

Department of Housing and
Community Development

ANNUAL HOUSING ELEMENT PROGRESS REPORT

Housing Policy Department
Received on:
APR - 2 2014

City or County Name: City of Martinez

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Martinez, CA 94553

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Reporting Period by Calendar Year: from Jan 1 2013 to Dec 31 2013

These forms and tables, (see sample – next page) must be submitted to HCD and the Governor's Office of Planning and Research (OPR) on or before April 1, of each year for the prior calendar year; submit separate reports directly to both HCD and OPR (Government Code Section 65400) at the addresses listed below:

Department of Housing and Community Development
Division of Housing Policy Development
P.O. Box 952053
Sacramento, CA 94252-2053

-and-

Governor's Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044



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ANNUAL ELEMENT PROGRESS REPORT *Housing Element Implementation* (CCR Title 25 §6202)

Jurisdiction: City of Martinez
Reporting Period: Jan 1, 2013 - Dec 31, 2013

**Table A2
Annual Building Activity Report Summary - Units Rehabilitated, Preserved and Acquired pursuant
to GC Section 65583.1(c)(1)**

Please note: Units may only be credited to the table below when a jurisdiction has included a program in its RHNA which meets the specific criteria as outlined in GC Section 65583.1(c)(1) units to accommodate a portion of its RHNA which meet the specific criteria as outlined in GC Section 65583.1(c)(1)

Activity Type	Affordability by Household Incomes				(4) The Description should adequately document how each unit complies with subsection (c)(7) of Government Code Section 65583.1
	Extremely Low-Income*	Very Low-Income	Low-Income	TOTAL UNITS	
(1) Rehabilitation Activity				0	
(2) Preservation of Units At-Risk				0	
(3) Acquisition of Units				0	
(5) Total Units by Income	0	0	0	0	

* Note: This field is voluntary

**Table A3
Annual building Activity Report Summary for Above Moderate-Income Units
(not including those units reported on Table A)**

	1. Single Family	2. 2 - 4 Units	3. 5+ Units	4. Second Unit	5. Mobile Homes	6. Total	7. Number of infill units*
No. of Units Permitted for Moderate						0	
No. of Units Permitted for Above Moderate	2			1		3	

* Note: This field is voluntary

ANNUAL ELEMENT PROGRESS REPORT
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Reporting Period Jan 1, 2013 - Dec 31, 2013

Table B

Regional Housing Needs Allocation Progress

Permitted Units Issued by Affordability

Income Level	Deed Restricted Non-deed restricted	RHNA Allocation by Income Level	Permitted Units Issued by Affordability										Total Remaining RHNA by Income Level			
			2007	2008	2009	2010	2011	2012	2013	2014	2015	Total Units to Date (all years)				
Very Low	Deed	261	0	0	0	0	0	0	0	0	0	0	0	0	48	213
	Non-deed restricted															
Low	Deed	166	0	0	0	0	0	0	0	0	0	0	0	0		166
	Non-deed restricted															
Moderate	Deed	179	3	0	0	0	0	0	0	0	0	0	0	0	3	176
	Non-deed restricted															
Above Moderate		454	30	19	3	0	0	1	5	4	4	4	4	62	392	
Total RHNA by COG. Enter allocation number:		1,060	33	19	3			1	5	52				113	947	
Total Units																
Remaining Need for RHNA Period																

Note: units serving extremely low-income households are included in the very low-income permitted units totals.

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Jurisdiction City of Martinez
Reporting Period: Jan 1, 2013 – Dec 31, 2013

Table C
Program Implementation Status

ANNOTATED EXCERPTS FROM HOUSING ELEMENT
ADOPTED JANUARY 19, 2011

GOAL 1: Housing Strengthens Our Thriving, Balanced, and Diverse Community

Implementing Programs

- 1. Review the Housing Element Annually.** As required by State law, the City will review the status of Housing Element programs by April of each year, beginning April 2011. The review would cover the status of implementing actions, accomplishments, and a review of housing sites identified in the Housing Element. In particular, the annual review will cover development assumptions and actual development activity on sites by assessing projected development potential compared to actual development approval and construction. This will also include residential units anticipated on mixed use zoned sites. The intent of the annual review is to maintain adequate sites during the Housing Element planning period.

Responsibility: Community and Economic Development Department; Planning Commission; City Council
Timing: Annual review
Funding: General Fund
Target: Review and monitoring of Housing Element implementation; submittal to HCD.

Annual Progress Report CY 2013: This program has been implemented on time and using existing City resources.

2. Coordinate with Housing Support Services Agencies. Support efforts of Countywide social service agencies in their attempts to provide housing for special need groups. The City will provide information and referrals to County agencies for those seeking health and human service assistance. Information on County programs will be made available at the City's public counter and links to County agencies will be provided on the City's website. This program will be coordinated with Housing Element Program 5.

Responsibility: Community and Economic Development Department

Timing: As part of the Housing Element annual review

Funding: General Fund; Outside Funding

Target: Obtain and distribute materials and summarize available programs (see Housing Element Program 5).

Annual Progress Report CY 2013: *This program has been implemented on time and using existing City resources. Links to County programs are available on the City's website and informational brochures are made available to the City's front counter. The completion of this goal has increased local awareness of, and access to, information on County programs*

3. Coordinate with State, Regional and Contra Costa County Agencies on Housing, Transportation and Climate Action Change. Continue to meet with other jurisdictions in Contra Costa County and support ABAG programs to develop a regional program for achieving a balance between housing and jobs. Update the Growth Management Element (consistent with Measure C [& J] and the Housing Element consistent with regional and State law requirements in a timely manner.

Responsibility: Community and Economic Development Department; City Manager; City Council

Timing: Participate in ongoing regional planning activities and update the Housing Element by 2014

Funding: General Fund

Target: Consistency with SB375, Measure C and other regional and State mandates

Annual Progress Report CY 2013: *This program has been implemented on time and using existing City resources. City completed the required Contra Costa Transportation Authority ("CCTA") "Growth Management Checklist" requirements for reporting years 2011 and 2012, submitting it to CCTA for approval in 2013. CCTA found the City in full compliance with the Growth Management Program of Measure J (successor to Measure C). City staff participated in the ABAG/MTC's "One Bay Area Plan" approval process in 2013, as per SB375 requirements.*

4. Publicize Fair Housing Laws and Respond to Discrimination Complaints. Promote fair housing opportunities for all people and support efforts of City, County, State and Federal agencies to eliminate discrimination in housing by continuing to publicize information on fair housing laws and State and Federal antidiscrimination laws. Discrimination complaints will be referred to the Contra Costa County Housing Division, the Contra Costa Housing Authority, or the California Department of Fair Employment and Housing, as appropriate. The City will educate selected staff in the Community and Economic Development, City Attorney, and City Manager departments on responding to complaints received regarding potential claims of housing discrimination. Information regarding the housing discrimination complaint referral process will be posted on the City's website and available consistent with Program 5

Responsibility: Community and Economic Development Department; City Attorney; City Manager
Timing: In response to complaints
Funding: General Fund
Target: Obtain and distribute materials (see Housing Element Program 5).

Annual Progress Report CY 2013: The City is continuing with this effort.

5. Provide Information on Housing Programs. The City will promote the availability of Contra Costa County programs for housing construction, homebuyer assistance, rental assistance, and housing rehabilitation through the following means: (a) Creating a link on the City's website that describes programs available in the City Martinez, contains County application forms, and provides direct links to County agencies that administer these programs; (b) Including contact information on County programs in City newsletters and other general communications that are sent to City residents; (c) Maintaining information on County programs at the City's public counter; (d) Training City staff to provide referrals to County agencies; and, (e) Distributing information on County programs at community centers.

Examples of specific information would include:

- (1) Fair Housing Laws
- (2) Rehabilitation loan programs
- (3) Housing Authority information
- (4) Contra Costa County housing programs
- (5) Code enforcement
- (6) Homebuyer assistance
- (7) Shared living opportunities

Responsibility: Community and Economic Development Department
Timing: Review and obtain materials by September 2010; distribute and post materials, conduct staff training by December 2010; annually update as needed thereafter
Funding: General Fund
Target: Posting and distributing of information

Annual Progress Report CY 2013: *This program has been partially implemented, using existing City resources as available. Links to County programs are available on the City's website and informational brochures are made available to the public at the City's front counter. The completion of this goal has increased local awareness of, and access to, information on County programs*

6. Conduct Community Outreach When Implementing Housing Element Programs. Notify a broad representation of the community when housing strategy or implementing programs are discussed by the Planning Commission or City Council. Maintain the Housing Element mailing list and send public hearing notices to all interested public and non-profit agencies, affected property owners; post notices in public buildings such as City Hall, libraries, post offices and the senior center; and publish a notice in the local newspaper. Information will be posted on the City's website and will be made available consistent with Program 5.

Responsibility: Community and Economic Development Department

Timing: Consistent with implementing programs

Funding: General Fund

Target: Conduct outreach and distribute materials (see Housing Element Program 5).

Annual Progress Report CY 2013: *The City is continuing with this effort.*

7. Update the City's General Plan. Update the City's General Plan to assure ease of implementation of City policies and consistency with SB375 and other requirements.

Responsibility: Community and Economic Development Department; Planning Commission; City Council

Timing: 2011

Funding: General Fund

Target: Updated General Plan.

Annual Progress Report CY 2013: *The City began the General Plan update process in 2010, and is continuing with this effort.*

8. Update the City's Zoning Ordinance. Update the City's Zoning Ordinance to assure ease of implementation and consistency with City policies. The update would include review of use categories, updates required pursuant to State law (such as State Density Bonus Law) and the Housing Element, and consistency with the update of the General Plan.

Responsibility: Community and Economic Development Department; Planning Commission; City Council
Timing: 2013
Funding: General Fund
Target: Updated Zoning Ordinance.

Annual Progress Report CY 2013: *The City began the Zoning Update process in 2012, and is continuing with this effort. On February 19, 2014, the City Council approved an ordinance incorporating the State required accommodation of emergency homeless shelters, supportive and transitional housing, providing reasonable accommodations and adopting density bonus regulations.*

9. Consider Establishment of a Redevelopment Area. Consider the establishment of a redevelopment area to assist in meeting multiple City goals, including the provision of funding for affordable housing.

Responsibility: Community and Economic Development Department; City Attorney; Planning Commission; City Council
Timing: 2012
Funding: General Fund
Target: Consideration of Redevelopment area; preparation of a Redevelopment Plan if determined to be feasible.

Annual Progress Report CY 2013: *This program is no longer applicable. All existing California Redevelopment Agencies were dissolved as of February 1, 2012, pursuant to the California Supreme Court's resolution of 2011 Legislation (AB 26 & AB 27, and thus no new Agencies can be formed.*

GOAL 2: Our Housing and Neighborhoods Have a High Standard of Quality

Implementing Programs

10. Continue to Participate in the Contra Costa County Neighborhood Preservation Program and the County Rental Rehabilitation Program. The City will promote the availability of Contra Costa County programs for housing construction, homebuyer assistance, rental assistance, and housing rehabilitation through Program 5.

Responsibility: Community and Economic Development Department; Public Works Department (Building Division)
Timing: Ongoing
Funding: General Fund and County Programs
Target: Conduct outreach and distribute materials (see Housing Element Program 5), and link with code enforcement activities. Rehabilitation of 2 extremely low income, 8 very low income, and 10 low units by 2014.

Annual Progress Report CY 2013: The City is continuing with this effort.

11. Implement Code Enforcement. Continue to vigorously pursue code enforcement efforts in residential areas through the City's Public Works Department (Building Division).

Responsibility: Public Works Department (Building Division)
Timing: Ongoing
Funding: General Fund
Target: Improved conditions, community education, and distribution of materials. Conservation of 40 units/year (210 units by 2014).

Annual Progress Report CY 2013: The City is continuing with this effort. (as of July, 1, 2013, the Police Department, rather than Public Works) has been responsible for Code Enforcement).

12. Implement Neighborhood Improvements. Identify possible neighborhoods in need of upgrading and implement a program to upgrade curb, gutter, and sidewalks to the extent that funds are available for this purpose. The next focus area should be residential areas surrounding the Downtown Specific Plan area and potential change areas.

Responsibility: Community and Economic Development Department; Public Works Department; City Council
Timing: Identify potential streets/neighborhoods by 2011; implement improvements as funding and staffing are available

Funding: General Fund or Other Funding
Target: Study and make neighborhood improvements.

Annual Progress Report CY 2013: *The process of establishing this program has not begun due to insufficient staff resources and funding.*

13. Adopt Ordinance for At-Risk Housing. Adopt an ordinance requiring a one year notice to residents, the City, Contra Costa County Housing Authority, and Contra Costa County Redevelopment Agency of all conversions of Below Market Rate housing units to market rates. Monitor the status of the units at risk. Establish regular contact with the owners of these units. If the units appear to be in danger of converting, establish contact with public and nonprofit agencies who may be interested in managing or purchasing the units to inform them of the projects status and inform tenants of any assistance available.

Responsibility: Community and Economic Development Department; City Attorney; Planning Commission; City Council
Timing: 2013 with other Zoning Ordinance updates
Funding: General Fund
Target: While there are no known units at risk of losing subsidies, the City's efforts would preserve 522 assisted units in Martinez, including an estimated 75 units extremely low income, 200 units very low income, and 200 low units and 47 moderate income units by 2014.

Annual Progress Report CY 2013: *The process of establishing this program has not begun due to insufficient staff resources.*

GOAL 3: We Have a Mix of Housing Types and Choices

Implementing Programs

14. Consider Adoption of an Inclusionary Housing Ordinance or Housing Impact Fee. Consider adopting an Inclusionary Housing Ordinance or a housing impact fee as a means of providing some below market rate housing in market rate developments and to disperse affordable housing throughout the community.

Responsibility: Community and Economic Development Department; City Attorney; Planning Commission; City Council
Timing: 2013 (with Zoning Ordinance revision — Program 8)
Funding: General Fund
Target: Consider ordinance adoption when housing market conditions improve.

Annual Progress Report CY 2013: The City Council considered an inclusionary housing ordinance in 2008, but voted to return the item to staff and the Housing Element/Affordable Housing Subcommittee for further consideration. No additional effort on this program has taken place due to insufficient staff resources.

15. Continue to Implement the Downtown Specific Plan. Continue to implement the programs, policies and development standards to facilitate and encourage residential development in the downtown area. This would include the implementing actions contained in the Downtown Specific Plan, such as actions to promote walk-ability, development incentives, financing and funding mechanisms, and other policies and actions contained in the Downtown Specific Plan to encourage infill, higher density, and mixed-use development. The Downtown Specific Plan identifies “priority catalyst projects” to help achieve the goals and policies of the Specific Plan. Specific incentives contained in the Downtown Specific Plan and identified as catalyst projects include:

- (1) Zoning changes as a result of the Downtown Specific Plan adoption encourage development of townhomes and condominiums, which were not allowed under previous Zoning regulations;
- (2) Improvements to infrastructure, including the utility grid; and,
- (3) Evaluation of financing and funding mechanisms to implement the Downtown Specific Plan, including Housing Element Program 9 to “Consider Establishment of a Redevelopment Area.”

Further, to promote residential development affordable to lower income households in the Downtown Specific Plan, the City will target a variety of support, including expediting and prioritizing review, coordinating applications with the project review committee, consider waivers or reductions of fees, or grant concessions and incentives beyond density bonus law and specifically meet with developers including non-profit to identify and implement target sites and strategies at least twice in the planning period. As part of this effort, the City will apply or support applications for funding at least twice in the planning period, annually monitor the effectiveness of the strategy and add or revise programs as necessary to promote affordability in the Downtown Specific Plan.

Responsibility: Community and Economic Development Department; City Manager; Public Works Department; Planning Commission; City Council
Timing: Ongoing
Funding: General Fund
Target: Provision of housing in the Downtown.

Annual Progress Report CY 2013: The City Council adopted the Downtown Specific Plan in June of 2006. The plan establishes design guidelines to facilitate infill and mixed use development, and identifies opportunity sites in a contextual map. The plan does contain flexibility in development standards (e.g. height, density) for sites that are constrained by size, location and flood zone. Although considered, the final plan did not include provisions for adaptive re-use of above ground floor space for residential use. Future

ordinance revisions could encourage such adaptive reuse. Within the Plan area, the City Council approved Resources for Community Development's "Berrellesa Palms" (a 48-unit income restricted senior-housing project), in 2009. A failed lawsuit to reverse the City's approvals and RCD's difficulties in securing financing delayed construction, with building permits not issued until January 2014.

16. Maintain an Up-to-Date Land Inventory. Periodically update the land inventory and provide information to interested developers and affordable housing providers with specific information on opportunity sites that have the greatest feasibility for housing production.

Responsibility: Community and Economic Development Department
Timing: Ongoing
Funding: General Fund
Target: Up-to-date land inventory for use by developers of housing in Martinez.

Annual Progress Report CY 2013: The City is continuing with this effort.

17. Encourage Use of Rental Assistance Programs. Continue to publicize and participate in rental assistance programs such as Section 8 and other available rental programs.

Responsibility: Community and Economic Development Department; Contra Costa County Housing Authority
Timing: Ongoing; link with Program 5.
Funding: General Fund
Target: Rental assistance provided to extremely low, very low and low income Martinez residents.

Annual Progress Report CY 2013: The City is continuing with this effort.

18. Provide Expedited Review, Fee Reductions, and Other Support for Affordable Housing. Continue to provide expedited review of affordable housing developments through the coordinating activities of the Project Review Committee, and give priority to such projects in scheduling meetings of the Design Review Committee, Zoning Administrator, and Planning Commission to maintain a shortened review period and evaluate recommendations to avoid constraints on production of affordable housing. The City will also consider waivers or reductions of development fees where feasible as a means of promoting the development of housing affordable to extremely low, very low, and low income households. In addition, the City will review funding options as part of the annual Housing Element review as described in Program 1, and will apply for funding or support funding applications as opportunities are available, and will undertake other actions (such as modifications to parking requirements and granting concessions and incentives) to assist in the development of housing for extremely low income households.

Responsibility: Community and Economic Development Department; City Council
Timing: Annual Review as part of Housing Element Program 1 and apply for funding at least twice in the planning period
Funding: General Fund
Target: Incentives for affordable housing.

Annual Progress Report CY 2013: The City is continuing with this effort. On February 19, 2014, the City Council approved an ordinance incorporating density bonus regulations, which include a process for granting of concessions and incentives for affordable housing.

19. Provide Outreach on Homeless Issues. Meet with representatives of community organizations, including local churches and others interested in providing services to the homeless, to investigate the potential for establishing a shelter network for the homeless as part of the County's broader effort to address homelessness through the Contra Costa County Interagency Council on Homelessness.

Responsibility: Community and Economic Development Department; City Manager; City Council
Timing: Ongoing
Funding: General Fund
Target: Countywide coordination on homeless needs.

Annual Progress Report CY 2013: The process of establishing this program has not begun due to insufficient staff resources.

20. Encourage Shared Housing. Encourage reduction of housing expenses through shared-living arrangements. Contact the Contra Costa County Housing Division to identify organizations that specialize in operating shared housing referral and placement programs primarily for low-income residents. Outreach could be conducted through the senior center, libraries, City Hall, and the media. Determine the feasibility of establishing a program in Martinez based on program costs to the City.

Responsibility: Community and Economic Development Department
Timing: Ongoing
Funding: General Fund
Target: Shared housing provided.

Annual Progress Report CY 2013: The process of establishing this program has not begun due to insufficient staff resources.

21. Investigate Possible Multi-Jurisdictional Emergency Homeless Shelter. Pursuant to State law requirements, and as the opportunity arises, the City will consider participation in a multi-jurisdictional emergency shelter, should one be proposed in the future.

Responsibility: Community and Economic Development Department; City Manager; City Council
Timing: If an opportunity arises
Funding: General Fund
Target: Construction of homeless facility (if feasible).

Annual Progress Report CY 2013: The process of establishing this program has not begun due to insufficient staff resources.

22. Enact Zoning for Emergency Shelter for the Homeless. The City will establish zoning to allow emergency shelters for the homeless as a permitted use within the ~~NC-SC (Neighborhood Service Commercial), CC (Central Commercial), and R-1.5 (High-density residential)-L-1 (Light Industrial) zoning districts, excluding the Downtown-Specific Plan area, where the property is located within one-quarter mile of a transit stop.~~ Zoning will also be established to allow religious facilities to open a permanent, year-round shelter with a use permit. In addition, the City will establish development standards that encourage and facilitate the use and only subject shelters to the same development and management standards that apply to other allowed uses within the identified zones above. The City will establish written and objective standards, as allowed in State law, for the following: **IAS**

AMENDED BY CITY COUNCIL, FEBRUARY 5, 2014

- (1) Maximum number of beds;
- (2) Off-street parking based upon demonstrated need;
- (3) Size and location of on-site waiting and intake areas;
- (4) Provision of on-site management;
- (5) Proximity to other shelters;
- (6) Length of stay;
- (7) Lighting; and
- (8) Security during hours when the shelter is open.

Responsibility: Community and Economic Development Department; City Attorney; Planning Commission; City Council
Timing: 2010
Funding: General Fund
Target: Zoning Ordinance amendment.

Annual Progress Report CY 2013: On February 19, 2014, the City Council approved an ordinance incorporating the State required accommodation of emergency homeless shelters.

23. Enact Zoning for Transitional, Supportive Housing, and Special Needs Housing. Amend residential zones to specifically allow transitional and supportive housing, as required by State law, so they are treated as a residential use that will be subject only to the same restrictions that apply to other residential uses of the same type in the same zone. In addition, remove or revise the definition of family contained in the City of Martinez Municipal Code, which appears not to be in compliance with California Fair Housing Law and may pose a constraint to providing housing for people with disabilities. To be compliant, the definition of family cannot distinguish between related and unrelated persons, and should not impose numerical limitations on the number of persons that may constitute a family.

Responsibility: Community and Economic Development Department; City Attorney; Planning Commission; City Council
Timing: 2010
Funding: General Fund
Target: Zoning Ordinance amendment.

Annual Progress Report CY 2013: On January 19, 2014, the City Council approved an ordinance incorporating the State required accommodation of supportive and transitional housing. (existing code in compliance with California Fair Housing Law).

24. Adopt Procedures for Reasonable Accommodation. Establish internal review procedures or ordinance to provide individuals with disabilities reasonable accommodation in rules, policies, practices and procedures that may be necessary to ensure equal access to housing. The purpose of these procedures and an ordinance is to provide a process for individuals with disabilities to make requests for reasonable accommodation in regard to relief from the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the City.

Responsibility: Community and Economic Development Department; Public Works; City Attorney; Planning Commission; City Council
Timing: 2013 with other Zoning Ordinance updates
Funding: General Fund
Target: Zoning Ordinance amendment or administrative procedures approved .

Annual Progress Report CY 2013: On February 19, 2014, the City Council approved an ordinance incorporating a process for proving reasonable accommodations.

25. Encourage Second Units. The City will continue to allow secondary dwelling units ("granny flats") in all residential zones, subject to specific development standards and requirements.

Responsibility: Community and Economic Development Department
Timing: Ongoing
Funding: General Fund

Target: 15 new second units by 2014; 5 very low income, 5 low income, and 5 moderate income.

Annual Progress Report CY 2013: *The City is continuing with this effort. One (1) "Secondary Housing Units were permitted within the subject CY 2013 reporting period.*

26. Revise Multi-Family Parking Requirements. Simplify and consolidate the City's requirements for Off-Street Parking for multi-family housing for both City-wide and the Downtown Overlay District to be more in sync with actual demand and current best practices. This would include reductions in requirements for the number of covered and non-covered spaces for one-bedroom units in multi-family housing projects.

Responsibility: Community and Economic Development Department; City Attorney; Planning Commission; City Council
Timing: 2010
Funding: General Fund
Target: Zoning Ordinance amendment

Annual Progress Report CY 2013: *The process of establishing this program has not begun due to insufficient staff resources.*

27. Modify Requirements for Group Homes for Seven or More Persons. Amend the Zoning Ordinance to allow group homes for seven or more persons with a Conditional Use Permit in additional residential zones.

Responsibility: Community and Economic Development Department; City Attorney; Planning Commission; City Council
Timing: 2011
Funding: General Fund
Target: Zoning Ordinance amendment

Annual Progress Report CY 2013: *The process of establishing this program has not begun due to insufficient staff resources.*

Clerk's Use Only: _____ Website: _____ Follow-Up: _____ Contracts

City of Martinez, 525 Henrietta Street



Martinez, CA 94553-2394

CITY COUNCIL ACTION AGENDA

MARCH 19, 2014

5:45 P.M. - CLOSED SESSION (City Manager's Office)

7:00 P.M. - RECONVENE (Council Chambers)

CALL TO ORDER

Mayor Schroder called the meeting to order at 5:45 p.m. in the Council Chambers with all members present except Councilmember Avila Farias and Vice Mayor Menesini.

PUBLIC COMMENT (Closed Session Items Only)

Reserved only for those requesting to speak on items not listed on the Agenda

No comments made; Council adjourned to the City Manager's Office.

CLOSED SESSION

- A. CONFERENCE WITH LEGAL COUNSEL-- ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Government Code subdivision (b) of Section 54956.9: (One potential case)
- B. CONFERENCE WITH LEGALCOUNSEL -- ANTICIPATED LITIGATION Initiation of litigation pursuant to Government Code paragraph (4) of subdivision (d) of Section 54956.9 (One potential case)

**Vice Mayor Menesini arrived at 6:40 p.m.*

RECONVENE - PLEDGE OF ALLEGIANCE - ROLL CALL

Mayor Schroder reconvened the meeting at 7:00 p.m. He noted that a Closed Session was held regarding Conference with Legal Counsel, Exposure to Litigation, one case; and Initiation of Litigation, one case; and he reported that direction was given to legal counsel.

PRESENT: AnaMarie Avila Farias, Councilmember, Lara DeLaney, Councilmember, Mark Ross, Councilmember, Michael Menesini, Vice Mayor, and Rob Schroder, Mayor.

EXCUSED: None.

ABSENT: None.

PRESENTATION(S)

- A. Proclamation proclaiming April 1st as "National Service Recognition Day."

Vice Mayor Menesini presented the proclamation to Mayor Schroder and the City Council.

- B. Presentation by Southport Land Development - Update on 610 and 630 Court Street.

David Fisher owner of Southport Land Commercial Company provided an update on the progress at 610 and 630 Court Street buildings. He indicated that if the public was interested in seeing pictures of the buildings, they are on the website at www.southport-land.com.

**Councilmember Avila Farias arrived at 7:15 p.m.*

Council thanked Mr. Fisher for the update.

- C. [Calvary Temple Event "Convoy of Hope - East Bay."](#)

Carey Gregg presented Sonnie Tandberg and Bryan Elizarraraz of Calvary Temple to speak about "Convoy of Hope" an event that will be held on Saturday, April 5, at Rio Vista Elementary School in Bay Point. This is a free event that will bring a day of relief and hope to the community. There will be many services provided, i.e., medical, job assistance, counseling, free lunch, and when the people leave, they will be provided free groceries. Mr. Elizarraraz stated that the church is planning a day that will impact the community. There are many who are hurting (lost their jobs, homes, finances) and they need encouragement. He indicated that there will be a kid zone, entertainment and every 20 minutes a bike will be given away. He encouraged the Council and the public to spread the word. Ms. Tandberg provided statistical information on those they have assisted in the past, she named the organizations that will be represented and gave some history on the Calvary Temple.

The City Council commended them for doing what they are doing and stepping forward.

PUBLIC COMMENT (COMPLETE SPEAKER CARD AND GIVE TO CLERK)

Reserved only for those requesting to speak on items not listed on the Agenda

Timothy May, Masonic Lodge, spoke on Bags for Kids Program. The Masonic Lodge would like to purchase every second grader in Martinez a backpack with supplies come September. They will be fund raising for this project and urged the community to donate to this cause.

Phillip Ciaramintaro, Friends of the Fishing Pier, spoke on the dilapidated fishing pier and informed the public that Friends of the Fishing Pier will be raising funds to improve the fishing pier. He requested that he be added to the next agenda for discussion and presentation. Mayor Schroder directed him to the City Manager.

Jamie Fox spoke on the Alhambra Highlands Development and working with a group that is trying to purchase the property. He noted that many areas have significant slopes which would require a lot of grading. He urged the Council to perhaps make some corrections. He showed a slide on Alhambra Avenue that had a 2 to 1 slope. All of the areas that he pointed out similarly have a 2 to 1 slope. He asks that the City not issue a grading permit since it does not comply with code.

Bill Nichols addressed the Alhambra Highlands issue and asked the Council to do what they can to preserve the Hills.

Rich Verrilli spoke on electronic delivery of nicotine. He asked if the City's smoking ordinance includes ecigarettes. Councilmember Ross said it did include ecigarettes. Martinez was the first in California to do so.

Greg Stauffelback complained about the spoils and construction debris left by the contractor on the Hidden Valley Park Project. A lot of the debris has recently been revealed since the recent rains and requested that the contractor be fined and not allowed to work on any future City projects. He also wanted to know the status of the bathrooms at Waterfront Park. Public Works Director Dave Scola indicated that the project has been awarded to Romtec. City Engineer Tim Tucker indicated that Romtec was a subcontractor on the previous project and did an admirable job.

Mike Alford spoke on the Company E3 working on the water/air technology and stated that this company wanted to make Martinez a poster city. The company was fascinated that this was John Muir country. He urged the Council to take advantage of a company like this. Mayor Schroder indicated that he had the material from Talbot Howard and is in contact with him.

Gay Gerlack encouraged the Council to review Jaime Fox's information. He has provided a gate way in perhaps stopping the development on the hills. She asked the Council to contact Congressman Miller to assist and request his support to save the hills.

CONSENT CALENDAR

- A. Motion waiving reading of text of all Resolutions and Ordinances.
 1. Motion approving the City Council Minutes of February 19, 2014. [M.Cabral]
 2. Motion approving Check Reconciliation Register(s) dated 03/06/2014. [C.Spinella/2.1.1]
 3. Motion to accept the Housing Element Progress Report - 2013 Annual Update, as per Government Code Section 65400 requiring submittal to the State Department of Housing and Community Development (HCD) by April 1st of each year; and authorize staff to submit the report to State Department of Housing and Community Development (HCD). [C.Simon/09.02.05]



4. Motion directing staff to use Bidder Pre-qualification process for the Water Treatment Plant Electrical Upgrade Project; AND adopt a Resolution 028-14 authorizing the Interim City Manager to execute a \$59,000 amendment to the consultant services agreement with Carollo Engineers for additional design and bid phase support services for the Water Treatment Plant Electrical Upgrade Project. [T.Tucker/15.06.13]
5. Resolution No. 029-14 authorizing the Interim City Manager to execute an amendment to an agreement for consultant services with Carollo Engineers in the not to exceed amount of \$393,800, to provide additional design and bid phase support services for the Water Treatment Plant (WTP) Seismic and Structural Upgrade Project. [T.Tucker/15.06.01]

Motion to approve to Item #A and Items #1 through #5 of the Consent Calendar. Moved by Michael Menesini, Vice Mayor, seconded by AnaMarie Avila Farias, Councilmember. The Council voted to approve unanimously.

Item #11 taken out of order.

Adopting a Resolution supporting the efforts of the Northern Waterfront Initiative; and direct the Interim City Manager to assign staff to continue participation in the regional collaborative work group.

Motion to approve Resolution No. 030-14 supporting the efforts of the Northern Waterfront Initiative; and direct the Interim City Manager to assign staff to continue participation in the regional collaborative work group.
Moved by Michael Menesini, Vice Mayor, seconded by Lara DeLaney, Councilmember. The Council voted to approve unanimously.

PUBLIC HEARING(S)

6. Public hearing to introduce an ordinance amending Title 22, Chapter 22.41, Medical Marijuana Dispensaries to amend the Title and add Sections 22.41.025 and 22.41.065 relating to Cultivation of Medical Marijuana, and finding that the adoption thereof is exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Sections 15304 and 15061(B)(3). [C.Simon/E.Ghisletta/V.Nebb/9.4.4.30]

Motion to introduce an ordinance amending Title 22, Chapter 22.41, Medical Marijuana Dispensaries to amend the Title and add Sections 22.41.025 and 22.41.065 relating to Cultivation of Medical Marijuana, and finding that the adoption thereof is exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Sections 15304 and 15061(B)(3).
Moved by Michael Menesini, Vice Mayor, seconded by AnaMarie Avila Farias, Councilmember. The Council voted to approve.

Motion Carried 3-2-0-0

CITY MANAGER

7. City Manager Comment(s)/Update(s)/Report(s).

Interim City Manager Anna Gwyn Simpson reported that the food truck event that was held last Saturday at the Marina was a success. It will be held every Saturday between 11:00 a.m. and 3:00 p.m. and she encouraged the public to attend.

CHIEF OF POLICE

8. Chief of Police Comment(s)/Update(s)/Report(s).

APPOINTMENTS TO COMMISSIONS AND/OR AGENCIES

CITY COUNCIL

9. Authorizing the Mayor to sign a letter in support of Assembly Joint Resolution 39 - Public Channel Funds. [M.Chandler/41.01.00]

Motion to authorize the Mayor to sign a letter in support of Assembly Joint Resolution 39 - Public Channel Funds.

Moved by Lara DeLaney, Councilmember, seconded by Mark Ross, Councilmember. The Council voted to approve unanimously.

10. Authorizing the Mayor to sign a letter in support of Senate Bill 848 (Wolk), the Safe Drinking Water, Water Quality & Water Supply Act. [A.Shear/41.01.00]

Motion to authorize the Mayor to sign a letter in support of Senate Bill 848 (Wolk), the Safe Drinking Water, Water Quality & Water Supply Act.

Moved by Michael Menesini, Vice Mayor, seconded by Lara DeLaney, Councilmember. The Council voted to approve unanimously.

11. Adopting a Resolution supporting the efforts of the Northern Waterfront Initiative; and direct the Interim City Manager to assign staff to continue participation in the regional collaborative work group. [A.G. Simpson/41.01.00]

ITEM HEARD EARLIER

12. Council Subcommittee Reports.

13. City Council Comments.

Councilmember Avila Farias expressed her appreciation to City Manager Simpson for bringing the Food Trucks to Martinez. She and her family enjoyed the food, and there seemed to be a great turnout.

Councilmember Mark Ross asked if the City was going to do something at Earth Day. City Manager Simpson confirmed that the City will have a booth, provide a workshop and will be handing out recycled bags to Martinez residents.

Councilmember Lara DeLaney stated that, given the many comments received regarding the grading moratorium on the Alhambra Highlands that is about to expire, and the fact that there has not been much progress to date on the acquisition of land for open space, she requested the Council to reconsider allocating funds for an appraisal of the land. She indicated that they have not been able to get Muir Heritage Land Trust to begin the acquisition process. Councilmember DeLaney indicated that the City Attorney has contacted the attorney for the developer; however, there has been no discussion of a price. Councilmember Ross suggested adding this to the next agenda under closed session to discuss other options and/or legalities. Senior City Attorney Nebb clarified that the request for funds would have to be in open session. Vice Mayor Menesini recollected that at a prior meeting, the Council agreed to expend funds for an appraisal, but nothing became of it and we never moved forward. Senior City Attorney Nebb briefly discussed the many meetings held with their legal counsel and that the owner took the position that the property was not actively for sale. They would not place a price for the property, but if an actual written offer was received from anyone, they would react to that written offer. Mayor Schroder agreed to place it on the agenda and directed Ms. Nebb to advise staff as to placement on the agenda.

Councilmember Lara DeLaney stated that she has recently received a request from a mother whose son is an Army Specialist and is returning home from Afghanistan on August 15th and she is requesting the Council's support in welcoming him back home to Martinez. Mayor Schroder indicated that there is an organization that already takes care of those requests. Councilmember Avila Farias indicated that Bryan Welden, "Operation Welcome Home," will notify the Mayor for the next welcome home project.

Mayor Rob Schroder stated that the Food Truck event was fantastic and was well attended. He was given some suggestions, which he passed along to staff. He noted that the food truck event will be held every Saturday except for the King of the County Barbecue and the May 10th concert. Mayor Schroder announced that the St. Baldrick's event sponsored by Creek Monkey Tap House raised \$20,000.

ADJOURNMENT

Adjourned at 9:43 p.m. to a Regular City Council Meeting on April 2, 2014 at 7:00 p.m. in the Council Chambers, 525 Henrietta Street, Martinez California.

RESOLUTION NO. 006-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARTINEZ,
APPROVING A CEQA EXEMPTION AND MAKING FINDINGS RELATED THERETO IN
ACCORDANCE WITH CEQA GUIDELINES SECTIONS 15301, 15305, AND
15061(B)(3) AND
ADOPTING GENERAL PLAN TEXT AMENDMENTS TO THE 2007-2014 HOUSING
ELEMENT RELATING TO THE LOCATION OF EMERGENCY SHELTERS

WHEREAS, the California State Legislature passed Senate Bill 2 in 2007 for local planning and approval of emergency shelters and transitional and supportive housing; and

WHEREAS, California Government Code Section 65583(a)(4) requires the identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, and the identified zone or zones shall include sufficient capacity to accommodate the local need for emergency shelters; and

WHEREAS, eligibility for the streamlined update of the 5th Housing Element Cycle for the California Department of Housing and Community Development necessitates amendments to the general plan and zoning text for compliance with the above State and Federal housing laws; and

WHEREAS, general plan text amendments to the 2007-2014 Housing Element would adjust permitted locations for emergency homeless shelters to include areas that would be able to be adaptively reused for emergency shelter use; and

WHEREAS, the Planning Commission held a duly notice public hearing on December 10, 2013, and did, at the conclusion of said Public Hearing, adopt Resolution PC 14-02, recommending that the City Council adopt a CEQA Exemption and the proposed General Plan and Zoning amendments; and

WHEREAS, notice of the Public Hearing of the City Council was sent in accordance with law on January 23, 2014; and

WHEREAS, the City Council held a Public Hearing on February 5, 2014, and did consider the action of the Planning Commission, the staff reports, the proposed categorical exemption from CEQA, all written and oral comments made before or at the hearings on the matter and the Record as a whole prior to taking any action on the proposed amendments; and

WHEREAS, The Record of Proceedings ("Record") upon which the City Council bases its decision regarding the proposed amendments includes, but is not limited to: (1) all staff reports, City files and records and other documents prepared for and/or submitted to the Planning Commission, the City Council and the City relating to the proposed amendments; (2) the evidence, facts, findings and other determinations set forth in the Planning Commission Resolution and this City Council resolution; (3) the City of Martinez General Plan, the 2006 Downtown Specific Plan and related EIRs and the Martinez Municipal Code; (4) all documentary and oral evidence received at public hearings or submitted to the City prior to the public hearings relating to the proposed amendments; (5) all other matters of common knowledge to the City Council including, but not limited to, City, State and Federal laws, policies, rules regulations, reports, records and projections related to the subject matter of this ordinance; and

WHEREAS, the Custodian of Records in the City Clerk of the City of Martinez, 525 Henrietta Street, Martinez, CA.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds that the General Plan amendments set forth herein are exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Title 14, Chapter 3, California Code of Regulations (CEQA Guidelines), Sections 15061(B)(3), 15301 and 15305. The proposed General Plan Amendment establishes regulations for emergency shelters in accordance with and to implement the requirements of state law. Emergency homeless shelters would generally be expected to utilize existing facilities such as larger scale warehouse type of buildings, with no new construction likely to occur. Any new construction would be subject to standard building and zoning regulations existent for other structures in the same zoning district and of the same size and all emergency shelter uses would be subject to size and operational regulations as set forth in the zoning ordinance amendments adopted concurrently herewith which provisions are designed to prevent impacts to surrounding properties. In addition, pursuant to existing City regulations, emergency shelters can locate within the districts contemplated by this ordinance with a use permit. The proposed ordinance imposes regulations and operational requirements which would otherwise be included in use permit conditions. It can therefore be seen with certainty that there is no possibility that the adoption of this ordinance will have a significant effect on the environment. There are no unusual circumstances surrounding these regulations or the properties to which they would apply which would result in a reasonable possibility that the activity would have a significant effect on the environment. No project is proposed for a site subject to listing in accordance with Section 65962.5 of the California Government Code, located within a flood plain, or a state scenic highway or which could affect an historic resource.

BE IT FURTHER RESOLVED that the City Council hereby finds that the proposed General Plan amendments are internally consistent with the General Plan, and are consistent with applicable Specific Plans and the City of Martinez Zoning ordinance as set forth in Exhibit A, attached hereto and incorporated herein by reference; and

BE IT FURTHER RESOLVED that the City Council hereby adopts the General Plan amendments to the 2007-2014 Housing Element adjusting permitted locations for emergency homeless shelters, as set forth in Exhibit B, attached hereto and incorporated herein by this reference.

* * * * *

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at a Regular Meeting of said Council held on the 5th day of February, 2014, by the following vote:

AYES: Councilmembers AnaMaria Avila Farias, Lara DeLaney, Mark Ross and Mayor Rob Schroder

NOES: None

ABSENT: Vice Mayor Michael Menesini

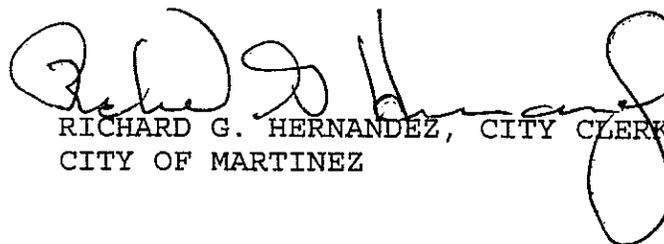

RICHARD G. HERNANDEZ, CITY CLERK
CITY OF MARTINEZ

EXHIBIT A
CITY COUNCIL RESOLUTION NO. 006-14

GENERAL PLAN – HOUSING ELEMENT –
CONSISTENCY FINDINGS

FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN

The proposed General Plan and Zoning text amendments are consistent with the policies of the Martinez General Plan, Housing Element and Downtown Specific Plan, components thereof, including, but not limited to the following:

21.341 - Land Use Element, Residential Uses, High Density Residential Areas: High density residential development...shall be permitted in limited areas. The primary purpose is provision for apartment types of housing accommodations to serve the needs of single persons, families with preschool children and childless households.

Facts in Support: The Zoning text amendments allow for density bonus for affordable housing, which will improve the financial viability for affordable high density residential development, providing added housing opportunities for single persons, families, seniors, and low-income households.

LU-1-4 - Downtown Specific Area Plan Policy: Provide incentives for infill development throughout Downtown, with an emphasis on the opportunity sites identified in this Plan.

Facts in Support: The Zoning text amendments will promote infill development in Downtown. Many of the opportunity sites identified in the Downtown Specific Plan are suited towards higher density residential that may qualify for density bonuses and incentives.

3.5 - Housing Element Policy: State Density Bonus Law. Provide density bonuses to projects according to the requirements of State law.

Facts in Support: Through the implementation of the Zoning text amendments, projects that qualify for density bonuses will be provided density bonuses in accordance with California Government Code Section 65915-65918.

3.8 - Housing Element Policy: Emergency Shelter and Disaster Preparedness Housing. Identify emergency housing needs and locations as part of the City's disaster preparedness planning.

EXHIBIT B
CITY COUNCIL RESOLUTION NO. 006-14

Housing Element Amendments
IMPLEMENTING 4TH CYCLE HOUSING ELEMENT
(Emergency Shelters)

AMEND POLICY 3.12 (page 41) AS FOLLOWS:

- 3.1 **Housing for the Homeless.** The City of Martinez recognizes the need for and desirability of emergency shelter housing for the homeless and will allow emergency shelters as a permitted use within the ~~NC-SC (Neighborhood Service Commercial), CC (Central Commercial), and R-1.5 (High density residential)~~ **L-I (Light Industrial)** zoning districts, ~~excluding the Downtown Specific Plan area, where the property is located within one quarter mile of a transit stop, since this could be considered a reasonable distance for a person to walk to/from a transit stop to/from a facility.~~ In addition, the Housing Element recommends the following:
- a. That a use permit be required if a property containing a religious facility wants to open a permanent, year-round shelter.
 - b. The City will encourage a dispersion of facilities to avoid an over-concentration of shelters for the homeless in any given area. An over-concentration of such facilities may negatively impact the neighborhood in which they are located and interfere with the "normalization process" for clients residing in such facilities.
 - c. Support a "housing first" policy that promotes long-term housing solutions for homeless individuals and families in Contra Costa County.
 - d. The City will encourage positive relations between neighborhoods and providers of permanent or temporary emergency shelters. Providers or sponsors of emergency shelters, transitional housing programs and community care facilities shall be encouraged to establish outreach programs within their neighborhoods and, when necessary, work with the City or a designated agency to resolve disputes.
 - e. It is recommended that a staff person from the provider agency be designated as a contact person with the community to review questions or comments from the neighborhood. Outreach programs may also designate a member of the local neighborhood to their Board of Directors. Neighbors of emergency shelters shall be encouraged to provide a neighborly and hospitable environment for such facilities and their residents.
 - f. Development standards for emergency shelters for the homeless located in Martinez will ensure that shelters would be developed in a manner which protects the health, safety and general welfare of nearby residents and businesses, while providing for

the needs of a segment of the population as required by State law. Shelters shall be subject only to development, design review and management standards that apply to ~~residential~~ **industrial** or commercial development in the same zone, except for the specific written and objective standards as allowed in State law.

AMEND IMPLEMENTING PROGRAM 22 (page 46) AS FOLLOWS:

22 **Enact Zoning for Emergency Shelter for the Homeless.** The City will establish zoning to allow emergency shelters for the homeless as a permitted use within the ~~NC-SC (Neighborhood Service Commercial), CC (Central Commercial), and R-1.5 (High density residential)~~ **L-I (Light Industrial)** zoning districts, ~~excluding the Downtown Specific Plan area, where the property is located within one quarter mile of a transit stop.~~ Zoning will also be established to allow religious facilities to open a permanent, year-round shelter with a use permit. In addition, the City will establish written and objective standards, as allowed in State law, for the following:

- (1) Maximum number of beds;
- (2) Off-street parking based upon demonstrated need;
- (3) Size and location of on-site waiting and intake areas;
- (4) Provision of on-site management;
- (5) Proximity to other shelters;
- (6) Length of stay;
- (7) Lighting; and
- (8) Security during hours when the shelter is open.

Responsibility: Community and Economic Development Department; City Attorney; Planning Commission; City Council

Timing: 2010

Funding: General Fund

Target: Zoning Ordinance amendment.

AMEND CURRENT HOUSING CONDITIONS AND TRENDS, Section C - Homeless (page 84) AS FOLLOWS:

The approach recommended in the Housing Element is for the City to designate locations within the ~~NC-SC (Neighborhood Service Commercial), CC (Central Commercial), and R-1.5 (High density residential)~~ **L-I (Light Industrial)** zoning districts, ~~excluding the Downtown Specific Plan area, where emergency shelters for the homeless are allowed "by right."~~ ~~It is also recommended that any property must be located within a one quarter mile of a transit stop, since this could be considered a reasonable distance for a person to walk to/from a transit stop to/from a facility.~~ In addition, the Housing Element recommends that if a property containing a religious facility wants to open a permanent, year-round shelter that a use permit be required.

Under the proposed zoning designation under the criteria described above, a total of **approximately 86** ~~274~~ acres of land in the City of Martinez would qualify as allowing an emergency shelter for the homeless as a use allowed "by right," and not subject to discretionary review. Parcel sizes ranges from **approximately** ~~smaller parcels (generally~~ 0.25 – 0.70 acres in

size) ~~to larger parcels~~ (up to ~~6.5~~ **13.0** acres in size). The area designated provides sufficient opportunity for a facility for the homeless to be built **or adaptively rebuilt** in compliance with SB2 requirements.

The map below shows potential locations ~~within one-quarter mile of a transit stop~~ where an emergency shelter could be allowed without a conditional use permit or other discretionary action. The identified locations have a realistic potential for redevelopment or reuse, and have access to transportation and services. As part of the rezoning action, the City will establish written and objective standards, as allowed in State law, covering:

- Maximum number of beds
- Off-street parking based upon demonstrated need
- Size and location of on-site waiting and intake areas
- Provision of on-site management
- Proximity to other shelters
- Length of stay
- Lighting
- Security during hours when the shelter is open

* * *

ORDINANCE NO. 1379 C.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARTINEZ AMENDING MARTINEZ MUNICIPAL CODE CHAPTERS 22.04 (DEFINITIONS), 22.12 (PERMITTED USES AND CONDITIONAL USES - R- RESIDENTIAL DISTRICTS), 22.16 (PERMITTED USES - SC-SERVICE COMMERCIAL AND CONDITIONAL USES C-COMMERCIAL DISTRICTS), 22.18 (LI- LIGHT INDUSTRIAL DISTRICT PERMITTED USES), SECTION 22.34.010 (GENERAL REQUIREMENTS AND EXCEPTIONS - PURPOSE), SECTION 22.36.070 (PARKING MISCELLANEOUS USE TABLE), AND ADDING SECTIONS 22.34.230 (HOMELESS SHELTERS), 22.34.240 (REASONABLE ACCOMMODATION) AND CHAPTER 22.57 (DENSITY BONUS) TO PROVIDE REGULATIONS IMPLEMENTING STATE HOUSING LAW RELATING TO PERMITTING OF EMERGENCY SHELTERS, SUPPORTIVE AND TRANSITIONAL HOUSING, PROVIDING REASONABLE ACCOMODATION, AND ADOPTING DENSITY BONUS REGULATIONS AND FINDING THAT THE ADOPTION OF THE ORDINANCE IS EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), PURSUANT TO CEQA GUIDELINES SECTIONS 15301, 15305, AND 15061(B) (3).

FINDINGS: The City Council of the City of Martinez makes the following findings:

In 2005 the State of California enacted changes to the State's density bonus law, Government Code Section 65915 which requires that cities and counties provide for mandated density bonuses, incentives and concessions for affordable housing developments in a quantity, form, and manner that satisfy the criteria contained in Government Code Section 65915-65918; and

The California State Legislature passed Senate Bill 2 in 2007 for local planning and approval of emergency shelters and transitional and supportive housing; and

California Government Code Section 65583(a)(4) requires the identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, and the identified zone or zones shall include sufficient capacity to accommodate the local need for emergency shelters; and

California Government Code Section 65583(a)(5) requires that transitional and supportive housing shall be considered a residential use of the property and shall be subject only to those restrictions that apply to other residential uses and dwellings types of the same type and in the same zone; and

The Federal Fair Housing Act (42 U.S.C. Section 3601) and California Fair Employment and Housing Act (Government Code Section 12926 and 12955) impose an affirmative duty on local governments to make reasonable accommodation (modifications or exceptions) in their land use regulations and practices when such accommodation may be necessary to afford disabled persons an equal opportunity to housing; and

Eligibility for the streamlined update of the 5th Housing Element Cycle for the California Department of Housing and Community Development necessitates amendments to the general plan and zoning text for compliance with the above State and Federal housing laws; and

General plan text amendments to the 2007-2014 Housing Element would adjust permitted locations for emergency homeless shelters to include areas that would be able to be adaptively reused for emergency shelter use; and

The proposed zoning text amendments are intended to fulfill the City's obligation under Goal 3 and Implementing Programs 18, 22, 23, and 24 of the City's 2007-2014 Housing Element; and

On January 2, 2014, the City of Martinez Planning Commission held a duly noticed public hearing to consider the proposed amendments and did consider all staff reports, all written and oral communication submitted to the City on or before such public hearing, and the Record as a whole and did by the adoption of Resolution NO.PC 14-02, recommend that the City Council adopt the proposed amendments and find same exempt from the provisions of CEQA as set forth in the Planning Commission Resolution; and

Notices of the Public Hearing of the City Council on the proposed amendments were sent and published in accordance with law; and

On February 5, 2014, the City Council of the City of Martinez did hold a Public Hearing on said proposed amendments and on the General Plan Amendments to the Housing Element proposed concurrently herewith and did consider all staff reports, all written and oral communication submitted to the City on or before such public hearing, the Planning Commission recommendation, CEQA documentation and exemption and the Record as a whole prior to taking action on the proposed amendments; and

By the adoption of a separate Resolution, of even date herewith, the City Council did approve the proposed General Plan amendments to the Housing Element to provide for the location of Emergency Shelters in the City; and

The Custodian of Records is the City Clerk of the City of Martinez, 525 Henrietta Street, Martinez, CA.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARTINEZ DOES ORDAIN AS FOLLOWS:

SECTION 1. Record of Proceedings.

The Record of Proceedings ("Record") upon which the City Council bases its decision regarding the proposed amendments includes, but is not limited to: (1) all staff reports, City files and records and other documents prepared for and/or submitted to the Planning Commission, the City Council and the City relating to the proposed amendments; (2) the evidence, facts, findings and other determinations set forth in the Planning Commission Resolution and this ordinance; (3) the City of Martinez General Plan, the 2006 Downtown Specific Plan and related EIRs and the Martinez Municipal Code; (4) all documentary and oral evidence received at public hearings or submitted to the City prior to the public hearings relating to the proposed amendments; (5) all other matters of common knowledge to the City Council including, but not limited to, City, State and Federal laws, policies, rules regulations, reports, records and projections related to the subject matter of this ordinance.

SECTION 2. CEQA Findings. The City Council finds that the adoption of the proposed ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Title 14, Chapter 3, California Code of Regulations (CEQA Guidelines), Sections 15061(B)(3), 15301 and 15305. The proposed ordinance establishes regulations for emergency shelters, transitional and supportive housing, reasonable accommodations, and density bonus regulations in accordance with and to implement the requirements of state law. Emergency homeless shelters would generally be expected to utilize existing facilities such as larger scale warehouse type of buildings, with no new construction likely to occur. Any new construction would be subject to standard building and zoning regulations existent for other structures in the same zoning district and of the same size and all emergency shelter uses would be subject to size and operational regulations as set forth in the zoning ordinance amendments adopted concurrently herewith which provisions are designed to prevent impacts to surrounding properties. State and federal law already require that the City provide a density bonus and make reasonable accommodation in the application of regulations for those with disabilities. In addition, pursuant to existing City regulations, emergency shelters can locate within the districts contemplated by this ordinance with a use permit. The proposed ordinance imposes regulations and operational requirements which would otherwise be included in use

permit conditions. Transitional and supportive housing are not currently distinguished in the zoning ordinance from other types of housing and the proposed regulations adopted herein merely provide clarification of that fact. It can therefore be seen with certainty that there is no possibility that the adoption of this ordinance will have a significant effect on the environment. There are no unusual circumstances surrounding these regulations or the properties to which they would apply which would result in a reasonable possibility that the activity would have a significant effect on the environment. No project is proposed for a site subject to listing in accordance with Section 65962.5 of the California Government Code, located within a flood plain, or a state scenic highway or which could affect an historic resource.

SECTION 3. **General Plan Consistency Findings.** The City Council hereby finds that the proposed zoning amendments are consistent with the General Plan and applicable Specific Plans as set forth in Exhibit A, attached hereto and incorporated herein by reference.

SECTION 4. Section 22.04.125 of the Martinez Municipal Code is hereby added to read as follows:

22.04.125 Disabled Person(s). "Disabled Person(s)" means a person who has a medical, physical, or mental impairment or condition that substantially limits one or more major life activities, as those terms are defined in the California Government Code Section 12926, anyone who is regarded as having such a condition or anyone who has a record of having such a condition. It includes a person or persons, or an authorized representative of a disabled person. The term disabled persons does not include a person who is currently using illegal substances, unless he or she has a separate disability.

SECTION 5. Section 22.04.165 of the Martinez Municipal Code is hereby added to read as follows:

22.04.165 Fair Housing Laws. "Fair Housing Laws" means the Federal Fair Housing Act (42 United States Code Section 3601 et. seq.) and the California Fair Employment and Housing Act (California Government Code Section 12926 and 12955 et. seq.), including amendments there to.

SECTION 6. Section 22.04.244 of the Martinez Municipal Code is hereby added to read as follows:

22.04.244 Homeless Person(s). "Homeless Person(s)" means an individual who lacks a fixed, regular and adequate nighttime residence; and/or an individual who has a primary nighttime residence that is:

A supervised, publically or privately operated shelter designed to provide temporary living accommodations, including but not limited to emergency shelters, congregate shelters and transitional housing;

A. An institution that provides a temporary residence for individuals intended to be institutionalized; or

B. A public or private place not designed for, or ordinarily used as, regular sleeping accommodations for human beings.

SECTION 7. Section 22.04.246 of the Martinez Municipal Code is hereby added to read as follows:

22.04.246 Homeless Shelter, Emergency. "Homeless Shelter, Emergency" means a residential facility, other than a community care facility, operated by a provider which provides temporary accommodations to persons or families with low income. The term "temporary accommodations" means that a person or family will be allowed to reside at the shelter for a time period not to exceed 180 days. For purpose of this definition, a "provider" shall mean a government agency or private non-profit organization which provides or contracts with recognized community organizations to provide emergency or temporary shelter, and which may also provide meals, counseling and other services, as well as common areas for residents of the facility. Such a facility may have individual rooms, but is not developed with individual dwelling units.

SECTION 8. Section 22.04.248 of the Martinez Municipal Code is hereby added to read as follows:

22.04.248 Homeless Shelter, Ongoing. "Homeless Shelter, Ongoing" means a program, operated by a religious or eleemosynary institution (with the intent of placing the homeless in permanent dwelling units within 90 days after first occupying the shelter) that provides overnight shelter, two meals a day and case management services for homeless persons, with no predetermined limitation to length of occupancy.

SECTION 9. Sections 22.04.442-447 of the Martinez Municipal Code are hereby renumbered as follows (the text thereof is not changed):

- 22.04.443 - Recreational Vehicle
- 22.04.444 - Recreational Vehicle-Oversized
- 22.04.445 - Residential Congregate Care Facility
- 22.04.446 - Secondary Housing Unit
- 22.04.447 - Secondhand Stores
- 22.04.448 - Sales Floor Area

SECTION 10. Section 22.04.442 of the Martinez Municipal Code is hereby added to read as follows:

22.04.442 Reasonable Accommodation. "Reasonable Accommodation" means providing disabled persons flexibility or removal of constraints in the application of land use and zoning regulations and procedures, or even waiving certain requirements, when necessary to eliminate barriers to housing opportunities. It may include such things as yard area modifications for ramps, handrails or other such accessibility improvements; hardscape additions, such as widened driveways, parking areas or walkways; building additions for accessibility; tree removal; or reduced off-street parking where the disability clearly limits the number of people operating vehicles. Reasonable Accommodation does not include an accommodation which would impose an undue financial or administrative burden on the City, or require a fundamental alteration in the nature of the City's land use and zoning program.

SECTION 11. Section 22.04.541 of the Martinez Municipal Code is hereby renumbered as follows (the text thereof is not changed):

22.04.543 - Tattoo Parlors

SECTION 12. Section 22.04.541 of the Martinez Municipal Code is hereby added to read as follows:

22.04.541 Supportive Housing. "Supportive Housing" means housing with no limit on length of stay, that is occupied by the target population as defined in subdivision (d) of Section 53260 and as per subdivision (b) of Section 50675.14 of the California Health and Safety Code, and that is linked to on- or off-site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

SECTION 13. Section 22.04.548 of the Martinez Municipal Code is hereby added to read as follows:

22.04.548 Transit Stop. "Transit Stop" means a regularly scheduled bus stop, as posted in a transit agency's most current publication of routes and stops, including but not limited to Central Contra Costa Transit Authority's (CCCTA) "County Connection" bus service.

SECTION 14. Section 22.04.549 of the Martinez Municipal Code is hereby added to read as follows:

22.04.549 Transitional Housing. "Transitional Housing" and "Transitional Housing Development" means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months, per subdivision (h) of Section 50675.2 of the California Health and Safety Code.

SECTION 15. Section 22.12.080 - Permitted Uses [in R-Residential Districts] of the Martinez Municipal Code is hereby amended to add subsections L and M to read as follows:

- L. Transitional Housing. Transitional Housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential uses and dwelling types of the same type and in the same zone (e.g. permits single-family dwellings within a single-family zoning district and subject to the same maximum density, minimum lot size and maximum lot coverage, etc. applicable to a single-family dwelling. Also permits multi-family dwellings within a multi-family zoning district and subject to the same maximum density, minimum lot size and maximum lot coverage, etc. applicable to a multi-family dwelling. Does not permit single-family zoning requirements to be applied to multi-family residential units and vice versa).

- M. Supportive Housing. Supportive Housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential uses and dwellings of the same type and in the same zone (e.g. permits single-family dwellings within a single-family zoning district and subject to the same maximum density, minimum lot size and maximum lot coverage, etc. applicable to a single-family dwelling. Also permits multi-family dwellings within a multi-family zoning district and subject to the same maximum density, minimum lot size and maximum lot coverage, etc. applicable to a multi-family dwelling. Does not permit single-family zoning requirements to be applied to multi-family residential units and vice versa).

SECTION 16. Section 22.12.090 -Conditional Uses [in R-Residential Districts]of the Martinez Municipal Code is hereby amended to add subsection O to read as follows:

- O. Homeless Shelters, Ongoing. Homeless Shelters, Ongoing, within permitted religious or eleemosynary institutions. In addition to the applicable conditions of Use Permit approval pursuant to 22.40.070, Homeless Shelters, Ongoing, within permitted religious or eleemosynary institution, are subject to the development and operational standards of Section 22.34.230; Homeless Shelters.

SECTION 17. Section 22.16.070-Permitted Uses - SC-Service Commercial District of the Martinez Municipal Code is hereby amended to add subsection E to read as follows:

- E. Homeless Shelters, Emergency. Homeless Shelters, Emergency, subject to the development and operational standards of Section 22.34.230; Homeless Shelters.

SECTION 18. Section 22.16.080- Conditional Uses [in C-Commercial Districts] of the Martinez Municipal Code is hereby amended to add subsection T to read as follows:

- T. Homeless Shelters, Ongoing. Homeless Shelters, Ongoing, within permitted religious or eleemosynary institutions. In addition to the applicable conditions of Use Permit approval pursuant to 22.40.070, Homeless Shelters, Ongoing, within permitted religious or eleemosynary institution, are subject to the development and operational standards of Section 22.34.230; Homeless Shelters.

SECTION 19. Section 22.18.030- LI- Light Industrial District-- Permitted Uses of the Martinez Municipal Code is hereby amended to add subsection E to read as follows:

- E. Homeless Shelters, Emergency. Homeless Shelters, Emergency, subject to the development and operational standards of Section 22.34.230; Homeless Shelters.

SECTION 20. Section 22.34.010 of the Martinez Municipal Code is hereby amended to read as follows:

22.34.010 Purpose

The general provisions and exceptions are incorporated into the zoning title to provide a listing and explanation of provisions and exceptions which are common to more than one or, all zoning districts. The provisions contained herein are to be considered applicable to all zoning districts unless otherwise indicated, the same as if they were separately included under each zoning district.

SECTION 21. Section 22.34.230 of the Martinez Municipal Code is hereby added to read as follows:

22.34.230 Homeless Shelters

A. Homeless Shelters, Emergency may be located within areas of the SC - Service Commercial District or the LI- Light Industrial District, and with the following development and performance standards:

1. On-site management and on-site security shall be provided during all hours when the emergency shelter is in operation at a ratio of one staff member for every 15 persons utilizing the shelter. One office or cubicle intake area per 10 clients shall be maintained. An indoor onsite waiting area of no less than 275 square feet shall be provided.
2. External lighting shall be provided for security purposes as a minimum average of 3 foot candles at ground level. The lighting shall be stationary, directed away from adjacent properties and public rights-of-way, and of intensity compatible with the surrounding area.
3. The development may provide one or more of the following specific common facilities for the exclusive use of the residents and staff:
 - a. Central cooking and dining room(s).
 - b. Recreation room.
 - c. Counseling center.
 - d. Child care facilities.
 - e. Other support services.
4. Parking and outdoor facilities shall be designed to provide security for residents, visitors, employees and the surrounding area. On-site parking spaces shall be provided as required by Section 22.36.070.A.11; PARKING - MISCELLANEOUS USE TABLE.

5. A refuse storage area shall be provided that is completely enclosed with masonry walls not less than five feet high with a solid-gated opening and that is large enough to accommodate a standard-sized trash bin adequate for use on the parcel. The refuse enclosure shall be accessible to refuse collection vehicles.
 6. The agency or organization operating the shelter shall comply with the following requirements:
 - a. Temporary shelter shall be available to residents for no more than 180 days in a calendar year. No individual or household may be denied emergency shelter because of an inability to pay.
 - b. Staff and services shall be provided to assist residents to obtain permanent shelter and income.
 - c. The provider shall have a written management plan including, as applicable, provisions for staff training, neighborhood outreach, security, screening of residents to insure compatibility with services provided at the facility, and for training, counseling, and treatment programs for residents.
 7. No Emergency Homeless Shelter shall be located within three hundred feet of another Emergency Homeless Shelter site.
 8. The facility shall obtain and shall at all times maintain good standing with any and all Federal, State, County and City licenses as required by each such agencies for the owner(s), operator(s), and/or staff on the proposed facility.
 9. The maximum number of beds or clients permitted to be served (eating, showering and/or spending the night) shall not exceed 30 persons.
- B. Homeless Shelters, Ongoing are subject to the same requirements for Emergency Homeless Shelters in Subsection A above, with the exception of 22.34.230.A.9, as maximum occupancy is to be established by Use Permit.

SECTION 22. Section 22.34.240 of the Martinez Municipal Code is hereby added to read as follows:

22.34.240 Reasonable Accommodation

A. Application. A request for reasonable accommodation may be made by any person with a disability, their representative or any entity, when the application of zoning law or other land use regulation, policy or practice acts as a barrier to fair housing opportunities. Requests for reasonable accommodation shall be submitted with the Planning Application Form (no fee) and with a letter to the Planning Division Director and shall contain the following information:

1. The applicant's name, address and telephone numbers.
2. Address of the property for which the request is being made.
3. The name of the property owner and owner's written consent or signature on Planning Application Form.
4. The current actual use of the property.
5. The basis for the claim that the person(s) is considered disabled under the fair housing laws.
6. The zoning code ordinance provision, regulation or policy from which reasonable accommodation is being requested.
7. Why the reasonable accommodation is necessary to make the specific property accessible to the person(s).
8. Copies of memoranda, correspondence, pictures, plans or background information reasonably necessary to reach a decision regarding the need for the reasonable accommodation.
9. Other relevant supportive information as requested by the Planning Division Director or his or her designee, consistent with fair housing laws.

B. Decision. Planning Division Director or his or her designee shall render a decision in writing within 30 days after the application is complete, and shall approve, approve with conditions or deny the application based on the findings in Subsection C.

C. Findings. The Planning Division Director or his or her designee shall approve the application, with or without conditions, if the following findings are made:

1. The housing will be used by a disabled person;
 2. The requested accommodation is necessary to make specific housing available a disabled person;
 3. The requested accommodation would not impose an undue financial or administrative burden on the City; and
 4. The requested accommodation would not require a fundamental alteration in the nature of a City program or law, including but not limited to land use and zoning.
- D. Appeal. An appeal of the decision by the Planning Division Director or his or her designee may be made pursuant to the appeal procedures in Section 22.06.050.
- E. Review with other land use applications. If the project for which the request for reasonable accommodation is being made also requires other discretionary approval (including but not limited to: design review, variance, conditional use permit, rezoning, general plan amendment, etc.), then the applicant shall file the information required by Subsection A together for concurrent review with the application for discretionary approval.

SECTION 23. Section 22.36.070 of the Martinez Municipal Code is hereby amended to read as follows:

22.36.070 - Parking-Miscellaneous Uses.

- A. For uses other than those listed previously, parking shall be provided in accordance with the following table:

PARKING-MISCELLANEOUS USE TABLE

Use and Required Parking Spaces.

1. Parks, playgrounds and other—One per three employees plus additional as prescribed by the Planning Commission.
2. Churches, community centers, private clubs and lodges, auditoriums (including school and college auditoriums), theaters, mortuaries and similar places of public assembly—one per each four seats; if no fixed seats, one space for each 40 square feet.
3. Nursing homes, philanthropic and eleemosynary institutions; religious institutions providing sleeping accommodations—one per five beds.

4. Hospitals and sanitariums—one per three beds.
 5. Libraries, museums, art galleries, etc.—one per three employees plus additional as prescribed by the Planning Commission.
 6. Colleges, for art, craft, music and dancing schools, business, professional, trade schools and colleges—one per three employees plus one additional per five students.
 7. Public buildings and grounds other than administrative, offices—one per three employees plus additional as prescribed by the Planning Commission.
 8. Public utility structures and installations—one per three employees plus additional as prescribed by the Planning Commission.
 9. Bus depots, transit stations, railroad stations, railroad freight stations and yards, airports and heliports—one per three employees plus additional as prescribed by the Planning Commission.
 10. Cemeteries, columbariums and crematories—one per three employees plus additional as prescribed by the Planning Commission.
 11. Homeless Shelters - one parking space for every five beds.
 12. Other uses not specifically listed above or specific uses which need more parking than the categories listed above, shall furnish parking as required by the Planning Director. In determining the off-street parking requirements for said uses, the Planning Director shall use the above requirements as a general guide and shall determine the minimum number of parking spaces.
- B. The off-Street parking facilities requirements of this Chapter shall be satisfied by the permanent allocation of the prescribed number of spaces for each use in common parking facilities, provided however, that the total number of spaces shall be not less than the sum of the individual requirements and provided further that an attested copy of a contract between the parties concerned setting forth the agreement to joint use of a common parking facility is filed with the application for a certificate of occupancy

SECTION 24. The Martinez Municipal Code is hereby amended to add Chapter 22.57 to read as follows:

**CHAPTER 22.57
DENSITY BONUS**

22.57.010 Purpose

The purpose of this Chapter is to provide for density bonuses and incentives to developers who comply with California Government Code Sections 65915 through 65918 (State Density Bonus Law).

22.57.020 Definitions.

Unless otherwise specified in this Chapter, the definitions found in State Density Bonus Law shall apply to the terms contained herein.

22.57.030 Applicability.

This Chapter shall apply to all zoning districts that permit housing at a prescribed density by the General Plan Land Use Designation and/or zoning district. Where the density allowed under the zoning district is inconsistent with the density allowed under the General Plan Land Use Designation, the Land Use Designation density shall prevail.

22.57.040 State Density Bonus and Incentives.

A developer of a housing development in the City may be permitted a density bonus and incentives in accordance with the provisions of California Government Code Sections 65915 through 65918 (State Density Bonus Law).

22.57.050 Application Requirements and Review.

- A. An application for a state density bonus, incentive or concession, waiver or modification of a development standard, or a revised parking standard in accordance with Section 22.57.040, shall be submitted with the first application for approval of a housing development and shall be processed concurrently with all other applications required for the housing development. The application shall be submitted on a form prescribed by the City and shall include, at a minimum, the following information:

1. A site plan showing the total number and location of all proposed housing units and the number and location of proposed housing units which qualify the housing development for density bonus housing units.
 2. The manner in which the applicant shall satisfy the affordability requirements for the housing units which qualify the housing development for density bonus units.
 3. A description of any requested incentives and concessions, waivers or modification of development standards, or modified parking standards. For all incentives and concessions, except mixed use development, the application shall include evidence deemed sufficient by the City that the requested incentives and concessions result in identifiable, financially sufficient, and actual cost reductions. For waivers or modifications of development standards, the application shall include evidence deemed sufficient by the City that the waiver or modification is necessary to make the housing units economically feasible and that the development standard from which a waiver or modification is requested will have the effect of precluding the construction of the housing development at the densities to which the applicant is entitled pursuant to this Chapter and with the concessions and incentives permitted by this Chapter.
 4. If a density bonus is requested for a land donation, the application shall show the location of the land to be dedicated and provide evidence that each of the conditions pursuant to Government Code Section 65915 (g) (2) (A through H) are met.
 5. If a density bonus or incentive or concession is requested for a child care facility pursuant to Government Code Section 65915 (h), the application shall show the location and square footage of the child care facility and provide evidence that the community lacks adequate child care facilities.
- B. Review and Consideration. An application for a density bonus, incentive or concession, waiver or modification of a development standard, or revised parking standard shall be considered and acted upon by the City body with review authority for the housing development.

C. Approval. Before approving an application for a density bonus, incentive or concession, or waiver or modification of a development standard, the approval body shall make the following findings:

1. If the density bonus is based all or in part on a donation of land, the conditions of Government Code Section 65915 (g) (2) (A through H) are met.
2. If the density bonus, incentive or concession is based all or in part on the inclusion of a child care facility, that the conditions included in Government Code Section 65915 (h) (2) (A) and (B) are met.
3. If the incentive or concession includes mixed use development, the finding included in Government Code Section 65915 (k) (2) are met.
4. If a waiver or modification of a development standard is requested, the developer has demonstrated, for each requested waiver or modification, that the waiver or modification is necessary to make the housing units economically feasible and that the development standards from which a waiver or modification is requested will have the effect of precluding the construction of a housing development at the densities to which the applicant is entitled pursuant to this Chapter or with the concessions and incentives permitted by this Chapter.

D. The approval body may deny a concession or incentive if it makes a written finding based upon substantial evidence of either of the following:

1. The concession or incentive is not required to provide for affordable rents or affordable housing costs as required by this Chapter.
2. The concession or incentive would have a specific adverse impact upon public health or safety or the physical environment or on any real property listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to lower, very low or moderate income households. For purposes of this subsection, "specific adverse impact" means a significant, quantifiable, direct and unavoidable

impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application was deemed complete.

- E. The approval body may deny a waiver or modification of a development standard only if it makes a written finding based upon substantial evidence or either of the following:
1. The waiver or modification would have a specific adverse impact upon health, safety or the physical environment and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to lower, very low or moderate income households. For purposes of this subsection, "specific adverse impact" means a significant, quantifiable, direct and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application was deemed complete.
 2. The waiver or modification would have an adverse impact on any real property listed in the California Register of Historical Resources.
- F. If a density bonus or concession or incentive is based on the provision of child care facilities, the approval body may deny the density bonus or concession or incentive if it finds, based on substantial evidence, that the City already has adequate child care facilities.

22.57.060 - Density Bonus Housing Agreement.

- A. Density Bonus Housing Agreement. An applicant requesting a density bonus shall agree to enter into an affordable housing agreement ("agreement") with the City in the City's standard form of agreement. Execution of the agreement shall be made a condition of approval for any discretionary planning permit for housing developments pursuant to this Chapter and shall be recorded as a restriction on any parcels on which the housing units which qualify the housing development for a density bonus will be constructed.
- B. Recording of Agreement. The agreement shall be recorded prior to the final or parcel map approval, or, where the housing development does not include a map, prior to the issuance of a building permit.

C. Contents of the Agreement. Each agreement shall include, but not be limited to, the following:

1. A description of the residential development, including whether the housing units which qualify the housing development for a density bonus will be rented or owner-occupied;
2. The number, size and location of the housing units which qualify the housing development for a density bonus;
3. Provisions and/or documents for resale restrictions, deeds of trust, right of first refusal or rental restrictions;
4. Provisions for monitoring the ongoing affordability of the housing units which qualify the housing development for a density bonus, and the process for qualifying prospective resident households for income eligibility; and
5. Any additional obligations relevant to the compliance with this Chapter.

D. Owner-Occupied Agreements. The purchaser of each owner-occupied housing unit which qualified the housing development for a density bonus shall execute the City's standard form agreement, to be recorded against the parcel, and which includes such provisions as the City may require to ensure continued compliance with this Chapter.

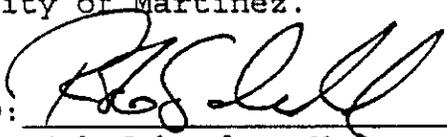
Agreements for Child Care Facilities and Land Donations. Density bonus housing agreements for child care facilities and land dedications shall ensure continued compliance with all conditions included in Government Code Section 65915 (h) (2) (A) and (B) and Government Code Section 65915 (g) (2) (A through H), respectively.

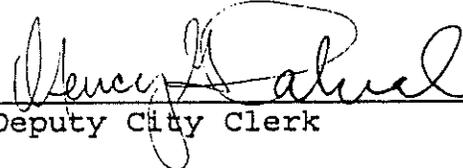
SECTION 25. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

SECTION 26. **Effective date.** This ordinance shall become effective 30 days after the date of adoption.

SECTION 27. **Posting.** The City Clerk shall cause this ordinance to be published within fifteen days after its adoption, at least once, with the names of those city council members voting for or against the ordinance, in a newspaper of general circulation published and circulated in the City of Martinez.

APPROVED: 
Rob Schroder, Mayor

ATTEST: 
Deputy City Clerk

* * * * *

I HEREBY CERTIFY that the foregoing ordinance was duly and regularly introduced at a Regular Meeting of the City Council of the City of Martinez, held on the 5th day of February, 2014, and duly passed and adopted at a Regular Meeting of said City Council held on the 19th day of February, 2014, by the following vote:

AYES: Councilmembers AnaMarie Avila Farias, Lara DeLaney, Mark Ross, Vice Mayor Michael Menesini and Mayor Rob Schroder

NOES: None

ABSENT: None

ABSTAIN: None

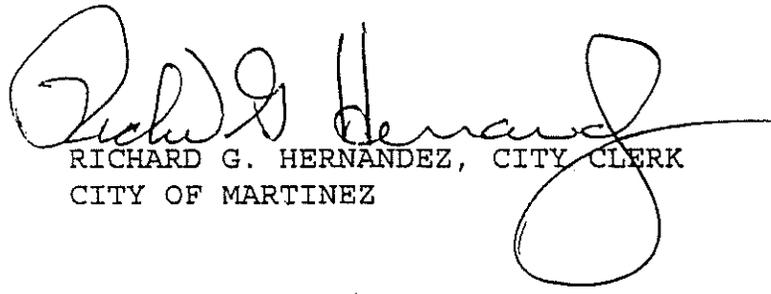

RICHARD G. HERNANDEZ, CITY CLERK
CITY OF MARTINEZ

EXHIBIT A
CITY COUNCIL ORDINANCE NO. 1379 C.S.

GENERAL PLAN – HOUSING ZONING ELEMENT
CONSISTENCY FINDINGS

FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN

The proposed General Plan and Zoning text amendments are consistent with the policies of the Martinez General Plan, Housing Element and Downtown Specific Plan, components thereof, including, but not limited to the following:

21.341 - Land Use Element, Residential Uses, High Density Residential Areas: High density residential development...shall be permitted in limited areas. The primary purpose is provision for apartment types of housing accommodations to serve the needs of single persons, families with preschool children and childless households.

Facts in Support: The Zoning text amendments allow for density bonus for affordable housing, which will improve the financial viability for affordable high density residential development, providing added housing opportunities for single persons, families, seniors, and low-income households.

LU-1-4 - Downtown Specific Area Plan Policy: Provide incentives for infill development throughout Downtown, with an emphasis on the opportunity sites identified in this Plan.

Facts in Support: The Zoning text amendments will promote infill development in Downtown. Many of the opportunity sites identified in the Downtown Specific Plan are suited towards higher density residential that may qualify for density bonuses and incentives.

3.5 - Housing Element Policy: State Density Bonus Law. Provide density bonuses to projects according to the requirements of State law.

Facts in Support: Through the implementation of the Zoning text amendments, projects that qualify for density bonuses will be provided density bonuses in accordance with California Government Code Section 65915-65918.

3.8 - Housing Element Policy: Emergency Shelter and Disaster Preparedness Housing. Identify emergency housing needs and locations as part of the City's disaster preparedness planning.

65915. (density bonus for affordable housing, CA code)

- a) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall provide the applicant incentives or concessions for the production of housing units and child care facilities as prescribed in this section. All cities, counties, or cities and counties shall adopt an ordinance that specifies how compliance with this section will be implemented.
- b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (g), and incentives or concessions, as described in subdivision (d), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:
- (A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.
 - (B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.
 - (C) A senior citizen housing development as defined in Sections 51.3 and 51.12 of the Civil Code, or mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.
 - (D) Ten percent of the total dwelling units in a common interest development as defined in Section 1351 of the Civil Code for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.
- (2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), the applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), or (D) of paragraph (1).
- c) (1) An applicant shall agree to, and the city, county, or city and county shall ensure, continued affordability of all low-and very low income units that qualified the applicant for the award of the density bonus for 30 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section 50053 of

the Health and Safety Code. Owner-occupied units shall be available at an affordable housing cost as defined in Section 50052.5 of the Health and Safety Code.

- (2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of the moderate-income units that are directly related to the receipt of the density bonus in the common interest development, as defined in Section 1351 of the Civil Code, are persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity-sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity-sharing agreement:

- (A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used within three years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote homeownership.
- (B) For purposes of this subdivision, the local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.
- (C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale.

- (d) (1) An applicant for a density bonus pursuant to subdivision(b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of either of the following:

- (A) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the

Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

- (B) The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

- 2) The applicant shall receive the following number of incentives or concessions:

- (A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.
- (B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.
- (C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

- 3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section, that shall include legislative body approval of the means of

compliance with this section. The city, county, or city and county shall also establish procedures for waiving or modifying development and zoning standards that would otherwise inhibit the utilization of the density bonus on specific sites. These procedures shall include, but not be limited to, such items as minimum lot size, side yard setbacks, and placement of public works improvements.

- e) In no case may a city, county, or city and county apply any development standard that will have the effect of precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. An applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources.
- f) The applicant shall show that the waiver or modification is necessary to make the housing units economically feasible.
- g) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as of the date of application by the applicant to the city, county, or city and county. The applicant may elect to accept a lesser percentage of density bonus. The amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

- (1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall becalculated as follows:

PERCENTAGE LOW-INCOME UNITS	PERCENTAGE DENSITY BONUS
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

- (2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

PERCENTAGE VERY LOW INCOME UNITS	PERCENTAGE DENSITY BONUS
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

- (3) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent.

- (4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

PERCENTAGE MODERATE INCOME UNITS	PERCENTAGE DENSITY BONUS
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

- (5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. As used in subdivision (b), "total units" or "total dwelling units" does not include units permitted by a density bonus awarded pursuant to this section or any local law granting a

greater density bonus. The density bonus provided by this section shall apply to housing developments consisting of five or more dwelling units

- (h) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county as provided for in this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan for the entire development, as follows:

PERCENTAGE VERY LOW INCOME	PERCENTAGE DENSITY BONUS
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

- (2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks both the increase required pursuant to this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development.

An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

- (A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.
 - (B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.
 - (C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible. No later than the date of approval of the final subdivision map, parcel map, or of the residential development, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government prior to the time of transfer.
 - (D) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of dedication.
 - (E) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.
 - (F) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.
- (i) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:
- (A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.

- (B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.
- (2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:
- (A) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).
 - (B) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).
- (3) Notwithstanding any requirement of this subdivision, a city, county, or a city and county shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.
- (4) "Child care facility," as used in this section, means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and schoolage child care centers.
- (j) "Housing development," as used in this section, means one or more groups of projects for residential units constructed in the planned development of a city, county, or city and county. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 1351 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

- (k) The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. This provision is declaratory of existing law.
- (l) For the purposes of this chapter, concession or incentive means any of the following:
- (1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.
 - (2) Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.
 - (3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable, financially sufficient, and actual cost reductions. This subdivision does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.
- (m) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code.
- (n) Nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.
- (o) For purposes of this section, the following definitions shall apply:

- (1) "Development standard" includes site or construction conditions that apply to a residential development pursuant to any ordinance, general plan element, specific plan, charter amendment, or other local condition, law, policy, resolution, or regulation.
 - (2) "Maximum allowable residential density" means the density allowed under the zoning ordinance, or if a range of density is permitted, means the maximum allowable density for the specific zoning range applicable to the project.
- (p) (1) Upon the request of the developer, no city, county, or city and county shall require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivision (b), that exceeds the following ratios:
- (A) Zero to one bedrooms: one onsite parking space.
 - (B) Two to three bedrooms: two onsite parking spaces.
 - (C) Four and more bedrooms: two and one-half parking spaces.
- (2) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide "onsite parking" through tandem parking or uncovered parking, but not through onstreet parking.
- (3) This subdivision shall apply to a development that meets the requirements of subdivision (b) but only at the request of the applicant. An applicant may request additional parking incentives or concessions beyond those provided in this section, subject to subdivision (d).

65915.5.

- (a) When an applicant for approval to convert apartments to a condominium project agrees to provide at least 33 percent of the total units of the proposed condominium project to persons and families of low or moderate income as defined in Section 50093 of the Health and Safety Code, or 15 percent of the total units of the proposed condominium project to lower income households as defined in Section 50079.5 of the Health and Safety Code, and agrees to pay for the reasonably necessary administrative costs incurred by a city, county, or city and county pursuant to this section, the city, county, or city and county shall either (1) grant a density bonus or (2) provide other incentives of equivalent financial value. A city, county, or city and county may place such reasonable conditions on the granting of a density bonus or other incentives of equivalent financial value as it finds appropriate, including, but not limited to, conditions which assure continued affordability of units to subsequent purchasers who are persons and families of low and moderate income or lower income households.

- (b) For purposes of this section, "density bonus" means an increase in units of 25 percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion.
- (c) For purposes of this section, "other incentives of equivalent financial value" shall not be construed to require a city, county, or city and county to provide cash transfer payments or other monetary compensation but may include the reduction or waiver of requirements which the city, county, or city and county might otherwise apply as conditions of conversion approval.
- (d) An applicant for approval to convert apartments to a condominium project may submit to a city, county, or city and county a preliminary proposal pursuant to this section prior to the submittal of any formal requests for subdivision map approvals. The city, county, or city and county shall, within 90 days of receipt of a written proposal, notify the applicant in writing of the manner in which it will comply with this section. The city, county, or city and county shall establish procedures for carrying out this section, which shall include legislative body approval of the means of compliance with this section.
- (e) Nothing in this section shall be construed to require a city, county, or city and county to approve a proposal to convert apartments to condominiums.
- (f) An applicant shall be ineligible for a density bonus or other incentives under this section if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were provided under Section 65915.

65916.

Where there is a direct financial contribution to a housing development pursuant to Section 65915 through participation in cost of infrastructure, write-down of land costs, or subsidizing the cost of construction, the city, county, or city and county shall assure continued availability for low- and moderate-income units for 30 years. When appropriate, the agreement provided for in Section 65915 shall specify the mechanisms and procedures necessary to carry out this section.

65917.

In enacting this chapter it is the intent of the Legislature that the density bonus or other incentives offered by the city, county, or city and county

pursuant to this chapter shall contribute significantly to the economic feasibility of lower income housing in proposed housing developments. In the absence of an agreement by a developer in accordance with Section 65915, a locality shall not offer a density bonus or any other incentive that would undermine the intent of this chapter.

65917.5.

(a) As used in this section, the following terms shall have the following meanings:

- (1) "Child care facility" means a facility installed, operated, and maintained under this section for the nonresidential care of children as defined under applicable state licensing requirements for the facility.
- (2) "Density bonus" means a floor area ratio bonus over the otherwise maximum allowable density permitted under the applicable zoning ordinance and land use elements of the general plan of a city, including a charter city, city and county, or county of
 - (A) A maximum of five square feet of floor area for each one square foot of floor area contained in the child care facility for existing structures.
 - (B) A maximum of 10 square feet of floor area for each one square foot of floor area contained in the child care facility for new structures.

For purposes of calculating the density bonus under this section, both indoor and outdoor square footage requirements for the child care facility as set forth in applicable state child care licensing requirements shall be included in the floor area of the child care facility.

- (3) "Developer" means the owner or other person, including a lessee, having the right under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors to make application for development approvals for the development or redevelopment of a commercial or industrial project.
- (4) "Floor area" means as to a commercial or industrial project, the floor area as calculated under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors and as to a child care facility, the total area contained within the exterior walls of the facility and all outdoor areas devoted to the use of the facility in accordance with applicable state child care licensing requirements.

(b) A city council, including a charter city council, city and county board of supervisors, or county board of supervisors may establish a procedure by ordinance to grant a developer of a commercial or industrial project, containing at least 50,000 square feet of floor area, a density bonus when that developer has set aside at least 2,000 square feet of floor area and

3,000 outdoor square feet to be used for a child care facility. The granting of a bonus shall not preclude a city council, including a charter city council, city and county board of supervisors, or county board of supervisors from imposing necessary conditions on the project or on the additional square footage. Projects constructed under this section shall conform to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other health, safety, and zoning requirements generally applicable to construction in the zone in which the property is located. A consortium with more than one developer may be permitted to achieve the threshold amount for the available density bonus with each developer's density bonus equal to the percentage participation of the developer. This facility may be located on the project site or may be located offsite as agreed upon by the developer and local agency. If the child care facility is not located on the site of the project, the local agency shall determine whether the location of the child care facility is appropriate and whether it conforms with the intent of this section. The child care facility shall be of a size to comply with all state licensing requirements in order to accommodate at least 40 children.

- (c) The developer may operate the child care facility itself or may contract with a licensed child care provider to operate the facility. In all cases, the developer shall show ongoing coordination with a local child care resource and referral network or local governmental child care coordinator in order to qualify for the density bonus.
- (d) If the developer uses space allocated for child care facility purposes, in accordance with subdivision (b), for any purposes other than for a child care facility, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. If the developer fails to have the space allocated for the child care facility within three years, from the date upon which the first temporary certificate of occupancy is granted, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors in accordance with procedures to be developed by the legislative body of the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. Any penalty levied against a consortium of developers shall be charged to each developer in an amount equal to the developer's percentage square feet participation. Funds collected pursuant to this subdivision shall be deposited by the city council, including a charter city council, city and county board of supervisors, or county board of

supervisors into a special account to be used for childcare services or child care facilities.

- (e) Once the child care facility has been established, prior to the closure, change in use, or reduction in the physical size of, the facility, the city, city council, including a charter city council, city and county board of supervisors, or county board of supervisors shall be required to make a finding that the need for child care is no longer present, or is not present to the same degree as it was at the time the facility was established.
- (f) The requirements of Chapter 5 (commencing with Section 66000) and of the amendments made to Sections 53077, 54997, and 54998, by Chapter 1002 of the Statutes of 1987 shall not apply to actions taken in accordance with this section.
- (g) This section shall not apply to a voter-approved ordinance adopted by referendum or initiative.

65918.

The provisions of this chapter shall apply to charter cities.

end

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