



## Appendix D – Housing Constraints (Revised Submittal Per HCD Comments)

City of Hayward Housing Element (2023-2031)

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## **Attachments**

Attachment 1	City of Hayward 2023 Adopted Master Fee Schedule	
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# 1 Housing Constraints

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Constraints to the development of adequate and affordable housing include market, governmental, infrastructure, and environmental factors. These constraints may result in housing that is not affordable to low- and moderate-income households and may render residential construction economically infeasible for developers. Constraints to housing production significantly impact households with low and moderate incomes and special needs.

According to Government Code Section 65583, local governments are required to analyze governmental and non-governmental constraints to the production, maintenance, and improvement of housing for persons of all income levels and those with special needs and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing as part of housing elements update. Where constraints to housing production are related to the City's regulations or land use controls, the City must identify appropriate programs to mitigate these constraints, particularly ones that impact the production of affordable housing or housing for special needs populations.

The following chapter outlines non-governmental, governmental, environmental and infrastructure constraints and was used in the development of specific policies and actions included in the Housing Plan to remove barriers to housing and to incentivize housing production, specifically targeting housing production at all income levels and housing for persons with special needs.

## 1.1 Summary of Local Housing Constraints

- The cost of developing housing including land costs and construction costs are rising rapidly. There is a lack of federal, state, and local funding and the funding that is available is increasingly competitive. The time and effort needed to identify, compete for, and layer affordable housing funds is a major constraint to development of affordable housing.
- Hayward's housing affordability gap, the difference between the cost to build housing and the communities ability to pay for housing (see Table D-6), ranges from \$170,200 for low-income rental housing to \$278,200 for extremely low-income rental housing and \$172,400 for moderate income ownership housing, indicating a financial constraint to the development of affordable housing units.
- Loan denial rates were higher in Hayward compared to Alameda County as a whole. Approximately nine percent of government-backed loans and nine percent of conventional loans were denied in Hayward. The percentages of loans denied in the broader Alameda County were lower in comparison, where about four percent of government-backed loans and seven percent of conventional loans were denied. The higher denial rate in Hayward indicates a financial constraint to purchasing a home which puts higher pressure on the rental markets.
- Hayward's development regulations allow for a variety of densities throughout the City and development standards are sufficiently flexible to not pose a constraint to development. However, use permit regulations for small group homes in certain zoning districts could pose a constraint to housing for individuals with special needs.
- Hayward's development review and impact fees are in line with the region. While any fee poses a constraint to development, fees used to review, approve, and inspect new development projects and impact fees used to construct and upgrade roadways, bicycle, and pedestrian

facilities, to upgrade and install utility infrastructure, and to build, expand, and maintain parks, schools and affordable housing are essential to provide safe, equitable, and livable places.

- Environmental concerns pose constraints that can be generally mitigated through design or limitations on operations. However, the ongoing draught will likely pose a major constraint to future development due to lack of water supplies for new development.

## 1.2 Non-Governmental Constraints

The availability of housing is affected by a complex set of interrelated market factors including but limited to: cost of land, cost of construction, and availability of financing. These factors contribute to determining a new home's sale price or the rents required to make a project feasible. Non-governmental constraints include factors outside of direct governmental control that directly impact housing price. The cost of construction and the availability of financing contribute to the cost of housing and can hinder the production of affordable housing. The following analysis accounts for these non-governmental constraints. Programs included to address identified market constraints are located in Chapter 6, *Housing Plan*.

### 1.2.1 Land Cost

Developable land is expensive throughout the inner Bay Area. In Hayward, land is expensive primarily due to its close proximity to job centers (San Francisco, Oakland, and San Jose), high-quality access to transit through BART, and a general high demand for housing in a desirable location. Residential projects must fetch high sales prices or rents to justify the high cost of purchasing land in addition to other development costs to maximize the developer's return on investment. The inner Bay Area also has limited land suitable for development, which when combined with high market demand for housing, can also drive up the cost of land.

Hayward's 2017 Residential Nexus Analysis Report<sup>1</sup> includes a feasibility analysis for new residential projects which estimates whether sales prices or rental income would generate a sufficient profit margin over the development costs. The analysis compared residual land values with land costs in the current market to test whether developers could afford to buy land and develop projects in Hayward from 2015 to 2017. If residual land values were equal to or higher than market land values, then the projects are generally feasible.

Market conditions can change from year to year, and the COVID-19 pandemic introduced many new, untested factors into the market, but the study found that in during 2015 to 2017, residual land values ranged from \$1.32 million per acre to \$2.17 million per acre (see Table D-1), while relevant land sale comparables generally ranged from \$922,000 per acre to 2.07 million per acre (see Table D-2). The analysis concluded that single-family detached, townhome/attached, and apartment prototypes (including projects which paid the in lieu fee to meet the City's inclusionary requirement) were generally feasible at the time. The stacked flat condominium prototype was the only prototype that did not appear to support a land value in line with market transactions.

Due to the age of this Nexus Study and the fluid nature of market conditions and uncertainties resulting from the COVID-19 pandemic, the market analyzed through this report might not accurately reflect today's housing market. For example, more recent nexus studies which include the Hayward 2022 Multimodal Intersection Improvement Plan & Nexus Study (2022) and the Parks

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<sup>1</sup> Summary, Context Materials and Recommendations Affordable Housing Ordinance Update, Keyser Marston Associates. October 21, 2017. Available: <https://www.hayward-ca.gov/sites/default/files/documents/Final-Report-Residential-Nexus-Analysis.pdf>

Development Impact Fee Nexus Study (2019), indicate that mixed use multi-family development showed negative residual land value at the estimated construction costs, lease rates and market prices. Despite the dated information, comparisons between housing types can still inform feasibility.

The land sales in the Residential Nexus Study occurred in 2015 and 2016, thus the values for the comps would be higher today after accounting for land value appreciation. Accordingly, as of May 2022, recent sales of vacant land in Hayward averaged \$2.5 million per acre.<sup>2</sup> The price of land varies depending on a number of factors, including size, location, environmental constraints, the number of units allowed on the property, and access to utilities. However, general trends demonstrate that the cost of land can be a constraint to housing in Hayward.

Developed residential, commercial, and industrial properties that are zoned for residential uses can also be redeveloped with new housing developments; however, redevelopment costs are higher than the cost to develop vacant land (See 1.2.2 below).

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<sup>2</sup> Hayward, CA Real Estate & Homes for Sale, Realtor.com. Accessed May 23, 2022.

**Table D-1 Summary of Residual Land Value Analysis**

<b>Prototype</b>	<b>Single Family Detached</b>	<b>Townhome/Attached</b>	<b>Condominiums</b>	<b>Apartments</b>
Acreage	2.0 acres	2.0 acres	2.0 acres	2.0 acres
Total Units	20 units	40 units	100 units	120 units
Density	10.0 du/ac	20.0 du/ac	50.0 du/ac	60.0 du/ac
Average Unit Size	2,500 sq.ft.	2,000 sq.ft.	1,000 sq.ft.	900 sq.ft.
<b>Development Costs</b>	<b>\$/unit</b>	<b>\$/unit</b>	<b>\$/unit</b>	<b>\$/unit</b>
Land Acquisition	\$0	\$0	\$0	\$0
Directs	\$462,500	\$400,000	\$332,500	\$296,300
Indirects				
A&E	\$28,000	\$20,000	\$13,300	\$11,800
Affordable Housing Fee	\$11,600	\$7,800	\$3,900	\$3,300
Other Fees & Permits	\$52,500	\$42,000	\$35,000	\$31,500
Taxes/Insurance/Legal	\$37,500	\$37,500	\$15,000	\$6,700
Sales & Marketing	\$12,500	\$10,000	\$7,500	\$5,000
Administrative/Other	\$18,500	\$16,000	\$16,600	\$14,800
Financing	\$33,800	\$26,400	\$19,900	\$12,400
Total Costs Excluding Land	\$656,900	\$559,700	\$443,700	\$381,800
<b>Residual Land Value</b>	<b>\$/unit</b>	<b>\$/unit</b>	<b>\$/unit</b>	<b>\$/unit</b>
Sales Price/Monthly Rent	\$950,000	\$800,000	\$590,000	\$2,800
\$/sq.ft.	\$380	\$400	\$590	\$3.11
Net Supported Investment <sup>1</sup>	\$802,500	\$637,400	\$470,100	\$418,000
(Less) Costs Excluding Land	(\$656,900)	(\$559,700)	(\$443,700)	(\$381,800)
Residual Land Value/Unit	\$145,600	\$77,700	\$26,400	\$36,200
Land Value/Acre	\$1,456,000	\$1,554,000	\$1,320,000	\$2,172,000
Land Value/Land SF	\$33	\$36	\$30	\$50

<sup>1</sup> Net Supported Investment after sales commissions and profit margin with for-sale prototypes; after vacancy, operating expenses, and profit margin for apartment prototype

Du/ac = dwelling unit per acre

Sq.ft = square feet

Source: Summary, Context Materials And Recommendations Affordable Housing Ordinance Update, Keyser Marston Associates. October 21, 2017. Available: <https://www.hayward-ca.gov/sites/default/files/documents/Final-Report-Residential-Nexus-Analysis.pdf>

**Table D-2 Residential Land Sale Comparables (2015-2017), Hayward**

Address	Sale Date	Acres	Proposed Units	Dwelling Unit per Acre	Sale Price	\$/Acre (rounded)	\$/Unit (rounded)
22471-22491 Maple Ct	Jul-16	0.60	44	73.1	\$1,950,000	\$3,239,000	\$44,300
Mission Seniors	Mar-16	5.13	203	39.6	\$6,500,000	\$1,267,000	\$32,000
27794 Mission Blvd	Jun-16	0.24	9	38.2	\$400,000	\$1,699,000	\$44,400
21339 Oak St	Jul-16	1.66	58	35.0	\$2,050,000	\$1,238,000	\$35,300
25501 Mission Blvd	Jun-17	7.64	237*	31.0	\$15,800,000	\$2,068,000	\$66,700
228369 Watkins St	Nov-15	0.27	6	22.5	\$500,000	\$1,878,000	\$83,300
24755 O'Neil Ave	Nov-15	0.80	16	20.1	\$735,000	\$922,000	\$45,900
396 Grove Way	Oct-15	0.44	5	11.4	\$500,000	\$1,148,000	\$101,000
1332 E St	Jun-17	0.21	2	9.6	\$240,000	\$1,148,000	\$120,000

\*includes 97 "guest rooms"

## 1.2.2 Construction Cost

Direct construction costs are the labor and material costs required to build a project and are a major contributor to the overall cost of construction. In 2021, the Bay Area is one of the most expensive U.S. markets to build in, particularly for affordable housing as discussed in this section. Increasing costs are attributed in large part to continued labor and materials shortages from the COVID-19 pandemic.<sup>3</sup>

Impact fee feasibility studies analyze the cost of construction and the effect an additional fee would have on construction. This analysis makes use of the City's 2022 Multimodal Intersection Improvement Plan & Nexus Study (2022) and the Parks Development Impact Fee Nexus Study & Feasibility Analysis (2019). While the park fee materials are older, the analysis is informative with the understanding that costs have only increased further due to the pandemic and associated labor and materials shortages. Both studies analyzed the feasibility of different types of residential development (townhouse and multifamily).

Residual land value (RLV) is a common measure of feasibility. In a pro forma analysis of project feasibility, RLV is the amount of funds available for land acquisition once project costs (construction and permitting and development fees) are subtracted from potential revenues (rent or sales prices). Higher RLV means more profit for developers. Higher profits for investors can result in a positive spiral that could attract additional investments and additional funds from residential developments can be invested in new housing developments.

As shown on Table D-3, the traffic impact fee study found that both the townhome and multifamily prototypes resulted in negative residual land value, challenging new development. In the model, slight changes in assumed developer returns (higher sales or rent prices) were sufficient to generate positive RLV.

<sup>3</sup> Turner & Townsend, International construction market survey 2021. Accessed May 24, 2022. <https://www.turnerandtowntsend.com/en/perspectives/international-construction-market-survey-2021/>

**Table D-3 Summary of Findings from Traffic Impact Fee Study**

Prototype	Summary of Findings
Townhome Prototype (30 3-bedroom for-sale units)	RLV is slightly negative at -\$25 to -\$50 per square foot. Slight changes to assumed developer return is sufficient to generate a positive RLV. Higher sales prices (mid-\$500 per square foot) offset high construction and land costs.
Multifamily Prototype (150 1- and 2-bedroom rental units)	RLV is slightly negative at -\$5 to -\$80 per square foot. Slight changes to assumed developer return is sufficient to result in positive RLV. Multifamily housing markets have been affected more than other housing types by the COVID-19 pandemic (vacancy rates and tenant protections keeping rents lower than the market). Multifamily development also faces high land prices and high construction costs.

Generally, the park fee study found that feasibility is far more sensitive to changes in construction costs than other factors (e.g., City permitting costs and fees). A small decrease in construction costs results in a significant increase in RLV. Findings of the Park Development Fee Feasibility study are shown on Table D-4.

**Table D-4 Summary of Findings from Park Development Fee Feasibility Study**

Prototype	Summary of Findings
Townhome Prototype (100 3- and 4-bedroom for-sale units)	Positive RLV achieved with sales prices of around \$391 to \$476 per square foot (about \$762,000 for a three-bedroom unit and \$821,000 for a four-bedroom unit)
Multifamily Prototype (6 stories, ground floor retail, upper 5 stories rental units)	Positive RLV when rent for one-bedroom apartment exceeds \$2,438
Single-Family Subdivision Prototype (100 detached, for-sale homes)	Positive RLV achieved with sales prices of about \$420 (three-bedroom unit) and \$415 (four-bedroom unit) per square foot (about \$882,000 for a three-bedroom unit and \$1,204,000 for a four-bedroom unit). Current market-supported sales prices for new three- and four-bedroom detached homes in Hayward range from about \$385 to \$500 per square foot.

The cost of construction also depends on the condition of the site. Non-vacant parcels are more expensive to develop due to potential additional costs to clear a site for redevelopment. Where redevelopment is occurring on sites containing lower-income housing, local, state, and federal policies relating to relocation and replacement housing result in additional costs. Depending on the existing improvements that must be removed to redevelop a site, the total cost to acquire a parcel, relocate occupants, demolish existing structures, and possibly mitigate hazardous materials increase costs associated with development, which pose a significant constraint for redevelopment at prices affordable to most of the community.

*Construction Costs for Affordable Units*

Trends that increase construction costs for market-rate development impact affordable housing to a higher degree. According to the Turner Center, the average cost per unit of housing constructed using 9% Low Income Housing Tax Credits increased from \$411,000 to \$480,000—a 17 percent increase. Additionally, cost per square foot has risen from \$451 per square foot in 2008 to \$700 per square foot in 2019—a 55 percent increase.<sup>4</sup> Table D-5 shows the construction costs for three multi-

<sup>4</sup> The Cost of Affordable Housing Production: Insights from California’s 9% Low-Income Housing Tax Credit Program. March 2020. Available: [https://turnercenter.berkeley.edu/wp-content/uploads/2020/08/LIHTC\\_Construction\\_Costs\\_2020.pdf](https://turnercenter.berkeley.edu/wp-content/uploads/2020/08/LIHTC_Construction_Costs_2020.pdf)

family 100 percent affordable development projects in Hayward that have received City funding. The average cost per square foot of these projects is \$806. Recent articles related to development of affordable housing in the Bay Area shows that some projects are topping \$1 million per unit.<sup>5</sup>

Rising construction costs lead to higher subsidies required to build affordable housing, with housing affordable to the lowest-income households requiring the highest level of subsidy. Subsidies from the 9% tax credits program typically cover 70 percent of a developer’s costs, while 4% tax credits typically cover 40 percent.<sup>6</sup>

**Table D-5 Construction Costs for Affordable Development Projects**

Project	Bedrooms	Cost per Unit	Cost per Gross Square Foot
Project 1	Studio-3 bedroom	\$603,966	\$450
Project 2 (under construction)	Micro Units	\$588,748	\$1,050
Project 3	1-2 bedrooms	\$783,368	\$919

\*Data from Hayward Housing Division based on pro forma costs related to affordable housing developments under construction or nearing construction, 2022

Hayward’s 2017 Residential Nexus Analysis established an affordability gap based on the total development cost for two affordable housing unit prototypes, the available permanent financing, and estimated the unit value based on restricted rent or sales prices. The affordability gap (Table D-6) ranges from \$170,200 to \$278,200, indicating a financial constraint to the development of affordable housing units. While the data from this 2017 analysis is old, the analysis above demonstrates that costs have increased since 2017, and therefore the affordability gap has continued to grow since 2017.

**Table D-6 Affordability Gap Calculation<sup>7</sup>**

	Unit Value/Affordable Sales Price	Development Cost	Affordability Gap
<b>Affordable Rental Units</b>			
Extremely Low (Under 30% AMI)	\$223,800	\$502,000	\$272,200
Very Low (30% to 50% AMI)	\$295,800	\$502,000	\$206,200
Low (50% to 80% AMI)	\$331,800	\$502,000	\$170,200
<b>Affordable Ownership Units</b>			
Moderate (80% to 120% AMI)	\$391,600	\$564,000	\$172,400

Rising land costs, rising construction costs, and the scarce funding available to help subsidize the cost of affordable housing, are a constraint to the development of affordable and market-rate housing.

<sup>5</sup> Los Angeles Times. Affordable housing in California now routinely tops \$1 million per apartment to build. June 2022. Available: <https://www.latimes.com/homeless-housing/story/2022-06-20/california-affordable-housing-cost-1-million-apartment>

<sup>6</sup> City of Hayward Housing Division, 2022.

<sup>7</sup> Summary, Context Materials And Recommendations Affordable Housing Ordinance Update, Keyser Marston Associates. October 21, 2017. Available: <https://www.hayward-ca.gov/sites/default/files/documents/Final-Report-Residential-Nexus-Analysis.pdf>

### 1.2.3 Availability of Financing

This section explores the availability of financing options for market rate and affordable housing development which impact the feasibility development as well as financing for homeowners to purchase and renovate housing. It is essential to note that data indicates that there are disparate impacts with regard to access to financing for home loans.

#### **Market-Rate Development Financing**

As discussed in Land Costs and Construction Costs, above, market-rate development is generally financed by investors, and the cost to build a project must be recovered by revenue from sales or rents, which drives up the ultimate rent or sales prices of new housing as the component costs increase. A market in which housing supply is limited and demand is high can support higher housing prices, but lower-income segments of the community are priced out. Therefore, it is difficult for the private sector, for-profit developers, and market-rate housing to meet the housing needs of all community members.

#### **Affordable Housing Financing**

Affordable housing developments are typically financed with a range of often layered grants and low-cost financing from federal, state, and local sources. The following programs were available to affordable projects in Hayward in 2021:

- The HOME Investment Partnerships Program (HOME) is a HUD program that assists cities, counties, and non-profit community housing development organizations (CHDOs) to create and retain affordable housing for lower-income renters or owners. HOME funds are available as loans for housing rehabilitation, new construction, and acquisition and rehabilitation of single- and multi-family projects and as grants for tenant-based rental assistance.
- The Low-Income Housing Tax Credit (LIHTC) program awards tax credits to developers of affordable housing projects, which are sold to investors to fund the project development. The California Tax Credit Allocation Committee (TCAC) develops scoring methodology and makes awards through a competitive process.
- Housing and Community Development (HCD)'s Multi-Family Housing Program (MHP) makes low-interest, long-term deferred-payment permanent loans for new construction, rehabilitation, and preservation of permanent and transitional rental housing for lower-income households.<sup>8</sup>
- HCD's Predevelopment Loan Program (PDL) makes short-term loans for activities and expenses necessary for the continued preservation, construction, rehabilitation, or conversion of assisted housing primarily for low-income households.<sup>9</sup>
- Project Homekey is an HCD program designed to allow state, regional, tribal, and local public entities to develop a broad range of housing types for people at risk of or currently experiencing homelessness, including but not limited to hotels, motels, hostels, single-family homes and multi-family apartments, adult residential facilities, and manufactured housing, and to convert

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<sup>8</sup> Multifamily Housing Program (MHP), California Department of Housing & Community Development.  
<https://www.hcd.ca.gov/multifamily-housing>

<sup>9</sup> Predevelopment Loan Program (PDL), California Department of Housing & Community Development.  
<https://www.hcd.ca.gov/predevelopment-loan>

commercial properties and other existing buildings to permanent or interim housing for individuals at risk of or currently experiencing homelessness.<sup>10</sup>

- HCD's Infill Infrastructure Grant (IIG) program promotes infill development by providing financial assistance for Capital Improvement Projects that enable development of infill projects or in infill areas, as defined by the program guidelines.<sup>11</sup>
- No Place Like Home Program (NPLH) funds the development of permanent supportive housing for persons who are in need of mental health services and are experiencing homelessness, chronic homelessness, or at risk of chronic homelessness. The program is administered by HCD.<sup>12</sup>
- The Transit-Oriented Development (TOD) Housing Program administered by HCD provides low-interest loans as gap financing for rental housing developments near transit that include affordable units. In addition, grants are available to local governments and transit agencies for infrastructure improvements necessary for the development of specified housing developments, or to facilitate connections between these developments and the transit station.
- The Affordable Housing and Sustainable Communities (AHSC) program is administered by the Strategic Growth Council and implemented by HCD and provides funding to housing development that connects residents with jobs, amenities, and low-carbon transportation.
- Hayward's Local Housing Trust Fund Program (LHTF) lends money for construction of affordable housing projects with long-term affordability covenants. The program is funded through payment of the affordable housing in-lieu fees. These funds must be used to increase the supply of housing affordable to moderate-, low-, very low-, or extremely low-income households.
- The Housing Authority of Alameda County (HACA) Project-Based Program provides up to 30 percent of HACA's voucher program budget to attach funding to a particular project, rather than an individual household. Project-based vouchers can be awarded to new housing or rehabilitated housing.

While these funding sources can help finance affordable housing development, receipt of funds add additional costs to comply with additional requirements. Many funding sources (e.g., tax credits, bonds, federal funds) trigger other regulations. For example, the Davis-Bacon Wage Act, requires the use of prevailing wage,<sup>13</sup> and projects must have increased accessibility and sustainability measures. These requirements raise development costs significantly, resulting in a greater need for project subsidies.

In addition, programs available to finance affordable housing projects are extremely competitive and not all eligible projects receive funding. Some funding sources require local matching funds, which puts a greater strain on limited local funding. A lack of funding statewide and locally is a constraint to developing affordable housing sufficient to meet the needs of the community.

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<sup>10</sup> Project Homekey, California Department of Housing & Community Development. <https://homekey.hcd.ca.gov/content/background>

<sup>11</sup> Infill Infrastructure Grant Program, California Department of Housing & Community Development. <https://www.hcd.ca.gov/infill-infrastructure-grant>

<sup>12</sup> No Place Like Home Program, California Department of Housing & Community Development. <https://www.hcd.ca.gov/no-place-like-home>

<sup>13</sup> The Davis-Bacon Act of 1931 is a federal law which established the requirement for paying prevailing wages on public works projects. All federal government construction contracts, and most contracts for federally assisted construction over \$2,000, must include provisions for paying workers on-site no less than the locally prevailing wages and benefits paid on similar projects

## Financing for Homeowners

Due to high housing costs, mortgage financing is required in most cases to purchase and improve a home. Lack of access to mortgage financing is a barrier to achieving housing stability through long-term stable housing costs afforded to homeowners. Alternatively, lack of access to home improvement loans makes it difficult for homeowners to maintain their homes and preserve housing stability. Lack of access to refinancing does not allow all homeowners to take advantage of potentially lower interest rates or to obtain cash from equity. The ability to secure financing is determined by specific mortgage lending standards including creditworthiness, debt-to-income ratio, and value and condition of the property.

Under the Home Mortgage Disclosure Act (HMDA), lending institutions are required to disclose information on the disposition of loan applications and the income, gender, and race of loan applicants. Reviewing data collected through HMDA can reveal the role the lending market has had on local home sales. The purpose of this analysis is to determine the extent to which lack of access to home financing is a constraint to meeting the needs of homeowners in Hayward. Appendix F, *Assessment of Fair Housing*, further examines mortgage applications and decisions by race.

### *Mortgages*

Mortgage denial rates are higher in Hayward than in Alameda County as a whole. In 2020, approximately 2,155 households in Hayward applied for home purchase loans. Of those households, 261 applications for government-backed loans<sup>14</sup> and 1,894 applications for conventional loans.<sup>15</sup> Approximately nine percent of government-backed loans and nine percent of conventional loans were denied in Hayward while approximately four percent of government-backed loans and seven percent of conventional loans were denied in Alameda County. The higher denial rate in Hayward indicates a financial constraint to purchasing a home.

### *Mortgage Loan Denial Rates by Race*

As shown in Table D-7, the rate of mortgage approval in Hayward has gone up between 2011 and 2017, but disparities in approval between races have stayed the same with black applicants being denied at the highest rates. In a seven-year period, there were 173,149 mortgage applications in the County, of which approximately 62 percent were approved. Between 2004 to 2010, Asian applicants had the highest rate of approval at approximately 71 percent and white applicants had the second highest at 70 percent. Black applicants continued to have the lowest at approximately 59 percent, and Hispanic applicants had the second lowest at approximately 62 percent. Overall, the rate of mortgage approvals has gone up in the last seven years, but the disparities in the rate of approval across race and ethnicity has stayed relatively the same. Appendix F, *Assessment of Fair Housing*, further examines mortgage applications and decisions by race.

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<sup>14</sup> Government loans are insured or guaranteed by the government, such as Federal Housing Administration (FHA), Veteran Affairs (VA), and U.S. Department of Agriculture (USDA).

<sup>15</sup> Conventional loans include loans either purchased by Fannie Mae (FNMA) or Freddie Mac (FHLMC), or other secondary market mortgage pools, or held directly by financial institutions. The most common conventional loans are “conforming” and “high balance conforming” loans, which follow agency guidelines set forth by FNMA or FHLMC.

**Table D-7 Mortgage Approvals by Race/Ethnicity, 2011–2017**

	Total Number of Applicants	Approved (a)	Denied (b)	Other (c)
American Indian or Alaska Native	434	62.7%	13.8%	23.5%
Asian	60,721	70.7%	11.1%	18.3%
Black or African-American	5,657	59.1%	15.3%	25.7%
Native Hawaiian or Other Pacific Islander	1,419	62.5%	14.2%	23.3%
White	48,062	70.0%	7.6%	22.4%
Information Not Provided by Applicant	2,749	69.5%	9.8%	20.7%
Hispanic, Any Race	13,368	61.5%	13.5%	25.0%
Information Not Provided by Applicant, Any Race	22,072	64.1%	9.3%	26.6%
Not Applicable, Any Race	18,682	8.8%	0.4%	90.8%
<b>Total</b>	<b>173,149</b>	<b>61.8%</b>	<b>9.1%</b>	<b>29.1%</b>

Notes: (a) includes loans originated, applications approved but not accepted, and preapproval requests approved but not accepted; (b) includes application denied by financial institution and preapproval request denied by financial institution; and (c) includes applications withdrawn by applicant, incomplete applications, and loans purchased by institution.

Source: Home Mortgage Disclosure Act (HMDA), 2019

### *Home Improvement Loans*

Home improvement loan denial rates are also slightly higher in Hayward than in the rest of Alameda County (see Table D-8). In 2020, 374 households applied for home improvement loans in Hayward and approximately 37 percent were denied. In Alameda County, approximately 33 percent of applicants were denied home improvement loans. Home improvement loans can be denied based on restrictive lending standards including the applicant's creditworthiness, debt-to-income ratio, value, and condition of the property. The higher denial rate in Hayward for home loans indicates a financial constraint to improving and maintaining a home in Hayward.

**Table D-8 2020 Home Mortgage Disclosure Act Data in Alameda County and Hayward**

Census Tract Or County Name and Disposition Of Application (County/State/Tract Number)	Loans on 1- to 4-Family and Manufactured Home Dwellings, 2020							
	Home Purchase Loans				Refinancing		Home Improvement Loans	
	FHA, FSA/RHS & VA		Conventional		Number	Amount (million)	Number	Amount (million)
	Number	Amount (million)	Number	Amount (million)				
<b>Hayward</b>								
Loans Originated	176 (67.4%)	\$116	1348 (71.2%)	\$766.4	7418 (64.7%)	\$3.2	151 (40.4%)	\$30
Applications Approved but not Accepted	6 (2.3%)	\$3.7	57 (3%)	\$24.5	299 (2.6%)	\$127.4	19 (5.1%)	\$3.6
Applications Denied by Financial Institution	23 (8.8%)	\$1.5	153 (8.1%)	\$70	1195 (10.4%)	\$515.3	138 (36.9%)	\$20.9
Applications Withdrawn by Applicant	45 (17%)	\$29.4	253 (13%)	\$154.7	1794 (15.6%)	\$784.9	43 (11.5%)	\$7.9
File Closed for Incompleteness	11 (4.2%)	\$6.8	83 (4.4%)	\$32.4	754 (6.6%)	\$309.5	23 (6.1%)	\$3.3
Applications Received	261	\$170.8	1894	\$1,047.9	11460	\$4,937.5	374	\$65.5
<b>Alameda County</b>								
Loans Originated	2,225 (34.6%)	\$1,217.5	13,335 (73.2%)	\$8,660	66,706 (65.6%)	\$31,605.4	2,107	\$451
Applications Approved but not Accepted	78 (1.2%)	\$43.2	505 (2.8%)	\$301.1	2,678 (2.6%)	\$1,243.6	127 (2.9%)	\$24.9
Applications Denied by Financial Institution	285 (4.4%)	\$149.4	1,285 (7.1%)	\$693.8	9,593 (9.4%)	\$4,910.8	1,449 (33.1%)	\$2,230.4
Applications Withdrawn by Applicant	551 (8.6%)	\$296.7	2568 (14.1%)	\$1,695.3	16,668 (16.4%)	\$8,290.5	452 (10.3%)	\$98
File Closed for Incompleteness	76 (1.2%)	\$37.9	451 (2.5%)	\$216	5,878 (5.8%)	\$2,588.5	234 (5.3%)	\$45.2
Applications Received	6,429	\$3,488.7	18,211	\$11,630.4	101,729	\$48,785	4,382	\$844.3
Source: Home Mortgage Disclosure Act, MSA/MD Aggregate Reports, 2020, Oakland-Berkeley-Livermore								

## Housing Supply

Economic recessions can also have a profound and long-lasting effect. In data going back to 1970, new home sales declined 15 percent nationally, on average, during recessions, with sale prices continuing to drop in the following year.<sup>16</sup> However, the COVID-19 pandemic created a global economic recession which impacted the California housing market significantly different than typical recessions in the past. Rather, lower interest rates through the pandemic and a reduction in available housing created a higher demand for housing which has resulted in higher prices for housing across the US.<sup>17</sup>

According to Zillow, the median home value in Hayward as of June 2022 was \$946,250 (see Table D-9). This reflects a 81 percent increase from 2015 median home values. In Alameda County, the median home value in 2021 was \$1,130,000 which reflects around a 60 percent increase from 2015. Hayward’s median home price of \$946,250 would require an average qualifying annual household income of about \$230,000. A household earning Hayward’s average annual household median income of \$86,744 (2015-2019 ACS) could afford to purchase a home costing approximately \$350,000. Therefore, housing affordability is a significant constraint on homeownership because the income needed to buy a home in Hayward is nearly three times the median household income.<sup>18</sup>

**Table D-9 Median Home Value Comparisons**

Jurisdiction/Region	Median Home Value 2015	Median Home Value 2022	Percent Increase of Median Home Value 2015 -2021
San Leandro	\$535,000	\$1,000,000	87%
Oakland	\$586,000	\$958,500	64%
<b>Hayward</b>	<b>\$524,000</b>	<b>\$946,250</b>	<b>81%</b>
City of Alameda	\$846,000	\$1,275,250	51%
Union City	\$706,000	\$1,365,000	93%
Alameda County	\$706,000	\$1,250,000	77%

Source: Zillow.com 2021

### 1.2.4 Construction Financing Timing

The timing between project approval and requests for building permits affects project viability. Project delays may result from developers’ inability to secure financing for construction. In Hayward, the average time between project approval and request for building permit is typically three to nine months, but varies by type of project. Some projects take years to pull building permits and secure financing. Single-family homes usually experience the least delay (three to nine months). Multi-family housing construction tends to be more complex and usually requires more time between entitlement and building permit issuance (six to nine months).

<sup>16</sup> Joint Center for Housing Studies of Harvard University. Past Recessions Might Offer Lessons on the Impact of COVID-19 on Housing Markets. <https://www.jchs.harvard.edu/blog/past-recessions-might-offer-lessons-on-the-impact-of-covid-19-on-housing-markets>

<sup>17</sup> Anenberg, E and Ringo, D. Housing Market Tightness During COVID-19: Increased Demand of Reduced Supply? Board of Governors Federal Reserve. July 8, 2021. <https://www.federalreserve.gov/econres/notes/feds-notes/housing-market-tightness-during-covid-19-increased-demand-or-reduced-supply-20210708.htm>

<sup>18</sup> Estimated purchase prices and income required to purchase a home assume 5 percent down payment and 5 percent interest rate.

## 1.2.5 NIMBYism & Other Challenges to Development

“Not In My Backyard” (NIMBYism) is a social and political movement that opposes housing or commercial development in local communities. NIMBY complaints often target new affordable housing as well as higher density market-rate housing that is adjacent to lower-density established neighborhoods, with reasons including traffic concerns, environmental concerns, preservation of neighborhood character, and, in some cases, thinly-veiled racism and classism.

According to the Alameda County Collaborative Presentation and Developer Roundtable, neighborhood and other organized groups use California Environmental Quality Act (CEQA) lawsuits and other mechanisms to delay project approvals posing a significant constraint to the development of housing.<sup>19</sup> In Hayward, an individual or group wishing to challenge a development project needs to submit an application and \$400 fee to appeal a Planning Commission or City Council decision. Appeals extend the timing of the entitlement process resulting in higher costs for the applicant and/or developer as they continue to pay land carrying costs, insurance, consultant, and attorney fees. Further, these groups could use this delay to extract funding or other benefits from developers in exchange for dropping challenges. The added time and costs related to these delays are a constraint to residential development in Hayward and the region as a whole.

## 1.3 Governmental Constraints

Actions by the City can have an impact on the price and availability of housing in Hayward. Policies and regulatory actions such as land use controls, site improvement requirements, Reach Code and other building codes, impact and other development fees can impact the price and availability of housing in the City. This analysis examines the effect of the City’s public policies on housing availability, adequacy, and affordability.

### 1.3.1 Land Use Designations

The City regulates the type, location, density, and scale of residential development through its General Plan, specific plans, and Zoning Ordinance.

#### **General Plan**

Hayward adopted its current General Plan in 2014 to guide development in the City through the year 2040. The Land Use Element of the City’s General Plan sets forth the vision, goals, and policies for the City’s urban form and land use patterns, including residential development. According to the Vision and Guiding Principles statement included in the Hayward 2040 General Plan, “Hayward will be a distinct and desirable community known for its central Bay Area location, vibrant Downtown, sustainable neighborhoods, excellent schools, robust economy, and its growing reputation as a great college town. With a variety of clean, safe, and green neighborhoods, and an accessible network of parks and natural open space, Hayward will be home to one of the most diverse, inclusive, educated, and healthy populations in the Bay Area. It will be a destination for life-long learning, entertainment, arts and culture, recreation, and commerce. It will be a community that values diversity, social equity, transparent and responsive governance, civic engagement, and volunteerism. Hayward will be a thriving and promising community that individuals, families, students, and businesses proudly call home.”

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<sup>19</sup> Alameda County Collaborative Presentation and Developer Roundtable, November 29, 2021

The General Plan Land Use Element establishes land use categories that define the allowable uses and building densities/intensities throughout the city. The various types of housing units allowed in the City include single-family dwellings, multi-family dwellings, townhomes, condominiums, mobile homes, and accessory dwelling units (ADUs). Residential densities in Hayward cover a wide spectrum that promote the development of various housing types, as demonstrated by the General Plan land use density ranges shown in Table D-10.

Hayward's land use designations allow for a range of 1 to 110 dwelling units per acre. The state thresholds for densities that encourage the development of above moderate-, moderate-, and lower-income units all fall within Hayward's allowable density ranges. There are four designations compatible with the default density for lower-income housing units. The designations are distributed geographically across the City and not concentrated in one particular location. The densities allowed under the current land use designations provide opportunities for a variety of household income levels and are not constraints to developing housing units.

The General Plan also establishes Floor Area Ratio (FAR) for mixed-use development in residential and mixed-use land use designations. FAR refers to the ratio of building floor space compared to the area of a site. FAR is calculated by dividing the square footage of all buildings on the site by the total square footage of the site. Hayward's General Plan and Zoning Code provides for minimum FAR ranges from 0.4 to 2.75. In the designations that allow for above 30 du/ac, the FAR ranges from 0.8 to 2.75.

The City's Zoning Ordinance is intended to implement the guiding vision set forth in the General Plan. In general, the City's zoning and land use regulations are designed to balance the goal of providing affordable housing opportunities for all income groups while protecting the health and safety of residents and preserving the character of existing neighborhoods.

**Table D-10 Hayward 2040 General Plan Land Use Designations, Uses and Densities**

<b>General Plan Designation and Percent of Total Area</b>	<b>Residential Types</b>	<b>Maximum du/ac</b>	<b>FAR<sup>1</sup></b>
Rural Estate Density (1.1%)	Single-family homes, second units, and ancillary structures	1 du/ac	0.4
Suburban Density (2.7%)	Single-family homes, second units, and ancillary structures	4.3 du/ac	0.4
Low Density (8%)	Single-family homes, second units, and ancillary structures	8.7 du/ac	0.4
Mobile Home Park (0.5%)	Mobile home parks in the city, typically a manufactured home	12.0 du/ac	n/a
Limited Medium Density Residential (1.3%)	Single-family homes, second units, duplexes, triplexes, fourplexes, townhomes, multi-story apartment and condominium buildings, and ancillary structures	12 du/ac	0.5
Medium Density (2.9%)	Single-family homes, second units, duplexes, triplexes, fourplexes, townhomes, multi-story apartment and condominium buildings, and ancillary structures	17.4 du/ac	0.6
High Density (1%)	Townhomes, multi-story apartment and condominium buildings, and ancillary structures	34.8 du/ac	0.8 (does not apply to residential uses)
Retail and Office Commercial (0.8%)	Commercial buildings, shopping centers, and office buildings. Live-work units and mixed-use with multi-family homes on upper floors are supported uses	17.4 du/ac	0.6
General Commercial (0.2%)	Commercial buildings, shopping centers, office buildings, and automobile service and repair stations. Live-work units and mixed-use with multi-family homes on upper floors are supported uses	17.4 du/ac	0.6
Commercial/High-Density Residential (0.2%)	Townhomes, live-work units, multi-story apartment and condominium buildings, commercial buildings, shopping centers, and mixed-use buildings that contain commercial uses on the ground floor and residential units or office space on upper floors	34.8 du/ac	0.8
Sustainable Mixed Use (0.8%)	Townhomes, live-work units, multi-story apartment and condominium buildings, commercial buildings, shopping centers, and mixed-use buildings that contain commercial uses on the ground floor and residential units or office space on upper floors	100 du/ac	2.0 or 2.75 in transit overlay zone
Central City-Retail and Office Commercial (0.3%)	Outside of the retail core of the Downtown appropriate uses include townhomes, apartment and condominium buildings, and live-work units	110 du/ac	1.5
Central City-High Density Residential (0.1%)	Townhomes, live-work units, apartment and condominium buildings, and multi-story mixed-use buildings that contain commercial uses on the ground floor and residential units or office space on upper floors.	110 du/ac	1.5

<sup>1</sup> The Zoning Ordinance does not apply FAR to residential development, only commercial and mixed-use development. Residential development is subject to density, lot coverage, setbacks, and other development standards.

### 1.3.2 Zoning Ordinance

The City regulates the type, location, density, and scale of residential development primarily through the Zoning Ordinance, as well as specific plan development codes. A zoning district is assigned to every parcel in the city and the Zoning Ordinance identifies compatible uses. In general, the City's zoning regulations are designed to balance the goal of providing a mix of residential and commercial land use types while protecting the health and safety of residents and preserving the character of existing neighborhoods. Additionally, development standards such as setbacks, height limits, lot coverage, open space requirements, and parking identified for each zoning district. Some zoning districts may allow similar uses but have different development standards. Development standards may be considered a constraint to the development of housing units if they are too restrictive or reduce the development potential on a specific parcel.

The City's Zoning Ordinance allows residential uses in the following districts:

- **Single-Family Residential (RS).** The RS District is intended to promote and encourage a suitable environment for family life. It is to be used primarily for single-family homes and the community services related to this use.
- **Residential Natural Preserve (RNP).** The purpose of the RNP District is to allow for the development in areas where topographic configuration is a major consideration in determining the most suitable physical development for the land. This district allows development only where it is subservient to and compatible with the preservation of major natural features, such as the tree line.
- **Medium Density Residential (RM).** The RM District is intended to promote a compatible mingling of single-family and multi-family dwellings.
- **High Density Residential (RH).** The RH District is intended to promote and encourage a suitable high-density residential environment through the development of multi-family dwellings.
- **Residential Office (RO).** The purpose of the RO District is to protect residential character while allowing a mix of residential and office use.
- **Sustainable Mixed-Use District (SMU).** The SMU District encourages mixed-use development (consisting of either residential with retail, residential with commercial or office, or educational or cultural facilities with public open space), along major transit corridors, near transit stations, or in close proximity to public higher education facilities or large employment centers, in order to provide sustainable transit-oriented development.
- **Mobile Home Park (MH).** The MH District is intended to promote and encourage a suitable living environment for the occupants of mobile homes.
- **Neighborhood Commercial District (CN).** The CN District is intended to establish mixed-use areas throughout the city that are carefully located in relationship to other commercial districts and to residential districts. The CN District allows residential units above first-floor commercial uses only.
- **Neighborhood Commercial-Residential (CN-R).** The CN-R District includes a mixture of neighborhood-serving businesses and residences along portions of certain arterials in order to provide housing with ready access to shops and transit. The CN-R District encourages joint development of lots along arterials in order to minimize curb cuts and maximize architectural continuity. The CN-R District adjusts parking and open space requirements to reflect the characteristics of mixed-use development along arterials.

- **General Commercial District (CG).** The CG District is intended to provide services for supporting primary business activities in the CB or CC Districts. The CG District allows multi-family residential units above first-floor commercial uses only.
- **Commercial Office District (CO).** The CO District provides for and protects administrative, professional, business, and financial organizations which may have unusual requirements for space, light, and air, and which are clean and quiet and are not detrimental to adjacent residential properties. The CO District allows multi-family dwellings and small group homes associated with single-family dwellings.
- **Central City-Residential (CC-R).** The purpose of the CC-R Subdistrict is to establish a concentration of multi-family and complementary uses in order to provide a quality Central City living environment and to provide market support for Central City businesses.
- **Central City Commercial Subdistrict (CC-C).** The CC-C District is intended to establish a mix of business and other activities which will enhance the economic vitality of the downtown area. Permitted activities include, but are not limited to, retail, office, service, lodging, entertainment, education, and multi-family residential uses. The CC-C District allows residential units above first-floor commercial uses only.
- **Central City Plaza Subdistrict (CC-P).** The CC-P District is intended to establish a unique environment of retail and other complementary uses contributing to the pedestrian nature and quality image of such streets. The CC-P District allows artist's lofts above the first floor of their place of business and standalone multi-family units.

## Specific Plans

A specific plan is a planning document that implements the goals and policies of the general plan for an area in the city with unique land use needs. These plans contain more detailed development standards and implementation measures to which future projects located within a specified geographic area must adhere. Hayward has two specific plans—the Downtown Specific Plan and the Mission Boulevard Code.

The Land Use Element of the Hayward General Plan describes how the City is composed of certain neighborhood planning areas, including the Mission/Foothills and North Hayward neighborhoods. The General Plan further designates certain significant focus areas for the implementation of “smart growth” principles. The intent of the Code is to implement such principles in Downtown Hayward and along designated portions of the Hayward Mission Boulevard Corridor.

### *Downtown Specific Plan*

The City adopted the Downtown Specific Plan and Code in 2019 which provides a strategy to achieve the community's vision of a resilient, safe, attractive, and vibrant historic Downtown. The Plan calls for significant infill development in Downtown over the next 20 or more years with an estimate of accommodating up to 3,430 new housing units and 1.9 million square feet of non-residential space such as retail, hospitality, office, and education uses. Table D-11 below indicates the typical residential uses in the four Downtown zoning districts. The Downtown Specific Plan Development Code identifies the development standards related to each zoning district and is discussed in Table D-15.

The Downtown Specific Plan requires high-density housing development, and the residential densities in the Plan (generally ranging from 40 to 110 dwelling units per acre) meet the default

density for all income levels designated by Government Code Section 65583.2(c)(3). Therefore, the Downtown Specific Plan is not considered a constraint to the development of housing.

**Table D-11 Downtown Specific Plan Zoning Designations**

Specific Plan Designation	Residential Types
Neighborhood Edge (NE)	Small-to-medium footprint, lower-intensity housing choices, from Houses to Small Multiplex Buildings and Cottage Courts
Neighborhood General (NG)	Small-to-medium footprint, moderate-intensity, medium house scale housing choices, from Houses and Rowhouses to Small Multiplex and Courtyard Buildings
Urban Neighborhood (UN)	Small-to-large footprint, moderate-intensity, large house-scale and block-scale housing choices, from Rowhouse and Large Multiplex Buildings to Stacked Flats
Downtown Main Street (DT-MS)	Small-to-large footprint, moderate-to-high-intensity housing choices, from Main Street Buildings to Lined Buildings
Urban Center (UC)	Medium-to-large footprint, moderate-intensity housing choices, from Rowhouses and Multiplex Large Buildings to Stacked Flats and Lined Buildings,

### *Mission Boulevard Corridor Form Based Code*

The City adopted an update to the Mission Boulevard Form Based Code and related Specific Plan in 2020, which combined Hayward Municipal Code Chapter 24 (formerly South Hayward BART/Mission Boulevard Form Based Code) and 25 (formerly Mission Boulevard Form Based Code) into Article 24 reclassified as Mission Boulevard Code.

A form-based code is a method of regulating development to achieve a specific urban form primarily by controlling the physical form rather than the land use. The Mission Boulevard Form Based Code has high maximum density ranges, particularly in the Transit Oriented Development Overlay zones. Additionally, there is no requirement for a minimum number of off-street automobile parking spaces. Because of this, the regulations in the Mission Boulevard Code are not considered a constraint.

**Table D-12 Mission Boulevard Form Based Code Residential Designations**

Zoning District	Allowable Residential Uses	Typical Height	Density (du/ac)
Mission Boulevard - Corridor Neighborhood (MB-CN)	Moderate-intensity, medium-scale residential	3 – 5 stories	17.5 – 35 (up to 55 du/ac allowed south of A Street)
Mission Boulevard - Neighborhood Node (MB-NN)	Mixed-use infill development	4 – 5 stories	17 – 65
Mission Boulevard - Corridor Center (MB-CC)	High-intensity residential	5 – 6 stories	35 – 75 (Up to 100 du/ac in TOD Overlays)

### **Providing for a Variety of Housing Types**

Housing Element law specifies that jurisdictions must identify adequate sites that are zoned to encourage the development of a variety of housing types available to all economic segments of the population. Persons and households of different ages, types, incomes, and lifestyles have a variety of housing needs and preferences that evolve over time and in response to changing life circumstances. This includes single-family homes, multi-family housing, accessory dwelling units,

mobile homes, agricultural employee housing, homeless shelters, and transitional housing, among others. Table D-13 summarizes the various housing types permitted within the City’s zoning districts Table D-14 summarizes the various housing types permitted within the Mission Boulevard Code and the Downtown Specific Plan Code. The housing types allowed within the City’s zoning districts are described below.

**Table D-13 Zoning Use Matrix for Residential and Commercial Districts**

Housing Type	Permitted Zoning Districts	Conditionally Permitted Zoning Districts
ADU	All Zoning Districts that allow residential development	
Artist Loft	CC-R, CC-P	
Boarding Home <sup>1</sup>	CG, CO, CC-R	RM, RH
Dormitory		RM, RH, CO
Fraternity or Sorority		CO
Small Group Home <sup>2</sup>	RS, RNP, RM, RH, RO, CO, CC-R, A	
Large Group Home <sup>3</sup>		RS, RNP, RM, RH, RO, CO, CC-R, A
Transitional & Supportive Housing	All Zoning Districts that allow residential development <sup>4</sup>	
Emergency Homeless Shelter <sup>5</sup>	Industrial Districts; <u>MB-CN and MB-NN</u>	<u>CG</u>
Mobile Homes <sup>6</sup>	MH	
Multi-Family Dwelling	RM, RH, RO, SMU, CO, CC-R	CN-R, CB, CC-C
Residential Dwelling Unit Above First Floor Commercial Uses	CN, CN-R, CG, CL, CB, CC-C	
Single-Family Dwelling <sup>7</sup>	RS, RNP, RM, RO, CC-C <sup>3</sup> , CC-R, CC-P, A	RH, CO
Second Single-Family Dwelling <sup>8</sup>	RS, RM, RO, A	RH

<sup>1</sup> Boarding Home and Group Home are considered interchangeable in Hayward Municipal Code.

<sup>2</sup> Six or fewer residents (excluding staff)

<sup>3</sup> Seven or more residents (excluding staff)

<sup>4</sup> Per Hayward Municipal Code Section 10-3510, Transitional and Supportive housing are more permanent housing options providing a more stable living situation for individuals and families that might otherwise be homeless with stay lengths that are typically six months or longer. Transitional and supportive housing uses are permitted as a residential use and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone.

<sup>5</sup> Includes Housing Navigation Centers and Emergency Shelters (per Health and Safety Code 50801). In Industrial Districts, permitted on City-owned sites. Permitted on MB-CN and MB-NN in same manner as multi-family residential uses.

<sup>6</sup> Manufactured housing is permitted on any residential lot subject to minimum standards set forth in HMC Section 10-1.2735(g).

<sup>7</sup> If existing as of May 4, 1993

<sup>8</sup> Where one single-family dwelling already exists on a lot, one additional single-family dwelling may be constructed provided the minimum development standards (lot size, setbacks, height, etc.) can be met for each dwelling.

**Table D-14 Specific Plan Zoning Use Matrix**

Housing Type	Permitted Zoning Districts	Conditionally Permitted Zoning Districts
ADU	All Zoning Districts	
Emergency Homeless Shelter	MB-CN <sup>1</sup> , MB-NN	MB-CN, MB-NN
Small Group Home	NE, NG, UN, UN-L, DT-MS, UC	
Large Group Home		NG, UN, UN-L, UC
Live-Work	MB-CN, MB-NN, NG, UN, UN-L, DT-MS, UC	MB-CN, MB-NN
Multi-Family Dwelling	MB-CN, MB-NN, MB-CC	MB-CN, MB-NN, MB-CC
Residential <sup>2</sup>	NE, NG, UN, UN-L, DT-MS, UC	
Senior Housing <sup>3</sup>	NE, NG, UN, UN-L, DT-MS, UC	
Single-Family Dwelling	MB-CN <sup>4 5</sup> , MB-NN	
Townhouse Dwelling	MB-CN, MB-NN, MB-CC	

<sup>1</sup> Hayward Municipal Code, Division 10-24.2.3, Table 2.3.010.A ([https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH10PLZOSU\\_ART24MIBO\\_CO\\_SUBARTICLE\\_10-24.2SPZO\\_DIV10-24.2.3USTA\\_10-24.2.3.010ALLAUSPERE](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART24MIBO_CO_SUBARTICLE_10-24.2SPZO_DIV10-24.2.3USTA_10-24.2.3.010ALLAUSPERE))

<sup>2</sup> Includes a variety of housing types (single-family and multifamily housing, duplexes, triplexes). Residential uses are allowed in all districts in the Mission Boulevard Code, but are listed as specific types of development.

<sup>3</sup> Senior housing is allowed in the Mission Boulevard Code, but listed as specific types of development.

<sup>4</sup> For properties located within Commercial Overlay Zone 2, as shown in the Regulating Plan, residential units are only allowed along the primary street frontage with a conditional use permit.

<sup>5</sup> If the lot/parcel has an existing, permitted single-family dwelling that was constructed prior to July 14, 2020. No new detached single-family dwellings allowed.

*Accessory Dwelling Units and Junior Accessory Dwelling Units*

Under state law (Government Code Section 65852.2), an ADU is a dwelling unit that provides complete independent living facilities for one or more persons. It must be located on the same parcel on which a single-family dwelling or multifamily development is located or will be built and may be attached to or converted from a portion of the primary dwelling unit or separate from the primary structure (detached). An ADU includes permanent provisions for living, sleeping, eating, cooking, and sanitation. ADUs must be permitted ministerially in all zoning districts that allow residential uses. In Hayward, ADUs are permitted in any zoning district where an existing, non-conforming residential use has previously been established.

A junior ADU (JADU) is a dwelling unit limited to 500 square feet and converted from a portion of a single-family home. A JADU must contain a kitchen but bathroom facilities may be shared with the primary dwelling unit. Owner occupancy of the primary dwelling unit is required and no parking may be required for the JADU. JADUs must be ministerially permitted in zoning districts that allow single-family residences. Government Code Section 65852.22 establishes minimum standards for JADUs.

State law governing ADUs and JADUs has changed rapidly during the previous housing element planning period. State law supersedes local ordinances and while some jurisdictions adopt local ordinances making provisions for ADUs and JADUs, rapid changes mean that local ordinances quickly become out of date. The City’s existing Accessory Dwelling Unit Ordinance is not consistent with new state law due to low staffing and changing regulations. Therefore, the City defers to state law in permitting ADUs and JADUs. To ensure consistency with State Law and transparency for applicants, Hayward created a Frequently Asked Questions about ADU/JADUs in English and Spanish as well as

a simple ADU Checklist to accompany building permit applications for ADUs<sup>20</sup>. The information is posted to the City's website and provided upon request at the Permit Center or via email. Program H-21 contains a number of provisions to monitor ADU production and promote the building of ADUs and JADUs throughout the City. The City will continue to monitor new legislation pertaining to ADUs and JADUs and will update the Accessory Dwelling Unit Ordinance, as necessary.

### *Artists Loft / Live and Work*

Live and Work units must be located in an area where residential uses are allowed. At least one individual employed in the business conducted within the live/work unit must reside in the unit. Artists' lofts are a live and work situation where a resident artisan lives and displays and sells their work on a non-first floor level.

### *Condominiums/Townhomes*

A condominium is any building, group of buildings, or portion thereof which includes two or more dwelling units, and for which there is a final map or parcel map. Condominium dwelling projects are usually governed by a Homeowners Association (HOA) with Covenants, Codes and Restrictions (CC&Rs) and may include private recreational facilities. Within a condominium, ownership consists of the airspace within a unit and the building(s) and all land within the development are under common ownership.

A townhome is any building, group of buildings, or portion thereof which includes two or more attached dwelling units. Townhouse dwelling projects may be ownership or rental housing. If each unit is sold separately, they are usually governed by an HOA with CC&Rs, and may include private recreational facilities. Townhouse ownership includes the building, the land beneath the building, and typically a patio or small yard adjacent to the structure. The remaining land within the development is under common ownership.

### *Dormitory, Fraternity, Sorority*

A dormitory is a residence hall providing sleeping rooms, bathrooms, study and recreation rooms, and a common kitchen for students. In Hayward, this type of housing is permitted as Boarding Homes, Group Homes, or Multifamily, depending on the proposal. These uses are allowed in all zoning districts where Boarding Homes, Group Homes, and multi-family uses are permitted.

### *Group Homes*

A group home is any single-family residence or other housing type where residents pay a fee or other consideration to the group home operator in return for residential accommodations. A group home includes a boarding home, a rooming house, as well as a group residence for the elderly, mentally or physically disabled or handicapped persons, or other persons in need of care and supervision. Boarding homes and rooming houses do not specify and are not limited to a type of purpose so it could consist of a group of employees, foster youth, individuals recovering from substance abuse, or any collection of no more than six individuals. A residence serving six or fewer individuals is considered small, while a residence serving seven or more individuals is considered large. The term group home includes both licensed and unlicensed group homes.

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<sup>20</sup> Hayward ADU information: <https://www.hayward-ca.gov/content/accessory-dwelling-unit-information-and-permit-process>

A licensed Group Home is any residential facility subject to state licensing requirements pursuant to the California Health and Safety Code (HSC) that has an up-to-date facility license. Group Homes subject to State licensing requirements include the following:

- Residential care facilities licensed or supervised by a federal, state, or local health/welfare agency provide 24-hour non-medical care of unrelated persons who have a disability and need personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual in a family-like environment.
- Health Facilities including congregate living health facilities, developmentally disabled nursing facilities, and intermediate care facilities.<sup>21</sup>

An unlicensed Group Home is the use of a dwelling unit by an owner or operator as a dormitory, boarding house, rooming house, or similar use, where such residential facility is not subject to State licensing requirements or whose state license has expired or has been suspended or revoked.

In Hayward, small group homes (six or fewer residents excluding staff) are permitted by right, per State law, in any district that allows residential uses. Large group homes (seven or more residents excluding staff) are permitted with administrative or conditional use permits in residential districts. In the A (Agricultural) District, the City specifies a spacing limitation that a large group home cannot be located within 500 feet of the boundaries of a parcel containing another group home, unless a conditional use permit is issued on the basis that waiver of such separation requirement would not be materially detrimental or injurious to the property, improvements, or uses in the immediate vicinity. The Zoning Ordinance complies with Health and Safety Code Section 17021.5 (The Employee Housing Act) because group homes of six or fewer residents are treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the A, RS, RNP, RM, RH, RO, GC, CC-R, and AT-R zones.

According to the State Department of Social Services, Community Care Licensing Division, four licensed group homes with 24 beds and 58 licensed adult residential facilities are located in Hayward. The requirements for administrative and conditional use permits and, in the A district, minimum separation of facility locations, could be a constraint to the development of affordable housing for people with disabilities. The City added Programs and Actions to facilitate such housing. Specifically, Program H-13, Action 13.1 to promote alternative housing types; and Action 13.4 to evaluate the permit process for group homes of seven or more persons, to adopt a set of objective standards to provide certainty to applicants and to consider allowing large group homes through Administrative Use Permit process or as a by-right use subject to specific objective standards.

### *Single-Family Dwelling*

A single-family dwelling is defined as a detached building containing only one dwelling unit. In Hayward, single-family dwellings are permitted in numerous zones (see Table D-13 and Table D-14). Single-family dwellings require an administrative use permit in RH and CO zones.

### *Multi-Family Dwelling*

A multi-family dwelling is any building, group of buildings, or portion thereof which includes two or more dwelling units. Multi-family dwellings may be intended as ownership or rental units. Multi-family dwellings are permitted by right in ~~in~~ numerous zones (see Table D-13 and Table D-14).

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<sup>21</sup> Health and Safety Code section 1250

Projects in the CB and CC-C zones that consist entirely of multi-family dwellings require a conditional use permit whereas those with ground floor commercial uses are permitted by right.

### *Manufactured Homes and Mobile Homes*

Pursuant to Health and Safety Code Sections 18007 to 18008, a mobile home or manufactured home is defined as a structure which is transportable in one or more sections, is eight feet or more in body width, or 40 feet or more in body length, in the traveling mode, or, when erected onsite, is 320 or more square feet. Mobile homes are defined as being constructed prior to June 15, 1976, while a manufactured home is constructed on or after the same date. Manufactured housing and mobile homes can be an affordable housing option for low- and moderate-income households. Manufactured homes are defined in the City's Zoning Code as synonymous with "single-family dwelling," and therefore allowed wherever single-family homes are allowed, as long as they meet the building code requirements for a single-family structure, including being secured to a permanent foundation. Mobile home parks are permitted in the MH zone, and manufactured housing is permitted in all residential districts subject to minimum standards set forth in HMC Section 10-1.2735(g).

### *Single-Room Occupancy Facilities / Boarding Homes*

Single-Room Occupancy facilities (SROs) are usually 200 to 350 square feet and consist of one habitable room in a structure of other SRO units. An SRO facility is also known as a residential hotel. Residents typically share bathrooms and/or kitchens while some SRO units include private kitchenettes, bathrooms, or half-bathrooms. Because they use shared facilities and can be built more cheaply than individual units, or converted from existing types of buildings, SROs and boarding homes may be more affordable for developers to build. SROs are not specifically defined in the City's Zoning Code but are allowed with a conditional use permit in the MB-CC zoning district.

As described in the discussions on Group Homes and Farmworker Housing, a Boarding Home is equivalent to an Unlicensed Group Home. Generally, a Boarding House is a building where lodging or meals are provided (for compensation) for residents not functioning as a common household or family. Boarding homes are permitted in the RO zoning district. Boarding homes require an administrative use permit in CC-R and CO zones and a conditional use permit in RM and RH zones.

The City's current zoning regulations allow for this type of housing, and the City has approved projects meeting this need. In 2020, the City approved a 125-unit 100 percent affordable micro-unit development with supportive services provided on site. Because of the continued importance of these housing types to meet the needs of special needs populations and extremely low-income households, the City will implement Program H-24 which contains multiple actions designed to further facilitate the provision of SROs, group homes, and boarding homes, include an action to continually monitor the City's policies, standards, and regulations to ensure they do not unduly constrain housing for special needs populations.

### *Emergency Shelter and Low Barrier Navigation Shelter*

An emergency shelter or "homeless shelter" is defined by state law as housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less.<sup>22</sup> AB 139, which went into effect on January 1, 2020, mandates that emergency shelters may only be subject to those standards which apply to residential and commercial development within the same

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<sup>22</sup> Health and Safety Code Section 50801

zone, except that a city can apply standards regulating the number of beds, parking for staff provided that the standards do not require more parking for emergency shelters than other residential or commercial uses within the same zone, length of stay, and other minor standards.

Emergency Shelters/Homeless Shelters and Low Barrier Navigation Centers are defined as the same use in the Hayward Municipal Code and are permitted by-right on City-owned property in the IL, IP, IG districts, on parcels abutting Mission Boulevard in the MB-CN and MB-NN, and allowed by Conditional Use Permit in CG districts. There are 929 parcels totaling 522.18 acres in the MB-CN and MB-NN that allow “by right” approval of emergency shelters. This quantity and size of parcels provides ample opportunity to accommodate the current need for beds and shelter for 372 unsheltered individuals in 10 facilities (approximately 40 beds per facility) along the Mission Boulevard and other commercial corridors which provide access to transit, retail and social services uses.

~~Hayward’s Zoning Code defines Emergency Shelters as including Low Barrier Navigation Centers.~~ State law<sup>23</sup> requires jurisdictions to allow Low Barrier Navigation Centers as a permitted use in mixed-use zones and other nonresidential zones permitting multi-family residential development. A low barrier navigation center is defined as, “a Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing.” When compared to traditional emergency shelters, Low Barrier Navigation Centers may provide more services and additional flexibility to clients, such as allowing pets or permitting partners to share living space. Local jurisdictions to act on a complete application for a Low Barrier Navigation Center within 60 days.

One Low Barrier Navigation Center has been approved in Hayward and opened in 2019. It provides short-term housing for 45 people at a time, outreach and case management services, and placement services for residents of encampments. In 2020, the City also authorized the leasing of up to 35 hotel rooms to provide additional transitional housing and support services for people experiencing homelessness (Navigation Center Annex).

Because of the continued importance of Low Barrier Navigation Centers to meet the needs of homeless populations, the City will implement Program H-~~1324~~ which contains multiple actions designed to further facilitate the provision of housing for homeless individuals, a variety of housing types including group homes, supportive housing, individuals experiencing homelessness. Specifically, Actions 13.5 through 13.7 call for Municipal Code amendments to reduce parking requirements for shelters; to allow low barrier navigation centers as a by right use per Government Code section 65661; and to allow tiny homes and emergency shelters on church and publicly owned properties.

### *Supportive and Transitional Housing*

Transitional and supportive housing are more permanent housing options providing a stable living situation for individuals and families that might otherwise be homeless.

Transitional housing is defined in Health and Safety Code Section 50801 as housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons. Services must be provided, with the ultimate goal of moving recently homeless persons to

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<sup>23</sup> Government Code Section 65660 et seq

permanent housing as quickly as possible. Rents and services fees must be affordable to low-income persons.

Supportive housing has no limit on length of stay, as set forth in Government Code Sections 65582 and 65650, occupied by low-income individuals who will receive, as part of their residency, supportive services designed to assist the individual in retaining housing, improving health, or enhancing other life functions. The target population includes homeless families, homeless youth, and persons with disabilities.

In Hayward, transitional and supportive housing uses are permitted as a residential use and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. The zoning code defines transitional and supportive housing as “more permanent housing options providing a more stable living situation for individuals and families that might otherwise be homeless with stay lengths that are typically six months or longer, and specifies that the uses are permitted as a residential use and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone, in accordance with state law.

In 2018, AB 2162 required cities to change their zoning to provide a “by right” process and to expedite review for supportive housing projects of 50 units or fewer. This law applies to sites in zones where multi-family and mixed uses are permitted, including in nonresidential zones permitting multi-family use. Additionally, state law prohibits local governments from imposing any minimum parking requirements for units occupied by supportive housing residents if the development is located within 0.5 mile of a public transit stop. Twenty-five percent of the units (or a minimum of 12 units, whichever is greater) must be approved by right with no minimum parking. If the development consists of fewer than 12 units, then 100 percent of the units, excluding managers’ units, in the development shall be restricted to residents in supportive housing.

The City defers to Government Code sections 65582, 65583, and 65650 in approving supportive housing projects, and therefore its practices are consistent with state law. Because of the continued importance of these housing types to meet the needs of special needs populations, the City will implement Program H-24 which contains multiple actions designed to further facilitate the provision of housing for homeless individuals, include an action to continually monitor the City’s policies, standards, and regulations to ensure they do not unduly constrain housing for special needs populations. Specifically, Action 13.3 requires the City to assess and amend the Municipal Code to allow Supportive Housing as a by-right use where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651.

### *Farmworker Housing*

While the City has an agricultural zoning district (A), there are few people employed in agriculture in Hayward. As discussed in Appendix B, *Housing Needs Assessment*, the total number of residents employed in farming, fishing, and forestry was less than one percent of the City’s population. However, people employed in these industries (typically located in rural areas) may seek housing opportunities in urban areas, and an analysis of Hayward’s ability to house this population is still warranted.

Although the Zoning Ordinance does not expressly address housing for agricultural workers, farmworker housing could be considered equivalent to a Group Home because the Zoning Ordinance definition of a Group Home includes boarding homes and rooming houses. In this case,

farmworker housing could be considered an Unlicensed Group Home where residents pay a fee or other consideration to the Group Home Operator in return for residential accommodations.

As described in the previous section on Group Homes, Small Group Homes are permitted in all Zoning Districts where residential uses as permitted. Large Group Homes require an administrative use permit in UN and UN-L zones and a conditional use permit in RS, RNP, RM, RH, RO, CG, A, NG, and UC zones. The Zoning Ordinance complies with Health and Safety Code Section 17021.5 (The Employee Housing Act) because group homes of six or fewer residents are treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the A, RS, RNP, RM, RH, RO, GC, CC-R, and AT-R zones. However, the Zoning Ordinance does not comply with Health and Safety Code Section 17021.6 because Group Homes of seven or more residents require conditional use permits in the Agricultural zoning district. Health and Safety Code Section 17021.6 generally requires that employee housing consisting of no more than 36 beds in group quarters (or 12 units or less) designed for use by a single family or household to be treated as an agricultural use; and no conditional use permit, zoning variance, or other zoning clearance shall be required if the same is not required for other agricultural activities in the same zone.

### **Development Standards**

Table D-15 summarizes residential use development standards in the City's Zoning Ordinance and specific plans. Hayward's residential and mixed-use district zoning requirements establishes various development standards such as minimum and maximum density, minimum lot size, maximum lot coverage, maximum height, minimum setbacks, minimum open space, minimum and/or maximum parking standards.

The Mission Boulevard Code and the Downtown Specific Plan Code allow for higher densities, lot coverage, Floor Area Ratio and building stories/heights to accommodate higher density and higher intensity development than the other zoning districts.

**Table D-15 Hayward Development Standards**

Zone District	Min. Lot Area (sq. ft.)	Max Height (ft.)	Min Lot Width	Minimum Yard Setback (ft.)				Max Lot Coverage (%)	du/ac
				Front	Side	Rear	Side Street		
RS	Interior Lot: 5,000 Corner Lot: 5,914	30	Interior Lot: 50 feet Corner Lot: 60 feet	20	5-10	20*	10	40	n/a
RNP	20,000	30	100	20	30	20	10	30	n/a
RM	Interior Lot: 5,000 Corner Lot: 5,914 Townhouse Lot(s): Consistent with building footprint and printed project areas.	40	Interior Lot: 60 feet, excluding radius for street return Corner Lot: 60 feet	20	5-10	20	10	40	8.7-17.4 du/ac <sup>1</sup>
RH	7,500	40	60	20	5-10	20	10	65	17-34 du/ac
RO	Interior Lot: 5,000 Corner Lot: 5,914	40	Interior Lot: 50 feet Corner Lot: 60 feet	10	5	20	10	50	Consistent with RM and RH
MH	304,920	40	200	200	10	10	20	40	0.7-12 du/ac
SMU	20,000	55	100	4	6	6	4	90	25-55 du/ac
CN	6,000	40	60	10	n/a	n/a	10	90	Consistent with RM and RH
CN-R	10,000	40	100	10	n/a	20	10	n/a	17-25 du/ac
CG	n/a	n/a	n/a	10	n/a	n/a	n/a	90	Consistent with RM and RH
CO	Interior Lot: 5,000 Corner Lot: 5,760	40	Interior Lot: 50 feet. Corner Lot: 60 feet.	10	5-10	20	10	50	Consistent with RM and RH
CL	10,000	40	100	20	10	20	10	40	Consistent with RM and RH
CB	n/a	n/a	n/a	10	5-10	n/a	10	90	Consistent with RM and RH
CC-C	n/a	55-104 feet	n/a	0-4 feet				n/a	Between 40-110 du/ac
CC-R	n/a	55-104 feet	n/a	0-4 feet	5-10	15	10	n/a	Up to 34.8 du/ac

Zone District	Min. Lot Area (sq. ft.)	Max Height (ft.)	Min Lot Width	Minimum Yard Setback (ft.)				Max Lot Coverage (%)	du/ac
				Front	Side	Rear	Side Street		
CC-P	n/a	55-104 feet	n/a	0-4 feet	n/a	15	n/a	n/a	17-65 du/ac
A	43,560	40	200	20	30 total	35	10	40	
<b>Mission Boulevard Form Based Code</b>									
MB-CN	n/a	North of A Street: 3 stories max South of A Street: 4 stories max., 5 max. with Major Site Plan Review	18	6	6	3	0	80	35 du/ac by right, 55 du/ac South of A Street with Major Site Plan Review
MB-NN	n/a	4 stories max., 5 max. with Major Site Plan Review	18	0	0	3	6	80	35 du/ac by right, 65 du/ac with Major Site Plan Review
MB-CC	n/a	5 stories max., 6 max. with Major Site Plan Review	18	0	0	3	2	90	55 du/ac by right, 75 du/ac with Major Site Plan Review
TOD Overlay 1	n/a	5 stories max., 6 max. with Major Site Plan Review	18	0	0	3	2	90	100 du/ac
TOD Overlay 2	n/a	5 stories max., 6 max. with Major Site Plan Review	18	0	0	3	2	90	65 du/ac by right, 100 du/ac with Major Site Plan Review
<b>Downtown Specific Plan</b>									
NE	n/a	35	35-75, depending on building type	10	5	15	7	60	40-110 du/ac
NG	n/a	45	35-100, depending on use type	5	5	0	5	70	40-110 du/ac
UN	n/a	70	18-320 depending on the use type	5	5	0	5	75	40-110 du/ac

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Zone District	Min. Lot Area (sq. ft.)	Max Height (ft.)	Min Lot Width	Minimum Yard Setback (ft.)				Max Lot Coverage (%)	du/ac
				Front	Side	Rear	Side Street		
UN-L	n/a	70	18-320 depending on the use type	5	5	0	5	75	34.8 du/ac
DT-MS	n/a	85	200-400 depending on the building type	0	0	0	0	95	40-110 du/ac
UC	n/a	124	250-450 depending on the building type	0	0	0	0	95	40-110 du/ac

<sup>1</sup> Based on the ratio of lot frontage to lot depth.

SR: Single -Family Residential

RNP: Residential Natura Preserve

MR: Medium Density Residential

RH: High Density Residential

RO: Residential Office

SMU: Sustainable Mixed Use

MH<sup>1</sup> Mobile Home Park

CN: Neighborhood Commercial District

CN-R: Neighborhood Commercial-Residential

CG: General Commercial District

CL: Limited Access Commercial District

CB: Central Business District

CO: Commercial Office District

\* Reduced to 10 feet for single story additions to existing residential development.

CC-R: Central City-Residential Subdistrict

CC-C: Central City Commercial Subdistrict

CC-P: Central City Plaza Subdistrict

A: Agriculture

MB-CN: Mission Boulevard Corridor Neighborhood

MB-NN: Mission Boulevard Neighborhood Node

MB-CC: Mission Boulevard Corridor Center

PD: Planned Development District

NE: Neighborhood Edge

NG: Neighborhood General

UN: Urban Neighborhood

DT-MS: Downtown Main Street

UC: Urban Center

## Overlay Zones

In addition to the above zoning districts, the Zoning Ordinance also establishes a combining district and overlay districts to apply additional regulations and standards to certain properties.

### *Airport Overlay Zone (AOZ)*

Hayward adopted the Airport Overlay Zone Ordinance in July 2017. The purpose and intent of the Airport Overlay Zone (AOZ) Ordinance is to comply with state law, ensure that land uses and development within the AOZ are compatible with existing and future airport operations, and avoid or minimize exposure of persons to potential hazards. Portions of the City are located within the influence area zones of both the Hayward Executive Airport and Oakland International Airport (OAK). These zones identify areas of potential hazard from aircraft takeoff and landings and cover a wide portion of southwestern Hayward. The basic strategy for minimizing risks to people on the ground near airports is to limit the number of people who might gather in areas most susceptible to potential aircraft accidents by prohibiting/limiting certain non-compatible land uses. This generally includes limiting: buildings that serve people with limited mobility (e.g., children's schools, hospitals, nursing homes); sensitive industrial uses; residential uses; public uses; and uses that process/store hazardous or flammable materials (e.g., oil refineries, chemical plants).<sup>24</sup>

Table D-16 identifies the residential development standards within the six Airport Safety Compatibility Zones.<sup>25</sup> Zones 1 and 5 do not allow the development of single- and multi-family housing units. Currently, the General Plan designations in zones 1 and 5 would not allow for residential development, therefore the AOZ in these zones is not considered a constraint to the development of housing. New residential development within the 60 dB CNEL contour shall demonstrate consistency with the maximum exterior noise levels set forth in Table HAZ-1 of the General Plan and the maximum interior noise levels should not exceed 45dB CNEL. Pursuant to State Law, all General Plan amendments, Zoning Ordinance amendments, and projects proposed within the Airport Influence Area (AIA) must be reviewed by the Alameda County Airport Land Use Commission. The Airport Land Use Commission has 60 days for the review. However, the City Council has the authority to override the review with a four-fifths vote if it can make certain findings. Since this requirement is applicable to all jurisdictions located near airports and airfields and ensures all land uses within the AOZ are consistent with State Aeronautics Act, California Public Utilities Code Section 21670, et seq., federal law, Federal Aviation Administration regulations, and handbook guidance, this requirement is not unique to Hayward and does not constitute a constraint to housing development.

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<sup>24</sup> City of Hayward 2040 General Plan Update, Environmental Impact Report. 2013. Available: [https://www.hayward-ca.gov/sites/default/files/documents/Hayward%20GPU%20Public%20Release%20Draft%20EIR\\_1-30-14.pdf](https://www.hayward-ca.gov/sites/default/files/documents/Hayward%20GPU%20Public%20Release%20Draft%20EIR_1-30-14.pdf)

<sup>25</sup> Hayward Executive Airport, Airport Land Use Compatibility Plan. Available at: [https://www.acgov.org/cda/planning/generalplans/documents/HWD\\_ALUCP\\_082012\\_FULL.pdf](https://www.acgov.org/cda/planning/generalplans/documents/HWD_ALUCP_082012_FULL.pdf)

**Table D-16 Airport Safety Compatibility Zones Residential Development Standards**

Land Uses	1 Runway Protection Zone	2 Inner Approach/ Departure Zone	3 Inner Turning Zone	4 Outer Approach/ Departure Zone	5 Sideline Zones	6 Traffic Patter Zone
Maximum Site-wide Average Residential Density (Dwelling Units/Gross Acre) (Per Figures 4B-4G in the California Airport Land Use Planning Handbook)	0	0	Allow infill at up to the average of the surrounding residential area.	Allow infill at up to the average density of comparable surrounding uses	Allow infill at up to the average of the surrounding residential area.	No Limit (Noise and overflight should be considered).
Short-term lodging Facilities (≤ 30 nights): hotels, motels, etc. (approx. 200 sq. ft./person)	X	X	C	C	C	P
Long-term lodging facilities (> 30 days): extended-stay hotels, dormitories, etc.	X	X	X	C	X	P
Single-family residential: detached dwellings, duplexes, townhomes, mobile homes	X	C	Zones 3 and 4: Incompatible at density > 9.0 units/ac		X	P
Multi-family residential: low-to-high density apartments, condominiums	X	X	Zones 3 and 4: Incompatible at density > 12.0 units/ac		X	P

X - INCOMPATIBLE: Uses should not be permitted under any circumstances as they may expose persons to airport-related safety hazards.  
 C - CONDITIONAL: Uses or activities that may be compatible with airport operations depending on their location, size, bulk, height, density, and intensity of use. See notes below for conditional criteria on specific land uses.  
 P - PERMITTED: Uses or activities are compatible with airport operations; however, these activities should be reviewed to ensure that they will not create height hazard obstructions, smoke, glare, electronic, wildlife attractants, or other airspace hazards. Noise, airspace protection, and/or overflight policies may still apply.  
 Secondary units, as defined by state law, shall be excluded from density calculations, and may be constructed on existing, non-conforming residential parcel

### *Transit Oriented Development Overlays*

Development requirements for properties within close proximity to public transit centers, including BART, as identified on the Mission Boulevard Code, were modified to allow for an increase in residential density and adjusted height regulations. This overlay requires minimum densities and allows for higher density housing development than the base district, and therefore is not considered a constraint to the development of housing.

- TOD Overlay 1, maximum 100 du/ac.
- TOD Overlay 2, maximum 65 du/ac, 100 du/ac with a Major Site Plan Review.

### *Commercial Overlays*

Two Commercial Overlays are implemented in the Mission Boulevard Code region. Figure D-1 and Figure D-2 show the commercial overlays in relation to the Mission Boulevard Code area. The commercial overlays are described as follows:

- Commercial Overlay #1. Properties designated with a Commercial Overlay Zone 1 designation shall not be developed with residential units on the first or ground floor. Uses associated with the residential use, such as leasing office, community space, amenities, etc., are allowed on the ground floor. This requirement may be adjusted through the Major Site Plan Review Process.
- Commercial Overlay #2. Properties designated with a Commercial Overlay Zone 2 designation shall not be developed with residential units along the primary street frontage unless permitted with a conditional use permit.

Figure D-1 Mission Boulevard Code (Map 1 of 2)

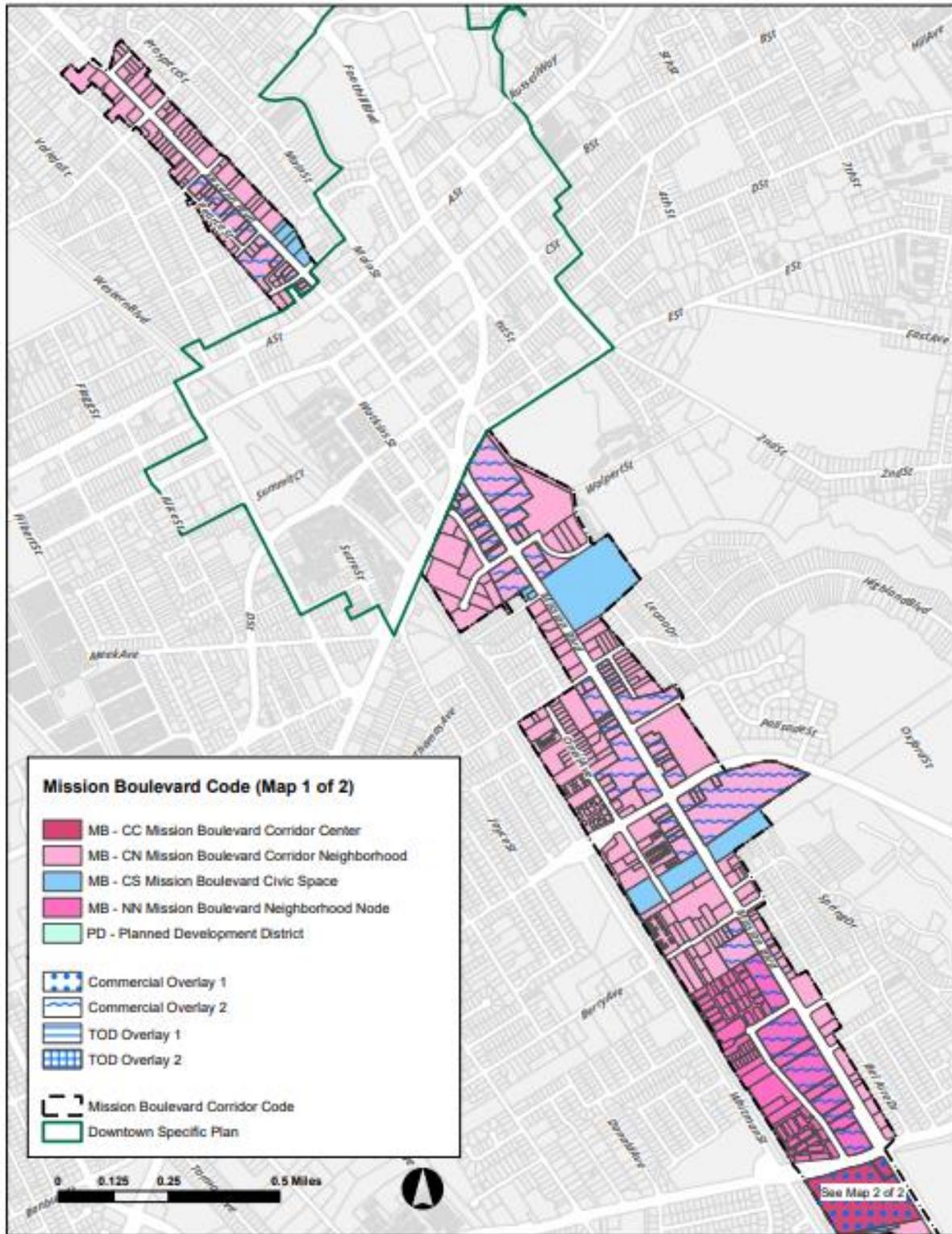
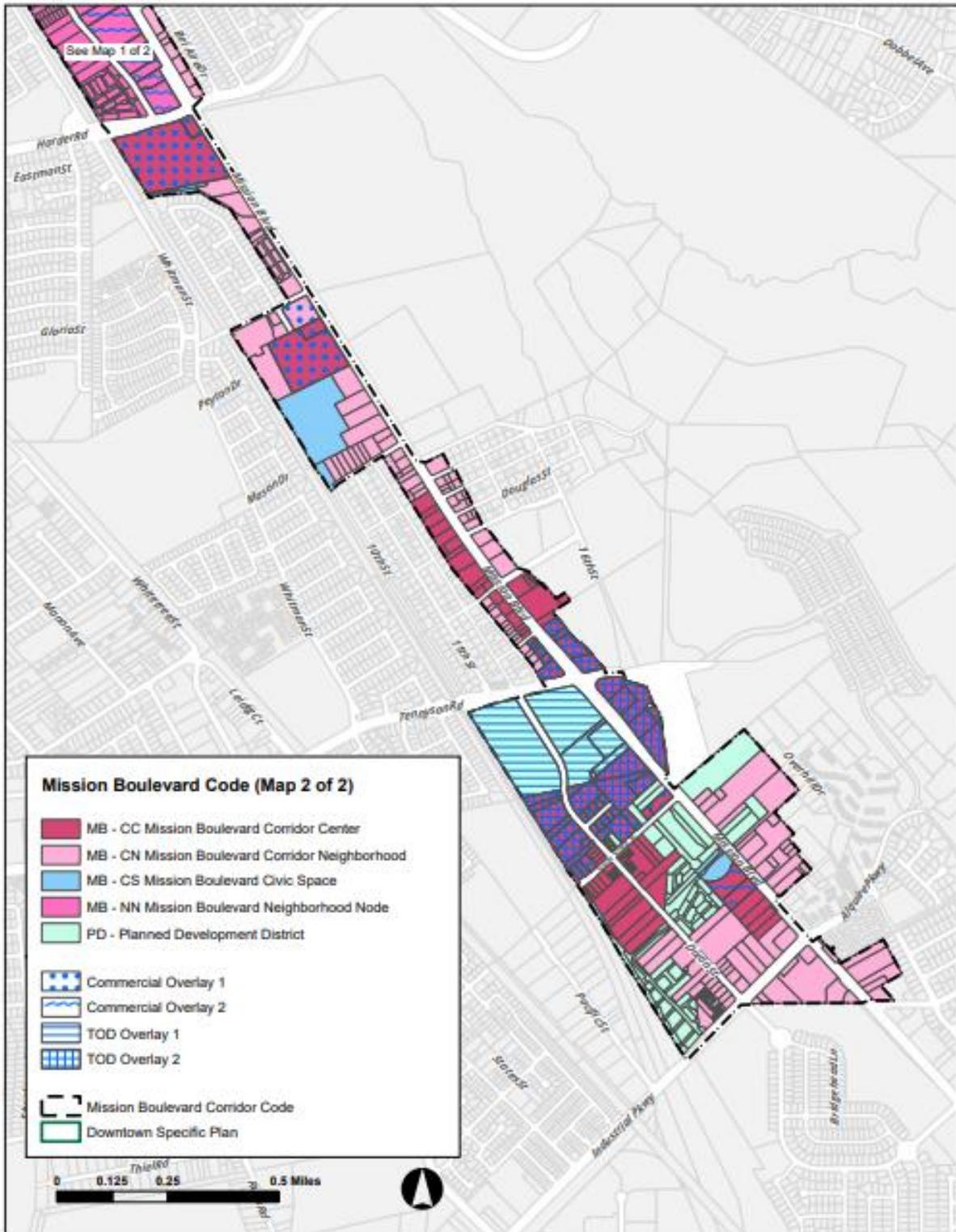


Figure D-2 Mission Boulevard Code (Map 2 of 2)



### *Special Design Overlay Districts*

The Special Design Districts are implemented in areas within the City of historic, architectural, or unique character in order to provide for conservation and compatible development.

- “B” Street Special Design Streetcar District: This district has some of the oldest housing in Hayward. It consists of the five blocks of B Street from Grand Avenue, west of City Hall, to Meekland Avenue. Architecture and materials used in this district must be sympathetic to original Victorian, Colonial Revival, or Craftsman styles. Untrimmed openings, garish colors, and plywood siding are generally not acceptable.
- The Cottage Special Design District: This district is the smallest special design district, one block in length, along Montgomery Street. This overlay district allows a historic pattern of small lot, single-family cottage development near town and transit which would otherwise be precluded by contemporary lot size, front setback, and parking requirements. The Cottage District development pattern was established before cars, and suits households with one or no motor vehicles. New cottage development would need to continue the architectural themes of horizontal wood siding, hip or gable rooflines of medium pitch, and a front entry porch that is expansive relative to the size of the cottage. A cottage cannot exceed 1,200 square feet of living space.
- The Cannery Special Design District: This district contains older industrial uses that are surrounded by residential areas. The purpose of the Cannery Area Special Design District is to implement policies embodied in the Cannery Area Design Plan. The Design Plan envisions conversion of the industrial uses to commercial uses, residential uses, or mixed uses, as appropriate.
- Mission-Garin Area Special Design District: This district ensures the orderly development of the Mission-Garin Area. The clustering of residential development is encouraged in this area, with development located as to avoid geologic hazards, minimize grading, and preserve significant natural site features, such as rock outcroppings, nature trees, natural drainage courses and scenic views. Preferred hillside development includes clustering of dwelling units, whether single family or multi-family, separated by interconnected natural open space or greenbelt corridors.
- Hayward Foothills Trail: This district ensures the orderly development of a continuous trail as properties involved in the 238 Bypass Land Use Study are developed. The district establishes the general location for the trail as well as the standards and guidelines for establishing the trail. The Trail is envisioned as a 16-foot wide trail within a 20-foot wide area to accommodate multiple users. Where the trail crosses individual properties, it is envisioned to be developed in a location which will maximize the future development potential of the property. Residential development adjacent to the trail must maintain at least a 10-foot setback from the edge of the trail, where feasible.

## **Development Standards Analysis**

### *Density*

Hayward's Zoning Districts provide for a range of residential densities. The RS, RNP, RM, RO, CC-C, CC-R, CC-P, A, MB-CN, and MB-NN districts allow single-family development (Table D-13 and Table D-14), and, with the implementation of SB 9, allow two units per lot and allows a lot split if lots have a minimum of 1,200 square feet. Because two units are allowed on each lot, a lot split can occur and the original lot would permit four units. One ADU would also be permitted on each of the two lots.

The RM, RH, RO, SMU, CO, CC-R, MB-CN, MB-NN, MB-CC districts allow multi-family development by right with densities ranging from 8.7 to 75 units per acre. The CN-R, CB, CC-C, MB-CN, MB-NN, and MB-CC districts allow multifamily development with conditional use permits. Density ranges in the city do not constrain residential housing development.

### *Lot Standards*

Lot standards for each zoning district are shown in Table D-15. Lot standards vary between district and are intended to allow a range of development types and intensities. The smallest lot standard allowed is 5,000 square feet in the RS district, which allows potentially up to four units, as described above. Many of the higher-density districts do not have minimum lot areas, and allow no or minimal setbacks. Lot standards do not pose a potential constraint to development of housing in terms of the number of units permitted, cost of development, feasibility, or ability to achieve maximum densities.

### *Height Limits*

Height limits are generally intended to maintain consistency within an area and compatibility between adjacent buildings. The maximum height in lower-density zoning districts (RS and RNP) is 30 feet. Higher-density districts have maximum building heights of at least 55 feet, but many allow heights up to 104 feet. Height limits in the Mission Boulevard Form Based Code are up to six stories, and in the Downtown Specific Plan, height limits increase with increased density up to 124 feet. Height requirements do not pose a constraint to development.

### *Open Space Requirements*

Multi-family and mixed-use developments in the RM and RH Districts and in the Downtown Specific Plan and Mission Boulevard Codes shall provide minimum open space comprised of common open space and/or private open space on a per-unit basis. Open space requirements in these zoning districts typically range from 100 to 350 square feet per unit depending on the type of development. Common open space can be provided as playgrounds, pools, or other on-site recreational amenities and private open space can be provided on balconies or patios.

## Parking Standards

According to the Turner Center for Housing Innovation at UC Berkeley, parking can cost \$25,000 to \$75,000 per space to construct. However, given the age of data and the increased cost of land and construction costs discussed above, the costs per parking space are likely much higher.<sup>26</sup> Parking provided in underground or structured parking facilities, or if required to be covered or enclosed, can significantly increase the cost of housing and could affect the feasibility of various housing projects in the city. In addition, requirements for parking space locations and maximum distances from dwelling units may also increase the cost of housing and affect the feasibility of housing projects. Requiring less parking not only reduces the project budget but can allow for more space to build additional housing units. Parking requirements for residential uses and Zoning Districts in Hayward are summarized in Table D-17 and Table D-18.

The City offers many opportunities for reducing parking for affordable and market-rate units in areas which can support a pedestrian-oriented style of development (see *Reductions in Parking Standards*, below). Hayward’s parking requirements do not present a constraint to the development of housing, but to ensure parking standards don’t present a constraint to adaptive reuse, through implementation of Action 12.1 and 19.2 in the Housing Plan, the City will evaluate its current parking standards for adaptive reuse and special needs populations.

**Table D-17 Parking Requirements by Residential Use Type**

Use	Off-Street Parking Spaces Required
<b>Single Family Dwellings (RS)</b>	
Standard single family dwelling unit	2.0 covered per dwelling unit
If a lot abuts a public or private street that has no parking lane on either side of the street or is posted for no parking on both sides of the street.	2.0 covered per dwelling unit plus 2.0 open per dwelling unit, which shall not block access to the covered parking
If a dwelling with a single car garage was built prior to March 24, 1959	1.0 covered per dwelling unit
<b>Multiple-Family Dwellings (RM)</b>	
Studio	1.0 covered and 0.50 open per dwelling unit
One-bedroom	1.0 covered and 0.70 open per dwelling unit
Two-bedroom	1.0 covered and 1.1 open per dwelling unit
Mobile Home	2.0 per mobile home space, plus 1.0 guest parking space per three mobile home spaces within a mobile home park
Accessory Dwelling Unit	Parking requirements for Accessory Dwelling Units are established in Government Code Section 65852.2.
Junior Accessory Dwelling Unit	No parking may be required for Junior Accessory Dwelling Units pursuant to Government Code Section 65852.22.
Boarding, rooming and transient homes, sleeping accommodations of clubs and lodges, and dormitories, including those of clubs, lodges, fraternities, and sororities	1.2 for each occupant based on capacity as designed

<sup>26</sup> Turner Center for Housing Innovation at UC Berkeley, 2016. Available at: <http://turnercenter2.berkeley.edu/proforma/>

**Table D-18 Parking Requirements by Zoning District**

Zoning District	Location (Distance from ROW/Lot Line) (ft.)				Curb Cut or Parking Driveway Width (ft.)	Off-Street Parking Spaces Required for Residential Uses
	Front	Street Side	Side	Rear		
<b>Downtown Specific Plan Development Code</b>						
NE	40	10	5	5	14	1 per unit, or 1/500 sf, whichever is less. No off-street parking required for accessory structure(s).
NG	40	5	0	5	≤ 40 spaces 14' max. > 40 spaces 18' max.	1 per unit, or 1/500 sf, whichever is less. No off-street parking required for accessory structure(s).
UN	40	5	0	5	≤ 40 spaces 14' max. > 40 spaces 18' max.	1 per unit, or 1/500 sf, whichever is less. No off-street parking required for uses in accessory structure(s).
DT-MS	40	5	0	0	≤ 40 Spaces 14' max. > 40 Spaces 18' max	1 per unit, or 1/500 sf, whichever is less. No off-street parking required for uses in accessory structure(s).
UC	40	5	0	5	≤ 40 spaces 14' max. > 40 spaces 18' max.	1 per unit, or 1/500 sf, whichever is less
<b>Mission Boulevard Code</b>						
MC-CN	30	5	5	5	n/a	There is no requirement for a minimum number of off-street automobile parking spaces.
MB-NN	40	5	5	5	n/a	There is no requirement for a minimum number of off-street automobile parking spaces.
MB-CC	40	5	5	5	n/a	There is no requirement for a minimum number of off-street automobile parking spaces.

- MB-CN: Mission Boulevard Corridor Neighborhood
- MB-NN: Mission Boulevard Neighborhood Node
- MB-CC: Mission Boulevard Corridor Center
- NE: Neighborhood Edge
- NG: Neighborhood General
- UN: Urban Neighborhood
- DT-MS: Downtown Main Street
- UC: Urban Center

*Reductions in Parking Standards*

There are several provisions for specific areas in which the parking requirements for residential uses can be reduced. Section 10-2.402 of the Zoning Ordinance allows for administrative approval of an off-site parking plan. Section 10-2.404 allows for a 15 percent reduction in parking requirements for multifamily uses, when public rail transportation is located within 1,000 feet of the project site.

In the Central Parking District, parking for residential uses must be provided on-site but limited per Section 10-2.412 to one covered space and 0.50 open space per dwelling unit, and 0.5 space per

dwelling unit for multifamily dwellings for the elderly. An in-lieu fee may be paid for projects in the Central Parking District as an alternative to providing on-site parking.

In the Downtown Core Area Specific Plan, the residential parking requirement may be reduced to a minimum of 1.0 space per dwelling unit, if the aggregate parking supply for all residential units is 1.5 spaces per dwelling. Parking may be provided off site.

In the Cottage District, only one space is required per cottage, and alternative means of meeting that requirement are available. Double-car garages are prohibited.

State Density Bonus Law allows for significant reductions in parking requirements for affordable housing projects meeting the requirements of the Density Bonus Law. No parking requirements may be imposed for 100 percent affordable housing projects near major transit stops. Other projects containing a percentage of affordable units near transit are subject to no more than one-half space per unit. For all projects meeting the minimum Density Bonus Law standards, no more than 1.5 spaces per two- and three-bedroom units.

## **Affordable Housing Incentives and Opportunities**

### *Density Bonus*

California Density Bonus Law (Government Code Section 65915) requires jurisdictions to provide density bonuses and development incentives to developers who propose to construct housing units that are affordable to lower- and moderate-income households. During community outreach sessions, local developers have reported that the Density Bonus Ordinance is utilized to develop better projects with more units due to decreased parking requirements, increased height, or no private storage requirement. Therefore, this ordinance is not considered a constraint to the development of housing units.

The City adopted a Density Bonus Ordinance in 2005. The ordinance (Section 10-19) is not consistent with current state law, and an update to the ordinance is currently in process (Program H-8). Until it is complete, the City defaults to State Density Bonus Law.

### 1.3.3 Building Code

In addition to land use controls, the enforcement of local building codes also affects the cost of housing. Hayward adopted the following codes which are mandatory throughout California:

- 2019 California Building Code (Volumes 1 and 2)
- 2019 California Residential Code
- 2019 California Electrical Code
- 2019 California Plumbing Code
- 2019 California Mechanical Code
- 2019 California Energy Code
- 2019 California Green Building Standards Code (CalGreen) (no CalGreen tiers are adopted locally)

The City complies with the 2019 Edition of the California Building Code (CBC) as adopted (and amended) by reference in the Zoning Ordinance. The Building Code is updated every three years. Local amendments to the Building Code that are contained in the Zoning Ordinance are related to

increasing structural stability and strength in case of a seismic episode, including quality control for concrete footings and wall bracing materials and fire safety and automatic sprinkler systems. While the incorporation of these measures may raise the cost of construction, these standards are necessary to prevent much more costly damage related to a potential seismic or fire episode. No restrictions or amendments were adopted that are a constraint to the development of housing. Enforcement of the CBC is required by California law and does not constrain the production or improvement of housing in Hayward.

## Reach Code

The Hayward Reach Code is a local Green Building Ordinance adopted in early 2020 that prohibits natural gas use in newly constructed low-rise (three or fewer stories) homes. This gas ban also applies to detached ADUs that are over 400 square feet. For high-rise residential, and commercial projects, there is a mixed-fuel option that allows gas if other efficiency measures are met. The Reach Code also expands the requirements in CalGreen for EV charging infrastructure.

In accordance with Section 10-106 of California's 2019 Energy Code, to adopt a reach code, a local government agency needs to make findings on the cost effectiveness of the proposed local energy standards. To be cost effective, the money saved from the reduced energy costs needs to be enough to cover the initial cost within a reasonable period of time.<sup>27</sup> Affordable housing developers have requested exemptions from certain requirements in Hayward's Reach Code. The additional cost associated with meeting the Reach Code requirements is a constraint to the development of affordable housing. Updates to the Reach Code will be adopted in 2023 in conjunction with the Building Code Update and may adjust requirements for affordable housing.

## Code Enforcement

The City's Code Enforcement Division is responsible for investigation and enforcement of all Zoning and Building Code violations related to property maintenance, public nuisances, zoning/land use violations, substandard rental housing, commercial signage, graffiti, etc. The division also monitors the graffiti abatement and shopping cart removal contracts. The Zoning Code sets the standards for enforcement, and the Code Enforcement Division uses education, administrative citations, and the filing of criminal complaints to ensure that these standards are maintained. Code enforcement practices are not considered a constraint to the development of housing.

In July 2020, the Council enacted the Tenant Relocation Assistance Ordinance (TRAO). Under the TRAO, landlords may owe relocation assistance to tenants displaced due to health and safety concerns or substantial repairs. The TRAO also enables the City to make relocation assistance payments to tenants when the landlord fails to pay required assistance. The City can then recover the costs from the landlord. The City's Housing Division works closely with the Code Enforcement Division, Fire Department, and Building Division to identify cases and determine eligibility for relocation assistance. Since July 2020, the City has worked on approximately 20 cases with a Code Enforcement violation. Additionally, Council authorized the use of \$250,000 in American Rescue Plan funds for an Emergency Relocation Assistance Program to provide financial assistance grants to low-income households displaced through natural disaster, such as a fire. Since implementing the program in March 2022, 14 eligible households have received a total of \$107,262 in assistance through this program.

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<sup>27</sup> Cost Effectiveness Explorer. Available: [https://explorer.localenergycodes.com/jurisdiction/hayward-city/study-results/3-PGE?exclude\\_study\\_ids=25,22,19,1,2](https://explorer.localenergycodes.com/jurisdiction/hayward-city/study-results/3-PGE?exclude_study_ids=25,22,19,1,2)

### 1.3.4 On- and Off-Site Improvements

Pursuant to the Municipal Code, all new development shall install frontage improvements, utilities and other on- and off-site improvements to ensure safe, clean development that is connected to the City's utility and street infrastructure. As conditions of approval, Hayward requires housing developers to construct various on- and off-site improvements related to roadways, utilities, and stormwater control as described below.

#### **Infrastructure Improvements**

All new development shall construct on and off-site infrastructure improvements to be constructed by the builder in accordance with City standards. Improvements include:

- The construction of curbs, gutters, sidewalks, street lighting, and street paving to meet the existing street pavement;
- Construction of or contribution to Transportation Demand Management (TDM) measures and bicycle/pedestrian improvements consistent with the City's Bicycle and Pedestrian Master Plan and Complete Streets Policy;
- Undergrounding existing overhead wires;
- The dedication of land, payment of an in-lieu fee, or a combination of both for park and recreational purposes; and
- The construction of water, sewer, storm drainage, and utility systems.

Completed on-site improvements are typically dedicated to the City or privately maintained by a Homeowners Association. The City has not adopted any requirements above and beyond those authorized by the state Subdivision Map Act. Site improvement requirements on small infill sites, where interior streets are not required, are usually minimal. Such projects typically include curb and gutter replacements, street tree planting, sidewalk repair, TDM and bicycle and pedestrian improvements to connect to the City's network and sometimes utility undergrounding. The City's site improvement requirements do not pose a development constraint, since the conditions required by Hayward are no greater than conditions implemented throughout Alameda County.

#### **Stormwater Control and Landscaping/Tree Preservation Ordinance**

All new development that will create or replace 5,000 square feet or more of impervious surface must comply with Hayward Municipal Code Section 11.5-38 and the California Regional Water Quality Control Board San Francisco Region Municipal Regional Stormwater NPDES Permit (San Francisco MS4 Permit). These regulations require new development to set aside land on site to retain and treat stormwater on site to reduce impacts related to off-site erosion and drainage of pollutants to the Bay. This is a region-wide requirement and applicable throughout Alameda and surrounding counties with drainage to the Bay.

All new development must also comply with the City's Tree Preservation Ordinance (Hayward Municipal Code Chapter 10, Article 7), which requires preparation of an Arborist Report to document all trees on site to determine if they are "protected." If deemed protected, the applicant shall retain Tree Removal Permits and replace the protected trees with trees that are of equal or greater value. To the greatest extent possible, replacement trees shall be located on site but the City has allowed off-site mitigation in certain circumstances. All Zoning Districts also include

minimum landscaping standards which require installation of street trees along frontages, parking lot trees for multi-family or mixed use development and landscaping along required yards.

While provision of on-site stormwater control areas, tree, landscaping and open space and recreational amenities may be considered a constraint, they also encourage shade cover, healthy and active lifestyles, and a more livable environment for residents. Applicants can use the Density Bonus process to apply for concessions or waivers from required landscaping or recreational improvements, but the benefits outweigh the costs of this constraint.

### 1.3.5 Historic Preservation

The protection, enhancement, perpetuation, and use of structures and districts of historical and architectural significance located within Hayward are of cultural and aesthetic benefit to the community. The economic, cultural, and aesthetic standing of the city will also be enhanced by respecting the heritage of the city. The City's Historic Preservation Ordinance, updated in 2009, is intended to:

- Designate, preserve, protect, enhance, and perpetuate those historic structures, districts, and neighborhoods which contribute to the cultural and aesthetic heritage of Hayward;
- Foster civic pride in the beauty and accomplishments of the past;
- Stabilize and improve the economic value of certain historic structures, districts, and neighborhoods;
- Develop and maintain appropriate settings for such structures; and
- Enhance the visual and aesthetic character, diversity, and interest of the city.

All development permit applications affecting a historical structure or site, those over 50 years old or located within a historic district, are to be reviewed by the Planning Director. Additions and/or alterations will be approved and issued either a Minor (valuation less than \$10,000) or Major (valuation of \$10,000 or more) Historical Alteration Permit as long as they do not adversely affect the exterior architectural characteristics or the historical or aesthetic value of the historical structure or site, and as long as they comply with the Secretary of the Interior Standards for the Treatment of Historic Properties. The Planning Director will review all development permit applications for proposed new construction and alterations that may substantially affect the style, scale, or bulk of a historic district or site.

The City prepared the Historical Resources Survey and Inventory Report in 2010 to identify historical properties in Hayward and completed an updated resources survey in 2013 as part of a General Plan Update. Hayward includes 20 historic buildings identified by the City and one building listed on the National Register of Historic Places. The City also has four historic districts: the Marks Historic Rehabilitation District, the Upper B Street Historic District, the B Street Historic Streetcar District, and the Prospect Hill Historic District. Due to the limited number of parcels from the sites inventory located within a historical resources area, historic preservation requirements are not considered a constraint to the development of housing.

### 1.3.6 Development Review & Impact Fees

All housing projects are subject to a variety of fees and exactions to process permits and provide necessary services and facilities allowed by State law. These costs can be a constraint to the maintenance, improvement, and development of housing because the additional costs borne by

developers contribute to overall increased housing unit cost. However, development review fees are necessary to maintain adequate staffing services and other public services and facilities in the city. Impact fees are required to offset the cost of provision of public services and include sewer and water connection fees and park, affordable housing, traffic, and school impact fees.

### **Entitlement Fees – Development Review**

Planning and development review fees are necessary to fund staff review of development applications for consistency with the General Plan, Zoning Ordinance, and other local, state, and environmental laws. All Planning, Building and Engineering related development review fees are in the City’s adopted Master Fee Schedule and are updated on an annual basis.<sup>28</sup>

The first step in the development review process is obtaining an “entitlement” and related environmental review. For Planning entitlements, applicants provide an initial deposit depending on the entitlement type (Site Plan Review, Zone Change, Tentative/Parcel Map, use permit or other application) and then are charged on a time and material basis. Hayward outsources all environmental review to environmental consultants who prepare environmental studies and other CEQA-related documents. A typical Initial Study, Mitigated Negative Declaration with related environmental studies cost between \$80,000 and \$150,000 to prepare depending on the number of studies (Transportation, Air Quality, Noise, Health Risk Assessment, among others). The Planning Division does not add an administrative or other charge to CEQA consultant fees. Planning approvals are considered “entitlements.”

Following Planning approvals, applicants submit Improvements Plans and Grading Permits and Utility Plans. The City will also accept concurrent Building Permit applications which consist of detailed construction-level plans. Engineering and Building Division fees are necessary to fund staff review of building permit applications with Building Code, Reach Code, Municipal Code, Fire Code, and other laws.

Development review adds to the cost of a development and contributes to overall increased housing unit cost. However, these fees are necessary to provide for the timely and thorough review of development applications and to maintain adequate planning services. Table D-22 shows associated fees for development review.

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<sup>28</sup> City of Hayward. Adopted Master Fee Schedule Fiscal Year 2023. Available: <https://hayward-ca.gov/sites/default/files/documents/Adopted-FY-2023-Master-Fee-Schedule.pdf>

**Table D-19 Development Review Associated Fees**

<b>Action/Activity</b>	<b>Fees</b>
<b><u>Administrative Use Permit</u></b>	<u>Processed Administratively Direct Cost \$2,000 deposit</u> <u>Involving Public Hearing Direct Cost \$6,000 deposit</u>
<b><u>Appeal</u></b>	
<u>By Non-Applicant</u>	<u>\$400</u>
<u>By Applicant</u>	<u>Direct Cost \$6,000 deposit</u>
<b><u>Conditional Use Permit (CUP)/Variance</u></b>	
<u>CUP</u>	<u>Direct Cost \$6,000 deposit</u>
<u>Variance/Warrants/Exceptions</u>	<u>Direct Cost \$6,000 deposit</u>
<u>Administrative Variance/Warrants</u>	<u>Direct Cost \$2,000 deposit</u>
<b><u>Environmental Review</u></b>	
<u>Environmental/Technical Analysis</u>	<u>Direct Cost \$5,000 deposit</u>
<u>Initial Study/Environmental Impact Report (EIR)</u>	<u>Direct Cost, based on scope</u>
<b><u>Planned Development)/Development Agreement</u></b>	
<u>Rezoned to Planned Development</u>	<u>Direct Cost \$12,000 deposit</u>
<u>Planned Development Modification/Precise Plan</u>	<u>Direct Cost \$6,000 deposit</u>
<u>Development Agreement</u>	<u>Direct Cost \$12,000 deposit</u>
<u>Development Agreement Amendment</u>	<u>Direct Cost \$6,000 deposit</u>
<u>Development Agreement Annual Review</u>	<u>Direct Cost \$1,000 deposit</u>
<b><u>Conceptual Development Review/Pre-Application</u></b>	
<u>First Meeting Free/ Subsequent Meetings</u>	<u>\$328/hour</u>
<u>SB 330/SB 35 Housing Project</u>	<u>\$Direct Cost \$1,000 deposit</u>
<b><u>Modification of Approved Plan</u></b>	
<u>Processed Administratively</u>	<u>Direct Cost \$2,000 deposit</u>
<u>Involving Public Hearing</u>	<u>Direct Cost \$6,000 deposit</u>
<b><u>Site Plan Review</u></b>	
<u>Processed Administratively</u>	<u>Direct Cost \$2,000 deposit</u>
<u>Involving Public Hearing</u>	<u>Direct Cost \$6,000 deposit</u>

City of Hayward  
**2023-2031 Housing Element Update**

Action/Activity	Fees
<b><u>Tentative Map/Subdivision/Condominium/Annexation</u></b>	
<u>Processed Administratively</u>	<u>Direct Cost \$4,000</u>
<u>Involving Public Hearing</u>	<u>Direct Cost \$6,000 deposit</u>
<u>Lot Line Adjustment/Certificate of Merger</u>	<u>Direct Cost \$4,000 deposit</u>
<u>Annexation</u>	<u>Direct Cost \$15,000 deposit</u>
<b><u>Zone Change/General Plan Amendment/Specific Plan</u></b>	
<u>Zone Change/Code Amendment</u>	<u>Direct Cost \$12,000 deposit</u>
<u>General Plan Amendment</u>	<u>Direct Cost \$12,000 deposit</u>
<u>Specific Plan/Amendment</u>	<u>Direct Cost \$12,000 deposit</u>
<b><u>Plan Check for Building Permit*</u></b>	
<u>R-1 Residential, hotels</u>	<u>Construction Type 1A \$213.57/square foot</u>
<u>R-2 Residential, multi-family</u>	<u>Construction Type 1A \$179.08/square foot</u>
<u>R-3 Residential, one and two family</u>	<u>Construction Type 1A \$166.95/square foot</u>
<u>R-4 Residential, care</u>	<u>Construction Type 1A \$211.79/square foot</u>
<u>Planning Review Fee</u>	<u>35% of Building Inspection Fee</u>
<u>Fire Review Fee</u>	<u>35% of Building Inspection Fee</u>
<u>Hazardous Materials Review Fee</u>	<u>\$165 per hour</u>
<u>Solid Waste Review Fee</u>	<u>\$80 flat rate</u>
<u>Building Plot Plan Review Fee (applies to production homes)</u>	<u>\$294 flat rate per plot</u>
<u>Planning Plot Plan Review Fee (applies to production homes)</u>	<u>\$491 flat rate per plot</u>
<u>Fire Plot Plan Review Fee (applies to production homes)</u>	<u>\$110 flat rate per plot</u>
<b><u>Building Inspection Fees</u></b>	
<u>\$1 to \$500</u>	<u>\$29.77</u>
<u>\$501 to \$2000</u>	<u>\$29.77 for the first \$500 plus \$3.87 for each additional \$100 or fraction thereof, to and including \$2000</u>
<u>\$2,001 to \$25,000</u>	<u>\$87.82 for the first \$2000 plus \$17.74 for each additional \$1000 or fraction thereof, to and including \$25,000</u>
<u>\$25,001 to \$50,000</u>	<u>\$495.68 for the first \$25,000 plus \$12.80 for each additional \$1000 or fraction thereof, to and including \$50,000</u>
<u>\$50,001 to \$100,000</u>	<u>\$815.70 for the first \$50,000 plus \$8.87 for each additional \$1000 or fraction thereof, to and including \$100,000</u>
<u>\$100,001 to \$500,000</u>	<u>\$1259.15 for the first \$100,000 plus \$7.09 for each additional \$1000 or fraction thereof, to and including \$500,000</u>
<u>\$500,001 to \$1,000,000</u>	<u>\$4097.18 for the first \$500,000 plus \$6.02 for each additional \$1000 or fraction thereof, to and including \$1,000,000</u>
<u>\$1,000,001 and up</u>	<u>\$7109.14 for the first \$1,000,000 plus \$4.00 for each additional \$1000 or fraction thereof</u>
<u>Fire Inspection Fee</u>	<u>\$221</u>
<u>Hazardous Materials Inspection Fee</u>	<u>\$330/inspection</u>
<u>Planning &amp; Landscape Inspection Fee</u>	<u>\$212</u>

Action/Activity	Fees
<u>Technology Fee (applies to all building permits)</u>	<u>9% of Building Inspection Fee</u>
<u>Policy Planning Fee (applies to all building permits)</u>	<u>16% of Building Inspection Fee</u>
*Building Permit Plan Check fees are calculated by valuation, defined as the fair market value or materials and labor for the work as shown in the ICC Valuation data table with regional construction cost modifier for the San Francisco Bay Area of 16%. Valuation for tenant improvements, residential remodels, and other projects that do not involve new square footage shall be a minimum of 60% of the cost per square foot in the tables by construction type. Source: –City of Hayward Adopted FY2023 Master Fee Schedule.	

The permit processing fees depend upon the specific zoning approval required and the type of project or construction. Planning fees are based on a fixed fee or direct cost, such as staff time plus overhead. City Planners are available to identify the approvals that may be required for a project. When a Planning permit is required for a project, approval of the Planning permit is required before a building permit can be issued.

### Development/Impact Fees

Development fees are assessed after a project entitlement is completed, and when building permit applications are submitted. Development (or “impact”) fees are required to offset the cost of provision of public services and include sewer and water connection fees and park, affordable housing, traffic, and school impact fees.

#### Utility Fees

Developers must pay for new or upgraded sewer and water connection fees to ensure that new development is safely connected to the City’s or service provider’s systems. Utility fees are assessed on each new residential development according to unit counts and number of connections as detailed in Table D-20. Per State law, allowances in design (i.e. master water meter rather than individual water meters), which lead to fee reductions are permitted for affordable housing and for ADUs within existing homes and those under 750 square feet in size. ~~For Utility Impact fees (sewer and water), please see Attachment 1, pages 31-33.~~

**Table D-20 Sewer and Water Fees**

Sewer System Connection Charge	
<u>Single Family, duplex, triplex, and fourplex residential, townhouses and planned developments</u>	<u>\$7,700/connection</u>
<u>ADUs (new construction &gt;150 sq. ft.), high density residential, mobile homes</u>	<u>\$6,853/connection</u>
<u>Single Family, duplex, triplex, and fourplex residential, townhouses and planned developments</u>	<u>\$7,700/connection</u>
<u>ADUs (new construction &gt;150 sq. ft.), high density residential, mobile homes</u>	<u>\$6,853/connection</u>
Water Services*	
Meter Installation Fees	
<u>ADU (conversion or construction &gt;150 sq. ft.)</u>	<u>\$200</u>
<u>5/8" to 1" (includes new ADU)</u>	<u>\$3,500</u>
<u>1" x 1½"</u>	<u>\$4,140</u>
<u>1½" x 1½"</u>	<u>\$4,580</u>
<u>1½" x 2"</u>	<u>\$4,580</u>

**Sewer System Connection Charge**

<u>2"x2"</u>	<u>\$4,870</u>
<u>Larger than 2"x2"</u>	<u>Actual cost of labor, materials &amp; equipment</u>
<b>Meter Facilities Fees</b>	
<u>ADU (conversion or construction &gt;150 sq. ft.)</u>	<u>\$3,246</u>
<u>5/8" meter (includes new ADU)</u>	<u>\$6,484</u>
<u>3/4" meter</u>	<u>\$9,730</u>
<u>1" meter</u>	<u>\$16,210</u>
<u>2" meter</u>	<u>\$51,870</u>
<u>3" meter</u>	<u>\$103,740</u>
<u>4" meter</u>	<u>\$162,100</u>
<u>6" meter</u>	<u>\$324,200</u>
<u>8" meter</u>	<u>\$518,720</u>
<u>10" meter</u>	<u>\$745,660</u>
<u>Fire Service, per service regardless of size</u>	<u>\$6,484</u>

\*For multi-family complexes, the facilities fee will be based on the water meter size required to meet the indoor demand for each dwelling unit, as determined by the City regardless of the arrangement of water meters or meter sizes at the premises.

*Park Impact Fees*

Park Impact fees are assessed for market rate development based on bedroom count as detailed in Table D-21 below. The City waives the park impact fee for projects for seniors or disabled persons owned by or leased to a public agency for at least 20 years, for rental projects owned by non-profit corporations for households with incomes at or below 120 percent of the area median income, for ownership projects developed by a public agency or non-profit developer for households with incomes at or below 120 percent of the area median income, subject to certain affordability agreements, and for convalescent hospitals, nursing homes, and rest homes. In addition, park impact fees are reduced by half for rental housing projects owned by for profit corporations for households with incomes at or below 120 percent of the area median income, ownership housing developed by a private developer which is affordable in perpetuity to homebuyers with incomes at or below 120 percent of the area median income, and for on-site affordable units, as defined and required by the Affordable Housing Ordinance. ~~For Park Impact fees, please see Attachment 1, page 21.~~

**Table D-21 Park Fees**

<u>ADU &gt;750 square feet</u>	<u>\$3,453</u>
<u>Studio/0 Bedroom Unit</u>	<u>\$3,453</u>
<u>1 Bedroom Unit</u>	<u>\$5,407</u>
<u>2 Bedroom Unit</u>	<u>\$9,753</u>
<u>3 Bedroom Unit</u>	<u>\$17,034</u>
<u>4 Bedroom Unit</u>	<u>\$23,694</u>

### *Affordable Housing Ordinance and Fees*

The City adopted an Affordable Housing Ordinance in 2003. The Ordinance and accompanying fees were updated in 2017 and the City is embarking on another update in 2022.

The City's Affordable Housing Ordinance requires that all future residential development projects consisting of two or more dwelling units contribute to the production of residences that are affordable to extremely low-, very low-, low-, and moderate-income households. The Ordinance, which supports housing objectives in state law, requires that developments set aside a certain percentage of housing on site for lower income households or to pay an in lieu fee that is tied to the square footage of the development. Residential development project applicants shall satisfy one of the following options:

- Pay an affordable housing in-lieu fee (deposited into the Affordable Housing Trust Fund).
- Include on-site for-sale or rental affordable units.
- Construct affordable units not physically contiguous to the development (off-site) if approved by the appropriate Decision-Making Body.
- Propose additional alternatives not listed in the Affordable Housing Ordinance if approved by the Decision-Making Body.
- In an Ownership Residential Project, provide rental affordable units.

The in-lieu fees generated by compliance with the Ordinance provides for an Affordable Housing Trust Fund which must be used to increase the supply of housing affordable to moderate-, low-, very low-, or extremely low-income households in the City. According to the 2022 Master Fee Schedule, the Affordable Housing Fees are \$16.35 per square foot of habitable space for high density condominiums (35 units per acre or more), and \$19.82 per square foot of habitable space for all other dwelling unit types.<sup>29</sup> For Park Impact fees, please see Attachment 1, page 22.

### *Traffic Impact Fees*

The City recently adopted Traffic Impact Fee (TIF) to help mitigate the cumulative transportation impacts of growth. Improvements funded through the TIF will fund roadway and intersection improvements, pedestrian, bicycle, and complete streets improvements to support multi-modal transportation. Based on a feasibility analysis (referenced earlier in this document), the TIF will be assessed on single family and townhome developments but will not be assessed on multi-family development. The adopted fee for single family development is \$3,475 per unit which is approximately 70% less than the maximum allowable for that development type. For townhomes, the fee is \$3,492 per unit which is approximately 55% less than the maximum allowable for that development type. Further, deed restricted affordable units are not subject to the TIF.

### *School Impact Fees*

Hayward Unified School District charges impact fees for all new development. The fees are used for school improvements and operations and are intended to offset the impacts of increased enrollment. Developer Fees, which are assessed on a per square foot basis, are available on the website at <https://haywardusd-ca.schoolloop.com/DeveloperFees>. There are no reductions for

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<sup>29</sup> City of Hayward. Adopted Master Fee Schedule Fiscal Year 2023. Available: <https://hayward-ca.gov/sites/default/files/documents/Adopted-FY-2023-Master-Fee-Schedule.pdf>

affordable housing development; however, small projects (i.e. ADUs) under 750 square feet are exempt from School Impact Fees.

Overall, the City's current development impact fees have minimal impacts on overall development costs, given the high price of land in Hayward and the region.

#### Permit Fees for a Typical Project

The permit processing fees depend upon the specific zoning approval required and the type of project or construction. Planning fees are based on a fixed fee or direct cost, such as staff time plus overhead. City Planners are available to identify the approvals that may be required for a project. When a Planning permit is required for a project, approval of the Planning permit is required before a building permit can be issued. Table D-22 provides permit fees for a typical ownership and rental project prototypes. As shown on the table, ownership prototypes such as single-family residences (\$36,160 per unit), townhomes (\$28,118 per units), and condos (\$25,042) accrue higher fees than rental prototypes -such as small multiplexes (\$19,147 per unit), stacked flats (\$24,966), 5-story wraps (\$19,882), and 5-story podium projects (\$20,465). As part of the Housing Element, the City will complete a new feasibility study to determine the appropriate on-site affordable housing requirements and fees for rent and ownership of residential units that appropriately reflect market conditions (Program H-6). Additionally, the City will create a "Package of Incentives" that identifies the benefits of providing on-site affordable housing which will include fee deferrals, waivers, and fee transparency (Program H-14).

**Table D-22 Permit Fees for a Typical Unit**

	Ownership Prototypes			Rental Prototypes			
	Single Family Development	Townhomes	Condos	Small Multiplex	Stacked Flats	5-Story Wrap	5-Story Podium (TOD)
Number of Units	<u>44</u>	<u>106</u>	<u>74</u>	<u>20</u>	<u>74</u>	<u>300</u>	<u>159</u>
Address Assignment	<u>\$9,702</u>	<u>\$23,373</u>	<u>\$5,659</u>	<u>\$1,690</u>	<u>\$5,659</u>	<u>\$22,270</u>	<u>\$11,907</u>
Construction Improvement Tax	<u>\$33,000</u>	<u>\$79,500</u>	<u>\$33,300</u>	<u>\$9,000</u>	<u>\$33,300</u>	<u>\$135,000</u>	<u>\$71,550</u>
Administrative Fee Building Permit	<u>\$6,468</u>	<u>\$15,582</u>	<u>\$147</u>	<u>\$147</u>	<u>\$147</u>	<u>\$147</u>	<u>\$147</u>
SUPPLEMENTAL BLDG CONS	<u>\$52,800</u>	<u>\$127,200</u>	<u>\$88,800</u>	<u>\$19,200</u>	<u>\$71,040</u>	<u>\$288,000</u>	<u>\$152,640</u>
Building Permit Fee	–	–	<u>\$44,721</u>	<u>\$14,285</u>	<u>\$50,721</u>	<u>\$168,285</u>	<u>\$112,225</u>
Fire Inspection Fee	<u>\$9,724</u>	<u>\$23,426</u>	<u>\$221</u>	<u>\$221</u>	<u>\$221</u>	<u>\$221</u>	<u>\$221</u>
Fire Plan Check 35%	–	–	<u>\$15,652</u>	<u>\$5,000</u>	<u>\$17,752</u>	<u>\$58,900</u>	<u>\$39,279</u>
General Plan Update Fee (Policy fee)	<u>\$20,744</u>	<u>\$36,025</u>	<u>\$7,155</u>	<u>\$2,286</u>	<u>\$8,115</u>	<u>\$26,926</u>	<u>\$17,956</u>
Planning/Landscape Inspection Fee	<u>\$9,328</u>	<u>\$22,472</u>	<u>\$212</u>	<u>\$212</u>	<u>\$212</u>	<u>\$212</u>	<u>\$212</u>
Land Scape Multifamily	–	–	<u>\$319</u>	<u>\$319</u>	<u>\$319</u>	<u>\$319</u>	<u>\$319</u>
Planning Review Fee	–	–	<u>\$15,652</u>	<u>\$5,000</u>	<u>\$17,752</u>	<u>\$58,900</u>	<u>\$39,279</u>
SMIP Residential	<u>\$1,929</u>	<u>\$3,052</u>	<u>\$2,913</u>	<u>\$363</u>	<u>\$3,333</u>	<u>\$11,562</u>	<u>\$7,638</u>
State Building Standards Fee	<u>\$616</u>	<u>\$954</u>	<u>\$417</u>	<u>\$112</u>	<u>\$477</u>	<u>\$1,652</u>	<u>\$1,092</u>
Solid Waste Fee			<u>\$80</u>	<u>\$80</u>	<u>\$80</u>	<u>\$80</u>	<u>\$80</u>
Technology Fee	<u>\$11,668</u>	<u>\$20,264</u>	<u>\$4,025</u>	<u>\$1,286</u>	<u>\$4,565</u>	<u>\$15,146</u>	<u>\$10,100</u>
Plot Inspection Fee	<u>\$129,649</u>	<u>\$225,158</u>	–	–	–	–	–
Building plot plan fee	<u>\$12,936</u>	<u>\$31,164</u>	–	–	–	–	–
Fire Plot Plan Review Fee	<u>\$4,840</u>	<u>\$11,660</u>	–	–	–	–	–
Planning Plot Plan Review Fee	<u>\$21,604</u>	<u>\$52,046</u>	–	–	–	–	–

City of Hayward  
**2023-2031 Housing Element Update**

<u>Hazmat Fee</u>	-	-	-	-	-	-	-
<u>Water System Facilities Fee</u>	<u>\$713,240</u>	<u>\$1,031,380</u>	<u>\$720,020</u>	<u>\$129,680</u>	<u>\$720,020</u>	<u>\$2,919,000</u>	<u>\$1,547,070</u>
<u>Water System Installation Fee</u>	<u>\$154,000</u>	<u>\$371,000</u>	<u>\$259,000</u>	<u>\$7,000</u>	<u>\$259,000</u>	<u>\$105,000</u>	<u>\$55,650</u>
<u>Sewer connection fee</u>	<u>\$338,800</u>	<u>\$816,200</u>	<u>\$569,800</u>	<u>\$137,060</u>	<u>\$569,800</u>	<u>\$2,055,900</u>	<u>\$1,089,627</u>
<u>Irrigation Water Meter</u>	<u>\$20,000</u>	<u>\$30,000</u>	<u>\$25,000</u>	<u>\$10,000</u>	<u>\$25,000</u>	<u>\$37,000</u>	<u>\$37,000</u>
<u>Fire Service</u>	<u>\$20,000</u>	<u>\$30,000</u>	<u>\$30,000</u>	<u>\$20,000</u>	<u>\$30,000</u>	<u>\$30,000</u>	<u>\$30,000</u>
<u>Fire hydrant</u>	<u>\$20,000</u>	<u>\$30,000</u>	<u>\$30,000</u>	<u>\$20,000</u>	<u>\$30,000</u>	<u>\$30,000</u>	<u>\$30,000</u>
<u>Total</u>	<u>\$1,591,048</u>	<u>\$2,980,457</u>	<u>\$1,853,094</u>	<u>\$382,940</u>	<u>\$1,847,514</u>	<u>\$5,964,519</u>	<u>\$3,253,992</u>
<u>Fees Per Unit</u>	<u>\$36,160</u>	<u>\$28,118</u>	<u>\$25,042</u>	<u>\$19,147</u>	<u>\$24,966</u>	<u>\$19,882</u>	<u>\$20,465</u>

### 1.3.7 Permit Procedures and Processing Timeframes

The processing time needed to obtain development permits and required approvals is commonly cited by the development community as a constraint. Lengthy processing times, unclear permitting procedures, layered reviews, multiple discretionary review requirements, and costly conditions of approval can contribute to the high cost of housing.<sup>30</sup> In Hayward, the time between application submittal to project approval depends on the magnitude and complexity of the development proposal. Factors that can affect the length of development review on a proposed project include rezoning or general plan amendment requirements, the requirement to hold a public hearing, whether a project requires environmental review. (See Section 3.4 for more information on environmental constraints.)

The Permit Streamlining Act governs the processing time for planning applications, although the applicant can waive these time limits. The length of processing time also depends upon the knowledge, expertise, and expertise of the applicant's development team and their ability to prepare plans in accordance with City requirements, make timely submissions (and resubmissions), and revise plans based on feedback received.

Because the City does not require a public hearing for many types of residential development projects, there is a fair amount of certainty in the City's development review processes and outcome. A typical new single-family development that complies with zoning requires a Building Permit or Site Plan Review, reviewed by planning staff or the Planning Director. A typical new multi-family development that complies with zoning requires a Site Plan Review, reviewed by planning staff or the Planning Director.

Most residential projects are approved either administratively or through the Board of Zoning Adjustments and do not require a subsequent public hearing before the City Council unless appealed. For these reasons, projects are unlikely to be delayed or more costly to develop due to the design review process. Permit processing times in Hayward are comparable to neighboring cities such as San Leandro and are not considered a constraint to development. The City's current site plan review process is not considered a constraint to housing development. Through Program H-16, the City will continue to explore efforts to reduce constraints to development and streamline development review.

#### Permit Types

##### *Planning Entitlement – Development Application*

A development application is required for any of the following: administrative use permits, conditional use permits, general plan amendments, lot line adjustments, lot mergers, parcel/final maps, site plan reviews, tentative maps, variances, and zone changes. Approval of these development applications are referred to as Planning Entitlements and, once approved, allow the applicant to submit for improvement plans and building permits.

#### CONCEPTUAL DEVELOPMENT REVIEW

The City offers a free Conceptual Development Review as a courtesy before an applicant submits a formal application. The developer and professional consultants submit a preliminary set of plans

<sup>30</sup> California Department of Housing and Community Development. 2021. Available: <https://www.hcd.ca.gov/community-development/building-blocks/constraints/processing-permitting-procedures.shtml>. Accessed October 28, 2021

and the applicant, architects, and engineers receive feedback from planning, building, fire, traffic, engineering, utilities, and any other City staff who may be likely to work on the project. This process gives developers the opportunity to meet those likely to work on the project and learn about requirements and potentially significant issues in the preliminary plans. This also gives staff the opportunity to learn about and gain familiarity with proposed projects in the pipeline, which can reduce the amount of time it takes to review plans once they are submitted. Through this process, the Development Review Team, which is composed of representatives from each department, discuss the codes and other regulations that pertain to the proposed project and make suggestions that, if accepted by the developer, can reduce application processing time and may, subsequently, reduce development costs. Feedback from developers has been very favorable about the utility of Permit Center informal feedback, Conceptual Development Review application and meetings, and subsequent Code Assistance meetings (more detailed follow up with Fire, Hazardous Materials, and Building) and related improvements in processing time and activities. These processes are intended to remove potential constraints associated with the processing of permits for housing development.

**Time Frame:** 30 days

**Hearings:** None

**Findings:** None

**Cost:** First meeting is free; subsequent meetings are \$328 per hour.

### **GENERAL PLAN AMENDMENT AND ZONE CHANGE**

Projects that are not consistent with the General Plan or Zoning Ordinance may require approval of a General Plan Amendment or a Zone Change. Approval of these types of proposals is discretionary, subject to CEQA, and require public hearings before the Planning Commission and City Council.

**Time Frame:** 12-18 months

**Hearings:** Required two public hearings – one with Planning Commission and one with City Council

**Findings:** Findings for General Plan, Zoning Map and Text Amendments are set forth in Hayward Municipal Code Section 10-1.3425(b):

- Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward;
- The proposed change is in conformance with the purposes of this Ordinance and all applicable, officially adopted policies and plans;
- Streets and public facilities existing or proposed are adequate to serve all uses permitted when property is reclassified; and
- 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.

**Cost:** Direct Cost with \$12,000 deposit, Environmental Analysis based on scope of services

### **CERTIFICATE OF MERGER**

A certificate of merger is a ministerial process that is required where two or more adjacent parcels are merged to create one parcel. Parcels must be under common ownership. All parcels must be under common ownership and title must be held in a similar manner for each parcel. The Planning

Director may approve a Certificate of Merger or refer it to the Planning Commission. Approval of a complete application is generally complete within four to six weeks.

**Time Frame:** 4-6 weeks

**Hearings:** No public hearings; processed administratively

**Findings:** None

**Cost:** Direct Cost with \$4,000 deposit

**VARIANCES/ADMINISTRATIVE VARIANCES AND MINOR MODIFICATIONS**

An applicant must request a variance when seeking an exception to specific requirements of the Zoning Ordinance, Parking Regulations, and Sign Regulations, if those requirements would result in a hardship due to physical conditions of a property. The Planning Director or the Planning Commission acts on variance requests. Administrative action on a variance request takes place two to four weeks after the application is deemed complete; additional time is necessary if Planning Commission review is required.

Minor deviations from the Code (reduced setbacks, minimum lot size, reduced open space and other standards) are considered Minor Modifications and may be processed administratively per Hayward Municipal Code Section 10-1.2830 (City-wide); Section 10-24.4.040 (within the Mission Boulevard Code area), and Section 10-28.5.2 (within the Downtown Specific Plan area).

**Time Frame:** 6-12 months for Variance; 4-7 months for Administrative Variance/Minor Modification

**Hearings:** One public hearing with Planning Commission; no public hearings required for Administrative Modifications

**Findings:** Findings for Variances are set forth in Hayward Municipal Code Section 10-1.3325:

- There are special circumstances applicable to the property including size, shape, topography, location, or surroundings, or other physical constraints.
- Strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity under the same zoning classification.
- The variance does not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.

**Cost:**

- Direct Cost with \$6,000 deposit for Variance;
- Direct Cost with \$2,000 deposit for Administrative Variance & Minor Modification

**SUBDIVISION MAP APPLICATION**

A subdivision map application is required in order to subdivide a property into multiple parcels, to create condominiums, to convert existing rental units into condominium units, or to convert a dwelling to a stock cooperative. Tentative tract maps are required for all subdivisions that result in creating five or more parcels or condominiums. Subdivisions resulting in four or fewer parcels require a tentative parcel map.

Tentative tract maps are acted upon by the Planning Commission. Tentative parcel maps may be approved administratively by the Planning Director. The process takes approximately three to four months after an application is deemed complete.

**Time Frame:** 9-15 months for Tentative Tract Map; 6-9 months for Tentative Parcel Map

**Hearings:** Two public hearings for Tentative Tract Map with five or more parcels with Planning Commission for Tentative Map approval and City Council for Final Map approval. Tentative and Final Parcel Map for four or fewer parcels can be processed administratively.

**Findings:** Findings for Maps are set forth in Hayward Municipal Code Section 10-1.3150:

- The proposed subdivision is not in conflict with the General Plan and applicable specific plans and neighborhood plans;
- The proposed subdivision meets the requirements of the City Zoning Ordinance;
- No approval of variances or other exceptions are required for the approval of the subdivision.

**Cost:**

- Direct Cost with \$6,000 deposit for Tentative Tract Map and Direct Cost with \$4,000 deposit for Tentative Parcel Map
- Direct Cost with \$15,000 for Final Tract Map and Direct Cost with \$5,000 for Final Parcel Map.

### **SITE PLAN REVIEW & MAJOR SITE PLAN REVIEW**

**Site Plan Review** is required for new development or substantial alterations to existing development in most residential districts. Typically, the Planning Director may waive Site Plan Review for alterations to existing development if it is fully consistent with the applicable Zoning standards and is consistent with surrounding development. However, most new developments undergo Site Plan Review to ensure compliance with on-site and surrounding structures and uses, physical and environmental constraints, and environmental considerations. Site Plan Review is processed administratively, meaning that it is approved at the level of the Planning Director unless the project is appealed to the Planning Commission or City Council, or unless the Planning Director refers the project to a higher reviewing authority. Site Plan Review processing typically takes three months to over a year to process depending on the complexity of the project and whether it requires compliance with CEQA.

**Time Frame:** 6-9 months for Site Plan Review

**Hearings:** None

**Findings:** Findings for Site Plan Review are set forth in Hayward Municipal Code Section 10-1.3025:

- The development is compatible with on-site and surrounding structures and uses and is an attractive addition to the City;
- The development takes into consideration physical and environmental constraints;
- The development complies with the intent of City development policies and regulations;
- The development will be operated in a manner determined to be acceptable and compatible with surrounding development;

**Cost:** Direct Cost with \$2,000 deposit

**Major Site Plan Review (MSPR)** is required for certain projects that would like to exceed density, height or other development standard in the Downtown Specific Plan and in the Mission Boulevard Code areas. In the Downtown Specific Plan area, projects on sites over three acres, involving an addition over 30 percent of existing floor area or 5,000 square feet or other unusual circumstances must undergo Major Site Plan Review (HMC Section 10-28.5.3.030). In the Mission Boulevard Code,

sites over two acres or more than 600 feet of lineal frontage must undergo Major Site Plan Review (HMC Section 10-24.4.2.020). Major Site Plan Review requires Planning Commission approval, and typically takes six months to over a year depending on the complexity of the project and whether it requires compliance with CEQA. The City has only received one MSRP application since 2019 for a development in the Mission Boulevard Code area because most sites being developed in Downtown Hayward and along Mission Boulevard Code area are smaller than the minimum acreages subject to MSRP. The MSRP process is for larger sites or those that would like to have increased density or deviate from height or other development standards, which can also be achieved through the Density Bonus process. See Section 3.3.8: Design Guidelines, below for information about the design standards for site plans.

**Time Frame:** 6-12 months for Major Site Plan Review

**Hearings:** One public hearing with the Planning Commission.

**Findings:** Findings for Major Site Plan Review are set forth in Hayward Municipal Code Section 10-1.3081:

- The proposed development is consistent with the General Plan, Zoning Ordinance, Design Guidelines, and any other applicable plan or program; and
- The proposed development is consistent with the purpose, intent, and standards of the applicable zoning district and General Plan or Specific Plan designation and applicable design guidelines; and
- The subject site is physically suitable for the type and intensity of the land use and development being proposed; and
- The proposed development will be compatible with the planned land use character of the surrounding area and make a positive impact to the site and surrounding area; and
- The proposed development will not have a substantial adverse effect on surrounding development and land uses.

**Cost:** Direct Cost with \$6,000 deposit

## **PLANNED DEVELOPMENT REZONING AND PRECISE DEVELOPMENT PLAN**

Applicants typically submit Zone Changes to Planned Development (PD) District for projects that do not meet the underlying development standards. The most common Zone Change to PD District application involves requesting smaller lots, reduced setbacks, and reduced parking standards from the underlying Zoning District standards. However, density must be compliant with the General Plan land use designation. If the density is not compliant, then the applicant must also submit an application for a General Plan Amendment. A PD also requires approval of a Precise Development Plan, an administrative review process to review detailed plans or modifications not included in the initial PD review.

Typically, PDs are processed for small lot single family developments, townhomes and condominiums and therefore require approval of a Tentative Map. Zone Changes require a public hearing and recommendation by the Planning Commission and are ultimately approved or denied by the City Council. The PD and related approvals process typically takes one to two years, depending on the complexity of the entitlement. Since PD Districts involve a Zone Change, they are always accompanied by an Initial Study Checklist since CEQA Exemptions do not apply to projects that are inconsistent with the Zoning Ordinance. If the Zone Change to PD District is approved, an applicant is required to submit a Precise Development Plan, which includes more detailed

architectural plans, landscape plans, and draft improvement plans. The Precise Development Plan is reviewed and approved by City staff and takes less than one month to process. The Precise Development Plan may be submitted concurrently with Final Map, Improvement Plan and Building Permit applications.

Prior to 2020, the City would receive several applications for Zone Change to PD District per year. Since 2020, the City has received and processed three applications for a Zone Change to Planned Development District. The City is receiving fewer PD District applications because developers are opting to submit Density Bonus applications to take advantage of concessions and waivers which allow for deviation from the Code. The City anticipates that there will be even fewer applications for Zone Change to PD District with the adoption of the Objective Design and Development Standards to allow for small lot single family development, missing middle housing types and other flexible standards provided that the project meets objective criteria (Program H-16, Action 16.5).

**Time Frame:** 12 to 18 months for PD Rezone process & one month for Precise Plan approval

**Hearings:** Two public hearings – one with Planning Commission and one with City Council

**Findings:** Findings for Planned Development District are set forth in Hayward Municipal Code Section 10-1.2535:

- The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies.
- Streets and utilities, existing or proposed, are adequate to serve the development.
- In the case of a residential development, that the development creates a residential environment of sustained desirability and stability, that sites proposed for public facilities, such as playgrounds and parks, are adequate to serve the anticipated population and are acceptable to the public authorities having jurisdiction thereon, and the development will have no substantial adverse effect upon surrounding development.
- In the case of nonresidential uses, that such development will be in conformity with applicable performance standards, will be appropriate in size, location, and overall planning for the purpose intended, will create an environment of sustained desirability and stability through the design and development standards, and will have no substantial adverse effect upon surrounding development.
- In the case of a development in increments, each increment provides a sufficient proportion of total planned common open space, facilities, and services so that it may be self-contained in the event of default or failure to complete the total development according to schedule.
- Any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards.

**Cost:** Direct Cost with \$12,000 deposit for PD Rezone and Direct Cost with \$2,000 deposit for Precise Plan

#### **USE PERMIT - ADMINISTRATIVE/CONDITIONAL**

Administrative Use Permits (AUPs) and Conditional Use Permits (CUPs) are required for the use of land or land development when required by the Zoning Ordinance, typically for projects that have potential for nuisance or impacts on the surrounding neighborhood. An AUP is processed administratively and conditionally approved by the Planning Director unless appealed or referred to a higher approving authority. An AUP typically takes three to six months to process depending on

complexity and level of environmental review. A CUP is considered by the Planning Commission after a public hearing and may be appealed to the City Council. A CUP typically takes five to six months to process, depending on complexity and level of environmental review.

**Time Frame:** Three to six months for an AUP, and five to six months for a CUP

**Hearings:** AUPs are processed administratively, and CUPs require one public hearing with the Planning Commission.

**Findings:** Findings for AUPs and CUPs are the same and are set forth in Hayward Municipal Code Sections 10-1.3125 and 10-1.3225, respectively:

- The proposed use is desirable for the public convenience or welfare;
- The proposed use will not impair the character and integrity of the zoning district and surrounding area;
- The proposed use will not be detrimental to the public health, safety, or general welfare; and
- The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved.

**Cost:** Direct Cost with \$2,000 deposit for AUPs and Direct Cost with \$6,000 deposit for CUPs.

### ***Ministerial Review***

Ministerial projects are exempt from the requirements of CEQA. The determination of what is “ministerial” can most appropriately be made by the particular public agency involved based upon its analysis of its own laws, and each public agency should make such determination either as a part of its implementing regulations or on a case-by-case basis. In the absence of any discretionary provision contained in the local ordinance or other law establishing the requirements for the permit, license, or other entitlement for use, the following actions shall be presumed to be ministerial:

- Issuance of building permits
- Issuance of business licenses
- Approval of SB 35 applications
- Approval of SB 9 applications
- Approval of individual utility service connections and disconnections<sup>31</sup>

### **ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS**

The ADU and JADU review process is a one-step review process in that the applicant submits an application form, ADU/JADU Checklist to demonstrate conformance with state law and architectural and structural plans. The City developed a Frequently Asked Questions and Checklist for ADUs and JADUs for single family and multi-family properties, which are posted on the City’s website. Planning and Building review in one application and process. In 2020, it took an average of four and one half months to process J/ADUs from building permit submittal to permit issuance.

### **CALIFORNIA HOME (HOUSING OPPORTUNITY AND MORE EFFICIENCY) ACT (SB 9)**

On September 16, 2021, the State of California adopted Senate Bill 9 which aims to streamline housing permitting and increase density to create more inclusive and vibrant neighborhoods across the State. On January 1, 2022, all local agencies must ministerially approve two residential units on a

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<sup>31</sup> Government Code § 15268. Ministerial Projects

parcel within a single-unit residential zone if the development meets specific objective criteria. The bill also requires ministerial review for subdividing one lot into two lots within a single-unit residential zone and permitting up to two units on each parcel (four total dwelling units on what was formerly a single-unit lot) if the development complies with specific objective criteria. The City developed a Frequently Asked Questions and Checklist for SB 9 applications which are posted on the City's website. To date, the City has received ~~one~~ three SB 9 applications and expects to approve one in December 2022.

### **SENATE BILL 330**

The Housing Crisis Act of 2019 (SB 330) aims to expedite and increase certainty in the development process with changes to the Housing Accountability Act and Permit Streamlining Act. Hayward makes streamlined permit processing available to all new housing development projects which require discretionary or ministerial review. The expedited process is intended to encourage development of housing projects by vesting codes, policies, and fees for the project at the time a completed application is submitted to the City. Projects are subject to a maximum of five public hearings when a project is consistent with objective standards in place at the time an application is deemed complete. The City has created an SB 330 application checklist and procedures to assist applicants.

### **SB 35 (2017), STREAMLINED APPROVAL PROCESS**

Pursuant to Government Code Section 65913.4, jurisdictions that have not met their allocated Regional Housing Needs Allocation (RHNA) numbers are required to streamline certain proposed developments that include affordable units. As of June of 2019, Hayward had insufficient progress towards its Above Moderate Income RHNA and therefore, under SB 35, is required to approve proposed developments with at least 10 percent affordable units with a ministerial permit.<sup>32</sup> The City created an SB 35 application checklist and procedures to make the process clear to potential applicants. City staff works with applicants to identify good candidate projects that can be processed as an SB 35 and has directed applicants to convert standard planning applications to SB 35 applications if possible. To date, the City of Hayward has processed or is in the middle of processing six SB 35 projects:

- **Mission Terraces (with Density Bonus).** Approved in 2019. 110 unit multi-family development affordable to very low- and low-income senior households.
- **2595 Depot Road (with Density Bonus):** Approved in 2020. 125 unit multi-family development affordable to extremely low-, very low-, and low-income households and includes wraparound supportive services.
- **Pimental Place:** Approved in 2021. 57 unit multi-family development affordable to very low- and low-income households.
- **603 A Street (with Density Bonus):** Approved in June 2022. 80 unit multi-family development affordable to extremely low-, very low-, and low-income senior households.
- **Parcel Group 8 (with Density Bonus):** Approved in June 2022. 96 unit mixed-use development for very low-, low-, and moderate-income households.

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<sup>32</sup> SB 35 Statewide Determination Summary, [https://www.hcd.ca.gov/community-development/housing-element/docs/sb35\\_statewidedeterminationsummary.pdf](https://www.hcd.ca.gov/community-development/housing-element/docs/sb35_statewidedeterminationsummary.pdf)

- **Tiny Home Village at South Hayward Parish (with Density Bonus):** Currently processing. 10 unit supportive housing development with wraparound services for extremely low-income households.

### *Building Permit Applications*

Take-in permit applications are for projects that require drawings (also referred to as plans, blueprints, or construction documents). Since these projects are of a more complex nature and require review of various code items such as structural, energy code, plumbing, mechanical, and electrical work, Building Division staff need to review the drawings to determine compliance. After the initial review of the plans, the Plan Reviewer will send a formal correction list to the applicant. The applicant must respond and make the required corrections and resubmit the drawings to the City. Once the Plan Review is approved and applicable fees are paid, the applicant can then pick up their issued permit and begin construction. During the construction process, inspections are required to ensure compliance with applicable codes and the approved building permit plans. The approved set of drawings must be made available on the construction site as a reference for the inspector.

This process typically takes approximately six months depending on the quality of the plans and the size of the project. Examples of common Take-in Permits include home additions, commercial tenant improvements, new buildings, and structural modifications to existing buildings. Total processing times vary by project, but the general timeframes by type of permit are shown on Figure D-3.

Figure D-3 Development Process and Approval Timelines



## Processing Timeframes

Certainty and consistency in permit processing procedures and reasonable processing times is important to ensure that the development review/approval process does not discourage developers of housing or add excessive costs (including carrying costs on property) that would make the project economically infeasible. The City is committed to maintaining comparatively short processing times.

Entitlements for the Planning permit types listed above are granted for three-year terms during which the developer must submit a grading permit, improvement plans or building permit to exercise the entitlement. If the developer cannot submit one of those subsequent permits, all entitlements are permitted administrative “extensions” which grant an additional one to three years to the entitlement. In order to request an “extension,” the developer must submit a written request and a \$2,000 deposit a minimum of two months before the entitlement is set to expire. Occasionally, the State will allow for automatic extensions for various approvals. For example, during the 2008 recession, tentative map approvals were extended several years through the Subdivision Map Act; and, during the Covid-19 crisis, 18-month automatic extensions were granted for all “housing entitlements” in effect before March 4, 2020 and set to expire before December 31, 2021 (pursuant to Assembly Bill 1561).

Hayward has a “one stop” permit processing center where an applicant can obtain information and feedback on plans from planners, plan checkers, fire prevention staff, and engineers at a Permit Center which is open to the public Monday through Thursday from 9 am to 1 pm and by appointment Monday through Friday from 8 am to 5 pm. Handouts that describe requirements, time sequence, and checklists for all phases and types of development are available at the Permit Center and on the City’s website.

Table D-23 summarizes the processes and procedures for various permits and provides a detailed summary of the planning review processing procedures and timelines of various types of projects in the city. Table D-24 summarizes the development review processing time.

**Table D-23 Planning Review and Processing Times, 2021**

Project Type	Permits Required	Reviewing Body	Public Hearing Required	Appeal Body	Estimated Total Processing Time*
Single Family	Building Permit or Site Plan Review for new development	Staff or Planning Director	Not Required	Planning Director or Planning Commission	3-5 months
Single Family (Hillside)	Site Plan Review	Planning Director	Not Required	Planning Commission	4-6 months
Multi-family	Site Plan Review	Planning Director	Not Required	Planning Commission	4-6 months
Multi-family (with Subdivision)	Site Plan Review/Tentative Tract Map	Planning Commission	Required	City Council	6-9 months
Mixed Use	Site Plan Review	Planning Director	Not required	Planning Commission	4-6 months

\* If a project is determined to be subject to CEQA, an additional six to nine months should be added to the process depending on the level of CEQA review required.

**Table D-24 Development Review, 2021**

Application/Action	Timeframe
Building Permit Application submittal to first punch list provided to developer	15 working days
Re-submittal of application for corrections to items on first punch list	10 working days
Plans for model homes in subdivision	10 working days

### Transparency in the Development Review Process

To increase transparency in the development process, the City’s website publishes resources that help developers and homeowners navigate the residential development and home improvement processes. Specifically, the Planning and Development Department webpage (<https://www.hayward-ca.gov/your-government/departments/planning-division>) provides an overview of the development review process via links to permits and services. The Municipal Code, plan review procedures, forms and handouts, Frequently Asked Questions, Checklists, and other documents are available online. The City also provides contact information for scheduling review appointments with Planning Division staff. As described in the beginning of this section, the City also offers Conceptual Development Review meetings and a preliminary application process that help increase transparency in the development review process. The City provides a GIS website interface for users to obtain parcel-specific information such as lot size, maximum lot coverage, development setbacks, zoning, Comprehensive Plan land use designation, and flood zone, among other data. Therefore, the City’s Planning Division website complies with the new transparency requirements in AB 1483 / California Government Code Section 65940.1(a)(1).

### 1.3.8 Design Guidelines

The Hayward Design Guidelines seek to identify elements of good design which will enhance the appearance of the city and make it more livable. The Design Guidelines are flexible in order to respond to the unique set of circumstances of each site and type of development and to balance the many elements which go into a design. However, a project or a request for a building permit may be disapproved for failure to meet the City's land use policies. As described in the discussion of Affordable Housing Incentives in this document, the City offers technical and financial assistance to residential development project applicants. This assistance includes providing information regarding design guidelines, which helps to remove or reduce constraints to the development of affordable housing. The City’s Design Guidelines provide guidance for single-family detached, medium density attached and infill multi-family development. The subjective nature of the guidelines is considered a constraint to the development of housing.

### Design Guidelines Update

In 2019, Hayward was awarded a SB 2 Planning Grant by HCD for various housing related activities. A portion of these grant funds are earmarked for the development of detailed objective residential standards. The grant funds for this project will also cover zoning amendments to ensure General Plan and Zoning Ordinance consistency for parcels that are zoned for single family uses but have underlying General Plan designations that allow higher densities. This project will address concerns previously expressed by the Council, Planning Commission, and the community regarding a desire for more detailed standards related to architectural design and neighborhood context. This project will give the community, developers, staff, and decision makers more certainty about what future development will look like in conjunction with State mandated streamlined processes. Ultimately,

this project will align Hayward’s goals and expectations for future development with the State’s goal to address the housing crisis. The project formally kicked off in February 2022 and is expected to be completed by summer 2023 (see Action 20.7, in Section 6, *Housing Plan*).

### 1.3.9 Housing for Special Needs Populations

#### **Definition of Family**

Local jurisdictions may restrict access to housing for households that do not meet the jurisdiction’s definition for “family.” A restrictive definition of “family” that limits the number of individuals living together may illegally limit the development and siting of group homes for persons with disabilities, but not for housing families that are similarly sized or situated. The City of Hayward’s Zoning Code defines family as “one or more persons living together as a single housekeeping unit, as distinguished from a group living in a boarding house, hotel, motel, or group or institutional living quarters such as a group home, day care home, or convalescent home.” This definition is not overly restrictive and is not considered a constraint to housing.

#### **Affirmatively Furthering Fair Housing (AFFH)**

Assembly Bill (AB) 686 requires that all housing elements due on or after January 1, 2021, must contain an Assessment of Fair Housing consistent with the federal Affirmatively Furthering Fair Housing (AFFH) Final Rule of July 16, 2015. Under state law, AFFH means “taking meaningful actions, in addition to combatting discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.” A detailed analysis of the fair housing issues related to special needs populations is included in Appendix C, and Section 6, *Housing Plan*, contains programs to facilitate housing for special needs populations.

#### **Reasonable Accommodation Procedures**

The federal Fair Housing Act and the California Fair Employment and Housing Act require that cities and counties provide reasonable accommodation where such accommodation may be necessary to afford individuals with disabilities equal housing opportunities. Cities and counties must also consider requests for accommodations related to housing for people with disabilities and provide the accommodation when it is determined to be “reasonable” based on fair housing laws and the case law interpreting the statutes.

Reasonable accommodation is one of the tools intended to further housing opportunities for people with disabilities. These accommodations require that local jurisdictions make modifications or exceptions in their zoning laws and other land-use regulations when accommodations are necessary to afford individuals with disabilities an equal opportunity to use and enjoy a dwelling. For example, it may be a reasonable accommodation to waive a setback requirement so that a paved path of travel can be provided to residents with mobility impairments.

Reasonable accommodation enables developers and providers of housing for people with disabilities a means of requesting from the local government flexibility in the application of land use and zoning regulations or, in some instances, even a waiver of certain restrictions or requirements because it is necessary to achieve equal access to housing.

HMC Section 10-1.145 outlines Reasonable Accommodations Procedures A request for a reasonable accommodation shall be reviewed by the Director of Development Services or his/her designee and

they shall make a written determination (to either grant, grant with modifications, or deny the request) within 45 days of the application being deemed complete. A request for a reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the Planning Commission and the written determination shall be made by the Planning Commission in compliance with the applicable review procedure for the discretionary review. The written decision to grant or deny a request shall be based on the following findings:

- Whether the housing in the request will be used by a person with a disability under the Acts;
- Whether the request for reasonable accommodation is necessary to make specific housing available to a person with a disability under the Acts;
- Whether the requested reasonable accommodation would impose an undue financial administrative or enforcement burden on the City;
- Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a City program or law, including but not limited to, land use and zoning;
- Potential impact on surrounding uses;
- Physical attributes of the property and structures; and,
- Other reasonable accommodations that may provide an equivalent level of benefit.

The Director or Planning Commission may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings. The applicant may appeal (for a fee) the Director's decision to the Planning Commission within 15 days after written notice of the decision, or the Planning Commission's decision to the City Council within 10 days. A public hearing is held after an appeal is filed and the decision body may make any order it deems just and equitable. To ensure consistency and clarity in the Reasonable Accommodation review process, the City added Program H-19, Action 19.14 requiring that the City the Reasonable Accommodations Ordinance and revise findings to be based on objective standards rather than impacts on surrounding uses by January 2025.

## **California Building Code**

The Building Division actively enforces the California Building Code provisions that regulate the access and adaptability of buildings to accommodate persons with disabilities. Government Code Section 12955.1 requires that 10 percent of the total dwelling units in multi-family buildings without elevators and that consist of three or more rental units or four or more condominium units be subject to the following building standards:

- The primary entry to the dwelling unit shall be on an accessible route unless exempted by site impracticality tests;
- A least one bathroom shall be located on the primary entry level served by an accessible route;
- All rooms or spaces located on the primary entry level shall be served by an accessible route;
- Rooms and spaces located on the primary entry level and subject to this chapter may include but are not limited to kitchens, bathrooms, living rooms, bedrooms, or hallways;
- Common use areas shall be accessible; and,
- If common tenant parking is provided, accessible parking spaces are required.

No unique restrictions are in place that would constrain the development of housing for persons with disabilities. Compliance with provisions of the Code of Regulations, including the California

Building Standards Code, is reviewed and enforced by the Building Division of the Community Development Department as a part of the building permit submittal.

### 1.3.10 State Tax Policies and Regulations

#### **Proposition 13**

Proposition 13 was a 1978 voter initiative that limits increases in property taxes except when there is a transfer of ownership. It has constrained local governments' primary source of funding for infrastructure improvement and maintenance and other local government operations.<sup>33</sup>

Development fees now make up the difference, which, as described above, increases the overall cost of developing housing.

#### **Article 34**

Article 34 of the state constitution requires that low-rent housing projects developed, constructed, or acquired in any manner by a public agency must first be approved by a majority of the voters. Requiring such approval can act as a barrier to the development of affordable housing due to the uncertainty and delay caused by the process. Alameda County has Article 34 authority for projects funded by Measure A1, the County's 2016 housing bond.

## 1.4 Environmental Constraints

The San Francisco Bay (Bay), Hayward Regional Shoreline, Eden Landing Ecological Reserve, and Don Edwards National Wildlife Refuge are located western portion of the city. The East Bay hills, specifically the Garin Regional Park, is located adjacent and to the east. Other urbanized cities surround Hayward to the north and south.

A community's environmental setting affects the feasibility and cost of developing housing. Environmental issues range from the availability of water to the suitability of land for development due to potential exposure to seismic, flooding, wildfire, and other hazards. If not properly recognized and accommodated in residential design, these environmental features could potentially endanger lives and property.

As noted in the Resources section, there are no known environmental constraints on the sites identified in the Sites Inventory that would preclude development. Each project will undergo a site-specific environmental clearance process to ensure that it is built safely and in conformance with the appropriate and applicable building codes.

### 1.4.1 Federal and State Environmental Protection Regulations

Federal and state regulations require an environmental review of proposed discretionary projects that do not fall within specified exemptions outlined in CEQA Statute and Guidelines (e.g., subdivision maps, development of large sites, use permits, etc.). Costs result from fees charged by local government agencies and private consultants to complete the environmental analysis add to the cost of building new housing which is passed on to the consumer. However, these regulations help preserve the environment and ensure environmental quality for Hayward residents.

<sup>33</sup> Residential Impact Fees in California, UC Berkeley Turner Center for Housing Innovation. August 7, 2019. Accessed May 23, 2022. <https://turnercenter.berkeley.edu/blog/residential-impact-fees/>

Regional plans and programs related to public safety included the State Seismic Hazards Mapping Act, CEQA Statute and Guidelines, California Noise Insulation Standards (Title 24), and the Federal Emergency Management Agency (FEMA) Flood Insurance Program. Pursuant to CEQA, nearly all residential development that requires a discretionary action also requires environmental review concurrent with the approval process. The preparation, review, and certification of CEQA documents add time to the development process.

Pursuant to State law, the City developed and adopted the Hayward Local Hazard Mitigation Plan (LHMP) in 2016. This plan addresses hazard vulnerabilities from natural and human-caused hazards, including flooding, drought, wildfire, landslides, severe weather, terrorism, cyber threats, pandemic, and the impact of climate change on hazards, as well as other hazards. While mitigation measures identified in the LHMP are necessary in to reduce the level of injury, property damage, and community disruption that might otherwise result from such events, requirements may be a constraint to housing development. For example, building safety requirements or increased buffers in fire or landslide zones may increase costs of development and limit available land.

## 1.4.2 Geologic and Seismic Hazards

### **Earthquake**

Hayward is exposed to ground shaking, liquefaction, surface rupture, and landslides from seismic activity along the Hayward Fault, San Andreas Fault, San Gregorio Fault, and other Bay Area faults. The hills are susceptible to earthquake-induced landslides, while the flatlands are at risk of liquefaction. Tsunami and fire following an earthquake also threaten the city. A major earthquake along the Hayward Fault, predicted to have a greater than 70 percent probability of occurrence in the next 30 years, would be particularly catastrophic.<sup>34</sup>

Approximately 50 percent of Hayward is included in Seismic Hazard Zones for liquefaction as designated by the State Department of Conservation Earthquake Zones of Required Investigation--Hayward Quadrangle map.<sup>35</sup> Hayward implements regulations and programs to minimize the risk of geologic and seismic hazards. These regulations and programs include, among others, the City Building Code and building permit process, the City Grading and Clearing Permit process, the Multi-Jurisdictional Local Hazard Mitigation Plan with City of Hayward Annex document, Hayward's Comprehensive Emergency Management Plan, and the Community Emergency Response Team program.<sup>36</sup> The minimum setback for construction near the Hayward fault is 50 feet. The cost to prepare geologic studies and investigations increases the cost of housing development.

Five of the vacant or underutilized sites identified as appropriate for above moderate-income development are located in the Alquist Priolo Fault Zone. Additional inventory sites are located in the Seismic Liquefaction zone and in close proximity to the Dam Inundation Failure zones. This may add extra costs to the development of housing in these areas. However, other communities in the Bay Area and California have similar constraints and requirements. Therefore, geologic and seismic hazards are not a significant constraint to the maintenance, improvement, and development of housing.

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<sup>34</sup> City of Hayward Local Hazard Mitigation Plan, 2016. Available: <https://www.hayward-ca.gov/sites/default/files/pdf/2016%20City%20of%20Hayward%20Local%20Hazard%20Mitigation%20Plan.pdf>

<sup>35</sup>City of Hayward 2040 General Plan Update, Environmental Impact Report. 2013. Available: [https://www.hayward-ca.gov/sites/default/files/documents/Hayward%20GPU%20Public%20Release%20Draft%20EIR\\_1-30-14.pdf](https://www.hayward-ca.gov/sites/default/files/documents/Hayward%20GPU%20Public%20Release%20Draft%20EIR_1-30-14.pdf)

<sup>36</sup>City of Hayward 2040 General Plan Update, Environmental Impact Report. 2013. Available: [https://www.hayward-ca.gov/sites/default/files/documents/Hayward%20GPU%20Public%20Release%20Draft%20EIR\\_1-30-14.pdf](https://www.hayward-ca.gov/sites/default/files/documents/Hayward%20GPU%20Public%20Release%20Draft%20EIR_1-30-14.pdf)

## Landslides and Erosion

Rain-induced and earthquake-induced landslides may occur on Hayward's hillsides. Extreme wet-dry cycles expected as a result of climate change may exacerbate the risk of these landslides.<sup>37</sup> The hilly, eastern portion of Hayward contains approximately 15 percent officially designated Landslide Zones, in the State Department of Conservation Earthquake Zones of Required Investigation--Hayward Quadrangle map.<sup>38</sup>

### 1.4.3 Wildfire

While there are no fire hazard severity zones (FHSZs) in city limits, the eastern edges of Hayward are adjacent to Very High and High Fire Hazard Severity Zones.<sup>39</sup> Dry grassland adjacent to residential properties and the seasonal Diablo winds can result in large, rapidly spreading fires that cause widespread damage to hillside properties.<sup>40</sup> Compliance with the City's Urban Wildland Fire Interface Design Guidelines<sup>41</sup> minimize fire risk in hillside areas adjacent to FHSZs.

### 1.4.4 Flood, Tsunami, and Sea Level Rise Related Hazards

Hayward's shoreline, while protected by extensive wetlands, is at risk of inundation from tsunamis, rare floods, and rising sea levels. Infrastructure along the shoreline will be more frequently, and eventually permanently, inundated as the sea level rises. According to the Shoreline Adaptation Master Plan, industrial areas at the northern part of the City may be episodically or fully inundated under certain scenarios which will impact infrastructure.<sup>42</sup>

Hayward is subject to flooding during major storm events and periods of high tide. Flood zones are generally located along the coastal baylands and along major creeks and drainages that cross Hayward. While some residential properties near the baylands and creeks are subject to flooding, the majority of Hayward's residential land is not currently (December 2012) located within a flood zone. If located in a flood plain, appropriate mitigation measures must be implemented so that the site meets applicable FEMA standards before the development can be constructed. Zone X applies to 500-year flood areas, 100-year flood areas with average depths of less than one foot or with drainage areas less than one square mile, and 100-year areas protected by levees. Zone A applies to 100-year flood areas that have no base flood elevations determined. The base flood elevation is the water-surface elevation of the one percent annual chance flood. However, no development standards are associated with these flood zones.<sup>43</sup> Local standards for review of building in flood-

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<sup>37</sup>City of Hayward Local Hazard Mitigation Plan, 2016. Available: <https://www.hayward-ca.gov/sites/default/files/pdf/2016%20City%20of%20Hayward%20Local%20Hazard%20Mitigation%20Plan.pdf>

<sup>38</sup> City of Hayward 2040 General Plan Update, Environmental Impact Report. 2013. Available: [https://www.hayward-ca.gov/sites/default/files/documents/Hayward%20GPU%20Public%20Release%20Draft%20EIR\\_1-30-14.pdf](https://www.hayward-ca.gov/sites/default/files/documents/Hayward%20GPU%20Public%20Release%20Draft%20EIR_1-30-14.pdf)

<sup>39</sup> CalFire Fire Hazard Severity Zone Viewer. <https://osfm.fire.ca.gov/divisions/community-wildfire-preparedness-and-mitigation/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/> CalFire Fire Hazard Severity Zone Viewer. <https://osfm.fire.ca.gov/divisions/community-wildfire-preparedness-and-mitigation/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/>

<sup>40</sup> City of Hayward Local Hazard Mitigation Plan, 2016. Available: <https://www.hayward-ca.gov/sites/default/files/pdf/2016%20City%20of%20Hayward%20Local%20Hazard%20Mitigation%20Plan.pdf>

<sup>41</sup> City of Hayward Hillside Design and Urban/Wildland Interface Guidelines, City of Hayward, 1993. <https://www.hayward-ca.gov/sites/default/files/COH%20Hillside%20Design%20Urban-Wildland%20Interface%20Guidelines.pdf>

<sup>42</sup> Shoreline Adaptation Master Plan, City of Hayward, 2022. <https://www.hayward-ca.gov/shoreline-master-plan> <https://www.hayward-ca.gov/shoreline-master-plan>

<sup>43</sup> City of Hayward Housing Element. 2014. Available: <https://www.hayward-ca.gov/sites/default/files/Housing%20Element%20FINAL%20Adopted.pdf> <https://www.hayward-ca.gov/sites/default/files/Housing%20Element%20FINAL%20Adopted.pdf>

prone areas include Article 2, Building Along Watercourses, and Article 4 of the Hayward Municipal Code, Flood Plain Management.

### 1.4.5 Excessive Noise

Residential uses are considered sensitive land uses and new development must be constructed such that it meet interior noise standards in the City’s General Plan. The City’s Noise Regulations can be found in Article 1 of the Hayward Municipal Code, Public Nuisances.

Roadway traffic is the most significant source of noise affecting sensitive land uses in Hayward. Freeways and major arterial roadways are the most significant sources of traffic noise. In addition to traffic noise on local roadways, freight and passenger trains operating along three north-south rail lines contribute to community noise levels.<sup>44</sup>

Construction related noise is regulated in Hayward through various General Plan policies as well as Section 4-1.03.4 of the Municipal Code (Construction and Alteration of Structures; Landscaping Activities).

Policy HAZ-8.20 establishes that a site-specific noise study may be required by the City for discretionary projects requiring land use entitlements, which may have the effect of delaying development and increasing cost. In addition, Policy HAZ-8.21 establishes limits on construction noise generating activities to the less sensitive times of the day, when people are less likely to be disturbed.

Municipal Code Section 4-1.03.4 states that individual devices/pieces of construction equipment are not to exceed 83 dB at a distance of 25 feet from the source and 86 dB at any point of the property plane Monday through Saturday from 7:00 AM to 7:00 PM and Sundays from 10:00 AM to 6:00 PM, “unless otherwise provided pursuant to a duly-issued permit or a condition of approval.”

While these requirements may delay housing development, they are not considered a significant constraint to housing development.

### 1.4.6 Hazardous Materials

Hayward has approximately 3,200 acres along the western edges of the City devoted to industrial uses. This manufacturing, warehousing, and research and development sector provides a significant number of regional jobs and it is a source of hazardous materials. Hazardous materials have the potential to become a crucial complicating factor in emergency situations. The effects of flooding, earthquakes, and fires can all cause or be exacerbated by hazardous materials release.<sup>45</sup>

The Hayward Fire Department established the Hazardous Materials Office in 1984. The Fire Department is a Certified Unified Program Agency (CUPA and administers the City’s Unified Hazardous Materials and Hazardous Waste Management Program (CUPA Program).<sup>46</sup>

The Hazardous Materials Coordinator in the Fire Prevention Office oversees hazardous materials compliance and maintains information regarding the hazardous materials sites throughout

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<sup>44</sup> Hayward 2040 General Plan Background Report, City of Hayward, 2014. <https://www.hayward-ca.gov/your-government/documents/planning-documentshttps://www.hayward-ca.gov/your-government/documents/planning-documents>

<sup>45</sup> City of Hayward Local Hazard Mitigation Plan, 2016. Available: <https://www.hayward-ca.gov/sites/default/files/pdf/2016%20City%20of%20Hayward%20Local%20Hazard%20Mitigation%20Plan.pdfhttps://www.hayward-ca.gov/sites/default/files/pdf/2016%20City%20of%20Hayward%20Local%20Hazard%20Mitigation%20Plan.pdf>

<sup>46</sup> Draft Environmental Impact Report, City of Hayward 2040 General Plan, City of Hayward. <https://www.hayward-ca.gov/your-government/documents/planning-documentshttps://www.hayward-ca.gov/your-government/documents/planning-documents>

Hayward. The Hazardous Materials Area Plan lays out strategies for preparing for and responding to hazardous materials incidents.

The Office inspects and regulates all hazardous materials/waste use and storage facilities within the City. In addition, that Office enforces the Hazardous Materials Storage Ordinance for the City and is the designated Certified Unified Program Agency for the Hayward area. This Office also identifies contaminated sites and works with various agencies including the Alameda County Department of Environmental Health, California Regional Water Quality Board and the state Department of Toxic Substance Control to investigate, cleanup, and close these sites.<sup>47</sup>

The presence of hazardous materials in the soil and/or groundwater is another potential development constraint. Hazardous materials investigations are required prior to site development and remediation measures must be implemented where necessary. This will increase the cost of development and, more importantly, the length of time from acquisition to project completion. There are a number of ways to remediate hazardous materials but they are either expensive or take time. Since time is a critical component of development, the presence of hazardous materials on a site is a constraint to development.

Hayward is also exposed to hazardous materials releases in neighboring cities and the bay, as well as spills that may occur on Interstate 880 or Mission Boulevard. The location, dispersion, amount, and rate of a substance spilled, and the chemical characteristics of the substance determine the effects of a hazardous materials release. Generally, releases can have public health impacts ranging from no effect or mild chemical irritation to fatality, threaten life and property generally, and can have long long-lasting negative effects on the environment.

## Mining Sites

The US Geological Survey has identified eleven past, present, or prospective mining sites within the Planning Area, including sites owned or operated by the American Salt Company, the Oliver Salt Company, East Bay Excavation Company, Ideal Cement Company, and the La Vista Quarry and Mill. The State requires local jurisdictions to protect areas with economically significant mineral resources from incompatible development.

In an effort to maintain availability of sand, gravel, and crushed rock for long-term construction needs, the California Division of Mines and Geology (under the authority of the Surface Mining and Reclamation Act of 1975) has classified aggregate mineral zones throughout the state. Hayward has no designated mineral resource of regional significance.

## 1.5 Infrastructure Constraints

### 1.5.1 Sewage Collection and Disposal

Hayward owns and operates the wastewater collection and treatment system that serves almost all of the residential, commercial, and industrial users within the incorporated City limits, and limited portions of the adjacent unincorporated areas of Alameda County by contract. The City's wastewater collection system is comprised of about 350 miles of sewer mains, nine sewage lift

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<sup>47</sup> City of Hayward Housing Element. 2014. Available: <https://www.hayward-ca.gov/sites/default/files/Housing%20Element%20FINAL%20Adopted.pdf><https://www.hayward-ca.gov/sites/default/files/Housing%20Element%20FINAL%20Adopted.pdf>

stations, and 2.5 miles of force mains. The City has separate sewage and stormwater collection systems.<sup>48</sup>

The East Bay Dischargers Authority disposes of the treated wastewater. The Oro Loma Sanitary District (OLSD) provides services to a small area in the northern portion of the City, as well as the community of Fairview, which is part of the Hayward Planning Area.

The 2020 Urban Water Management Plan notes that the demand for wastewater collection and treatment demand in 2020 was 3,922 million gallons (MG), and the amount is assumed to increase by 2.2 percent per year.<sup>49</sup> As noted in the Resources section, wastewater planning documents are aligned with the City's General Plan land use assumptions and can accommodate the City's RHNA.

The City will provide a copy of the final Housing Element to the Oro Loma Sanitary District, within 30 days of adoption. The City will also continue to coordinate with this district to ensure priority service provision to affordable housing developments.

## 1.5.2 Water Service

Hayward provides water for residential, commercial, industrial, governmental, and fire suppression uses. The City owns and operates its own water distribution system and purchases all of its water from the San Francisco Public Utilities Commission (SFPUC). The water supplied to Hayward is predominantly from the Sierra Nevada, delivered through the Hetch Hetchy aqueducts, but also includes treated water produced by the SFPUC from its local watershed and facilities in Alameda County.

The Hayward water system serves about 147,000 residents in all areas within the City limits and a select number of properties outside the City limits through special approvals or utility service agreements. A very small portion of north Hayward, containing less than three percent of the City, is served by East Bay Municipal Utility District (EBMUD), which also serves the community of Fairview in the Planning Area.

The 2020 Urban Water Management Plan estimates that the annual water demand in 2025 will be 6,490 MG (million gallons). In 2035, the amount is expected to increase to 7,247 MG. Single-family customers are anticipated to require the greatest quantity of water (2,149 MG, or 33 percent of total demand in 2025); multi-family residential water demand is projected to remain steady (1,104 MG, or 17 percent).

The water system has enough supply to meet projected demand during a normal precipitation year, but not enough supply to meet projected demand during dry years. During a dry year, Hayward is expected to meet 64 percent of demand in 2025 and 2035. California is currently experiencing a historic drought which is defined as multiple consecutive dry years.<sup>50</sup> According to the State's drought monitoring site, reservoirs are currently at about 62% of average levels and snowpack levels are at historic lows with January, February and March 2022 listed as the driest in 100 years. The lack of water in reserve combined with ongoing drought conditions are a significant constraint on development. As noted in the Resources section, the potable water planning documents are aligned with the City's General Plan land use assumptions and can accommodate the City's RHNA.

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<sup>48</sup> City of Hayward 2020 Urban Water Management Plan, adopted July 20, 2021. Accessed May 23, 2022. <https://www.hayward-ca.gov/documents/urban-water-management-plan>

<sup>49</sup> Ibid.

<sup>50</sup> State of California Drought Action. Available: <https://drought.ca.gov/>

The City will comply with SB 1087 as described in the discussion on wastewater. Therefore, the City will provide a copy of the final Housing Element to the EBMUD, within 30 days of adoption.

### 1.5.3 Storm Drains

Stormwater management for Hayward was once regulated according to the Alameda Countywide National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permit. This County-based permit has been replaced with a new NPDES permit for the entire San Francisco Bay Area. The San Francisco Bay Region NPDES Municipal Regional Stormwater Permit was adopted in October 2009 and revised in November 2011.

Hayward has five pump stations that pump stormwater into stormwater collection systems and/or dry creeks immediately downstream, flowing into Mt. Eden and Old Alameda Creeks en route to San Francisco Bay.<sup>51</sup>

On-site drainage improvements, in addition to any minor modifications to the municipal storm drain system triggered by the projected future development, would be the responsibility of each individual housing developer. The developers are also responsible for incorporating stormwater source control and treatment measures into their project designs, as required by the National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit issued to Bay Area municipalities by the San Francisco Bay Regional Water Quality Control Board.

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<sup>51</sup> City of Hayward 2040 General Plan Update, Environmental Impact Report. 2013. Available: [https://www.hayward-ca.gov/sites/default/files/documents/Hayward%20GPU%20Public%20Release%20Draft%20EIR\\_1-30-14.pdf](https://www.hayward-ca.gov/sites/default/files/documents/Hayward%20GPU%20Public%20Release%20Draft%20EIR_1-30-14.pdf)

# Attachment 1

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# ~~City of Hayward 2023 Adopted Master Fee Schedule~~

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