

## X.12 TOD-EXCEPTION (TOD-EX) DISTRICT

### X.12.1 Purpose

The TOD-Exception (TOD-EX) District is established to provide a mechanism to review and address new development concepts, innovative designs, special problems, and other unique proposals or circumstances that cannot be accommodated by the standards of the TOD Districts. It also serves as a mechanism for altering or modifying the minimum standards as they relate to a specific development.

### X.12.2 Modification of TOD District Regulations

- A.** A TOD-EX District must be based upon one of the established TOD Districts: TOD-H1, TOD-H2, TOD-M1, or TOD-M2. An “EX” will be appended to these districts to indicate that such TOD District is a TOD-EX District (i.e., TOD-H1-EX, TOD-H2-EX, TOD-M1-EX, or TOD-M2-EX).
- B.** The standards, with the exception of those listed in this section, of the TOD District may be modified but cannot be waived in their entirety. Modifications specifically exclude the following:
1. Uses.
  2. Maximum height regulations and bonus provisions.
  3. Sign types not allowed within the district.
  4. Parking lot locations within a TOD-H1 or TOD-H2 District.

### X.12.3 Review Standards

- A.** When considering modifications to the base TOD District standards used in conjunction with the TOD-EX District, the proposed modifications will be evaluated against the following standards.
1. Impacts of the modifications on existing and future development in the area.
  2. The public purpose to be served by permitting the requested modifications.

3. The modification is the minimum necessary.
4. The quality of the design of the structures and the site, including innovative development techniques.
5. Consistency with any applicable adopted City Council policies for the area,
6. Compatibility with surrounding development or protects unique existing elements.
7. No negative impact on public health, safety, and welfare.

### X.12.4 Approval Standards and Required Public Benefits

- A. Approval Standards.** TOD-EX Districts must meet of the following approval standards:
1. The TOD-EX District is a creative approach to the use of land that results in more efficient development than might otherwise be accomplished under the strict application of this Ordinance.
  2. The TOD-EX District promotes a strategy for long-term planning that allows for harmonious and compatible development with surrounding areas into the future.
  3. The development and the combination of uses within the TOD-EX District is consistent with the goals and objectives of an adopted area plan and/or other plans adopted by the City, if applicable.
  4. The TOD-EX District encourages the redevelopment, restoration, and adaptive reuse of existing structures (if applicable)
  5. TOD-EX District allows for new forms of architecturally and/or environmentally innovative design.

**B. Required Public Benefits.** A TOD-EX District is required to provide public benefits. Public benefits must include one or more actions from at least two of the following categories: 1) sustainability; 2) public amenity; and 3) city improvement. Where a TOD District utilizes a bonus system, actions cannot apply to both the bonus action and a TOD-EX public benefit.

**1. Sustainability.** The following qualify as a sustainability action. Such actions must exceed the minimum Ordinance requirements, if applicable.

- a.** Use of sustainable design and architecture that meets established standards, such as Leadership in Energy and Environmental Design (LEED), Energy Star, Earthcraft, etc.
- b.** Adaptive reuse of existing buildings.
- c.** Preservation of on-site environmental features.
- d.** Additional actions that further sustainability of the development not listed above may be allowed during the review and approval of the TOD-EX District application process.

**2. Public Benefit.** The following qualify as a public amenity. Such actions must exceed the minimum Ordinance requirements, if applicable.

- a.** Creation of publicly accessible open space, including parks and playgrounds, dog parks, public plazas and festival spaces, and similar outdoor recreational features.
- b.** Incorporation of an affordable housing set-aside.
- c.** Additional public amenities not listed above may be allowed during the review and approval of the TOD-EX District application process.

### 3. City Improvements

- a.** Public improvements above those required by the Ordinance, following consultation with Staff and other applicable public entities, such as County or State authorities.
- b.** These improvements include, but are not limited to, new construction or improvements to existing roadways, alleys, medians, pedestrian pathways, bike paths, pedestrian drop-off areas, transit stops, bus pull outs, and/or other actions on the proposed development site that will promote the objectives of Transit Oriented development.

### X.12.5 TOD-EX Approval Process

- A.** The establishment of the TOD-EX must be in accordance with the procedures of Chapter 6, Part 2: Conditional Zoning Districts of this Ordinance.
- B.** Changes to approved plans and conditions of development will be treated the same as changes to the Zoning Map, and must be processed in accordance with the procedures of Section 12.1010 or Section 12.1012.