

HAYWARD CITY COUNCIL

RESOLUTION NO. 23-\_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION ADOPTING A GENERAL PLAN AMENDMENT TO UPDATE THE HOUSING ELEMENT OF THE GENERAL PLAN FOR THE PERIOD OF 2023-2031

WHEREAS, the California legislature has found that “California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state’s environmental and climate objectives.” (Gov. Code Section 65589.5.); and

WHEREAS, the legislature has further found that “Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.” (Gov. Code Section 65589.5.); and

WHEREAS, the legislature recently adopted the Housing Crisis Act of 2019 (SB 330) which states that “In 2018, California ranked 49th out of the 50 states in housing units per capita... California needs an estimated 180,000 additional homes annually to keep up with population growth, and the Governor has called for 3.5 million new homes to be built over 7 years;” and

WHEREAS, State Housing Element Law (Government Code Sections 65580 et seq.) requires that the City Council adopt a Housing Element for the eight-year period 2023-2031 to accommodate the City of Hayward Regional Housing Need Allocation (RHNA) of 4,624 housing units, comprised of 1,075 very-low income units, 617 low-income units, 817 moderate-income units, and 2,115 above moderate-income units; and

WHEREAS, the City has prepared an update to the Housing Element in compliance with State Housing Element Law, and adoption of the Housing Element Update constitutes a General Plan Amendment; and

WHEREAS, California Government Code Section 65583 requires that the Housing Element Update contain: (i) an assessment of the City’s housing needs and an analysis of the resources and constraints, both governmental and non-governmental, relevant to the meeting of these needs; (ii) an inventory of land suitable and available for residential development and an analysis of the development potential of such sites; (iii) a statement of the community’s goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing; and (iv) programs that set forth a

schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element Update; and

WHEREAS, State law further requires that the City take meaningful steps to promote and affirmatively further fair housing (Gov. Code Section 65583(c)(5)); and

WHEREAS, on May 11, 2022, as provided in Government Code Sections 65352 – 65352.5, Hayward provided project information related to the Housing Element to all California Native American tribes on the contact list provided by the Native American Heritage Commission. Following that notice, a representative from the Confederated Villages of Lisjan Nation requested a consultation about the Housing Element Update; and

WHEREAS, on August 3, 2022, the City of Hayward met with representatives from the Confederated Villages of Lisjan Nation to discuss the Housing Element Update in general and the sites inventory, in particular. At that meeting, Tribal representatives requested to be added to the list to receive notification about future development projects. On October 20, 2022, following written notification to the Confederated Villages of Lisjan Nation, the City closed formal consultation on the Housing Element Update; and

WHEREAS, the City conducted extensive community outreach over the last year and a half including development of an interactive, educational project website; social media posts; dissemination of a multi-lingual housing survey; compilation of extensive contact lists for community and advocacy groups, faith-based and school organizations, Homeowners Associations, Neighborhood Groups, Mobile Home Parks, attendees at various events and interested parties who wrote in and requested to be notified about Housing Element project updates; use of a Housing Sites Simulation tool; creation of a bilingual informational gallery used throughout the City including farmers markets, the Hayward Main Branch Library, Chabot College, and at events for the Hayward Promise Neighborhood, the NAACP, Hayward Community Family Fair, the Juneteenth Event and the Downtown Street Fair; and, focus groups and community workshops related to housing, environmental justice and climate change; and

WHEREAS, on June 23, 2022 and July 5, 2022, respectively, the Planning Commission and City Council held work sessions on the Draft Housing Element focusing discussion on the proposed sites inventory and the Housing Plan. Based on feedback at these work sessions, staff updated the Housing Element sites inventory to remove sites intended for commercial uses, bolstered programs related to outreach and education, and clarified information about publicly owned land; and

WHEREAS, the Draft Housing Element was made available for a 30-day public review from July 14, 2022 to August 14, 2022. The City received 15 comment letters from organizations and members of the public. Copies of all of the comment letters and the City's responses to comments and questions, including where the Housing Element was modified

in accordance with the comments, are included in Appendix A, Public Participation Report, of the Housing Element Update. In response to public comment the City answered questions, provided clarifying information, added a new policy related to Fair Chance Housing to provide support for individuals with poor credit history, poor or no references, formerly incarcerated and others to fairly obtain housing; and

WHEREAS, on August 31, 2022, the City submitted the Draft Housing Element to the State Department of Housing and Community Development (HCD) for its review. HCD provided written comments on November 28, 2022. Based on those comments, a subsequent meeting and correspondence with HCD, the City revised the Draft Housing Element; and

WHEREAS, the City released the revised and updated Draft Housing Element for a second 15-day public comment period between December 19, 2022 and January 2, 2023. The City did not receive any comments during this comment period; however, on January 4, 2023, after the public comment period closed, a representative from the Carpenters Union reached out to the City to discuss the addition of a new Action related to annual meetings to discuss ways the City can support an adequate supply of labor which is an identified constraint to housing development; and

WHEREAS, on January 3, 2023, the City resubmitted the revised Draft Housing Element to HCD and has not received any additional comments on the document; and

WHEREAS, on January 26, 2023, the Planning Commission held a duly and properly noticed public hearing and recommended 7:0 that the City Council adopt the Housing Element and expand the recommended Action related to meeting annually with trades unions to include “contractors and other groups that employ construction laborers” in order to support all efforts to expand the labor pool; and

WHEREAS, on February 7, 2023, the City Council conducted a duly noticed public hearing, reviewed the Housing Element and Appendices, HCD’s findings, the City’s response to HCD’s findings, the staff report and all attachments, and oral and written public comments; and determined the Housing Element to be consistent with State law and the Hayward 2040 General Plan; and

NOW, THEREFORE, BE IT RESOLVED, the City Council hereby adopts the following findings and takes the following actions:

The foregoing recitals are true and correct and are incorporated by reference into this action.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

- A. In July 2014, the City Council certified a Final Program Environmental Impact Report, adopted the Statement of Overriding Considerations, approved the Mitigation Monitoring and Reporting Program, Adopted the Hayward 2040 General Plan, and Approved related amendments to the General Plan Land Use Map for certain properties in the Planning Area.
- B. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15164, Rincon prepared an Addendum, dated January 2023, analyzing amendments to the General Plan. Specifically, the project consists of a comprehensive update to the City of Hayward Housing Element, a comprehensive update to the City of Hayward Hazards Element, and the addition of the City of Hayward Environmental Justice Element, which were altogether referred to and analyzed as the “project” throughout the Addendum.
- C. In accordance with Section 15164 of the CEQA Guidelines, a lead agency shall prepare an Addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred. Specifically, an Addendum is appropriate when there has been no substantial change proposed in the project or the circumstances under which the project is being undertaken, nor is there any new information that would require additional environmental review. In this case, the proposed Project would not require rezoning or land use changes not previously known or analyzed in the General Plan EIR; therefore, the previously certified Mitigation Monitoring and Reporting Program remains valid and applicable with the Amendments.
- D. Pursuant to CEQA Guidelines 15164(g), an Addendum need not be circulated for public review but can be included in or attached to the Final EIR.
- E. The adopted Final EIR identified all potential significant adverse impacts and feasible mitigation measures that would reduce impacts to a level of less than significant, and that all the applicable mitigation measures identified in the Mitigation Monitoring and Reporting Program and related to the proposed project will be implemented, if applicable, as described in the Addendum. Based on the Final EIR and the Addendum, there is no substantial evidence that the Project would have a significant effect on the environment.
- F. The project complies with CEQA, and that the previously certified Final EIR, Mitigation Monitoring and Reporting Program and Addendum was reviewed and considered prior to approving the project.

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

In adopting State Housing Element Law, the legislature found that “California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state’s environmental and climate objectives.” (Government Code Section 65589.5.). As documented in the Draft Housing Element and specifically in Appendix A, Housing Needs Assessment, Hayward’s residents are also experiencing a crisis in affordability which is related to a lack of affordable housing, particularly for low-income and special needs households.

The Housing Element and related Appendices are consistent with State Law requirements and provide a comprehensive overview of public outreach and relationship building conducted throughout this Housing Element effort (Appendix A); a thorough overview of community demographics including special needs households (Appendix B); a description of housing resources including a robust sites inventory with a healthy buffer to accommodate the City’s RHNA (Appendix C); a thorough analysis of constraints to housing development (Appendix D); a review of past accomplishments (Appendix E<sup>1</sup>); and, a thorough fair housing analysis (Appendix F), all of which was used to develop a robust set of goals, policies, programs and actions intended to create more affordable housing to works towards meeting the needs of a variety and diversity of households over the next eight years (Housing Element, Section 7, Housing Plan). The addition of an Action related to working with skilled labor groups to discuss ways in which the City can support an adequate supply of labor to build new housing will further address constraints to development.

There is substantial proof that the proposed change will promote the public health, safety, convenience and general welfare of the residents of Hayward in that the amendments are being undertaken to comply with State Law. Compliance with State Law and annual reporting on ongoing compliance is required for local jurisdictions to access State funding sources, and a compliant Housing Element makes the City more competitive for grant funding to construct affordable housing and infrastructure improvements. While it will not solve the State, regional or local housing crisis, the proposed Housing Plan contains a roadmap to meet the City’s Regional Housing Needs Allocation, remove constraints for all housing and for housing for special needs populations in particular and allocates

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<sup>1</sup> Housing Element, Appendix E, Review of Past Accomplishments. <https://haywardhousingandclimateupdate.com/wp-content/uploads/2022/12/Appendix-E-Review-of-Past-Accomplishments-Revised-Submittal-Per-HCD-Comments.pdf>

funding and resources towards repairing and rehabilitating aging housing stock, inspecting rental housing, fair housing education and resources, and other services that will serve Hayward's residents.

**B. The proposed change is in conformance with the purposes of the Zoning Ordinance and all applicable, officially adopted policies and plans.**

The proposed Housing Element is in conformance with the purposes of the Zoning Ordinance, and all applicable, adopted policies and plans in that it will implement State Housing Law, and is consistent with the City's housing-related Strategic Priorities as well as the Let's House Hayward Plan. Several Actions set forth in the Housing Plan call for amendments to the Zoning Ordinance to comply with State Law and to incentivize a variety of housing types, particularly for special needs populations including but not limited to individuals with disabilities, individuals experiencing homelessness, children aging out of foster care, extremely low-income households, among others. Such amendments include the following:

- Replacement housing requirements (Action 10.1)
- By right approval for certain sites with minimum affordable requirements that were used in the previous Housing Element cycle (Action 11.1)
- To allow for a variety of housing types on church owned properties and parking lots; and streamline processes to establish supportive housing, group homes, emergency shelters (Actions 13.1 through 13.7)
- Update to reflect SB9 allowing urban lot splits and duplexes on single family residential lots (Action 18.1)
- Update of Reasonable Accommodations Ordinance (Action 19.14)

The Amendments detailed above would implement the Housing Element, ensure consistency with State Law and affirmatively further fair housing, particularly for special needs groups.

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

The proposed General Plan Amendment to include the 2023-2031 Housing Element does not include any land use changes in order to accommodate the Regional Housing Needs Allocation. Further, the Zoning Text Amendments outlined above would not result in significant land use changes that would impact streets or public facilities in that the amendments would allow for a variety of household types to occupy properties intended for residential uses; therefore it's adoption would not have an impact on streets or public facilities.

**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.**

The proposed Housing Element and related Housing Plan will be compatible with present and future uses, and a beneficial effect will be achieved following adoption of this Housing Element not obtainable under existing regulations in that the Housing Element contains a roadmap to achieve housing related goals to streamline housing production, allow for a variety of housing types to be developed throughout Hayward, and to allocate funding toward activities that will support special needs households.

Further, the General Plan Amendment to adopt the 2023-2031 Housing Element is being undertaken to comply with State Law. Compliance with State Law and annual reporting on ongoing compliance is required for local jurisdictions to access State funding sources, and a compliant Housing Element makes the City more competitive for grant funding to construct affordable housing and infrastructure improvements, which would not be available to the City otherwise.

#### HOUSING ELEMENT

- A. The Housing Element substantially complies with Housing Element Law, as provided in Government Code 65580 et seq. and contains all provisions required by State Housing Element Law, as detailed in the Housing Element and all Appendices, incorporated by reference herein.
- B. Based on substantial evidence in the record provided in the Housing Element, Appendix C, Housing Resources, based on improvement to land value ratio, existing use versus potential under current zoning, age of structure, market demand, floor area ratio and ownership patterns, the existing uses on the non-vacant sites identified in the site inventory to accommodate the RHNA are likely to be discontinued during the planning period and therefore do not constitute an impediment to planned residential development on the site during the planning period.
- C. As required by Government Code Section 65585(e), the City Council has considered the comments made by the Department of Housing and Community Development included in the Department's letter to the Hayward dated November 28, 2022, consistent with Government Code Section 65585(f), and as described in Attachment B to the staff report, incorporated herein by this reference, the City of Hayward has changed the Housing Element in response to the findings of the Department to substantially comply with the requirements of State Housing Element Law as interpreted by HCD.
- D. The Development Services Director or designee is hereby directed to file all necessary material with the Department of Housing and Community Development for the Department to find that the Housing Element is in conformance with State Housing Element Law and is further directed and authorized to make all non-substantive changes to the Housing Element to make it internally consistent or to address any

non-substantive changes or amendments requested by the Department to achieve certification.

- E. The Development Services Director or designee is hereby directed to distribute copies of the Housing Element in the manner provided in Government Code Sections 65357 and 65589.7.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2023

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:

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City Attorney of the City of Hayward