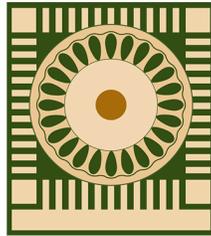


# **CITY OF HAYWARD**

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)



CITY OF  
**HAYWARD**  
HEART OF THE BAY

## **Agenda**

**Tuesday, March 24, 2020**

**7:00 PM**

**Council Chambers**

**City Council**

**SPECIAL CITY COUNCIL MEETING**

**PUBLIC REMOTE PARTICIPATION:**

In accordance with State of California Executive Order N-25-20 and guidance from the California Department of Public Health related to COVID-19 on gatherings, remote public participation will be permitted as follows:

- City Council meeting will be live streamed on Channel 15 and on the City's website at <https://hayward.legistar.com/Calendar.aspx>
- Public comment will be accepted by email to List-Mayor-Council@hayward-ca.gov prior to the meeting, distributed to the Council and uploaded to the City's website.
- Public comment will be accepted via eComment. To leave a comment, community members can click eComment on the City's Meeting & Agenda Center webpage at <https://hayward.legistar.com/Calendar.aspx>, select the item they wish to comment on and submit their written comment. The comment period will begin after the agenda is published and will close at 3pm the day of the meeting to allow Council Members the opportunity to read comments. Comments will be exported into a report, distributed to the City Council and staff and published on the City's Meeting & Agenda Center under Documents Received After Published Agenda.
- Public comment will be accepted by telephone during the meeting, prior to the close of public comment on an item, by calling (510) 583-4400 at the time indicated by the Mayor.
- Additionally, attendance at the meeting will be limited to Council Members, staff, and members of the news media.

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE: Council Member Lamnin**

**ROLL CALL**

**PUBLIC COMMENTS**

Due to the Countywide Shelter-In-Place Order, Public Comment Will Be Limited to Remote Participation and Limited Only to Items on the Agenda.

**ACTION ITEMS**

The Council will permit comment as each item is called for the Consent Calendar, Public Hearings, and Legislative Business. In the case of the Consent Calendar, a specific item will need to be pulled by a Council Member in order for the Council to discuss the item or to permit public comment on the item. Please notify the City Clerk any time before the Consent Calendar is voted on by Council if you wish to speak on a Consent Item.

**CONSENT**

1. [CONS 20-157](#) Adopt an Ordinance Establishing Reach Codes for the City of Hayward, Amending Part 6 (California Energy Code) and Part 11 (California Green Building Standards Code) of the California Building Standards Code (Title 24 of the California Code of Regulations); and Amending Chapter 9, Article 1 of the Hayward Municipal Code

**Attachments:** [Attachment I Staff Report](#)  
[Attachment II Summary of Published Ordinance](#)  
[Attachment III Updated Ordinance](#)

**LEGISLATIVE BUSINESS**

2. [LB 20-014](#) Temporary Moratorium on Evictions: Adoption of Emergency Ordinance Establishing a Temporary Moratorium on Evictions in the City of Hayward for Non-Payment of Rent Caused by the Coronavirus (COVID-19) Pandemic, or for No-Fault Evictions and Providing Tenants and Landlords Mediation Services to Negotiate Payment Agreements and to Provide Direction to Staff to Develop a Financial Assistance Program to Help Stabilize the Rental Housing Market in Hayward (Report from City Manager McAdoo)

**Attachments:** [Attachment I Staff Report](#)  
[Attachment II COVID 19 Eviction Moratorium Ordinance](#)  
[Attachment III Mediation Services Agreement Resolution](#)

**COUNCIL REFERRALS**

Council Members may bring forward a Council Referral Memorandum (Memo) on any topic to be considered by the entire Council. The intent of this Council Referrals section of the agenda is to provide an orderly means through which an individual Council Member can raise an issue for discussion and possible direction by the Council to the appropriate Council Appointed Officers for action by the applicable City staff.

3. [RPT 20-046](#) Consider an Item for Discussion on a Future City Council Agenda Regarding Delaying Implementation of the Hayward Minimum Wage Increase Currently Scheduled for July 1, 2020 Due to the COVID-19 Pandemic (Referral from Council Members Mendall, Márquez and Salinas)

**Attachments:** [Attachment I Council Referral Memorandum](#)

### **CITY MANAGER'S COMMENTS**

An oral report from the City Manager on upcoming activities, events, or other items of general interest to Council and the Public.

### **COUNCIL REPORTS AND ANNOUNCEMENTS**

Council Members can provide oral reports on attendance at intergovernmental agency meetings, conferences, seminars, or other Council events to comply with AB 1234 requirements (reimbursable expenses for official activities).

### **ADJOURNMENT**

### **NEXT MEETING, April 7, 2020**

### **PUBLIC COMMENT RULES**

*Any member of the public desiring to address the Council shall limit her/his address to three (3) minutes unless less or further time has been granted by the Presiding Officer or in accordance with the section under Public Hearings. The Presiding Officer has the discretion to shorten or lengthen the maximum time members may speak. Speakers will be asked for their name before speaking and are expected to honor the allotted time. Speaker Cards are available from the City Clerk at the meeting.*

### **PLEASE TAKE NOTICE**

*That if you file a lawsuit challenging any final decision on any public hearing or legislative business item listed in this agenda, the issues in the lawsuit may be limited to the issues that were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing.*

**PLEASE TAKE FURTHER NOTICE**

*That the City Council adopted Resolution No. 87-181 C.S., which imposes the 90-day deadline set forth in Code of Civil Procedure section 1094.6 for filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure section 1094.5.*

*\*\*\*Materials related to an item on the agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office, City Hall, 777 B Street, 4th Floor, Hayward, during normal business hours. An online version of this agenda and staff reports are available on the City's website. Written comments submitted to the Council in connection with agenda items will be posted on the City's website. All Council Meetings are broadcast simultaneously on the website and on Cable Channel 15, KHRT. \*\*\**

*Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400 or TDD (510) 247-3340.*

*Assistance will be provided to those requiring language assistance. To ensure that interpreters are available at the meeting, interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400.*

*CHILDCARE WILL NOT BE PROVIDED UNTIL FURTHER NOTICE DUE TO COUNTYWIDE SHELTER-IN-PLACE ORDER.*



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
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**File #:** CONS 20-157

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**DATE:** March 24, 2020

**TO:** Mayor and City Council

**FROM:** City Clerk

**SUBJECT**

Adopt an Ordinance Establishing Reach Codes for the City of Hayward, Amending Part 6 (California Energy Code) and Part 11 (California Green Building Standards Code) of the California Building Standards Code (Title 24 of the California Code of Regulations); and Amending Chapter 9, Article 1 of the Hayward Municipal Code

**RECOMMENDATION**

That the City Council adopts the Ordinance introduced on March 3, 2020.

**SUMMARY**

This item entails adoption of an Ordinance establishing Reach Codes for the City of Hayward, introduced on March 3, 2020, by Council Member Mendall.

The proposed Reach Codes would modify Part 6 (California Energy Code) and Part 11 (California Green Building Standards Code) of the California Building Standards Code (Title 24 of the California Code of Regulations). The proposed Reach Codes would be added to Chapter 9, Article 1 of the Hayward Municipal Code. Reach Codes can address the electrification of buildings and vehicles at the time of construction of new buildings. Upon adoption of the Ordinance, the California Green Building Standards Code Reach Code (regarding EV charging) would be effective in 30 days and the California Energy Code Reach Code would become effective upon approval by the California Energy Commission, which is expected to be completed by the end of May 2020.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Summary of Published Ordinance
Attachment III	Updated Ordinance



**DATE:** March 24, 2020

**TO:** Mayor and City Council

**FROM:** City Clerk

**SUBJECT:** Adopt an Ordinance Establishing Reach Codes for the City of Hayward, Amending Part 6 (California Energy Code) and Part 11 (California Green Building Standards Code) of the California Building Standards Code (Title 24 of the California Code of Regulations); and Amending Chapter 9, Article 1 of the Hayward Municipal Code

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**BACKGROUND**

The Ordinance was introduced by Council Member Mendall at the March 3, 2020, meeting of the City Council with the following vote:

**AYES:** COUNCIL MEMBERS: Zermeño, Márquez, Mendall, Lamnin, Salinas, Wahab  
MAYOR Halliday

**NOES:** NONE

**ABSENT:** NONE

**ABSTAIN:** NONE

## **STRATEGIC ROADMAP**

This agenda item is a routine operational item and does not relate to any of the six priorities outlined in the Council's Strategic Roadmap.

## **FISCAL IMPACT**

There is no fiscal impact associated with this report.

## **PUBLIC CONTACT**

The summary of the Ordinance was published in the Hayward Daily Review on Friday, March 20, 2020. Adoption at this time is therefore appropriate.

## **NEXT STEPS**

The Hayward Municipal Code will be updated after the California Energy Reach Code is approved by the California Energy Commission, which is expected to be completed by the end of May 2020. The California Green Building Standards Code Reach Code (regarding EV charging) will be effective 30 days from adoption of the Ordinance by the City Council.

*Prepared and Recommended by:* Miriam Lens, City Clerk

Approved by:



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Kelly McAdoo, City Manager

PUBLIC NOTICE OF AN INTRODUCTION OF AN ORDINANCE BY THE CITY COUNCIL  
OF THE CITY OF HAYWARD

AN ORDINANCE ESTABLISHING REACH CODES FOR THE CITY OF HAYWARD; AMENDING PART 6 (CALIFORNIA ENERGY CODE) AND PART 11 (CALIFORNIA GREEN BUILDING STANDARDS CODE) OF THE CALIFORNIA BUILDING STANDARDS CODE (TITLE 24 OF THE CALIFORNIA CODE OF REGULATIONS)

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. In accordance with state law, effective January 1, 2020, Chapter 9 Article 1, the Building Code for the City of Hayward, is hereby amended as follows:

BUILDING CODE  
OF THE CITY OF HAYWARD

SECTION 1.00

2019 CALIFORNIA BUILDING STANDARDS CODES, ADOPTION BY REFERENCE

SECTION 2.00

SUMMARY OF LOCAL AMENDMENTS

SECTION 3.00

LOCAL AMENDMENTS TO THE CODE BY CHAPTER

Section 2. If any section, subsection, paragraph, or sentence of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid, or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 3. Purpose and Intent. It is the purpose and intent of this Ordinance to expressly enact local amendments to Sections 100.0, 100.1, 140.0, 140.1, 150.1, 200, 4.106, and 5.106 of the 2019 California Building Code applicable to new construction to provide standards for new buildings to improve community health and safety while reducing greenhouse gas emissions.

Section 4. Enactment of Local Amendments to The California Building Standards Code, Title 24, Parts 6 and 11 (Amendments to Chapter 9 of the Hayward Municipal Code). The local amendments to Sections 100.0, 100.1, 140.0, 140.1, 150.1, 200, 4.106, and 5.106 of the 2019 California Building Standards Code, Title 24, Parts 6 and 11, are hereby enacted. The local amendments being enacted amend Chapter 9 of the Hayward Municipal Code as follows (additions are shown in double underline and

deletions are shown as strikethrough). Sections of the California Building Standards Code that are not addressed are not modified.

Section 5. Severability. The provisions of this Ordinance are severable, and if any clause, sentence, paragraph, provision, or part of this Ordinance, or the application of this Ordinance to any person, is held to be invalid or preempted by state or federal law, such holding shall not impair or invalidate the remainder of this Ordinance. If any provision of this Ordinance is held to be inapplicable, the provisions of this Ordinance shall nonetheless continue to apply with respect to all other covered development projects and applicants. It is hereby declared to be the legislative intent of the City Council that this Ordinance would have been adopted had such provisions not been included or such persons or circumstances been expressly excluded from its coverage.

Section 6. Effective Date. This ordinance shall become effective upon approval by the California Energy Commission. The California Green Building Standards Code Reach Code (regarding EV charging) will be effective 30 days from adoption of the Ordinance by the City Council.

Introduced at a regular meeting of the City Council of the City of Hayward, held the 3<sup>rd</sup> day of March 2020, by Council Member Mendall.

This Ordinance will be considered for adoption at the special meeting of the Hayward City Council, to be held on March 24, 2020, at 7:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this Ordinance and its companion Resolution are available for examination by the public in the Office of the City Clerk.

Dated: March 20, 2020  
Miriam Lens, City Clerk  
City of Hayward

ORDINANCE NO. 20-\_\_\_\_\_

AN ORDINANCE ESTABLISHING REACH CODES FOR THE CITY OF HAYWARD; AMENDING PART 6 (CALIFORNIA ENERGY CODE) AND PART 11 (CALIFORNIA GREEN BUILDING STANDARDS CODE) OF THE CALIFORNIA BUILDING STANDARDS CODE (TITLE 24 OF THE CALIFORNIA CODE OF REGULATIONS)

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. In accordance with state law, effective January 1, 2020, Chapter 9 Article 1, the Building Code for the City of Hayward, is hereby amended as follows:

BUILDING CODE  
OF THE CITY OF HAYWARD

SECTION 1.00  
2019 CALIFORNIA BUILDING STANDARDS CODES, ADOPTION BY REFERENCE.

The *2019 California Energy Code (Part 6 of C.C.R. Title 24)* and the *2019 California Green Building Standards Code (Part 11 of C.C.R. Title 24)*, published by the International Code Council, as amended by the State of California pursuant to Health and Safety Code section 17922, and as further modified by the amendments, additions, and deletions as set forth hereinafter, is hereby adopted by reference as the Building Code of the City of Hayward.

A printed copy of such *2019 California Building Codes* together with the State and local amendments thereto, is on file in the office of the building official, to which reference is hereby made for further particulars.

SECTION 2.00  
SUMMARY OF LOCAL AMENDMENTS

CODE SECTION	Added to Code	Code Change	Deleted from Code	Notes / Justification
CEC 100.0(i)	X			Energy Reach Code - Purpose and Intent
CEC 100.1(b)		X		Adds definitions
CEC 150.0 (e through s)		X		Modifies mandatory features and devices
CEC 140.0(b)		X		Modifies mandatory measures for nonresidential, high-rise residential and hotel/motel buildings
CEC 140.1		X		Modifies energy budget requirements
CEC 140.2		X		Modifies prescriptive requirements for mixed fuel buildings.
CBC 202		X		Add definitions for EV charging
CBC 4.106.4		X		Modifies EV charging requirements for new construction
CBC 4.106.4.1		X		Modifies EV charging requirements for New one- and two-family dwellings and town- houses
CBC 4.106.4.2		X		Modifies EV charging requirements for New multi-family dwellings
CBC 5.106.5.3		X		Modifies EV charging requirements for new nonresidential buildings

**Section 2. If any section, subsection, paragraph, or sentence of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid, or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.**

**Section 3. Purpose and Intent.** It is the purpose and intent of this Ordinance to expressly enact local amendments to Sections 100.0, 100.1, 140.0, 140.1, 150.1, 200, 4.106, and 5.106 of the 2019 California Building Code applicable to new construction to provide standards for new buildings to improve community health and safety while reducing greenhouse gas emissions.

**Section 4. Enactment of Local Amendments to The California Building Standards Code, Title 24, Parts 6 and 11 (Amendments to Chapter 9 of the Hayward Municipal Code).** The local amendments to Sections 100.0, 100.1, 140.0, 140.1, 150.1, 200, 4.106, and 5.106 of the 2019 California Building Standards Code, Title 24, Parts 6 and 11, are hereby enacted. The local amendments being enacted amend Chapter 9 of the Hayward Municipal Code as follows (additions are shown in double underline and deletions are shown as ~~strikethrough~~). Sections of the California Building Standards Code that are not addressed are not modified.

SECTION 3.00  
LOCAL AMENDMENTS TO THE CODE BY CHAPTER

**CALIFORNIA BUILDING STANDARDS CODE TITLE 24 PART 6: ENERGY CODE LOCAL AMENDMENTS**

**Section 100.0 is modified to add a new section (i) as follows:**

(i) Energy Reach Code - Purpose and Intent.

In addition to all requirements of the California Energy Code applicable to new construction, the following shall apply:

1. New low-rise residential buildings, other than Free Standing Accessory Dwelling Units that are no greater than 400 square feet, shall be an All-Electric Building as defined in Section 100.1(b).
2. New nonresidential buildings that are designed to utilize mixed-fuel (Fuel Gas in addition to electricity) shall be required to install solar panels on the entire Solar Zone, as defined in Section 110.10, and comply with either the prescriptive requirements of Section 140.2, as amended herein, or have compliance margins, as defined in Section 140.1, that meet or exceed the Standard Design Building by the amounts below:
  - A. Office and retail occupancies: 15%
  - B. Hotel/Motel and High-Rise Residential occupancies: 10%
  - C. All other occupancies in buildings with both indoor lighting and mechanical systems: 10%
  - D. All other occupancies in buildings with indoor lighting or mechanical systems but not both: 10%
3. If a Certified Energy Analyst prepares the Nonresidential Certificate of Compliance, the design shall be credited with one (1) percent of compliance margin, to the extent that the resultant energy budget is no greater than the energy budget for the Standard Building Design.

**Section 100.1(b) is modified by adding the following definitions:**

**ALL-ELECTRIC BUILDING** is a building that has no Fuel Gas plumbing installed within the building, and that uses electricity as the source of energy for its space heating, water heating, cooking, clothes drying, and fireplace appliances. An All-Electric Building may include solar thermal collectors. An All-Electric Building may include outdoor cooking

appliances or backup power generation fueled by a free-standing Fuel Gas tank and which is not plumbed to a building, gas line or gas main. The term “Fuel Gas” shall be as defined in the California Mechanical and Plumbing Codes.

**CERTIFIED ENERGY ANALYST** is a person registered as a Certified Energy Analyst with the California Association of Building Energy Consultants as of the date of submission of a Certificate of Compliance as required under Section 10-103.

**FREE STANDING ACCESSORY DWELLING UNIT** is a detached building that is not intended for sale separate from the primary residence, on a lot that is zoned for single family or multifamily use, located on the same lot as an existing dwelling, and does not exceed 1,200 square feet of total floor area.

**MIXED-FUEL BUILDING** is a building that is plumbed for the use of Fuel Gas as fuel for space heating, water heating, cooking, clothes drying, and/or fireplace appliances.

### **Low-Rise Residential Buildings**

**Section 150.0 - Mandatory Features and Devices. Section 150.0 of the 2019 California Energy Code is amended to read as follows:**

Low-rise residential buildings shall comply with the applicable requirements of Sections 150(a) through 150(~~rs~~).

NOTE: The requirements of Sections 150.0 (a) through (r) apply to newly constructed buildings. Sections 150.2(a) and 150.2(b) specify which requirements of Sections 150.0(a) through 150.0(r) also apply to additions or alterations. The local amendments to Sections 150.0(e), 150.0 (h), 150.0 (n), and 150.0 (s) do not apply to additions or alterations.

**EXCEPTION 1 to Section 150.0.** The local amendments to Sections 150.0(e), 150.0 (h), 150.0 (n), and 150.0 (s) do not apply to Free Standing ADUs less than 400 square feet.

**EXCEPTION 2 to Section 150.0.** If an applicant believes circumstances exist that make it infeasible to meet the local amendments to Sections 150.0(e), 150.0 (h), 150.0 (n), and 150.0 (s), the applicant may request an exemption from the Building Official. The applicant must still comply with the mandatory measures of the California Green Building Standards Code and can only receive an exemption from the Hayward amendments to the code. In applying for an exemption, the burden is on the applicant to show infeasibility. An exemption will be granted only in unusual circumstances where, due to exceptional characteristics of the structure, property, or business involved, a literal enforcement of this code will result in practical infeasibility, provided that no such exemption will be contrary to the intent of this code.

**Section 150.0(e) Installation of fireplaces.** Fireplaces shall be electric, not fueled by Fuel Gas.

**Section 150.0(h) Space-conditioning equipment.** Space-conditioning equipment shall be electric, not fueled by Fuel Gas.

**Section 150.0(n) Water heating system.** Water heating systems and equipment shall be electric, not fueled by Fuel Gas.

- A. ~~A dedicated 125 volt, 20 amp electrical receptacle that is connected to the electric panel with a 120/240 volt 3 conductor, 10 AWG copper branch circuit, within 3 feet from the water heater and accessible to the water heater with no obstructions. In addition, all of the following:
    - i. Both ends of the unused conductor shall be labeled with the word "spare" and be electrically isolated; and
    - ii. A reserved single pole circuit breaker space in the electrical panel adjacent to the circuit breaker for the branch circuit in A above and labeled with the words "Future 240V Use"; and~~
  - B. ~~A Category III or IV vent, or a Type B vent with straight pipe between the outside termination and the space where the water heater is installed; and~~
  - C. A condensate drain that is no more than 2 inches higher than the base of the installed water heater, and allows natural draining without pump assistance, and
  - D. ~~A gas supply line with a capacity of at least 200,000 Btu/hr.~~
- ~~4. Instantaneous water heaters with an input rating greater than 6.8 kBTU/hr (2kW) shall meet the requirements of Section 110.3(e)7.~~
- ...

**Section 150.0 (s) Clothes Drying and Cooking.**

- 1. Clothes Drying. Clothes dryers shall be electric, not fueled by Fuel Gas.
- 2. Cooking Range. Cooking appliances shall be electric, not fueled by Fuel Gas.

**Nonresidential and High-Rise Residential Buildings**

Mandatory Measures

**SECTION 140.0(b) is modified as follows:**

(b) The requirements of Sections 120.0 through 130.5 (mandatory measures for nonresidential, high-rise residential and hotel/motel buildings)- and for all newly constructed mixed-fuel buildings:

1. The entire solar zone, as specified in Section 110.10, shall have a solar PV system installed that meets the minimum qualification requirements as specified in Joint Appendix JA11, subject to the exceptions in Section 110.10.

**EXCEPTION 1 to 140.0(b)1.** The PV system may be sized to cover less than the entire Solar Zone provided that the system is sized to generate annual electrical output equal to the building’s modelled annual electric load.

**EXCEPTION 2 to 140.0(b)1.** Newly constructed all-electric buildings.

**SECTION 140.1 is modified as follows:**

SECTION 140.1 – PERFORMANCE APPROACH: ENERGY BUDGETS

A newly constructed All-Electric Building complies with the performance approach if the energy budget calculated for the Proposed Design Building under Subsection (b) is no greater than the energy budget calculated for the Standard Design Building under Subsection (a).

A newly constructed Mixed-Fuel Building complies with the performance approach if the energy budget calculated for the Proposed Design Building under Subsection (b) has a compliance margin, relative to the energy budget calculated for the Standard Design Building under Subsection (a), of at least the value specified for the corresponding occupancy type in Table 140.1-A below.

Table 140.1-A MIXED-FUEL BUILDING COMPLIANCE MARGINS

<u>Occupancy Type</u>	<u>Compliance Margins</u>
<u>Office/Retail</u>	<u>+15%</u>
<u>Hotel/Motel and High-Rise Residential</u>	<u>+10%</u>
<u>All other occupancies in buildings with both indoor lighting and mechanical systems</u>	<u>+10%</u>
<u>All other occupancies in buildings with indoor lighting or mechanical systems but not both</u>	<u>+5%</u>

- (a) Energy Budget for the Standard Design Building. The energy budget for the Standard Design Building is determined by applying the mandatory and prescriptive requirements to the Proposed Design Building. The energy budget is the sum of the TDV energy for space-conditioning, indoor lighting, mechanical ventilation, service water heating, and covered process loads.

- (b) Energy Budget for the Proposed Design Building. The energy budget for a Proposed Design Building is determined by calculating the TDV energy for the Proposed Design Building. The energy budget is the sum of the TDV energy for space-conditioning, indoor lighting, mechanical ventilation and service water heating and covered process loads.
- (c) Calculation of Energy Budget. The TDV energy for both the Standard Design Building and the Proposed Design Building shall be computed by Compliance Software certified for this use by the Commission. The processes for Compliance Software approval by the Commission are documented in the ACM Approval Manual.

**EXCEPTION 1 to Table 140.1-A.** For newly constructed buildings, if the Certificate of Compliance is prepared and signed by a Certified Energy Analyst and the energy budget for the Proposed Design is no greater than the Standard Design Building, the required compliance margin is reduced by 1%.

**EXCEPTION 2 to Table 140.1-A.** If an applicant believes circumstances exist that make it infeasible to meet the requirements of Table 140.1-A, the applicant may request an exemption from the Building Official. The applicant must still comply with the mandatory measures of the California Green Building Code and can only receive an exemption from the Hayward amendments to the code. In applying for an exemption, the burden is on the applicant to show infeasibility. An exemption will be granted only in unusual circumstances where, due to exceptional characteristics of the structure, property, or business involved, a literal enforcement of this code will result in practical infeasibility, provided that no such exemption will be contrary to the intent of this code.

NOTE: Authority: Sections 25213, 25218, 25218.5, 25402 and 25402.1, Public Resources Code. Reference: Sections 25007, 25008, 25218.5, 25310, 25402, 25402.1, 25402.4, 25402.5, 25402.8, and 25943, Public Resources Code.

**SECTION 140.2 is modified as follows:**

To comply using the prescriptive approach, a building shall be designed with and shall have constructed and installed systems and components meeting the applicable requirements of Sections 140.3 through 140.9 and additionally the following measures as applicable intended to exceed the remaining prescriptive requirements:

**(a) Mixed-Fuel Buildings of Hotel, Motels or High-Rise Multifamily Occupancies**

1. Install fenestration with a solar heat gain coefficient no less than 0.45 in both common spaces and guest rooms.

2. Design Variable Air Volume (VAV) box minimum airflows to be equal to the zone ventilation minimums.
  3. Include economizers and staged fan control in air handlers with a mechanical cooling capacity  $\geq$  33,000 Btu/h.
  4. Reduce the lighting power density (Watts/ft<sup>2</sup>) by ten percent (10%) from that required from Table 140.6-C.
  5. In common areas, improve lighting without claiming any Power Adjustment Factor credits:
    - A. Control to daylight dimming plus off per Section 140.6(a)2.H; and
    - B. Perform Institutional Tuning per Section 140.6(a)2.J
  6. Install one drain water heat recovery device per every three guest rooms that is field verified as specified in the Reference Appendix RA3.6.9.
- (b) All Other Nonresidential Mixed-Fuel Buildings
1. Install fenestration with a solar heat gain coefficient no greater than 0.22.
  2. Limit the fenestration area on east-facing and west-facing walls to one-half of the average amount of north-facing and south-facing fenestration.
  3. Design Variable Air Volume (VAV) box minimum airflows to be equal to the zone ventilation minimums where VAV systems are installed.
  4. Include economizers and staged fan control in air handlers with a mechanical cooling capacity  $\geq$  33,000 Btu/h.
  5. Reduce the lighting power density (Watts/ft<sup>2</sup>) by ten percent (10%) from that required from Table 140.6-C.
  6. Improve lighting without claiming any Power Adjustment Factor credits:
    - A. Perform Institutional Tuning per Section 140.6(a)2.J, and
    - B. In office spaces, control to daylight dimming plus off per Section 140.6(a)2.H, and
    - C. Install Occupant Sensing Controls in Large Open Plan Offices per Section 140.6(a)2.I.

**CALIFORNIA BUILDING CODE TITLE 24 PART 11: GREEN BUILDING STANDARDS**  
**LOCAL AMENDMENTS**

**Section 202 - Definitions:**

**EV Capable:** A parking space linked to a listed electrical panel with sufficient capacity to provide at least 208/240 volts and 40 amperes to the parking space. Raceways linking the electrical panel and parking space only need to be installed in spaces that will be inaccessible in the future, either trenched underground or where penetrations to walls, floors, or other partitions would otherwise be required for future installation of branch circuits. Raceways must be at least 1" in diameter and may be sized for multiple circuits as allowed by the California Electrical Code. The panel circuit directory shall identify the overcurrent protective device space(s) reserved for EV charging as "EV CAPABLE." Construction documents shall indicate future completion of raceway from the panel to the parking space, via the installed inaccessible raceways.

**Level 1 EV Ready Space:** A parking space served by a complete electric circuit with a minimum of 110/120 volt, 20-ampere capacity including electrical panel capacity, overprotection device, a minimum 1" diameter raceway that may include multiple circuits as allowed by the California Electrical Code, wiring, and either a) a receptacle labelled "Electric Vehicle Outlet" with at least a ½" font adjacent to the parking space, or b) electric vehicle supply equipment (EVSE).

**Level 2 EV Ready Space:** A parking space served by a complete electric circuit with 208/240 volt, 40-ampere capacity including electrical panel capacity, overprotection device, a minimum 1" diameter raceway that may include multiple circuits as allowed by the California Electrical Code, wiring, and either a) a receptacle labelled "Electric Vehicle Outlet" with at least a ½" font adjacent to the parking space, or b) electric vehicle supply equipment (EVSE) with a minimum output of 30 amperes.

**Electric Vehicle Charging Station (EVCS):** A parking space that includes installation of electric vehicle supply equipment (EVSE) with a minimum capacity of 30 amperes connected to a Level 2 EV Ready Space. EVCS installation may be used to satisfy a Level 2 EV Ready Space requirement.

**Automatic Load Management Systems (ALMS):** (ALMS) A control system which allows multiple EV chargers or EV-Ready electric vehicle outlets to share a circuit or panel and automatically reduce power at each charger, providing the opportunity to reduce electrical infrastructure costs and/or provide demand response capability. ALMS systems must be designed to deliver at least 1.4kW per charger to each EV Capable, EV Ready, or EVCS space served by ALMS. The connected amperage on-site shall not be lower than the required connected amperage per Part 11, 2019 California Green Building Code for the relevant building types.

**SECTION 4  
RESIDENTIAL MANDATORY MEASURES**

**4.106.4 Electric vehicle (EV) charging for new construction.** New construction shall comply with Sections 4.106.4.1 and 4.106.4.2 to facilitate future installation and use of EV chargers. ~~Electric vehicle supply equipment (EVSE) shall be installed in accordance with the California Electrical Code, Article 625.~~

**Exceptions:**

1. ~~On a case-by-case basis, where the local enforcing agency has determined EV charging and infra-structure are not feasible based upon one or more of the following conditions:~~

Where there is no commercial power supply.

- 1.1. ~~Where there is evidence substantiating that meeting the requirements will alter the local utility infra-structure design requirements on the utility side of the meter so as to increase the utility side cost to the homeowner or the developer by more than \$400.00 per dwelling unit.~~
2. Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU) without additional parking facilities, unless the electrical panel is upgraded, or a new panel is installed in which case only the electrical capacity requirements apply.
3. Spaces accessible only by automated mechanical car parking systems are excepted from providing EV charging infrastructure.
- 4.

**4.106.4.1 New one- and two-family dwellings and town- houses with attached private garages.**

For each dwelling unit, install two Level 2 EV Ready Spaces ~~a listed raceway to accommodate a dedicated 208/240-volt branch circuit. The raceway shall not be less than trade size 1 (nominal 1-inch inside diameter). The raceway shall originate at the main service or and shall terminate into a listed cabinet, box or other enclosure in close proximity to the proposed location of an EV charger. Raceways are required to be continuous at enclosed, inaccessible or concealed areas and spaces. The service panel and/or subpanel shall provide capacity to install a 40-ampere minimum dedicated branch circuit and space(s) reserved to permit installation of a branch circuit overcurrent protective device.~~

Exception: For each dwelling unit with only one parking space, install a Level 2 EV Ready Space.

**4.106.4.1.1 Identification.** ~~The service panel or sub-panel circuit directory shall identify the overcurrent protective device space(s) reserved for future-~~

EV charging as “Level 2 EV CAPABLE”. The raceway termination location shall be permanently and visibly marked as “EV CAPABLE”. “Level 2 EV Ready Space”.

**4.106.4.2 New multifamily dwellings.** ~~If residential parking is available, ten (10) present in total number of parking spaces on a building site, provided for all types of parking facilities, shall be electric vehicle charging spaces (EV spaces) capable of supporting future EVSE. Calculations for the required number of EV spaces shall be rounded up to the nearest whole number. The following requirements apply to all new multifamily dwellings:~~

1. For multifamily buildings with less than or equal to 20 dwelling units, one parking space per dwelling unit with parking shall be provided with a Level 2 EV Ready Space.
2. When more than 20 multifamily dwelling units are constructed on a building site, provided for all types:
  - a. 75% of the dwelling units with parking facilities, space(s) shall be provided with at least one Level 2 EV Ready Space spaces) capable of supporting future EVSE. Calculations for the required minimum number of Level 2 EV Ready spaces shall be rounded up to the nearest whole number.
  - b. In addition, each remaining dwelling unit with parking space(s) shall be provided with at least a Level 2 EV Capable Circuit.

**Notes:**

1. ~~Construction documents are intended to demonstrate the project’s capability and capacity for facilitating future EV charging.~~
2. ~~There is no requirement for EV spaces to be constructed or available until EV chargers are installed for use.~~
1. ALMS may be installed to decrease electrical service and transformer costs associated with EV Charging Equipment subject to review of the authority having jurisdiction.
2. The requirements apply to multifamily buildings with parking spaces including: a) assigned or leased to individual dwelling units, and b) unassigned residential parking.
3. In order to adhere to accessibility requirements in accordance with California Building Code Chapters 11A and/or 11B, it is recommended that all accessible parking spaces for covered newly constructed multifamily dwellings are provided with Level 2 EV Ready Spaces.

4. If a building permit applicant provides documentation detailing that the increased cost of utility service or on-site transformer capacity would exceed an average of \$4,500 among parking spaces with Level 2 EV Ready Spaces, the applicant shall provide EV infrastructure up to a level that would not exceed this cost for utility service or on-site transformer capacity.

**4.106.4.2.2 Electric vehicle charging space (EV space) dimensions.** Refer to local authority having jurisdiction for parking dimension requirements. The EV spaces shall be designed to comply with the following:

1. ~~The minimum length of each EV space shall be 18 feet (5486 mm).~~
2. ~~The minimum width of each EV space shall be 9 feet (2743 mm).~~
3. ~~One in every 25 EV spaces, but not less than one, shall also have an 8-foot (2438 mm) wide minimum aisle. A 5-foot (1524 mm) wide minimum aisle shall be permitted provided the minimum width of the EV space is 12 feet (3658 mm).~~
  1. ~~Surface slope for this EV space and the aisle shall not exceed 1 unit vertical in 48 units horizontal (2.083 percent slope) in any direction.~~

**4.106.4.2.3 Single EV space required.** ~~Install a listed raceway capable of accommodating a 208/240-volt dedicated branch circuit. The raceway shall not be less than trade size 1 (nominal 1-inch inside diameter). The raceway shall originate at the main service or subpanel and shall terminate into a listed cabinet, box or enclosure in close proximity to the proposed location of the EV spaces. Construction documents shall identify the raceway termination point. The service panel and/or subpanel shall provide capacity to install a 40-ampere minimum dedicated branch circuit and space(s) reserved to permit installation of a branch circuit over current protective device.~~

**4.106.4.2.4 Multiple EV spaces required.** ~~Construction raceway termination point and proposed location of future EV spaces and EV chargers. Construction documents shall also provide information on amperage of future EVSE, raceway method(s), wiring schematics and electrical load calculations to verify that the electrical panel service capacity and electrical system, including any on-site distribution transformer(s), have sufficient capacity to simultaneously charge all EVs at all required EV spaces at the full rated amperage of the EVSE. Plan design shall be based upon a 40-ampere minimum branch circuit. Raceways and related components that are planned to be installed underground, enclosed, inaccessible or in concealed areas and spaces shall be installed at the time of original construction.~~

**4.106.4.2.5 Identification.** ~~The service panel or sub-panel circuit directory shall identify the overcurrent protective device space(s) reserved for future EV charging purposes as "EV-CAPABLE" in accordance with the California Electrical Code.~~

**SECTION 5**  
**NONRESIDENTIAL MANDATORY MEASURES**

**5.106.5.3 Electric vehicle (EV) charging.** ~~[N] New~~ construction shall comply with Section 5.106.5.3.1 or Section 5.106.5.3.2 to facilitate future installation and use of EV chargers of electric vehicle supply equipment (EVSE). ~~When EVSE(s) is/are installed, it shall be in accordance with the California Building Code, the California Electrical Code and as follows:~~

Exception: Where there is no commercial power supply.

**5.106.5.3.1 Office buildings:** In nonresidential new construction buildings designated primarily for office use:

1. When 10 or more parking spaces are constructed, 20% of the available parking spaces on site shall be equipped with Level 2 EVCS;
2. An additional 30% shall be at least Level 2 EV Capable.

Calculations for the required minimum number of spaces equipped with Level 2 EVCS, Level 2 EV Ready spaces and EV Capable spaces shall all be rounded up to the nearest whole number.

Construction plans and specifications shall demonstrate that all raceways shall be a minimum of 1" and sufficient for installation of EVCS at all required Level 2 EV Ready and EV Capable spaces; Electrical calculations shall substantiate the design of the electrical system to include the rating of equipment and any on-site distribution transformers, and have sufficient capacity to simultaneously charge EVs at all required EV spaces including Level 2 V Ready and EV Capable spaces; and service panel or subpanel(s) shall have sufficient capacity to accommodate the required number of dedicated branch circuit(s) for the future installation of the EVSE.

Notes:

1. ALMS may be installed to increase the number of EV chargers or the amperage or voltage beyond the minimum requirements in this code. The option does not allow for installing less electrical panel capacity than would be required without ALMS.

**5.106.5.3.2 Other nonresidential buildings:** In nonresidential new construction buildings that are not designated primarily for office use, such as retail or institutional uses:

1. When 10 or more parking spaces are constructed, 15% of the available parking spaces on site shall be equipped with Level 2 EVCS;

Calculations for the required minimum number of spaces equipped with Level 2 EV Ready spaces shall be rounded up to the nearest whole number

Exception: Installation of each Direct Current Fast Charger with the capacity to provide at least 80 kW output may substitute for 15 EV Ready spaces after a minimum of 15 Level 2 EV Ready spaces are installed.

**5.106.5.3.3 Clean Air Vehicle Parking Designation.** EVCS qualify as designated parking as described in Section 5.106.5.2 Designated parking for clean air vehicles.

**Notes:**

1. The California Department of Transportation adopts and publishes the California Manual on Uniform Traffic Control Devices (California MUTCD) to provide uniform standards and specifications for all official traffic control devices in California. Zero Emission Vehicle Signs and Pavement Markings can be found in the New Policies & Directives number 13-01. [www.dot.ca.gov/hq/traffops/policy/13-01.pdf](http://www.dot.ca.gov/hq/traffops/policy/13-01.pdf).
2. See Vehicle Code Section 22511 for EV charging spaces signage in off-street parking facilities and for use of EV charging spaces.
3. The Governor's Office of Planning and Research published a Zero-Emission Vehicle Community Readiness Guidebook which provides helpful information for local governments, residents and businesses. [www.opr.ca.gov/docs/ZEV\\_Guidebook.pdf](http://www.opr.ca.gov/docs/ZEV_Guidebook.pdf).
4. Section 11B-812 of the California Building Code requires that a facility providing EVCS for public and common use also provide one or more accessible EVCS as specified in Table 11B-228.3.2.1.
5. If a building permit applicant provides documentation detailing that the increased cost of utility service or on-site transformer capacity would exceed an average of \$4,500 among parking spaces with Level 2 EV Ready Spaces, the applicant shall provide EV infrastructure up to a level that would not exceed this cost for utility service or on-site transformer capacity.

**5.106.5.3.1—Single charging space requirements.** ~~[N] When only a single charging space is required per Table 5.106.5.3.3, a raceway is required to be installed at the time of construction and shall be installed in accordance with the California Electrical Code. Construction plans and specifications shall include, but are not limited to, the following:~~

- ~~1. The type and location of the EVSE.~~
- ~~2. A listed raceway capable of accommodating a 208/240-volt dedicated branch circuit.~~
- ~~3. The raceway shall not be less than trade size 1."~~

4. ~~The raceway shall originate at a service panel or a subpanel serving the area, and shall terminate in close proximity to the proposed location of the charging equipment and into a listed suitable cabinet, box, enclosure or equivalent.~~
5. ~~The service panel or subpanel shall have sufficient capacity to accommodate a minimum 40-ampere dedicated branch circuit for the future installation of the EVSE.~~

**5.106.5.3.2 ~~Multiple charging space requirements.~~**

~~When multiple charging spaces are required per Table 5.106.5.3.3 raceway(s) is/are required to be installed at the time of construction and shall be installed in accordance with the California Electrical Code. Construction plans and specifications shall include, but are not limited to, the following:~~

1. ~~The type and location of the EVSE.~~
2. ~~The raceway(s) shall originate at a service panel or a subpanel(s) serving the area, and shall terminate in close proximity to the proposed location of the charging equipment and into listed suitable cabinet(s), box(es), enclosure(s) or equivalent.~~
3. ~~Plan design shall be based upon 40-ampere minimum branch circuits.~~
4. ~~Electrical calculations shall substantiate the design of the electrical system, to include the rating of equipment and any on-site distribution~~
5. ~~transformers and have sufficient capacity to simultaneously charge all required EVs at its full rated amperage.~~
6. ~~The service panel or subpanel(s) shall have sufficient capacity to accommodate the required number of dedicated branch circuit(s) for the future installation of the EVSE.~~

**5.106.5.3.3 ~~EV charging space calculation.~~** [N] ~~Table 5.106.5.3.3 shall be used to determine if single or multiple charging space requirements apply for the future installation of EVSE.~~

~~Exceptions: On a case-by-case basis where the local enforcing agency has determined EV charging and infrastructure is not feasible based upon one or more of the following conditions:~~

1. ~~Where there is insufficient electrical supply~~
2. ~~Where there is evidence suitable to the local enforcing agency substantiating that additional local utility infrastructure design requirements, directly related to the implementation of Section 5.106.5.3, may adversely impact the construction cost of the project.~~

~~TABLE 5.106.5.3.3~~

<del>TOTAL NUMBER OF ACTUAL PARKING SPACES</del>	<del>NUMBER OF REQUIRED EV CHARGING SPACES</del>
<del>0-9</del>	<del>0</del>
<del>10-25</del>	<del>1</del>
<del>26-50</del>	<del>2</del>
<del>51-75</del>	<del>4</del>
<del>76-100</del>	<del>5</del>
<del>101-150</del>	<del>7</del>
<del>151-200</del>	<del>10</del>
<del>201 and over</del>	<del>6 percent of total<sup>1</sup></del>

~~1. Calculation for spaces shall be rounded up to the nearest whole number.~~

**5.106.5.3.4 [N] Identification.** ~~The service panel or subpanel(s) circuit directory shall identify the reserved overcurrent protective device space(s) for future EV charging as “EV CAPABLE”. The raceway termination location shall be permanently and visibly marked as “EV CAPABLE Ready”.~~

~~**5.106.5.3.5 [N] Future charging spaces qualify as designated parking as described in Section 5.106.5.2 Designated parking for clean air vehicles.**~~

Section 5. Severability. The provisions of this Ordinance are severable, and if any clause, sentence, paragraph, provision, or part of this Ordinance, or the application of this Ordinance to any person, is held to be invalid or preempted by state or federal law, such holding shall not impair or invalidate the remainder of this Ordinance. If any provision of this Ordinance is held to be inapplicable, the provisions of this Ordinance shall nonetheless continue to apply with respect to all other covered development projects and applicants. It is hereby declared to be the legislative intent of the City Council that this Ordinance would have been adopted had such provisions not been included or such persons or circumstances been expressly excluded from its coverage.

Section 6. Effective Date. This ordinance shall become effective upon approval by the California Energy Commission. The California Green Building Standards Code Reach Code (regarding EV charging) will be effective 30 days from adoption of the Ordinance by the City Council.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the 3rd day of March, 2020, by Council Member \_\_\_\_\_.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the 24th day of March, 2020, 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



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
www.Hayward-CA.gov

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**File #:** LB 20-014

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**DATE:** March 24, 2020

**TO:** Mayor and City Council

**FROM:** City Manager

**SUBJECT**

Temporary Moratorium on Evictions: Adoption of Emergency Ordinance Establishing a Temporary Moratorium on Evictions in the City of Hayward for Non-Payment of Rent Caused by the Coronavirus (COVID-19) Pandemic, or for No-Fault Evictions and Providing Tenants and Landlords Mediation Services to Negotiate Payment Agreements and to Provide Direction to Staff to Develop a Financial Assistance Program to Help Stabilize the Rental Housing Market in Hayward

**RECOMMENDATION**

That the City Council:

1. Adopts an emergency ordinance that 1) establishes a temporary moratorium on evictions in the City of Hayward for non-payment of rent caused by the COVID-19 pandemic, or for no-fault evictions unless the eviction is necessary for the health and safety of the tenant or landlord (e.g. unit is deemed uninhabitable), and 2) provides tenants and landlords mediation services to negotiate payment agreements (Attachment II).
2. Adopts a resolution authorizing the City Manager to negotiate and execute an amendment to the agreement with Project Sentinel to expand mediation services up to a not-to-exceed amount of \$150,000. (Attachment III)

**SUMMARY**

As a result of the State of Emergency declarations and Alameda County Shelter-in-Place Order during the COVID-19 pandemic outbreak, many tenants have experienced or will experience sudden income loss, leaving them vulnerable to eviction. During the State of Emergency, the public interest in preserving peace, health, and safety and preventing further transmission of COVID-19 will be served by avoiding unnecessary displacement and homelessness. However, in addition to the impacts on tenants, non-payment of rent will make it difficult for landlords to meet their obligations as housing service providers. To mitigate these impacts, staff proposes measures to balance the needs of both stakeholder groups. Staff recommends the adoption of an emergency ordinance that:

1. Prohibits evictions due to non-payment of rent related to loss of income or increased expenses related to COVID-19 and no-fault evictions, and
2. Provides mediation services for tenants and landlords to negotiate rent reduction agreements or repayment plans.

Additionally, staff is working on a third measure to provide financial assistance to help stabilize the rental housing market and requests Council direction to pursue development of this program. Staff is evaluating options to provide financial assistance either through a bridge loan to landlords or rental subsidy program for tenants.

Enactment of an emergency ordinance would require at least five affirmative votes from the City Council. If only four Council members vote for the proposed ordinance, then adoption would occur at the next City Council meeting and the ordinance would go into effect 30 days after adoption. If not approved as an emergency ordinance, tenants will be responsible for payment of rent for the months of April and May. Tenants impacted by the Shelter-in-Place Order without remote work options or paid leave would lose a minimum of three weeks of wages by the time the ordinance is enacted.

## **ATTACHMENTS**

Attachment I            Staff Report

Attachment II Emergency Ordinance Establishing Temporary Moratorium on Certain Evictions and  
Mediation Services

Attachment III        Resolution Authorizing Amending Agreement with Project Sentinel to Increase  
Mediation Services



**DATE:** March 24, 2020

**TO:** Mayor and City Council

**FROM:** City Manager

**SUBJECT:** Temporary Moratorium on Evictions: Adoption of Emergency Ordinance Establishing a Temporary Moratorium on Evictions in the City of Hayward for Non-Payment of Rent Caused by the Coronavirus (COVID-19) Pandemic, or for No-Fault Evictions and Providing Tenants and Landlords Mediation Services to Negotiate Payment Agreements and to Provide Direction to Staff to Develop a Financial Assistance Program to Help Stabilize the Rental Housing Market in Hayward

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## **SUMMARY**

As a result of the State of Emergency declarations and Alameda County Shelter-in-Place Order during the COVID-19 pandemic outbreak, many tenants have experienced or will experience sudden income loss, leaving them vulnerable to eviction. During the State of Emergency, the public interest in preserving peace, health, and safety and preventing further transmission of COVID-19 will be served by avoiding unnecessary displacement and homelessness. However, in addition to the impacts on tenants, non-payment of rent will make it difficult for landlords to meet their obligations as housing service providers. To mitigate these impacts, staff proposes measures to balance the needs of both stakeholder groups. Staff recommends the adoption of an emergency ordinance that:

1. Prohibits evictions due to non-payment of rent related to loss of income or increased expenses related to COVID-19 and no-fault evictions, and

2. Provides mediation services for tenants and landlords to negotiate rent reduction agreements or repayment plans.

Additionally, staff is working on a third measure to provide financial assistance to help stabilize the rental housing market and requests Council direction to pursue development of this program. Staff is evaluating options to provide financial assistance either through a bridge loan to landlords or rental subsidy program for tenants.

Enactment of an emergency ordinance would require at least five affirmative votes from the City Council. If only four Council members vote for the proposed ordinance, then adoption would occur at the next City Council meeting and the ordinance would go into effect 30 days after adoption. If not approved as an emergency ordinance, tenants will be responsible for payment of rent for the months of April and May. Tenants impacted by the Shelter-in-Place Order without remote work options or paid leave would lose a minimum of three weeks of wages by the time the ordinance is enacted.

## **BACKGROUND**

On March 1, 2020, the Alameda County Public Health Department and Solano County Public Health Department reported two presumptive cases of COVID-19, pending confirmatory testing by the Centers for Disease Control (CDC), prompting Alameda County to declare a local health emergency.

On March 4, 2020, the Governor proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19.

On March 11, 2020, the City Manager, in her capacity as Director of Emergency Services, proclaimed a local emergency due to the spread of COVID-19, which was affirmed by the City Council on March 17, 2020.

On March 16, 2020, the Governor of the State of California issued Executive Order N-28-20 in response to the economic impacts of COVID-19 that threaten to undermine California's housing security and the stability of California businesses due to substantial loss of income. The Governor ordered that:

- Time limitations related to the prohibition of eviction of residential tenants be removed until May 31, 2020.
- Provisions of State law that preempt or otherwise restrict a local government's exercise of its police power to impose limitation on residential evictions related to nonpayment of rent arising out of a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of worked or substantial out of pocket medical expenses caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19 be suspended.

On March 17, 2020, Alameda County issued a legal order directing residents to shelter at home for three weeks. The order limits activity, travel, and business functions to only the most essential needs. It is anticipated that the Shelter-in-Place Order will cause a decrease in household income for many Hayward residents, which will increase the risk of displacement and homelessness.

## **DISCUSSION**

As a result of the State of Emergency and the Alameda County Shelter-in-Place Order, many tenants have or may experience a sudden income loss and further income impacts related to the COVID-19 virus, leaving many tenants vulnerable to eviction. During the State of Emergency and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary displacement and homelessness. However, in addition to the impacts on tenants, non-payment of rent will make it difficult for landlords to meet their obligations as housing service providers and potentially result in mortgage foreclosures or other serious financial impacts. To mitigate these impacts, staff proposes measures to balance the needs of both stakeholder groups. Staff recommends the adoption of an emergency ordinance that:

1. Prohibits evictions due to non-payment of rent related to loss of income or increased expenses related to COVID-19 and no-fault evictions, and
2. Provides mediation services for tenants and landlords to negotiate rent reduction agreements or repayment plans.

Additionally, staff is evaluating options to provide financial assistance either through a bridge loan to landlords or rental subsidy program for tenants.

The combination of these three measures is intended to help address the immediate needs of tenants who have suffered a loss of income or increased expense related to COVID-19, facilitate communication between tenants and landlords, and start to implement a plan to assist property owners to recover from the loss of rental revenue.

### Eviction Moratorium

Staff recommends a 90-day moratorium on evictions for nonpayment of rent, if the tenant demonstrates that inability to pay rent is due to COVID-19, the State of Emergency regarding COVID-19, or following government-recommended COVID-19 precautions or for a no-fault eviction necessary for the health and safety of tenants, neighbors, or landlords. The moratorium on evictions does not cover other reasons for evictions that are caused by the tenant such as substantially violating material terms of the rental agreement, tenant disorderly conduct so as to destroy the peace and quiet of other tenants, or a tenant willfully damaging the premises and refusing to pay for the repair costs. Provisions of the ordinance include:

**Applicability.** All residential rental units, including mobile homes and shared housing.

**Term.** 90-days with an option to extend. It is anticipated that recovery from loss of income will extend beyond the current State of Emergency.

**Prohibitions.**

- Evictions during the moratorium for nonpayment of rent related COVID-19, the State of Emergency regarding COVID-19, or following government-recommended COVID-19 precautions.
- Evictions during the moratorium for no fault unless for the health and safety of tenants, neighbors, or landlords.
- Assessing late fees.
- Landlords from initiating unlawful detainer (eviction) proceedings for non-payment of rent within the 90-day period after the expiration of the moratorium.

**Landlord Notification Requirement.** Tenants must make a good faith effort to notify the landlord or the landlord's representative in writing of the loss of income and/or increased expense related to COVID-19 and inability to pay full rent. Tenants will be required to notify the landlord that they will be able to provide documentation that supports a claim of inability to pay rent due to the COVID-19 pandemic. Requirements to notify the landlord of inability to pay rent is intended to start early conversations to help tenants and landlords prepare for the loss of income. Tenants unable to make contact with the landlord or their representatives will continue to be protected by the moratorium.

**Documentation Requirements.** Tenants should be prepared to provide documentation to support their claim. This documentation could include but is not limited to medical bills; or medical reports, documents showing reduced income such as pay stubs or unemployment benefit documents, correspondence from an employer citing COVID-19 as a basis for reduction in work hours or termination of employment, or a statement signed under penalty of perjury to ensure that undocumented residents who contribute informally to the economy are protected under the provisions of the moratorium. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim documentation.

**Payment of Past Due Rent.** Nothing in the proposed ordinance would relieve the tenant of the liability for unpaid rent. However, tenants and landlords are encouraged to arrange payment terms that are mutually agreeable and relevant to tenants' capacity to pay. To assist tenants and landlords negotiate payment reductions or repayment plans, staff proposes to expand existing mediation services to work with tenants and landlords to establish rent reduction agreements and/or establish reasonable repayment plans. This program is further described in the following section.

**No-Fault Evictions for Public Health or Safety.** The carve-out for no-fault evictions necessary for public health or safety is intended to deal with a situation where the unit is uninhabitable or subject to some type of regulatory action such as a code enforcement or fire department 'red tag' order. This type of no-fault eviction is allowable in the Residential Rental

Stabilization Ordinance. This carve-out is not an opportunity to exploit or avoid the constraints of this emergency ordinance.

### Expanded Mediation Services

Through the Residential Rent Stabilization Program, the City will provide mediation services to assist landlords and tenants to enter into agreements that:

- Temporarily reduce rent for a specified period of time agreed upon by both tenants and landlords. Such agreement would not affect the base rent for rent controlled units. Landlords could choose to forego a portion of rent or defer collection of a portion of the rent.
- Negotiate repayment plans to recover any non-payment of rent (either a missed payment or the difference of reduced rent and actual rent).
- Allow parties to renegotiate agreements if the crisis lasts longer than anticipated and tenants are unable to meet their obligations under the agreement.

Providing mediation services would reduce costs to the landlords associated with collection of past due rent and facilitate agreements outside the court system. Additionally, facilitating the negotiation of reduced rents can ensure that landlords receive some income to offset costs, and ensure that the base rent for units will not be affected by an agreement to reduce rent. Lastly, creating written agreements establishing repayment terms will provide landlords with some reassurance that the tenants will fulfill their obligation to pay past due rent.

The cost of mediation services would be paid for using the existing Residential Rent Stabilization budget. All residential rental units would have access to mediation services temporarily to negotiate repayment terms. It is anticipated that the contract with Project Sentinel for mediation services would exceed the City Manager's contracting authority. As a result, staff recommends approval of the resolution authorizing the City Manager to negotiate and execute an amendment to the agreement with Project Sentinel to expand existing mediation services increasing the not-to-exceed amount to \$150,000.

### Financial Assistance to Help Stabilize the Rental Housing Market

Staff is evaluating options to provide financial assistance to help stabilize the rental housing market using a portion of the emergency funds authorized by the City Council to respond to the local emergency. Options include providing bridge loans to landlords to cover shortfalls in operating revenue caused by tenants' demonstrated inability to pay rent, as well as rental subsidies to tenants or landlords on behalf of the tenants impacted by COVID-19. A brief description of both options is provided below.

**Bridge Loans.** The City could provide low cost deferred loans to landlords to assist with the loss of operating revenue. The loan could allow enough time for rent revenue to be restored and could vary by property size. Loan forgiveness could be considered if lost rents are unrecoverable. Property owners would be required to sign a promissory note secured by a deed of trust. The loan would offset the loss of revenue, but will not completely address the

loss of rental revenue. The magnitude and impact of the lost revenue will be dependent on the population the landlord serves and the size of the property. Some housing providers have expressed concerns that they may see a 40% loss in rental income. A landlord that owns one single family rental would lose 100% of the revenue if the tenant is not working due to COVID-19 and unable to pay rent. It is anticipated that the need will be greater than the amount of funding available and staff will work on developing a program that maximizes assistance to as many property owners as possible.

**Rental Subsidies.** Alternatively, a rental subsidy program would help a tenant pay their rent or a portion of their rent. The payment would be made directly to their landlords. Staff would need to identify a third-party service provider to implement the program, such as potentially pooling resources with the County on their existing tenant subsidy program. However, funding limitations should be considered. Similar to providing bridge loans, money available to assist tenants would be limited and the City not likely be able to assist all tenants in covering their full rent obligations. It is likely that any rental subsidy program would offset a portion of the rent obligation, but may not completely bridge the difference between what the tenant can afford and the total amount due in order to extend resources to as many tenants and landlords as possible. In the event that tenants still owe past due rent, the City could require or encourage tenants and landlords to enter into a repayment agreement to ensure that the tenant will not be evicted after receipt of city assistance.

Staff will continue to evaluate and discuss with landlords and tenants the best way to use the limited funds as effectively as possible and will proceed to administratively develop a financial assistance package based on policy direction and guidance from Council at this meeting. Staff will provide an informational memo or report to Council on the final programmatic details once developed.

### Moratorium on Rent Increases

Tenant advocates have recommended imposing a moratorium on rent increases. Advocates have expressed concern that rent increases during the State of Emergency will further compound issues with rent affordability and loss of wages due to COVID-19. While it is true that increasing rent will further indebt a tenant unable to pay their rent, rent increases permitted under the Residential Rent Stabilization Ordinance (RRSO) or under the State Tenant Protection Act (TPA) to tenants that have the capacity to pay may help landlords who have made concessions to struggling tenants and prolong that landlord's ability to provide housing. The RRSO and the TPA will prevent rent gouging. A rent increase moratorium would protect tenants from additional rent burden, but would also eliminate a resource available to landlords to address loss of rental revenue. Staff is not recommending a moratorium on rent increases at this time.

### Next Steps

Enactment of an emergency ordinance would require at least five affirmative votes from the City Council. If only four Council members vote for the proposed ordinance, then adoption would occur at the next City Council meeting and the ordinance would go into effect 30 days

after adoption. If not approved as an emergency ordinance, tenants will be responsible for payment of rent for the months of April and May. Tenants impacted by the Shelter-in-Place Order without remote work options or paid leave will have lost a minimum of three weeks wages by the time the ordinance is enacted.

**FISCAL IMPACT**

There is no fiscal impact associated with the adoption of a moratorium on evictions. However, there could be a broader Citywide economic impact if additional tenants experience housing instability or homelessness or if landlords are unable to fulfill financial obligations due to unpaid rent during the State of Emergency. The provision of expanded mediation services and the cost of noticing landlords about the enactment of the emergency moratorium will be covered by the existing Rent Stabilization Budget allocation. A mailer will cost approximately \$7,000 and the mediation services will be increased by \$75,000.

Should Council support the Bridge Loan and/or Rental Subsidy program, the City will devote a portion of the \$3,000,000 Council appropriated when ratifying the Local Emergency Declaration relating to the COVID-19 Pandemic.

Allocation of funds for a financial assistance for rental housing stabilization program will be within the City Manager’s emergency appropriation authority granted by the City Council.

**STRATEGIC INITIATIVES**

This agenda item supports the Strategic Priority of Preserve, Protect, & Produce Housing. This item is not specifically related to a project identified in the Strategic Roadmap. Staff is bringing forth this new item because economic impacts of COVID-19 threaten to undermine housing security for Hayward residents. Staff will include this item in the next bi-annual update to Council on the Strategic Roadmap.

**PUBLIC CONTACT**

Staff has discussed staff’s proposal with several stakeholders, including tenant advocacy groups, landlord associations, market rate housing providers, and affordable housing providers. **Table 1** summarizes tenant advocate comments and staff’s response. **Table 2** summarizes landlord comments and staff’s response

**Table 1. Tenant Advocate Comments**

<b>Tenant Advocate Comment</b>	<b>Staff Response</b>
Moratorium on evictions should cover all types of evictions and halt any evictions currently in process.	The proposed ordinance does not halt all evictions. It is specific to evictions related to non-payment of rent related to COVID-19 and no-fault evictions. Staff is concerned about the potential for a “rent strike” that could further destabilize the rental market.

Tenants should not be required to provide proof of impacts of COVID-19 during the State of Emergency or shelter-in-place order because tenants may be unable to obtain the necessary documents.	The proposed ordinance requires that the tenant notify the landlord that they are able to provide documents. Staff is concerned about the potential for a “rent strike” if no documentation is required.
Tenants should not be required to notify the landlords in writing about their inability to pay rent as some tenants do not have the contact information.	The proposed ordinance requires a tenant to make a good faith effort to communicate with the landlord. A tenant that is unable to notify the landlord in writing will continue to have protections from evictions for non-payment of rent related to COVID-19.
Late fees should be prohibited.	The proposed ordinance includes a prohibition on late fees.
Protections should remain in place after the end of the state of emergency to allow tenants time to stabilize and address late rent payment.	The proposed moratorium will last 90 days with the option to extend beyond the current State of Emergency. Additionally, the proposed moratorium prevents landlords from filing for evictions based on non-payment of rent for 90 days after the moratorium expires.
Late rent accrued during the state of emergency should be recovered as consumer debt and without the threat of evictions.	The City intends to use the mediation services with Project Sentinel to assist landlords and tenants with drafting repayment plans. Such plans would provide repayment terms and help tenants avoid the threat of eviction. Additionally, the proposed moratorium prevents landlords from filing for evictions based on non-payment of rent for 90 days after the moratorium expires.
Moratorium on rent increases should be imposed as well in an effort to address housing affordability during the state of emergency.	Staff is not recommending a rent freeze at this time because the RRSO and the TPA will prevent rent gouging. In an effort to balance the needs of the tenants who have suffered loss of income and the rental property owners that will lose revenue needed to provide housing services, staff considers a rent freeze a loss of landlord resource to mitigate the impacts of lost revenue and prolong housing services.

**Table 2. Landlord Comments**

<b>Landlord Comments</b>	<b>Staff Response</b>
Landlords, including non-profit housing providers, expressed concern that a broad	Staff has limited the moratorium on evictions to evictions related to non-payment of rent

moratorium prohibiting all evictions might cause a rent strike, which will further destabilize the housing market.	related to COVID-19 and no-fault evictions. Staff proposed flexible documentation requirements, but tenants will have to be able to substantiate claims.
There was concern that the ordinance may require burdensome noticing requirements.	The ordinance does not require the landlords to notice the tenants regarding their rights under the moratorium.
Most landlords consulted advocated for a tenant based rental subsidy instead of a bridge loan.	Staff will continue to evaluate options in developing an appropriate program.

**NEXT STEPS**

If the proposed emergency ordinance is approved, staff will send a notice regarding approval of the emergency to all rental property owners. Typically, a mailer of this size will take three weeks to prepare and deliver; however, considering rent will be due April 5, staff will attempt to accelerate the mailer.

Staff will work with Project Sentinel to establish an expanded mediation program to negotiate rent payment agreements between affected tenants and landlords.

Staff will continue to work on developing a financial assistance program to mitigate the impacts of lost income resulting from COVID-19 and the Shelter-in-Place Order. Staff will provide an informational memo or report to Council on the final programmatic details once developed.

*Prepared by:* Christina Morales, Housing Division Manager

*Recommended by:* Jennifer Ott, Deputy City Manager

Approved by:




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Kelly McAdoo, City Manager

## ORDINANCE NO. 2020-

AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
HAYWARD ESTABLISHING A TEMPORARY MORATORIUM  
ON EVICTIONS IN THE CITY OF HAYWARD FOR NON-PAYMENT OF RENT  
CAUSED BY THE CORONAVIRUS (COVID-19) PANDEMIC, OR FOR A  
NO-FAULT REASON UNLESS THE EVICTION IS NECESSARY FOR THE HEALTH AND  
SAFETY OF THE TENANT OR LANDLORD

THE CITY COUNCIL OF THE CITY OF HAYWARD hereby ordains as follows:

**SECTION 1. Findings and Statement of Urgency.**

A. Pursuant to Article XI, Sections 5 and 7 of the California Constitution, Government Code Sections 36934 and 36937, and section 617 of the Charter of the City of Hayward, the City may make and enforce all regulations and ordinances using its police powers to regulate municipal affairs and may enact emergency ordinances for the immediate preservation of the public peace, health or safety.

B. In late December 2019, several cases of unusual pneumonia began to emerge in the Hubei province of China. On January 7, 2020, a novel coronavirus now known as COVID-19 was identified as the likely source of the illness.

C. On January 30, 2020, the World Health Organization (“WHO”) declared COVID-19 a Public Health Emergency of International Concern. On January 31, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency.

D. On March 4, 2020 the Governor of California declared a State of Emergency due to the COVID-19 pandemic.

E. On March 11, 2020, the City Manager declared a Local Emergency in the City of Hayward due to the COVID-19 pandemic, which was affirmed by resolution of the Hayward City Council on March 17, 2020.

F. On March 13, 2020, the President of the United States declared a National Emergency due to the COVID-19 pandemic.

G. On March 16, 2020, the health officers of seven jurisdictions in the San Francisco Bay Area, including the County of Alameda, issued an Order to all residents of the respective jurisdictions to shelter in their homes in an effort to slow the progression of the COVID-19 pandemic. As of the 5:00 p.m. on March 15, 2020, 15 cases of COVID-19 were known to exist in Alameda County, as well as at least 258 confirmed cases and at least three deaths in the seven Bay Area jurisdictions jointly issuing the Order, including a significant and increasing number of suspected cases of community transmission and likely further increases in transmission.

H. The City of Hayward has one of the least affordable housing markets in California and the United States. Renters occupy about 49 percent of the City's housing stock and 57 percent of renters spend more than 30 percent of their income on housing.

I. During the COVID-19 pandemic outbreak, as a result of the State of Emergency declarations and the Shelter in Place Order, many tenants have experienced sudden income loss and further income impacts are anticipated, leaving tenants vulnerable to eviction.

J. Affected tenants who have lost income due to impact on the economy or their employment as a result of the State of Emergency declarations and the Shelter in Place Order are at risk of homelessness if they are evicted for non-payment as they will have little or no income and thus be unable to secure other housing if evicted.

K. Displacement through eviction destabilizes the living situation of tenants and impacts the health of Hayward's residents by uprooting children from schools, disrupting the social ties and networks that are integral to the community's' welfare and the stability of communities within the City.

L. Displacement through eviction creates undue hardship for tenants through additional relocation costs, stress and anxiety, and the threat of homelessness due to the lack of alternative housing.

M. The City Council finds and determines that during this state of emergency the public interest in preserving peace, health and safety and preventing further transmission of COVID-19, would be served by avoiding unnecessary displacement and homelessness.

N. The City Council further finds and determines that a temporary moratorium on evictions where inability to pay is due to a substantial decrease in household or business income (including but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or a substantial decrease in business income caused by a reduction in opening hours or consumer demand) or substantial out-of-pocket medical expenses caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19 the COVID-19 pandemic, or evictions for a no-fault reason unless the eviction is necessary for the health and safety of the tenant and landlord or is necessary to protect public health and safety.

O. Based upon the above-described facts and circumstances, and for these same reasons, the City Council finds that this ordinance is necessary as an emergency measure for preserving the public peace, health and safety, and therefore it may be introduced and adopted at one and the same meeting, and shall take effect immediately upon its adoption by 4/5 of the City Council.

**SECTION 2. Definitions.**

- A. **Covered Reason for Delayed Payment.** A tenant's inability to pay rent which arises from a substantial decrease in household or business income (including but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or was unable to work because their children were out of school, or a substantial decrease in business income caused by a reduction in opening hours or consumer demand) or substantial out-of-pocket medical expenses and the decrease in household or business income or the out-of-pocket medical expenses were caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented.
- B. **Housing Service.** A service provided by the Landlord related to the use or occupancy of a Rental Unit, including but not limited to, insurance, repairs, replacement, maintenance, painting, lighting, heat, water, elevator service, laundry facilities, janitorial service, refuse removal, furnishings, parking, security service, and employee services.
- C. **Landlord.** Any owner, lessor, or sublessor of real Property who receives or is entitled to receive Rent for the use or occupancy of any Rental Unit or portion thereof in the City of Hayward, and the designated representative, agent, or successor of such owner, lessor, or sublessor.
- D. **Moratorium Period.** The period from the effective date of this Ordinance and continuing for ninety (90) days thereafter unless extended by the City Council.
- E. **No-Fault Eviction.** No-fault eviction refers to any eviction for which the notice to terminate tenancy is not based on alleged fault by the tenant, including but not limited to the circumstances described in Hayward Municipal Code section 12-1.13(b)(7) – (10).
- F. **Rent.** All periodic payments and all nonmonetary consideration including, but not limited to, the fair market value of goods, labor performed or services rendered to or for the benefit of the Landlord for use or occupancy of a Rental Unit and Housing Services under a Rental Housing Agreement.
- G. **Rental Housing Agreement.** An oral, written, or implied agreement between a Landlord and a Tenant for use or occupancy of a Rental Unit and Housing Services.
- H. **Residential Rental Unit.** Any building, structure, or part thereof, or appurtenant thereto, or any other rental Property Rented or offered for Rent for living or dwelling purposes, including houses, apartments, rooming or boarding house units, and other real properties used for living or dwelling purposes, together with all Housing Services connected with the use or occupancy of such Property. For purposes of this ordinance a Residential Rental Unit shall also include a mobile home or mobile home space.
- I. **Tenant.** A Tenant, subtenant, lessee, sublessee, or a person entitled under the terms of a Rental Housing Agreement to the use or occupancy of a Residential Rental Unit.

**SECTION 3. Imposition of Temporary Moratorium on Certain Non-Payment and No-Fault Evictions**

- A. During the Moratorium Period, no Landlord shall evict a tenant under either of the following circumstances: (1) for nonpayment of rent if the tenant demonstrates that inability to pay rent arises out of a substantial decrease in household or business income (including but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or was unable to work because their children were out of school, or a substantial decrease in business income caused by a reduction in opening hours or consumer demand) or substantial out-of-pocket medical expenses and the decrease in household or business income or the out-of-pocket medical expenses were caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented, or (2) for a no-fault eviction unless necessary for the health and safety of tenants, neighbors, or the landlord.
- A. A landlord who reasonably knows that a tenant cannot pay some or all of the rent temporarily for the reasons set forth in paragraph A of this section shall not serve a notice pursuant to Code of Civil Procedure section 1161(2), file or prosecute an unlawful detainer action based on a reasonably 3-day pay or quit notice, or otherwise seek to evict for nonpayment of rent. A landlord knows of the tenant's inability to pay rent within the meaning of this Ordinance if the tenant notifies the landlord in writing of lost income and inability to pay full rent, and is able to provide documentation to support the claim. Requirements to notify the landlord do not preclude the tenant from protections under the Moratorium if the tenant was unable to notify the landlord in writing.
- B. For purposes of this section, "in writing" includes email or text communications to the landlord or the landlord's representative with whom the tenant has previously corresponded by email or text.
- C. For the purposes of this section, documentation to support a claim of inability to pay due to the COVID-19 pandemic may include, without limitation: a statement signed under penalty of perjury that that the inability to pay is due to a Covered Reason for Delayed Payment as defined herein; medical bills or reports; documents showing reduced income such as pay stubs or unemployment benefit documents; correspondence from an employer citing COVID-19 as a basis for reduction in work hours or termination of employment. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim.
- D. Nothing in this Ordinance shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the moratorium, unless the landlord and tenant agree otherwise. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this Ordinance.

- E. Either party may request to participate in a mediation process through the City of Hayward Rent Review Office, to assist the parties with negotiating, among other things, reduced rental amounts during the moratorium period and repayment schedules for unpaid rent during the moratorium period. Any negotiated reduced rent during the mediation process would not affect the base rent calculation of rent-controlled units pursuant to Chapter 12, Article 1 of the Hayward Municipal Code. The parties may request the assistance of the Rent Review Office, to renegotiate agreements as circumstances change.

#### **SECTION 4. Application**

- A. This Ordinance applies to all residential rental units in the City of Hayward.
- B. This Ordinance applies to nonpayment eviction notices, no-fault eviction notices, and unlawful detainer actions based on such notices, served or filed during the effective period of this Ordinance. With respect to delayed payment covered by this Ordinance, a landlord may seek such rent after expiration of the moratorium but may not institute unlawful detainer proceedings for non-payment for a period of 90 days after expiration of the moratorium, unless the tenant has breached the terms of a negotiated agreement as described in Section 3F above. In any event the landlord must meet and confer with the tenant prior to commencement of unlawful detainer proceedings described in this section.

#### **SECTION 5. Enforcement**

The City, at its sole discretion, may choose to enforce the provisions of this ordinance through administrative fines and any other administrative procedure set forth in Hayward Municipal Code Chapter 1, section 1-3.00. Violations of the provisions of this ordinance may be subject to fines of up to \$4,000. The City's decision to pursue or not pursue enforcement of any kind shall not affect a tenant's rights to pursue civil remedies.

**SECTION 6. Civil Remedies.**

A Tenant may bring a civil suit in the courts of the state alleging that a Landlord has violated any of the provisions of this Ordinance or any regulations promulgated hereunder. In a civil suit, a Landlord found to violate this Ordinance shall be liable to the Tenant for all actual damages, including but not limited to the damages described in this Section. A prevailing Tenant in a civil action brought to enforce this Ordinance shall be awarded reasonable attorneys' fees and costs. Additionally, upon a showing that the Landlord has acted willfully or with oppression, fraud, or malice, the Tenant shall be awarded treble damages. No administrative remedy need be exhausted prior to filing suit pursuant to this Section.

**SECTION 7. Severability.**

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

**SECTION 8. Effective Date and Expiration Date.**

This Ordinance shall become effective immediately upon its adoption by a 4/5 vote of the Hayward City Council but shall be of no further force and effect 90 days from its date of adoption unless otherwise extended by the City Council.

**SECTION 9. California Environmental Quality Act (CEQA)**

The City Council independently finds and determines that this action is exempt from CEQA pursuant to Public Resources Code section 21065, based on the finding that this Ordinance is not a "project" within the meaning of Section 15378 of the CEQA Guidelines. The City Council further independently finds and determines that this action is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines, 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 general exemption applies in this instance because it can be seen with certainty that there is no possibility that the proposed amendments could have a significant effect on the environment, and thus are not subject to CEQA. Thus, it can be seen with certainty that the proposed project would not have a significant effect on the environment.



HAYWARD CITY COUNCIL

RESOLUTION NO. 20-\_\_\_\_\_

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

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AMENDMENT TO THE AGREEMENT WITH PROJECT SENTINEL TO EXPAND MEDIATION SERVICES, INCREASING THE NOT-TO-EXCEED AMOUNT TO \$150,000

WHEREAS, an Agreement with Project Sentinel was executed on July 1, 2019, to administer the City's Residential Rent Stabilization and Tenant Protection Ordinance and the Mobile Home Space Rent Stabilization Ordinance and to provide mediation and arbitration services to resolve disputes regarding rent increases in an amount not-to-exceed \$75,000; and

WHEREAS, on March 4, 2020 the Governor of California declared a State of Emergency due to the COVID-19 pandemic.; and

WHEREAS, on March 11, 2020, the City Manager declared a Local Emergency in the City of Hayward due to the COVID-19 pandemic, which was affirmed by resolution of the Hayward City Council on March 17, 2020; and

WHEREAS, on March 13, 2020, the President of the United States declared a National Emergency due to the COVID-19 pandemic; and

WHEREAS, on March 16, 2020, the health officers of seven jurisdictions in the San Francisco Bay Area, including the County of Alameda, issued an Order to all residents of the respective jurisdictions to shelter in their homes in an effort to slow the progression of the COVID-19 pandemic. As of the 5:00 p.m. on March 15, 2020, 15 cases of COVID-19 were known to exist in Alameda County, as well as at least 258 confirmed cases and at least three deaths in the seven Bay Area jurisdictions jointly issuing the Order, including a significant and increasing number of suspected cases of community transmission and likely further increases in transmission, and

WHEREAS, during the COVID-19 pandemic outbreak, as a result of the State of Emergency declarations and the Shelter in Place Order, many tenants have experienced sudden income loss and further income impacts are anticipated, leaving tenants vulnerable to eviction; and

WHEREAS, providing mediation services would reduce costs to the landlords associated with collection of past due rent and facilitate agreements outside the court system without the threat of eviction; and

WHEREAS, the existing contract with Project Sentinel is insufficient to cover the anticipated need for expanded mediation services,

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, hereby authorizes the City Manager to negotiate and execute an amendment to the City's Agreement with Project Sentinel, in a form approved by the City Attorney, increasing the total not-to-exceed amount to \$150,000.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2020

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



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
www.Hayward-CA.gov

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**File #:** RPT 20-046

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**DATE:** March 24, 2020

**TO:** Mayor and City Council

**FROM:** Council Member Mendall, Council Member Márquez, and Council Member Salinas

**SUBJECT**

Consider an Item for Discussion on a Future City Council Agenda Regarding Delaying Implementation of the Hayward Minimum Wage Increase Currently Scheduled for July 1, 2020 Due to the COVID-19 Pandemic

**RECOMMENDATION**

That the City Council discusses whether staff time and City resources should be devoted to researching an item regarding delaying implementation of the Hayward Minimum Wage increase currently scheduled for July 1, 2020 due to the COVID-19 pandemic.

**SUMMARY**

Council Member Mendall, Council Member Márquez, and Council Member Salinas request that the Council considers an item for discussion on a future City Council agenda regarding delaying implementation of the Hayward Minimum Wage increase currently scheduled for July 1, 2020 due to the COVID-19 pandemic.

**ATTACHMENTS**

Attachment I Council Referral Memorandum



## COUNCIL REFERRAL MEMORANDUM

**DATE:** March 16, 2020

**TO:** Mayor and Council

**FROM:** Al Mendall, Elisa Márquez and Mark Salinas

**SUBJECT:** Delay implementation of the Hayward minimum wage increase currently scheduled for July 1, 2020 due to the COVID-19 pandemic.

### **RECOMMENDATION:**

We recommend that the City Council instruct staff bring an item to Council to delay implementation of the minimum wage increase currently scheduled for July 1, 2020 until January 1, 2021. Furthermore, we recommend that future increases should also be delayed by six months so that they occur on January 1<sup>st</sup> in 2022, 2023 and beyond to align the Hayward increases with the state's minimum wage increase schedule.

If this referral is approved by Council, Hayward staff should immediately halt noticing of the July 1, 2020 increase, pending a Council decision on this matter. Furthermore, given the immediate impact of COVID-19 on local business and the limited time before July 1, 2020, staff should do everything possible to bring this item back to the full Council by the April 7<sup>th</sup> Council meeting.

### **DISCUSSION:**

Since Council's unanimous action to increase the Hayward minimum wage a few weeks ago, the COVID-19 virus has expanded into a global pandemic. Local businesses are being heavily impacted by the prudent precautions being implemented by Federal, State and local agencies to limit public gatherings in order to limit transmission of the virus and protect our population. Restaurants and other businesses in the hospitality industry are being especially hard-hit. And COVID-19 has greatly increased the likelihood of a global recession in 2020, according to this recent article in Washington Post.

<https://www.washingtonpost.com/business/2020/03/14/recession-economy-coronavirus-jobs/>

Given the unexpected and near-term impacts created by COVID-19, it is prudent for Council to delay implementation of the local minimum wage increase scheduled for July 1, 2020 until January 1, 2021. This will help to reduce pressure on local businesses already being hard-hit by the COVID-19 pandemic.

Permanently adjusting the Hayward minimum wage schedule so that all future year increases occur on January 1<sup>st</sup> will align Hayward's schedule with the state schedule and eliminate the

need for costly double-noticing to Hayward employers for all future years. That will reduce costs for the City of Hayward and reduce confusion for Hayward businesses and workers.

**DESIRED COUNCIL ACTION:**

Council approval of this referral would constitute instruction to staff to place this topic on a future agenda for Council discussion, no later than April 7<sup>th</sup>.

The action that staff should bring back to Council should include the following items:

1. A six month delay of the July 1, 2020 minimum wage increase until January 1, 2021.
2. A corresponding delay of future year increases so that they also occur on January 1 in subsequent years (2022, 2023, etc.).
3. Any other minor adjustments to the ordinance staff deems necessary to aid in the implementation of the local minimum wage ordinance.

**TIMELINE:**

If this referral is approved by Council, City Staff should immediately halt noticing of the July 1, 2020 increase, pending a final Council decision on this matter.

Furthermore, given the immediate impact of COVID-19 on local business and the limited time before July 1, 2020, City Staff should bring this item back to the full Council no later than the April 7<sup>th</sup> Council meeting.

**KEY STAKEHOLDER GROUPS:**

The list of interested parties should include any individuals, businesses or organizations who registered interest in the recent minimum wage discussions.

*Respectfully Prepared and Submitted by:*



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**Councilmember Al Mendall**



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**Councilmember Elisa Márquez**



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**Mayor Pro Tem Mark Salinas**