

ORDINANCE NO. _____

ORDINANCE AMENDING HAYWARD MUNICIPAL CODE
SECTION 10-1.2735.e: GENERAL REGULATIONS, TO
REVISE THE STANDARDS FOR THE KEEPING OF
LIVESTOCK AND HOUSEHOLD PETS, AND TO INCLUDE
ADDITIONAL REGULATIONS FOR THE OPERATION OF
APIARIES

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF HAYWARD DOES
HEREBY ORDAIN AS FOLLOWS:

Section 1. The City Council incorporates by reference the findings contained in Resolution, approving the text changes requested in Text Amendment Application 201505957.

Section 2. Zoning Ordinance Section 10-1.2735.e, which establishes regulations which are applicable in all zoning districts for certain uses, is hereby amended to add certain text as indicated by underlined red text in attached Exhibit A, and remove certain text as indicated by strikethrough text in attached Exhibit A, related to revisions to the City’s Livestock Regulations.

Section 3. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 4. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective immediately upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward,
held the _____ day of January, 2016, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held
the _____ day of _____, 2016, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

EXHIBIT A**10-1.2735.e. Livestock, Apiaries, and Household Pets.****1. Minimum Lot Area.**

The minimum lot area for any lot used to maintain livestock and other animals, except for household pets, whether a temporary use or principal use of the property, shall be the ~~greater~~ **lesser** of either the minimum lot area specified in the zoning district in which the property is located or the area hereinafter specified:

- a. For large and medium livestock, the minimum lot area shall be 20,000 square feet;
- b. For exotic animals, poultry or other birds, the minimum lot area shall be ~~54,000~~ square feet, or greater, depending on the species of the animal, as determined by the Planning Director;
- c. For apiaries, the minimum lot area shall be ~~404,000~~ square feet.

2. Maximum Number of Animals.

The maximum number of livestock or any other animals allowed pursuant to this section is subject to a determination by the Planning Director that the site is suitable, including consideration of size, configuration and location, and can support the number of livestock or other animals without creating nuisance problems for surrounding residential properties. The following limits shall apply:

- a. **Livestock:** In no case shall the number of livestock, as defined herein, kept or maintained on any lot exceed one large livestock for each 20,000 square feet of land contained in such parcel, or one medium livestock for each 10,000 square feet of land contained in a minimum 20,000 square foot parcel.
- b. **Fowl:** In no case shall hens, ducks, pigeons, or other small fowl be kept on a parcel that is less than 4,000 square feet in size.
- c. **Apiaries:** For apiaries, in no case shall the number of hives exceed two for a parcel which is less than 40,000 square feet in size or zero for a parcel which is less than 4,000 square feet in size.
- d. **Duration of Limit:** Once a use-permit is granted establishing the maximum number of animals allowed on a property, the permittee is entitled to maintain that maximum number of animals indefinitely as long as an animal(s) has existed continuously, in that six months have not passed where there were no animals on the property.

3. Minimum Available Open Area.

All livestock or other animals shall be provided with the minimum available open area specified below (such area may include barns, stables, sheds or similar structures used to house animals):

- a. For large livestock, the minimum available open area per animal shall be 5,000 square feet;
- b. For medium livestock, the minimum available open area per animal shall be

- 2,500 square feet;
- c. For poultry, the minimum available open area per animal shall be ~~200~~36 square feet;
 - d. For exotic animals, the minimum available open area per animal shall be as determined by the Planning Director, based on the species of the animal.
4. Buildings and Structures.
All animals shall be provided with adequate shelter or other protection from the elements. Shelter may be provided through the construction of a coop, stable, or other structure, as appropriate for the species of animal and as determined by the Planning Director. Buildings and structures used for the housing of animals shall be located behind the principal structure on the lot. Such buildings and structures may be located elsewhere on the lot due to topography or other special characteristics of the lot, subject to approval of the Planning Director. Such structures shall be large enough and designed such that all animals may lie down, stand up, fully extend their limbs and turn around freely, as required by the section 1350 of Title 3 of the California Code of Regulations, as may be amended from time to time. Hives and accessory structures for the keeping of livestock or household pets shall not be located in front of a primary structure.
5. Maximum Height of Structures.
No building or structure used for the housing of animals shall be erected or maintained on any lot to a height greater than that permitted for accessory structures in the respective zoning district. For small livestock and household pets, the maximum height of an enclosure shall be six feet, except for beehives. For beehives, the maximum height shall be limited to four feet. A greater height may be permitted based on consideration of special characteristics of the lot, including, but not limited to, topography, lot size, and building placement, and subject to approval of the Planning Director.
6. Minimum Setback Requirements.
All barns, stables, and other structures used for the housing of animals, except for household pets, on any lot shall be located not less than 20 feet from any property line and not less than 40 feet from any dwelling on the same or adjoining lot. Beehives and all structures for the housing of household pets, including chicken coops, shall be located not less than 5 feet from any property line and not less than 6 feet from any dwelling on the same or adjoining lot. The distances as specified in this subsection may be reduced or waived upon the finding that such distances are not necessary for the protection of nearby residences.
7. Fence Requirements.
All areas containing livestock or other animals shall be enclosed by fences which are good, strong, substantial, and sufficient to prevent the ingress and egress of livestock or other animals. Such fences shall be designed and constructed of appropriate materials and be of an adequate height so as to control and contain such animals at all times, while avoiding injury to such animals, preventing such animals from reaching across any property lines, and of a design that does not detract from the appearance of the site or surrounding area. Where bees are proposed to be kept, a solid fence of at least six feet in height shall be erected along all property lines within ten feet of the hive. Hives shall not be located in areas

where this requirement cannot be met due to height limitations for fences.

8. Maintenance of Livestock and Other Animals.

All livestock and other animals shall be kept or maintained so as to minimize and prevent production of flies, excessive odor, dust, noise, or other conditions detrimental to the community health and welfare, by applying the following minimum requirements:

- a. Manure must be removed daily from the corral, stable, paddock, or other holding areas and stored in fly-tight containers, cans or holding boxes, until disposal; roosts, lofts, and rabbit hutches must be cleaned daily unless worm beds are maintained under the rabbit hutches. Composting or similar treatments may be permissible if performed to appropriate standards so as not to constitute a nuisance, as determined by Planning Director.
- b. Watering troughs must be so constructed and located that they do not overflow excessively in the stall, corral or paddock area, as to promote mosquito larvae growth.
- c. Hay must be stored in such a manner so as not to become a nesting place for rodents, i.e., stored in rodent-proof buildings or off the floor and away from walls, other material or equipment.
- d. Grain feeds shall be stored in rodent-proof containers or buildings, i.e., metal cans or rodent-proof feed cribs; all other feed must be stored in vermin-proof containers.
- e. The entire area set aside for the animals shall be cleared of all rubbish and debris.
- f. Livestock shall not be abandoned on any property or right-of-way in the City of Hayward. Any application for a permit to keep livestock shall include a preliminary plan for the eventual discontinuation of the keeping of livestock on the site, including a method for the relocation of livestock.
- g. Where apiaries are proposed to be sited within one-hundred feet of any residence, a person responsible for management of the hives must reside on the property.

9. Livestock as a Legal, Nonconforming Use.

Livestock existing as a legal, nonconforming use may continue indefinitely as long as (1) the livestock have existed continuously in that six months have not passed when there were no livestock on the site, (2) the maximum number of livestock established as a nonconforming use is not increased, and (3) as long as there is no intensification of livestock, e.g., legal, nonconforming medium livestock may not be intensified by replacing them with large livestock. The burden of proof for establishing the legal, nonconforming status of livestock rests with the property owner subject to the endorsement of the Planning Director.

10. Permit Required.

As provided in the Zoning Ordinance, a Zoning Conformance Permit is required prior to the establishment of household pets or apiaries as a secondary use. This requirement shall be waived for household pets where the enclosure is located at least forty feet from any residence, and for apiaries where the hives are located at least one hundred feet from any residence. An application for a Zoning Conformance Permit shall be reviewed by the Planning Director or their designee

and shall be approved if all of the standards of this section are met.

- a. Household Pets: A Zoning Conformance Permit is required for the establishment of the following household pets: Hens, ducks, pigeons, rabbits and other similar small animals, as determined by the Planning Director, where the proposed total number on a property does not exceed four (4) of such animals. An application for a Zoning Conformance Permit shall be submitted on a self-certification form, wherein an applicant shall acknowledge with their signature or initials that they understand the requirements of the Hayward Municipal Code with respect to the maintenance and management of the animals that are proposed. Where the City determines that compliance with such standards is impossible given the characteristics of the site where the animals are kept, then the permit shall be deemed null and void.
- b. Apiaries: An application for a Zoning Conformance Permit for beekeeping shall require noticing of all property owners within one hundred feet of the property where the bees are proposed to be kept. Such notice shall be mailed within five business days of receipt of such application. If the City receives notification and documentation acceptable to the Planning Director (such as a doctor's note) that an individual who is allergic to bees resides within one hundred feet of the property where bees are proposed, the application shall be denied. Such notification and documentation may be received from any person who received an official notice from the City or from any person who can establish that they reside within one hundred feet of the property where bees are proposed to be kept. If no notification is received within thirty calendar days of the mailing of the official notice, and if the application meets all other city design criteria, the permit shall be issued.