

Transportation Demand Management (TDM) Program Update Draft TDM Ordinance for Public Comment - June 2022

ORDINANCE NO. _____

An ordinance amending Section 12.26 of the Los Angeles Municipal Code to update Transportation Demand Management and Trip Reduction Measures.

THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS:

Section 1. Subsection J of Section 12.26 of the Los Angeles Municipal Code is amended to replace the Transportation Demand Management and Trip Reduction Measures Ordinance in its entirety to read as follows:

J. Transportation Demand Management Program.

1. Intent. To ensure that new development is designed and operated to support sustainable transportation choices for residents, employees, and visitors. A Transportation Demand Management (TDM) Program includes incentives, services, policies, and physical improvements aimed at reducing drive-alone trips and Vehicle Miles Traveled (VMT), encouraging sustainable mode share, including public transit, bicycling, walking, carpooling/vanpooling, and strategies to reduce the need for trips altogether, such as telecommuting for work trips or land use strategies that increase access to destinations. The provisions contained herein are consistent with City policy documents including the Mobility Plan 2035, the Plan for a Healthy Los Angeles, and LA's Green New Deal (Sustainable City pLAn 2019), and state legislation including Senate Bill (SB) 743, the Sustainable Communities and Climate Protection Act of 2008 (SB 375), the California Global Warming Solutions Act of 2006 (AB 32), the California Complete Streets Act of 2008, and South Coast Air Quality Management District (South Coast AQMD) Rule 2202. Implementation of the ordinance achieves the following purposes:

- (a) Reduce dependence on drive-alone trips and increase sustainable mode share to comply with the directives of SB 743, which include the development of a multimodal transportation system and a diversity of land uses, and applicable requirements under South Coast AQMD Rule 2202.
- (b) In compliance with SB 743, mitigate the transportation impacts resulting from new development by providing sustainable, accessible, and affordable transportation options that support the journeys of people of all income levels and modal choices.

- (c) Support the strong link between land use and transportation through promotion of infill development and mixed land uses that bring common destinations closer to people and make efficient use of infrastructure.
- (d) Improve air quality, climate change, and public health outcomes through encouragement of sustainable mobility options and reduction of Vehicle Miles Traveled (VMT) and the associated greenhouse gas emissions generated by driving.
- (e) Advance equity, particularly in disadvantaged communities whose transportation access has been historically underserved, through the provision of safe, affordable, and accessible travel options that: connect people to jobs, services, and opportunities; improve health outcomes; and increase the resilience of environmentally impacted communities.
- (f) Improve street safety and reduce transportation-related collision risks through the provision of bicycle, pedestrian, and transit infrastructure and services. Support the goal of Vision Zero to eliminate traffic fatalities and severe injuries, particularly in areas of the City with the highest incidences, which disproportionately includes disadvantaged communities.
- (g) Implement a balanced transportation network by embracing Complete Streets principles of safety, comfort, and convenience for all users of the public right-of-way.

- 2. Definitions.** For the purpose of this Section, the following words and phrases shall have the meanings specified below. Other terms used in this Section shall have the meanings set forth in Section 12.03 of this Code if defined there.

Affordable Dwelling Unit. A dwelling unit which is restricted by a covenant certified by the City of Los Angeles Housing and Community Investment Department or its successor agency to be rented or sold at an affordable level to, and occupied by, persons or families whose annual income does not exceed 120 percent of the Area Median Income for persons or families residing in Los Angeles County. The Area Median Income and affordable housing costs shall be established from periodic publications of the United States Department of Housing and Urban Development, as determined by the California Department of Housing and Community Development or its successor or assignee.

LADBS. City of Los Angeles Department of Building and Safety.

LADOT. City of Los Angeles Department of Transportation.

Medical Use. An inpatient or outpatient healthcare use that provides direct medical, dental, or therapeutic services to patients. Includes, but is not limited to, hospital, medical clinic, dental, therapy, doctor, and optometry office or clinic.

Project. The construction of, addition to, or alteration of, any building or structure that requires a building permit and that results in an increase in floor area. Off-site parking areas which serve a Project shall be considered a part of the Project. Does not include any work on, change of use in, or adaptive reuse of an existing building or structure which does not result in an increase in floor area.

Retail and Customer-Facing Use. A commercial use involved in the sale or dispensing of any material good to the public, including the sale of new or used products, or the provision of consumer or rental services, or personal services. Includes, but is not limited to, general retail, food and beverage sales, eating and drinking establishments, financial services, instructional services, and personal services.

Transportation Demand Management Program, or TDM Program. The City of Los Angeles' TDM Program is the set of regulations, requirements, processes, and implementation strategies set forth in this ordinance and the TDM Program Guidelines.

Transportation Demand Management Calculator, or TDM Calculator. A City of Los Angeles tool that intakes project information to display the Project Level and Point Target and allows a Project applicant to select TDM Strategies to meet the Point Target, to facilitate compliance with the TDM Program.

Transportation Demand Management Plan Compliance Documentation, or TDM Plan Compliance Documentation. Documentation provided by the property owner of a Project to LADOT demonstrating continued compliance with the Project's approved TDM Plan, including maintenance of all TDM Strategies.

Transportation Demand Management Monitoring Data Collection Plan, or TDM Monitoring Data Collection Plan. The TDM Monitoring Data Collection Plan is an agreement between LADOT and the project developer that specifies the required components of a TDM Monitoring Report including the performance metrics, data collection instruments, specific data collection technologies, and optimal data collection formats, as well as the monitoring data reporting frequency.

Transportation Demand Management Monitoring Report, or TDM Monitoring Report. Annual monitoring data as defined by the Project's TDM Monitoring Data Collection Plan.

Transportation Demand Management Plan, or TDM Plan. A Project's documentation, including a site plan and/or other documentation, that describes the TDM Strategies the Project will implement in order to comply with the TDM Program as approved by LADOT and any other coordinating agencies.

Transportation Demand Management Program Guidelines, or TDM Program Guidelines. A companion document to this ordinance, developed, maintained and updated by LADOT, that contains details of the TDM Program goals and benefits, processes, Point Targets, TDM Strategies, evaluation and reporting, and technical justifications.

Transportation Demand Management Strategy, or TDM Strategy. A programmatic action and/or physical feature that aims to reduce drive-alone trips and/or VMT, and/or encourages sustainable mobility options in a way that meets the intent of this Ordinance. TDM Strategies are listed and assigned a point value in the TDM Program Guidelines.

User-Defined TDM Strategy. A TDM Strategy that is not currently listed in the TDM Program Guidelines and is proposed by an applicant for inclusion in a Project's TDM Plan. A proposed User-Defined TDM Strategy shall aim to reduce drive-alone trips and/or VMT, and/or encourage sustainable mobility options in a way that meets the intent of this Ordinance. A User-Defined TDM Strategy shall be approved through the process outlined in this Section.

3. Applicability.

- (a) Except as provided in Subsection 3(c), the TDM Program requirements shall apply to any Project for which the net new floor area results in an increase of at least:
- 25 housing units, or 50 housing units if all units in the Project (exclusive of manager's units) are affordable dwelling units, or
 - 25,000 square feet of floor area of employment and office uses, or
 - 50,000 square feet of floor area of Retail and Customer-Facing Uses, or
 - 50,000 square feet of floor area of Medical Uses, or
 - 25,000 square feet of floor area of warehouse and industrial uses, or
 - 25 guest rooms, or suites of rooms, in a hotel or motel, or
 - 250,000 square feet of floor area in an arena, stadium, or multiplex theater that does not have fixed seats, or
 - 10,000 seats in an arena, stadium, or multiplex theater, or
 - 250 students in any school, college, or university.
- (b) When determining whether a Project is subject to the TDM Program, the Project shall be considered in its entirety. A Project shall not seek multiple applications for

entitlements or building permits to evade the applicability of the TDM Program. Off-site parking areas which serve a Project shall be considered a part of the Project.

(c) Exemptions. The following Projects are exempt from Subsection 3(a) and the requirements of this Ordinance:

(1) Projects consisting only of the uses listed in Table 12.26 J.3.(c)(1).

TABLE 12.26 J.3.(c)(1): EXEMPT USES	
HOUSING	Alzheimers and Dementia Care Housing Assisted Living Community Care Facility Homeless Shelter Hospice Mobilehome Park Senior Living, including: Medical Care, Non-Medical Skilled Nursing Home
SPECIAL USES	Cemetery Certified Farmers' Market Day Care Facility Indoor Recreation, Commercial, such as Fitness Centers Kennel Nature Reserve Open Space, Public Outdoor Recreation, Commercial, including Golf Course Penal Institution Public Safety Facility Recreation, Public Religious Assembly Veterinary Care
AGRICULTURE, HEAVY COMMERCIAL, AND INDUSTRIAL	Animal Keeping Fleet Services Motor Vehicle Services, including: General, Car Wash, Commercial Vehicles, Fueling Station Plant Cultivation Recycling Facility Resource Extraction Salvage Yard Self-Service Storage Facility Solid Waste Facility Storage, Outdoor, including: Cargo Container, Official Motor Vehicle Impound, Standard Vehicle, Commercial Vehicle Utilities, including: Major, Minor, and Wireless Telecommunication

(2) Projects that meet the application or permitting milestones in Subsection 10 regarding phase-in of the Ordinance.

4. Relationship to other Zoning Regulations. Wherever the provisions of the Transportation Demand Management Ordinance conflict with any provisions of Supplemental Use Districts, specific plans, overlays or the base zone, the Transportation Demand Management Ordinance provisions shall prevail, unless exempt from new zoning regulations by a vested application or approval or explicitly specified in this ordinance.

(a) **Exception for Certain Specific Plans.** The TDM provisions of the Loyola Marymount University Specific Plan and the Warner Center Specific Plan shall prevail and not be superseded by this Ordinance, unless or until the Specific Plan is amended to defer to this Ordinance.

5. Standards.

(a) **General Requirements.** The City shall not issue a Building Permit or a Certificate of Occupancy for a Project that is not in compliance with the requirements of this Section.

(b) **Project Scale and Levels.** Requirements are scaled to the size and scope of a Project and have corresponding requirements as defined in Subsection 5(c). There are three Project Levels as defined in Table 12.26 J.5.(b). The Level applied to a Project is based on the new floor area, or the number of residential units, guest rooms, seats, or students added within the net new floor area. A Project that consists of multiple uses that result in different Project Levels shall be classified in the highest applicable Project Level.

TABLE 12.26 J.5.(b): PROJECT LEVEL THRESHOLDS			
	Level 1	Level 2	Level 3
	New, within the net new floor area:		
<i>Housing</i>	25-49 housing units	50-249 housing units (except as noted in affordable housing section)	250 housing units or more (except as noted in affordable housing section)
<i>Affordable Housing</i>	50 or more housing units, in which all units in the Project (exclusive of managers' units) are affordable dwelling units	N/A	N/A
<i>Employment / Office</i>	25,000-49,999 sf of floor area	50,000-99,999 sf of floor area	100,000 sf or more of floor area
<i>Retail / Customer-Facing</i>	50,000-99,999 sf of floor area	100,000-249,999 sf of floor area	250,000 sf or more of floor area
<i>Medical Use / Hospital</i>	50,000-99,999 sf of floor area	100,000-249,999 sf of floor area	250,000 sf or more of floor area
<i>Warehouse / Industrial Space</i>	25,000-99,999 sf of floor area	100,000-249,999 sf of floor area	250,000 sf of floor area
<i>Hotel / Motel</i>	25-99 guest rooms, or suites of rooms	100-249 guest rooms, or suites of rooms	250 or more guest rooms, or suites of rooms
<i>Arena / Stadium / Multiplex Theater</i>	N/A	250,000-499,999 sf of total floor area (no fixed seats), or with 10,000 to 19,999 seats	500,000 sf or more of total floor area (no fixed seats), or 20,000 or more seats
<i>School, Trade School, College, or University (that requires building permits from the City of Los Angeles)</i>	250 or more students	N/A	N/A

(c) **Project Requirements.** The Project shall be assigned a Point Target based on the applicable Project Level and amount of parking proposed for a Project. Table 12.26 J.5.(c) shows the Point Target range by Project Level. The TDM Program Guidelines describe the Point Target calculation and a menu of qualified TDM Strategies with corresponding point values.

Throughout the lifetime of the Project, the Project will select and implement enough TDM Strategies from the TDM Program Guidelines to meet or exceed its assigned Point Target. The lifetime of the Project shall mean until such time as the Project is

demolished, or such time as the project undergoes a change of use to a use and project size that is not subject to this Ordinance under Subsection 3(a) or to a use that is exempt under Subsection 3(c)(1), or such time as the Project is added to or replaced with a new Project that is subject to the TDM Ordinance. Compliance with the TDM Ordinance shall entail the following:

- (1) The applicant shall submit a TDM Plan to LADOT for approval. The point value of the TDM Strategies selected for the TDM Plan shall add up to a minimum of the Project's required Point Target. No building permit shall be issued to a Project without an approved TDM Plan.
- (2) LADOT shall review and approve or disapprove a TDM Plan within 30 days after the date of submission of a TDM Plan, or within 90 days if the TDM Plan includes any TDM strategies that need to be pre-approved by LADOT, Metro, or other authorizing agency as defined in the TDM Program Guidelines. Any submission by the Applicant of a revised TDM Plan will initiate a new period for LADOT review.
- (3) The Project applicant shall execute and record a Covenant and Agreement that runs with the land, that an approved TDM Plan and the TDM Strategies contained therein will be maintained throughout the lifetime of the Project. A Project may apply to modify its TDM Plan pursuant to Subsection 5(d). No Certificate of Occupancy shall be issued to a Project without an approved TDM Plan and recorded Covenant and Agreement.
- (4) The owner of a property that has a TDM Plan pursuant to this Section shall be responsible for implementing the TDM Strategies in the Project's approved TDM Plan throughout the lifetime of the Project. The Property Owner shall designate and maintain a TDM Coordinator who shall coordinate with the City on the Project's compliance with the approved TDM Plan. Membership to a Transportation Management Organization (TMO) may be used in place of a designated TDM coordinator.
- (5) The owner of a property that has a TDM Plan pursuant to this Section shall submit annually to LADOT a TDM Plan Compliance Documentation that includes:
 - (a) Documentation showing maintenance of the TDM Strategies in the Project's approved TDM Plan.

The TDM Plan Compliance Documentation shall be submitted on or before the date of issuance of the Project's Certificate of Occupancy each year, with the first TDM Plan Compliance Documentation required one year after issuance of the Certificate of Occupancy. Upon confirmation by LADOT that the Project has submitted timely and complete TDM Plan Compliance Documentation demonstrating compliance with the TDM Program for five consecutive years, the

annual TDM Plan Compliance Documentation requirement may be waived. Required submission of annual TDM Plan Compliance Documentation may be reinstated by LADOT following any enforcement action related to noncompliance with the TDM Program.

- (6) For Level 3 Projects, the property owner shall submit annually to LADOT a TDM Monitoring Report that includes monitoring data as defined by the Project's TDM Monitoring Data Collection Plan. The specifications of the TDM Monitoring Data Collection Plan shall be defined prior to issuance of a Certificate of Occupancy. Potential components of the TDM Monitoring Data Collection Plan are defined in the TDM Program Guidelines. Upon confirmation by LADOT that the Project has submitted timely and complete TDM Monitoring Reports for five consecutive years, the annual TDM Monitoring Report requirement may be waived. Required submission of annual TDM Plan Compliance Documentation may be reinstated by LADOT following any enforcement action related to noncompliance with the TDM Program.
- (7) Level 3 projects shall install any technology that may be required by the TDM Monitoring Data Collection Plan. The technology shall comply with the LADOT privacy protocols described in Subsection 11, and shall be approved by LADOT to ensure compatibility with their monitoring methods.

TABLE 12.26 J.5.(c): PROJECT REQUIREMENTS			
Project Level	Point Target Range	TDM Plan and Annual TDM Plan Compliance Documentation	TDM Monitoring Report
Level 1 Projects	15-25 Points	Required	Not Required
Level 2 Projects	20-30 Points	Required	Not Required
Level 3 Projects	25-35 Points	Required	Required

- (d) **TDM Plan Modifications.** Any modifications to an approved TDM Plan require submission of a revised TDM Plan for approval by LADOT and payment of any fees required by Section 19.15 of Los Angeles Municipal Code. A TDM Plan shall comply with the TDM Program Guidelines version in effect at the time of submission and include TDM Strategies that achieve the property's Point Target. LADOT review of a TDM Plan Modification application shall follow the time limits set forth in Subsection 5(c)(2).

6. Administration.

- (a) **Content of TDM Program Guidelines and TDM Calculator.** Upon enactment of this Ordinance, LADOT shall establish and maintain the TDM Program Guidelines, the TDM Calculator, and other necessary components of the TDM Program outlined in this Section. The TDM Program Guidelines and the TDM Calculator shall be consistent with the purposes of this Section and each other. The TDM Program Guidelines shall include the following:
- (1) TDM Program goals and benefits;
 - (2) TDM Point Targets by Project Level and parking supply;
 - (3) TDM Strategies and their associated point values;
 - (4) TDM evaluation metrics and reporting requirements; and
 - (5) The technical justification for assigned point values for each TDM strategy.
- (b) **Updates to TDM Program Guidelines and TDM Calculator.** The General Manager of LADOT may update the TDM Program Guidelines and TDM Calculator to:
- (1) provide feasible options to applicants to meet program goals and outcomes; and
 - (2) reflect best practices, emerging technologies, and/or respond to lessons learned from monitoring and evaluation.
- (c) **Effect of Updates on Project Requirements.** Projects shall meet all requirements of the TDM Program Guidelines version in effect at the time when submitting their first TDM Plan, including but not limited to the designated Point Target and available TDM Strategies. If LADOT updates the TDM Program Guidelines subsequent to the date the applicant submitted a TDM Plan, the applicant may elect to have their Project be subject to all requirements of the current version of the TDM Program Guidelines by submitting a TDM Plan Modification for approval.

7. Monitoring and Enforcement.

LADOT shall be responsible for enforcing continual compliance with the requirements of the TDM Program, as outlined below.

- (a) Any property owner failing to comply with the mandatory requirements of the TDM Ordinance shall be subject to an infraction charged by the City Attorney. Section 11.2.03 of this Code shall govern the issuance of administrative citations for administrative and continuing violations as an alternative to other legally available civil and criminal remedies that apply to code violations. Section 11.2.04 (b) of this Code shall govern administrative fines to be paid for violations of the code. In instances where the fines specified below exceed those that can be recovered under Section 11.2.04 (b), the fines in this Section shall prevail. If the issuance of administrative citations fails to result in compliance with the mandatory requirements of the TDM Ordinance, the City Attorney reserves the right to charge any property owner who fails to comply with any of the mandatory requirements of this Code as guilty of a misdemeanor as governed by Section 11.00(m).

- (b) A property owner shall allow City staff access to relevant portions of the property to conduct site visits, inspect physical improvements, collect empirical data, and/or facilitate phone, and/or digital surveys with residents, tenants, employees, and visitors. City staff shall provide advance notice of request for access.
- (c) No building, grading, demolition, foundation, use of land or change of use permit, nor Certificate of Occupancy, shall be issued for any building or site that contains a Project that is not in compliance with the requirements of the TDM Program.
- (d) Failure to submit TDM Plan Compliance Documentation by December 31st following the designated appropriate deadline of one year from the issuance of the Certificate of Occupancy shall result in the issuance of a Notice to Comply. A failure to adequately respond within 30 days of the issuance of the Notice to Comply shall result in a \$250 penalty per day of non-compliance of the requirement to submit a TDM Plan Compliance Documentation.
- (e) Failure to maintain one or more TDM Strategies shall result in the issuance of a Notice to Comply. A failure to adequately respond within 30 days of the issuance of the Notice to Comply shall result in a \$250 penalty per day of non-compliance, and shall escalate for subsequent offenses in accordance with Section 11.2.04 (b) of this Code, for each required strategy that is included in the TDM Plan and that LADOT finds to be out of compliance.
- (f) For Level 3 projects, failure to submit the TDM Monitoring Report by December 31st following the designated appropriate deadline of one year from the issuance of the Certificate of Occupancy shall result in the issuance of a Notice to Comply. A failure to adequately respond within 30 days of the issuance of the Notice to Comply shall result in an initial \$2,500 penalty for a first violation. If the violation continues to not be resolved an additional \$2,500 penalty shall be assessed for each additional 30 days that the Project is in non-compliance of the requirement to submit a TDM Monitoring Report.
- (g) For Level 2 and 3 Projects, if failure to submit reporting requirements results in an on-site visit by City staff to investigate the site's compliance with the TDM Program, a \$2,500 penalty shall be charged to the property owner, in addition to any penalties for non-compliant TDM Strategies.

8. User-Defined TDM Strategy.

- (a) **Alternative Compliance - Director's Authority.** The Director of Planning or the Director's designee, shall have initial decision-making authority to approve a User-Defined TDM Strategy as an alternative to those contained in the menu of TDM

Strategies in the TDM Program Guidelines, with an appeal to the Area Planning Commission in accordance with the procedures set forth in Section 11.5.7 C.4. - 6. of this Code. An applicant may request such approval by submitting an application and paying a filing fee equivalent to that established for a “Miscellaneous Clearance - Director” as set forth in Section 19.04 of this Code and a “Technical Study” fee as set forth in Section 19.15 of this Code. There is no public hearing required for the initial decision on an Alternative Compliance, and therefore no notice of a public hearing is required.

- (1) **Consultation.** The Director or the Director’s designee shall consult with LADOT during consideration of an application for a User-Defined TDM Strategy.
 - (2) **Conditions.** The Director shall impose conditions binding on the applicant to secure substantial compliance with the goals and purposes of this ordinance, including such conditions as necessary to ensure that:
 - (a) The applicant commits in an enforceable agreement that runs with the land to monitor the effectiveness of the User-Defined TDM Strategy to encourage alternatives to drive-alone trips;
 - (b) The applicant shall submit to LADOT all monitoring data, with monitoring metrics and frequency to be determined at the discretion of LADOT; and
 - (c) The applicant commits to a substitute strategy of commensurate effectiveness (a strategy assigned equal or more points) if the User-Defined TDM Strategy is terminated for any reason.
 - (3) **Findings.** The Director’s determination shall include written findings in support of the decision. In order to grant approval of the User-Defined TDM Strategy, the Director must find that:
 - (a) The proposed alternative is consistent with the purpose and intent of the applicable standards in that the User-Defined TDM Strategy is expected to reduce drive-alone trips and/or VMT to or from the project site; and
 - (b) The proposed alternative is equivalent to or exceeds the effectiveness of meeting the intent of the applicable standards in that the amount of drive-alone trips and/or VMT reduced as a result of the strategy is commensurate with other strategies that are assigned to have the same value of points in the TDM Program Guidelines.
- 9. Hardship Exemption.** In cases of extreme hardship, duly established to its satisfaction, the City Council, acting in its legislative capacity, and by resolution, may grant an exemption from any or all the provisions of this ordinance. In granting such an exemption, the City Council shall make the following findings:
- (a) Specific features of the development make it infeasible to satisfy all of the provisions of this Section; and

- (b) The applicant has committed to provide equivalent alternative measures to reduce vehicle trips.

10. Phase In. Projects that have reached certain application or approval milestones by specified dates shall be exempt from the provisions of this Ordinance, as follows:

- (a) Projects for which a land use approval, including, if applicable, an active Development Agreement, was obtained from the City for the activity prior to the effective date of this Ordinance and the land use approval is still valid;
- (b) Projects for which a preliminary application has been submitted to the City pursuant to Government Code Section 65941.1, or for which an application has been deemed complete by the City pursuant to Government Code Section 65943, on or before the effective date of this ordinance;
- (c) Projects for which a Notice of Completion for a Draft Environmental Impact Report has been circulated, on or before the effective date of this ordinance;
- (d) Projects that have vested rights pursuant to LAMC Section 12.26.A.3, on or before the effective date of this ordinance;
- (e) Level 2 and Level 3 Projects that receive a building permit within 180 days after the effective date of this Ordinance;
- (f) Level 1 projects that receive a building permit within 365 days after the effective date of this Ordinance.

11. Privacy Protocols. City staff shall use the most current and restrictive privacy protection policies to protect personal privacy during site visits and in the use of data collected during the monitoring process. The City will apply protection standards to all monitoring data obtained about a Project to protect any personally identifiable data of building occupants and visitors. The City's protection standards include data minimization, access limitations, data categorization, security, and transparency for the public.

12. Severability. If any part or provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remainder of this ordinance, including the application of such part or provisions to other persons or circumstances, shall not be affected by such holding and shall continue in full force and effect, and to this end, the provisions of this ordinance are severable.