SUBJECT: SECOND READING OF ORDINANCE NO. 2022-05-CC ESTABLISHING INCLUSIONARY HOUSING REQUIREMENTS INCLUDING THE AUTHORITY TO LEVY AN IN LIEU FEE

PURPOSE: To adopt Ordinance No. 2022-05-CC implementing Chapter 11.29 Inclusionary Housing and amend Title 11, Division II in the South Gate Municipal Code.

RECOMMENDED ACTIONS: The City Council will consider waiving the reading in full and adopting Ordinance No.2022-05-CC, establishing new Chapter 11.29 (Inclusionary Housing), to Title 11 (Zoning) of the South Gate Municipal Code and amending the South Gate Municipal Code by implementing the provision of Title 11, Division II in its entirety.

PUBLIC NOTIFICATION: Advertising and notification of the public hearing for this item was conducted in compliance with Chapter 11.50, Title 11, of the South Gate Municipal Code. Notice of the hearing was originally posted and published in the “Long Beach Press Telegram” on June 3, 2022.

ENVIRONMENTAL EVALUATION: The foregoing amendment to the South Gate Zoning Code is exempt from the California Environmental Quality Act (“CEQA”) under Section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA.

FISCAL IMPACT: None associated with this action. If adopted, the proposed Ordinance would permit the City to require and enforce the inclusion of affordable housing on future developments within the City limits. As an alternative to the production of such required housing on-site, applicants would be permitted various alternatives including the donation of land to the South Gate Housing Authority or payment of a proposed housing in-lieu fee to the City to be deposited into an affordable housing trust fund of the City. Both dedicated land and the affordable housing trust fund would provide the Housing Authority and City additional assets to further the production of affordable housing needed in South Gate.
Additionally, the proposed Ordinance could permit the Community Development Department to charge administrative fees for purposes of carrying out the ordinance, including the review and preparation of inclusionary housing plans and affordable housing agreements for eligible projects.

**ANALYSIS:** The proposed Inclusionary Housing Ordinance was presented and unanimously approved at the June 14, 2022, City Council meeting. The ordinance provides the City an additional tool to address the significant affordable housing crisis facing South Gate residents.

**Why an Inclusionary Housing Ordinance?**

Inclusionary housing is a policy tool that generally requires applicants of market rate, non-income restricted housing to restrict a percentage of new units for affordable households. Inclusionary housing is a new concept in South Gate, as the City does not currently require any development to contain affordable units as a condition of approval. Inclusionary housing may not seem like a necessary tool for Los Angeles County cities with limited amount of new development. In fact, development in South Gate has slowed considerably in recent decades compared to the Post-War era as shown in the chart below.

![Figure 1: Historical Housing Development in the City of South Gate (Source: ESRI Business Analyst)](image)

However, these historical trends are changing, both in the region and in South Gate. Recent trends in infill markets have increased the demand for housing in close proximity to job centers as opposed to outlying areas. Both market trends and state housing policy are affecting this shift towards seeing more housing near transit and job centers.

The City is recognizing the need to adapt its land use policy to achieve these goals and remain in compliance with state law. This includes the creation of three specific plans, each of which would allow for additional infill residential and mixed used development to occur.
Figure 2: Anticipated New Residential Construction in Specific Plan Areas

<table>
<thead>
<tr>
<th>Specific Plan Area</th>
<th>Anticipated Residential Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gateway District Specific Plan (Proposed)¹</td>
<td>1,370</td>
</tr>
<tr>
<td>Hollydale Specific Plan²</td>
<td>618</td>
</tr>
<tr>
<td>Tweedy Boulevard Specific Plan³</td>
<td>1,060</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>2,178</strong></td>
</tr>
</tbody>
</table>

The California Department of Housing and Community Development (HCD) recently completed the Regional Housing Needs Assessment for the 8-year period beginning in October 2021, which determines the City of South Gate’s next (“6th Round”) fair share allocation of housing production. In March 2021, HCD approved the 6th Round Final RHNA Allocation Plan allocating 8,282 housing units to South Gate, of which 2,136 (26 percent) would need to be affordable to very low-income households (earning less than 50 percent of the County median income) with an almost equal amount of additional affordable units for low- and moderate-income households.

See the table below for a breakdown of the 6th Round RHNA requirements for South Gate.

Figure 3: 6th Round RHNA Requirements for South Gate (October 2021-September 2029)

<table>
<thead>
<tr>
<th>Income Level</th>
<th>Residential Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Above Moderate Income (&gt;120% AMI)</td>
<td>3,979, 48%</td>
</tr>
<tr>
<td>Moderate Income (80%-120% AMI)</td>
<td>1,173, 14%</td>
</tr>
<tr>
<td>Low Income (50%-80% AMI)</td>
<td>994, 12%</td>
</tr>
<tr>
<td>Very Low Income (&lt;50% AMI)</td>
<td>2,136, 26%</td>
</tr>
</tbody>
</table>

¹ 2021 Gateway District Draft Build Out Analysis; Ascent Environmental
² Hollydale Specific Plan, adopted June 2017. Page 131
³ Tweedy Boulevard Specific Plan, Adopted March 2019. Page 157
How Other Los Angeles County Cities are Implementing Inclusionary Housing

Generally, inclusionary housing can be done in three different ways:

1. Through an inclusionary housing ordinance that applies citywide, such as what is proposed in South Gate

2. Through an overlay zone where a specific area or specific type of affordable housing is designated

3. On a case-by-case basis through the discretionary approval process.

Staff believes that an inclusionary housing ordinance that applies citywide is the most comprehensive and effective approach toward achieving the production of more infill affordable housing. South Gate’s housing challenges go well beyond one specific type of housing needed, as the typical resident would qualify as a very low-income household in Los Angeles County.

As shown in Figure 4, there are 18 inclusionary housing ordinances that have been established in Los Angeles County, including 17 of the 88 cities in Los Angeles County, as well as the County itself. Two of these ordinances (in Whittier and Duarte) are suspended at the present time, leaving 16 currently in effect at this time. Many of these predated changes to state law in 2017 (Assembly Bill 1505) which effectively reinstated the ability of a city to enact such policies on rental housing. Prior to AB 1505, courts ruled that cities could not require inclusionary housing on rental projects, specifically under the 2009 decision of Palmer/Sixth Street Properties, L.P., et al. v. City of Los Angeles (2009) 175 Cal.App.4th 1396 (“Palmer Case”). Two cities, Duarte, and Whittier, have each suspended their ordinances previously due to the Palmer Case and have not yet taken action to reinstate their ordinances since AB 1505.

Among the Gateway cities, Long Beach, Downey, and, most recently, Cudahy, have adopted inclusionary housing ordinances. The Long Beach ordinance was adopted in early 2021 and is currently only applicable to development within the Downtown/Midtown area, increasing the inclusionary requirement each year over 3 years in order to allow the market to adjust. This policy decision was made after completion of a feasibility study that concluded that the market may not be able to absorb the impact of inclusionary housing outside of their downtown area (where residential development is considerably less prolific). Downey and Cudahy adopted ordinances in April 2022 and May 2022 respectively, implementing inclusionary housing citywide.

An inclusionary housing ordinance requires applicants of market rate, non-income restricted housing to restrict a percentage of the new units for affordable households, who earn less than 120 percent of the County median income, adjusted for household size. The percentage varies based on many factors, but generally anything over 15 percent would trigger state HCD review.
Figure 4: Inclusionary Housing Requirements in Los Angeles County

<table>
<thead>
<tr>
<th>Existing Ordinances</th>
<th>Minimum Project Size</th>
<th>Inclusionary Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Rental</td>
<td>Ownership</td>
</tr>
<tr>
<td>1. Agoura Hills</td>
<td>10 units</td>
<td>10 units</td>
</tr>
<tr>
<td>2. Alhambra</td>
<td>7 units</td>
<td>7 units</td>
</tr>
<tr>
<td>3. Avalon</td>
<td>5 units</td>
<td>5 units</td>
</tr>
<tr>
<td>4. Burbank</td>
<td>5 units</td>
<td>5 units</td>
</tr>
<tr>
<td>5. Calabasas</td>
<td>5 units</td>
<td>5 units</td>
</tr>
<tr>
<td>6. Claremont</td>
<td>7 units</td>
<td>7 units</td>
</tr>
<tr>
<td>7. Cudahy</td>
<td>4 units</td>
<td>4 units</td>
</tr>
<tr>
<td>8. Downey</td>
<td>10 units</td>
<td>10 units</td>
</tr>
<tr>
<td>9. Duarte (suspended)</td>
<td>10 units</td>
<td>4 units</td>
</tr>
<tr>
<td>10. Glendale</td>
<td>8 units</td>
<td>N/A</td>
</tr>
<tr>
<td>11. Pasadena</td>
<td>10 units</td>
<td>10 units</td>
</tr>
<tr>
<td>12. Rancho Palos Verdes</td>
<td>5 units</td>
<td>5 units</td>
</tr>
<tr>
<td>13. Santa Monica</td>
<td>2 units</td>
<td>4 units</td>
</tr>
<tr>
<td>14. South Pasadena</td>
<td>3 units</td>
<td>3 units</td>
</tr>
<tr>
<td>15. West Hollywood</td>
<td>1 unit</td>
<td>1 unit (Excludes Single Family Dwellings)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>16. Whittier (suspended)</td>
<td>7 units</td>
<td>7 units</td>
</tr>
<tr>
<td>17. Los Angeles County</td>
<td>5 units</td>
<td>5 units</td>
</tr>
<tr>
<td>18. Long Beach (phased)</td>
<td>10 units</td>
<td>10 units</td>
</tr>
</tbody>
</table>
How Inclusionary Housing Works

Developers provide inclusionary housing typically based on what market rate housing is priced at within a community, these days frequently accounting for density bonus incentives aimed at lowering parking and development restrictions to build more units. In general, markets where new housing is being built at a relatively high rate and at prices high enough to support the developers discounting inclusionary units tend to be where inclusionary housing is easier to achieve. This is also true even without inclusionary housing today, as the price to build housing prevents some markets from seeing otherwise “affordable” housing being built, or if so at prices well above what current existing inventory is priced at.

Market rate housing is priced based on two main factors: the cost to build the unit, including the land cost, as compared to what potential residents would pay to rent or purchase that unit. Places where one sees market rate housing construction happening today are where both of these factors are favorable. The cost to build new market rate housing is very high, relative to what existing housing sells and rents for in South Gate, which is why South Gate and most of the country is facing the housing crisis at hand.

Affordable housing is sold or rented at levels where the household generally does not pay more than 30 percent of their income on housing costs, which can result in substantially lower housing costs for eligible households. Inclusionary housing policies often adopt the state income limits as the basis for determining the amount of what a household can pay. Each year, HCD sets affordable housing costs (rents and monthly house payments) based on median income levels in each county for moderate, low, very low, extremely low, and acutely low-income households.

For example, in Los Angeles County, monthly affordable 2-bedroom rents in 2022 ranged from $308 for acutely low (three person) households to a high of $2,255 per month for a moderate-income household. These rents are much lower than market rents for new rental housing, even if existing apartments in South Gate do not charge the same rents as new complexes. Based on a Spring 2022 survey of 2-bedroom apartments in South Gate, rents average $1,653 per month. By comparison, new projects often see much higher rents necessary to cover the cost of construction and land, resulting in average market rate rents at least $3,000 per month for a 2-bedroom unit. As new housing is built at these rents, the gap between affordable and market rents is significant, which creates both the demand for inclusionary housing while also reducing substantially the income from those same inclusionary units needed to make a project feasible.

In a similar fashion, affordable purchase prices are driven by HCD limits on total monthly housing costs, inclusive of property taxes, insurance, mortgage principal and interest, and homeowners’ association costs (if applicable). Typically, low-and-moderate income households have limited funds for down payment and closing costs, so the mortgage amount is often reflective of the ultimate purchase price for a unit which is much lower than what market rate housing costs to construct not to mention the typical sales prices.

Figure 5 illustrates the differences between existing and new market rate housing costs in South Gate as well as what low-and-moderate income housing costs would be for a 2-bedroom (three person) apartment, and a 3 bedroom (four person) for-sale home.
Communities need to carefully consider the number of each type of units they require to be affordable in any inclusionary housing ordinance, so as to not cause future development to be infeasible. Even if requiring less than 15 percent affordability, the cost to provide 15 percent very low income units compared to 15 percent moderate income units is very different. These economic factors are critical, because an ordinance that effectively stalls demand for new market rate housing would not provide many benefits in the way of new affordable inclusionary housing. In other words, 15 percent of zero is still zero.

For example, a developer would need to increase the price of market rate units sold in a project to recover the loss on housing costs for affordable units. Most developers profit on a project range between 8-12 percent; even nonprofit developers (that typically focus in rental and subsidized affordable housing) must make some additional revenue to cover their development cost. To be feasible, a developer would likely seek to charge higher prices or higher rents for market rate units to recover these losses. These housing costs would be much higher than existing housing in South Gate so the City should be cautious and measured as to how much burden they place on future development to fund inclusionary housing so as to

<table>
<thead>
<tr>
<th>Income Category</th>
<th>2 Bedroom Apartment(^4) (3-person household)</th>
<th>3 Bedroom Home(^5) (4-person household)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Rent/Mo</td>
<td>Gap</td>
</tr>
<tr>
<td>Market Rate – Existing Housing(^6)</td>
<td>$1,653</td>
<td></td>
</tr>
<tr>
<td>Market Rate – New Constr.(^7)</td>
<td>$3,000</td>
<td></td>
</tr>
<tr>
<td>Moderate Income</td>
<td>$2,175</td>
<td>$825</td>
</tr>
<tr>
<td>Low Income</td>
<td>$1,150</td>
<td>$1,850</td>
</tr>
<tr>
<td>Very Low Income</td>
<td>$945</td>
<td>$2,055</td>
</tr>
</tbody>
</table>

\(^4\) Based on RSG rent survey. For affordable units, a 2-bedroom unit is for a 3-person household and affordable rents shown are net of an $80 utility allowance, as established by LACDA effective 7/1/21.

\(^5\) Affordable housing costs cannot exceed 30 percent (35 percent for moderate income) of the household income, and include mortgage principal and interest, homeowner association, property taxes and insurance. RSG assumed $300 per month for homeowner association dues and approximately $70 per month for insurance. Under HCD guidelines, a 3-bedroom affordable unit is for a 4-person household.

\(^6\) Rents are based on RSG rent survey. Sales prices are based on Dataquick 3rd Quarter 2020 price survey of closed home sales.

\(^7\) Rents are estimated by RSG based on review of Jefferson at SoLA advertised market rate rents as well as feasible rents to justify new construction costs in area. Sales prices are based on Dataquick 3rd Quarter 2020 price survey of closed home sales as well as feasible prices to construct new housing in area.

\(^8\) For a number of factors, particularly construction costs, new housing in South Gate will likely be attached for sale product, such as condominiums and townhomes. If any new detached housing of more than 5 units were developed in South Gate, the City’s economic consultant RSG estimates these units would need to be priced at least $770,000 even without any inclusionary housing requirements. Staff and RSG do not believe this is a viable price point for South Gate housing and have excluded it from this analysis.
not discourage development of any housing in the city. For example, a new single family detached development of 12 units would likely have to sell units at $770,000 without any inclusionary requirement, and with a modest inclusionary requirement, these units would need to sell for approximately $808,000.

Why Phasing in of an Inclusionary Housing Requirement is Recommended

When an inclusionary housing ordinance is adopted, it causes the cost of market rate housing to be more expensive due to the necessary subsidies from market rate units to cover the cost of the affordable units. This often means that over time, owners of land have to reduce the price of land to reflect the cost of housing. Initially, owners of recently purchased property are most acutely impacted because they purchased land without this requirement and the land price was not adjusted. Shortly after an inclusionary housing ordinance is adopted, the market begins to adjust though not all buyers may necessarily be expected to immediately reduce the price of land, so it often takes a few years for the local real estate market for land adjust to the new requirements. This is often why some cities, including the Ordinance recommended by staff for South Gate, use a phased in approach to not create a shock to the real estate market that could slow production of market rate housing and the inclusionary housing that may come with it.

Alternate Means of Compliance

By law, cities imposing an inclusionary housing requirement must offer at least one alternative to building the units on-site. Among the 17 Los Angeles County cities with such ordinances, most cities offer the option of paying an in-lieu fee (which the city then retains in an affordable housing trust fund for investment in future affordable housing projects, off-site construction, and acquisition and conversion of existing market rate units). In-lieu fees are a common alternative, with the exception being Avalon, which does not offer builders the alternative to pay a fee for fulfilling their ordinance.
The table below summarizes what alternatives to on-site production are available to applicants among the 17 cities in Los Angeles County.

**Figure 6: Inclusionary Housing Compliance Alternatives to Onsite Production among Los Angeles County Cities**

<table>
<thead>
<tr>
<th>City</th>
<th>In-Lieu Fees</th>
<th>Off-Site Construction</th>
<th>Acquisition and Rehabilitation of Existing Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agoura Hills</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Alhambra</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Avalon</td>
<td>No</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Burbank</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Calabasas</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Claremont</td>
<td>✓</td>
<td>✓</td>
<td>No</td>
</tr>
<tr>
<td>Cudahy</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Downey</td>
<td>✓</td>
<td>✓</td>
<td>No</td>
</tr>
<tr>
<td>Duarte (suspended)</td>
<td>✓</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Glendale</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Long Beach¹</td>
<td>✓</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Pasadena</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Rancho Palos Verdes</td>
<td>✓</td>
<td>✓</td>
<td>No</td>
</tr>
<tr>
<td>Santa Monica</td>
<td>✓</td>
<td>✓</td>
<td>No</td>
</tr>
<tr>
<td>South Pasadena²</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>West Hollywood</td>
<td>✓</td>
<td>✓</td>
<td>No</td>
</tr>
<tr>
<td>Whittier (suspended)</td>
<td>✓</td>
<td>✓</td>
<td>No</td>
</tr>
</tbody>
</table>

1. In-lieu fees and land donation are alternatives stated in the Long Beach ordinance. Developers may also propose other alternatives to City Council for consideration.
2. In-lieu fee is only permitted for 3- and 4-unit rental projects and all ownership projects. Rental projects with 5 or more units must provide off-site construction, acquire, and rehabilitate existing units, or dedicate land.

Since identifying housing sites in South Gate may be very challenging, it is recommended that the ordinance provide maximum flexibility with these and other means for compliance.

**Elements of the Proposed Ordinance**

Weighing all the factors described above, the proposed inclusionary housing ordinance sets forth inclusionary requirement standards and offers alternatives to fulfillment on-site.

- **On-Site Inclusionary Requirements:** The proposed Ordinance requires production of inclusionary housing for rental and ownership housing, which would generally apply to all...
market rate residential and mixed-use projects in the City over 10 units. Initially, these requirements would be lower and phased in over a three-year period subject to the approval at each anniversary of the Ordinance.

The phasing in process is similar to how some jurisdictions have implemented inclusionary housing (including Long Beach which adopted an inclusionary housing ordinance in the Downtown/Midtown area of the city in 2021). Phasing in an ordinance allows the real estate market to adjust to the impacts of these new requirements. For example, transactions on real estate in South Gate today are based on the requirements that exist – so developers and sellers of property have presumed no inclusionary housing requirements. Inclusionary housing does increase the cost of development and by extension affects the value of land, so phasing allows time for the market to adjust to these new requirements.

Phasing the ordinance also provides the City Council the ability to consider the appropriateness of the new requirements. The Ordinance includes an annual review and as part of this the City Council may elect to trigger or defer the additional requirements should market conditions require this. Staff notes that at their review of the ordinance, the Planning Commission recommended that trigger mechanism in the proposed ordinance be removed, and the phasing is automatically implemented on its anniversary date.

The table below summarizes the inclusionary requirements as proposed:

Figure 7: Proposed Inclusionary Housing Requirements in April 2022 Draft Ordinance

<table>
<thead>
<tr>
<th></th>
<th>Rental Projects</th>
<th>Ownership Projects</th>
</tr>
</thead>
<tbody>
<tr>
<td>For the 12-month period commencing on the effective date of this chapter, Projects with more than 10 Units:</td>
<td>8% affordable to Low-Income or 6% affordable to Very Low-Income Households</td>
<td>10% affordable to Moderate-Income Households</td>
</tr>
<tr>
<td>Subject to the approval of the City Council, for the 12-month period commencing on the first anniversary of the effective date of this chapter, Projects with more than 10 Units:</td>
<td>10% affordable to Low-Income or 8% affordable to Very Low-Income Households</td>
<td>12% affordable to Moderate-Income Households</td>
</tr>
<tr>
<td>Subject to the approval of the City Council, from and after the second anniversary of the effective date of this chapter, Projects with more than 10 Units</td>
<td>12% affordable to Low-Income or 10% affordable to Very Low-Income Households</td>
<td>14% affordable to Moderate-Income Households</td>
</tr>
<tr>
<td>Projects with 10 Units or less</td>
<td>Fee Only</td>
<td>Fee Only</td>
</tr>
</tbody>
</table>
Alternatives to On-Site Production: The Government Code requires that cities must provide at least one alternative to on-site production to comply with an inclusionary ordinance. Recognizing that on-site production in a dense city may be challenging, the proposed inclusionary housing ordinance allows applicants to produce the units off-site (elsewhere in the City), donate land, pay in-lieu fees, convert market rate units to affordable housing, and extend covenants of at-risk affordable housing in the City. In all of these alternatives, the Community Development Director could have the discretion to review the applicant’s affordable housing plan to ensure not only that the alternative provides an acceptable amount of affordable housing but do so in such a way so as to not concentrate this in any single part of the City.

Also, as noted in the table above, projects 10 units or less would not be required to produce inclusionary housing on-site and instead would be charged the in-lieu fee that would be collected by the Community Development Department and deposited into an affordable housing trust fund.

Exemptions: The Inclusionary Housing Ordinance provides three types of applications that would not be subject to the inclusionary housing requirement. These include most projects where an existing single unit is being replaced due to demolition or destruction, many types of 100 percent affordable housing projects, and accessory dwelling units.

Standards: Inclusionary units should be constructed to the same standard as a project’s market rate (non-income restricted) units and spread throughout a project. Units should remain affordable for a period of 55 years for both rental and ownership projects. This affordability requirement should be secured by a recorded affordable housing agreement that is recorded on the property and would be binding on successive owners of the property.

Procedures: Applicants should be required to prepare and submit an inclusionary housing plan that details how the Ordinance requirements will be implemented into the proposed project. No discretionary approvals or building permits would be issued until the applicant has submitted an inclusionary housing plan. The form and content of the inclusionary housing plan would be established if the Ordinance is approved and becomes effective.

An affordable housing agreement would be prepared and recorded against the property where the allocated units would be constructed prior of the issuance of building permits or a certificate of occupancy.

Annual Review: At least once each calendar year, the Community Development Department shall prepare a report on the effectiveness of the inclusionary housing ordinance and provide recommendations with regard to changes or revisions to the adopted program to improve its effectiveness and/or administration.

Implementation of the Ordinance

Implementation of the ordinance would be contingent upon its approval by this City Council, and would entail subsequent actions by the Community Development Department, including:
1. **Preparation of a Resolution setting Housing In-Lieu Fees:** As mentioned earlier, it is recommended that an in-lieu fee option for conformance be included within the inclusionary housing ordinance. As proposed, the housing in-lieu fee would be charged to applicants of projects 10 units or less, as well as to applicants of larger projects that seek this alternative to on-site construction. The fee schedule would be established by resolution of the City Council, similar to other fees charged by the City. An in-lieu fee schedule would be presented to the City Council after the ordinance is effective.

2. **Preparation of implementing policies and standard agreements:** In order to make processing applications for inclusionary housing as straightforward as possible, staff would prepare an inclusionary housing plan and agreement for applicants to use in submittal of their projects to the City.

**BACKGROUND:** The process leading up to the preparation of the proposed Inclusionary Housing Ordinance began initially with the City Council’s adoption of the City’s Economic Development Strategy (“Strategy”) in June 2018. At the time, the Strategy highlighted that approximately 66 percent of South Gate renters were spending more than 30 percent of their income on housing, and most residents could not afford to purchase a home in the City, despite relatively affordable home prices relative to other Los Angeles County communities. The Strategy established two goals to maintain a supply of affordable housing and partner with developers to ensure the production of such housing would become a reality.

As the City Council is aware, while South Gate and other Gateway cities are considered built out, the demand for housing and particularly housing that is affordable to a community with a median household income of approximately $55,000, is a key priority. Redevelopment opportunities stemming from the implementation of the Tweedy Boulevard, Hollydale, and (soon) Gateway District Specific Plans would allow for additional housing to be developed in the City. However, the City does not currently have requirements that future housing in these, and other areas of the City be restricted to households earning less than 120 percent of the County median income, which for a family of four is $109,300 a year in 2022, as well as those households at very low income levels, which for a family of four is $59,550 a year in 2022.

<table>
<thead>
<tr>
<th>South Gate (4 Person Household)</th>
<th>LA County Affordable Housing Income Limits (4 Person Household, 2022)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Median Household Income</strong></td>
<td>Very Low Income</td>
</tr>
<tr>
<td>$55,084 (2021)</td>
<td>$59,550</td>
</tr>
</tbody>
</table>

While it is not possible to make existing housing stock affordable to most South Gate residents, the City can shape its housing policies to ensure that future housing supply includes more affordable housing units and that such units remain affordable with long term recorded covenants.

This information became the policy foundation for discussions with the City Council beginning in the Fall of 2019 when staff began the preparation of an inclusionary housing ordinance. Specific actions involving the creation of this policy included the following:
• November 11, 2019: City Council Study Session on the need for an inclusionary housing policy
• February 4, 2020: Planning Commission briefing
• March 11, 2020: Public workshop at City Hall
• August 11, 2020: Briefing with City Council
• July 28, 2021: Housing Workshop with Planning Commission and City Council

In each of these discussions, inclusionary housing was presented as one, but not the only, affordable housing initiative of the City. South Gate has 362 existing income restricted housing units for seniors and families. In addition to these units, approximately 420 eligible households receive Section 8 Housing Choice Voucher program administered by the City’s Housing Authority to keep otherwise market rate units affordable at 30 percent of their adjusted gross income. The Housing Authority also manages a HOME improvement loan program to provide financing to homeowners to make repairs to homes they own. Additionally, four affordable housing projects are planned in the City, three of which are on properties owned by the South Gate Housing Authority or Successor Agency: the 60-unit PATH Villas project, a proposed 14-unit mixed income Habitat for Humanity townhome project on the 9000 block of Long Beach Boulevard, a proposed affordable townhome project at 7916 Long Beach Boulevard, and a future affordable housing project on the recently acquired property at 13050 Paramount Boulevard.

Once the Ordinance is adopted, staff will work on the necessary implementation policies to enact the Ordinance, including preparation of a resolution setting the initial housing in-lieu fee and the creation of templates for the inclusionary housing plan and inclusionary housing agreements to assist applicants evaluate and process inclusionary housing applications in the Community Development Department.

ATTACHMENT: Ordinance No. 2022-05-CC
ORDINANCE NO. 2022-05-CC

CITY OF SOUTH GATE
LOS ANGELES COUNTY, CALIFORNIA

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH GATE,
CALIFORNIA IMPLEMENTING INCLUSIONARY HOUSING

THE CITY COUNCIL OF THE CITY OF SOUTH GATE, CALIFORNIA, DOES HEREBY
ORDAIN AS FOLLOWS:

SECTION 1. Amend the City of South Gate Municipal Code by adding the provisions of new Chapter
11.29 (Inclusionary Housing) to Division II (Zoning Regulations) of Title 11 (Zoning) to read and
provide as follows:

"11.29 INCLUSIONARY HOUSING

Section:
11.29.010 Determinations.
11.29.020 Purpose.
11.29.030 Definitions.
11.29.040 Applicability.
11.29.050 Inclusionary Requirements.
11.29.060 Relationship to Density Bonus Provisions.
11.29.070 Alternative Compliance.
11.29.080 Exemptions.
11.29.090 Takings Determination.
11.29.100 Establishment, Payment, and Use of the Housing In-Lieu Fees.
11.29.110 Inclusionary Unit Development Standards.
11.29.120 Affordable Housing Incentives.
11.29.130 Inclusionary Housing Plan and Housing Agreement.
11.29.140 Administration.
11.29.150 Annual Review.
11.29.160 Affordable Housing Trust Funds.
11.29.170 Administrative Fees.

11.29.010 Determinations.

The City of South Gate declares that the provision of housing in a suitable living environment for all
residents is a priority of the highest order and is consistent with State, regional and national policies.
The goal of the City is to achieve a balanced community with housing available for persons of all income levels. There exists within the City a shortage of housing that is affordable to households of lower and moderate incomes. Federal and State housing finance subsidy programs are not sufficient by themselves to satisfy these income housing needs. The City finds that the housing shortage for households of lower and moderate income is detrimental to the public health, safety and welfare and, further, that it is a public purpose of the City to seek assistance and cooperation from the private sector in making available an adequate supply of housing for persons of all economic segments of the community.

11.29.020 Purpose.

The purpose of this chapter is to enhance the public welfare and assure the compatibility between future housing development and the housing element of the City of South Gate general plan through increasing the production of housing units affordable to households of lower and moderate incomes. It is the purpose of this chapter to meet the City’s general plan goals to expand the supply of housing available to lower and moderate-income households.

11.29.030 Definitions.

A. “Affordability agreement,” means a legally binding, written agreement between an applicant and the City, in form and substance satisfactory to the city attorney, ensuring compliance with the requirements of this chapter.

B. “Affordable rent” means the maximum monthly rent an owner may charge for an allocated unit in accordance with subdivision (b) of Section 50053 of the California Health and Safety Code, less the appropriate allowance for utilities.

C. “Allocated unit” or “inclusionary unit” means a newly constructed “for-rent” or “for-sale” dwelling unit which is: (1) provided (or caused to be provided) by an applicant under the provisions of this chapter; (2) to be made available and occupied by a lower-, low- or moderate-income household, as required under the provisions of this chapter; (3) subject to occupancy and affordable rent or sales price controls for a period of not less than 55 years; (4) compatible with the design of other units in the residential housing development of which it is part in terms of exterior appearance, materials and quality finish; and (5) a similar unit type and bedroom mix to the overall residential development.

D. “Community care facility” means a facility, place or building which is maintained and operated, subject to licensing by the California Department of Social Services, to provide nonmedical residential care, which may include home finding and other services, for children and/or adults, including: the physically handicapped; mentally impaired, mentally disordered, or incompetent; developmentally disabled; court wards and dependents; neglected or emotionally disturbed children; the addicted; the aged. Community care facility includes a continuing care and retirement community.
E. “Development standard” means a site or construction condition, including, but not limited to, height limits, required setbacks, maximum floor area ratio, onsite open-space requirement, or required parking that applies to a residential development pursuant to any ordinance, General Plan, Specific Plan, charter, or other local condition, law, policy, resolution, or regulation. Without limiting the foregoing, the parking requirements as set forth in Table 11.31-4 of Section 11.31.060 shall apply to any residential development subject to this Chapter 11.29.

F. “Health care facility” means a facility, place or building other than a hospital which is maintained and operated as a residence for patients and to provide long-term medical care. Includes nursing homes, intermediate care facilities, extended care facilities, hospice homes, and similar facilities which are licensed by the California State Department of Health Services, and defined in Health and Safety Code, Section 1200, et seq. May include a lab, radiology, pharmacy, rehabilitation, and other similar services as accessory uses.

G. “Housing Authority of the City of South Gate” or “Housing Authority” means the not-for-profit public entity, responsible for ensuring adequate, decent, safe and sanitary housing for qualified people with limited income within South Gate consistent with federal, state and local laws and which is involved in administering programs designed to develop affordable housing, provide federal rental subsidy, and various other programs to benefit South Gate residents with limited income.

H. “Housing in-lieu fee” means a fee paid by an applicant as an alternative to providing an allocated unit or a fraction of an allocated unit.

I. “Income (household), low” means a household whose gross income does not exceed 80 percent of the area median income for the County of Los Angeles, adjusted for family size, as published and periodically updated by the State Department of Housing and Community Development pursuant to Section 50079.5 of the California Health and Safety Code.

J. “Income (household), very low” means a household whose gross income does not exceed 50 percent of the area median income for the County of Los Angeles, adjusted for family size, as published and periodically updated by the State Department of Housing and Community Development pursuant to Section 50105 of the California Health and Safety Code.

K. “Lower income household” is a general term which refers to households whose gross income falls under the categories of very low or low income as those terms are defined in this Section.

L. “Moderate income household” means a household whose gross income does not exceed 120 percent of the area median income for the County of Los Angeles, adjusted for family size, as published and periodically updated by the State Department of Housing and Community Development pursuant to Sections 50079.5 and 50052.5 of the California Health and Safety Code.

M. “Residential development” means a project containing at least one residential unit, including mixed use developments. For the purposes of this chapter, “residential development” also includes projects defined in California Government Code Section 65915(i), including a
subdivision or Common Interest Development, as defined in Section 4100 of the California Civil Code, approved by the City and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of California Government Code Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units.

N. "Review authority" means the individual or official City body which has the responsibility and authority to review, and approve or disapprove, applications for land use entitlements.

O. "Single room occupancy unit" is a residential unit with living space with a minimum floor area of 150 square feet and a maximum of 400 square feet restricted to occupancy by no more than two persons. Kitchen and bathroom facilities may be wholly or partially included in each living space or may be fully shared.

11.29.040 Applicability.

The inclusionary requirements of this chapter apply to all residential developments within the City, including the residential component of mixed-use developments.

11.29.050 Inclusionary Requirements.

<table>
<thead>
<tr>
<th>Table 1:</th>
<th>Rental Projects</th>
<th>Ownership Projects</th>
</tr>
</thead>
<tbody>
<tr>
<td>For the 12-month period commencing on the effective date of this chapter, Projects with more than 10 Units:</td>
<td>8% affordable to Low-Income or 6% affordable to Very Low-Income Households</td>
<td>10% affordable to Low-Income or 6% affordable to Very Low-Income Households</td>
</tr>
<tr>
<td>STAFF'S RECOMMENDATION: Subject to the approval of the City Council, from the 12-month period commencing on the first anniversary of the effective date of this chapter, Projects with more than 10 Units:</td>
<td>10% affordable to Low-Income or 8% affordable to Very Low-Income Households</td>
<td>12% affordable to Low-Income or 8% affordable to Very Low-Income Households</td>
</tr>
<tr>
<td>STAFF'S RECOMMENDATION: Subject to the approval of the City Council, from and after the second anniversary of the effective date of this chapter, Projects with more than 10 Units:</td>
<td>12% affordable to Low-Income or 10% affordable to Very Low-Income Households</td>
<td>14% affordable to Low-Income or 10% affordable to Very Low-Income Households</td>
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Projects with 10 Units or less | Fee Only | Fee Only |
A. Residential or mixed-use development projects with ten or fewer units shall only be required to pay a housing in-lieu fee as noted in Section 11.29.100.

B. For projects of more than ten units, except those development projects complying with this chapter in an alternative manner consistent with Section 11.29.100 below, all residential or mixed-use development projects shall be subject to the inclusionary requirements set out in Table 1 above. For such projects of more than ten units for the time periods set out in Table 1 commencing on the first anniversary of the effective date of this chapter and thereafter, the increases in the inclusionary requirements for Rental Projects and Ownership Projects provided for therein shall be subject, however, to the prior approval of the City Council before taking effect.

C. Fractional units that may result from the application of these requirements will be addressed as follows:

1. For a fractional unit requirement of less than 0.5, the applicant will pay a fractional housing in-lieu fee.

2. For a fractional unit requirement of 0.5 and above, the fraction will be rounded up to the next larger integer and treated as a whole unit.

D. If a proposed residential development project would result in the elimination of existing deed restricted affordable housing units, the affordable units must be replaced on a one-for-one basis with equally affordable deed restricted units with a new affordability agreement recorded that results in resetting and making consistent the duration of affordability consistent with the requirements of this Section.

E. An applicant proposing to provide on-site allocated units consistent with the inclusionary requirements of this section, shall be eligible to receive one or more incentives or concessions, pursuant to Section 11.31.050 of the City’s Density Bonus ordinance, or other benefits as negotiated with the City.

11.29.060 Relationship to Density Bonus Provisions.

An applicant proposing allocated units consistent with this Chapter 11.29 which also applies for a density bonus consistent with Chapter 11.31 of this code, may count units affordable to lower or moderate-income households toward both requirements. Additional units allowed by the density bonus shall not be included in the total project units when determining the proportion of required allocated units in a residential development.

11.29.070 Alternative Compliance.

Alternatives to provision of on-site allocated units or payment of the housing in-lieu fee in accordance with Section 11.29.100 include provision of allocated units off-site, directly by applicant or through an agreement with a third party, dedication or conveyance of land, conversion of market rate units to
affordable, preservation of at-risk housing, use of inclusionary credits, or other innovative approaches. All alternative compliance measures must produce at least the same number and affordability of units that would have been provided on-site, and are subject to review and approval by the Director of Community Development.

A. Allocated Units Provided Off-Site. An applicant may provide (or may cause a third party to provide) allocated units off-site (“off-site units”).

1. Allocated units provided off-site must be located in the same general area of the City as the unallocated units of the development as determined by the Director of Community Development, unless the Director of Community Development makes a determination that locating the off-site units in a different area of the City would better serve the General Plan housing goals of the City.

2. As part of the application submittal materials, if the applicant itself will provide the allocated units off-site, the applicant shall submit evidence that the applicant owns, leases (pursuant to an executed a ground lease of at least the 55 years from the date offsite units would be produced), or has an irrevocable option to purchase, the site where the off-site allocated units are proposed to be located; alternatively, if applicant enters into an agreement with a third party to provide the allocated units off-site, then the applicant shall cause such third party to submit evidence that the third party owns, or has an irrevocable option to purchase, the site where the off-site allocated units are proposed to be located.

B. Land Dedication or Conveyance Alternative. An applicant may offer to dedicate or convey land to the Housing Authority, situated on-site or off-site.

1. Land offered under this section must be within the City’s boundaries and must be designated for a general plan land use which allows multifamily units.

2. The applicant shall provide an analysis which demonstrates that the land offered is suitable for affordable housing development in terms of size; location; general plan land use designation; availability of sewer, water and transit services; absence of toxics; absence of environmental constraints; site characteristics and surroundings. Staff will recommend to the review authority whether the dedication should be accepted.

3. The applicant shall also submit evidence that the applicant owns, or has an irrevocable option to purchase, the site proposed for dedication or conveyance.

4. Land conveyed under this section shall be used for the development of affordable housing for households of lower income.

5. Land shall be identified and offered for dedication or conveyance at the time of development application submittal. If the offer is accepted by the review authority, the land must be donated to the Housing Authority no later than the date of approval of the final subdivision map, parcel map or housing development application, and must have all the permits and approvals, other
than building permits, necessary for development with the required number of affordable units.

C. Impaction Determination. Each site proposed to be dedicated or conveyed to the City for construction of affordable units or proposed for one or more off-site allocated units shall be evaluated as to whether the placement of such units will overly impact an area with lower income units. If the site is within 1,000 feet of one or more existing or approved developments in which more than 50 percent of the units are, or will be, restricted to occupancy by households of lower incomes, impaction shall be found. The review authority may override a determination of impaction by making findings that local schools, services and adjacent uses will not be negatively impacted by the construction of allocated or affordable units at the proposed site.

D. Conversion of Market Rate Units to Affordable. An applicant may propose to convert existing market rate units to affordable units in an amount equal to or greater than the required on-site inclusionary housing requirement, including any needed rehabilitation to ensure compliance with building, health and safety standards.

E. Preservation of At-Risk Housing. An applicant may offer to purchase long term affordability covenants on an existing deed restricted affordable housing project at imminent risk of contract termination and conversion to market rate housing.

F. Credit for Additional Affordable Units. If an applicant completes construction on a site of a greater number of affordable units than required by this chapter, the additional units may be credited towards meeting the requirements of this chapter for a future project. The applicant may use credits in a future project or transfer the credits in writing to another developer. Credits will only be counted toward required affordable units with the same bedroom count, the same tenure (rental or ownership), and required affordability targets. The credits must be used within 10 years of issuance. Projects which have received a density bonus or which receive a government subsidy in any form, financial or other, shall not be eligible for credits.

G. Innovation Encouraged. Innovative alternatives to providing affordable housing not outlined in this chapter shall be evaluated by staff and considered on a case-by-case basis. Substitute programs shall be permitted providing, at the recommendation of staff and determination of the review authority that the objectives of the inclusionary housing ordinance are being met with the alternate proposal.

11.29.080 Exemptions.

The following residential developments are exempt from the inclusionary requirements (Section 11.29.050) of this chapter:

A. The construction of a dwelling unit to replace a previously existing dwelling unit situated on the same lot if the previous dwelling was demolished or destroyed within five years of the date the building permit application for the replacement unit is submitted to the Community Development Department.
B. The construction of homeless shelters, community care facilities, health care facilities, single room occupancy units and units which, under agreement with the City or a City agency, are only available for occupancy by lower or moderate income households at affordable rents or affordable sales prices for a period of not less than 55 years.

C. The construction of accessory dwelling units.

11.29.090 Takings Determination.

A. Determination of a taking of property without just compensation. In accordance with the procedures provided by this section, an applicant may request a determination as to whether the requirements of this chapter, taken together with density bonuses and any concessions or other incentives available under Chapter 11.31, would constitute a taking of property without just compensation under the California or Federal Constitutions.

1. If an inclusionary housing plan is subject to the approval of the Director of Community Development, the applicant may request the director to make a takings determination within fifteen days of the decision by the director to approve or disapprove the affordability agreement. The developer may appeal the director's takings determination to the Planning Commission within ten working days after the date of the decision in compliance with Chapter 11.50.

2. If an inclusionary housing plan is subject to the approval of the City Council, the developer may request the City Council to make a takings determination at the time it acts to approve or disapprove the affordability agreement.

B. Presumption of Facts. In making the taking recommendation or determination, the director or City Council, as appropriate, shall presume each of the following facts:

1. Application of the inclusionary housing plan to the project; and

2. Application and utilization of all density bonuses and incentives available under state and local law; and

3. Utilization of the most cost-efficient product type for the inclusionary units that would meet the standards of this chapter; and

4. The reasonable availability of external funding.

C. Modifications to Reduce Obligations. If it is determined that the application of the provisions of this chapter would be a taking, the inclusionary housing plan shall be modified to reduce the obligations in the inclusionary housing component to the extent, and only to the extent necessary, to avoid a taking. If it is determined that no taking would occur though application of this chapter to the residential project, the requirements of this chapter shall remain applicable.
11.29.100 Establishment, Payment, and Use of the Housing In-Lieu Fees.

A. Residential development projects shall be assessed a housing in-lieu fee as an alternative to provision of on-site allocated units in accordance with Section 11.29.050.

B. The City Council, by resolution, shall establish the amounts and calculation of the housing in-lieu fee. The fee for a for-rent unit shall be paid no later than prior to the final inspection for each unit in a residential project; payment for a for-sale unit shall be no later than the close of escrow or one-year following the final inspection, whichever is sooner. The fee for rental and for-sale units shall be adjusted annually in July based on the annual percentage change in corresponding month in the Bureau of Labor Statistics Long Angeles/Long Beach/Anaheim Consumer Price Index -- All Urban Consumers (CPI-U).

C. Except as otherwise provided in this Chapter 11.29, all housing in-lieu fees paid under this chapter shall be paid to the City and shall be used by the City’s Housing Authority only for the development of housing situated within the City limits that is affordable to households of lower and moderate incomes, including, but not limited to, the acquisition of property, costs of construction, including costs associated with planning, administration and design, as well as actual building or installation costs, and program administration. Housing assisted with housing in-lieu fees shall be subject to a minimum 55-year affordability agreement with the Housing Authority encumbering the site where the assisted housing is situated.

11.29.110 Inclusionary Unit Development Standards.

A. All inclusionary units shall be:

1. Reasonably dispersed throughout the residential project;

2. Proportional, in number of bedrooms, and location, to the market rate units;

3. Comparable to the market rate units included in the residential project in terms of size, design, materials, finished quality, and appearance; and

4. Permitted the same access to project amenities and recreational facilities, as are market rate units.

B. Timing of Construction. All inclusionary units in a project shall be constructed concurrent with, or before the construction of the market rate units. If the city approves a phased project, a proportional share of the required inclusionary units shall be provided within each phase of the residential project.

C. Accessory dwelling units shall not be counted towards meeting a project’s inclusionary requirements.
D. Units for Sale.

1. Time Limit for Inclusionary Restrictions. A unit for sale shall be restricted to the target income level group at the applicable affordable housing cost for a minimum of fifty-five (55) years.

2. Certification of Purchasers. The applicant and all subsequent owners of an inclusionary unit offered for sale shall certify, in form and content acceptable to the City, the income of the purchaser.

3. Resale Price Control. In order to maintain the availability of inclusionary units required by this chapter, the resale price of an owner-occupied inclusionary unit shall be limited to the lesser of the fair market value of the unit as established by a licensed real estate agent based upon three comparable properties or the restricted resale price. For these purposes, the restricted resale price shall be the greater of either the applicable affordable housing cost or an amount equal to the sum of: a) the purchase price, b) an amount equal to ten percent of any increase in the applicable affordable housing cost since the previous sale of the unit, c) The adjusted amount of any capital improvements for which a building permit has been issued by the City and a certification of occupancy or similar final certification has been filed, or other improvements which adds assessed value to the unit, d) any applicable transaction fee charged by a real estate professional, and e) if the occupant has allowed the unit to deteriorate due to deferred maintenance, the restricted retail price shall be discounted in an amount equal to the costs necessary to bring the unit into conformity with the City Municipal Code.

4. Inheritance of Inclusionary Units. Upon the death of an owner of an owner-occupied inclusionary unit, title in the property may transfer to the surviving joint tenant without respect to the income-eligibility of the household. Upon the death of a sole owner or of all owners of an inclusionary unit and the inheritance of the property by one or more non-income eligible children or stepchildren of the deceased, the property shall be sold to an income eligible household within one year of the time when the deceased's estate is settled. Inheritance of an inclusionary unit by any other non-income eligible person or persons shall require the sale of the property to an income eligible person as soon as is feasible, but not more than one hundred eighty days after the deceased's estate is settled.

5. Forfeiture. If an inclusionary unit for sale is sold for an amount in excess of the resale price controls required by this section, the buyer and the seller shall be jointly and severally liable to the City for the entire purchase price of the unit. Recovered funds shall be deposited into the affordable housing trust funds. Notwithstanding the foregoing, upon written request for time to cure any violation given to the City by the buyer and seller, it shall be within the discretion of the city manager to allow the buyer and seller one hundred eighty days to cure any violation of the resale price controls.
E. Rental Units.

1. Time Limit for Inclusionary Restrictions. A rental unit shall remain restricted to the target income level group at the applicable affordable housing cost for fifty-five years.

2. Certification of Renters. The owner of any rental inclusionary units shall certify to the director, on a form provided by the City, the income of the tenant at the time of the initial rental and annually thereafter.

3. Forfeiture. Any lessor who leases an inclusionary unit in violation of this chapter shall be required to forfeit to the City all money so obtained. Recovered funds shall be deposited into the affordable housing trust fund.

4. The director may require the execution and recording of whatever documents are necessary or helpful to ensure enforcement of this section; including but not limited to: promissory notes, deeds of trust, resale restrictions, rights of first refusal, options to purchase, and/or other documents, which shall be recorded against all inclusionary units.

F. General Prohibitions.

1. No person shall sell or rent an inclusionary unit at a price or rent in excess of the applicable affordable housing cost placed on the unit in accordance with this chapter.

2. No person shall sell or rent an inclusionary unit to a person or persons that do not meet the income restrictions placed on the unit in accordance with this chapter.

3. No person shall provide false or materially incomplete information to the city or to a seller or lessor of an inclusionary unit to obtain occupancy of housing for which that person is not eligible.

G. Principal Residency Requirement.

1. The owner or lessee of an inclusionary unit shall reside in the unit as such person’s principal residence for at least ten out of every twelve consecutive months unless actively serving in the United States military. Notwithstanding this requirement, an owner or lessee may live elsewhere for a period up to six months every five years on account of hardships, including, but not limited to, medical reasons, the need to assist family member in crisis or medical need, and relocation for employment purposes, subject to verification by the Director of Community Development.

2. No owner or lessee of an inclusionary unit shall lease or sublease, as applicable, an inclusionary unit without the prior permission of the director.

11.29.120 Affordable Housing Incentives.

An applicant may request the City provide regulatory, procedural or financial incentives, including but
not limited to a density bonus or modified development standards, in exchange for providing on-site inclusionary units as required by this chapter. The request for incentives shall be included as part of the project application materials, and shall be subject to review and approval by the Director of Community Development.

11.29.130 Inclusionary Housing Plan and Housing Agreement.

A. The applicant shall comply with the following requirements at the times and in compliance with the standards and procedures in the city's regulations for the implementation of this chapter.

1. Inclusionary Housing Plan. An applicant shall submit an inclusionary housing plan, in a form specified by the Director of Community Development, detailing how the provisions of this chapter will be implemented for the proposed project. If the inclusionary housing plan includes alternatives to on-site units, then the inclusionary housing plan shall be subject to the review and approval of the City Council. All other inclusionary housing plans shall be subject to the approval of the Director of Community Development, subject to appeal to the Planning Commission. Any such appeal shall be filed within ten working days of the Director’s decision.

2. Affordability Agreement. An applicant shall execute and cause to be recorded an affordability agreement. The affordability agreement shall be a legally binding agreement between the applicant and the City, in a form and substance satisfactory to the director and the city attorney, and containing those provisions necessary to ensure that the requirements of this chapter are satisfied, whether through the provision of inclusionary units or through an approved alternative method. Once the residential development including allocated units has received its final discretionary approval, the applicant shall file an application, including payment of any processing and monitoring fees, with the Community Development Department for approval and finalization of the affordability agreement.

B. An applicant for a project providing allocated units consistent with this chapter and affordable units consistent with the provisions of the density bonus and other developer incentives chapter of this code shall enter into a single affordability agreement with the City.

C. Discretionary Approvals. No discretionary approval shall be issued for a project subject to this chapter until the applicant has submitted an inclusionary housing plan.

D. Issuance of Building Permit. No building permit shall be issued for a project subject to this chapter unless the Director of Community Development has approved the inclusionary housing plan, and any required affordability agreement has been recorded encumbering the project site.

E. Issuance of Certificate of Occupancy. A certificate of occupancy shall not be issued for a project subject to this chapter unless the approved inclusionary housing plan has been fully implemented.
11.29.140 Administration.

A. The City Council, by resolution, may from time to time adopt procedures, policies, rules and requirements, including the adoption of processing and administrative fees, to implement, administer, and/or enforce the provisions of this chapter.

B. The Director of the Community Development or designee is authorized to determine the number of dwelling units contained within a particular residential development, if a determination is needed to resolve a disagreement. When a question arises regarding the meaning, or requires an interpretation of any provision of this chapter to any specific circumstances or situation, the Director of Community Development is authorized to render a decision thereon in writing.

C. The Housing Authority shall keep on file and available for public review a copy of the current income schedules and utility allowances.

11.29.150 Annual Review.

At least once each calendar year, the Community Development Department shall prepare a report on the effectiveness of the inclusionary housing ordinance, which shall include the following:

A. By income category, the total number of on-site inclusionary units issued building permits during the time period covered by the report.

B. By income category, the total number of off-site inclusionary units issued building permits during the time period covered by the report.

C. The amount of acreage by land use category dedicated to the Housing Authority as an alternative to fulfill an inclusionary requirement during the time period covered by the report.

D. By income category, the total number of inclusionary units converted from market rate during the time period covered by the report.

E. By income category, the total number of affordable units preserved as an alternative to fulfill an inclusionary requirement during the time period covered by the report.

F. By income category, the total number of additional inclusionary units issued building permits during the time period covered by the report, as well as those issued building permits in the preceding 9 years.

G. The amount of any housing in-lieu fees collected.

H. Any recommendations with regard to changes or revisions to the adopted program to improve its effectiveness and/or administration.
11.29.160 Affordable Housing Trust Funds.

Housing in-lieu fees collected by the City pursuant to this ordinance shall be deposited into an affordable housing trust fund maintained by the City for use in the site acquisition, development, rehabilitation, or preservation of affordable housing, either directly by the City or in partnership with the Housing Authority or third party affordable housing developers.

11.29.170 Administrative Fees.

The council may by resolution establish reasonable fees and deposits for the administration of this chapter.”

SECTION 2. The Council finds that the proposed Inclusionary Housing Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) under section 15061(b)(3) and 15378 in that there is no possibility that the implementation of this ordinance may have significant effects on the environment, and that no further environmental review is required.

SECTION 3. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 4. This ordinance shall take effect on the 31st day following its adoption.

PASSED, APPROVED AND ADOPTED this 28th day of June 2022.

CITY OF SOUTH GATE:

By: ________________________________
   Al Rios, Mayor

ATTEST:

By: ________________________________
   Yodit Glaze, City Clerk
   (SEAL)

APPROVED AS TO FORM:

By: ________________________________
   Raul F. Salinas, City Attorney