

Chapter 20.30 – Inclusionary Housing Program

Section 20.30.010 Purpose and Intent.

The purpose of this Chapter is to encourage the development and availability of affordable housing by ensuring that the addition of the affordable housing units to the City's housing stock is proportional with the overall increase in new housing units. This Chapter establishes standards and procedures to encourage the development and availability of housing that is available to a range of households with varying income levels.

Section 20.30.020 Applicability.

- A. *Applicability.* The requirements established by this Chapter shall apply to all new residential and mixed-use projects with four (4) or more units, except as noted in Section 20.30.030 (Exempt Projects). The requirements of this Chapter shall apply to all developers and their agents, successors-in-interest, and assigns, proposing a residential or mixed-use project. All inclusionary units required by this Chapter shall be sold or rented in compliance with this Chapter.

Section 20.30.030 Exempt Projects.

The following are exempt from the requirements of this Chapter:

- A. *Project with Discretionary Approvals.* A residential or mixed-use project that has obtained:
1. Discretionary approval in compliance with Title 20, Zoning Code, before the effective date of this Chapter; and
 2. A building permit in compliance with the discretionary approval within twelve (12) months of the effective date of this Chapter; and
 3. A Certificate of Occupancy in compliance with the same discretionary approval.
- B. *Project Exempted by State Law.* A residential or mixed-use project that is exempt from this Chapter by State law.
- C. *Project Governed by Development Agreement.* A project for which the City has entered into a previous development agreement (which has not expired prior to the effective date of this Chapter).
- D. *Small Housing Project.* Notwithstanding the Inclusionary Requirements set forth in this Chapter, a private developer of a private housing development of three (3) residential units or less shall not be subject to the requirements of this Chapter.
- E. *Reconstruction Project.* The reconstruction of a structure that has been destroyed by fire, flood, earthquake, or other act of nature; provided that reconstruction does not increase the number of residential units.

Section 20.30.040 Inclusionary Unit Requirements.

Residential and mixed-use projects shall incorporate the following as part of an on-site project:

- A. *Number of units required.* Fifteen percent (15%) of the total number of dwelling units in a residential or mixed-use project shall be developed, offered to, and sold or rented to households at eighty percent (80%) or less of the area median income.
- B. *Fractional Units.* In calculating the required number of inclusionary units, any fractional unit shall be rounded-up to a whole unit.
- C. *Project Completeness.* A residential or mixed-use project application will not be determined complete until the developer has submitted a Housing Plan and Housing Agreement, which demonstrates the manner in which the requirements of this Chapter will be met.
- D. *Units for Sale.* If a project consists of units for sale, fifteen percent (15%) of the total number of units in the project shall be sold to households at eighty percent (80%) or less of the area median income.
- E. *Rental Units.* If the residential or mixed-use project consists of rental units, a minimum percent of the units shall be provided as follows:
 1. A minimum of five percent (5%) of the units shall be rented to very low-income households; and
 2. A minimum of five percent (5%) of the units shall be rented to very low-income or low-income households; and
 3. The remaining five percent (5%) of the units shall be rented to very low-income, or low-income, or moderate-income households.
- F. *Displaced Households.* On-site inclusionary units shall be required when very low, low, and/or moderate-income households are displaced. Any other provisions of this Chapter, notwithstanding, any project subject to this Chapter which results in the displacement of very low, low, and/or moderate-income household(s) shall be required to provide on-site inclusionary units as required by this Chapter.
- G. *Priority Processing.* All residential and mixed-use projects providing inclusionary housing on-site, pursuant to the provisions of this Chapter, shall receive priority building department plan check streamlining, to the extent authorized by law.
- H. *Final Permit.* The Final Construction Permit sign off, or Certificate of Occupancy, for the inclusionary units shall be issued prior to, or concurrently with, the proposed project.
- I. *Concessions.* By providing all the required inclusionary units on the project site, the developer may request, and the City may consider granting, one or more of the following concessions:

1. Side Yard Setback. Zoning Code Table 20.16-2 Development Standards for Residential Zones and Section 20.56.050 2.a.ii. Side Yards. Deviate from side yard setback to require a five-foot (5') setback for one-story with two additional feet (2') for a second story and above; for a maximum side yard setback of seven feet (7').
2. Distance Between Buildings. Zoning Code Section 20.56.050 E. requires 10 feet between buildings. Deviate from this standard subject to building, fire, and life safety requirements, and design review.
3. Parking. Zoning Code Table 20.64. For residential and mixed use with residential delete the requirement for one space in a garage. Allow all spaces to be outdoors either covered by a carport or uncovered. Maintain required number of spaces.
4. Open Space. Zoning Code Section 20.16.060 A.1. allows private open space in the form of balconies, courtyards, at-grade patios, rooftop decks, or terraces; but does not allow private open in the required front yard. Allow private open space in the front yard subject to design review.
5. Density Bonus. Zoning Code Section 20.52.340. Maintain current standards allowing up to thirty five percent (35%) density bonus with a conditional use permit to exceed thirty five percent (35%). Densities and affordability requirements to be in compliance with state standards and updated accordingly.

Section 20.30.050 Alternatives to Providing On-Site Units.

As an alternative to developing required inclusionary units within an affected residential or mixed-use project in compliance with Section 20.30.040 (Inclusionary Unit Requirements), the requirements of this Chapter may be satisfied through one or more of the following alternatives, in compliance with this Chapter and Title 20 (Zoning Code).

- A. *Off-Site Units.* Inclusionary units required by Section 20.30.040 (Inclusionary Unit Requirements), may be provided offsite, pursuant to Section 20.30.040 (Inclusionary Unit Requirements), if the inclusionary units are owned in whole or part, and operated, by a non-profit housing provider for the life of the project.

The following requirements must be met to satisfy the offsite option of this Chapter:

1. The developer shall identify an alternate site suitable for residential housing, which the developer either owns or has site control over (i.e., purchase agreement, option to purchase, lease) subject to City review to ensure that the proposed development is consistent with the City's housing objectives and projects.

2. The offsite units shall be located within a one-quarter mile radius of the market-rate units.
3. The offsite units shall satisfy the requirements of Section 20.30.040.C, D. and E. (Inclusionary Unit Requirements-Project Completeness, Units for Sale, and Rental Units).
4. The offsite units shall not count towards satisfaction of any affordable, or inclusionary housing obligation, that development of the alternative site with market-rate units would otherwise be subject to, pursuant to this Chapter.

Exceptions to the location of the offsite units specified in this Section may be granted by the City Council on a case-by-case basis.

- B. *Land Donation.* A developer of a residential or mixed-use project may satisfy the Inclusionary Housing Requirement by dedicating land in-lieu of constructing restricted affordable units within the residential or mixed-use project if the City Council determines that all of the following criteria have been met:
1. The dedicated site is transferred to the City prior to commencement of construction of the residential or mixed-use project or is subject to an agreement between the developer and the City that sets forth a date certain for transfer of the dedicated site and such agreement is in the best interests of the City; and
 2. The value of the dedicated site at the date of dedication or the date such agreement to dedicate is executed, as applicable, is greater than the in-lieu fee in effect at the date of dedication or the date such agreement to dedicate is executed, as applicable, multiplied by the number of otherwise required affordable units within the residential or mixed-use project; and
 3. The dedicated site could accommodate at least the number of otherwise required affordable units within the residential or mixed-use project. Notwithstanding the above, the City shall not be required to construct restricted affordable units on the dedicated site, but may sell, transfer, lease or otherwise dispose of the dedicated site as necessary in furtherance of its inclusionary affordable housing goals.
- C. *Purchasing Affordable Housing Covenants.* A developer may purchase affordable housing covenants for units in an existing residential or mixed-use project within the City. All such units shall be:
1. Reasonably dispersed throughout the residential or mixed-use project; and
 2. Located in an area or areas of the City, as approved by the City Manager, or designee; and

3. Proportional in the number of bedrooms and location to the market rate units included in the developer's residential or mixed-use project; and
 4. Comparable to the market rate units included in the residential or mixed-use project in terms of design, materials, finished quality, and appearance.
- D. *Substantially Rehabilitating Existing Housing.* A developer may purchase and substantially rehabilitate existing market rate units, for conversion to affordable units. Substantially rehabilitating means:
1. Rehabilitating a dwelling unit that has substantial building and/or other code violations; and
 2. Has been vacant for at least ninety (90) days; and
 3. The unit is returned to the City's housing supply as decent, safe, and sanitary housing; and
 4. The cost of the rehabilitation work exceeds twenty-five percent (25%) of the market value of the unit after rehabilitation.
- E. *In-Lieu Fee.* The developer may choose to pay a fee in lieu of providing all or some of the inclusionary units as follows:
1. Amount of Fee. The amount of the fee shall be as required by the City Council's Fee Resolution.
 2. Timing of Payment. One-half of the in-lieu fee shall be paid (or a letter of credit posted) before issuance of a building permit for any part of the residential or mixed-use project. The remainder of the fee shall be paid before a Certificate of Occupancy is issued for any unit in the project.
 3. Housing Trust Fund. Fees collected in compliance with this Section shall be deposited in the Affordable Housing Trust Fund.

Section 20.30.060 Standards.

The residential or mixed-use project shall conform with the requirements of Title 20, Zoning Code including, but not limited to, Chapters 20.16 (Residential Zones), 20.28 (Mixed-Use Zones), and 20.64 Off-Street Parking and Loading and all other applicable City, state, and Federal building and housing codes; and the following:

- A. *Relation to Market Rate Units.* In relation to the market rate unit, all inclusionary units shall be:
1. Reasonably dispersed throughout the residential or residential portion of a mixed-use project; and

2. Proportional, in number, bedroom size, and location, to the market rate units; and
 3. Equal to the market rate units in terms of the appearance, base design, materials, and finished quality; and
 4. Permitted the same access to project amenities and recreational facilities, as are the market rate units.
- B. *Timing of Construction.* All inclusionary units shall be constructed and occupied concurrently with, or prior to the construction and occupancy of the associated market rate units. If the City approves a phased project, the required inclusionary units may be constructed and occupied in proportion to the number of units in each phase of the residential development; provided, that the last inclusionary unit in the project shall be constructed before the last market-rate unit.
- C. *Units for Sale.* A unit for sale shall be subject to the following:
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 forty-five (45) years.
 2. *Certification of Purchaser.* The developer and all subsequent owners of an inclusionary unit offered for sale shall certify, on a form provided by 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 (3) 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 (10%) 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 licensed real estate professional;

- e. If the occupant has allowed the unit to deteriorate due to deferred maintenance, the restricted resale price shall be discounted in an amount equal to the costs necessary to bring the unit into conformity with Title 15, Buildings and Construction.
4. Inheritance of Inclusionary Units. The following requirements apply in the event of death, that may occur prior to the expiration of the required affordability period:
- a. Upon the death of one (1) of the owners, title in the property may transfer to the surviving joint tenant, tenant in common, or community property holder, without respect to the income eligibility of the household.
 - b. Upon the death of a sole owner or all owners, and inheritance of the inclusionary unit by a non-income-eligible inheritee, there will be a one (1) year compassion period between the time when the estate is settled and the time when the property must be sold to an income-eligible household. A non-eligible inheritee may request and the Council may waive this requirement on the basis of hardships specified by the Council. Alternatively, the Council may authorize their continued ownership with the unit rented at an affordable rate to an eligible household.
 - c. Upon the death of a sole owner, and there is no inheritee, upon legal advice provided by or at the behest of the City Attorney, the City Council will determine the process for assuring the unit is sold to an income qualifying household. The process can include but not be limited to public notices of unit availability and requirement for applications.
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 Fund. Notwithstanding the foregoing, it shall be within the discretion of the City Manager, or designee, to allow the buyer and seller one hundred eighty (180) days to cure any violation of the resale price controls.

6. Price of Affordable Ownership Units. The affordable ownership units will be affordable to households with incomes eighty percent (80%) or less of the area median income. The price of all affordable ownership housing units will be calculated based on payments to be made by the buyer that make up no more than thirty-five percent (35%) of the gross monthly target income level designated for a specific unit and shall include mortgage principal and interest, taxes, insurance, assessments, and homeowner fees, as applicable and adjusted for household size. Percentages allowed for the qualifying of the mortgage loan shall be determined by the lender or lenders involved with the income-qualified household.
- D. *Rental Units.* A rental unit shall be subject to the following:
1. Time Limit. A rental unit shall remain restricted to the target income level group at the applicable affordable housing cost for fifty-five (55) years;
 2. Certification of Renters. The owner of any rental inclusionary unit(s) shall certify to the City Manager, or designee, 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. Rent for Affordable Rental Units. The affordable rental units will be leased at an affordable rent to very low-low, low, or moderate-income households in accordance with Section 20.30.040.E. (Inclusionary Unit Requirements – Rental Units). Affordable rents shall be determined annually on a city-wide basis by City staff based upon the area median income and utility allowances for Los Angeles County, as determined by the Federal Department of Housing and Urban Development, and the State Department of Housing and Community Development. If these agencies do not provide the information, the City of Cudahy will determine monthly rent amounts based on thirty percent (30%) of the targeted household's gross monthly income.
 5. Publication of availability of units. Whenever an inclusionary unit becomes available, the owner shall publish notices of the availability of the inclusionary unit in newspapers circulated widely in the City, including newspapers that reach minority communities. The notice should briefly explain what inclusionary housing is, state the applicable income requirements, indicate where applications are available, state when the application period opens and closes, and provide a telephone number for questions. Applications may require the name, address, and telephone number of the applicant; the

number of persons to occupy the household; and any other information relevant to determine whether the applicant is eligible to occupy an inclusionary unit. The owner shall submit proof of publication to the Director. All communication and correspondence shall be provided in both English and Spanish, including but not limited to publications, notices, and applications.

6. Notification to City. Whenever an inclusionary unit becomes available, the owner shall provide written notification, within three (3) business days of such availability to the Director.
7. Subsequent rental to income-eligible tenant. The owner of rental inclusionary units shall apply the same rental terms and conditions to tenants of inclusionary units as are applied to all other tenants, except as otherwise required to comply with this chapter (i.e., rent levels, occupancy restrictions, and income requirements) and/or government subsidy programs. Discrimination based on subsidies received by the prospective tenant is prohibited.
8. Changes in tenant income. If after moving into an inclusionary unit the tenant's income eventually exceeds the income limit for that unit, the tenant may remain in the unit (the "original unit") as long as his/her income does not exceed 140 percent of the income limit for the original unit. Once the tenant's income exceeds 140 percent of the income limit for the original unit, the following shall apply:
 - a. If the tenant's income does not exceed the income limits of other inclusionary units in the residential development, the owner may, at the owner's option, allow the tenant to remain in the original unit at the tenant's new applicable affordable housing cost, as long as the next vacant unit is redesignated for the same lower-income category applicable to the original unit. If the owner does not want to redesignate the next vacant unit, the tenant shall be given one year's notice to vacate the unit. If during the year, an inclusionary unit becomes available and the tenant meets the income eligibility for that unit, the owner shall provide the tenant with the opportunity to submit an application for that unit.
 - b. If there are no units designated for a higher income category within the residential development that may be substituted for the original unit, the tenant shall be given one year's notice to vacate the unit. If within that year, another unit in the residential development is vacated, the owner may, at the owner's option, allow the tenant to remain in the original unit and raise the tenant's rent to market rate and designate the newly vacated unit for the original unit at the applicable affordable housing cost. The newly vacated unit must be

comparable in size (i.e., number of bedrooms, bathrooms, square footage, etc.) and location (i.e., same floor, same view, etc.) as the original unit.

- E. *Documentation.* The City Manager, or designee, 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.* The following general provisions shall be applicable for inclusionary units:
 - 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.* The following shall apply to occupancy of an inclusionary unit:
 - 1. The owner or lessee of an inclusionary unit shall reside in the unit, and the unit shall be the owner or lessees' Principal Personal Residence, and shall be occupied by the owner or lessee, unless actively serving in the United States military.
 - 2. Notwithstanding the above requirement, an owner or lessee may live elsewhere for a period of up to six (6) months every five (5) years on account of hardships; including, but not limited to, medical reasons, the need to assist family member(s) in crisis or medical need, and relocation for employment reasons.
 - 3. No owner or lessee of an inclusionary unit shall lease or sublease, as applicable, an inclusionary unit without the prior permission of the City Manager, or designee.
 - 4. Any person who purchases a designated ownership affordable unit pursuant to this Chapter shall occupy that unit as his or her principal personal residence for as long as he or she owns the affordable unit. Such occupancy shall commence within six months following completion of the purchase, and be in accordance with other provisions of this Section.

- H. *Buyer/Tenant Selection and Screening.* Buyer/tenant selection and screening shall be carried out by the developer, owner, City, or by the designated responsible party, at the sole expense of the developer. Included in the affordable housing plan submitted by the developer, shall be a proposed marketing plan with an estimated timeline of events, which must be approved by the City.

The City of Cudahy will monitor the buyer/tenant selection and screening process through required monthly reports, and through the ability to review any and all files regarding the process at any time that city staff requests to do so. The City of Cudahy will possess the ability to halt any sale, break any lease, or break any rental agreement of an affordable unit at its discretion, for reasons to include, but not restricted to, the following: if the buyer/tenant selection and screening process was not strictly adhered to, or if the buying/lease/rental household is found not to meet the income qualifications.

Section 20.30.070 Housing Plan, Housing Agreement, and Livability Report.

A Housing Plan, Housing Agreement, and Livability Report shall be required as follows:

- A. *Housing Plan.* No application for a Tentative Map, Parcel Map, Use Permit, or Building Permit to which this chapter applies shall be deemed complete until an Inclusionary Housing Plan is submitted with the application. At any time during the review process, the City may require from the developer additional information reasonably necessary to clarify and supplement the application or determine the consistency of the proposed Inclusionary Housing Plan with the requirements of this chapter. The developer shall submit an Inclusionary Housing Plan, as follows:
1. In a form specified by the City Manager or designee; and
 2. Detailing how the provisions of this Chapter will be implemented for the proposed residential or mixed-use project; and
 3. The location, structure (attached, semi-attached, or detached), whether for sale or rental, size of the proposed market-rate and inclusionary units, and the basis for calculating the number of inclusionary units; and
 4. A floor or site plan showing the location of the inclusionary units; and
 5. The income levels to which each inclusionary unit will be made affordable; and
 6. For phased development, a phasing plan that provides for the timely development of the number of inclusionary units proportionate to

each proposed phase of development as required by Section 20.30.060.B. (Standards – Timing of Construction); and

7. 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; and
8. All other Inclusionary Housing Plans shall be subject to the approval of the City Manager or designee; and
9. City Manager's or designee's decision shall be subject to appeal to the City Council. Any such appeal shall be filed within fifteen (15) days of the City Manager's or designee's, decision.

B. *Housing Agreement.* The developer shall execute and cause to be recorded an Inclusionary Housing Agreement. The Inclusionary Housing Agreement shall be as follows:

1. Shall be a legally binding agreement between the developer and the City; and
2. In a form and substance satisfactory to the City Manager or designee, and the City Attorney; and
3. Contain 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.
4. Each Inclusionary Housing Agreement shall include, at minimum, the following:
 - a. Description of the development, including whether the inclusionary units will be rented or owner-occupied;
 - b. The number, size and location of very low-, low- or moderate-income units;
 - c. Provisions and/or documents for resale restrictions, deeds of trust, rights of first refusal or rental restrictions;
 - d. Provisions for monitoring the ongoing affordability of the units, and the process for qualifying prospective resident households for income eligibility; and
 - e. Any additional obligations relevant to the compliance with this Chapter.
5. Recording of Agreement. Each Inclusionary Housing Agreement shall be recorded against owner-occupied inclusionary units and residential projects containing rental inclusionary units, as applicable. Additional rental or resale restrictions, deeds of trust, rights of first refusal, and/or other documents acceptable to the City shall also be recorded against owner-occupied inclusionary units. In cases where the requirements of this Chapter are satisfied through the

development of off-site units, the Inclusionary Housing Agreement shall simultaneously be recorded against the property where the off-site units are to be developed.

- C. *Discretionary Approvals/Issuance of Permits.* The following shall apply to residential and mixed-use projects subject to the provisions of this Chapter:
1. *Discretionary Approvals.* No discretionary approval shall be issued for a residential or mixed-use project subject to this Chapter until the developer has submitted an Inclusionary Housing Plan.
 2. *Issuance of a Building Permit.* No building permit shall be issued for a residential or mixed-use project unless the City Manager, or designee, or City Council per the provisions of this Section, has approved the Inclusionary Housing Plan, and any required Inclusionary Housing Agreement has been recorded.
 3. *Issuance of Certificate of Occupancy.* A Certificate of Occupancy shall not be issued for a residential or mixed-use project subject to this Chapter unless the approved Inclusionary Housing Plan has been fully implemented.
- D. *Livability Report.* Upon completion of a residential or mixed-use project, and a certificate of occupancy, or comparable permit, has been issued, the developer or project successor shall, by July 1st of each calendar year, submit a Livability Report to the City Manager, or designee, which shall be subject to the following:
1. Identify which units are inclusionary units; and
 2. Identify the monthly rent (or total housing cost if an ownership unit); and Provide vacancy information for each inclusionary unit for the prior year; Verification of income of the household occupying each inclusionary unit throughout the prior year; and
 3. Identify increases in rent, including the amount, frequency, specific units that received rent increases, and identify how rent increases complied with applicable state laws including the Ellis Act; and
 4. Identify the number of eviction notices, evictions taken to court including outcome, evictions that were completed and the tenant was forced to leave the unit, specific units occupied by tenants that received an eviction notice, and provide documentation regarding compliance with the Ellis Act provisions; and
 5. All maintenance, and any applicable remodel costs of the prior year; and
 6. Other information as may be required by the City Manager or designee.

Section 20.30.080 Enforcement.

- A. *Violation.* Any violation of this chapter constitutes a misdemeanor.
- B. *Forfeiture of Funds.* Any individual who sells or rents an inclusionary unit in violation of this Chapter shall be required to forfeit all money so obtained. Recovered funds shall be deposited into the City's Affordable Housing Trust Fund.
- C. *Legal Actions.* The City may institute any appropriate legal actions or proceedings necessary to ensure compliance with this Chapter, including actions:
 - 1. To disapprove, revoke, or suspend any permit, including a building permit, certificate of occupancy, or discretionary approval; and
 - 2. For injunctive relief or damages.
- D. *Recovery of Costs.* In any action to enforce this Chapter, or an Inclusionary Housing Agreement recorded hereunder, the City shall be entitled to recover its reasonable attorney's fees and costs.

Section 20.30.090 Takings Determination.

- A. *Developer Request.* In accordance with the procedures provided by this Chapter, a developer may request a determination as to whether the requirements of this Chapter, taken together with any density bonuses and any concessions or other incentives as applied to the residential or mixed-use project, would legally constitute a taking of property of the residential or mixed-use project without just compensation under the California or Federal Constitutions.
- B. *Burden on Developer.* The developer has the burden of providing economic information and other evidence necessary to establish that application of the provisions of this Chapter to the project would constitute a taking of the property of the proposed project without just compensation.
- C. *City Council approved Inclusionary Housing Plan.* If the 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 Inclusionary Housing Plan.
- D. *City Manager, or designee, approved Inclusionary Housing Plan.* If the Inclusionary Housing Plan is subject to the approval of the City Manager, or designee, the developer may request the City Manager, or designee, to make a takings determination within fifteen (15) days of the decision by the City Manager, or designee, to approve or disapprove the Inclusionary Housing Plan. The developer may appeal the City Manager's, or designee's, takings determination to the City Council within fifteen (15) calendar days after the date of the decision in compliance with this Chapter.

- E. *Presumption of Facts.* In making the taking recommendation or determination, the City Council, City Manager, or designee, as appropriate, shall presume each of the following facts:
1. Application of requirements. Application of the inclusionary housing requirements to the residential or mixed-use project; and
 2. Application of Density Bonus and Incentives. Application and utilization of all density bonuses and incentives available under state and local law; and
 3. Product Type. Utilization of the most cost-efficient product type for the inclusionary units that would meet the standards of this Chapter; and
 4. External Funding. The reasonable availability of external funding.
- F. *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 through application of this Chapter to the residential or mixed-use project, the requirements of this Chapter shall remain applicable.

Section 20.30.100 Affordable Housing Trust Fund.

- A. *Establish a Housing Trust Fund.* There is hereby established a separate fund of the City, to be known as the “Affordable Housing Trust Fund.” All monies collected in compliance with this Chapter, shall be deposited in the Affordable Housing Trust Fund.

Section 20.30.110 Administrative Fees.

- A. *Administrative Fees.* The City Council may by resolution establish reasonable fees and deposits for the administration of this Chapter.

Section 20.30.120 Definitions.

- A. *Definitions.* The terms used in this Chapter are defined in Chapter 20.88 (Definitions), “A Definitions” through “Z Definitions.”

Section 20.30.130 Environmental Review.

- A. *Environmental Review Process.* An inclusionary housing project, may be eligible for a streamlined environmental review process, and can be determined to be exempt from CEQA review as a Class 32 “In-fill Development Projects” exemption pursuant to CEQA Guidelines Section 15332 if the project meets all the conditions of an in-fill development project, and the City’s Inclusionary Housing Ordinance, as follows:
1. The project is consistent with the applicable General Plan designation and all applicable General Plan policies; and

2. The project will implement all applicable General Plan Environmental Impact Report mitigation measures; and
3. The project is consistent with all applicable zoning designations and regulations; and
4. The project is consistent with the City's Inclusionary Housing Ordinance regulations; and
5. The proposed development occurs within the City of Cudahy city limits, on a project site of no more than five (5) acres substantially surrounded by urban uses; and
6. The project site has no value as habitat for endangered, rare, or threatened species; and
7. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and
8. The project site can be adequately served by all required utilities and public services; and
9. The City reserves the right to require special studies including but not limited to hazardous wastes, soils analysis, traffic impacts, and any other analysis/studies as deemed necessary to adequately identify potential environmental impacts and resulting mitigation measures.