

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

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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

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

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

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

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- 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.  
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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.  
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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).

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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.

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8 21.67.100 Continued Affordability.

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

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

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

28 D. No household may begin occupancy of an inclusionary unit

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

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

21.67.110 Housing Trust Fund.

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

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

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

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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.

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

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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 February 15, 2022, by the following vote:

Ayes: Councilmembers: Zendejas, Allen, Price, Supernaw,  
Mungo, Saro, Uranga, Austin,  
Richardson.

Noes: Councilmembers: None.

Absent: Councilmembers: None.

Recusal(s): Councilmembers: None.

  
City Clerk

  
Mayor

Approved: 2/22/22  
(Date)

