort between the Community Development, Public Works, and Transportation Departments, with critical GIS and data

1 analysis support from the Information Technology Department, to establish new and updated
2 regulations and new tools and fees, including a new travel demand/behavior forecasting
3 model, to bring the City into compliance with SB 743; and

4 WHEREAS, as of 2019, 77.5% of Culver City residents drive alone to work;
5 96.9% of residents work outside of Culver City and have to commute; only 10.5% of Culver
6 City workers live in Culver City; Culver City has a jobs/housing imbalance (3.5 jobs to housing
7 units where 1.0 to 1.5 is considered healthy) that contributes to local congestion; and Culver
8 City experiences high vehicle volumes and speeds from passthrough vehicle traffic on arterial
9 and some neighborhood streets; and

11 WHEREAS, new development increases the number of residents, employees,
12 and visitors that need to move around and have access to and from Culver City; and

13 WHEREAS, new development that does not contribute to the cost of new mobility
14 infrastructure and programs will exacerbate the adverse effects of increased VMT; and

16 WHEREAS, goals of the City's Circulation Element are to have "integrated local
17 and regional transportation systems that serve residential and business needs" and "ample
18 and efficient city services and infrastructure;" and

19 WHEREAS, part of the City's Circulation Element Objective 13 is to "expand
20 revenue sources available for transportation system development;" and

22 WHEREAS, the City's Circulation Element Measure 11 is to "continue pursuit of
23 diversified funding;" and

1 WHEREAS, the City's *Bicycle and Pedestrian Action Plan* identifies a
2 comprehensive bicycle and pedestrian network; and

3 WHEREAS, the City's *TOD Visioning Study and Recommendations* identifies
4 recommendations to establish a mobility fund with a defined program for funds received and
5 formulas for collecting them and recommends improvements that align with the Project List for
6 micro-transit, Washington Boulevard improvements, and bicycle network; and

7
8 WHEREAS, the Community Development, Public Works, and Transportation
9 Departments identified a list of VMT-reducing mobility infrastructure improvements and
10 programs ("Project List"), which a Mobility Improvement Fee will partially fund, needed to
11 support new development based on the 2045 interim jobs and housing growth forecasts; and

12 WHEREAS, the City wishes to impose a new development impact fee, and to
13 deposit such fees into a Mobility Improvement Fund for the construction of VMT-reducing
14 mobility infrastructure improvements and programs in the city; and

15
16 WHEREAS, these improvements will benefit the city as a whole since each new
17 development that contributes to funding the Project List through the payment of this fee assists
18 in creating new and improved mobility alternatives to single-occupancy vehicle driving, helps to
19 reduce the amount of transportation-related greenhouse gas emissions, and addresses the
20 need to move more people through and around the city generated by the new development,
21 thereby supporting a balanced community which is beneficial to the public health, safety, and
22 welfare of the city; and
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1 WHEREAS, the City has completed a nexus study for the Mobility Improvement
2 Fee, prepared by Fehr & Peers ("Nexus Study") dated May 2021 to analyze the relationship
3 between vehicle miles traveled associated with new development projects, the need to
4 implement the Project List to support development associated with 2045 interim growth
5 forecasts, and quantifies the fees related to new development projects based on residential
6 and non-residential land uses to pay fair share fees towards the Project List in compliance with
7 the Mitigation Fee Act (California Government Code Section 66000 et seq.); and
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9 WHEREAS, the Nexus Study found that:

10 a. The fee is directly related and roughly proportional to the impacts of new
11 development; and

12 b. The Project List to be funded in part through the Mobility Improvement Fees
13 consists of improvements that have been identified in previous City planning efforts needed to
14 accommodate planned growth and contain the following project types of general capital
15 improvement projects/roadway circulation, bikeway improvement projects, pedestrian
16 improvement projects, signals, and intelligent transportation system projects, parking and
17 wayfinding projects, and transit improvement projects; and
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19 c. The baseline cost fair share contribution is set to be 30% for the proposed fee
20 levels to provide funding for the proposed VMT-reducing mobility projects; and
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22 WHEREAS, the City has completed a Transportation Impact Fee Program
23 Economic Analysis prepared by Economics & Planning Systems ("Economic Analysis") dated
24 May 2021 to compare the City's Mobility Improvement Fees and overall development fees to
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1 those of seven neighboring jurisdictions selected in consultation with City staff and Fehr &
2 Peers; and

3 WHEREAS, the Economic Analysis found that:

4 a. While the proposed Mobility Improvement Fees for Culver City are well above
5 the amount currently charged, they would be aligned with, and in some cases, still be lower
6 than, transportation impact fees currently charged in several neighboring cities; and

7 b. Culver City's total development impact fee amount would be in the middle of
8 the range of impact fee levels charged in neighboring jurisdictions for most land uses; and

9 c. Culver City's development impact fees as a percent of development value
10 would be lower than most of its neighbors on residential uses and in the middle of the range of
11 fee burdens in other cities on non-residential uses; and

12 WHEREAS, the City wishes to exempt certain uses from paying into the Mobility
13 Improvement Fund, as set forth in § 15.06.520 of this Ordinance; and

14 WHEREAS, the City Council is imposing the fee established by this Ordinance to
15 partially close the funding gap to increase VMT-reducing mobility projects; and

16 WHEREAS, the Culver City Municipal Code (CCMC) does not currently establish
17 an adequate mechanism to account for the impact that development has on increasing the
18 need for mobility infrastructure improvements; and

19 WHEREAS, the City of Culver City has established a Mobility Improvement Fund
20 for the deposit of collected Mobility Improvement Fees; and

1 WHEREAS, requiring Developers to assist in funding mobility infrastructure
2 improvements is consistent with the City's commitment to achieve and maintain a suitable
3 living environment, including City Council's 2018-2023 Strategic Plan priority to improve
4 circulation by providing alternative modes of transportation; and

5 WHEREAS, the City is currently updating its General Plan and
6 Circulation/Mobility Element; and

7 WHEREAS, the Mobility Improvement Fees Ordinance may require updating
8 upon adoption of the updated General Plan scheduled for Fall 2022, including but not limited to
9 reflect updated growth forecasts and the adopted land use and circulation maps; and
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11 WHEREAS, this municipal commitment conforms with State and Federal policies;
12 and

13 WHEREAS, the City has provided the notice of the public hearing at which this
14 Ordinance will be considered, as required by California Government Code Sections 66016-
15 66019.
16

17 NOW, THEREFORE, the City Council of the City of Culver City DOES HEREBY
18 RESOLVE as follows:

19 **SECTION 1. FINDINGS.** The City Council of the City of Culver City hereby finds,
20 determines, and declares that:

21 A. New development increases the number of residents, employees, and
22 visitors that need to move around in and have access to and from Culver City and exacerbates
23 the adverse effects of increased VMT.
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B. The City desires to further the public health, safety, and welfare of existing and future residents, employees, and visitors by requiring qualifying new development projects to address their impact on the need for multimodal mobility infrastructure and programming in the City.

C. The purpose of the Mobility Improvement Fees is to provide funding mechanisms to help the City reduce vehicle miles traveled (VMT) per capita and employee in Culver City by providing partial funding for multimodal transportation improvements as identified in the City's Project List.

D. The City will use the Mobility Improvement Fund monies to fund mobility improvements in the Project List that reduce VMT per capita, enhance multimodal connectivity, and increase transportation options in Culver City. The Project List includes active transportation projects including new or enhanced bicycle and pedestrian facilities, fixed-route and high-capacity transit improvements, improved connectivity to transit with mobility hubs, new on-demand micro-transit, and transportation demand management incentives.

E. New development in Culver City will have a direct and cumulative impact on existing mobility infrastructure through increased vehicle miles traveled. Completing the necessary improvements in the Project List will ensure the transportation demand caused by new development will not result in a corresponding increase in VMT per capita.

F. The City is authorized to adopt Mobility Improvement Fees under the authority of the California Constitution Article XI, Section 7, which provides: "A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and

1 regulations not in conflict with general laws," and per the findings set forth in this Ordinance
2 codified in CCMC Subchapter 15.06.500, et seq.

3 G. The requirements of CCMC Subchapter 15.06.500, et seq. are based on
4 several factors including but not limited to the City's commitment to improving circulation by
5 providing alternative modes of transportation; the demand for increased multimodal
6 infrastructure and programs created by new development; the need to focus on moving people
7 and not cars; the impact of the lack of multimodal infrastructure and programs has on the
8 health, safety, and welfare of the city's existing and future residents, employees, and visitors
9 including impacts related to congestion, air quality, and equitable access to employment and
10 community resources; the desire to efficiently use the city's public spaces and assets; the
11 desire for new development to contribute to the improvement of mobility infrastructure and
12 programs serving its occupants; and the demands placed on the regional transportation
13 infrastructure. Imposing a reasonably related fee to the burdens created by new development
14 on the city's need for new and improved multimodal systems and programs will enable the City
15 to partially fund VMT-reducing mobility projects to address these impacts fulfill these goals.
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18 H. The City commissioned the preparation of a Nexus Study, which indicates,
19 and the City Council finds, there is a reasonable relationship between the purpose for which
20 the fees established by this Ordinance are to be used and the type of development projects on
21 which the fees are imposed and between the amount of the fees and the cost of the Project
22 List or portion thereof attributable to the development on which the fees are imposed.
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1 I. The City commissioned the preparation of an Economic Analysis which
2 indicates, and the City Council finds, the proposed fees would be aligned with, and in some
3 cases still be lower than, fees currently charged in several neighboring cities; Culver City's
4 total development impact fee amount would in the middle of the range of impact fee levels
5 charged in neighboring jurisdictions for most land uses; and Culver City's total development
6 impact fees as a percent of development value would be lower than most of its neighbors on
7 residential uses, and in the middle of the range of fee burdens in other cities on non-residential
8 uses.
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10 J. It is the intent of the City Council that the fee required by CCMC
11 Subchapter 15.06.500, et seq. shall be supplementary to any conditions imposed upon a new
12 development project pursuant to other provisions of the CCMC, the City Charter, the
13 Subdivision Map Act, the California Environmental Quality Act, and other state and local laws,
14 which may authorize the imposition of project-specific conditions on development.
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16 **SECTION 2. CCMC AMENDMENT.** Chapter 15.06, *New Development Fees*, of
17 the Culver City Municipal Code is hereby amended to add a new Subchapter, 15.06.500, et
18 seq., *MOBILITY IMPROVEMENT FEES*.

19 **MOBILITY IMPROVEMENT FEES.**

- 20 § 15.06.500 Purpose.
21 § 15.06.505 Mobility Improvement Fund.
22 § 15.06.510 Definitions.
23 § 15.06.515 Calculation And Payment Of Fees.
24 § 15.06.520 Exceptions.
25 § 15.06.525 Accounting For Fees.
26 § 15.06.530 Use And Disbursement Of Funds.

§ 15.06.535 Project List.
§ 15.06.540 Adjustments Or Waivers.
§ 15.06.545 Appeal.
§ 15.06.550 Enforcement.
§ 15.06.555 Return Of Fees.

§ 15.06.500 PURPOSE.

The purpose of this Subchapter is to provide a method for new development projects to pay their fair share towards the funding of the City's identified mobility infrastructure and programs Project List, intended to reduce vehicle miles traveled and needed to support projected jobs and housing growth.

§ 15.06.505 MOBILITY IMPROVEMENT FUND.

A. Pursuant to Government Code Section 66006, the "Mobility Improvement Fund" is hereby established.

B. The fees paid to the City under this Subchapter's provisions shall be deposited into the Mobility Improvement Fund and used solely for the purpose described in this Subchapter.

C. All monies deposited into the Mobility Improvement Fund shall be held separate and apart from other City funds.

D. All interest or other earnings on the unexpended balance in the Mobility Improvement Fund shall be credited to the Mobility Improvement Fund. There shall be at all times be sufficient amounts of earned interest in the account to enable the City to pay all potential obligations for the refund of interest earned on fees which may be eligible for refunds

1 per § 15.06.555. Any amounts of interest earned by the fund which exceeds the necessary
2 reserve amount may be appropriated and disbursed for Project List funding.

3 **§ 15.06.510 DEFINITIONS.**

4 As used in this Subchapter, the following terms are defined as follows unless the
5 context indicates or requires a different meaning. All other terms herein shall follow the
6 definitions found in § 17.700.010.

7 **"DEVELOPER"** means any person, firm, partnership, association, joint venture,
8 corporation, or any entity or combination of entities, which seeks or applies for City approvals,
9 permits or entitlements for all or part of a commercial development project.

10 **"DIRECTOR"** shall mean the Community Development Director of the City of
11 Culver City, or his or her designee.

12 **"PROJECT LIST"** shall mean the list of mobility improvements and programs
13 identified by the Community Development, Public Works, and Transportation Departments
14 needed to support new development based on 2045 jobs and housing growth forecasts, which
15 will reduce vehicle miles traveled and be partially funded by Mobility Improvement Fees.

16 **"MULTIMODAL"** shall mean alternative transportation modes to single-
17 occupancy vehicles including but not limited to active transportation like walking, running,
18 rolling, bicycling, scooting, skating, and accessing public transit and ridesharing like car and
19 vanpools.

20 **"NEW DEVELOPMENT"** shall have the same meaning as that set forth in §
21 15.06.015.

1 **"SQUARE FOOTAGE"** shall have the same meaning as that set forth in §
2 15.06.015.

3 **"VEHICLE MILES TRAVELED"** shall mean the sum of the number of miles
4 traveled by each vehicle.

5 **"NET NEW VEHICLE MILES TRAVELED"** shall mean additional vehicle miles
6 traveled resulting from new development above existing development. For the purpose of
7 illustration only, an example of net new vehicle miles traveled is as follows: If a new restaurant
8 replaces an existing restaurant without adding new square footage, the fee will not be charged.
9 However, if a new restaurant replaces an existing restaurant and adds 1,000 new square feet;
10 then fees will be required for the added 1,000 square feet and associated net new vehicle
11 miles traveled.
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13 **§ 15.06.515 CALCULATION AND PAYMENT OF FEES.**

14 A. **Requirement.** Mobility Improvement Fees are hereby imposed on all new
15 development projects resulting in net new vehicle miles traveled, except as specifically
16 exempted in § 15.06.520. No application for a building permit for a development project shall
17 be approved, nor shall any such development project be constructed without compliance with
18 this Subchapter. The fee imposed by this Subchapter shall be collected at the time of the
19 issuance of a building permit. No certificate of occupancy shall be issued for a development
20 project that has not paid the fee required under this Subchapter.
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1 B. **Rates and Calculation.** Except as otherwise provided in this Subchapter,
2 all new developments shall pay into the Mobility Improvement Fund a fee for the privilege of
3 such development in an amount to be established by resolution of the City Council.

4 C. **Annual Review and Adjustment.** To account for inflation in infrastructure
5 construction costs, the fee imposed by this Subchapter shall be adjusted automatically on July
6 1 of each fiscal year, beginning on July 1, 2022, by a percentage equal to the appropriate
7 Construction Cost Index for the Los Angeles region, or equivalent index, as determined by the
8 City, for the preceding twelve (12) months. The City shall publish the revised fee and index in a
9 newspaper of citywide circulation or on the City website before July 31 of each year.
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11 **§ 15.06.520 EXCEPTIONS.**

12 Certain new developments are exempted from payment of the fees required by
13 this Subchapter as established by resolution of the Council.
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15 **§ 15.06.525 ACCOUNTING FOR FEES.**

16 The City's Chief Financial Officer shall maintain records specifically identifying
17 the origin of the funds used for any project or improvement funded, in whole or in part, by the
18 Mobility Improvement Fund. Such records shall enable the City's Chief Financial Officer to
19 trace the fees from new development to specific projects funded by each development.
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21 **§ 15.06.530 USE AND DISBURSEMENT OF FUNDS.**

22 A. All monies and interest earnings in the Mobility Improvement Fund shall
23 be expended on constructing improvements and deploying programs in the Project List. Such
24 expenditures may include, but are not limited to the following:

1 1. Reimbursement for all direct and indirect costs incurred by the City to
2 construct improvements under this Subchapter, including but not limited to the cost of land and
3 right-of-way acquisition, planning, legal advice, engineering, design, construction, construction
4 management, materials, and equipment.

5 2. Costs of issuance or debt service associated with bonds, notes, or other
6 security instruments issued to fund improvements.

7 3. Reimbursement for administrative costs, not exceeding up to five percent
8 (5%) each year, of the total Mobility Improvement Fund balance, incurred by the City in
9 establishing or maintaining the Mobility Improvement Fund required by this Subchapter,
10 including but not limited to the cost of studies to establish the requisite nexus between the fee
11 amount, studies to compare the fee amount to neighboring jurisdictions, the use of fee
12 proceeds, and annual accounting and reports.

13
14 B. The City shall not expend Mobility Improvement Fund monies on street
15 improvements, traffic controls, or traffic management projects required by § 15.06.035;
16 projects that induce vehicle miles traveled; operation and maintenance costs; off-street parking
17 facilities except as part of a TDM program; alley improvements; or private streets.

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19 **§ 15.06.535 PROJECT LIST.**

20 A. The City Council shall adopt by resolution the Project List, which meets
21 the General Plan Circulation Element goals, objectives, and measures.
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1 B. The City Council may amend the resolution to update the Project List
2 every three (3) to five (5) years to reflect current conditions, so long as any project added
3 reduces vehicle miles traveled and is consistent with the General Plan.

4 C. City staff shall annually determine which project(s) will be scheduled for
5 implementation from the Project List as part of their work plans based on feasibility factors
6 such as funding, staffing capacity, community support, and City Council direction.

7 **§ 15.06.540 ADJUSTMENTS OR WAIVERS.**
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9 A. The requirements of this Subchapter may be adjusted or waived if the
10 Developer demonstrates that an insufficient nexus exists between the proposed use and fee.

11 B. The Developer must submit a written request to the Director, or their
12 designee, when the Developer files a discretionary project application or if no discretionary
13 application is required, a building permit application.

14 C. The Developer shall bear the burden of presenting substantial evidence to
15 support the request and detail the factual and legal basis for the claim, including supporting
16 technical documentation.

17 D. The Director, or their designee, shall render a written decision within
18 ninety (90) days after a complete application is filed.

19 E. The Developer may seek review of the Director's decision by filing a
20 written appeal with the City Clerk's Office within ten (10) City Hall business days of the
21 decision by the Commission. The City Clerk's Office shall coordinate with the Director to
22 schedule the appeal hearing before the City Council.
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1 F. If an adjustment or waiver is granted, any change in use from the
2 approved project shall invalidate the adjustment or waiver.
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4 **§ 15.06.545 RETURN OF FEES.**

5 A. Fees paid into the Mobility Improvement Fund not appropriated within five
6 (5) years of payment shall be returned to the payer, with earned interest, if a written return
7 request is filed with the City's Chief Financial Officer within the fifth fiscal year after payment.
8 The return request shall be verified and state the payment date, the amount paid, and that the
9 party requesting the fee return is the payer of the fee or the payor's assignee or successor.
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11 B. The right to a return of fees may be assigned in writing. No assignment
12 shall be valid unless the assignment is acknowledged before a notary public in the same
13 manner as is required for the recording of documents affecting title to real property with the
14 County Recorder. Any assignment shall be filed with the City's Chief Financial Officer and may
15 be recorded at the option of the signatories.
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17 C. If a return request is not made within one (1) calendar year from when the
18 return request is originally filed, then the right to have fees returned shall terminate, and the
19 fees and all interest earned shall revert to the Mobility Improvement Fund.
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21 **SECTION 3. ENVIRONMENTAL DETERMINATION.** The City Council hereby
22 finds and determines the adoption of this Ordinance: (1) is exempt from further environmental
23 review under the California Environmental Quality Act ("CEQA") pursuant to Title 14 of the
24 California Code of Regulations ("CEQA Guidelines") Section 15061(b)(3) because the
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1 Ordinance will not allow for or encourage any more development than is already anticipated
2 under the City's existing General Plan and as regulated by existing zoning, or otherwise allow
3 for or promote physical changes in the environment, and therefore, it can be seen with
4 certainty that there is no possibility that the Ordinance will have a significant effect on the
5 environment; (2) is not a project under CEQA Guidelines Section 15060(c)(3) and 15378(b)(4)
6 as it is a governmental fiscal activity that does not involve any commitment to any specific
7 project which may result in a potentially significant physical impact on the environment; and (3)
8 is not intended to apply to specifically identified projects and as such it is speculative to
9 evaluate any such future project now. Moreover, the Ordinance is not intended to, nor does it,
10 provide CEQA clearance for future development projects or projects on the Project List by the
11 mere establishment of a Mobility Improvement Fee. All new development projects required to
12 pay the fee imposed by this Ordinance and projects implemented from the Project List will be
13 subject to appropriate environmental review as part of the entitlement process. Each of the
14 foregoing provides a separate and independent basis for CEQA compliance and, when viewed
15 collectively, provides an overall basis for CEQA compliance.

18 **SECTION 4. PROJECTS NOT SUBJECT TO THIS ORDINANCE.** This
19 Ordinance shall not apply to development projects, nor any subsequent approvals or project
20 modifications, with an application deemed complete by the City which has received all
21 discretionary land use entitlements and at least one building permit for a structure or
22 substructure necessary for the construction of the development project, before the effective
23 date of this Ordinance.

SECTION 5. EFFECTIVE DATE AND PUBLICATION. Pursuant to California Government Code Section 66017, this Ordinance shall take effect 60 days from and after the date of its adoption. Pursuant to City Charter Sections 616 and 621, the City Clerk shall post this Ordinance, or a summary thereof, in the Culver City News and at least three places in the city within fifteen (15) days after the date of its adoption.

SECTION 6. SEVERABILITY. The City Council hereby declares that, if any provision, section, subsection, paragraph, sentence, phrase or word of this Interim Ordinance is rendered or declared invalid or unconstitutional by any final action in a court of competent jurisdiction or by reason of any preemptive legislation, then the City Council would have independently adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases or words of this Ordinance and as such they shall remain in full force and effect.

APPROVED and ADOPTED this _____ day of _____ 2021.

ALEX FISCH, Mayor
City of Culver City, California

ATTEST:

APPROVED AS TO FORM:

JEREMY GREEN, City Clerk

CAROL A. SCHWAB, City Attorney

A21-00082