

ORDINANCE NO.

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

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 in the State of California; 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; and

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 the City does not approve a Housing  
18 Development Project, as defined herein, that would have the effect of  
19 reducing the zoned capacity for housing of the City as it existed on January  
20 1, 2018; or which would result in the demolition of existing housing units  
21 unless those units are replaced on at least a one (1) to one (1) ratio; and in  
22 the case of exiting low income units, that such units are only demolished if  
23 they are replaced, and that certain conditions related to affordability and  
24 tenant protections are met.

25  
26 22.11.020 Definitions.

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

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

15  
16 22.11.030    Applicability.

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

- 20            A.    New construction of any principal residential building;  
21            B.    A change of a principal residential use to another principal  
22 use;  
23            C.    A change in the number of dwelling units;  
24            D.    A land division subject to Title 20 (Subdivisions) of the Long  
25 Beach Municipal Code; or  
26            E.    Legalization of an existing unpermitted dwelling unit;  
27            F.    Demolition of an unpermitted or otherwise illegal dwelling unit  
28 that could otherwise be converted into a legal dwelling unit in accordance

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with applicable provisions of the City's zoning or building regulations.

22.11.040 Exemptions.

The following are exempt from the requirements of this Chapter:

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

21.11.050 Requirements.

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

1                   3       Withdrawn from rent or lease in accordance with  
2 Chapter 12.75 (commencing with Section 7060) of the California  
3 Government Code within the ten (10) years prior to application submittal.

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

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

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

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

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

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

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

28                   4.       At least the same total number of dwelling units and at

1 least the same total number of bedrooms shall be replaced at the same or  
2 deeper level of affordability;

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

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

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

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

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

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

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

28 E. Tenure. Affordable replacement units in a common interest

1 development or a single-family residential subdivision shall be for-sale only.

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

6 G. Duration of Affordability.

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

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

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, where housing is an allowable use,  
21 the City shall not approve any application, project, policy or condition that  
22 would result in any of the following effects:

23 A. Changing the general plan land use designation, specific plan  
24 land use designation, or zoning of a parcel or parcels of property to a less  
25 intensive use or reducing the intensity of land use within an existing general  
26 plan land use designation, specific plan land use designation, or zoning  
27 district below what was allowed for the parcel or parcels and in effect as of  
28 January 1, 2018. For the purpose of this Section, "less intensive use"



1 includes, but is not limited to, reductions to height, density, or floor area  
2 ratio, new or increased open space or lot size requirements, or new or  
3 increased setback requirements, minimum frontage requirements, or  
4 maximum lot coverage limitations, or anything that would lessen the  
5 intensity of housing.

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

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

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

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

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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

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
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