



Date: May 8, 2024

To: Thomas B. Modica, City Manager 

From: Christopher Koontz, Director of Community Development 

For: Mayor and Members of the City Council

Subject: **Update on Inclusionary Housing Policy**

On [February 2, 2021](#), the City Council adopted an Inclusionary Housing Policy (Policy) after an extensive, multi-year process that included working with a consultant to complete an economic analysis, a series of community outreach events, stakeholder focus groups with tenant advocates and market-rate developers, and a Planning Commission study session (Attachment A). As part of that action Community Development staff were directed to monitor the program annually and at the completion of year three evaluate expansion or changes to the program. On [February 15, 2022](#), the City Council adopted several modifications to refine the Policy, such as extending the affordability covenants (Attachment B). On [May 7, 2024](#), the Mayor and City Council directed City staff to initiate rather than simply report on a citywide expansion of the program. Part of the motion and discussion on May 7, 2024, was to consider workforce housing at the low and moderate level in the future inclusionary expansion. This work is underway and the City Council will be verbally updated on May 14, 2024. The purpose of this memo is to more broadly outline the current Policy as well as the next phase of the Policy as established in the Housing Element.

The Inclusionary Housing Policy Today

Inclusionary Housing is designed to facilitate the production of mixed-income housing by requiring developers to include affordable housing units in new market-rate residential developments. The Policy was implemented over a three-year phase-in period and currently requires eleven percent of rental units in new housing development projects to be affordable to very low-income households and ten percent of ownership units to be affordable to moderate-income households. The Policy applies to new residential developments with ten or more units in the Downtown and Midtown areas in the City of Long Beach (City). This limited geographic boundary was established for the first phase of the Policy based on the economic analysis conducted in 2019 as part of the initial policy development. The economic analysis found that, at that time, very few residential units had been built in the areas of Long Beach outside of Downtown and Midtown. Therefore, the economic analysis was not able to support applying Inclusionary Housing citywide for the initial phase of the Policy.

Since the Policy went into effect, more than 2,112 housing units have been entitled in Downtown and Midtown overall, including 851 affordable housing units, of which there have been 168 affordable rental units entitled as a direct result of the Policy. To date, all developers have complied with the Inclusionary Housing requirements by building the units onsite within the otherwise market rate development; the alternative compliance options, such as in-lieu fees, have not yet been used. Additional housing development projects subject to Inclusionary

Housing requirements are in the early stages of the development pipeline. This preliminary data represents much-needed affordable housing units that otherwise would not have been built.

The City's Commitment to Expand Inclusionary Housing Citywide

Inclusionary housing policies help to break down patterns of segregation and promote equal housing opportunity for all residents. Studying an expansion of the Policy citywide is one of the primary commitments the City made to the California Housing and Community Development Department (HCD) as part of the City's Housing Element to help address documented fair housing issues in Long Beach and facilitate the production of mixed-income housing throughout the city. Furthermore, as described during the May 7, 2024, City Council meeting, Citywide Inclusion is an important facet of moving forward the City's 2030 Strategic Vision related to Housing and Homelessness as well as Economic Opportunity, Equity and Resilience. The expansion of the Inclusionary Housing program is consistent with the adopted City Council priority around Housing and Homelessness from the 2023 Prioritization Process.

Facilitating mixed-income housing is important in both low-resource areas where most affordable housing has been built historically, and in higher resource areas, including areas of Long Beach with the highest quality schools, parks, jobs, and the best environmental conditions, where historically little to no affordable housing has been built. Expanding the Policy citywide is an important tool to help the City meet its goal to affirmatively further fair housing and was pivotal in HCD's consideration as to whether to certify the City's Housing Element.

Policy Expansion and Modifications

Since the initial development and adoption of the Policy, the housing landscape in Long Beach has evolved significantly. Housing development has increased in areas of Long Beach outside of the current Inclusionary Housing Downtown and Midtown submarkets. The City's Housing Element, updates to the zoning and land use regulations, increases in housing development activity outside of Downtown and Midtown, and the continued need for affordable and mixed-income housing have laid the groundwork for the expansion of the Policy.

Pursuant to the Housing Element Program 6.7.2, City staff recommend amending the zoning code to apply Inclusionary Housing requirements citywide. City staff propose using the same phase-in approach that was used for the original rollout of the Policy in Downtown and Midtown. Under this proposal, the expanded Policy would follow the same affordability levels and phase-in approach over three years. The required inclusionary percentages would take effect on January 1, 2025, with the full requirements to be imposed January 1, 2027, and beyond, bringing the rest of the City in line with the current requirements in Downtown and Midtown. The proposed phasing is recommended to evaluate impacts to market-rate development over an initial three-year review period of the Policy. Staff now understands that City Council would like to explore a different broader affordability target as part of this expansion effort. That data was not available at the time of this memo but will be presented to City Council on May 14, 2024, as well as to stakeholders throughout the forthcoming update process.

City staff will continue to monitor data as additional Inclusionary Housing units are developed to evaluate the effectiveness of the current Policy and determine whether modifications would be

Update on Inclusionary Housing Policy

May 8, 2024

Page 3

necessary. Within the Coastal Zone this zoning change will require certification by the California Coastal Commission (Coastal Commission), which may delay implementation in the Coastal Zone only, for one to three years depending on the actions by the Coastal Commission that are beyond the City's control.

Next Steps

At the May 14, 2024, City Council meeting, City staff will present more information on the current Policy, the recommendation to expand the Policy's requirements citywide, and several proposed amendments to further refine the Policy.

City staff plan to conduct community outreach to inform community members and stakeholders of the proposed expansion and modifications of the Policy and seek their input. This outreach will consist of a minimum of one in-person open house for residents and tenant advocates and one virtual focus group for housing developers.

In addition, City staff will provide online opportunities for public comment on the proposed changes to the Policy. For more information and to RSVP for the community events, residents and stakeholders can visit <https://longbeach.gov/lbcd/hn/inclusionaryhousing/>.

Following the City Council presentation and community and stakeholder input, City staff plan to present the proposed zoning code amendment to Planning Commission at a public hearing in Summer 2024 for recommendation to the City Council. City staff anticipate bringing forward the Planning Commission's recommendation to City Council for a vote at a public hearing in Fall 2024.

For more information, please contact Alison Spindler-Ruiz, Planning Bureau Manager, at Alison.Spindler-Ruiz@longbeach.gov or (562) 570-6946.

ATTACHMENTS: A - 2021 INCLUSIONARY HOUSING ORDINANCE
B - 2022 INCLUSIONARY HOUSING ORDINANCE AMENDMENTS

CC: DAWN MCINTOSH, CITY ATTORNEY
DOUGLAS P. HAUBERT, CITY PROSECUTOR
LAURA L. DOUD, CITY AUDITOR
APRIL WALKER, ASSISTANT CITY MANAGER
TERESA CHANDLER, DEPUTY CITY MANAGER
MEREDITH REYNOLDS, DEPUTY CITY MANAGER
GRACE YOON, DEPUTY CITY MANAGER
TYLER BONANNO-CURLEY, DEPUTY CITY MANAGER
KEVIN LEE, CHIEF PUBLIC AFFAIRS OFFICER
MONIQUE DE LA GARZA, CITY CLERK
DEPARTMENT HEADS



OFFICE OF THE CITY ATTORNEY
Long Beach, California

ORD-26

CHARLES PARKIN
City Attorney

MICHAEL J. MAIS
Assistant City Attorney

ORIGINAL DEPUTIES

Gary J. Anderson
Charles M. Gale
Anne C. Lattime
Howard D. Russell

DEPUTIES

David R. Albers
C. Geoffrey Allred
Taylor M. Anderson
Richard F. Anthony
William R. Baerg
Sarah E. Green
Monica J. Kilaita
Nicholas J. Masero
Dawn A. McIntosh
Lauren E. Misajon
Matthew M. Peters
Katrina R. Pickett
Arturo D. Sanchez
Chelsea N. Trotter
Todd Vigus
Amy R. Webber
Erin Weesner-McKinley
Theodore B. Zinger

January 19, 2021

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Declare ordinance amending the Long Beach Municipal Code by adding Chapter 21.67; and by repealing Chapter 21.60, both relating to Inclusionary Housing, read the first time and laid over to the next regular meeting of the City Council for final reading;

Declare ordinance amending the Long Beach Municipal Code by adding Chapter 21.11, for the purpose of implementing California Senate Bill 330, "The Housing Crisis Act Of 2019" and establishing regulations to prevent any reduction of the zoned capacity of housing development in the City below what was allowable as of January 1, 2018; and to ensure that the construction of any housing development project, as defined, does not result in a net loss of affordable residential housing units in the City, read the first time and laid over to the next regular meeting of the City Council for final reading; and

Adopt a resolution establishing an inclusionary housing in-lieu fee. (Citywide)

DISCUSSION

Pursuant to your request on July 14, 2020, the referenced ordinances and resolution have been prepared and are submitted for your consideration.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,
CHARLES PARKIN, City Attorney

By

RICHARD F. ANTHONY
Deputy City Attorney

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Lona Beach, CA 90802-4664

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY ADDING CHAPTER 21.67; AND BY
REPEALING CHAPTER 21.60, BOTH RELATING TO
INCLUSIONARY HOUSING

The City Council of the City of Long Beach ordains as follows:

Section 1. Chapter 21.67 is hereby added to the Long Beach Municipal
Code to read as follows:

Chapter 21.67
INCLUSIONARY HOUSING

21.67.010 Purpose.

The City Council finds that the City of Long Beach faces a serious
shortage of affordable housing units that is anticipated to increase over
time. New residential development frequently does not provide housing
opportunities for low- and moderate-income households due to the high
cost of newly-constructed housing in the City. As a result, such households
are effectively excluded from many neighborhoods, creating economic
stratification detrimental to the public health, safety, and welfare. The
purpose of this Chapter is:

A. To impose affordable housing requirements on residential
development to avoid the remaining opportunities for affordable housing to
be lost by the use of the scarce remaining land for residential development

1 without providing housing affordable to persons and households of all
2 incomes.

3 B. To enhance the public welfare by establishing policies which
4 require the development of housing affordable to households of very low-
5 and moderate-incomes, help meet the City's regional share of housing
6 needs, and implement the goals and objectives of the City's General Plan
7 and Housing Element

8 C. To provide and maintain affordable housing opportunities in
9 the community through an inclusionary housing program for both ownership
10 and rental housing, and, in furtherance of that goal, include rental
11 inclusionary housing requirements in this Chapter consistent with California
12 Government Code Section 65850(g).

13 D. To provide the residential development community with
14 alternatives to construction of the inclusionary units within a market-rate
15 residential development.

16
17 21.67.020 Definitions.

18 The definitions set forth in this Section shall govern the application
19 and interpretation of this Chapter. Words and phrases not defined in this
20 Section shall be interpreted so as to give this Chapter its most reasonable
21 application.

22 A. "Adjusted for Household Size Appropriate for the Unit" means
23 the household sizes defined in California Health and Safety Code Section
24 50052.5. This adjustment is used solely for the purposes of calculating the
25 affordable rent and affordable sales price. For this purpose only, the
26 household size is set at the number of bedrooms in the unit plus one.

27 B. "Affordable Rent" means the maximum monthly rent for very
28 low-income households, including an allowance for tenant paid utilities, as

1 defined in California Health and Safety Code Section 50053. The
2 calculation is as follows: (i) one-twelfth of thirty percent (30%) of fifty
3 percent (50%) of area median income adjusted for household size
4 appropriate for the unit or (ii) market rent, whichever is less.

5 C. "Affordable Sales Price" means the maximum purchase price
6 for moderate-income households as defined in California Health and Safety
7 Code Section 50052.5. The calculation is as follows: not be less than
8 twenty-eight percent (28%) of the gross income of the household, nor
9 exceed one-twelfth of thirty-five percent (35%) times one hundred ten
10 percent (110%) of area median income adjusted for household size
11 appropriate for the unit. The affordable sales price shall include a
12 reasonable down payment, and monthly housing cost payments as defined
13 in California Code of Regulations, Title 25, Section 6920. These payments
14 include principal and interest on a mortgage loan, private mortgage
15 insurance, property taxes and assessments, a utility allowance established
16 by the Housing Authority of the City of Long Beach, homeowner's
17 insurance, homeowner's association dues, and a reasonable allowance for
18 property maintenance and repairs, all as determined by the City.

19 D. "Applicant" or "Developer" means a person, persons, or entity
20 that applies for a residential development and also includes the owner or
21 owners of the property if the applicant does not own the property on which
22 residential development is proposed.

23 E. "Approval Body" means a body with the authority to approve
24 the proposed residential development or any component thereof.

25 F. "Area Median Income" means the annual median income for
26 Los Angeles County, adjusted for household size, as published periodically
27 in the California Code of Regulations, Title 25, Section 6932, or its
28 successor provision, or as established by the City in the event that such

1 median income figures are no longer published periodically in the California
2 Code of Regulations.

3 G. "Building Permit" includes full structural building permits as
4 well as partial permits such as foundation-only permits.

5 H. "Common Ownership or Control" refers to property owned or
6 controlled by the same person, persons, or entity, or by separate entities in
7 which any shareholder, partner, member (or family member of such
8 shareholder, partner or member) of the entity owns ten percent (10%) or
9 more of the interest in the property.

10 I. "Contiguous Property" means any parcel of land that is:

- 11 1. Touching another parcel at any point;
12 2. Separated from another parcel at any point only by a
13 public right-of-way, private street or way, or public or private utility, service,
14 or access easement; or

15 3. Separated from another parcel only by other real
16 property of the applicant which is not subject to the requirements of this
17 Chapter at the time of the planning entitlement application by the applicant.

18 J. "Density Bonus Units" means dwelling units approved in a
19 residential development pursuant to California Government Code Section
20 65915 et seq., and Chapter 21.63 of the Long Beach Municipal Code that
21 are in excess of the maximum allowable residential density otherwise
22 permitted by the City.

23 K. "Downtown and Midtown Submarket" means those areas of
24 the City located within the Downtown Plan Area (PD-30) and/or the Midtown
25 Plan Area (SP-1), each as delineated on the City's Zoning Use District Map.

26 L. "First Approval" means the first of the following approvals to
27 occur with respect to a residential development after the effective date of
28 this Chapter: planning entitlement or building permit.

1 M. "Housing Element" means the then-current Housing Element
2 of the City's General Plan prepared in accordance with state housing law.

3 N. "Housing Trust Fund" means the fund or account established
4 by Section 3.92 of the Long Beach Municipal Code.

5 O. "Inclusionary Housing Regulatory Agreement" means an
6 agreement in conformance with Section 21.67.090.B between the City and
7 an applicant, governing how the applicant shall comply with this Chapter.

8 P. "Inclusionary Housing Guidelines" means any requirements
9 for implementation and administration of this Chapter adopted by the City in
10 accordance with Section 21.67.090.D.

11 Q. "Inclusionary Housing Plan" means a plan containing all of the
12 information specified in and submitted in conformance with Section
13 21.67.090.A, specifying the manner in which inclusionary units will be
14 provided in conformance with this Chapter and any adopted inclusionary
15 housing guidelines.

16 R. "Inclusionary Unit" means a dwelling unit required by this
17 Chapter to be affordable to very low or moderate-income households, as
18 applicable, and subject to an inclusionary housing regulatory agreement.

19 S. "Market-Rate Unit" means a new dwelling unit in a residential
20 development that is not an inclusionary unit subject to recorded affordability
21 restrictions that meet the requirements of this Chapter.

22 T. "Moderate-Income Households" are those households whose
23 income does not exceed one hundred twenty percent (120%) of the area
24 median income, adjusted for the actual number of persons in the household
25 as published annually by the California Department of Housing and
26 Community Development.

27 U. "Ownership Residential Development" means (i) any
28 residential development that includes the creation of one or more dwelling

1 units that may be sold individually, and (ii) any community apartment project
2 or residential development owned by a residential stock cooperative
3 wherein owners own an undivided interest in the development together with
4 the right to occupy a dwelling unit, commonly known as “own-your-owns”.
5 A residential ownership development also includes the conversion of a
6 residential rental development to a residential ownership development
7 pursuant to Chapter 20.32 of the Long Beach Municipal Code. If dwelling
8 units are approved with a condominium map but are not yet sold individually
9 on the open market or otherwise to persons unaffiliated with the original
10 developer of the dwelling units, such development shall be considered a
11 rental residential development subject to the requirements of Section
12 21.67.050.A.2 until such time as it converts to an ownership residential
13 development, at which time the development shall be subject to the
14 requirements of Section 21.67.050.A.1.

15 V. “Planning Entitlement” means any discretionary approval of a
16 residential development including, but not limited to, a general or specific
17 plan adoption or amendment, rezoning, tentative map, parcel map,
18 conditional use permit, variances, design review, or coastal development
19 permit.

20 W. “Rental Residential Development” means any residential
21 development that creates one or more dwelling units that cannot be lawfully
22 sold individually in conformance with the Subdivision Map Act.

23 X. “Residential Development” means any development for which
24 a planning entitlement or building permit is required that includes:

- 25 1. The creation of one or more additional dwelling units;
- 26 2. Conversion of nonresidential uses to dwelling units; or
- 27 3. The conversion of a use from a residential rental
28 development to a residential ownership development.

1 Y. “Very Low-Income Household” are those households whose
2 income does not exceed 50 percent (50%) of the area median income,
3 adjusted for the actual number of persons in the household as determined
4 by the United States Department of Housing and Urban Development and
5 as published annually by the California Department of Housing and
6 Community Development.

7
8 21.67.030 Applicability.

9 The provisions of this Chapter shall apply to:

10 A. All residential development located in the Downtown and
11 Midtown Submarket except for any residential development exempt under
12 Section 21.67.040; and

13 B. All residential development and contiguous properties located
14 in the Downtown and Midtown Submarket or immediately adjacent thereto
15 that are under common ownership or control.

16
17 21.67.040 Exemptions.

18 A. The following residential developments shall be exempt from
19 the provisions of this Chapter:

- 20 1. Residential developments with nine (9) or fewer units.
21 2. Residential developments which are developed in
22 accordance with the terms of a development agreement adopted by
23 ordinance pursuant to the authority and provisions of California Government
24 Code Section 65864 et seq. and/or Chapter 21.29 of the Long Beach
25 Municipal Code, and that is executed prior to the effective date of this
26 Chapter, provided that such residential developments shall comply with any
27 inclusionary housing requirements included in the development agreement
28 or any predecessor ordinance in effect on the date the development

1 agreement was executed.

2 3. Residential developments exempted by California
3 Government Code Section 66474.2 or 66498.1, provided that such
4 residential developments shall comply with any predecessor ordinance,
5 resolution, or policy in effect on the date the application for the development
6 was deemed substantially complete.

7 4. Residential developments for which a building permit
8 has been issued no later than the effective date of this Chapter, provided
9 that such residential developments shall comply with any predecessor
10 ordinance, resolution, or policy in effect on the date the application for the
11 development was approved.

12 B. Planning entitlement expiration. Upon the expiration of any
13 planning entitlement, and unless otherwise exempted, the residential
14 development shall be subject to the inclusionary housing requirements of
15 this Chapter, and shall not proceed until such time as an inclusionary
16 housing plan is approved in conjunction with any other required planning
17 entitlement or amendment thereto. The provisions of this Chapter shall also
18 apply to any residential development which is granted a discretionary
19 extension of a planning entitlement after the effective date of this Chapter,
20 to the extent consistent with state law.

21
22 21.67.050 Inclusionary Housing Requirement.

23 All residential developments proposing ten (10) or more dwelling
24 units (unless exempt under Section 21.67.040), and contiguous property
25 under common ownership and control, shall include inclusionary units.

26 A. On-site inclusionary requirement. Unless an alternative is
27 approved as described in Section 21.67.080, residential developments
28 subject to this Chapter shall provide certain dwelling units in the residential

1 development as inclusionary units upon the same site as the residential
2 development as follows:

3 1. Ownership residential development. If the application
4 for first approval is submitted during calendar year 2021, then the applicant
5 shall provide four percent (4%) of the units in the residential development
6 available at an affordable sales price to moderate-income households. If the
7 application for first approval is submitted during calendar year 2022, then
8 the applicant shall provide five percent (5%) of the units in the residential
9 development available at an affordable sales price to moderate-income
10 households. If the application for first approval is submitted during calendar
11 year 2023 or anytime thereafter, then the applicant shall provide ten percent
12 (10%) of the units in the residential development available at an affordable
13 sales price to moderate-income households.

14 2. Rental residential development. If the application for
15 first approval is submitted during calendar year 2021, then the applicant
16 shall provide five percent (5%) of the units in the residential development
17 available at an affordable rent to very low-income households. If the
18 application for first approval is submitted during calendar year 2022, then
19 the applicant shall provide six percent (6%) of the units in the residential
20 development available at an affordable rent to very low-income households.
21 If the application for first approval is submitted during calendar year 2023 or
22 anytime thereafter, then the applicant shall provide eleven percent (11%)
23 percent of the units in the residential development available at an affordable
24 rent to very low-income households.

25 B. Calculating the number of inclusionary units.

26 1. Calculations of the number of inclusionary units
27 required by this Section shall be based on the number of dwelling units in
28 the residential development, excluding any density bonus units.

1 2. In computing the total number of inclusionary units
2 required in a residential development, fractions of an inclusionary unit shall
3 either be (i) rounded up, or (ii) provided by the payment of an in-lieu fee as
4 established in Section 21.67.080.A.

5 3. When a residential development includes both
6 ownership and rental dwelling units, the provisions of this Chapter that
7 apply to ownership residential development shall apply to that portion of the
8 development that consists of ownership dwelling units, while the provisions
9 of this Chapter that apply to rental residential development shall apply to
10 that portion of the development that consists of rental dwelling units.

11 C. Common ownership and control. An applicant for a planning
12 entitlement shall not avoid the requirements of this Chapter by submitting
13 piecemeal planning entitlement applications. At the time of the application
14 for first approval for the residential development, the applicant shall identify
15 all contiguous property under common ownership and control. The
16 applicant shall not be required to construct dwelling units upon the
17 contiguous property at the time of the application for first approval;
18 however, the applicant shall be required to include the contiguous property
19 under common ownership or control in its inclusionary housing plan. The
20 inclusionary housing regulatory agreement shall be recorded against the
21 residential development and all contiguous property under common
22 ownership or control and shall require compliance with this Chapter upon
23 development of each contiguous property at such time as there are
24 planning entitlement applications that would authorize a total of ten (10) or
25 more residential units for the residential development and the contiguous
26 property under common ownership or control.

27 ///

28 ///

1 21.67.060 Inclusionary Housing Standards and Incentives.

2 A. Inclusionary housing units included in a residential
3 development resulting from the conversion of a use from a residential rental
4 development to a residential ownership development shall be offered for
5 sale to current and qualified tenants of the inclusionary units, and shall
6 otherwise comply with the inclusionary housing guidelines.

7 B. Construction appearance and quality. Inclusionary units shall
8 be comparable in exterior appearance and overall quality of construction to
9 market-rate units in the same housing development. Interior finishes and
10 features may differ from those provided in the market-rate units, so as long
11 as the finishes and features are durable, of good quality, and consistent
12 with contemporary standards for new housing.

13 C. Bedroom Mix and Unit Size. The number of bedrooms and the
14 size of the inclusionary units shall be proportional to or greater than the
15 number of bedrooms and size of the market-rate units, consistent with any
16 adopted inclusionary housing guidelines.

17 D. Location. The inclusionary units shall be located so as not to
18 create a geographic concentration of inclusionary units within the residential
19 development.

20 E. Amenities. The inclusionary units shall have the same
21 amenities as the market-rate units included within the affordable rent or
22 affordable sales price for the inclusionary unit. For example, residents of the
23 inclusionary units shall have the same access to and enjoyment of common
24 open space, parking, storage, and other facilities in the residential
25 development, and residents of the inclusionary units shall not be charged
26 more than affordable rents or affordable sales prices as for the use of such
27 facilities and amenities.

28 F. Density bonus. The developer of a residential development

1 providing all required inclusionary units upon the same site as the market-
2 rate units may, at the developer's sole option and concurrently with the
3 submittal of the inclusionary housing plan, submit a written request for a
4 density bonus, waivers, modification of parking standards, or other
5 regulatory incentives pursuant to Government Code Section 65915 et seq.,
6 and the provisions of Chapter 21.63 of the Long Beach Municipal Code, if
7 the residential development meets all of the applicable requirements to
8 qualify for a density bonus.

9
10 21.67.070 Timing of Construction of Inclusionary Units.

11 All required inclusionary units shall be made available for occupancy
12 prior to, or concurrently with, the market-rate units. For the purposes of this
13 subsection, "concurrently" means one of the following:

14 A. The inclusionary units may be constructed in phases if the
15 market-rate units are constructed in phases, provided that the percentage
16 of inclusionary units developed in each phase shall be equivalent to or
17 greater than the total percentage of inclusionary units to be developed as
18 part of the residential development until such time that all the inclusionary
19 units have been built.

20 B. In-lieu fees, if applicable, have been paid.

21 C. The applicant has met, or made arrangements satisfactory to
22 the City to meet, an alternative requirement as permitted by Section
23 21.67.080.

24
25 21.67.080 Developers' Alternative Compliance Options.

26 A. In-Lieu Fee. All (i) ownership residential developments, (ii)
27 rental residential developments proposing twenty (20) or less dwelling units,
28 and (iii) residential developments specifically authorized by an action of the

1 City Council after a finding of hardship has been made, may satisfy the
2 inclusionary housing requirement in Section 21.67.050.A by the payment of
3 a fee to the City in-lieu of constructing the inclusionary units within the
4 residential development. In-lieu fees may be established from time-to-time
5 by resolution of the City Council. No building permit shall be issued by the
6 City for any market-rate unit in the residential development until all in-lieu
7 fees for the residential development have been paid to the City. The
8 developer shall provide specific written notice to any purchaser of any
9 dwelling unit prior to the acceptance of any offer to purchase, and shall
10 obtain executed acknowledgment of the receipt of such notice, that
11 purchaser shall not have any right to occupy the dwelling unit until such
12 time as all in-lieu fees owing for the residential development are paid to the
13 City. All in-lieu fees shall be deposited in the inclusionary housing fund as
14 described in Section 21.67.110.

15 B. Land Dedication. An applicant may dedicate land to the City
16 or a local nonprofit housing developer, at no cost to the City or such
17 housing developer, in place of actual construction of inclusionary units upon
18 approval of the City Council. The applicant must comply with the following
19 provisions and provide evidence of such compliance when the proposed
20 land dedication is submitted to the City:

21 1. The applicant must exclusively control the land to be
22 dedicated.

23 2. The land to be dedicated must be free of any liens,
24 easements or other encumbrances adversely impacting value, and must be
25 fully served by necessary utility infrastructure.

26 3. The land to be dedicated cannot contain any
27 hazardous materials, and the applicant must disclose any previous
28 hazardous materials located thereon and provide evidence that remediation

1 was performed in compliance with applicable law.

2 4. The land to be dedicated cannot have been improved
3 with residential structures for a period of at least five (5) years prior to
4 application submission.

5 5. All property taxes and other assessments must be fully
6 paid at the time of application submission and at the time of actual
7 dedication and/or conveyance.

8 6. The land to be dedicated must be located within one
9 (1) mile of the residential development that is subject to the requirements of
10 this Chapter.

11 7. The existing General Plan and zoning standards
12 applicable to the land to be dedicated must allow for the requisite number of
13 inclusionary units to be developed, and such land must otherwise be
14 suitable in terms of size, configuration and physical characteristics to allow
15 for such inclusionary unit development.

16 8. The development of the requisite number of
17 inclusionary units must be feasible without the need for City, Housing
18 Authority, or Long Beach Community Investment Company assistance
19 funds.

20 9. Any other requirements of the inclusionary housing
21 guidelines.

22 C. Other alternative compliance methods. A developer may
23 propose an alternative compliance method to provide inclusionary units
24 through other means consistent with any adopted inclusionary housing
25 guidelines. The City Council may approve or conditionally approve such an
26 alternative only if the City Council determines, based on substantial
27 evidence, that such alternative compliance will provide as many or more
28 inclusionary units at the same or lower income levels or will otherwise

1 provide greater public benefit than would provision of the inclusionary units
2 on-site.

3 The compliance options in Paragraphs A and B of this Section do not
4 qualify the residential development for a density bonus or other regulatory
5 incentives unless the dedication of land conforms to the provisions of
6 Government Code Section 65915(g).

7
8 21.67.090 Application and Review Procedures.

9 A. Inclusionary housing plan.

10 1. An application for the first approval of a residential
11 development shall include an inclusionary housing plan describing how the
12 development will comply with the provisions of this Chapter. As an
13 alternative to compliance with the basic provisions included in Section
14 21.67.050, an applicant may propose one of the alternatives listed in
15 Section 21.67.080 as part of the inclusionary housing plan.

16 2. Any proposed density bonus, waivers, modification of
17 parking standards, or other regulatory incentives shall be included in the
18 inclusionary housing plan.

19 3. Any adopted inclusionary housing guidelines may
20 specify the contents of the inclusionary housing plan. No application for a
21 first approval for a residential development may be deemed complete
22 unless an inclusionary housing plan is submitted in conformance with this
23 Chapter.

24 4. The inclusionary housing plan shall be processed
25 concurrently with all other permits required for the residential development.
26 Before the approval body may approve the inclusionary housing plan, the
27 approval body must affirmatively find that the inclusionary housing plan
28 conforms to the requirements set forth in this Chapter. A condition shall be

1 attached to the first approval of any residential development to require
2 recordation of the inclusionary housing regulatory agreement described in
3 Paragraph B of this Section prior to the approval of any final or parcel map
4 or building permit for the residential development.

5 5. The approved inclusionary housing plan for a
6 residential development, or for a building phase in a residential
7 development, where phasing has been approved as part of planning
8 entitlement approvals, may be amended prior to issuance of any building
9 permit for the residential development or building phase, if applicable. A
10 request for a minor modification of an approved inclusionary housing plan
11 may be granted by the City Manager or their designee if the modification is
12 substantially in compliance with the original inclusionary housing plan and
13 conditions of approval. Other modifications to the inclusionary housing plan
14 shall be processed in the same manner as the original plan.

15 6. Fair Housing and Marketing Plan. The inclusionary
16 housing plan shall describe the applicant's marketing plan, which shall
17 comply with all applicable fair housing laws and shall not discriminate in the
18 sale or rental of inclusionary units on the basis of race, national origin,
19 color, religion, gender, disability, familial status, age, income source, or
20 marital status.

21 B. Inclusionary housing regulatory agreement. The applicant
22 shall enter into an inclusionary housing regulatory agreement with the City,
23 in a form approved by the City Attorney, to be executed by the City
24 Manager or their designee, to ensure that all the requirements of this
25 Chapter are satisfied. The inclusionary housing regulatory agreement shall
26 be recorded against the residential development (and contiguous property
27 under common ownership and control in accordance with Section
28 21.67.050.C) prior to approval of any final or parcel map, or issuance of any

1 building permit, whichever occurs first.

2 C. The City Council, by resolution, may establish fees for the
3 ongoing administration and monitoring of the inclusionary units, which fees
4 may be updated periodically, as required.

5 D. The City Council hereby authorizes the Planning Commission
6 to adopt inclusionary housing guidelines to implement this Chapter.

7

8 21.67.100 Continued Affordability.

9 A. All inclusionary units shall remain affordable to the targeted
10 income group for a period of fifty-five (55) years from the date of issuance
11 of a tentative or final Certificate of Occupancy for such inclusionary units.

12 B. Any adopted inclusionary housing guidelines may include
13 standard documents such as a resale restriction or regulatory agreement,
14 for execution by the City Manager or their designee, in a form approved by
15 the City Attorney, to secure the continued affordability of the inclusionary
16 units approved for each residential development, provide ongoing
17 maintenance obligations, define rent and sale price increase procedures,
18 and provide formulas for how resale prices for ownership inclusionary units
19 are calculated. Such document(s) shall be recorded against the residential
20 development or the inclusionary units, as applicable.

21 C. Any eligible household that occupies an inclusionary unit must
22 occupy that unit as its principal residence, unless otherwise approved in
23 writing for rental to a third-party eligible household for a limited period of
24 time due to household hardship, as may be specified in any adopted
25 inclusionary housing guidelines.

26 D. No household may begin occupancy of an inclusionary unit
27 until the household has been determined to be eligible to occupy that unit
28 by the City Manager or their designee. Any adopted inclusionary housing

1 guidelines may establish standards for determining household income,
2 affordable housing cost, provisions for continued monitoring of tenant
3 eligibility, and other eligibility criteria.

4 E. Officials, employees, or consultants of the City, members of
5 City boards and commissions, and the applicant and the applicant's officials
6 shall comply with all applicable laws, regulations, and policies relating to
7 conflicts of interest as to their eligibility to develop, construct, sell, rent,
8 lease, occupy, or purchase an inclusionary unit. Any adopted inclusionary
9 housing guidelines shall include conflict of interest provisions relating to the
10 administration of this Chapter and the eligibility of persons to occupy
11 inclusionary units.

12
13 21.67.110 Housing Trust Fund.

14 A. All in-lieu fees or other funds collected under this Chapter
15 shall be deposited into the City's Housing Trust Fund and shall be
16 maintained and accounted for separately in an inclusionary housing
17 program subaccount.

18 B. Moneys deposited in the Housing Trust Fund pursuant to this
19 Chapter may be used by City to pay for direct costs associated with the
20 administration and enforcement of the program established by this Chapter.

21 C. After payment of expenses, if any, described in Paragraph B
22 of this Section, at least seventy percent (70%) of the remaining moneys
23 deposited in the Housing Trust Fund pursuant to this Chapter shall be
24 expended to provide housing affordable to low-income households (or
25 below), and the remaining moneys may be expended to provide housing
26 affordable to moderate-income households.

27 ///

28 ///

1 21.67.120 Waiver.

2 A. Notwithstanding any other provision of this Chapter, the
3 requirements of this Chapter may be waived, adjusted, or reduced by the
4 City Council based upon a showing that applying the requirements of this
5 Chapter would result in an unconstitutional taking of property or would
6 result in any other unconstitutional result.

7 B. Any request for a waiver, adjustment, or reduction under this
8 Section shall be submitted to the City concurrently with the inclusionary
9 housing plan. The request for a waiver, adjustment, or reduction shall set
10 forth in detail the factual and legal basis for the claim.

11 C. The request for a waiver, adjustment, or reduction shall be
12 reviewed and considered in the same manner and at the same time as the
13 inclusionary housing plan.

14 D. In making a determination on an application for waiver,
15 adjustment, or reduction, the applicant shall bear the burden of presenting
16 substantial evidence to support the claim. The City may assume each of the
17 following when applicable:

18 1. That the applicant will provide the most economical
19 inclusionary units feasible, while still meeting the requirements of this
20 Chapter and any adopted inclusionary housing guidelines; and

21 2. That the applicant will benefit from the incentives for
22 the residential development as described in this Chapter and elsewhere in
23 the Long Beach Municipal Code.

24 E. The waiver, adjustment or reduction may be approved only to
25 the extent necessary to avoid an unconstitutional result, after adoption of
26 written findings, based on substantial evidence, supporting the
27 determinations required by this Section. If a reduction, adjustment, or
28 waiver is granted, any change in the residential development shall

1 invalidate the reduction, adjustment, or waiver, and a new application shall
2 be required for a reduction, adjustment, or waiver pursuant to this Section.

3 21.67.130 Enforcement.

4 A. The City Manager and City Attorney shall be authorized to
5 enforce the provisions of this Chapter and all inclusionary housing
6 regulatory agreements and other covenants or restrictions placed on
7 inclusionary units, by (i) suspension or revocation of any building permit or
8 approval upon finding of a violation of any provision of this Chapter or such
9 agreements or restrictions, and/or (ii) by civil action and any other
10 proceeding or method permitted by law.

11 B. Failure of any official or agency to fulfill the requirements of
12 this Chapter shall not excuse any applicant or owner from the requirements
13 of this Chapter. No permit, license, map, or other approval or entitlement for
14 a residential development shall be issued, including without limitation a final
15 inspection or certificate of occupancy, until all applicable requirements of
16 this Chapter have been satisfied.

17 C. The remedies provided for herein shall be cumulative and not
18 exclusive and shall not preclude the City from any other remedy or relief to
19 which it otherwise would be entitled under law or equity.

20
21 Section 2. Chapter 21.60 of the Long Beach Municipal Code is hereby
22 repealed.

23
24 Section 3. The City Clerk shall certify to the passage of this ordinance by
25 the City Council and cause it to be posted in three (3) conspicuous places in the City of
26 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the
27 Mayor.

28 ///

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Lona Beach, CA 90802-4664

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 2021, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 W. Ocean Boulevard, 9th Floor
Long Beach, CA 90802

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY ADDING CHAPTER 21.11, FOR THE PURPOSE OF IMPLEMENTING CALIFORNIA SENATE BILL 330, "THE HOUSING CRISIS ACT OF 2019;" AND ESTABLISHING REGULATIONS TO PREVENT ANY REDUCTION OF THE ZONED CAPACITY OF HOUSING DEVELOPMENT IN THE CITY BELOW WHAT WAS ALLOWABLE AS OF JANUARY 1, 2018; AND TO ENSURE THAT THE CONSTRUCTION OF ANY HOUSING DEVELOPMENT PROJECT, AS DEFINED, DOES NOT RESULT IN A NET LOSS OF AFFORDABLE RESIDENTIAL HOUSING UNITS IN THE CITY

WHEREAS, the State of California is experiencing a severe housing crisis that is driving the cost of living beyond the reach of an increasing share of the population; and

WHEREAS, on October 9, 2019, the California Legislature adopted Senate Bill 330 (SB 330), the "Housing Crisis Act of 2019," which, among other things, established California Government Code Section 66300, designed to streamline the construction of new housing and prevent the loss of existing housing and land available for future residential use unless such housing replaced in other areas of the affected jurisdiction to ensure "no net loss" in residential capacity; and

WHEREAS, SB-330 became effective January 1, 2020, and establishes a statewide housing emergency to be in effect until January 1, 2025; and

WHEREAS, the purpose of this Ordinance is to ensure the City's

1 compliance with SB 330 and to require the concurrent replacement of housing capacity
2 which may be decreased by the construction of new Housing Development Projects or
3 the demolition of existing Housing Development Projects; and

4 WHEREAS, the adoption of this Ordinance will provide the public with
5 clarity regarding the newly enacted State mandates as set forth in SB-330 and
6 Government Code section 66300; and

7 WHEREAS, this Ordinance is exempt from the California Environmental
8 Quality Act ("CEQA") pursuant to the commonsense exemption set forth in Section
9 15061(b)(3) of the CEQA Guidelines. The common sense exemption provides that
10 CEQA applies to projects that have the potential for causing a significant effect on the
11 environment, and thus, where it can be seen with certainty that there is no possibility that
12 the activity in question may have a significant effect on the environment, the activity is not
13 subject to CEQA. Here, the City's action simply confirms that the City will review and
14 process Housing Development Projects in the manner prescribed by California
15 Government Code Section 66300, and the City's action does not approve any particular
16 project or action that would have physical effects on the environment. Housing
17 Development Projects will continue to be analyzed in compliance with CEQA as
18 individual projects are proposed. The City's adoption of this Ordinance has no direct or
19 indirect physical impacts on the environment and simply conforms the City's procedures
20 to requirements as defined by State law; therefore, it can be seen with certainty that the
21 City's action herein will have no significant effect on the environment, and adoption of the
22 Ordinance is exempt from CEQA.

23 WHEREAS, alternatively, the adoption of this Ordinance is a ministerial
24 action that is not subject to CEQA in accordance with Public Resources Code Section
25 21080(b)(1). Under CEQA Guidelines Section 15002(f), CEQA only applies in situations
26 where the City can use its judgment in deciding whether and how to carry out or approve
27 a project; when the law requires the City to act in a set way without allowing the City to
28 use its own independent judgment, the project is ministerial and CEQA does not apply.

1 Government Code Section 66300 requires the City to act on Housing Development
2 Projects in accordance with its provisions. Because the City has no discretion to refuse
3 to comply with Government Code Section 66300, and the law precludes the City from
4 applying its own independent judgment, compliance with Government Code Section
5 66300 is ministerial. Therefore, this Ordinance, which is being enacted to comply with
6 Government Code Section 66300, is not subject to CEQA.

7 NOW, THEREFORE, the City Council of the City of Long Beach ordains as
8 follows:

9 Section 1. The Long Beach Municipal Code is amended by adding
10 Chapter 21.11 to read as follows:

11 Chapter 21.11

12 No Net Loss

13
14 21.11.010 Purpose and Intent.

15 The purpose of this Chapter is to implement California Senate Bill
16 330 (SB 330), the "Housing Crisis Act of 2019," as codified in Government
17 Code Section 66300 to insure that for the duration of the housing crisis (in
18 effect until January 1, 2025), the City does not approve a Housing
19 Development Project, as defined herein, that would have the effect of
20 reducing the zoned capacity for housing of the City as it existed on January
21 1, 2018; or which would result in the demolition of existing housing units
22 unless those units are replaced on at least a one (1) to one (1) ratio; and in
23 the case of exiting low income units, that such units are only demolished if
24 they are replaced, and that certain conditions related to affordability and
25 tenant protections are met.

26
27 22.11.020 Definitions.

28 The following words or phrases shall have the following meanings

1 when used in this Chapter:

2 A. "Department" means the Department of Development
3 Services.

4 B. "Development Policy, standard or condition" means any of the
5 following:

6 1. A provision of, or amendment to, the City's General
7 Plan.

8 2. A provision of, or amendment to, a specific plan.

9 3. A provision of, or amendment to, a zoning ordinance.

10 4. A subdivision standard or criterion.

11 C. "Housing Development Project" means a use consisting of
12 residential units only; mixed use developments consisting of residential and
13 non-residential uses with at least two-thirds of the square footage
14 designated for residential use; or transitional or supportive housing projects
15 (see California Government Code Section 65589.5).

16
17 22.11.030 Applicability.

18 Except as otherwise specified in this Chapter, the provisions of this
19 Chapter, apply to any of the following Housing Development Projects that
20 submit development applications to the City after January 1, 2021:

21 A. New construction of any principal residential building;

22 B. A change of a principal residential use to another principal
23 use;

24 C. A change in the number of dwelling units;

25 D. A land division subject to Title 20 (Subdivisions) of the Long
26 Beach Municipal Code ; or

27 E. Legalization of an existing unpermitted dwelling unit;

28 F. Demolition of an unpermitted or otherwise illegal dwelling unit

1 that could otherwise be converted into a legal dwelling unit in accordance
2 with applicable provisions of the City's zoning or building regulations.

3
4 22.11.040 Exemptions.

5 The following are exempt from the requirements of this Chapter:

- 6 A. New construction of a single-family residence on a lot with no
7 other principal uses or structures;
- 8 B. New construction or legalization of accessory dwelling units or
9 junior accessory dwelling units;
- 10 C. Conversion to resident ownership of all rented spaces in a
11 mobilehome park;
- 12 D. Addition of mobilehome spaces or mobilehomes in a
13 mobilehome park;
- 14 E. A lease project wherein two or more residential or commercial
15 buildings are constructed and maintained on a parcel of land, and
16 apartments, offices, stores or similar space are leased within one or more of
17 the buildings, overall control of the land and buildings comprising the project
18 being retained by the lessor.

19
20 21.11.050 Requirements.

- 21 A. Dwelling units that are proposed to be or have been
22 demolished, vacated, or converted from rental to "for-sale," shall be
23 replaced if they are permitted in the zone and are or were any of the
24 following:
- 25 1. Subject to a recorded covenant that restricts rents to
26 levels affordable to persons and families of moderate, lower, very low or
27 extremely low income within the five years prior to application submittal;
- 28 2. Occupied by lower, very low or extremely low income

1 tenants within the five years prior to application submittal;

2 3 Withdrawn from rent or lease in accordance with
3 Chapter 12.75 (commencing with Section 7060) of the California
4 Government Code within the ten (10) years prior to application submittal.

5 B. The number and type of affordable replacement units shall be
6 determined as follows:

7 1. The number of affordable replacement units for lower or
8 very low income households shall be determined in accordance with Section
9 65915 of the California Government Code, or any successor statute;

10 2. Affordable replacement units for lower or very low
11 income households shall be provided at the level of affordability determined
12 in accordance with Section 65915 of the California Government Code, or
13 any successor statute;

14 3. Affordable replacement units for extremely low income
15 households shall be provided in at least the same number as existed on the
16 site within the five years prior to application submittal, or in the same
17 proportion of extremely low income renter households to all renter
18 households within the City, as determined by the most recently available
19 data from the United States Department of Housing and Urban
20 Development's Comprehensive Housing Affordability Strategy database, if
21 the income category is unknown for any of the following:

22 a. The current household in occupancy at the time
23 of application submittal;

24 b. The last household in occupancy if a unit is
25 unoccupied at the time of application submittal; or

26 c. The households at the highpoint of such units
27 that existed in the five-year period preceding application, if the units have
28 been vacated or demolished.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

4. At least the same total number of dwelling units and at least the same total number of bedrooms shall be replaced at the same or deeper level of affordability;

5. The required number of affordable replacement units shall not be reduced as the result of the deeper level of affordability of the affordable replacement units;

6. Affordable replacement units affordable to lower, very low or extremely low income households shall be rental dwelling units; and

7. Moderate income units. Units subject to a covenant that restricts rents to levels affordable to moderate income households shall be replaced with units that are affordable to households of moderate income or below moderate income. If they are replaced with units affordable to households of moderate income, the affordable replacement units may be rental or for-sale.

C. Inclusionary Housing or Density Bonus. Affordable replacement units required by this Chapter may count toward any affordable housing set-aside units required in connection with the granting of a density bonus, or the requirements of the City's inclusionary housing zoning regulations, if applicable;

D. Affordable replacement units shall be provided on-site, or off-site, if both of the following are met:

1. The affordable replacement units count toward the affordable housing set-aside units required for a project subject to the City's inclusionary housing zoning regulations and are located within two (2) miles of the principal Housing Development Project, and in an area with known displacement risk based on evidence satisfactory to the Department; and

2. The construction of such units does not result in units requiring replacement pursuant to this Chapter.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

E. Tenure. Affordable replacement units in a common interest development or a single-family residential subdivision shall be for-sale only.

F. Timing. All permits and entitlements, including the building permits, for the affordable replacement units shall be obtained prior to, or concurrently with, the permits and entitlements, including the building permits, for the non-replacement units.

G. Duration of Affordability.

1. Rental. The affordability term for rental replacement units shall be fifty-five (55) years from the issuance of the final certificate of occupancy by the City.

2. For-sale. The initial sale of the affordable replacement units shall be restricted to eligible buyers and shall require an equity-sharing agreement with the City, as prepared by the City Attorney or designee and approved by the City Council.

H. Covenant and Agreement Required. A covenant and agreement ensuring the continued availability of affordable replacement units shall be executed and recorded to the satisfaction of the City Attorney,

21.11.060 Approvals.

Notwithstanding any other provision of this Code, and in compliance with Government Code Section 66300, where housing is an allowable use, the City shall not approve any application, project, policy or condition that would result in any of the following effects:

A. Changing the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district below what was allowed for the parcel or parcels and in effect as of

1 January 1, 2018. For the purpose of this Section, “less intensive use”
2 includes, but is not limited to, reductions to height, density, or floor area
3 ratio, new or increased open space or lot size requirements, or new or
4 increased setback requirements, minimum frontage requirements, or
5 maximum lot coverage limitations, or anything that would lessen the
6 intensity of housing.

7 B. Imposing a moratorium or other limitation on housing
8 development, including mixed use developments, unless a finding is
9 specifically made that said restriction is necessary to protect against an
10 imminent threat to the health and safety of persons residing in, or within the
11 immediate vicinity of, the area subject to the moratorium; or for projects
12 specifically identified as existing restricted affordable housing.

13 C. Notwithstanding the above, nothing in this Chapter shall
14 prohibit the City from changing a land use designation or zoning ordinance
15 to a less intensive use if the City concurrently changes the development
16 standards, policies, and conditions applicable to other parcels within the City
17 to ensure that there is no net loss in residential capacity.

18 D. This Chapter does not prohibit an the City from changing a
19 land use designation or zoning ordinance to a less intensive use on a site
20 that is a mobile-home park, as defined in Section 18214 of the Health and
21 Safety Code, as of the effective date of this Chapter, and the no net loss
22 requirement shall not apply.

23 E. This Chapter does not prohibit the City from enacting a
24 development policy, standard, or condition that is intended to preserve or
25 facilitate the production of housing for lower income households, as defined
26 in Section 50079.5 of the Health and Safety Code, or housing types that
27 traditionally serve lower income households, including mobile-home parks,
28 single-room occupancy units, or units subject to any form of rent or price

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 W. Ocean Boulevard, 9th Floor
Long Beach, CA 90802

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

control through the City's valid exercise of its police power.

Section 2. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 20____, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor

1 RESOLUTION NO.

2
3 A RESOLUTION OF THE CITY COUNCIL OF THE
4 CITY OF LONG BEACH ESTABLISHING AN
5 INCLUSIONARY HOUSING IN-LIEU FEE
6

7 WHEREAS, it is a public purpose of the City to achieve a diverse and
8 balanced community with housing available for households of all income levels.
9 Economic diversity fosters social and environmental conditions that protect and enhance
10 the social fabric of the City and are beneficial to the health, safety, and welfare of its
11 residents; and

12 WHEREAS, the City is experiencing an increasing shortage of affordable
13 housing. New residential development frequently does not provide housing opportunities
14 for very low-, low-, and moderate-income households due to the high cost of newly
15 constructed housing in the City. As a result, such households are de facto excluded from
16 many neighborhoods, creating economic stratification detrimental to the public health,
17 safety, and welfare; and

18 WHEREAS, the amount of land in the City available for residential
19 development is limited by City's General Plan policies and principles embodied in state
20 law pertaining to general plans and annexation. Scarce remaining opportunities for
21 affordable housing would be lost by the consumption of this remaining land for residential
22 development without providing housing affordable to persons of all incomes; and

23 WHEREAS, the State Legislature, through California Government Code
24 Section 65580, has declared that the availability of housing is of vital statewide
25 importance and that local governments have a responsibility to use powers vested in
26 them to facilitate the adequate provision for the housing needs of all economic segments
27 of the community; and

28 WHEREAS, therefore, to implement the City's General Plan (Housing

1 Element), to carry out the policies of state law, and to ensure the benefits of economic
2 diversity to the residents of the City, it is essential that new residential development in
3 certain areas of the City contain housing opportunities for very low and moderate income
4 households, and that the City provide a regulatory and incentive framework which
5 ensures development of an adequate supply and mix of new housing to meet the future
6 housing needs of all income segments of the community; and

7 WHEREAS, the City has adopted a citywide housing strategy to implement
8 various methods to increase and improve the production of affordable housing supply in
9 Glendale, including the adoption of an inclusionary housing ordinance codified as Section
10 21.67 of the Long Beach Municipal Code; and

11 WHEREAS, at the direction of the City, Keyser Marston Associates, Inc.
12 prepared an Inclusionary Housing Study dated July 21, 2019, attached to the Report to
13 Council dated July 14, 2020 and incorporated herein by reference (as updated from time-
14 to-time, the "Study"), that, among other things, estimates the fee amounts that can be
15 supported for projects that are permitted to pay a fee in-lieu of producing affordable
16 housing; and

17 WHEREAS, Section 21.67.080 of the Long Beach Municipal Code (the
18 "Code") allows a developer of qualified residential development to pay a fee in-lieu of
19 providing the required inclusionary units, with such fee to be calculated in compliance
20 with a fee resolution adopted by the City Council; and

21 WHEREAS, the Study concluded that the the in-lieu fees established by this
22 Resolution are not confiscatory and do not deprive an owner of a fair and reasonable rate
23 of return; and

24 WHEREAS, the City Council finds that this Resolution and the inclusionary
25 housing in-lieu fees it establishes is a valid local land use regulation and does not affect a
26 taking in accordance with California law; and

27 WHEREAS, the in-lieu fees collected pursuant to this Resolution will be
28 placed in the City's Housing Trust Fund and used for the development of affordable

1 housing within the City and as otherwise provided in Section 21.67.110 of the Code; and
2 WHEREAS, the City Council finds and determines the passage of this
3 Resolution: (1) is exempt from further environmental review under the California
4 Environmental Quality Act ("CEQA") pursuant to Title 14 of the California Code of
5 Regulations ("CEQA Guidelines") Section 15061(b)(3) because the Resolution will set the
6 amount of the inclusionary housing in-lieu fee but will not allow for or encourage any
7 more development than is already anticipated under the City's existing General Plan and
8 as regulated by existing zoning, or otherwise allow for or promote physical changes in the
9 environment, and therefore, it can be seen with certainty that there is no possibility that
10 the Resolution will have a significant effect on the environment; (2) is not a project under
11 CEQA Guidelines Section 15060(c)(3) and 15378(b)(4) because it constitutes a
12 governmental fiscal activity that does not involve any commitment to any specific project
13 which may result in a potentially significant physical impact on the environment; and (3) is
14 not intended to apply to specifically identified affordable housing projects and as such it is
15 speculative to evaluate any such future project now. Moreover, the Resolution is not
16 intended to, nor does it, provide CEQA clearance for future development-related projects
17 by mere establishment of the amount of the commercial development impact fee; any
18 such projects required to pay the fee set by this Resolution will be subject to appropriate
19 environmental review at such time as approvals for those projects are considered. Each
20 of the foregoing provides a separate and independent basis for CEQA compliance and,
21 when viewed collectively, provides an overall basis for CEQA compliance;

22 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
23 follows:

24 Section 1. The above recitals are hereby declared to be true and correct
25 and are incorporated into this Resolution as findings of the City Council of the City of
26 Long Beach.

27 Section 2. The in-lieu fee for rental residential developments (as defined
28 in Section 21.67.020 of the Code) which are subject to Chapter 21.67 of the Code shall

1 be calculated as follows:

2 (i) If the application for first approval (as defined in Section 21.67.020 of
3 the Code) is submitted during calendar year 2021, then (A) the in-lieu fee for the entire
4 residential development shall be the product of \$20.80 multiplied by the leasable area of
5 the residential development, or (B) the in-lieu fee for a fractional inclusionary unit shall be
6 the product of such fraction multiplied by \$375,400.

7 (ii) If the application for first approval (as defined in Section 21.67.020 of
8 the Code) is submitted during calendar year 2022, then (A) the in-lieu fee for the entire
9 residential development shall be the product of \$25.40 multiplied by the leasable area of
10 the residential development, or (B) the in-lieu fee for a fractional inclusionary unit shall be
11 the product of such fraction multiplied by \$382,400.

12 (iii) If the application for first approval (as defined in Section 21.67.020 of
13 the Code) is submitted during calendar year 2023 or thereafter, then (A) the in-lieu fee for
14 the entire residential development shall be the product of \$47.50 multiplied by the
15 leasable area of the residential development, or (B) the in-lieu fee for a fractional
16 inclusionary unit shall be the product of such fraction multiplied by \$390,400.

17 Section 3. The in-lieu fee for ownership residential developments (as
18 defined in Section 21.67.020 of the Code) which are subject to Chapter 21.67 of the
19 Code shall be calculated as follows:

20 (i) If the application for first approval (as defined in Section 21.67.020 of
21 the Code) is submitted during calendar year 2021, then (A) the in-lieu fee for the entire
22 residential development shall be the product of \$14.00 multiplied by the saleable area of
23 the residential development, or (B) the in-lieu fee for a fractional inclusionary unit shall be
24 the product of such fraction multiplied by \$413,300.

25 (ii) If the application for first approval (as defined in Section 21.67.020 of
26 the Code) is submitted during calendar year 2022, then (A) the in-lieu fee for the entire
27 residential development shall be the product of \$17.80 multiplied by the saleable area of
28 the residential development, or (B) the in-lieu fee for a fractional inclusionary unit shall be

1 the product of such fraction multiplied by \$421,500.

2 (iii) If the application for first approval (as defined in Section 21.67.020 of
3 the Code) is submitted during calendar year 2023 or thereafter, then (A) the in-lieu fee for
4 the entire residential development shall be the product of \$36.40 multiplied by the
5 saleable area of the residential development, or (B) the in-lieu fee for a fractional
6 inclusionary unit shall be the product of such fraction multiplied by \$430,000.

7 Section 4. The fee established in this Resolution will be reviewed by the
8 City Council at least every three (3) years. If the fee is not reviewed or changed at such
9 a time, the existing fee shall remain in effect.

10 Section 5. The fees established in this Resolution shall take effect on the
11 same day that Chapter 21.67 of the Code becomes effective.

12 Section 6. Any in-lieu inclusionary housing fees established pursuant to
13 any other previously-enacted resolution(s) are hereby repealed and shall no longer be of
14 any effect on the date this resolution takes effect.

15 Section 7. The City Clerk shall certify to the passage of this resolution by
16 the City Council and cause it to be posted in three conspicuous places within the City and
17 it shall take effect as hereinabove set forth.

18 ///
19 ///
20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of _____, 2021 by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

City Clerk



OFFICE OF THE CITY ATTORNEY
Long Beach, California

ORD-24

CHARLES PARKIN
City Attorney

MICHAEL J. MAIS
Assistant City Attorney

February 8, 2022

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Declare ordinance amending the Long Beach Municipal Code by amending and restating Chapter 21.67; relating to Inclusionary Housing, read the first time and laid over to the next regular meeting of the City Council for final reading;

Declare ordinance amending the Long Beach Municipal Code by amending and restating Chapter 21.11, relating to no net loss of affordable residential housing units in the City, read the first time and laid over to the next regular meeting of the City Council for final reading; and

Adopt a resolution amending Resolution No. RES-21-0006 establishing automatic adjustments to the existing inclusionary housing in-lieu fee. (Citywide)

DISCUSSION

Pursuant to your request on November 9, 2021, the referenced ordinances and resolution have been prepared and are submitted for your consideration.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,
CHARLES PARKIN, City Attorney

By

RICHARD F. ANTHONY
Deputy City Attorney

RFA:bg A22-00134
01349260.DOCX

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY AMENDING AND RESTATING
CHAPTER 21.67 RELATING TO INCLUSIONARY HOUSING

The City Council of the City of Long Beach ordains as follows:

Section 1. Chapter 21.67 of the Long Beach Municipal Code is hereby
amended and restated to read as follows:

Chapter 21.67
INCLUSIONARY HOUSING

21.67.010 Purpose.

The City Council finds that the City of Long Beach faces a serious shortage of affordable housing units that is anticipated to increase over time. New residential development frequently does not provide housing opportunities for low- and moderate-income households due to the high cost of newly-constructed housing in the City. As a result, such households are effectively excluded from many neighborhoods, creating economic stratification detrimental to the public health, safety, and welfare. The purpose of this Chapter is:

A. To impose affordable housing requirements on residential development to avoid the remaining opportunities for affordable housing to be lost by the use of the scarce remaining land for residential development without providing housing affordable to persons and households of all

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

incomes.

B. To enhance the public welfare by establishing policies which require the development of housing affordable to households of very low- and moderate-incomes, help meet the City's regional share of housing needs, and implement the goals and objectives of the City's General Plan and Housing Element

C. To provide and maintain affordable housing opportunities in the community through an inclusionary housing program for both ownership and rental housing, and, in furtherance of that goal, include rental inclusionary housing requirements in this Chapter consistent with California Government Code Section 65850(g).

D. To provide the residential development community with alternatives to construction of the inclusionary units within a market-rate residential development.

21.67.020 Definitions.

The definitions set forth in this Section shall govern the application and interpretation of this Chapter. Words and phrases not defined in this Section shall be interpreted so as to give this Chapter its most reasonable application.

A. "Adjusted for Household Size Appropriate for the Unit" means the household sizes defined in California Health and Safety Code Section 50052.5. This adjustment is used solely for the purposes of calculating the affordable rent and affordable sales price. For this purpose only, the household size is set at the number of bedrooms in the unit plus one.

B. "Affordable Rent" means the maximum monthly rent for very low-income households, including an allowance for tenant paid utilities, as defined in California Health and Safety Code Section 50053. The

1 calculation is as follows: (i) one-twelfth of thirty percent (30%) of fifty
2 percent (50%) of area median income adjusted for household size
3 appropriate for the unit or (ii) market rent, whichever is less.

4 C. "Affordable Sales Price" means the maximum purchase price
5 for moderate-income households as defined in California Health and Safety
6 Code Section 50052.5. The calculation is as follows: not be less than
7 twenty-eight percent (28%) of the gross income of the household, nor
8 exceed one-twelfth of thirty-five percent (35%) times one hundred ten
9 percent (110%) of area median income adjusted for household size
10 appropriate for the unit. The affordable sales price shall include a
11 reasonable down payment, and monthly housing cost payments as defined
12 in California Code of Regulations, Title 25, Section 6920. These payments
13 include principal and interest on a mortgage loan, private mortgage
14 insurance, property taxes and assessments, a utility allowance established
15 by the Housing Authority of the City of Long Beach, homeowner's
16 insurance, homeowner's association dues, and a reasonable allowance for
17 property maintenance and repairs, all as determined by the City.

18 D. "Applicant" or "Developer" means a person, persons, or entity
19 that applies for a residential development and also includes the owner or
20 owners of the property if the applicant does not own the property on which
21 residential development is proposed.

22 E. "Approval Body" means a body with the authority to approve
23 the proposed residential development or any component thereof.

24 F. "Area Median Income" means the annual median income for
25 Los Angeles County, adjusted for household size, as published periodically
26 in the California Code of Regulations, Title 25, Section 6932, or its
27 successor provision, or as established by the City in the event that such
28 median income figures are no longer published periodically in the California

1 Code of Regulations.

2 G. "Building Permit" includes full structural building permits as
3 well as partial permits such as foundation-only permits.

4 H. "Common Ownership or Control" refers to property owned or
5 controlled by the same person, persons, or entity, or by separate entities in
6 which any shareholder, partner, member (or family member of such
7 shareholder, partner or member) of the entity owns ten percent (10%) or
8 more of the interest in the property.

9 I. "Contiguous Property" means any parcel of land that is:

10 1. Touching another parcel at any point;

11 2. Separated from another parcel at any point only by a
12 public right-of-way, private street or way, or public or private utility, service,
13 or access easement; or

14 3. Separated from another parcel only by other real
15 property of the applicant which is not subject to the requirements of this
16 Chapter at the time of the planning entitlement application by the applicant.

17 J. "Density Bonus Units" means dwelling units approved in a
18 residential development pursuant to California Government Code Section
19 65915 et seq., and Chapter 21.63 of the Long Beach Municipal Code that
20 are in excess of the maximum allowable residential density otherwise
21 permitted by the City.

22 K. "Downtown and Midtown Submarket" means those areas of
23 the City located within the Downtown Plan Area (PD-30) and/or the Midtown
24 Plan Area (SP-1), each as delineated on the City's Zoning Use District Map.

25 L. "First Approval" means the first of the following approvals to
26 occur with respect to a residential development after the effective date of
27 this Chapter: planning entitlement or building permit.

28 M. "Housing Element" means the then-current Housing Element

1 of the City's General Plan prepared in accordance with state housing law.

2 N. "Housing Trust Fund" means the fund or account established
3 by Section 3.92 of the Long Beach Municipal Code.

4 O. "Inclusionary Housing Regulatory Agreement" means an
5 agreement in conformance with Section 21.67.090.B between the City and
6 an applicant, governing how the applicant shall comply with this Chapter.

7 P. "Inclusionary Housing Guidelines" means any requirements
8 for implementation and administration of this Chapter adopted by the City in
9 accordance with Section 21.67.090.D.

10 Q. "Inclusionary Housing Plan" means a plan containing all of the
11 information specified in and submitted in conformance with Section
12 21.67.090.A, specifying the manner in which inclusionary units will be
13 provided in conformance with this Chapter and any adopted inclusionary
14 housing guidelines.

15 R. "Inclusionary Unit" means a dwelling unit required by this
16 Chapter to be affordable to very low or moderate-income households, as
17 applicable, and subject to an inclusionary housing regulatory agreement.

18 S. "Market-Rate Unit" means a new dwelling unit in a residential
19 development that is not an inclusionary unit subject to recorded affordability
20 restrictions that meet the requirements of this Chapter.

21 T. "Moderate-Income Households" are those households whose
22 income does not exceed one hundred twenty percent (120%) of the area
23 median income, adjusted for the actual number of persons in the household
24 as published annually by the California Department of Housing and
25 Community Development.

26 U. "Ownership Residential Development" means (i) any
27 residential development that includes the creation of one or more dwelling
28 units that may be sold individually, and (ii) any community apartment project

1 or residential development owned by a residential stock cooperative
2 wherein owners own an undivided interest in the development together with
3 the right to occupy a dwelling unit, commonly known as “own-your-owns”.
4 A residential ownership development also includes the conversion of a
5 residential rental development to a residential ownership development
6 pursuant to Chapter 20.32 of the Long Beach Municipal Code. If dwelling
7 units are approved with a condominium map but are not yet sold individually
8 on the open market or otherwise to persons unaffiliated with the original
9 developer of the dwelling units, such development shall be considered a
10 rental residential development subject to the requirements of Section
11 21.67.050.A.2 until such time as it converts to an ownership residential
12 development, at which time the development shall be subject to the
13 requirements of Section 21.67.050.A.1.

14 V. “Planning Entitlement” means any discretionary approval of a
15 residential development including, but not limited to, a general or specific
16 plan adoption or amendment, rezoning, tentative map, parcel map,
17 conditional use permit, variances, design review, or coastal development
18 permit.

19 W. “Rental Residential Development” means any residential
20 development that creates one or more dwelling units that cannot be lawfully
21 sold individually in conformance with the Subdivision Map Act.

22 X. “Residential Development” means any development for which
23 a planning entitlement or building permit is required that includes:

- 24 1. The creation of one or more additional dwelling units;
- 25 2. Conversion of nonresidential uses to dwelling units; or
- 26 3. The conversion of a use from a residential rental
27 development to a residential ownership development.

28 Y. “Very Low-Income Household” are those households whose

1 income does not exceed 50 percent (50%) of the area median income,
2 adjusted for the actual number of persons in the household as determined
3 by the United States Department of Housing and Urban Development and
4 as published annually by the California Department of Housing and
5 Community Development.

6
7 21.67.030 Applicability.

8 The provisions of this Chapter shall apply to:

9 A. All residential development located in the Downtown and
10 Midtown Submarket except for any residential development exempt under
11 Section 21.67.040; and

12 B. All residential development and contiguous properties located
13 in the Downtown and Midtown Submarket or immediately adjacent thereto
14 that are under common ownership or control.

15
16 21.67.040 Exemptions.

17 A. The following residential developments shall be exempt from
18 the provisions of this Chapter:

- 19 1. Residential developments with nine (9) or fewer units.
20 2. Residential developments which are developed in
21 accordance with the terms of a development agreement adopted by
22 ordinance pursuant to the authority and provisions of California Government
23 Code Section 65864 et seq. and/or Chapter 21.29 of the Long Beach
24 Municipal Code, and that is executed prior to the effective date of this
25 Chapter, provided that such residential developments shall comply with any
26 inclusionary housing requirements included in the development agreement
27 or any predecessor ordinance in effect on the date the development
28 agreement was executed.

1 3. Residential developments exempted by California
2 Government Code Section 66474.2 or 66498.1, provided that such
3 residential developments shall comply with any predecessor ordinance,
4 resolution, or policy in effect on the date the application for the development
5 was deemed substantially complete.

6 4. Residential developments for which a building permit
7 has been issued no later than the effective date of this Chapter, provided
8 that such residential developments shall comply with any predecessor
9 ordinance, resolution, or policy in effect on the date the application for the
10 development was approved.

11 B. Planning entitlement expiration. Upon the expiration of any
12 planning entitlement, and unless otherwise exempted, the residential
13 development shall be subject to the inclusionary housing requirements of
14 this Chapter, and shall not proceed until such time as an inclusionary
15 housing plan is approved in conjunction with any other required planning
16 entitlement or amendment thereto. The provisions of this Chapter shall also
17 apply to any residential development which is granted a discretionary
18 extension of a planning entitlement after the effective date of this Chapter,
19 to the extent consistent with state law.

20
21 21.67.050 Inclusionary Housing Requirement.

22 All residential developments proposing ten (10) or more dwelling
23 units (unless exempt under Section 21.67.040), and contiguous property
24 under common ownership and control, shall include inclusionary units.

25 A. On-site inclusionary requirement. Unless an alternative is
26 approved as described in Section 21.67.080, residential developments
27 subject to this Chapter shall provide certain dwelling units in the residential
28 development as inclusionary units upon the same site as the residential

1 development as follows:

2 1. Ownership residential development. If the application
3 for first approval is submitted during calendar year 2021, then the applicant
4 shall provide four percent (4%) of the units in the residential development
5 available at an affordable sales price to moderate-income households. If the
6 application for first approval is submitted during calendar year 2022, then
7 the applicant shall provide five percent (5%) of the units in the residential
8 development available at an affordable sales price to moderate-income
9 households. If the application for first approval is submitted during calendar
10 year 2023 or anytime thereafter, then the applicant shall provide ten percent
11 (10%) of the units in the residential development available at an affordable
12 sales price to moderate-income households.

13 2. Rental residential development. If the application for
14 first approval is submitted during calendar year 2021, then the applicant
15 shall provide five percent (5%) of the units in the residential development
16 available at an affordable rent to very low-income households. If the
17 application for first approval is submitted during calendar year 2022, then
18 the applicant shall provide six percent (6%) of the units in the residential
19 development available at an affordable rent to very low-income households.
20 If the application for first approval is submitted during calendar year 2023 or
21 anytime thereafter, then the applicant shall provide eleven percent (11%)
22 percent of the units in the residential development available at an affordable
23 rent to very low-income households.

24 B. Calculating the number of inclusionary units.

25 1. Calculations of the number of inclusionary units
26 required by this Section shall be based on the number of dwelling units in
27 the residential development, excluding any density bonus units.

28 2. In computing the total number of inclusionary units

1 required in a residential development, fractions of an inclusionary unit shall
2 either be (i) rounded up, or (ii) provided by the payment of an in-lieu fee as
3 established in Section 21.67.080.A.

4 3. When a residential development includes both
5 ownership and rental dwelling units, the provisions of this Chapter that
6 apply to ownership residential development shall apply to that portion of the
7 development that consists of ownership dwelling units, while the provisions
8 of this Chapter that apply to rental residential development shall apply to
9 that portion of the development that consists of rental dwelling units.

10 C. Common ownership and control. An applicant for a planning
11 entitlement shall not avoid the requirements of this Chapter by submitting
12 piecemeal planning entitlement applications. At the time of the application
13 for first approval for the residential development, the applicant shall identify
14 all contiguous property under common ownership and control. The
15 applicant shall not be required to construct dwelling units upon the
16 contiguous property at the time of the application for first approval;
17 however, the applicant shall be required to include the contiguous property
18 under common ownership or control in its inclusionary housing plan. The
19 inclusionary housing regulatory agreement shall be recorded against the
20 residential development and all contiguous property under common
21 ownership or control and shall require compliance with this Chapter upon
22 development of each contiguous property at such time as there are
23 planning entitlement applications that would authorize a total of ten (10) or
24 more residential units for the residential development and the contiguous
25 property under common ownership or control.

26 ///

27 ///

28 ///

- 1 21.67.060 Inclusionary Housing Standards and Incentives.
- 2 A. Inclusionary housing units included in a residential
- 3 development resulting from the conversion of a use from a residential rental
- 4 development to a residential ownership development shall be offered for
- 5 sale to current and qualified tenants of the inclusionary units, and shall
- 6 otherwise comply with the inclusionary housing guidelines.
- 7 B. Construction appearance and quality. Inclusionary units shall
- 8 be comparable in exterior appearance and overall quality of construction to
- 9 market-rate units in the same housing development. Interior finishes and
- 10 features may differ from those provided in the market-rate units, so as long
- 11 as the finishes and features are durable, of good quality, and consistent
- 12 with contemporary standards for new housing.
- 13 C. Bedroom Mix and Unit Size. The number of bedrooms and the
- 14 size of the inclusionary units shall be proportional to or greater than the
- 15 number of bedrooms and size of the market-rate units, consistent with any
- 16 adopted inclusionary housing guidelines.
- 17 D. Location. The inclusionary units shall be located so as not to
- 18 create a geographic concentration of inclusionary units within the residential
- 19 development.
- 20 E. Amenities. The inclusionary units shall have the same
- 21 amenities as the market-rate units included within the affordable rent or
- 22 affordable sales price for the inclusionary unit. For example, residents of the
- 23 inclusionary units shall have the same access to and enjoyment of common
- 24 open space, parking, storage, and other facilities in the residential
- 25 development, and residents of the inclusionary units shall not be charged
- 26 more than affordable rents or affordable sales prices as for the use of such
- 27 facilities and amenities.
- 28 F. Density bonus. The developer of a residential development

1 providing all required inclusionary units upon the same site as the market-
2 rate units may, at the developer's sole option and concurrently with the
3 submittal of the inclusionary housing plan, submit a written request for a
4 density bonus, waivers, modification of parking standards, or other
5 regulatory incentives pursuant to Government Code Section 65915 et seq.,
6 and the provisions of Chapter 21.63 of the Long Beach Municipal Code, if
7 the residential development meets all of the applicable requirements to
8 qualify for a density bonus.

9
10 21.67.070 Timing of Construction of Inclusionary Units.

11 All required inclusionary units shall be made available for occupancy
12 prior to, or concurrently with, the market-rate units. For the purposes of this
13 subsection, "concurrently" means one of the following:

14 A. The inclusionary units may be constructed in phases if the
15 market-rate units are constructed in phases, provided that the percentage
16 of inclusionary units developed in each phase shall be equivalent to or
17 greater than the total percentage of inclusionary units to be developed as
18 part of the residential development until such time that all the inclusionary
19 units have been built.

20 B. In-lieu fees, if applicable, have been paid.

21 C. The applicant has met, or made arrangements satisfactory to
22 the City to meet, an alternative requirement as permitted by Section
23 21.67.080.

24
25 21.67.080 Developers' Alternative Compliance Options.

26 A. In-Lieu Fee. All (i) ownership residential developments, (ii)
27 rental residential developments proposing twenty (20) or less dwelling units,
28 and (iii) residential developments specifically authorized by an action of the

1 City Council after a finding of hardship has been made, may satisfy the
2 inclusionary housing requirement in Section 21.67.050.A by the payment of
3 a fee to the City in-lieu of constructing the inclusionary units within the
4 residential development. In-lieu fees may be established from time-to-time
5 by resolution of the City Council. No building permit shall be issued by the
6 City for any market-rate unit in the residential development until all in-lieu
7 fees for the residential development have been paid to the City. The
8 developer shall provide specific written notice to any purchaser of any
9 dwelling unit prior to the acceptance of any offer to purchase, and shall
10 obtain executed acknowledgment of the receipt of such notice, that
11 purchaser shall not have any right to occupy the dwelling unit until such
12 time as all in-lieu fees owing for the residential development are paid to the
13 City. All in-lieu fees shall be deposited in the inclusionary housing fund as
14 described in Section 21.67.110.

15 B. Land Dedication. An applicant may dedicate land to the City
16 or a local nonprofit housing developer, at no cost to the City or such
17 housing developer, in place of actual construction of inclusionary units upon
18 approval of the City Council. The applicant must comply with the following
19 provisions and provide evidence of such compliance when the proposed
20 land dedication is submitted to the City:

- 21 1. The applicant must exclusively control the land to be
22 dedicated.
- 23 2. The land to be dedicated must be free of any liens,
24 easements or other encumbrances adversely impacting value, and must be
25 fully served by necessary utility infrastructure.
- 26 3. The land to be dedicated cannot contain any
27 hazardous materials, and the applicant must disclose any previous
28 hazardous materials located thereon and provide evidence that remediation

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

was performed in compliance with applicable law.

4. The land to be dedicated cannot have been improved with residential structures for a period of at least five (5) years prior to application submission.

5. All property taxes and other assessments must be fully paid at the time of application submission and at the time of actual dedication and/or conveyance.

6. The land to be dedicated must be located within one (1) mile of the residential development that is subject to the requirements of this Chapter.

7. The existing General Plan and zoning standards applicable to the land to be dedicated must allow for the requisite number of inclusionary units to be developed, and such land must otherwise be suitable in terms of size, configuration and physical characteristics to allow for such inclusionary unit development.

8. The development of the requisite number of inclusionary units must be feasible without the need for City, Housing Authority, or Long Beach Community Investment Company assistance funds.

9. Any other requirements of the inclusionary housing guidelines.

C. Other alternative compliance methods. A developer may propose an alternative compliance method to provide inclusionary units through other means consistent with any adopted inclusionary housing guidelines. The City Council may approve or conditionally approve such an alternative only if the City Council determines, based on substantial evidence, that such alternative compliance will provide as many or more inclusionary units at the same or lower income levels or will otherwise

1 provide greater public benefit than would provision of the inclusionary units
2 on-site.

3 The compliance options in Paragraphs A and B of this Section do not
4 qualify the residential development for a density bonus or other regulatory
5 incentives unless the dedication of land conforms to the provisions of
6 Government Code Section 65915(g).

7

8 21.67.090 Application and Review Procedures.

9 A. Inclusionary housing plan.

10 1. An application for the first approval of a residential
11 development shall include an inclusionary housing plan describing how the
12 development will comply with the provisions of this Chapter. As an
13 alternative to compliance with the basic provisions included in Section
14 21.67.050, an applicant may propose one of the alternatives listed in
15 Section 21.67.080 as part of the inclusionary housing plan.

16 2. Any proposed density bonus, waivers, modification of
17 parking standards, or other regulatory incentives shall be included in the
18 inclusionary housing plan.

19 3. Any adopted inclusionary housing guidelines may
20 specify the contents of the inclusionary housing plan. No application for a
21 first approval for a residential development may be deemed complete
22 unless an inclusionary housing plan is submitted in conformance with this
23 Chapter.

24 4. The inclusionary housing plan shall be processed
25 concurrently with all other permits required for the residential development.
26 Before the approval body may approve the inclusionary housing plan, the
27 approval body must affirmatively find that the inclusionary housing plan
28 conforms to the requirements set forth in this Chapter. A condition shall be

1 attached to the first approval of any residential development to require
2 recordation of the inclusionary housing regulatory agreement described in
3 Paragraph B of this Section prior to the approval of any final or parcel map
4 or building permit for the residential development.

5 5. The approved inclusionary housing plan for a
6 residential development, or for a building phase in a residential
7 development, where phasing has been approved as part of planning
8 entitlement approvals, may be amended prior to issuance of any building
9 permit for the residential development or building phase, if applicable. A
10 request for a minor modification of an approved inclusionary housing plan
11 may be granted by the City Manager or their designee if the modification is
12 substantially in compliance with the original inclusionary housing plan and
13 conditions of approval. Other modifications to the inclusionary housing plan
14 shall be processed in the same manner as the original plan.

15 6. Fair Housing and Marketing Plan. The inclusionary
16 housing plan shall describe the applicant's marketing plan, which shall
17 comply with all applicable fair housing laws and shall not discriminate in the
18 sale or rental of inclusionary units on the basis of race, national origin,
19 color, religion, gender, disability, familial status, age, income source, or
20 marital status.

21 B. Inclusionary housing regulatory agreement. The applicant
22 shall enter into an inclusionary housing regulatory agreement with the City,
23 in a form approved by the City Attorney, to be executed by the City
24 Manager or their designee, to ensure that all the requirements of this
25 Chapter are satisfied. The inclusionary housing regulatory agreement shall
26 be recorded against the residential development (and contiguous property
27 under common ownership and control in accordance with Section
28 21.67.050.C) prior to approval of any final or parcel map, or issuance of any

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

building permit, whichever occurs first.

C. The City Council, by resolution, may establish fees for the ongoing administration and monitoring of the inclusionary units, which fees may be updated periodically, as required.

D. The City Council hereby authorizes the Planning Commission to adopt inclusionary housing guidelines to implement this Chapter.

21.67.100 Continued Affordability.

A. All inclusionary units shall remain affordable to the targeted income group for the longer of (i) a period of fifty-five (55) years from the date of issuance of a tentative or final Certificate of Occupancy for such inclusionary units, or (ii) for so long as the subject property which includes such inclusionary units is developed for a residential use.

B. Any adopted inclusionary housing guidelines may include standard documents such as a resale restriction or regulatory agreement, for execution by the City Manager or their designee, in a form approved by the City Attorney, to secure the continued affordability of the inclusionary units approved for each residential development, provide ongoing maintenance obligations, define rent and sale price increase procedures, and provide formulas for how resale prices for ownership inclusionary units are calculated. Such document(s) shall be recorded against the residential development or the inclusionary units, as applicable.

C. Any eligible household that occupies an inclusionary unit must occupy that unit as its principal residence, unless otherwise approved in writing for rental to a third-party eligible household for a limited period of time due to household hardship, as may be specified in any adopted inclusionary housing guidelines.

D. No household may begin occupancy of an inclusionary unit

1 until the household has been determined to be eligible to occupy that unit
2 by the City Manager or their designee. Any adopted inclusionary housing
3 guidelines may establish standards for determining household income,
4 affordable housing cost, provisions for continued monitoring of tenant
5 eligibility, and other eligibility criteria.

6 E. Officials, employees, or consultants of the City, members of
7 City boards and commissions, and the applicant and the applicant's officials
8 shall comply with all applicable laws, regulations, and policies relating to
9 conflicts of interest as to their eligibility to develop, construct, sell, rent,
10 lease, occupy, or purchase an inclusionary unit. Any adopted inclusionary
11 housing guidelines shall include conflict of interest provisions relating to the
12 administration of this Chapter and the eligibility of persons to occupy
13 inclusionary units.

14
15 21.67.110 Housing Trust Fund.

16 A. All in-lieu fees or other funds collected under this Chapter
17 shall be deposited into the City's Housing Trust Fund and shall be
18 maintained and accounted for separately in an inclusionary housing
19 program subaccount.

20 B. Moneys deposited in the Housing Trust Fund pursuant to this
21 Chapter may be used by City to pay for direct costs associated with the
22 administration and enforcement of the program established by this Chapter.

23 C. After payment of expenses, if any, described in Paragraph B
24 of this Section, all of the remaining moneys deposited in the Housing Trust
25 Fund pursuant to this Chapter shall be expended to provide newly
26 constructed housing affordable to very low-income households (or below).

27 ///

28 ///

1 21.67.120 Waiver.

2 A. Notwithstanding any other provision of this Chapter, the
3 requirements of this Chapter may be waived, adjusted, or reduced by the
4 City Council based upon a showing that applying the requirements of this
5 Chapter would result in an unconstitutional taking of property or would
6 result in any other unconstitutional result.

7 B. Any request for a waiver, adjustment, or reduction under this
8 Section shall be submitted to the City concurrently with the inclusionary
9 housing plan. The request for a waiver, adjustment, or reduction shall set
10 forth in detail the factual and legal basis for the claim.

11 C. The request for a waiver, adjustment, or reduction shall be
12 reviewed and considered in the same manner and at the same time as the
13 inclusionary housing plan.

14 D. In making a determination on an application for waiver,
15 adjustment, or reduction, the applicant shall bear the burden of presenting
16 substantial evidence to support the claim. The City may assume each of the
17 following when applicable:

18 1. That the applicant will provide the most economical
19 inclusionary units feasible, while still meeting the requirements of this
20 Chapter and any adopted inclusionary housing guidelines; and

21 2. That the applicant will benefit from the incentives for
22 the residential development as described in this Chapter and elsewhere in
23 the Long Beach Municipal Code.

24 E. The waiver, adjustment or reduction may be approved only to
25 the extent necessary to avoid an unconstitutional result, after adoption of
26 written findings, based on substantial evidence, supporting the
27 determinations required by this Section. If a reduction, adjustment, or
28 waiver is granted, any change in the residential development shall

1 invalidate the reduction, adjustment, or waiver, and a new application shall
2 be required for a reduction, adjustment, or waiver pursuant to this Section.

3

4 21.67.130 Enforcement.

5 A. The City Manager and City Attorney shall be authorized to
6 enforce the provisions of this Chapter and all inclusionary housing
7 regulatory agreements and other covenants or restrictions placed on
8 inclusionary units, by (i) suspension or revocation of any building permit or
9 approval upon finding of a violation of any provision of this Chapter or such
10 agreements or restrictions, and/or (ii) by civil action and any other
11 proceeding or method permitted by law.

12 B. Failure of any official or agency to fulfill the requirements of
13 this Chapter shall not excuse any applicant or owner from the requirements
14 of this Chapter. No permit, license, map, or other approval or entitlement for
15 a residential development shall be issued, including without limitation a final
16 inspection or certificate of occupancy, until all applicable requirements of
17 this Chapter have been satisfied.

18 C. The remedies provided for herein shall be cumulative and not
19 exclusive and shall not preclude the City from any other remedy or relief to
20 which it otherwise would be entitled under law or equity.

21

22 Section 2. The City Clerk shall certify to the passage of this ordinance by
23 the City Council and cause it to be posted in three (3) conspicuous places in the City of
24 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the
25 Mayor.

26 ///

27 ///

28 ///

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 2022, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING AND RESTATING CHAPTER 21.11, RELATING TO NO NET LOSS OF AFFORDABLE RESIDENTIAL HOUSING UNITS IN THE CITY

The City Council of the City of Long Beach ordains as follows:

Section 1. Chapter 21.11 of the Long Beach Municipal Code is hereby amended and restated to read as follows:

Chapter 21.11

NO NET LOSS

21.11.010 Purpose and Intent.

The purpose of this Chapter is to implement California Senate Bill 330 (SB 330), the "Housing Crisis Act of 2019," as codified in Government Code Section 66300 to insure that the City does not approve a Housing Development Project, as defined herein, that would have the effect of reducing the zoned capacity for housing of the City as it existed on January 1, 2018; or which would result in the demolition of existing housing units unless those units are replaced on at least a one (1) to one (1) ratio; and in the case of exiting low income units, that such units are only demolished if they are replaced, and that certain conditions related to affordability and tenant protections are met. It is the express intent of the City Council that this Chapter remain effective despite the possible expiration of Government

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Code Section 66300.

21.11.020 Definitions.

The following words or phrases shall have the following meanings when used in this Chapter:

- A. "Department" means the Department of Development Services.
- B. "Development Policy, standard or condition" means any of the following:
 - 1. A provision of, or amendment to, the City's General Plan.
 - 2. A provision of, or amendment to, a specific plan.
 - 3. A provision of, or amendment to, a zoning ordinance.
 - 4. A subdivision standard or criterion.
- C. "Housing Development Project" means a use consisting of residential units only; mixed use developments consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use; or transitional or supportive housing projects, or the demolition of any of the foregoing (see California Government Code Section 65589.5).

21.11.030 Applicability.

Except as otherwise specified in this Chapter, the provisions of this Chapter, apply to any of the following Housing Development Projects that submit development applications to the City after January 1, 2021:

- A. New construction of any principal residential building;
- B. A change of a principal residential use to another principal use;

- 1 C. A change in the number of dwelling units;
- 2 D. A land division subject to Title 20 (Subdivisions) of the Long
- 3 Beach Municipal Code; or
- 4 E. Legalization of an existing unpermitted dwelling unit;
- 5 F. Demolition of an unpermitted or otherwise illegal dwelling unit
- 6 that could otherwise be converted into a legal dwelling unit in accordance
- 7 with applicable provisions of the City’s zoning or building regulations.

8
9 21.11.040 Exemptions.

10 The following are exempt from the requirements of this Chapter:

- 11 A. New construction of a single-family residence on a lot with no
- 12 other principal uses or structures;
- 13 B. New construction or legalization of accessory dwelling units or
- 14 junior accessory dwelling units;
- 15 C. Conversion to resident ownership of all rented spaces in a
- 16 mobilehome park;
- 17 D. Addition of mobilehome spaces or mobilehomes in a
- 18 mobilehome park;
- 19 E. A lease project wherein two or more residential or commercial
- 20 buildings are constructed and maintained on a parcel of land, and
- 21 apartments, offices, stores or similar space are leased within one or more of
- 22 the buildings, overall control of the land and buildings comprising the project
- 23 being retained by the lessor.

24
25 21.11.050 Requirements.

- 26 A. Dwelling units that are proposed to be or have been
- 27 demolished, vacated, or converted from rental to “for-sale,” shall be
- 28 replaced if they are permitted in the zone and are or were any of the

1 following:

2 1. Subject to a recorded covenant that restricts rents to
3 levels affordable to persons and families of moderate, lower, very low or
4 extremely low income within the five years prior to application submittal;

5 2. Occupied by lower, very low or extremely low income
6 tenants within the five years prior to application submittal;

7 3. Withdrawn from rent or lease in accordance with
8 Chapter 12.75 (commencing with Section 7060) of the California
9 Government Code within the ten (10) years prior to application submittal.

10 B. The number and type of affordable replacement units shall be
11 determined as follows:

12 1. The number of affordable replacement units for lower or
13 very low income households shall be determined in accordance with Section
14 65915 of the California Government Code, or any successor statute;

15 2. Affordable replacement units for lower or very low
16 income households shall be provided at the level of affordability determined
17 in accordance with Section 65915 of the California Government Code, or
18 any successor statute;

19 3. Affordable replacement units for extremely low income
20 households shall be provided in at least the same number as existed on the
21 site within the five years prior to application submittal, or in the same
22 proportion of extremely low income renter households to all renter
23 households within the City, as determined by the most recently available
24 data from the United States Department of Housing and Urban
25 Development's Comprehensive Housing Affordability Strategy database, if
26 the income category is unknown for any of the following:

27 a. The current household in occupancy at the time
28 of application submittal;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

b. The last household in occupancy if a unit is unoccupied at the time of application submittal; or

c. The households at the highpoint of such units that existed in the five-year period preceding application, if the units have been vacated or demolished.

4. At least the same total number of dwelling units and at least the same total number of bedrooms shall be replaced at the same or deeper level of affordability;

5. The required number of affordable replacement units shall not be reduced as the result of the deeper level of affordability of the affordable replacement units;

6. Affordable replacement units affordable to lower, very low or extremely low income households shall be rental dwelling units; and

7. Moderate income units. Units subject to a covenant that restricts rents to levels affordable to moderate income households shall be replaced with units that are affordable to households of moderate income or below moderate income. If they are replaced with units affordable to households of moderate income, the affordable replacement units may be rental or for-sale.

C. Inclusionary Housing or Density Bonus. Affordable replacement units required by this Chapter may count toward any affordable housing set-aside units required in connection with the granting of a density bonus, or the requirements of the City's inclusionary housing zoning regulations, if applicable;

D. Affordable replacement units shall be provided on-site. Replacement units may be provided off-site if (i) the proposed development requiring replacement units does not have a residential component, or (ii) if the City Council determines, based on substantial evidence, that such off-

1 site compliance will provide greater public benefit than would provision of
2 the replacement units on-site.

3 E. Tenure. Affordable replacement units in a common interest
4 development or a single-family residential subdivision shall be for-sale only.

5 F. Timing. All permits and entitlements, including the building
6 permits, for the affordable replacement units shall be obtained prior to, or
7 concurrently with, the permits and entitlements, including the building
8 permits, for the non-replacement units.

9 G. Duration of Affordability. The affordability term for
10 replacement units shall be the longer of (i) fifty-five (55) years from the
11 issuance of a tentative or final certificate of occupancy for such replacement
12 units, or (ii) for so long as the subject property which includes such
13 replacement units is developed for a residential use.

14 H. Covenant and Agreement Required. A covenant and
15 agreement ensuring the continued availability of affordable replacement
16 units shall be executed and recorded to the satisfaction of the City Attorney,

17
18 21.11.060 Approvals.

19 Notwithstanding any other provision of this Code, and in compliance
20 with Government Code Section 66300 (regardless of whether such Section
21 remains effective), where housing is an allowable use, the City shall not
22 approve any application, project, policy or condition that would result in any
23 of the following effects:

24 A. Changing the general plan land use designation, specific plan
25 land use designation, or zoning of a parcel or parcels of property to a less
26 intensive use or reducing the intensity of land use within an existing general
27 plan land use designation, specific plan land use designation, or zoning
28 district below what was allowed for the parcel or parcels and in effect as of

1 January 1, 2018. For the purpose of this Section, “less intensive use”
2 includes, but is not limited to, reductions to height, density, or floor area
3 ratio, new or increased open space or lot size requirements, or new or
4 increased setback requirements, minimum frontage requirements, or
5 maximum lot coverage limitations, or anything that would lessen the
6 intensity of housing.

7 B. Imposing a moratorium or other limitation on housing
8 development, including mixed use developments, unless a finding is
9 specifically made that said restriction is necessary to protect against an
10 imminent threat to the health and safety of persons residing in, or within the
11 immediate vicinity of, the area subject to the moratorium; or for projects
12 specifically identified as existing restricted affordable housing.

13 C. Notwithstanding the above, nothing in this Chapter shall
14 prohibit the City from changing a land use designation or zoning ordinance
15 to a less intensive use if the City concurrently changes the development
16 standards, policies, and conditions applicable to other parcels within the City
17 to ensure that there is no net loss in residential capacity.

18 D. This Chapter does not prohibit an the City from changing a
19 land use designation or zoning ordinance to a less intensive use on a site
20 that is a mobile-home park, as defined in Section 18214 of the Health and
21 Safety Code, as of the effective date of this Chapter, and the no net loss
22 requirement shall not apply.

23 E. This Chapter does not prohibit the City from enacting a
24 development policy, standard, or condition that is intended to preserve or
25 facilitate the production of housing for lower income households, as defined
26 in Section 50079.5 of the Health and Safety Code, or housing types that
27 traditionally serve lower income households, including mobile-home parks,
28 single-room occupancy units, or units subject to any form of rent or price

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

control through the City's valid exercise of its police power.

Section 2. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 2022, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY AMENDING AND RESTATING
CHAPTER 21.67 RELATING TO INCLUSIONARY HOUSING

The City Council of the City of Long Beach ordains as follows:

Section 1. Chapter 21.67 of the Long Beach Municipal Code is hereby
amended and restated to read as follows:

Chapter 21.67
INCLUSIONARY HOUSING

21.67.010 Purpose.

The City Council finds that the City of Long Beach faces a serious shortage of affordable housing units that is anticipated to increase over time. New residential development frequently does not provide housing opportunities for low- and moderate-income households due to the high cost of newly-constructed housing in the City. As a result, such households are effectively excluded from many neighborhoods, creating economic stratification detrimental to the public health, safety, and welfare. The purpose of this Chapter is:

A. To impose affordable housing requirements on residential development to avoid the remaining opportunities for affordable housing to be lost by the use of the scarce remaining land for residential development without providing housing affordable to persons and households of all

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

incomes.

B. To enhance the public welfare by establishing policies which require the development of housing affordable to households of very low- and moderate-incomes, help meet the City's regional share of housing needs, and implement the goals and objectives of the City's General Plan and Housing Element

C. To provide and maintain affordable housing opportunities in the community through an inclusionary housing program for both ownership and rental housing, and, in furtherance of that goal, include rental inclusionary housing requirements in this Chapter consistent with California Government Code Section 65850(g).

D. To provide the residential development community with alternatives to construction of the inclusionary units within a market-rate residential development.

21.67.020 Definitions.

The definitions set forth in this Section shall govern the application and interpretation of this Chapter. Words and phrases not defined in this Section shall be interpreted so as to give this Chapter its most reasonable application.

A. "Adjusted for Household Size Appropriate for the Unit" means the household sizes defined in California Health and Safety Code Section 50052.5. This adjustment is used solely for the purposes of calculating the affordable rent and affordable sales price. For this purpose only, the household size is set at the number of bedrooms in the unit plus one.

B. "Affordable Rent" means the maximum monthly rent for very low-income households, including an allowance for tenant paid utilities, as defined in California Health and Safety Code Section 50053. The

1 calculation is as follows: (i) one-twelfth of thirty percent (30%) of fifty
2 percent (50%) of area median income adjusted for household size
3 appropriate for the unit or (ii) market rent, whichever is less.

4 C. "Affordable Sales Price" means the maximum purchase price
5 for moderate-income households as defined in California Health and Safety
6 Code Section 50052.5. The calculation is as follows: not be less than
7 twenty-eight percent (28%) of the gross income of the household, nor
8 exceed one-twelfth of thirty-five percent (35%) times one hundred ten
9 percent (110%) of area median income adjusted for household size
10 appropriate for the unit. The affordable sales price shall include a
11 reasonable down payment, and monthly housing cost payments as defined
12 in California Code of Regulations, Title 25, Section 6920. These payments
13 include principal and interest on a mortgage loan, private mortgage
14 insurance, property taxes and assessments, a utility allowance established
15 by the Housing Authority of the City of Long Beach, homeowner's
16 insurance, homeowner's association dues, and a reasonable allowance for
17 property maintenance and repairs, all as determined by the City.

18 D. "Applicant" or "Developer" means a person, persons, or entity
19 that applies for a residential development and also includes the owner or
20 owners of the property if the applicant does not own the property on which
21 residential development is proposed.

22 E. "Approval Body" means a body with the authority to approve
23 the proposed residential development or any component thereof.

24 F. "Area Median Income" means the annual median income for
25 Los Angeles County, adjusted for household size, as published periodically
26 in the California Code of Regulations, Title 25, Section 6932, or its
27 successor provision, or as established by the City in the event that such
28 median income figures are no longer published periodically in the California

1 Code of Regulations.

2 G. "Building Permit" includes full structural building permits as
3 well as partial permits such as foundation-only permits.

4 H. "Common Ownership or Control" refers to property owned or
5 controlled by the same person, persons, or entity, or by separate entities in
6 which any shareholder, partner, member (or family member of such
7 shareholder, partner or member) of the entity owns ten percent (10%) or
8 more of the interest in the property.

9 I. "Contiguous Property" means any parcel of land that is:

10 1. Touching another parcel at any point;

11 2. Separated from another parcel at any point only by a
12 public right-of-way, private street or way, or public or private utility, service,
13 or access easement; or

14 3. Separated from another parcel only by other real
15 property of the applicant which is not subject to the requirements of this
16 Chapter at the time of the planning entitlement application by the applicant.

17 J. "Density Bonus Units" means dwelling units approved in a
18 residential development pursuant to California Government Code Section
19 65915 et seq., and Chapter 21.63 of the Long Beach Municipal Code that
20 are in excess of the maximum allowable residential density otherwise
21 permitted by the City.

22 K. "Downtown and Midtown Submarket" means those areas of
23 the City located within the Downtown Plan Area (PD-30) and/or the Midtown
24 Plan Area (SP-1), each as delineated on the City's Zoning Use District Map.

25 L. "First Approval" means the first of the following approvals to
26 occur with respect to a residential development after the effective date of
27 this Chapter: planning entitlement or building permit.

28 M. "Housing Element" means the then-current Housing Element

1 of the City's General Plan prepared in accordance with state housing law.

2 N. "Housing Trust Fund" means the fund or account established
3 by Section 3.92 of the Long Beach Municipal Code.

4 O. "Inclusionary Housing Regulatory Agreement" means an
5 agreement in conformance with Section 21.67.090.B between the City and
6 an applicant, governing how the applicant shall comply with this Chapter.

7 P. "Inclusionary Housing Guidelines" means any requirements
8 for implementation and administration of this Chapter adopted by the City in
9 accordance with Section 21.67.090.D.

10 Q. "Inclusionary Housing Plan" means a plan containing all of the
11 information specified in and submitted in conformance with Section
12 21.67.090.A, specifying the manner in which inclusionary units will be
13 provided in conformance with this Chapter and any adopted inclusionary
14 housing guidelines.

15 R. "Inclusionary Unit" means a dwelling unit required by this
16 Chapter to be affordable to very low or moderate-income households, as
17 applicable, and subject to an inclusionary housing regulatory agreement.

18 S. "Market-Rate Unit" means a new dwelling unit in a residential
19 development that is not an inclusionary unit subject to recorded affordability
20 restrictions that meet the requirements of this Chapter.

21 T. "Moderate-Income Households" are those households whose
22 income does not exceed one hundred twenty percent (120%) of the area
23 median income, adjusted for the actual number of persons in the household
24 as published annually by the California Department of Housing and
25 Community Development.

26 U. "Ownership Residential Development" means (i) any
27 residential development that includes the creation of one or more dwelling
28 units that may be sold individually, and (ii) any community apartment project

1 or residential development owned by a residential stock cooperative
2 wherein owners own an undivided interest in the development together with
3 the right to occupy a dwelling unit, commonly known as “own-your-owns”.
4 A residential ownership development also includes the conversion of a
5 residential rental development to a residential ownership development
6 pursuant to Chapter 20.32 of the Long Beach Municipal Code. If dwelling
7 units are approved with a condominium map but are not yet sold individually
8 on the open market or otherwise to persons unaffiliated with the original
9 developer of the dwelling units, such development shall be considered a
10 rental residential development subject to the requirements of Section
11 21.67.050.A.2 until such time as it converts to an ownership residential
12 development, at which time the development shall be subject to the
13 requirements of Section 21.67.050.A.1.

14 V. “Planning Entitlement” means any discretionary approval of a
15 residential development including, but not limited to, a general or specific
16 plan adoption or amendment, rezoning, tentative map, parcel map,
17 conditional use permit, variances, design review, or coastal development
18 permit.

19 W. “Rental Residential Development” means any residential
20 development that creates one or more dwelling units that cannot be lawfully
21 sold individually in conformance with the Subdivision Map Act.

22 X. “Residential Development” means any development for which
23 a planning entitlement or building permit is required that includes:

- 24 1. The creation of one or more additional dwelling units;
- 25 2. Conversion of nonresidential uses to dwelling units; or
- 26 3. The conversion of a use from a residential rental
27 development to a residential ownership development.

28 Y. “Very Low-Income Household” are those households whose

1 income does not exceed 50 percent (50%) of the area median income,
2 adjusted for the actual number of persons in the household as determined
3 by the United States Department of Housing and Urban Development and
4 as published annually by the California Department of Housing and
5 Community Development.

6
7 21.67.030 Applicability.

8 The provisions of this Chapter shall apply to:

9 A. All residential development located in the Downtown and
10 Midtown Submarket except for any residential development exempt under
11 Section 21.67.040; and

12 B. All residential development and contiguous properties located
13 in the Downtown and Midtown Submarket or immediately adjacent thereto
14 that are under common ownership or control.

15
16 21.67.040 Exemptions.

17 A. The following residential developments shall be exempt from
18 the provisions of this Chapter:

- 19 1. Residential developments with nine (9) or fewer units.
20 2. Residential developments which are developed in
21 accordance with the terms of a development agreement adopted by
22 ordinance pursuant to the authority and provisions of California Government
23 Code Section 65864 et seq. and/or Chapter 21.29 of the Long Beach
24 Municipal Code, and that is executed prior to the effective date of this
25 Chapter, provided that such residential developments shall comply with any
26 inclusionary housing requirements included in the development agreement
27 or any predecessor ordinance in effect on the date the development
28 agreement was executed.

1 3. Residential developments exempted by California
2 Government Code Section 66474.2 or 66498.1, provided that such
3 residential developments shall comply with any predecessor ordinance,
4 resolution, or policy in effect on the date the application for the development
5 was deemed substantially complete.

6 4. Residential developments for which a building permit
7 has been issued no later than the effective date of this Chapter, provided
8 that such residential developments shall comply with any predecessor
9 ordinance, resolution, or policy in effect on the date the application for the
10 development was approved.

11 B. Planning entitlement expiration. Upon the expiration of any
12 planning entitlement, and unless otherwise exempted, the residential
13 development shall be subject to the inclusionary housing requirements of
14 this Chapter, and shall not proceed until such time as an inclusionary
15 housing plan is approved in conjunction with any other required planning
16 entitlement or amendment thereto. The provisions of this Chapter shall also
17 apply to any residential development which is granted a discretionary
18 extension of a planning entitlement after the effective date of this Chapter,
19 to the extent consistent with state law.

20
21 21.67.050 Inclusionary Housing Requirement.

22 All residential developments proposing ten (10) or more dwelling
23 units (unless exempt under Section 21.67.040), and contiguous property
24 under common ownership and control, shall include inclusionary units.

25 A. On-site inclusionary requirement. Unless an alternative is
26 approved as described in Section 21.67.080, residential developments
27 subject to this Chapter shall provide certain dwelling units in the residential
28 development as inclusionary units upon the same site as the residential

1 development as follows:

2 1. Ownership residential development. If the application
3 for first approval is submitted during calendar year 2021, then the applicant
4 shall provide four percent (4%) of the units in the residential development
5 available at an affordable sales price to moderate-income households. If the
6 application for first approval is submitted during calendar year 2022, then
7 the applicant shall provide five percent (5%) of the units in the residential
8 development available at an affordable sales price to moderate-income
9 households. If the application for first approval is submitted during calendar
10 year 2023 or anytime thereafter, then the applicant shall provide ten percent
11 (10%) of the units in the residential development available at an affordable
12 sales price to moderate-income households.

13 2. Rental residential development. If the application for
14 first approval is submitted during calendar year 2021, then the applicant
15 shall provide five percent (5%) of the units in the residential development
16 available at an affordable rent to very low-income households. If the
17 application for first approval is submitted during calendar year 2022, then
18 the applicant shall provide six percent (6%) of the units in the residential
19 development available at an affordable rent to very low-income households.
20 If the application for first approval is submitted during calendar year 2023 or
21 anytime thereafter, then the applicant shall provide eleven percent (11%)
22 percent of the units in the residential development available at an affordable
23 rent to very low-income households.

24 B. Calculating the number of inclusionary units.

25 1. Calculations of the number of inclusionary units
26 required by this Section shall be based on the number of dwelling units in
27 the residential development, excluding any density bonus units.

28 2. In computing the total number of inclusionary units

1 required in a residential development, fractions of an inclusionary unit shall
2 either be (i) rounded up, or (ii) provided by the payment of an in-lieu fee as
3 established in Section 21.67.080.A.

4 3. When a residential development includes both
5 ownership and rental dwelling units, the provisions of this Chapter that
6 apply to ownership residential development shall apply to that portion of the
7 development that consists of ownership dwelling units, while the provisions
8 of this Chapter that apply to rental residential development shall apply to
9 that portion of the development that consists of rental dwelling units.

10 C. Common ownership and control. An applicant for a planning
11 entitlement shall not avoid the requirements of this Chapter by submitting
12 piecemeal planning entitlement applications. At the time of the application
13 for first approval for the residential development, the applicant shall identify
14 all contiguous property under common ownership and control. The
15 applicant shall not be required to construct dwelling units upon the
16 contiguous property at the time of the application for first approval;
17 however, the applicant shall be required to include the contiguous property
18 under common ownership or control in its inclusionary housing plan. The
19 inclusionary housing regulatory agreement shall be recorded against the
20 residential development and all contiguous property under common
21 ownership or control and shall require compliance with this Chapter upon
22 development of each contiguous property at such time as there are
23 planning entitlement applications that would authorize a total of ten (10) or
24 more residential units for the residential development and the contiguous
25 property under common ownership or control.

26 ///
27 ///
28 ///

1 21.67.060 Inclusionary Housing Standards and Incentives.

2 A. Inclusionary housing units included in a residential
3 development resulting from the conversion of a use from a residential rental
4 development to a residential ownership development shall be offered for
5 sale to current and qualified tenants of the inclusionary units, and shall
6 otherwise comply with the inclusionary housing guidelines.

7 B. Construction appearance and quality. Inclusionary units shall
8 be comparable in exterior appearance and overall quality of construction to
9 market-rate units in the same housing development. Interior finishes and
10 features may differ from those provided in the market-rate units, so as long
11 as the finishes and features are durable, of good quality, and consistent
12 with contemporary standards for new housing.

13 C. Bedroom Mix and Unit Size. The number of bedrooms and the
14 size of the inclusionary units shall be proportional to or greater than the
15 number of bedrooms and size of the market-rate units, consistent with any
16 adopted inclusionary housing guidelines.

17 D. Location. The inclusionary units shall be located so as not to
18 create a geographic concentration of inclusionary units within the residential
19 development.

20 E. Amenities. The inclusionary units shall have the same
21 amenities as the market-rate units included within the affordable rent or
22 affordable sales price for the inclusionary unit. For example, residents of the
23 inclusionary units shall have the same access to and enjoyment of common
24 open space, parking, storage, and other facilities in the residential
25 development, and residents of the inclusionary units shall not be charged
26 more than affordable rents or affordable sales prices as for the use of such
27 facilities and amenities.

28 F. Density bonus. The developer of a residential development

1 providing all required inclusionary units upon the same site as the market-
2 rate units may, at the developer's sole option and concurrently with the
3 submittal of the inclusionary housing plan, submit a written request for a
4 density bonus, waivers, modification of parking standards, or other
5 regulatory incentives pursuant to Government Code Section 65915 et seq.,
6 and the provisions of Chapter 21.63 of the Long Beach Municipal Code, if
7 the residential development meets all of the applicable requirements to
8 qualify for a density bonus.

9
10 21.67.070 Timing of Construction of Inclusionary Units.

11 All required inclusionary units shall be made available for occupancy
12 prior to, or concurrently with, the market-rate units. For the purposes of this
13 subsection, "concurrently" means one of the following:

14 A. The inclusionary units may be constructed in phases if the
15 market-rate units are constructed in phases, provided that the percentage
16 of inclusionary units developed in each phase shall be equivalent to or
17 greater than the total percentage of inclusionary units to be developed as
18 part of the residential development until such time that all the inclusionary
19 units have been built.

20 B. In-lieu fees, if applicable, have been paid.

21 C. The applicant has met, or made arrangements satisfactory to
22 the City to meet, an alternative requirement as permitted by Section
23 21.67.080.

24
25 21.67.080 Developers' Alternative Compliance Options.

26 A. In-Lieu Fee. All (i) ownership residential developments, (ii)
27 rental residential developments proposing twenty (20) or less dwelling units,
28 and (iii) residential developments specifically authorized by an action of the

1 City Council after a finding of hardship has been made, may satisfy the
2 inclusionary housing requirement in Section 21.67.050.A by the payment of
3 a fee to the City in-lieu of constructing the inclusionary units within the
4 residential development. In-lieu fees may be established from time-to-time
5 by resolution of the City Council. No building permit shall be issued by the
6 City for any market-rate unit in the residential development until all in-lieu
7 fees for the residential development have been paid to the City. The
8 developer shall provide specific written notice to any purchaser of any
9 dwelling unit prior to the acceptance of any offer to purchase, and shall
10 obtain executed acknowledgment of the receipt of such notice, that
11 purchaser shall not have any right to occupy the dwelling unit until such
12 time as all in-lieu fees owing for the residential development are paid to the
13 City. All in-lieu fees shall be deposited in the inclusionary housing fund as
14 described in Section 21.67.110.

15 B. Land Dedication. An applicant may dedicate land to the City
16 or a local nonprofit housing developer, at no cost to the City or such
17 housing developer, in place of actual construction of inclusionary units upon
18 approval of the City Council. The applicant must comply with the following
19 provisions and provide evidence of such compliance when the proposed
20 land dedication is submitted to the City:

- 21 1. The applicant must exclusively control the land to be
22 dedicated.
- 23 2. The land to be dedicated must be free of any liens,
24 easements or other encumbrances adversely impacting value, and must be
25 fully served by necessary utility infrastructure.
- 26 3. The land to be dedicated cannot contain any
27 hazardous materials, and the applicant must disclose any previous
28 hazardous materials located thereon and provide evidence that remediation

1 was performed in compliance with applicable law.

2 4. The land to be dedicated cannot have been improved
3 with residential structures for a period of at least five (5) years prior to
4 application submission.

5 5. All property taxes and other assessments must be fully
6 paid at the time of application submission and at the time of actual
7 dedication and/or conveyance.

8 6. The land to be dedicated must be located within one
9 (1) mile of the residential development that is subject to the requirements of
10 this Chapter.

11 7. The existing General Plan and zoning standards
12 applicable to the land to be dedicated must allow for the requisite number of
13 inclusionary units to be developed, and such land must otherwise be
14 suitable in terms of size, configuration and physical characteristics to allow
15 for such inclusionary unit development.

16 8. The development of the requisite number of
17 inclusionary units must be feasible without the need for City, Housing
18 Authority, or Long Beach Community Investment Company assistance
19 funds.

20 9. Any other requirements of the inclusionary housing
21 guidelines.

22 C. Other alternative compliance methods. A developer may
23 propose an alternative compliance method to provide inclusionary units
24 through other means consistent with any adopted inclusionary housing
25 guidelines. The City Council may approve or conditionally approve such an
26 alternative only if the City Council determines, based on substantial
27 evidence, that such alternative compliance will provide as many or more
28 inclusionary units at the same or lower income levels or will otherwise

1 provide greater public benefit than would provision of the inclusionary units
2 on-site.

3 The compliance options in Paragraphs A and B of this Section do not
4 qualify the residential development for a density bonus or other regulatory
5 incentives unless the dedication of land conforms to the provisions of
6 Government Code Section 65915(g).

7
8 21.67.090 Application and Review Procedures.

9 A. Inclusionary housing plan.

10 1. An application for the first approval of a residential
11 development shall include an inclusionary housing plan describing how the
12 development will comply with the provisions of this Chapter. As an
13 alternative to compliance with the basic provisions included in Section
14 21.67.050, an applicant may propose one of the alternatives listed in
15 Section 21.67.080 as part of the inclusionary housing plan.

16 2. Any proposed density bonus, waivers, modification of
17 parking standards, or other regulatory incentives shall be included in the
18 inclusionary housing plan.

19 3. Any adopted inclusionary housing guidelines may
20 specify the contents of the inclusionary housing plan. No application for a
21 first approval for a residential development may be deemed complete
22 unless an inclusionary housing plan is submitted in conformance with this
23 Chapter.

24 4. The inclusionary housing plan shall be processed
25 concurrently with all other permits required for the residential development.
26 Before the approval body may approve the inclusionary housing plan, the
27 approval body must affirmatively find that the inclusionary housing plan
28 conforms to the requirements set forth in this Chapter. A condition shall be

1 attached to the first approval of any residential development to require
2 recordation of the inclusionary housing regulatory agreement described in
3 Paragraph B of this Section prior to the approval of any final or parcel map
4 or building permit for the residential development.

5 5. The approved inclusionary housing plan for a
6 residential development, or for a building phase in a residential
7 development, where phasing has been approved as part of planning
8 entitlement approvals, may be amended prior to issuance of any building
9 permit for the residential development or building phase, if applicable. A
10 request for a minor modification of an approved inclusionary housing plan
11 may be granted by the City Manager or their designee if the modification is
12 substantially in compliance with the original inclusionary housing plan and
13 conditions of approval. Other modifications to the inclusionary housing plan
14 shall be processed in the same manner as the original plan.

15 6. Fair Housing and Marketing Plan. The inclusionary
16 housing plan shall describe the applicant's marketing plan, which shall
17 comply with all applicable fair housing laws and shall not discriminate in the
18 sale or rental of inclusionary units on the basis of race, national origin,
19 color, religion, gender, disability, familial status, age, income source, or
20 marital status.

21 B. Inclusionary housing regulatory agreement. The applicant
22 shall enter into an inclusionary housing regulatory agreement with the City,
23 in a form approved by the City Attorney, to be executed by the City
24 Manager or their designee, to ensure that all the requirements of this
25 Chapter are satisfied. The inclusionary housing regulatory agreement shall
26 be recorded against the residential development (and contiguous property
27 under common ownership and control in accordance with Section
28 21.67.050.C) prior to approval of any final or parcel map, or issuance of any

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

building permit, whichever occurs first.

C. The City Council, by resolution, may establish fees for the ongoing administration and monitoring of the inclusionary units, which fees may be updated periodically, as required.

D. The City Council hereby authorizes the Planning Commission to adopt inclusionary housing guidelines to implement this Chapter.

21.67.100 Continued Affordability.

A. All inclusionary units shall remain affordable to the targeted income group for the longer of (i) a period of fifty-five (55) years from the date of issuance of a tentative or final Certificate of Occupancy for such inclusionary units, or (ii) for so long as the subject property which includes such inclusionary units is developed for a residential use.

B. Any adopted inclusionary housing guidelines may include standard documents such as a resale restriction or regulatory agreement, for execution by the City Manager or their designee, in a form approved by the City Attorney, to secure the continued affordability of the inclusionary units approved for each residential development, provide ongoing maintenance obligations, define rent and sale price increase procedures, and provide formulas for how resale prices for ownership inclusionary units are calculated. Such document(s) shall be recorded against the residential development or the inclusionary units, as applicable.

C. Any eligible household that occupies an inclusionary unit must occupy that unit as its principal residence, unless otherwise approved in writing for rental to a third-party eligible household for a limited period of time due to household hardship, as may be specified in any adopted inclusionary housing guidelines.

D. No household may begin occupancy of an inclusionary unit

1 until the household has been determined to be eligible to occupy that unit
2 by the City Manager or their designee. Any adopted inclusionary housing
3 guidelines may establish standards for determining household income,
4 affordable housing cost, provisions for continued monitoring of tenant
5 eligibility, and other eligibility criteria.

6 E. Officials, employees, or consultants of the City, members of
7 City boards and commissions, and the applicant and the applicant's officials
8 shall comply with all applicable laws, regulations, and policies relating to
9 conflicts of interest as to their eligibility to develop, construct, sell, rent,
10 lease, occupy, or purchase an inclusionary unit. Any adopted inclusionary
11 housing guidelines shall include conflict of interest provisions relating to the
12 administration of this Chapter and the eligibility of persons to occupy
13 inclusionary units.

14
15 21.67.110 Housing Trust Fund.

16 A. All in-lieu fees or other funds collected under this Chapter
17 shall be deposited into the City's Housing Trust Fund and shall be
18 maintained and accounted for separately in an inclusionary housing
19 program subaccount.

20 B. Moneys deposited in the Housing Trust Fund pursuant to this
21 Chapter may be used by City to pay for direct costs associated with the
22 administration and enforcement of the program established by this Chapter.

23 C. After payment of expenses, if any, described in Paragraph B
24 of this Section, ~~at least seventy percent (70%)~~ all of the remaining moneys
25 deposited in the Housing Trust Fund pursuant to this Chapter shall be
26 expended to provide newly constructed housing affordable to very low-
27 income households (or below), ~~and the remaining moneys may be~~
28 ~~expended to provide housing affordable to moderate-income households.~~

1 21.67.120 Waiver.

2 A. Notwithstanding any other provision of this Chapter, the
3 requirements of this Chapter may be waived, adjusted, or reduced by the
4 City Council based upon a showing that applying the requirements of this
5 Chapter would result in an unconstitutional taking of property or would
6 result in any other unconstitutional result.

7 B. Any request for a waiver, adjustment, or reduction under this
8 Section shall be submitted to the City concurrently with the inclusionary
9 housing plan. The request for a waiver, adjustment, or reduction shall set
10 forth in detail the factual and legal basis for the claim.

11 C. The request for a waiver, adjustment, or reduction shall be
12 reviewed and considered in the same manner and at the same time as the
13 inclusionary housing plan.

14 D. In making a determination on an application for waiver,
15 adjustment, or reduction, the applicant shall bear the burden of presenting
16 substantial evidence to support the claim. The City may assume each of the
17 following when applicable:

18 1. That the applicant will provide the most economical
19 inclusionary units feasible, while still meeting the requirements of this
20 Chapter and any adopted inclusionary housing guidelines; and

21 2. That the applicant will benefit from the incentives for
22 the residential development as described in this Chapter and elsewhere in
23 the Long Beach Municipal Code.

24 E. The waiver, adjustment or reduction may be approved only to
25 the extent necessary to avoid an unconstitutional result, after adoption of
26 written findings, based on substantial evidence, supporting the
27 determinations required by this Section. If a reduction, adjustment, or
28 waiver is granted, any change in the residential development shall

1 invalidate the reduction, adjustment, or waiver, and a new application shall
2 be required for a reduction, adjustment, or waiver pursuant to this Section.

3

4 21.67.130 Enforcement.

5 A. The City Manager and City Attorney shall be authorized to
6 enforce the provisions of this Chapter and all inclusionary housing
7 regulatory agreements and other covenants or restrictions placed on
8 inclusionary units, by (i) suspension or revocation of any building permit or
9 approval upon finding of a violation of any provision of this Chapter or such
10 agreements or restrictions, and/or (ii) by civil action and any other
11 proceeding or method permitted by law.

12 B. Failure of any official or agency to fulfill the requirements of
13 this Chapter shall not excuse any applicant or owner from the requirements
14 of this Chapter. No permit, license, map, or other approval or entitlement for
15 a residential development shall be issued, including without limitation a final
16 inspection or certificate of occupancy, until all applicable requirements of
17 this Chapter have been satisfied.

18 C. The remedies provided for herein shall be cumulative and not
19 exclusive and shall not preclude the City from any other remedy or relief to
20 which it otherwise would be entitled under law or equity.

21

22 Section 2. The City Clerk shall certify to the passage of this ordinance by
23 the City Council and cause it to be posted in three (3) conspicuous places in the City of
24 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the
25 Mayor.

26 ///

27 ///

28 ///

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Lona Beach, CA 90802-4664

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 20224, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING AND RESTATING CHAPTER 21.11, RELATING TO NO NET LOSS OF AFFORDABLE RESIDENTIAL HOUSING UNITS IN THE CITY

The City Council of the City of Long Beach ordains as follows:

Section 1. Chapter 21.11 of the Long Beach Municipal Code is hereby amended and restated to read as follows:

Chapter 21.11
NO NET LOSS

21.11.010 Purpose and Intent.

——The purpose of this Chapter is to implement California Senate Bill 330 (SB 330), the “Housing Crisis Act of 2019,” as codified in Government Code Section 66300 to insure that the City does not approve a Housing Development Project, as defined herein, that would have the effect of reducing the zoned capacity for housing of the City as it existed on January 1, 2018; or which would result in the demolition of existing housing units unless those units are replaced on at least a one (1) to one (1) ratio; and in the case of exiting low income units, that such units are only demolished if they are replaced, and that certain conditions related to affordability and tenant protections are met. It is the express intent of the City Council that this Chapter remain effective despite the possible

1 expiration of Government Code Section 66300.

2
3 21.11.020 Definitions.

4 The following words or phrases shall have the following meanings
5 when used in this Chapter:

6 A. "Department" means the Department of Development
7 Services.

8 B. "Development Policy, standard or condition" means any of the
9 following:

10 1. A provision of, or amendment to, the City's General
11 Plan.

12 2. A provision of, or amendment to, a specific plan.

13 3. A provision of, or amendment to, a zoning ordinance.

14 4. A subdivision standard or criterion.

15 C. "Housing Development Project" means a use consisting of
16 residential units only; mixed use developments consisting of residential and
17 non-residential uses with at least two-thirds of the square footage
18 designated for residential use; or transitional or supportive housing projects,
19 or the demolition of any of the foregoing (see California Government Code
20 Section 65589.5).

21
22 21.11.030 Applicability.

23 Except as otherwise specified in this Chapter, the provisions of this
24 Chapter, apply to any of the following Housing Development Projects that
25 submit development applications to the City after January 1, 2021:

26 A. New construction of any principal residential building;

27 B. A change of a principal residential use to another principal
28 use;

- 1 C. A change in the number of dwelling units;
- 2 D. A land division subject to Title 20 (Subdivisions) of the Long
- 3 Beach Municipal Code; or
- 4 E. Legalization of an existing unpermitted dwelling unit;
- 5 F. Demolition of an unpermitted or otherwise illegal dwelling unit
- 6 that could otherwise be converted into a legal dwelling unit in accordance
- 7 with applicable provisions of the City's zoning or building regulations.
- 8

9 21.11.040 Exemptions.

10 The following are exempt from the requirements of this Chapter:

- 11 A. New construction of a single-family residence on a lot with no
- 12 other principal uses or structures;
- 13 B. New construction or legalization of accessory dwelling units or
- 14 junior accessory dwelling units;
- 15 C. Conversion to resident ownership of all rented spaces in a
- 16 mobilehome park;
- 17 D. Addition of mobilehome spaces or mobilehomes in a
- 18 mobilehome park;
- 19 E. A lease project wherein two or more residential or commercial
- 20 buildings are constructed and maintained on a parcel of land, and
- 21 apartments, offices, stores or similar space are leased within one or more of
- 22 the buildings, overall control of the land and buildings comprising the project
- 23 being retained by the lessor.
- 24

25 21.11.050 Requirements.

- 26 A. Dwelling units that are proposed to be or have been
- 27 demolished, vacated, or converted from rental to "for-sale," shall be
- 28 replaced if they are permitted in the zone and are or were any of the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

following:

1. Subject to a recorded covenant that restricts rents to levels affordable to persons and families of moderate, lower, very low or extremely low income within the five years prior to application submittal;
2. Occupied by lower, very low or extremely low income tenants within the five years prior to application submittal;
3. Withdrawn from rent or lease in accordance with Chapter 12.75 (commencing with Section 7060) of the California Government Code within the ten (10) years prior to application submittal.

B. The number and type of affordable replacement units shall be determined as follows:

1. The number of affordable replacement units for lower or very low income households shall be determined in accordance with Section 65915 of the California Government Code, or any successor statute;
2. Affordable replacement units for lower or very low income households shall be provided at the level of affordability determined in accordance with Section 65915 of the California Government Code, or any successor statute;
3. Affordable replacement units for extremely low income households shall be provided in at least the same number as existed on the site within the five years prior to application submittal, or in the same proportion of extremely low income renter households to all renter households within the City, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database, if the income category is unknown for any of the following:
 - a. The current household in occupancy at the time of application submittal;

1 b. The last household in occupancy if a unit is
2 unoccupied at the time of application submittal; or

3 c. The households at the highpoint of such units
4 that existed in the five-year period preceding application, if the units have
5 been vacated or demolished.

6 4. At least the same total number of dwelling units and at
7 least the same total number of bedrooms shall be replaced at the same or
8 deeper level of affordability;

9 5. The required number of affordable replacement units
10 shall not be reduced as the result of the deeper level of affordability of the
11 affordable replacement units;

12 6. Affordable replacement units affordable to lower, very
13 low or extremely low income households shall be rental dwelling units; and

14 7. Moderate income units. Units subject to a covenant
15 that restricts rents to levels affordable to moderate income households shall
16 be replaced with units that are affordable to households of moderate income
17 or below moderate income. If they are replaced with units affordable to
18 households of moderate income, the affordable replacement units may be
19 rental or for-sale.

20 C. Inclusionary Housing or Density Bonus. Affordable
21 replacement units required by this Chapter may count toward any affordable
22 housing set-aside units required in connection with the granting of a density
23 bonus, or the requirements of the City's inclusionary housing zoning
24 regulations, if applicable;

25 D. Affordable replacement units shall be provided on-site.
26 Replacement units may be provided off-site if (i) the proposed development
27 requiring replacement units does not have a residential component, or (ii) if
28 the City Council determines, based on substantial evidence, that such off-

1 site compliance will provide greater public benefit than would provision of
2 the replacement units on-site, or off-site, if both of the following are met:
3 1. The affordable replacement units count toward the
4 affordable housing set-aside units required for a project subject to the City's
5 inclusionary housing zoning regulations and are located within two (2) miles
6 of the principal Housing Development Project, and in an area with known
7 displacement risk based on evidence satisfactory to the Department; and
8 2. The construction of such units does not result in units
9 requiring replacement pursuant to this Chapter.

10 E. Tenure. Affordable replacement units in a common interest
11 development or a single-family residential subdivision shall be for-sale only.

12 F. Timing. All permits and entitlements, including the building
13 permits, for the affordable replacement units shall be obtained prior to, or
14 concurrently with, the permits and entitlements, including the building
15 permits, for the non-replacement units.

16 G. Duration of Affordability.
17 1. Rental. The affordability term for rental replacement
18 units shall be the longer of (i) fifty-five (55) years from the issuance of the a
19 tentative or final certificate of occupancy by the City for such replacement
20 units, or (ii) for so long as the subject property which includes such
21 replacement units is developed for a residential use.

22 2. For sale. The initial sale of the affordable replacement
23 units shall be restricted to eligible buyers and shall require an equity sharing
24 agreement with the City, as prepared by the City Attorney or designee and
25 approved by the City Council.

26 H. Covenant and Agreement Required. A covenant and
27 agreement ensuring the continued availability of affordable replacement
28 units shall be executed and recorded to the satisfaction of the City Attorney,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

21.11.060 Approvals.

Notwithstanding any other provision of this Code, and in compliance with Government Code Section 66300 (regardless of whether such Section remains effective), where housing is an allowable use, the City shall not approve any application, project, policy or condition that would result in any of the following effects:

A. Changing the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district below what was allowed for the parcel or parcels and in effect as of January 1, 2018. For the purpose of this Section, "less intensive use" includes, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, or new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or anything that would lessen the intensity of housing.

B. Imposing a moratorium or other limitation on housing development, including mixed use developments, unless a finding is specifically made that said restriction is necessary to protect against an imminent threat to the health and safety of persons residing in, or within the immediate vicinity of, the area subject to the moratorium; or for projects specifically identified as existing restricted affordable housing.

C. Notwithstanding the above, nothing in this Chapter shall prohibit the City from changing a land use designation or zoning ordinance to a less intensive use if the City concurrently changes the development standards, policies, and conditions applicable to other parcels within the City

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

to ensure that there is no net loss in residential capacity.

D. This Chapter does not prohibit an the City from changing a land use designation or zoning ordinance to a less intensive use on a site that is a mobile-home park, as defined in Section 18214 of the Health and Safety Code, as of the effective date of this Chapter, and the no net loss requirement shall not apply.

E. This Chapter does not prohibit the City from enacting a development policy, standard, or condition that is intended to preserve or facilitate the production of housing for lower income households, as defined in Section 50079.5 of the Health and Safety Code, or housing types that traditionally serve lower income households, including mobile-home parks, single-room occupancy units, or units subject to any form of rent or price control through the City's valid exercise of its police power.

Section 2. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 20____, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 W. Ocean Boulevard, 9th Floor
Lana Beach, CA 90802

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Recusal(s): Councilmembers:

City Clerk

Approved:

(Date)

Mayor

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING RESOLUTION NO.
RES-21-0006 PROVIDING FOR AUTOMATIC
ADJUSTMENTS TO THE EXISTING INCLUSIONARY
HOUSING IN-LIEU FEES

WHEREAS, the City Council adopted Resolution No. RES-21-0006 on
January 19, 2021 (the "Resolution"), establishing the amount of various inclusionary
housing in-lieu fees to be paid pursuant to Section 21.67 of the Long Beach Municipal
Code; and

WHEREAS, the City Council wishes to amend the Resolution so that the in-
lieu fees established thereby automatically adjust in accordance with a published index;

NOW, THEREFORE, the City Council of the City of Long Beach resolves as
follows:

Section 1. The above recitals are hereby declared to be true and correct
and are incorporated into this Resolution as findings of the City Council of the City of
Long Beach.

Section 2. Section 4 of the Resolution is amended so that rather than
review by the City Council every three (3) years, each of the in lieu fees established by
the Resolution (collectively, the "In Lieu Fees") shall be automatically adjusted in
accordance herewith. Beginning on January 1, 2024 and continuing on each January 1
thereafter, the In Lieu Fees shall increase by the same percentage as the year-to-year
increase in the new home value index as published by the Real Estate Research Council.

Section 3. The City Clerk shall certify to the passage of this resolution by
the City Council and cause it to be posted in three conspicuous places within the City and
it shall take effect as hereinabove set forth.

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of _____, 2022 by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

City Clerk