



CITY OF HAYWARD

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Cover Memo

File #: PH 16-002, **Version:** 1

DATE: January 12, 2016

TO: Mayor and City Council

FROM: Director of Development Services

SUBJECT

Proposed amendments to the City of Hayward Livestock Regulations, including establishment of a revised, simplified permit process for the keeping of bees, hens, and other small animals in residential areas; and Establishment of Proposed New Fees to reduce the cost for processing of permits for such uses.

RECOMMENDATION

That City Council adopts the attached two resolutions making findings to support the proposed text amendments (Attachment I) and approving related new fees (Attachment II); and introduces the attached ordinances to approve the proposed amendments to Hayward Municipal Code (HMC) Sections 10-1.215, 10-1.315, 10-1.2735.e, and 10-1.3500 (Attachments III through VI).

SUMMARY

In response to City Council direction and in line with General Plan policies that encourage access to healthy foods, the City is updating its livestock regulations in order to reflect established best practices for the management of small livestock in urban environments, in order to encourage the keeping of hens/domestic fowl, small livestock and bees in residential areas.

Specifically, the proposed revisions:

- redefine the keeping of four or fewer hens, ducks, pigeons, or other small fowl as household pets, changing the permit requirement from an Administrative Use Permit to a Zoning Conformance Permit;
- redefine Potbelly Pigs as Household Pets instead of Livestock, in keeping with longstanding city policy;
- revise zoning regulations to allow apiaries (beekeeping) as a secondary use in the Single-Family Residential (RS) and Residential Natural Preservation (RNP) Districts, pursuant to approval of a Zoning Conformance Permit;
- modify certain minimum setback and performance standards to allow more properties to keep chickens and bees;
- provide additional flexibility for residents to modify the location of coops and other livestock-related structures over time, in keeping with best practices;
- establish a simple permit process wherein the City retains the ability to enforce and/or revoke a permit if a nuisance is caused; and

- amend the City's Master Fee Schedule to provide fee tiers for Zoning Conformance Permits to reduce cost for simple projects.

BACKGROUND

The last major update to the City's livestock regulations occurred in 1999 as part of a comprehensive zoning ordinance update. The intent of that update was to address concerns with the raising of horses on large properties in the hillside areas. No major code update has been completed specifically for the keeping of hens or bees in residential areas. However, in recent years, the City has taken steps to reduce the regulatory barrier to the keeping of hens in residential backyards. Specifically, the fee for processing of an Administrative Use Permit for livestock in a residential zone has been reduced to a \$500 flat fee. However, this fee remains much higher than other cities in the bay area due to the nature of work that is needed to process such a permit (e.g., providing notice to owners and tenants within at least 300 feet of a project site; determining if required findings can be made).

In response to community feedback and direction from the City Council, staff analyzed the City's regulations for consistency with best practices that have been adopted by other cities in the region. As part of that analysis, staff found that the City lacked a simple permit process for minor uses, such as livestock or unattended collection boxes. To lay the groundwork for potential future code updates, regulations creating the Zoning Conformance Permit were adopted in 2015. The creation of this new permit gave the City a new tool for regulating minor uses that may not require extensive public notification and analysis.

On August 18, 2015, the City hosted a public meeting to receive feedback from residents regarding current regulations and desired code changes. There were twenty community members in attendance and all who spoke supported encouraging the keeping of chickens on residential properties. Staff provided an overview of current regulations and facilitated a discussion among attendees on what process would be preferred and what design and performance standards are necessary to ensure that the keeping of chickens on a residential lot does not cause a nuisance to neighboring properties. The consensus among attendees at the meeting was that current standards need to be modified to encourage the keeping of hens and a simplified permit, such as the Zoning Conformance Permit, is more appropriate than a use permit for the regulation of livestock in residential areas.

Following the community meeting, staff conducted work sessions before the City Council and Planning Commission on November 15, 2015 and November 17, 2015, respectively. The minutes for the City Council Work Session are attached as Attachment VI, and the minutes for the Planning Commission Work Session are attached as Attachment VII. During the City Council Work Session, no public comments were received. Council members indicated support for having as simple a permit process as possible and that the standards for livestock should be as clear and effective as possible. During the Planning Commission Work Session, similar sentiments were voiced by Planning Commissioners, though less support was voiced for requiring a permit.

In response to this direction, staff has proposed a very simple permit process for the keeping of up to four hens in certain residential zones. By limiting the cost and regulatory barriers to obtaining a permit, residents are encouraged to follow the legal process for keeping chickens. Staff will design a permit application for the Zoning Conformance Permit that is 'self-certified' where residents will sign the permit certifying that they will comply with key points from the City's standards. A permit would then be issued

along with additional information on best practices.

Both the Planning Commission and City Council also indicated support for revising the City's regulations for beekeeping in residential zones, which staff incorporated into the attachments. Due to the possibility of health risk from exposure to bees by persons who are allergic to stings, staff is recommending a higher fee for permits for beekeeping to allow for noticing of all property owners within one hundred feet of a site where beekeeping is proposed. If the City receives documented notification within ten business days of the mailing of the notice that a resident of a property within one hundred feet of the proposed site is allergic to bee stings, the application would be denied for the protection of the health and safety of that person.

Planning Commission Public Hearing - The Planning Commission reviewed the proposed ordinances during a December 17, 2015 public hearing (see Attachment VII, draft meeting minutes). Key comments from Commissioners were that the noticing process for zoning conformance permits for beekeeping should be clarified to require a respondent to provide some form of proof of allergy to bee stings, such as a doctor's note. The Commission also included in the motion to recommend approval of an amendment to include llamas in the definition of 'Large Livestock.' Both recommendations have been incorporated into the attached ordinances.

DISCUSSION AND STAFF ANALYSIS

Overview of Proposed Changes -

Hens/Fowl - The proposed changes would change the definitions of certain terms in the Municipal Code to create a distinction between the keeping of four or fewer hens and the keeping of other large livestock, such as cows or horses. Currently, there is only one definition, "Livestock," which encompasses all of these activities/animals, making it difficult to have a simpler permit process for less impactful animals. The proposed change would stipulate that the keeping of hens, ducks, pigeons, or other small fowl is only considered "Livestock" when the number of animals kept is greater than four. When the number of animals proposed to be kept is four or fewer, the activity would instead be considered "Pets, Household," similar to the keeping of dogs or cats on a property. A Zoning Conformance Permit would be required, instead of the current requirement for an Administrative Use Permit.

To allow additional properties to legally keep hens, ducks, pigeons, and other fowl as determined by the Planning Director; to encourage properties which have already been keeping hens to come into a conforming state by obtaining a permit; and to ensure the protection of neighboring property residents, the following modifications are proposed to the General Regulations section of the Zoning Ordinance:

1. The minimum lot size for the keeping of poultry is reduced from 5,000 square feet to 4,000 square feet.
2. The maximum number of hens, ducks, pigeons, or other small fowl is limited to a total of four unless an Administrative Use Permit is approved.
3. A coop is required for the animals, and the structure must be no taller than six feet, located no less than five feet from any side or rear property line, and located no less than six feet from any residence. This requirement is a reduction from the current requirement for a forty foot separation from any residence and a twenty foot separation from any property line. Also, the Planning Director may waive this requirement if found to not be necessary for the protection of

nearby residences.

4. Residents that have already been keeping hens would have to verify compliance to obtain a permit, including possibly having to modify the placement of chicken coops or reduce their flock, including relocating any roosters.

Bees - Apiaries are already allowed in the Agricultural (A) Zoning District. The *Permitted Uses* sections of the Single-Family Residential (RS) and the Residential-Natural Preservation (RNP) Districts are proposed to be modified to include Apiaries as a secondary use. The keeping of bees in these zones will require approval of a Zoning Conformance Permit. Such permit would only be approved if the proposed activity is consistent with the standards and limitations set forth in the General Regulations Section of the Municipal Code.

To allow additional properties to legally keep bees, to encourage residents that have already been keeping bees to come into conformance by obtaining a permit, and to ensure the protection of neighboring property residents, the following modifications are proposed to the General Regulations section:

1. The minimum lot size for the keeping of bees is reduced to 4,000 square feet from 40,000 square feet.
2. The maximum number of hives is set to two for properties that are less than 40,000 square feet in size.
3. Specific standards are set, including a requirement that a beekeeper reside on the site where bees are proposed, a minimum separation of five feet between any hive and any adjacent property line, a minimum separation of six feet between any hive and any residence, and a requirement for a six foot tall solid fence along any property line within ten feet of the proposed location of a hive. The fence requirement forces bees to ascend prior to crossing a property line, reducing impact to directly adjoining properties.
4. In order for a permit to be issued for the keeping of bees, noticing of all neighbors within one hundred feet of the site where bees are proposed is required. If any resident submits to the city a statement and documentation acceptable to the Planning Director, such as a doctor's note, that they or another resident within that one hundred foot buffer is allergic to bees, the permit shall not be issued.
5. Residents that already have beehives would need to verify compliance in order to obtain a permit.

More detailed information on proposed modifications can be found in Attachments III through VI.

General Plan Consistency - The proposed amendments are consistent with the General Plan in that the livestock regulations promote community health, access to foods, and lifelong learning while preserving the quality of residential areas of the city. There are two directly relevant General Plan policies from the *Community Health and Quality of Life* chapter, which are incorporated in Attachment I and identified below with explanations from staff regarding how the proposed new regulations implement such policies:

Policy HQL-3.1 Access to Healthy Foods: *The City shall strive to ensure that all residents are within walking distance of sources of fresh and healthy foods (e.g., grocery stores, healthy corner stores, farmers' markets, and community gardens).*

Reducing regulatory barriers to the keeping of chickens on residentially zoned properties would allow more residents to pursue this activity. The keeping of chickens provides for immediate access to fresh eggs and provides more certainty with respect to the quality of the eggs, the humane treatment of the birds, and the type of feed and supplements that are provided to the animals.

Policy HQL-9.1 Resiliency: The City shall strive to create a strong and resilient community and region that can withstand or accommodate change and respond to challenges.

Food prices are subject to market demands and supply constraints, and changes in food prices can have a severe impact on some residents in the City, particularly those with limited incomes. Keeping chickens can provide a stable price for eggs, which is a primary source of protein for many individuals. Keeping of bees allows for access to fresh honey. Producing more food locally also enhances the overall resiliency of the City by providing an alternative food source for residents in the event of a disruption in food supply due to a natural disaster or other event.

Environmental Impact Analysis - As reflected in the attached resolution, the proposed text amendments are exempt from environmental impact analysis under the California Environmental Quality Act; CEQA Regulation 15321 (exemption for governmental regulatory activities) and CEQA Regulation 15061(b)(3). Section 15061 (b)(3) from the CEQA Guidelines states “[t]he activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.” Staff concludes there is no possibility the text changes would cause a significant environmental impact.

ECONOMIC IMPACT

Economic activity relating to the purchase of equipment and supplies for the keeping of chickens or bees is likely to be negligible.

FISCAL IMPACT

Proposed permit fees are estimated to cover the cost to the City to process applications, and other fees are already in place to cover the cost of enforcement in the event of a nuisance. Thus, the fiscal impact to the city is negligible.

PUBLIC CONTACT

Notices of this public hearing were sent to all interested parties (including participants from the public meeting), all local Homeowners Associations (HOAs), the Planning Commission and the City Council, and was posted at City Hall and the Hayward public libraries. Additionally, notice of this hearing was published in *The Daily Review* on December 5, 2015. Comments received from the public, which include opposition and support, are included as Attachment VIII.

NEXT STEPS

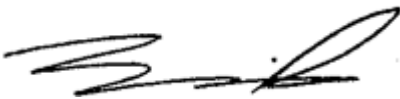
Should Council adopt the attached resolutions and introduce the attached ordinances, staff will present the ordinances for adoption at the next Council meeting on January 19, 2016. The ordinances would be effective upon adoption.

Prepared by: Michael Christensen, Assistant Planner

Reviewed by: Sara Buizer, Planning Manager

Recommended by: David Rizk, Director of Development Services

Approved by:



Fran David, City Manager

Attachments:

Attachment I	Resolution Approving Amendments
Attachment II	Resolution Approving Fees
Attachment III	Ordinance Amending Section 10-1.215 of the Hayward Municipal Code
Attachment IV	Ordinance Amending Section 10-1.315 of the Hayward Municipal Code
Attachment V	Ordinance Amending Section 10-1.2735.e of the Hayward Municipal Code
Attachment VI	Ordinance Amending Section 10-1.3500 of the Hayward Municipal Code
Attachment VII	December 17, 2015 Draft Planning Commission Meeting Minutes
Attachment VIII	Public Comments Received