

ORD-21

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY AMENDING CHAPTER 21.61
RELATING TO MAINTENANCE OF LOW INCOME
HOUSING IN THE COASTAL ZONE

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

Section 1. Chapter 21.61 of the Long Beach Municipal Code is amended
to read as follows:

CHAPTER 21.61

MAINTENANCE OF LOW INCOME HOUSING IN THE COASTAL ZONE

21.61.010 Purpose.

The purpose and intent of this Chapter is to maintain the present number of very low, low and moderate income housing units within the coastal zone and to require that any applicant for a coastal development permit, as a condition of permit issuance, be responsible for replacing existing very low, low and moderate income housing on a one-to-one basis.

21.61.020 Definitions.

Very low, low and moderate income households and housing units are defined in Chapter 21.15 (Definitions).

21.61.030 Applicability of this Chapter.

Any applicant proposing to remove existing affordable housing in the

1 coastal zone shall be responsible for replacing on a one-to-one basis all
2 existing very low, low and moderate income housing removed. This
3 provision shall not apply in the following instances:

4 If the residential structure has been condemned and would require
5 the expenditure of fifty percent (50%) or more of the improvement value, not
6 including land value, to meet applicable building codes or regulations.

7
8 21.61.040 Administration.

9 A. Authority. The administration of the replacement housing
10 requirement and in-lieu fee payments is delegated to the Director of
11 Development Services. The Development Services Department shall adopt
12 appropriate guidelines for program administration consistent with the intent
13 of this Chapter and consider both the rent and income levels of displaced
14 tenants to make a determination about the affordability level of displaced
15 units. Any fees assessed in connection with the administration of this
16 Chapter shall be established by the City Council by resolution.

17 B. Determination.

18 1. It shall be the responsibility of the Director of
19 Development Services to make all determinations regarding the very low,
20 low and moderate cost housing displaced. In order to avoid short-term
21 actions by the owner to disqualify housing from the very low, low and
22 moderate income definitions, the Department of Development Services shall
23 develop procedures to average rental levels over a three (3) year period and
24 to establish fair market sales values based upon prior sales and
25 assessment records.

26 2. Determinations made by the Director of Development
27 Services shall be attached by the applicant to the coastal development
28 permit application and shall become a public record in all proceedings and

1 hearings related to that application. The Department of Development
2 Services shall verify the rent/sales value history and insure that there have
3 been no price changes made for the purpose of circumventing this Chapter
4 or these regulations.

5 3. When the units provided under this program are not
6 under the ownership and control of the City, the Director of Development
7 Services shall act to insure that the units continue to be made available to
8 very low, low and moderate households. The City and the property owner
9 shall enter into an agreement and shall cause necessary covenants and
10 deed restrictions to be recorded as provided for in Subsections 21.61.080.E
11 and F.

12
13 21.61.050 Responsibility to provide housing.

14 No coastal permit and no permit to demolish units shall be issued
15 until the applicant has demonstrated compliance with the responsibility to
16 provide replacement units, or has demonstrated the intention to comply with
17 this Chapter prior to occupancy of the new development. No certificate of
18 occupancy shall be issued prior to the satisfaction of this responsibility.

19
20 21.61.060 Method of replacement.

21 An applicant shall provide replacement housing units by one of the
22 methods outlined in Subsections 21.61.060.A through C:

23 A. On-site—New Units. The replacement units may be provided
24 on the same site as the units being removed and shall be constructed prior
25 to the issuance of a Certificate of Occupancy for any market-rate units being
26 developed on the site.

27 B. In-lieu Fees. A developer may choose to pay in-lieu fees
28 rather than provide replacement housing. Fees shall be paid in accordance

1 with the provisions of Section 21.61.070. If the in-lieu fee is selected in a
2 redevelopment project area, the developer shall be credited with the amount
3 of relocation benefit actually paid to displaced residents, up to a maximum
4 of four thousand five hundred dollars (\$4,500.00) per unit, provided that the
5 relocation payments made to displaced residents by the redevelopment
6 agency are subsequently reimbursed by the developer.

7 C. Affordability Replacement Requirement. All units determined
8 to be very low, low and moderate cost housing in accordance with
9 Subsection 21.61.040.A above shall be replaced on a one-for-one basis. All
10 replacement units must be provided at either the same or greater level of
11 affordability as the existing affordable unit being replaced.

12
13 21.61.070 In-lieu fees.

14 A. Payment Schedule. In-lieu housing replacement fees shall be
15 paid in accordance with the schedule indicated in Table 61-1 and escalated
16 each year at the rate of the Construction Cost Index (CCI) to reflect current
17 market cost. The fee shall be paid to the Director of Development Services
18 for deposit in the Housing Trust Fund, or any similar successor fund, and
19 shall be based on the number, size and income groups served by the
20 displaced units. The schedule in Table 61-1 shall be adjusted annually in
21 accordance with the current Construction Cost Index for the Los Angeles
22 metropolitan area.

23 B. Dispensation of In-lieu Fees. The Director of Development
24 Services shall place all in-lieu funds received into the Housing Trust Fund,
25 or any similar successor fund, for the purpose of funding for very low, low
26 and moderate income housing. The funds must be dispensed by the
27 Director of Development Services or designee within three (3) years from
28 the date of receipt.

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Table 61-1
In-Lieu Fee Schedule

Number of Bedrooms in Displaced Unit	Very-Low Income	Low Income	Moderate Income
Studio	\$241,000	\$222,000	\$127,000
1 Bedroom	\$296,000	\$272,000	\$155,000
2 Bedrooms	\$350,000	\$322,000	\$183,000
3+ Bedrooms	\$404,000	\$372,000	\$212,000

C. Inventory of Properties. The Director of Development Services shall maintain an inventory of properties suitable for rehabilitation, new construction or acquisition within the area specified in Subsection 21.61.080.B.

D. Priority.

The Director of Development Services shall seek housing opportunities funded by in-lieu fees in accordance with the following order of priority:

1. Rehabilitation of existing substandard units.
2. Conversion of existing standard market rate units to housing for very low, low and moderate income persons.
3. Construction of new housing for very low, low and moderate income persons.

The intent of this priority order is to maximize the number of affordable units produced so that the number produced will approximate or exceed the number of units lost to displacement. The authority Director of Development Services may alter this priority as deemed reasonable to accomplish the objectives of this Chapter. The Authority Director shall

1 attempt to reproduce affordable units in a mix proportional to the City-wide
2 housing need, as established by the most current adopted general plan
3 housing element and housing assistance plan.

4 E. Annual Report Required. The Development Services
5 Department shall make an annual report to the City Council on its progress
6 in this program. The report shall include annual and cumulative figures, in
7 size and cost, for the number of housing units lost and the number of units
8 provided by the program, as well as the relationship between program
9 achievements and existing housing needs as established by the Housing
10 Element and housing assistance plan. This reporting may be integrated into
11 overall annual reporting to the City Council regarding the Housing Element.

12
13 21.61.080 Conditions on replacement housing.

14 A. Equivalency. An applicant shall provide replacement housing
15 units which are equivalent to the units displaced in terms of size, measured
16 by the number of bedrooms and income range served, for persons of very
17 low, low and moderate incomes. Subject to the approval of the Director of
18 Development Services, and upon a showing that provision of equivalent
19 units is not feasible, an applicant may provide replacement housing in a mix
20 of household sizes and incomes. The mix shall be proportional to the City-
21 wide housing need, as established in the most current General Plan
22 Housing Element and housing assistance plan.

23 B. Location.

24 1. Any affordable housing produced through this program
25 shall be located within the City of Long Beach anywhere south of the
26 following line:

27 Beginning at the Los Angeles River and Anaheim Street; thence east
28 along Anaheim Street to Pacific Coast Highway; thence southeast along

1 Pacific Coast Highway to Seventh Street; thence east along Seventh Street
2 to West Campus Drive; thence north along West Campus Drive to the
3 common boundary between Cal. State Long Beach and the Veterans
4 Administration (VA) Hospital on the north side of the hospital; thence west,
5 north, east and south around the Cal. State Long Beach property line,
6 returning to Seventh Street along East Campus Drive; thence east along
7 Seventh Street to the boundary line between Los Angeles and Orange
8 Counties.

9 2. The Director of Development Services shall attempt to
10 achieve a reasonable distribution throughout this area in accordance with
11 City General Plan Housing Element policies.

12 C. Income Requirements.

13 1. Housing units produced through the replacement
14 program shall be available to households of very low, low and moderate
15 income. To achieve this, each new tenant of rental property and each new
16 buyer of for sale property shall first be qualified by the Director of
17 Development Services or designee in accordance with procedures set forth
18 by HUD under Section 8 of the Housing Act of 1937, as amended, or similar
19 procedures which take into account annual household income and total
20 household assets.

21 2. Applicants shall be qualified as very low income, low
22 income and moderate income, corresponding to the three (3) classes of
23 housing units (very low, low and moderate) defined in Chapter 21.15
24 (Definitions).

25 D. Guarantee. An applicant shall guarantee that replacement
26 housing provided pursuant to Section 21.61.040 will continue to be provided
27 for very low, low and moderate income households. The applicant shall
28 enter into a recorded agreement or covenant with the City as specified in

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Subsections 21.61.060.C and D.

E. Rental Units Guarantee. Affordable housing developed as rental units shall be subject to the following:

1. Prior to the issuance of an occupancy permit, the developer shall enter into an agreement with the Director of Development Services to assure that all units will continue to be rented at prices affordable to very low, low and moderate income renters. The agreement shall bind the developer and any successor in interest to the real property being developed. The agreement shall be recorded as a covenant running with the land, with no prior liens, other than tax liens, for a period extending fifty-five (55) years from the date the agreement is recorded or for the life of the project, whichever is longer. The agreement shall provide that either:

a. The unit rents shall be fixed at a level affordable to very low, low and moderate income households. The rent may be adjusted annually to reflect changes in the median income. Tenants must qualify as meeting the definition of very low, low and moderate income; or

b. The units shall be rented at the fair market rent for new construction as established by the Department of Housing and Urban Development (HUD). The units shall be rented to persons who either meet the standards for rent subsidy established by HUD pursuant to Section 8 of the Housing Act of 1937, as amended, or to persons who meet the requirements of other rent subsidy or funding program that provides rental housing for low income households.

c. The developer and all successors in interest shall be subject to affordable housing covenant monitoring fees as may be established by the City Council by resolution.

2. The developer shall make best efforts to accomplish the intent of this Chapter. Those efforts shall include, but not be limited to,

1 entering into contracts offered by HUD, the Housing Authority, or other such
2 agency administering a rent subsidy program; or, refraining from taking any
3 action to terminate any rent subsidy programs entered into.

4 3. In the event that any time within the life of the project
5 after the agreement is recorded housing subsidies are not available, the
6 developer or their successor shall maintain the rental levels for the unit at
7 amounts no higher than those affordable to persons within the appropriate
8 income categories described in this Title. In the event that so-called Section
9 8 or comparable maximum rental levels are no longer published by the
10 federal government or local governmental agencies, maximum rental levels
11 shall be a base rent established by the last rental ceiling published for the
12 Section 8 program, adjusted by a percentage to reflect the percentage
13 increase or decrease in median income.

14 F. Sale Unit Guarantee. Affordable units developed as sale units
15 shall be subject to the following:

16 1. Prior to the issuance of a certificate of occupancy, the
17 developer shall enter into an agreement with the Housing Authority Director
18 of Development Services to assure that subsequent sales following the
19 initial sale of the unit will be at a price affordable to households earning
20 substantially the same percentage of the median income as the initial
21 purchasers. The agreement shall bind the developer, any successor in
22 interest and all subsequent purchasers of the unit. The agreement shall be
23 recorded as a covenant running with the land, with no prior liens other than
24 tax liens. The agreement shall provide as follows:

25 a. The applicant, his successors and any
26 subsequent purchasers shall give the City and Department of Development
27 Services Housing Authority an option to purchase the units. The City may
28 assign this option to an individual private purchaser who qualifies as a very

1 low, low or moderate income person and who falls within substantially the
2 same income group as the person for whom the initial sales price was
3 originally established.

4 2. Whenever the applicant or any subsequent owner of
5 the unit wishes to sell or transfer the unit, the applicant shall notify the
6 Authority Director of Development Services of his intent to sell. The
7 authority City shall have the right to exercise the option cited in Subsection
8 21.61.080.F.1 within one hundred and eighty (180) days of the initial sale of
9 the unit by the developer, or within ninety days for subsequent sales.
10 Following the exercise of the option, escrow shall be opened and closed
11 within ninety (90) days after delivery of the notice to exercise the option.

12 3. The option price paid by the authority City or its
13 designee shall be the original sales price of the unit plus an amount which
14 reflects any increase in the median income since the time of original sale.

15 4. Following the notice of intent to sell the unit, the
16 authority City shall have the right to inspect the premises to determine
17 whether repair or rehabilitation beyond the requirements of general or
18 deferred maintenance is necessary. If such repair or maintenance is
19 necessary, the authority City shall determine the cost of repair, and the cost
20 shall be deducted from the purchase price. The repair costs shall be paid to
21 the authority City, its designee, or contractors chosen by the authority City
22 to carry out the deferred maintenance, and the money received shall be
23 expended in making repairs.

24 5. The purchaser shall not sell, lease, rent, assign or
25 otherwise transfer the property without the expressed written consent of the
26 Housing Authority Director of Development Services. This provision shall
27 not prohibit encumbering the property for the sole purpose of securing
28 financing. However, in the event of foreclosure or sale by deed of trust or

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other involuntary transfer, title to the property shall be taken subject to the recorded agreement.

21.61.090 First option.

Any resident displaced by new construction or condominium conversion in the coastal zone shall have the first option to rent or buy affordable housing.

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.

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

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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