

ORDINANCE NO. 2475

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTEBELLO, CALIFORNIA, AMENDING CHAPTER 17.37 “HEAVY TRUCKING USES” AND CHAPTER 17.49 “BROWNFIELD OVERLAY DISTRICT” OF THE MONTEBELLO MUNICIPAL CODE TO CLARIFY, SIMPLIFY AND SPECIFY THE CONDITIONS AND REQUIREMENTS FOR ZONING COMPLIANCE OF HEAVY TRUCKING OPERATORS IN THE CITY OF MONTEBELLO AND IN THE BROWNFIELD OVERLAY DISTRICT AREA SPECIFICALLY

WHEREAS, on September 23, 1989, the City Council of the City of Montebello (“City Council”) approved Code Amendment No. 3-89 (Ordinance No. 2001), amending Title 17 (Zoning) Index of Primary Uses of the Montebello Municipal Code (“MMC”) prohibiting the establishment of new Heavy Trucking Uses, such as truck terminals, truck transfer yards, truck storage yards, and catering truck service yards in the M-1 (Light Manufacturing) and M-2 (Heavy Manufacturing) zoning districts in the City of Montebello (“City”); and

WHEREAS, as a result of Ordinance No. 2001, which became effective on November 22, 1989, all existing Heavy Trucking Uses without a Conditional Use Permit at that time became legal non-conforming uses subject to a 20-year amortization period and subsequent abatement; and

WHEREAS, in 2007, the City Council adopted Ordinance No. 2307 establishing the Brownfield Overlay District to permit, for a period of 15 years in a specific area of the City, those heavy trucking uses in the M-2 zone that were prohibited by the 1989 MMC amendment; and

WHEREAS, according to MMC Section 17.49.012(A), the Brownfield Overlay District was created to allow certain heavy trucking uses such as truck terminals, truck transportation yards and truck storage yards in a specific area that were previously deleted from the zoning code upon the effective date of Ordinance No. 2001 on November 22, 1989; and

WHEREAS, Chapter 17.49 set forth a sunset date of November 23, 2019, for heavy trucking uses in the Brownfield Overlay District area requiring abatement of such uses at that time unless a zoning ordinance was adopted which would allow heavy trucking uses to continue or remain beyond the sunset date, resulting in the sunset

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provision to be automatically repealed and the uses in the Brownfield Overlay District to remain; and

WHEREAS, on June 22, 2011, the City Council adopted Ordinance No. 2342, Code Amendment 1-11, and found that it was consistent with the regulations of the MMC, was consistent with the goals and objectives of the General Plan to be responsive to the needs of the community and promote the health, safety, and welfare of its residents, guests and visitors to the City of Montebello, and provided effective requirements and standards for the establishment and operation of new Heavy Trucking Uses and for the continued operation of the existing ones; and

WHEREAS, Ordinance No. 2342 allowed the establishment and operation of Heavy Trucking Uses by right in the M-2 zone throughout the entire City and therefore triggered the automatic repeal of the sunset provision in the Brownfield Overlay District; and

WHEREAS, on August 15, 2023, the City of Montebello received an award for technical assistance from the Environmental Protection Agency for an Environmental Site Assessment for the former Chapin Landfill/Brownfield Area to study and evaluate any potential impacts on the environment and propose mitigation measures to reduce or eliminate any potential impacts; and

WHEREAS, the Planning and Community Development Department held a community outreach meeting with the Environmental Protection Agency and property or business owners in the Brownfield Overlay District area on January 18, 2024, to understand the next steps associated with the environmental analysis of the area; and

WHEREAS, an extended zoning layer, such as the Brownfield Overlay District, is typically created to permit, enhance or restrict certain activities and uses within specific areas in the City beyond that of the underlying zone tailored to the characteristics, whether environmental, economic, or social, of that area; and

WHEREAS, the City Council of the City of Montebello (“City Council”) provided direction to the City Attorney’s office to draft an ordinance in collaboration with the Department of Planning and Community Development and the property owners in the Brownfield Overlay District area to clarify, simplify, and specify conditions and requirements for the Brownfield Overlay District and heavy trucking uses within the City; and

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WHEREAS, on March 5, 2024, the Planning Commission of the City of Montebello held a public hearing in accordance with Government Code section 65854 relating to a zoning ordinance to clarify, simplify and specify conditions and requirements for the Brownfield Overlay District and heavy trucking uses within the City; and

WHEREAS, after a public hearing at its meeting on March 5, 2024, the Planning Commission of the City of Montebello adopted a Resolution recommending the adoption of this Ordinance to the City Council; and

WHEREAS, at its meeting on March 13, 2024, the City Council held a public hearing in compliance with Government Code section 65856 to receive public comment relating to the zoning ordinance presented; and

WHEREAS, pursuant to Government Code section 65857, the City Council may approve, modify, or disapprove of the recommendation of the Planning Commission, provided that any modification to the ordinance not previously considered by the Planning Commission during its hearing shall first be referred to the Planning Commission for report and recommendation; and

WHEREAS, the City Council desires to amend Chapters 17.37 “Heavy Trucking Uses” and 17.39 “Brownfield Overlay District” of the Montebello Municipal Code as set forth in this Ordinance; and

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTEBELLO HEREBY ORDAINS AS FOLLOWS:

SECTION 1. RECITALS. The above recitals are true and correct and made part of this Ordinance.

SECTION 2. AMENDMENT. Chapter 17.37 – Heavy Trucking Uses – is hereby amended to read as follows under the Montebello Municipal Code (deletions in ~~strike through~~ and additions in double underline):

Chapter 17.37 HEAVY TRUCKING USES

17.37.010 Purpose.

The purpose of these regulations is to permit the establishment and operation of new heavy trucking uses subject to applicable operational standards and to provide mandatory improvements and operating standards for the existing heavy trucking uses ~~subject to abatement as of November 22, 2009, with an abatement exemption contingent upon~~

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~~compliance with~~ to adequately regulate these uses and ensure that their operations are consistent and compatible with the areas in which they are established.

17.37.020 Definitions.

Refer to Chapter 17.08 of this code.

17.37.030 New heavy trucking uses.

- A. Site Improvements and Operating Standards. All new heavy trucking uses, as defined in Chapter 17.08 of this code, that are established after the effective date of this chapter shall comply with all applicable requirements of this code and the zoning district in which the use is located in addition to the distance requirement of Section 17.37.030.B.
- B. Distance Requirements.
1. Five Hundred Feet Separation Required. A new heavy trucking use, as defined in Chapter 17.08 of this code, shall not be established on any parcel or lot located within five hundred feet of any residential zone or other sensitive land use. A sensitive land use shall include (i) a public or private kindergarten, elementary, middle, junior high or high school; (ii) a licensed child-care facility or preschool other than a small or large family day care facility; (iii) playground; (iv) youth center; (v) recreational facility; (vi) park; or (vii) library.
 2. How to Measure Operation. The distance between any parcel or lot used for heavy trucking uses and the residential zone or sensitive land uses detailed above shall be measured in a straight line, without regard to intervening structures, from the closest property line of the parcel or lot used for heavy trucking uses to the closest property line of the residentially zoned property, or sensitive land use.

17.37.040 Existing heavy trucking uses.

All existing heavy trucking uses at the time this chapter ~~became~~ becomes effective as a result of the adoption of Ordinance No. 2342 on 6-22-2011, and without an effective conditional use permit, shall be considered exempt from the abatement action of Code Amendment No. 3-89 provided that these uses make an application for exemption and complete be in compliance with the conditions and requirements listed in the notice to comply described in this Chapter. Section 17.37.040.B.2 of this section within twenty-four months of the effective date of this chapter ("compliance term"). There shall be no extensions granted to the compliance term. Any existing heavy trucking use in compliance with the conditions and requirements set forth in this Chapter shall no longer be considered a nonconforming use, as regulated by Chapter 17.54 of this code. Failure to

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comply with the requirements of this section by any of the affected parties will result in the enforcement of an abatement order by the city.

A. Site Improvements and Operating Standards. All existing heavy trucking uses, as identified in the paragraph above, shall demonstrate compliance with applicable standards of this code and the zoning district in which the use is located, including but not limited to those regulating lighting and glare, landscaping, screening, noise, vibration, and hazardous substances. Additionally, the following standards shall apply to all applicable uses:

1. A solid decorative wall of at least eight feet in height must be constructed along all property lines abutting, or across an alley from, a residentially zoned property (except that in the required front yard setback of a residential use a three-foot decorative wall shall be constructed and additional non view-obscuring wrought iron may be placed on top of the three-foot wall). A wall shall be considered decorative if it incorporates architectural variation on its surface (i.e. slumpstone, stuccoed, split-face or similar).
2. A landscaped planter of a minimum of ten feet wide shall be required along all property lines abutting a residentially zoned property. The planter shall be fully irrigated and subject to the review and approval of a landscape and irrigation plan by the city's planning division. The landscape plan shall complement the solid eight-foot wall in providing a visual screen and physical separation from the abutting residentially zoned property and shall discourage plant materials susceptible to vermin such as ivy and vines.
3. A photometric plan shall be submitted for review and approval by the city's planning division prior to the issuance of a business license and a certificate of occupancy. The photometric plan shall show lighting levels that do not exceed 0.5 footcandles along any property lines abutting a residentially zoned property.
4. All trash areas and storage of trash/utility bins shall be located a minimum of one hundred feet from any property line shared with a residentially zoned property.
5. Any areas used for the parking of trucks, trailers, or fleet vehicles shall be located a minimum of one hundred feet from any property line shared with a residential zone. Customer or employee parking shall be permitted within the one hundred-foot buffer.

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The director, at his/her discretion, may grant specific deviations from these standards (or the standards of this code and the zoning district in which the use is located) for existing heavy trucking uses satisfying the requirements of this chapter if strict compliance with these conditions and requirements is impeded by existing physical constraints or limitations of the affected sites.

Standards, requirements, allowances and limitations established in this Section shall supersede any conflicting provisions set forth outside of this Chapter.

~~B. Exemption Process.~~

- ~~1. Application. All existing heavy trucking uses at the time of this chapter, without an effective conditional use permit, as described above, which desire to be exempt from the enforcement of the abatement action, may file a "request for exemption" (the "request") with the planning division. The request shall consist of all of the following items:
 - ~~a. An "abatement exemption" application, which must include the names and signatures of both the business operator(s) and the property owner(s); and~~
 - ~~b. A plot plan of the entire subject property site showing all existing and proposed buildings and uses, landscaped areas, parking areas, storage areas, lighting, adjacent uses, and any other data as may be required by the planning division to adequately review the exemption request.~~
 - ~~c. A filing fee in the amount equal to a preliminary plan review, as established in the user fees by resolution of the Montebello City Council.~~~~
- ~~2. Review. Within fifteen working days of the date of filing a complete abatement exemption application by the applicant, planning staff shall review the plot plan, perform the required site inspection, evaluate the findings and issue a "notice to comply" listing all pertinent site improvements and operating requirements to be implemented by the applicant. If site improvements are required, planning staff shall stipulate a specific timeframe to complete the improvements and shall issue a "site improvement completion" form upon satisfactory completion of all the required operations and improvements.~~
- ~~3. Nonconforming Status. Any existing heavy trucking use issued a site improvement completion form as a result of this code amendment shall no longer be considered a nonconforming use, as regulated by Chapter 17.54 of this code, and as such shall not be subject to the abatement period applicable to nonconforming uses.~~

~~C.B.~~ Intensification, Expansion. The intensification, expansion, or substantial alteration of an existing heavy trucking use will not be permitted unless all applicable requirements of this code and the zone in which the use is located are met in addition to the operation standards of Section 17.37.030.A for the

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affected areas of the proposal. The distance requirement in Section 17.37.030 shall not apply to the intensification, expansion, or substantial alteration of a heavy trucking use in existence at the time of the effective date of this chapter that is in compliance with the conditions and requirements set forth in this Chapter for existing heavy trucking uses, and qualified for an exemption from the abatement order resulting from Code Amendment 3-89.

SECTION 3. AMENDMENT. Chapter 17.49 – Brownfield Overlay District – is hereby amended to read as follows under the Montebello Municipal Code (deletions in ~~strike through~~ and additions in double underline):

Chapter 17.49 BROWNFIELD OVERLAY DISTRICT

17.49.010 Brownfield overlay district established and defined.

A. The city of Montebello establishes a Brownfield overlay district in the approximately fifty-five acre Brownfield area that was previously used as a landfill in an effort to allow and cluster certain heavy trucking uses that were deleted from the zoning code on November 22, 1989. In 2011, the adoption of Ordinance No. 2342 reversed the 1989 deletion of heavy trucking uses and set forth conditions and requirements for such uses, however, the Brownfield overlay district remains to provide additional requirements for heavy trucking uses in the specific area. ~~caused by the adoption of Subsequent to the adoption of Ordinance No. 2001 amending the industrial development standards, no new heavy trucking uses were permitted in any zones of the city, and a twenty-year abatement period was established for the previously existing nonconforming uses.~~

B. The Brownfield overlay district shall be located south of the Atchison Topeka and Santa Fe railroad tracks near Maynard Road, west of the Rio Hondo Percolation Basin (Bluff Road), north of Slauson Avenue, and east from the railroad spur just to the west of Chapin Road. The specific boundaries of the Brownfield overlay district are identified on Exhibit "A," which is attached to and is made part of this chapter. An approved Brownfield overlay district will be designated on the official zoning map with a "BF" designation.

17.49.020 Purpose.

The purpose of establishing ~~the~~ the Brownfield overlay district includes the following: ~~is a short-term solution that will:~~

- A. Allow certain heavy trucking uses, as defined in Chapter 17.37, such as truck terminals, truck transportation yards and truck storage yards that were previously deleted from the zoning code, to ~~temporarily~~ exist in the Brownfield area ~~at this time;~~

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- B. Promote the better utilization of land with minimal improvements while more in-depth environmental studies are conducted to determine the extent of the mitigation necessary for the Brownfield area;
- C. Cluster certain heavy trucking uses that would not require substantial development, but only minor physical improvements that would visually improve the Brownfield area; and
- ~~D. Provide time for the city to complete its Phase II Environmental study and address all facets of the potential surface and subsurface problems in the Brownfield area, and to formulate a specific plan for the ultimate establishment of appropriate uses therein.~~

17.49.030 Definitions.

In addition to the definitions contained in Chapter 17.08 of this code, the following words and phrases shall, for the purposes hereof, be designated as follows, unless it is clearly apparent from the context that another meaning is intended:

"Brownfield area" means the real property consisting of approximately fifty-five acres identified on the Exhibit A at the end of this chapter, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

"Truck terminal, draying or freight" means a facility that specializes in the transfer of freight. The terminal is not the point or the final destination of the freight.

"Truck transfer, moving and storage" means a facility that may be similar to a recreational vehicle storage lot, but is intended for the storage of trucks and truck trailers overnight or for longer periods of time.

"Truck transportation yard" means a location where the trucks that are operating at a truck terminal are stored when not in use. May also be the location where trucks are stored (overnight) and then dispatched to their destination(s).

17.49.040 Permitted uses.

- A. All uses and accessory uses of the underlying zone listed in Chapter 17.36 of the zoning code and Appendix A, index of primary uses shall be permitted in the Brownfield overlay district, including the uses below, except as otherwise specified in this chapter:
 - 1. Truck terminals, draying or freight;
 - 2. Truck transportation yards;
 - 3. Truck transfer, moving and storage;
 - 4. Trucking uses described under Chapter 17.37.
- B. The director of planning and ~~community economic~~ development may deem additional uses to be permitted based on a finding that the use is similar in nature and operation to the permitted uses listed in this subsection.

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17.49.050 Prohibited uses.

A. All uses and accessory uses of the underlying zone listed in Chapter 17.36 of the zoning code and Appendix A, index of primary uses, specifically prohibited for the M-2 heavy manufacturing zoning district, shall be prohibited in the Brownfield overlay district except as otherwise specified in this chapter.

B. The director of planning and community economic development may deem additional uses to be prohibited based on a finding that the use is similar in nature, and operation to the prohibited uses listed in subsection A of this section.

17.49.060 Property development standards.

In addition to the requirements of the underlying zone and the requirements for heavy trucking uses set forth in Chapter 13.37, the following requirements shall apply to all new and existing uses allowed in the Brownfield overlay district:

A. General Requirements.

1. Except as otherwise set forth in this chapter, the development characteristics such as lot area, coverage, yards/setbacks, building heights, landscaping and parking shall be the standards of the underlying zoning designation (M-2, heavy manufacturing).
2. All signage, including banners, shall be in conformance with Chapter 17.62 of the Montebello Municipal Code.
3. All uses shall comply with the provisions of Chapter 17.32 of this code, except as specifically stated otherwise in this chapter.
4. All modifications to structures and uses proposed within shall comply with all applicable building, stormwater and fire codes and city ordinances.
5. All properties shall be maintained in a neat and orderly condition and operated in a manner so as not to be detrimental to adjacent properties and occupants.

B. Special Requirements.

1. All properties shall be screened from view from the public right-of-way to the satisfaction of the director of planning and community economic development.
2. Truck loading doors and facilities shall not front directly on a public street unless said truck loading doors and facilities are completely screened from public view by decorative masonry walls or appropriate landscape screening.
3. Truck loading doors and facilities shall be designed and located in a manner that prohibits trucks from backing in from or onto the public right-of-way.

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4. No damaged or wrecked trucks or other vehicles shall be stored for purposes other than repair. Any truck or other vehicles awaiting repair for more than thirty days shall be removed from the location or stored in an enclosed area.
5. Building facades, including accessory structures such as block walls, shall be painted and repaired where needed by the business and/or property owner.
6. A view-obscuring wall may be substituted with a maximum of eight-foot high chain link fence with metal or vinyl slats.
7. There shall be no outdoor display or storage of truck parts and supply goods for sale.
8. No inoperable vehicles, intermodal containers, parts or equipment shall be stored within the public right-of-way. Failure to comply will result in the mandatory immediate removal from the public right-of-way at the expense of the business owner and/or property owner responsible for the violation.
9. All outdoor utilities or machinery located outside the exterior walls, including roof-mounted equipment, shall be completely screened from public view, subject to the review and approval of the planning division.
10. Stacking of intermodal shipping containers on private property zoned for industrial use within the Brownfield Overlay District shall be permitted up to four (4) containers high or a maximum of 40 feet and is not subject to screening. Stacking must have a five (5) foot setback from the property line on any side that abuts the public right-of-way.

Standards, requirements, allowances and limitations established in this Section shall supersede any conflicting provisions set forth outside of this Chapter.

The director, at his/her discretion, may grant specific deviations from these standards (or the standards of this code and the zoning district in which the use is located) for existing heavy trucking uses satisfying the requirements of this chapter if strict compliance with these conditions and requirements is impeded by existing physical constraints or limitations of the affected sites.

~~17.49.070 Sunset date.~~

- A. ~~The Brownfield overlay district is established on an interim basis only. The provisions of this chapter establishing the Brownfield overlay district and permitting the uses specified in Section 17.49.040 to exist in the Brownfield area shall only be in effect~~

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~~through November 22, 2019, (the "Sunset Date") and shall automatically be repealed as of that date unless one of the following occurs before the sunset date:-~~

- ~~1. An ordinance enacted after the effective date of the ordinance codified in this chapter extends or repeals sunset date; or~~
 - ~~2. The city council of the city of Montebello adopts a specific plan or other zoning ordinance, which allows the heavy trucking uses permitted by this chapter to continue or remain beyond the sunset date.-~~
- ~~B. If neither subsection (A)(1) nor (A)(2) of this section occurs prior to the sunset date, all truck transfer, moving and storage, truck terminal, draying or freight and truck transportation yard uses in the Brownfield overlay district (and any such similar uses as may have been established pursuant to the provisions of this chapter) shall become nonconforming uses, subject to the abatement/amortization period set forth in the following Section 17.49.080.-~~

17.49.080 Abatement/amortization period.

~~Except as specifically set forth otherwise in this section, the provisions of Chapter 17.54 of this code governing nonconforming uses shall apply to all truck transfer, moving and storage; truck terminal, draying or freight and truck transportation yard uses in the Brownfield overlay district (and any such similar uses as may have been established pursuant to the provisions of this chapter) as of the sunset date.-~~

- ~~A. All truck transfer, moving and storage; truck terminal, draying or freight and truck transportation yard uses in the Brownfield overlay district (and such similar uses as may have been established pursuant to the provisions of this chapter) which have become nonconforming as of the sunset date (November 22, 2019), shall be permitted to continue such uses for a period not to exceed three years following the sunset date.-~~
- ~~B. Following the sunset date, the director of planning and economic development shall cause official notification to be sent via certified mail to the legal property owner of record as it appears in the county tax roll, stating the nonconforming status of such truck transfer, moving and storage; truck terminal, draying or freight; truck transportation yard or such similar business use on the property, as well as the start date of the abatement/amortization period. If the operator of such truck transfer, moving and storage; truck terminal, draying or freight; truck transportation yard or such similar business use is different from that of the legal property owner, additional notification shall be sent to the business operator by certified mail. Failure to issue such a notice shall not prejudice the city's rights to subsequently issue a written order of abatement pursuant to Chapter 17.54 of this code or to subsequently require compliance with the then-applicable laws of the city.-~~
- ~~C. On November 22, 2022, the conclusion of the three year abatement/amortization period set forth in this section, all nonconforming truck transfer, moving and storage; truck terminal, draying or freight and truck transportation yard uses in the Brownfield overlay district (and any such similar uses as may have been~~

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~~established therein pursuant to the provisions of this chapter) shall cease operation.~~

SECTION 4. CEQA COMPLIANCE. This is considered a “Project” and is categorically exempt under California Environmental Quality Act (CEQA) pursuant to (1) Section 15301 - Class 1, Section 15301 – Existing Facilities and (2) CEQA Guidelines Section 15061(b)(3) – Common Sense Exemption where it can be seen with certainty there is no possibility that the activity in question may have a significant effect on the environment because the proposed action seeks to amend the Montebello Municipal Code to address the inconsistency in the Montebello Municipal Code between the permitted uses within the Brownfield Overlay District and the M-2 Zone and to allow the continuation of the status quo to allow heavy trucking uses, truck transfer, moving and storage, truck terminal, draying or freight, and truck transportation yard uses that have been allowed in the Brownfield Overlay District and M-2 Zone. None of the exceptions to the categorical exemptions found under CEQA Guidelines Section 15300.2 apply.

SECTION 5. CONSISTENT WITH GENERAL PLAN. The City Council finds that the amendments being made to the Brownfield Overlay District conditions, standards and requirements as well as the amendments being made to the conditions, standards and requirements of heavy trucking uses within the M-2 zones of the City are consistent with the objectives and policies of the General Plan in that the General Plan seeks to propose and implement practices which are responsive to the needs of the community. The proposed amendments will provide clarification and simplification of required standards and conditions to be in compliance with City regulations for the heavy trucking companies and properties located within the Brownfield Overlay District and throughout the City that are vital to the economy of the City. These amendments will also facilitate further environmental review of the Brownfield Overlay District area, a place that was once a landfill, and will encourage cooperation with business and property owners together with the City should any mitigation requirements be found after such study. There will be no change in zones or zoning boundaries, all permitted uses in the Brownfield Overlay District and M-2 zones related to heavy trucking are suitable and consistent with the areas within the City. Additionally, the proposed amendments are not likely to cause any serious public health or welfare problems and will not conflict with any other uses within the City.

SECTION 6. SEVERABILITY. If any action, subsection, line, sentence, clause, phrase, or word of this Ordinance is for any reason held to be invalid or unconstitutional, either facially or as applied, by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, and each and every individual section, subsection, line, sentence, clause, phrase, or word without regard to any such decision.

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SECTION 7. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days after approval by the City Council.

SECTION 8. PUBLICATION. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published or posted according to law.

PASSED, APPROVED, AND ADOPTED 27TH DAY OF MARCH 2024.

Scarlet Peralta, Mayor

ATTEST:

Christopher Jimenez, City Clerk

APPROVED AS TO FORM:

Arnold M. Alvarez-Glasman, City Attorney

I HEREBY CERTIFY that the foregoing Ordinance was introduced at the regular meeting of the City Council on the 13th day of March 2024, and was adopted by the City Council of the City of Montebello at its meeting held on the 27th day of March, 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Christopher Jimenez, City Clerk