

HAYWARD CITY COUNCIL

RESOLUTION NO. 23-_____

Introduced by Council Member _____

RESOLUTION TO TEMPORARILY SUSPEND APPLICABLE LOCAL PLANNING
AND ZONING REQUIREMENTS FOR EXISTING HOMELESS SHELTERS
LOCATED ON SPECIFIED PRIVATE PROPERTY

WHEREAS, the City of Hayward is experiencing a housing emergency and the City Council of the City of Hayward unanimously passed Resolution No. 18-207, declaring that a Shelter Crisis, pursuant to Government Code § 8698.2, exists in the City of Hayward; and

WHEREAS, the Council extended Resolution No. 18-207 two times in response to the ongoing shelter crisis (Resolution No. 19-014 and Resolution No. 21-026); and

WHEREAS, according to the 2022 Everyone Home Point-in-Time homeless count, there are 381 homeless individuals in Hayward, of whom 70% (267) are unsheltered; and

WHEREAS, the current number of homeless individuals in Hayward far exceeds the number of existing shelter beds, transitional housing or permanent supportive housing units available; and

WHEREAS, unauthorized homelessness encampments are increasing across parts of Hayward within the public right of way, thus exposing homeless individuals to traffic, hazards, crime, risk of death and injury, exposure to weather, lack of adequate sanitation and debris services, and other conditions that are detrimental to their health and safety; and

WHEREAS, the shelter crisis is not unique to Hayward, but is evident throughout the Bay Area, California, and the United States, causing other municipalities such as Berkeley, Los Angeles, Portland, Oregon, and Seattle, Washington to also take more immediate actions to address these conditions; and

WHEREAS, Council adopted Resolution 20-032 approving the Workplan to Incentivize Housing Production in the City of Hayward, which included a mid-term strategy of expanding locations where emergency shelters are allowed as a permitted use with a conditional or other discretionary use permit; and

WHEREAS, Council adopted Resolution 21-138 approving and adopting the Let's House Hayward! Strategic Plan to reduce homelessness, which highlighted the need for additional emergency shelters in the City and included strategies for expanding housing-

focused shelter capacity and developing crisis response services to protect the dignity and health of unsheltered individuals and families in Hayward; and

WHEREAS, the Draft 2023-2031 Housing Element contains specified Actions to amend the Zoning Ordinance by January 2025 to allow innovative and alternative housing options with wraparound services on land owned by the City, churches, and non-profits; to develop objective standards for such uses; and to expand the opportunities for group housing and housing for individuals with disabilities and those experiencing homelessness; and

WHEREAS, given the extent of the shelter crisis, Council finds that more immediate and expeditious efforts are necessary to develop additional shelter solutions that are safe and meet basic habitability standards and that flexibility and broad-based approaches are essential to increase capacity; and

WHEREAS, California Government Code Section 8698, et seq., which allows the governing body of a city to declare a shelter crisis, only applies to shelters located on public property/facilities; and

WHEREAS, shelters operated by private organizations located on private property serve an important role in addressing the existing shelter crisis; and

WHEREAS, strict compliance with existing local planning and zoning requirements create obstacles to operation of shelters on private property owned or controlled by private organizations such as faith-based and non-profit organizations; and

WHEREAS, the City of Hayward, pursuant to Section 200 of the City Charter and Article XI, Section 5 of the California Constitution, may make and enforce all laws and regulations in respect to municipal affairs; and

WHEREAS, the City of Hayward, pursuant to Article XI, Section 7 of the California Constitution may exercise its police powers to make and enforce ordinances and regulations to promote the public health, safety, and welfare; and

WHEREAS, the purpose of this Resolution is to temporarily suspend enforcement of local planning and zoning requirements to the extent that strict compliance with such requirements would otherwise prevent operation of shelters on private property; and

WHEREAS, during the effective period of this Resolution, the City Manager, with approval by the City Council, may establish interim municipal health and safety provisions and land use controls may be applied to facilities ensuring minimum public health and safety standards; and

WHEREAS, during the effective period of this Resolution, City staff will develop permanent local regulations addressing operation of homeless shelters on private property, which will be presented to Council for review and approval.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the Council:

1. Finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Resolution; and
2. Determines that this Resolution shall remain in place until December 31, 2026; and
3. Finds that a significant number of persons in Hayward are without the ability to obtain shelter, and that this situation has resulted in a threat to the health and safety of these persons, for the reasons set forth above; and
4. Declares, for the term of this Resolution, that planning or zoning requirements for existing emergency shelters for the homeless on private property are suspended to the extent that strict compliance would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis. At the City Manager's discretion and with approval by the City Council, interim municipal health and safety provisions and land use controls may be applied to facilities ensuring minimum public health and safety standards. These interim standards shall only apply to existing homeless shelters on private property.
5. Declares that existing providers of homeless housing that apply the authority provided for under this resolution shall be reviewed and approved by the City Council prior to implementation, and shall include detailed plans for the project and the standards and requirements being applied to the facility and its operation; and
6. Finds that if this Resolution is inconsistent with any other provisions of the Hayward Municipal Code, this Resolution shall apply. This Resolution suspends contrary regulations in the Hayward Municipal Code or requirements of the General Plan or implementing regulations; and
7. Declares that this Resolution is enacted pursuant to the City of Hayward's general police powers, authority over municipal affairs contained in the City Charter, and Article XI, Sections 5 and 7 of the California Constitution, as well as the other provisions of state and local law otherwise cited herein; and
8. Finds that if any section, subsection, sentence, clause, or phrase of this Resolution is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Resolution and each section, subsection, clause, or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

9. Finds that adoption of this resolution is subject to the “common sense” exemption contained in section 15061 of the CEQA Guidelines, in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2023

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward