

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-

Introduced by Council Member _____

RESOLUTION TO ADOPT AMENDMENTS TO CHAPTER 10, ARTICLE 17 (AFFORDABLE HOUSING ORDINANCE) AND CHAPTER 10, ARTICLE 19 (DENSITY BONUS ORDINANCE) OF THE HAYWARD MUNICIPAL CODE RELATED TO THE UPDATE OF THE DENSITY BONUS ORDINANCE

WHEREAS, Government Code Section 65915 et seq. (“State Density Bonus Law”) requires every city and county to adopt an ordinance providing density bonuses and other incentives or concessions to applicants wishing to develop eligible projects and specifying how compliance with State Density Bonus Law will be implemented; and

WHEREAS, in November 2005, the City Council adopted the Density Bonus Ordinance (Ordinance No. 05-15), codified as Chapter 10, Article 19 in the Hayward Municipal Code (Density Bonus Ordinance), to comply with State Density Bonus Law; and

WHEREAS, Government Code Section 65915 has been amended multiple times since the City of Hayward (“City”) enacted Chapter 10, Article 19 (Density Bonus Ordinance) and the City Council desires Chapter 10, Article 19 to conform to State law; and

WHEREAS, in 2019, the City was awarded grant funding under Senate Bill (SB) 2 to undertake amendments to Chapter 10, Article 17 (Affordable Housing Ordinance) and Chapter 10, Article 19 (Density Bonus Ordinance) in order to comply with the State’s Density Bonus law; and

WHEREAS, on February 1, 2022, a Joint Work Session with the City Council and Planning Commission was to establish priorities for further analysis; and

WHEREAS, between May 2022 and June 2022, City staff conducted outreach to twenty housing developers, including affordable/non-profit, and market-rate housing developers, which consisted of a survey with seven questions emailed to the developers on May 6, 2022, with interviews scheduled with three affordable/non-profit housing developers and three market-rate developers that responded to staff’s survey from May 9, 2022, to May 18, 2022; and

WHEREAS, on June 26, 2022, the Homelessness Housing Task Force held a work session to review staff recommendations and provided feedback on the proposed Ordinance updates; and

WHEREAS, on October 18, 2022, the City Council held a public work session to provide feedback and guidance on the recommended updates to the Density Bonus Ordinance; and

WHEREAS, on November 10, 2022, the Planning Commission held a public work session to provide feedback on the recommended updates to the Density Bonus Ordinance; and

WHEREAS, on November 18, 2022, notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on December 6, 2022.

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

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15168, a Program Environmental Impact Report (EIR) was prepared for the Hayward 2040 General Plan. On July 1, 2014, the City Council adopted Resolution No. 14-108, approving the Hayward 2040 General Plan update and related Program EIR.
2. In accordance with Section 15164 of the CEQA Guidelines, a lead agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.
3. Based on the draft regulations and the analysis provided in the staff report and attached documents, no new or unanticipated levels of development are anticipated that were not previously identified in the General Plan and General Plan EIR, and no new or unanticipated traffic, employment density, or construction impacts are expected to be generated as a result of adoption of these regulations. Therefore, the proposed Amendments substantially conform to the Goals and Policies set forth in the General Plan, and that were analyzed in the related Program EIR. No further environmental review is necessary.
4. That the project complies with CEQA, and that the City Council has reviewed and considered the information prior to approving the project. The custodian of the record of proceedings upon which this decision is based in the Development Services Department, City of Hayward located at 777 B Street, Hayward, CA 94544.

FINDINGS FOR TEXT AMENDMENTS TO CHAPTER 10 OF THE HAYWARD MUNICIPAL CODE RELATED TO THE DENSITY BONUS ORDINANCE (REFERRED TO AS THE "TEXT AMENDMENTS")

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

The City's existing Density Bonus Ordinance adopted in 2005 does not conform with current State law. The current State law, which is required to be implemented by local jurisdictions, offers more density, more incentives, and additional relaxed parking requirements to projects that qualify for the density bonus. The City can change the formula to offer a higher density bonus and more incentives for certain projects but under no circumstances can the City offer smaller density bonuses or fewer incentives than the State formula mandates. Section 10-17.700 of Chapter 10, Article 17 (Affordable Housing Ordinance) of the Hayward Municipal Code (HMC) will be amended for consistency with the proposed Density Bonus Ordinance and the current Density Bonus Ordinance, contained in Chapter 10, Article 19 of the HMC, will be repealed and replaced with a new Density Bonus Ordinance that, at minimum, complies with State guidelines and reflects the direction previously provided by Council. Specifically, as part of the update to the City's Density Bonus Ordinance, a 5 percent density bonus increase will be granted for projects that meet the State's criteria for on-site affordable housing for the maximum density bonus; a 10 percent total density bonus increase for housing that both meet the State's criteria for on-site affordable housing for the maximum density bonus and accommodates certain target populations, including those people with disabilities, affordable student housing, and senior housing; and up to five incentives or concessions are granted to eligible projects that would otherwise qualify for only four incentives or concessions under the State Density Bonus Law. The additional incentives or concessions are being recommended to help project feasibility and support construction of a greater number of affordable units.

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

The proposed Text Amendments contained herein are consistent with the goals and policies of all elements of the *Hayward 2040 General Plan* and the State Density Bonus Law because the Text Amendments update the language to reflect the applicable policies and actions of the general plan and reflect the changes in State Density Bonus Law. The proposed Amendments are consistent with the following policies and actions of the *Hayward 2040 General Plan*:

- LU Policy 1-3: Growth and Infill Development. The City shall direct local population and employment growth toward infill development sites within the city, especially the catalyst and opportunity sites identified in the Economic Development Strategic Plan.

- LU Policy 1-5: Transit Oriented Development. The City shall support high-density transit-oriented development within the city's Priority Development Areas to improve transit ridership and to reduce automobile use, traffic congestion, and greenhouse gas emissions.
- LU Policy 3-1: Complete Neighborhoods. The City shall promote efforts to make neighborhoods more complete by encouraging the development of a mix of complementary uses and amenities that meet the daily needs of residents. Such uses and amenities may include parks, community centers, religious institutions, daycare centers, libraries, schools, community gardens, and neighborhood commercial and mixed-use developments.
- ED Policy 5-5: Quality Development. The City shall require new development to include quality site, architectural, and landscape design features to improve and protect the appearance and reputation of Hayward.
- Housing Policy 2.2: Provide Incentives for Affordable Housing. The City shall promote the use of density bonuses and other incentives to facilitate the development of new housing for extremely low-, very low-, and low-income households.
- Housing Policy 2.4: Integration of Affordable Housing. The City shall encourage a mix of affordability levels in residential projects and encourage the dispersal of such units to achieve greater integration of affordable housing throughout the community.
- Housing Policy 3.1: Diversity of Housing Types. The City shall implement land use policies that allow for a range of residential densities and housing types, prices, ownership, and size, including low-density single family uses, moderate-density townhomes, and higher-density apartments, condominiums, transit-oriented developments, live-work units, and units in mixed-use developments.
- Housing Policy 3.3: Sustainable Housing Development. The City shall improve affordability by promoting sustainable housing practices that incorporate a 'whole system' approach to siting, designing, and constructing housing that is integrated into the building site, consumes less water and improves water quality, reduces the use of energy use, and other resources, and minimizes its impact on the surrounding environment.
- Housing Policy 3.4: Residential Uses Close to Services. The City shall encourage development of residential uses close to employment, recreational facilities, schools, neighborhood commercial areas, and transportation routes.
- Housing Policy 3.6: Flexible Standards and Regulations. The City shall allow flexibility within the City's standards and regulations to encourage a variety of housing types.
- Housing Policy 4.1: Flexible Development Standards. The City shall review and adjust as appropriate residential development standards, regulations, ordinances, departmental processing procedures, and residential fees that are determined to be a constraint on the development of housing, particularly housing for lower- and moderate-income households and for persons with special needs.

- Housing Policy 4.2: Clear Development Standards and Approval Procedures. The City shall strive to maintain and administer clear development standards, and approval procedures for a variety of housing types, including, but not limited to, multifamily housing and emergency shelters.

Further, the proposed text amendments are internally consistent with other applicable provisions of Chapter 10 of the Municipal Code because applicable provisions of the Code will apply to projects eligible for density bonus under the Ordinance.

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

As determined in the Addendum to the Program EIR for the Hayward 2040 General Plan, the streets and public facilities that currently serve the City are not expected to be significantly impacted by the residential development projects eligible for a density bonus under the Density Bonus Ordinance. Projects eligible for density bonus are consistent and compatible with the other land uses that are currently permitted or conditionally permitted in the applicable zoning districts. No properties are proposed to be reclassified or rezoned with the proposed Text Amendments. As such, the streets and public facilities, both existing and proposed, would be adequate to serve the potential development of new residential development projects eligible for density bonus in the City.

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

No properties are proposed to be reclassified with the proposed Text Amendments that regulate density bonus under this Density Bonus Ordinance. A beneficial effect will be achieved with the proposed revision to the HMC, as it will allow for more predictable and transparent regulations, as well as create a more streamlined permitting process for applicants. The proposed Amendments will continue to allow density bonuses for residential development projects, which contribute to the diversity of housing options and add to the City’s existing housing stock. The proposed Amendments will require applicants submit an application and be subject to requirements in the Hayward Municipal Code (HMC) to ensure that any eligible development project will be compatible with present and potential future land uses.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the findings in support of the proposed Text Amendments to Chapter 10, Article 17 and Chapter 10, Article 19, subject to the adoption of the companion Ordinance.

BE IT RESOLVED that this resolution shall become effective on the date that the companion Ordinance (Ordinance No. 22-__) becomes effective.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022.

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