

City Council Meeting: March 21, 2023

Santa Monica, California

ORDINANCE NUMBER 2740 (CCS)

(City Council Series)

AN EMERGENCY INTERIM ZONING ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA TO EXTEND INTERIM ZONING REGULATIONS ESTABLISHED BY EMERGENCY INTERIM ZONING ORDINANCE 2633 (CCS) AND AMENDED AND EXTENDED BY EMERGENCY INTERIM ZONING ORDINANCES 2645, 2692 AND 2699 (CCS) AMENDING SANTA MONICA MUNICIPAL CODE CHAPTER 9.39 AND SECTION 9.40.020 TO INCREASE THRESHOLDS FOR REVIEW OF ONE HUNDRED PERCENT AFFORDABLE HOUSING PROJECTS AND HOUSING PROJECTS SUBJECT TO THE HOUSING ACCOUNTABILITY ACT BY ADMINISTRATIVE APPROVAL

WHEREAS, the State is experiencing a housing supply crisis, with housing demand far outstripping supply; and

WHEREAS, in 2018, California ranked 49th out of the 50 states in housing units per capita; and

WHEREAS, housing crisis has particularly exacerbated the need for affordable homes at prices below market rates; and

WHEREAS, the housing crisis has resulted in increased poverty and homelessness, especially first-time homelessness, forced lower income residents into crowded and unsafe housing in urban areas, and forced families into lower cost new housing at the urban-rural interface with longer commute times and a higher exposure to fire hazard; and

WHEREAS, California needs an estimated 180,000 additional homes annually to keep up with population growth, and the Governor has called for 3.5 million new homes to be built over the next 7 years; and

WHEREAS, the City's Regional Housing Needs Assessment ("RHNA") for the 6th Cycle Housing Element is an allocation of approximately 8,800 units, of which 69% would be affordable housing; and

WHEREAS, on July 6, 2010, the City Council adopted the Land Use and Circulation Element of the City's General Plan ("LUCE") which designates the proposed general distribution, location and extent of land uses within the City; and

WHEREAS, the LUCE was adopted after an extensive planning process, and addresses neighborhood conservation and enhancement; integrated land use and transportation; proactive congestion management; complete neighborhoods with increased open space; community benefits; quality urban character and form; preservation of historic resources; and growth management; and

WHEREAS, the LUCE differs from prior Land Use and Circulation elements, in part, by establishing a direct link between land use and transportation policies and programs and the establishment of new development policies and standards which ensure that quality development contributes to the character of the City; and

WHEREAS, the LUCE establishes a base height for each land use as a baseline, and proposed development which seeks additional height above the base height is subject to discretionary review and must meet additional requirements consistent with the community's broader social, environmental, and circulation goals – an approach defined in three tiers; and

WHEREAS, the LUCE provides certain bonuses, concessions and incentives for one hundred percent affordable housing projects, including a provision that allows for ministerial approval for projects of up to 50 units in size; and

WHEREAS, on September 11, 2013, the City Council adopted the Bergamot Area Plan (“BAP”), which provides policies and standards to transition 142.5 acres of former industrial lands into an arts-focused, transit-oriented, mixed use, pedestrian-oriented neighborhood anchored by the Bergamot Exposition Light Rail Station; and

WHEREAS, the BAP envisions creating the City’s most sustainable neighborhood—one that both conserves the authentic, industrial character that has fostered a creative community in the area and removes barriers to housing, local restaurants and services to take full advantage of the arrival of the Exposition Light Rail; and

WHEREAS, the BAP encourages and creates opportunities to develop appropriate housing for all members of the community, with a target of at least 30% of housing affordable to people earning between 30% and 180% of the area median income; and

WHEREAS, the BAP sets forth certain thresholds for processing development projects, including housing projects, in the plan area; and

WHEREAS, on July 25, 2017, the City Council adopted the Downtown Community Plan (“DCP”) which sets forth the City’s vision of the Downtown as a high quality, mixed-use district offering opportunities for housing for people across the income spectrum, jobs, arts and culture, local serving retail, and community and visitor gathering places; and

WHEREAS, in the DCP, Downtown housing projects are encouraged to support a strong and economically diverse residential neighborhood component; and

WHEREAS, the DCP supports that encouragement by differentiating between housing projects and commercial projects and provides for various incentives for housing projects, including streamlined processing by allowing for ministerial review of all one hundred percent affordable housing projects and any other housing project up to 75,000 square feet; and

WHEREAS, the Zoning Ordinance implements the process thresholds for review of housing projects consistent with the LUCE, BAP, and DCP by requiring projects subject to ministerial review to be reviewed by the Administrative Approval process and projects that exceed ministerial review process thresholds to be reviewed by the Development Review Permit process; and

WHEREAS, a RHNA allocation of 8,880 units with 69% affordability in the 6th Cycle Housing Element will require the City to permit approximately 1,000 housing units a year between 2021 and 2029, 700 of which each year are required to be affordable housing; and

WHEREAS, 100% affordable housing projects, with challenges in available funding, are turning to financing sources such as tax credits, which establish a strict schedule for obtaining entitlements and building permits which are more easily met with a ministerial, rather than discretionary, review process; and

WHEREAS, the Housing Accountability Act, California Government Code Section 65589.5 (the "HAA"), places strict limitations on the City's discretion to deny, reduce the density of, or place conditions on a housing project that complies with objective general plan, zoning, and subdivision standards and criteria, including design review standards in effect at the time the application is determined complete; and

WHEREAS, requiring discretionary review for housing projects that comply with objective general plan, zoning, and subdivision standards and criteria, including design review standards in effect at the time the application is determined complete, adds time and expense to housing production without providing any meaningful benefit to the community; and

WHEREAS, on December 10, 2019, the City Council conducted a study session on housing policy in part to discuss options for increasing housing production throughout the City with a particular emphasis on incentivizing one hundred percent affordable housing projects, and considered whether increasing the thresholds for ministerial review of certain housing projects would further stimulate housing production; and

WHEREAS, on February 5, 2020, the Planning Commission adopted a Resolution of Intention, Resolution Number 20-002 (PCS), declaring its intention to consider recommending to the City Council that the City Council amend the text of the LUCE, the BAP, and the DCP to increase the thresholds for ministerial review of one hundred percent affordable housing projects and housing projects subject to the HAA; and

WHEREAS, on February 19, 2020, the Planning Commission conducted a duly noticed public hearing, and after considering oral and written testimony regarding the proposed amendments to the text of the LUCE, BAP, and DCP, adopted a Resolution of Recommendation, Resolution Number 20-005 (PCS) recommending to the City Council that the City Council adopt the proposed amendments; and

WHEREAS, on March 10, 2020, the City Council conducted a duly noticed public hearing to consider the recommendation of the Planning Commission, and, after considering all oral and written testimony, adopted Resolutions Numbers 11237 (CCS),

11238 (CCS), and 11239 (CCS) to amend the LUCE, BAP, and DCP to increase the thresholds for ministerial review of one hundred percent affordable housing projects and housing projects subject to the HAA; and

WHEREAS, on March 10, 2020, the City Council adopted emergency Interim Zoning Ordinance Number 2633 (CCS) (“Interim Zoning Ordinance 2633”), which immediately permitted one hundred percent affordable housing projects and housing projects subject to the HAA that do not exceed Tier 2 maximums to be processed by Administrative Approval rather than a Development Review Permit under certain conditions; and

WHEREAS, pursuant to Santa Monica Municipal Code Section 9.46.090(C), Interim Zoning Ordinance 2633 was set expire sixty days after its effective date, or on May 9, 2020; and

WHEREAS, on March 13, 2020, the City Manager, in his role as the Director of Emergency Services, (“Director of Emergency Services”) proclaimed the existence of a local emergency pursuant to Chapter 2.16 of the Santa Monica Municipal Code to ensure the availability of mutual aid and an effective the City’s response to the novel coronavirus (“COVID-19”) and this local emergency was restated on March 14, 2020, through a revised declaration of local emergency to ensure compliance with all digital signature requirements (the “Executive Order”); and

WHEREAS, on March 17, 2020, the Director of Emergency Services issued a Revised Fourth Supplement to the Executive Order (the “Revised Fourth Supplement”) which, in part, extended all Interim Zoning Ordinances in effect during the term of the Order; and

WHEREAS, on August 25, 2020, the City Council adopted emergency Interim Zoning Ordinance Number 2645 (CCS), which extended the interim zoning regulations adopted by Interim Zoning Ordinance 2633 (the “interim zoning regulations”) to December 31, 2021; and

WHEREAS, Interim Zoning Ordinance 2645 also amended the interim zoning regulations to accord with the ordinance the City Council introduced for first reading on August 25, 2020 to add Santa Monica Municipal Code Chapter 6.22: Residential Leasing Requirements, and provide more certainty for landlords and tenants, amended the interim zoning regulations to require that all leases be made to tenants who will use and occupy the rental housing unit as the tenants’ “primary residence” rather than “domicile” as that term is defined by Elections Code Section 349(b) and that all leases be in writing and provide for a minimum initial term of one year; and

WHEREAS, on September 8, 2020, the City Council adopted Ordinance Number 2650 (CCS), adopting Chapter 6.22, Residential Leasing Requirements (“Chapter 6.22”), which requires that all residential housing units must be leased to natural persons, tenants leasing residential housing units must use and occupy the residential housing unit as the tenant’s primary residence, all residential housing units must be leased for an initial lease term of at least one year, and all residential housing units must be delivered unfurnished; and

WHEREAS, on October 27, 2020, the City Council adopted Ordinance Number 2655 (CCS), which amended Chapter 6.22 to: expand options to demonstrate proof of primary residence to ensure undocumented students have access to rental housing; exempt certain leases of owner-occupied single- and multiple-unit dwellings, and

accessory dwelling units and junior accessory dwelling units located on parcels with owner-occupied single-unit dwellings, and leases that provide for temporary relocation housing for tenants who are subject to temporary relocation under Santa Monica Municipal Code Sections 4.36.100 or 8.100.030 from the residential leasing requirements; and

WHEREAS, in accordance with Santa Monica Municipal Code Section 6.22.130, the Director of the Community Development Department has promulgated administrative regulations, which were most recently updated on January 29, 2021, related to noticing procedures and requirements and to further clarify applicability of Chapter 6.22; and

WHEREAS, on October 12, 2021, the City Council adopted the 6th Cycle (2021-2029) Housing Element, which, pursuant to Program 1A, requires the City to make permanent amendments to the Zoning Ordinance to implement the interim zoning regulations, with revisions, no later than March 31, 2022, and extend the interim zoning regulations pending full implementation of Program 1A; and

WHEREAS, on October 29, 2021, the Director of Emergency Services issued a Forty-First Supplement to the Executive Order to extend certain provisions of the Executive Order, including Section 6 of the Revised Fourth Supplement extending all Interim Zoning Ordinances, through January 31, 2022; and

WHEREAS, on January 25, 2022, the City Council adopted Emergency Interim Zoning Ordinance Number 2692 (CCS), which: extended the interim zoning regulations until May 31, 2022, in anticipation of enactment of permanent changes to the Zoning Ordinance in accordance with Program 1A of the 6th Cycle Housing Element; removed the deed restriction obligations in order to avoid inconsistency with the provisions of

Chapter 6.22; and, limited eligibility under the interim zoning regulations to Tier 2 projects located on parcels that do not exceed 43,560 square feet, or one acre, in order to increase opportunities for community input for larger projects; and

WHEREAS, on February 8, 2022, pursuant to California Government Code Section 65585(h), the City received a letter from the California Department of Housing and Community Development, which determined that the City's 6th Cycle Housing Element addresses many statutory requirements but that revisions would be necessary to comply with State Housing Element Law; and

WHEREAS, upon receipt of HCD's February 8, 2022 letter, the City began the process of reviewing which revisions to the 6th Cycle Housing Element may be necessary to comply with State Housing Element law; and

WHEREAS, on April 12, 2022, the City Council adopted emergency Interim Zoning Ordinance Number 2699 (CCS) to allow the City adequate time to review and revise the 6th Cycle Housing Element as may be necessary to ensure consistency with State Housing Element law; and

WHEREAS, on July 8, 2022, the City submitted the draft revised Housing Element to HCD for review and comment; and

WHEREAS, on September 6, 2022, HCD issued a letter determining that the Draft Revised Housing Element will comply with State Housing Element Law once adopted, submitted to, and reviewed by, HCD; and

WHEREAS, implementation dates for the June 21, 2022 draft amended 6th Cycle Housing Element have been updated to allow for an extension for rezoning should the City meet all conditions set forth in Government Code Section 65583.4; and

WHEREAS, on September 22, 2022, Planning Commission conducted a duly noticed public hearing to consider recommending to the City Council that the City Council adopt the amended 6th Cycle Housing Element, and after considering oral and written testimony, adopted Resolution Number 220-18 (PCS) recommending that the City Council adopt the amended the 6th Cycle Housing Element; and

WHEREAS, on October 11, 2022, the City Council conducted a duly-noticed public hearing to consider adopting the amended 6th Cycle Housing Element, and after considering oral and written testimony, adopted Resolution Number 11469 (CCS), adopting an amended 6th Cycle Housing Element, which was certified by the State on October 14, 2022; and

WHEREAS, the Housing Element requires the City to implement certain programs through amendments to the Land Use and Circulation Element of the General Plan, the Bergamot Area Plan, the Downtown Community Plan, and the Zoning Ordinance in phases, subject to specified deadlines; and

WHEREAS, the Housing Element requires the City to implement Program 1A, which proposes to make the interim zoning regulations permanent, no later than October 15, 2023; and

WHEREAS, on August 4, 2021, the Planning Commission adopted a Resolution of Intention, Resolution Number 21-007 (PCS), declaring its intention to consider recommending to the City Council that the City Council amend the text of the Zoning Ordinance to, among other things, ensure consistency with the goals, policies and programs of the 6th Cycle Housing Element; and

WHEREAS, the City desires to undertake the first phase of amendments to the text of the Zoning Ordinance for consistency with the goals, policies, and programs set forth in the 6th Cycle Housing Element, including all or portions of Programs 1A, By-Right Approvals for Housing Projects; and

WHEREAS, on February 1, 2023, the Planning Commission conducted a duly noticed public hearing, and, after considering oral and written testimony regarding the proposed amendments to the text of the Zoning Ordinance, adopted Resolution Number 23-003 (PCS), recommending that the City Council amend the text of the Zoning Ordinance to, among other things, implement Program 1A of the Housing Element; and

WHEREAS, on March 21, 2023, the City Council conducted a duly noticed hearing to consider the Planning Commission's recommendation; and

WHEREAS, the City Council desires to extend the interim zoning regulations to allow the City adequate time implement Program 1A of the 6th Cycle Housing Element; and

WHEREAS, there exists an immediate and continuing threat to the public health, safety and welfare due to the State's ongoing and unprecedented housing crisis, which has resulted in the City's anticipated RHNA allocation; and

WHEREAS, extending the streamlined process created by the interim zoning regulations will support the City's urgent need to produce housing and the City's efforts to create a long-term housing strategy through the 6th Cycle Housing Element; and

WHEREAS, adoption of this emergency Interim Zoning Ordinance is necessary to preserve public peace, health, safety and welfare as it will remove barriers to production of housing, particularly one hundred percent affordable housing projects.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA
DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Applicability. The interim regulations set forth in Section 2 shall apply to any project for which a planning entitlement application is received after the effective date of this Ordinance.

SECTION 2. Interim Zoning Regulations. Santa Monica Municipal Code Chapter 9.39 and Section 9.40.020 shall be revised as follows:

Chapter 9.39 Administrative Approval

9.39.010 Purpose

Administrative Approval is intended to allow for the approval of projects which conform to the standards established for the Zoning District and do not require discretionary review or approval by the Director, Planning Commission, or City Council. Administrative Approval provides for an administrative review and assessment of the proposed development project in light of explicit standards contained in the Chapter which have been designed to ensure that the completed project will be in harmony with existing or potential development in the surrounding area, consistent with the goals, objectives and policies of the General Plan.

9.39.020 Applicability

A. Except as provided in subsection (B), an Administrative Approval shall be required prior to issuance of any Building Permit for the development for:

1. Any project of more than 1,000 square feet of floor area for all new construction and new additions to existing buildings located in Residential and

Nonresidential Districts not otherwise subject to Zoning Conformance Review or discretionary review;

2. 100% Affordable Housing Projects; and
3. Any project that:
 - a. Meets the definition of “housing development project” under the Housing Accountability Act, Government Code Section 65589.5, (“Housing Accountability Act”), and that, consistent with the Housing Accountability Act, complies with all applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the project application is deemed complete;
 - b. Does not exceed Tier 2 maximums; and
 - c. Is located on a parcel that does not exceed 43,560 square feet.

B. No Administrative Approval shall be required for:

1. New construction and new additions to existing buildings located in the Multi-Unit Residential Districts, Ocean Park Neighborhood Districts; or
2. For any new single-unit dwellings or additions thereto in any zoning district.

9.39.030 Application

Application for an Administrative Approval shall be filed in a manner consistent with the requirements contained in 9.37.020, Application Forms and Fees.

9.39.040 Procedures

A. For projects eligible for an Administrative Approval under 9.39.020(A)(2) or (3), an applicant shall conduct a community meeting to receive community input on the proposal, which meeting shall be conducted prior to submitting an application and with noticing and reporting on the community meeting as required in guidelines adopted by the Director.

B. Upon receipt in proper form of an Administrative Approval Application, a meeting with the Architectural Review Board shall be set to receive a recommendation on the design of the proposal, which shall be conducted prior to the Director's determination.

9.39.050 Review and Decision

A. The Director shall issue an Administrative Approval if the proposed development conforms precisely to applicable development standards, and does not require discretionary review or approval as outlined in this Chapter.

B. The Director shall deny the Administrative Approval only if the development is not in compliance with the applicable development standards as outlined in this Chapter.

C. The Director shall prepare a written decision which shall contain the findings of fact upon which such decision is based.

D. Within 14 calendar days after the decision is made:

1. A copy of the decision shall be mailed to the applicant at the address shown on the application; and

2. For 100% affordable housing projects, and housing projects subject to Administrative Approval under Subsection 9.39.020(B)(3), a copy of the written decision and project plans shall be posted on the City's website.

9.39.060 Term, Extension, and Revocation

The term of permit, exercise of rights, extension, and revocation for Administrative Approvals shall be in accordance with the applicable provisions of Chapter 9.37, Common Procedures.

Chapter 9.40 Development Review Permit

9.40.020 Applicability

A. Except as provided in subsection (B), a Development Review Permit approved by the Planning Commission shall be required prior to issuance of any building permit for the development for:

1. Any project that exceeds Tier 1 maximum limits;
2. All new construction and new additions to existing buildings of more than 10,000 square feet of floor area located in Residential Districts or more than 7,500 square feet of floor area in Neighborhood Commercial and Oceanfront Districts;
3. All new construction and new additions to existing buildings of more than 15,000 square feet of floor area located in Nonresidential Districts not specified in subsection (A)(2);
4. Notwithstanding subsection (A)(3) above, all new construction of more than 30,000 square feet of floor area of a development project containing no

more than 15% of commercial floor area located in Nonresidential Districts not specified in subsection (A)(2);

5. Notwithstanding subsections (A)(2)—(4) above and until the adopting of a Pico Neighborhood Plan, all new construction and new additions to existing buildings of more than 7,500 square feet of floor area located in the Pico Neighborhood Area.

B. The following types of projects are exempt from Development Permit Review requirements:

1. Single-unit dwellings;
2. 100% Affordable Housing Projects; and
3. Any project that:
 - a. Meets the definition of “housing development project” under the Housing Accountability Act, Government Code Section 65589.5, (“Housing Accountability Act”) and that, consistent with the Housing Accountability Act, complies with all applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the project application is deemed complete;
 - b. Does not exceed Tier 2 maximums; and
 - c. Is located on a parcel that does not exceed 43,560 sf.

SECTION 3. Any provision of the Santa Monica Municipal Code or any appendix thereto inconsistent with the provisions of this Ordinance, to the extent of such

inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

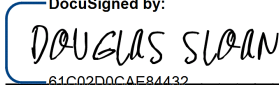
SECTION 4. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. This Ordinance is declared to be an emergency measure necessary for preserving the public peace, health, safety or welfare, adopted pursuant to the provisions of Section 615 of the Santa Monica City Charter. As set forth in the findings above and in the March 10, 2020, August 25, 2020, January 25, 2022, April 12, 2022 and March 21, 2023, staff reports, this Ordinance is necessary for preserving the public peace, health, safety, and welfare. As an emergency measure, this Ordinance will be effective immediately upon adoption.

SECTION 6. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective immediately upon adoption.

SECTION 7. This Ordinance shall be of no further force or as of June 30, 2023, unless it is otherwise extended pursuant to Santa Monica Municipal Code Section 9.46.090(C).

APPROVED AS TO FORM:

DocuSigned by:

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DOUGLAS SLOAN
City Attorney

Approved and adopted this 21st day of March, 2023.

DocuSigned by:

Gleam Davis

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Gleam Davis, Mayor

State of California)
County of Los Angeles) ss.
City of Santa Monica)

I, Denise Anderson-Warren, City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2740 (CCS) had its introduction and adoption at the Santa Monica City Council meeting held on March 21, 2023, by the following vote:

AYES: Councilmembers Brock, de la Torre, Parra, Torosis, Zwick
 Mayor Pro Tem Negrete, Mayor Davis

NOES: None

ABSENT: None

ATTEST:

DocuSigned by:

Denise Anderson-Warren

E2F85B056A714C3

Denise Anderson-Warren, City Clerk

4/24/2023

Date

A summary of Ordinance No. 2740 (CCS) was duly published pursuant to California Government Code Section 40806.