

HAYWARD CITY COUNCIL

RESOLUTION NO 15-

Introduced by Council Member _____

RESOLUTION ADOPTING FINDINGS SUPPORTING
AMENDMENTS TO THE CITY OF HAYWARD MUNICIPAL CODE
ESTABLISHING VACANT PROPERTY FENCING REGULATIONS

WHEREAS, at the direction of the City Council, staff prepared amendments to the City's Municipal Code to establish standards for fencing vacant properties (the "Project"); and

WHEREAS, the proposed project is exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3), as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed project includes municipal code text amendments to regulate the placement of minor structures on vacant sites. Fences are further exempt from CEQA under Section 15303, New Construction or Conversion of Small Structures. Thus, it can be seen with certainty that the proposed zoning text amendments and the resulting placement of fences on vacant property pursuant to those regulations would not have a significant effect on the environment; and

WHEREAS, the Planning Commission considered the Project (Application No. 201501059) at a duly noticed public hearing held on November 5, 2015, and where the motion passed (6:0:1) that the City Council approve the proposed text amendments, including the establishment of regulations for fencing around vacant properties subject to design and maintenance standards (Section 10-1.2735 *et seq.* of the Hayward Municipal Code), inclusion of the definition of Vacant Building/Site in the Zoning Ordinance (Section 10-1.3510 *et seq.* of the Hayward Municipal Code) and reference to the new Vacant Property Fencing regulations within the Sanitation and Health chapter (Section 5-7.00 *et seq.* of the Hayward Municipal Code); and

WHEREAS, notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on November 17, 2015.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines as follows:

CALIFORNIA ENVIRONMENTAL QUALITY ACT

- A. The proposed project is exempt from CEQA under Section 15061(b)(3), as an activity that is covered by the general rule that CEQA in that the proposed zoning text

amendments would not have the potential for causing a significant effect on the environment.

AMENDMENTS TO THE MUNICIPAL CODE RELATED TO VACANT PROPERTY FENCING (REFERRED TO AS THE “TEXT AMENDMENTS”)

A. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward.

The proposed regulations offer a simple, straightforward option for property owners who would like to secure vacant property while ensuring that the City projects an image of high aesthetic standards and prosperity. Vacant property fencing is typically located within required setbacks in order to provide security to the property; however, installation of such facilities at property lines interferes with light, air and views typically protected through required setbacks. Further, the City finds that in the absence of development on a site, minor structures such as fences, and maintenance of those structures and the vacant properties in general, influences the general welfare of the residents and visitors to Hayward in that the sites and fences are perceived indicators of the economic and social health of a City. Installation of well-designed and maintained fencing around vacant lots in highly visible areas such as downtown Hayward and along highly frequented commercial corridors will project an aesthetic, thriving and livable image of the City thereby promoting public health and general welfare of the residents of Hayward.

B. The proposed change is in conformance with all applicable, officially adopted policies and plans.

Vacant property can become a target for public nuisances such as illegal dumping, trash accumulation and trespassing and there is a public interest in allowing these properties to be fenced. However, the City also has an interest in limiting the excessive use of chain link fencing, particularly along property frontages on highly visible commercial corridors in order to improve the aesthetic character of the City. The proposed regulations are consistent with the intent of City of Hayward General Plan Land Use and Economic Development Goals and Policies to foster attractive commercial corridors and to improve and enhance the visual character of impact:

General Plan Goal LU-4. Create attractive commercial and mixed-use corridors that serve people traveling through the city, while creating more pedestrian-oriented developments that foster commercial and social activity for nearby residents and businesses.

General Plan Policy LU-4.9. Existing Sound Walls and Fences. The City shall encourage landscaping improvements along sound walls and fences to discourage graffiti and to enhance the visual character of corridors. Where landscaping is not feasible, the City shall encourage the painting of murals on sound walls.

General Plan Policy LU-4.11. Streetscape Enhancements. The City shall strive to improve the character of corridors by improving streetscapes with landscaped medians,

and widened sidewalks that are improved with street trees, pedestrian-scaled lighting, underground utilities landscaping, and streetscape furniture and amenities.

General Plan Policy ED-5.4. Community Appearance Programs. The City shall maintain and implement programs that are specifically designed to address Hayward’s community appearance problems (graffiti, litter, abandoned vehicles, illegal dumping, weed abatement, property maintenance, illegal signs, etc.)

The proposed regulations are also consistent with City of Hayward Design Guidelines to identify elements of good design which will enhance the appearance of the City and make it more livable, and to reduce the use of chain link fencing where it can be replaced with higher quality fencing options in areas of highest visibility and therefore impact.

C. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified.

No properties are proposed to be reclassified. Rather, the proposed text amendments would allow property owners to install perimeter fences around vacant properties, subject to specific design and performance standards.

D. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

No properties are proposed to be reclassified. The proposed text amendments would allow property owners to install perimeter fences around vacant properties in order to secure and protect the properties. Fence design and performance standards will ensure that the fences are aesthetically pleasing and contribute to a positive image of the City until such time as the properties are ready for development.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the findings in support of Text Amendment Application No. 201501059, subject to the adoption of the companion ordinances.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____

City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward