



**DATE:** June 13, 2017

**TO:** Mayor and City Council

**FROM:** City Attorney and City Clerk

**SUBJECT** Introduction of Ordinance Updating Various Sections of the Hayward Municipal Code

### **RECOMMENDATION**

That the Council introduces an ordinance updating various sections of the Hayward Municipal Code, incorporating recommendations by City staff based on a comprehensive legal review performed by the Municipal Code Corporation (“MuniCode”).

### **SUMMARY**

On May 16, 2016, the City of Hayward entered into an agreement with MuniCode to conduct a comprehensive legal review of Hayward’s Municipal Code in order to determine compliance with State law and recent court decisions. On January 20, 2017, MuniCode provided its recommendations based on its legal review, which City staff has reviewed.

This report recommends that the City Council introduces an ordinance updating various sections of the Hayward Municipal Code to remain current with State law.

### **BACKGROUND**

The Municipal Code Corporation is a company involved in publishing legal documents, including original codification, recodification, or republication of municipal legislation (i.e. Codes of Ordinances, Land Use Codes, and Charters), and the updating and supplementation of municipal legislation through various print and electronic formats.

On May 16, 2016, the City of Hayward entered into an agreement with MuniCode to codify the Hayward Municipal Code into a searchable database and to conduct a comprehensive legal review of the Hayward Municipal Code, as updated through Ordinance No. 16-122 (Establishing Building Code – adopted 12/13/2016). The last comprehensive update of the Hayward Municipal Code was performed in 1999 and it was to amend the Zoning Code, which is Chapter 10, Article 1 of the Code.

The comprehensive legal analysis was performed by an attorney from MuniCode’s Code Department, which consists of 12 in-house attorneys, the great majority of whom have well over two decades of experience in government law and legal publishing. During the legal

analysis, the attorney assigned to the City's project examined each Chapter, Article, Section, and line of the Code, as well as any recently enacted ordinances not yet codified, and identified conflicts or inconsistencies within the code, including a comparison to current California Statutes.

At the conclusion of the legal analysis, MuniCode provided the City with a memorandum which included recommendations as to any problematic findings. The memorandum shows the MuniCode attorney's recommendations, which the City could implement by adopting an ordinance.

On January 20, 2017, MuniCode provided its recommended updates to Hayward's Municipal Code.

## **DISCUSSION**

As part of MuniCode's comprehensive legal review, the Hayward Municipal Code was researched for the following purposes: (1) Identification of conflicts, inconsistencies and obsolete provisions in connection with the California statutes, through the most recent legislative session; (2) Identification of internally obsolete, conflicting or obsolete provisions; and (3) Identification of certain potentially unconstitutional provisions.

As provided above, MuniCode provides its recommendations after a staff attorney has reviewed local legislation compared to state statutes, court decisions, and constitutional principles. The legal analysis points out any inconsistencies between the City's legislation and the statutes or case law, and gives guidance regarding how the City can cure any defects found in the local legislation. Specifically, the report describes the text at issue, the language recommended to replace the text at issue, and the legal or codification reason that necessitates making the proposed textual change.

MuniCode provided its recommendations on January 20, 2017, at which point, City staff from various departments (i.e. City Manager's Office, City Attorney's Office, Development Services, Police, Public Works) were engaged by the City Clerk's office, and subsequently provided their input and comments. It is important to note that most of MuniCode's recommended changes represent cosmetic updates, and do not substantially alter the City's code.

After a review of MuniCode's recommendations, City staff recommends revisions to the sections of the Hayward Municipal Code as outlined in Exhibit A of Attachment II.

When the sections of the Hayward Municipal Code are approved by the City Council, the City Clerk's office will work with MuniCode to update the Code accordingly.

## **ECONOMIC IMPACT**

None.

**FISCAL IMPACT**

The agreement with MuniCode to perform a comprehensive legal review of the Hayward Municipal Code amounted to \$6,545.

**PUBLIC CONTACT**

Public contact was not conducted regarding this update as it concerned a legal review of the Municipal Code. If introduced, the City Clerk will publish a legal notice of the introduction of the ordinance prior to its adoption.

**NEXT STEPS**

If introduced on June 13, the City Council will consider adoption of the ordinance on June 20, 2017. The ordinance would become effective thirty days after adoption.

*Prepared by:* Raymond R. Rollan, Deputy City Attorney

*Recommended by:* Michael S. Lawson, City Attorney  
Miriam Lens, City Clerk

Approved by:



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Kelly McAdoo, City Manager