ORDINANCE NO. ______________

An ordinance amending Title 22 – Planning and Zoning of the Los Angeles County Code to establish an Inclusionary Housing Program in the unincorporated areas of Los Angeles County.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 22.14.010 is hereby amended to read as follows:

22.14.010 A.

...

Affordable Housing and Senior Citizen Housing. The following terms are defined for the purposes of Chapter 22.120 (Density Bonus), Chapter 22.XXX (Inclusionary Housing) and Chapter 22.166 (Housing Permits):

Affordable housing cost. As defined in Section 50052.5 of the California Health and Safety Code.

1. Unless otherwise specified, as defined in Section 50052.5 of the California Health and Safety Code.

2. For middle income households, affordable housing cost shall not be less than 28 percent of the gross income of the household, nor exceed the product of 35 percent times 130 percent of area median income adjusted for family size appropriate for the unit.

Affordable housing preservation. The establishment of affordability terms on non-covenant-restricted units, or the extension of affordability terms on existing covenant-restricted units with affordability terms expiring within five years.
**Affordable housing set-aside.** Dwelling units reserved for extremely low, very low, lower, or moderate, or middle income households.

**Affordable rent.** As defined in Section 50053 of the California Health and Safety Code.

**Affordable sale price.** The maximum sale price of an affordable unit based on the affordable housing cost, as determined by the County.

... 

**Income.** See “Income” for the following:

- **Area median income.**
- **Extremely low income.**
- **Lower income.**
- **Middle income.**

... 

**Specific adverse impact.** As defined in Section 65589.5 (d) (2) of the California Government Code.

**Submarket area.** A geographic area with similar land use and real estate markets, as described in the Inclusionary Housing Program Procedures Manual.

... 

**SECTION 2.** Section 22.14.090 is hereby amended to read as follows:

22.14.090  I.

... 

**Income.**
**Area median income.** The current median annual household income for Los Angeles County as estimated yearly by the United States Department of Housing and Urban Development or as published by the California Department of Housing and Community Development.

**Extremely low income.** An annual income for a household which does not exceed 30 percent of the area median income, as specified by Section 50106 of the California Health and Safety Code.

**Low income.** An annual income for a person or a family which does not exceed 80 percent of the area median income.

**Lower income.** An annual income for a household which does not exceed 80 percent of the area median income, as specified by Section.50079.5 of the California Health and Safety Code.

**Middle income.** An annual income for a household which does not exceed 150 percent of the area median income, as calculated by the Department of Regional Planning.

...

**SECTION 3.** Section 22.14.090 is hereby amended to read as follows:

22.14.090 S.

...

**Subdivision.** Solely as used in Section 22.114.210 (Temporary Subdivision Sales, Entry, and Special Feature Signs) shall include contiguous units having separate recorded tract numbers developed by the same person.
Substantial rehabilitation. Work in which the value of the rehabilitation is equal to or greater than 25 percent of the value of the housing development after rehabilitation, inclusive of land value.

... 

SECTION 4. Section 22.XXX is hereby added to read as follows:

Chapter 22.XXX Inclusionary Housing

Sections:

22.XXX.XXX Purpose
22.XXX.XXX Definitions
22.XXX.XXX Applicability
22.XXX.XXX Exemptions
22.XXX.XXX Requirements
22.XXX.XXX Off-site Alternatives
22.XXX.XXX In-Lieu Fee
22.XXX.XXX Incentives

22.XXX.XXX Purpose

The purpose of this Chapter is to ensure the inclusion of affordable housing units in new residential projects that meet certain criteria and encourage mixed-income communities.

22.XXX.XXX Definitions

Specific terms used in this Chapter are defined in Division 2 (Definitions), under “Affordable Housing and Senior Citizen Housing.”

22.XXX.XXX Applicability
Notwithstanding any contrary provisions in this Title 22, the provisions of this Chapter, in conjunction with Chapter 22.166 (Housing Permits), apply to all new housing developments and substantial rehabilitations that result in a net increase in available residential units. A project must fulfill the inclusionary housing requirements of this Chapter if it meets the following criteria:

A. **Minimum Dwelling Units.** The project has more than 10 total dwelling units.

B. **Submarket Area.** The project is located within a submarket area, as described in the Inclusionary Housing Program Procedures Manual.

### 22.XXX.XXX Exemptions

The following are exempt from this Chapter.

A. The project is located within the unincorporated area of the County that is subject to a development agreement or Specific Plan that has an affordable housing requirement.

B. The project consists of the following:

1. Rental units or condominium units located in the South Los Angeles submarket area; or

2. Condominium units located in the Antelope Valley submarket area.

C. The project in which a building permit application or complete planning or zoning entitlement application is submitted prior to the effective date of this Chapter. A complete planning or zoning entitlement application is an application that has been accepted by the Department of Regional Planning and for which the application fees have been paid.
1. **Modification Prior to Approval.** The application may be modified prior to consideration by the Commission, Hearing Officer, or Director, and shall not be subject to the inclusionary housing requirements so long as the requested modification does not:

   a. Change the project’s housing type (e.g., from single family residential to two-family or multi-family residential);
   
   b. Change the project's housing tenure (e.g., from rental apartments to condominiums);
   
   c. Increase the project's residential density;
   
   d. Increase the project's floor area or lot coverage for non-residential space;
   
   e. Increase the amount of grading for the project; or
   
   f. Increase the area of ground disturbance resulting from the project.

   If the requested modification does not meet all of the criteria set forth, the modified project shall be considered a new application subject to the inclusionary housing requirements.

2. **Modification After Approval.** If an application for a modification to an approved but not used permit that is valid on the effective date of this Chapter, is filed, and the proposed modification is a minor change and will result in a project that substantially conforms with the project previously approved by the permit, as determined by the Director, the modified project shall not be subject to the inclusionary housing
requirements. In all other cases, an application for a modification to such a permit shall be considered a new application subject to this Chapter.

**22.XXX.XXX Requirements**

**A. On-site or Off-site Requirement.** Projects shall provide at least 50 percent of the inclusionary housing requirement on or off-site, as described in Section 22.XXX.XXX (Off-site Alternatives).

**B. Affordable Housing Set-aside.**

1. **Rental.** If the project consists of rental units, the affordable housing set-aside units shall be provided at an affordable rent, as described in Table 22.XXX.XXX-A, below.

(Please note that the inclusionary housing requirement for rental projects shall be determined through an updated feasibility study to reflect current market conditions, and may be subject to change.)

<table>
<thead>
<tr>
<th>Affordability</th>
<th>Set-aside</th>
<th>Set-aside (Small projects)¹</th>
</tr>
</thead>
<tbody>
<tr>
<td>Extremely low or very low income, with an average affordability of 40% AMI or less</td>
<td>10%</td>
<td>5%</td>
</tr>
<tr>
<td>Very low or lower income, with an average affordability of 65% AMI or less</td>
<td>15%</td>
<td>7%</td>
</tr>
<tr>
<td>Lower income</td>
<td>20%</td>
<td>10%</td>
</tr>
</tbody>
</table>

**Note:**
1. Small projects are defined as housing developments with less than 20 total dwelling units.

2. **For-sale.** If the project consists of for-sale units, the affordable housing set-aside units shall be provided at an affordable sale price, as described in Table 22.XXX.XXX-B, below.
Please note that the inclusionary housing requirement for for-sale projects shall be determined through an updated feasibility study to reflect current market conditions, and may be subject to change.

<table>
<thead>
<tr>
<th>TABLE 22.XXX.XXX-B: INCLUSIONARY HOUSING REQUIREMENTS FOR FOR-SALE PROJECTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Submarket Area</strong></td>
</tr>
<tr>
<td>Coastal South Los Angeles, South Los Angeles, East Los Angeles/Gateway</td>
</tr>
<tr>
<td>San Gabriel Valley</td>
</tr>
<tr>
<td>Santa Clarita Valley, Antelope Valley</td>
</tr>
</tbody>
</table>

Note:
1. Small projects are defined as housing developments with less than 20 total dwelling units.

3. Calculation.
   a. Inclusionary Housing Requirement. The inclusionary housing requirement shall be calculated using the baseline dwelling units exclusive of a manager’s unit or units.
   b. Density Bonus. The inclusionary housing requirement is inclusive of the affordable housing set-aside provided in Section 22.120 (Density Bonus). The affordable housing set-aside can be counted toward the inclusionary housing requirement.
   c. Average Affordability. Average affordability is the sum of each affordable housing set-aside unit multiplied by its income level, divided by the total number of affordable housing set-aside units.

4. Comparability. The affordable housing set-aside units shall be subject to the following and the Inclusionary Housing Program Procedures Manual.
a. **Bedroom Mix.** Affordable housing set-aside units shall have the same number of bedrooms as the non-set aside dwelling units. In a project with a variety of bedroom counts per dwelling unit, the percentage of affordable set-aside dwelling units with a particular number of bedrooms shall be equal to the percentage of non-set-aside dwelling units with the same number of bedrooms.

b. **Minimum Size.** The affordable housing set-aside units shall be at least the minimum unit sizes, as described in Table 22.XXX.XXX-C, below.

<table>
<thead>
<tr>
<th>Unit Type</th>
<th>Minimum Unit Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Studio unit</td>
<td>300 square feet</td>
</tr>
<tr>
<td>1 bedroom unit</td>
<td>450 square feet</td>
</tr>
<tr>
<td>2 bedroom unit</td>
<td>700 square feet</td>
</tr>
<tr>
<td>3 bedroom unit</td>
<td>900 square feet</td>
</tr>
<tr>
<td>4 bedroom unit</td>
<td>1,100 square feet</td>
</tr>
</tbody>
</table>

c. **Timing.** The affordable housing set-aside units shall be completed and in receipt of final building permit no later than the non-set-aside units.

5. **Duration of Affordability.**

a. **Rental.** The affordability term for affordable housing set-aside units shall be at least 55 years from the issuance of the final building permit.

b. **For-sale.** For-sale affordable housing set-aside units shall be subject to the following:

i. The initial sale of the affordable housing set-aside units shall be restricted to eligible buyers and shall require an equity-sharing agreement with the County, as described in Chapter 22.166 (Housing Permits); and
ii. The County, a County-designated agency, or a qualified nonprofit shall maintain right of first refusal on the unit for the purpose of sale or rental to eligible households.

6. **Covenant and Agreement Required.** A covenant and agreement ensuring the continuing availability of affordable housing set-aside units shall be recorded pursuant to Section 22.166.070 (Covenant and Agreement).

22.XXX.XXX Off-site Alternatives.

A. The following off-site alternatives shall be permitted:

1. **Off-site New Construction.**

2. **Acquisition and Substantial Rehabilitation.**

   a. **Number of Rehabilitated Units.** The substantial rehabilitation shall result in at least twice the number of affordable housing set aside units.

3. **Affordable Housing Preservation.**

   a. **Number of Preserved Units.** Project shall preserve at least X times the number of affordable housing set aside units.

B. **Location.** All off-site alternatives shall be located in unincorporated Los Angeles County and within 5 miles of the principal project.

C. **Timing.** The principal project shall not receive its housing permit approval prior to those of the off-site affordable housing set-aside units.

22.XXX.XXX In-Lieu Fee.

A. **In-Lieu Fee Amount.** The amount shall be the applicable in-lieu fee per square foot multiplied by the gross floor area of residential development.
B. **In-Lieu Fee Calculation.** The in-lieu fee shall be calculated by the Department of Regional Planning in accordance with the Inclusionary Housing Program Procedures Manual. The in-lieu fee shall be calculated using the effective rate on the date the complete housing permit application is submitted.

C. **Timing of Payment.** The in-lieu fee shall be due and payable prior to receipt of housing permit approval.

E. **Annual In-Lieu Fee Update.** The in-lieu fee shall be updated annually based on the annual increase in the Construction Costs Index (CCI) published by Engineering News Record for Los Angeles, or a similar construction industry index selected by the Department of Regional Planning in the event the CCI is discontinued.

F. **Use of In-Lieu Fees.** In-lieu fees shall be deposited into the County Affordable Housing Trust Fund, or equivalent, and shall be used within five years for any of the purposes described in Section 33334.2(e) of the California Health and Safety Code.

**22.XXX.XXX Incentives.**

Projects are eligible for the density bonus provisions described in Section 22.120 (Density Bonus), including, but is not limited to, density bonuses, parking ratios, incentives, and waivers or reductions of development standards, and streamlined review pursuant to Section 22.166.040 (Administrative Housing Permit).

...  

SECTION 5. Section 22.120.050 is hereby amended to read as follows:

**22.120.050 Affordable Housing**

...  

B. **Affordable Housing Set-Aside.**
4. **Covenant and Agreement Required.** A covenant and agreement ensuring the continuing availability of affordable housing set-aside units shall be recorded pursuant to Section 22.166.070 (Covenant and Agreement).

5. **On-site Requirement.** The affordable housing set-aside units shall be provided on-site.

**SECTION 6.** Section 22.166.070 is hereby amended to read as follows:

22.166.070 Covenant and Agreement

A. **Affordable Housing.** A covenant and agreement, acceptable to the LACDA, shall be recorded by the applicant with the Registrar-Recorder/County Clerk to ensure the continuing availability of affordable housing set-aside units, and as applicable, age restricted units and child care facilities, in compliance with this Chapter and Chapter 22.120 (Density Bonus), and Chapter 22.XXX (Inclusionary Housing). The covenant and agreement shall be recorded within 30 days of the Housing Permit effective date.

3. **For-Sale Affordable Housing Set-Aside Units.** When affordable housing set-asides are for-sale dwelling units solely pursuant to Section 65915 of the California Government Code, the covenant and agreement shall also include owner requirements related to the following and subject to the LACDA’s review and approval:

   d. Provisions restricting the initial sale to eligible buyers, and requiring equity sharing with the County that states the following terms:
i. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation;

ii. The seller's proportionate share of appreciation shall be the total appreciation minus the County's proportionate share of appreciation;

iii. Upon resale, the County shall recapture any initial subsidy, and receive the County's proportionate share of appreciation;

iv. The County's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale;

v. The County's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price, plus the amount of any down payment assistance or mortgage assistance. If upon resale the fair market value is lower than the initial fair market value, then the value at the time of the resale shall be used as the initial fair market value; and

vi. The County's initial subsidy shall be reduced based on the seller's duration of ownership at the time of resale, pursuant to the Inclusionary Housing Program Procedures Manual;

vii. Resale shall be restricted to moderate or middle income households at an affordable sale price during the resale restriction period, as described in the Inclusionary Housing Program Procedures Manual;

viii. Upon resale to a moderate or middle income household at an affordable sale price, the County shall transfer any initial subsidy recaptured and proportionate share of appreciation received to the seller;
ix. Upon resale to a moderate or middle income household at an affordable sale price, a new resale restriction period shall begin on the date of resale and subject to Section 22.166.070 (Covenant and Agreement); and

xvi. All County equity-sharing proceeds shall be deposited into the County Affordable Housing Trust Fund, or equivalent, and shall be used within five years for any of the purposes described in Section 33334.2(e) of the California Health and Safety Code that promote home ownership.

... 

SECTION 7. Section 22.166.080 is hereby amended to read as follows:

22.166.080 Monitoring of Affordable Housing

The monitoring of affordable housing set-aside units shall be administered by the LACDA. The LACDA shall be responsible for verifying income eligibility, monitoring sales of affordable housing set-aside units to qualified buyers, conducting periodic site inspections, and administering the annual certification of affordable housing set-aside units approved pursuant to this Chapter for the duration of the required term as specified in Chapter 22.120 (Density Bonus) or Chapter 22.XXX (Inclusionary Housing).