

HAYWARD CITY COUNCIL

RESOLUTION NO. 21-

Introduced by Council Member _____

RESOLUTION TO EXTEND RESOLUTIONS 18-207 AND 19-014, DECLARING A SHELTER CRISIS IN THE CITY OF HAYWARD UNTIL DECEMBER 31, 2021, AND AUTHORIZING THE CITY MANAGER TO TAKE EMERGENCY ACTIONS TO ALLOW FOR CONSTRUCTION OF A 30-BED TRANSITIONAL AGE YOUTH SHELTER ON A PORTION OF HAYWARD UNIFIED SCHOOL DISTRICT PROPERTY LOCATED AT 27211 TYRRELL AVENUE

WHEREAS, the City of Hayward is experiencing a housing emergency and the Council unanimously passed Resolution Nos. 18-207 and 19-014, declaring that a Shelter Crisis, pursuant to Government Code Section 8698.2, exists in the City of Hayward; and

WHEREAS, according to the 2019 Everyone Home Point-in-Time homeless count, there are 487 homeless individuals in Hayward, of whom 76% (372) are unsheltered and of the Transitional Age Youth, 93% (30) are unsheltered; and

WHEREAS, there are only three homeless shelters in Hayward for individuals, families and women with children, which results in the current number of homeless individuals in Hayward far outpacing the number of existing shelter beds, transitional housing, or permanent supportive housing units available and no such shelters for Transitional Age Youth in southern Alameda County; and

WHEREAS, unauthorized homelessness encampments are increasing across parts of Hayward, especially since COVID-19, 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, given the extent of the shelter crisis, the City Council of the City of Hayward 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., allows the governing body of a city to declare a shelter crisis when a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety; and

WHEREAS, California Government Code Section 8698.1 provides that, upon a declaration of a shelter crisis, the provisions of any state or local regulatory statute, regulation or Resolution prescribing standards of housing, health or safety, as applied to public facilities, shall be suspended to the extent that strict compliance would in any way prevent, hinder or delay mitigation of the effects of the shelter crisis; and

WHEREAS, pursuant to Article XI, Section 7 of the California Constitution, the City of Hayward may make and enforce all local police, sanitary, or other regulations and ordinances using its police powers; and

WHEREAS, Covenant House California proposes to establish a transitional/supportive housing project in Hayward by placing nine (9) manufactured home units, each containing 3 bedrooms and 2 bathrooms with full kitchens on a 1-acre portion of this underutilized Hayward Unified School District property located at 27211 Tyrrell Avenue (hereinafter "Transitional Age Youth shelter" and/or "project").

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

1. The foregoing recitals are true and correct and are hereby incorporated by this reference as part of this Resolution; and
2. That this project is exempt under California Government Code Section 8698.4. This project is also statutorily exempt under Section 15268 of the California Environmental Quality Act as the project is a ministerial project and will only involve issuance of a building permit. Further, the project is categorically exempt under Section 15332, in-fill development, as the project is consistent with General Plan and Zoning, involves a site less than 5 acres within the city limits that can be adequately served by all required utilities, will not result in significant effects related to traffic, noise, air quality or water quality, and has no value as habitat for rare or endangered species; and
3. That a significant number of persons in Hayward, including Transitional Age Youth, 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. Therefore, the Council finds and declares that there continues to be a shelter crisis in the City of Hayward pursuant to the authority set forth in Government Code Section 8698, et seq. and its police power; and
4. That the shelter crisis declared herein and in Resolution Nos. 18-207 and 19-014 is hereby extended and shall remain in place until December 31, 2021; and

5. That for the term of this Resolution, no planning, or zoning requirements for the establishment of this Transitional Age Youth shelter shall be required 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 this project and shall be null and void if the use is discontinued for a period of more than six months or if the project site is no longer a public facility; and
6. That the City Manager or her designee is authorized and directed to issue a zoning compliance letter reflecting the temporary suspension of any requirement authorized by this resolution and setting forth all interim standards applicable to the project. The letter shall reflect that if the use authorized by this Resolution is discontinued for a period of more than six months or if the project site is no longer a public facility the land use entitlements provided herein will terminate; and
7. That if this Resolution is inconsistent with any other provision of the Hayward Municipal Code, this Resolution shall control. This Resolution suspends contrary regulations in the Hayward Municipal Code or requirements of the General Plan or implementing Regulations; and
8. That this Resolution is enacted pursuant to the City of Hayward's general police powers, and Article XI, Section 7 of the California Constitution, as well as other provisions of state and local law otherwise cited herein; and
9. Severability. 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 Resolution. 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.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2021

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