## CHAPTER 9 BUILDING REGULATIONS

### ARTICLE 1 BUILDING CODE OF THE CITY OF HAYWARD[[1]](#footnote-1)

SEC. 9-1.00 2022 CALIFORNIA BUILDING CODES, ADOPTION BY REFERENCE.

The 2022 California Building Code (Part 2 of C.C.R. Title 24, based on the 2021 International Building Code), the 2022 California Residential Code (Part 2.5 of C.C.R. Title 24 based on the 2021 International Residential Code), the 2022 California Electrical Code (Part 3 of C.C.R. Title 24 based on the 2020 National Electrical Code), The 2022 California Mechanical Code (Part 4 of C.C.R. Title 24 based on the 2021 Uniform Mechanical Code), the 2022 California Plumbing Code (Part 5 of C.C.R. Title 24 based on the 2021 Uniform Plumbing Code), the 2022 California Energy Code (Part 6 of C.C.R. Title 24), the 2022 California Historical Building Code (Part 8 of C.C.R. Title 24), the 2022 California Existing Building Code (Part 10 of C.C.R. Title 24 based on the 2021 International Existing Building Code), the 2022 California Green Building Standards Code (Part 11 of C.C.R. Title 24), published by the International Code Council, as amended by the State of California pursuant to Health and Safety Code section 17922, and as further modified by the amendments, additions, and deletions as set forth hereinafter, is hereby adopted by reference as the Building Code of the City of Hayward.

A printed copy of such 2022 California Building Codes together with the State and local amendments thereto, is on file in the office of the Building Official, to which reference is hereby made for further particulars.

(Amended by Ordinance 22-09, adopted November 15, 2022)

SEC. 9-1.01 SUMMARY OF LOCAL AMENDMENTS.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Code Section | Added  to Code | Code Change | Deleted from Code | Notes/Justification |
| CBC 101.1 Title |  | X |  | Defines name of jurisdiction |
| CBC 101.2.1 Appendices |  | X |  | Specifies adopted appendices |
| CBC 103.1 |  | X |  | Defines name of enforcement agency |
| CBC 105.1.1 |  |  | X | Removes option for annual permits |
| CBC 105.1.2 |  |  | X | Item is removed since it is related to previous item |
| CBC 105.3.1.1 Expedited Residential Solar Permitting |  |  |  |  |
| X |  |  | Establishes a requirement to expedite residential solar applications that meet specific criteria as mandated by AB 2188 CBC 105.3.1.2 Expedited Electric Vehicle Charging Station Permitting |
| X |  |  | Establishes a requirement to expedite electric vehicle charging station applications that meet specific criteria as mandated by AB 1236 |
| CBC 105.3.2 |  | X |  | Adds clarification to the expiration policy of applications in plan review |
| CBC 105.5.2 Completion Permits | X |  |  | Defines process for "completion permits" — projects where inspections have been performed but the permit has expired |
| CBC 105.5.2.1 Completion Permit Fees | X |  |  | Establishes fee calculation formula for "completion permits" |
| CBC 109.2 Permit Fees |  | X |  | Makes reference to the Master Fee Schedule adopted by Council |
| CBC 109.4.1 Investigation Fees for Work Completed Without Permits |  | X |  | Clarifies policy for charging additional fees for work conducted without permits |
| 109.6 Refunds |  | X |  | Establishes a refund process and percentage of money to be returned |
| CBC 111.3 Temporary Occupancy |  | X |  | Provides clarification on local policy related to "temporary certificate of occupancy" |
| CBC Ch. 4 |  |  |  | See Hayward Fire Code Ordinance for changes related to Ch. 4 |
| CBC Ch. 9 |  |  |  | See Hayward Fire Code Ordinance for changes related to Ch. 9 |
| CBC 1705.3 Concrete Construction |  | X |  | This amendment improves quality control during construction by modifying the type of exception from requiring special inspection for isolated spread concrete footings of buildings 3 stories or less. Coordinated Regionally with other local jurisdictions. Findings submitted to Building Standards Commission based on geological conditions |
| CBC 1905.1.7, ACI 318 Section 14.1.4 |  | X |  | This amendment addresses the problem of poor performance of plain or under-reinforced concrete footings during a seismic event. *Coordinated Regionally with other local jurisdictions. Findings submitted to Building Standards Commission based on geological conditions (GC).* |
| CRC Table  R602.10.3(3) |  | X |  | This amendment addresses the problem of poor performance of gypsum wallboard and Portland cement plaster as wall bracing materials in high seismic areas. *Coordinated Regionally with other local jurisdictions. Findings submitted to Building Standards Commission based on GC.* |

(Amended by Ordinance 20-05, adopted March 24, 2020; Amended by Ordinance 22-09, adopted November 15, 2022)

SEC. 9-1.02 LOCAL AMENDMENTS TO THE CODE BY CHAPTER

**CALIFORNIA BUILDING CODE CHAPTER 1: SCOPE AND ADMINISTRATION**  
**LOCAL AMENDMENTS**

*The administrative local amendments in this chapter shall also apply to the corresponding requirements in the administration chapters of the California Mechanical Code, the California Plumbing Code and the California Electrical Code.*

**101.1 Title.** This section is revised to read as follows:

These regulations shall be known as the Building Code of the City of Hayward. The provisions contained herein are adopted, and together with the local amendments, are referred to hereafter as "these regulations" or "these building standards" or "this code."

**101.2.1 Appendices.** This section is revised to read as follows:

Wherever in this code reference is made to an appendix chapter, the provisions of the said appendix shall not apply unless specifically adopted by this code. The following appendix chapters are adopted:

1. California Building Code Appendix I: Patio Covers.

2. California Building Code Appendix P: Emergency Housing (as amended).

3. California Residential Code Appendix AZ: Emergency Housing (as amended).

4. California Plumbing Code Appendix A: Rules for Sizing the Water Supply System.

5. California Plumbing Code Appendix B: Notes on Combination Waste and Vent Systems.

6. California Plumbing Code Appendix C: Alternate Plumbing Systems.

**103.1 Creation of enforcement agency.** This section is revised to read as follows:

The Building Division of the Development Services Department is hereby created and the official in charge thereof shall be known as the building official.

**105.1.1 Annual permit.** This section is hereby deleted.

**105.1.2 Annual permit records.** This section is hereby deleted.

**105.3.1.1 Expedited Residential Solar Permitting.** A new section is added to read as follows:

The City of Hayward Building Division shall maintain expedited permitting and inspection services for small residential rooftop solar systems as required by AB 2188. This legislation is codified in Subsection (a) of Section 65850.5 of the California Government Code.

The following criteria must be met by the applicant to qualify for the expedited permitting process:

1. The installation must be on a one- or two-family dwelling.

2. The solar energy system shall not be larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal.

3. The submittal documents shall demonstrate compliance with all applicable codes and shall be legible. The design for the solar system shall include adequate details and/or calculations to confirm minimum code compliance for wind loads, dead loads and roof structure support, electrical system safety and plumbing systems for solar thermal.

The Building Division of the City of Hayward will provide the following services for qualified projects:

1. Checklist: A comprehensive checklist will be maintained on the City of Hayward website that covers the minimum code requirements. If a project submitted for review does not meet the minimum code items noted in the checklist, the applicant will be given a written list of comments specifying the required corrections.

2. Expedited plan review: Expedited plan review shall mean ½ of the normal plan review period for a project. The Building Division will make every effort to issue qualified residential solar permits on the same day as the application if staffing is available to complete the review.

3. Single Inspection: The Building Division and the Fire Prevention Office will coordinate to avoid separate inspection scheduling for small residential solar permits. The Fire Marshall or the building official may require additional inspections if the work inspected initially did not meet minimum code compliance.

**105.3.1.2 Expedited Electric Vehicle Charging Station Permitting.** A new section is added to read as follows:

The City of Hayward Building Division shall maintain expedited permitting for electric vehicle charging stations as required by California Government Code Section 65850.7 (AB 1236).

The Building Division of the City of Hayward will provide the following services for the permitting of Electric Vehicle Charging Stations:

1. Checklist: A link to a comprehensive guidebook and checklists will be maintained on the City of Hayward website that covers the minimum code requirements. If a project submitted for review does not meet the minimum code items noted in the checklists, the applicant will be given a written list of comments specifying the required corrections.

2. Expedited Plan Review: Expedited plan review shall mean one-half of the normal plan review period for a project. The Building Division will make every effort to issue residential (single family or duplex) electric vehicle charging station permits on the same day as the application is submitted if staffing is available to complete the review or will process such applications via electronic submittal. The Building Division will also make every effort to provide expedited plan reviews for commercial or multi-family (condominium or apartment complexes) electric vehicle charging station permits at no extra cost if staffing is available to meet the timelines.

**105.3.2 Time limitation of application.** This section is revised to read as follows:

An application for a permit for any proposed work submitted through the plan review process shall be deemed to have been abandoned 365 days after the date of filing if the plans are not approved. This timeline includes the responses to correction lists. Once the plans are approved, but the building permit has not yet been issued, the application for the permit shall be valid for an additional 180 days. The building official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each when an application has expired. The extension shall be requested in writing and justifiable cause demonstrated.

**105.5.2 Completion permits.** A new section, 105.5.2 is added as follows:

In the event due to project abandonment that an initial or a renewed permit expires before the work is complete, the completion of the work shall require the issuance of a "completion" permit and the payment of an additional permit fee; moreover, the building official shall have the authority to require the resubmittal of plans, a new plan review, and/or the updating or reassessment of the valuation of the incomplete work. This completion permit will require that all incomplete work conform to the laws, regulations, rules, and ordinances in effect at the time of issuance and that all work be completed prior to the expiration date; no further extensions or renewals shall be allowed. The completion permit fee shall be established as indicated in Section 105.5.2.1 and in accordance with the schedule of previously completed and inspected work.

Notwithstanding the above, in the event that a permittee fails to complete the work and to obtain a completion permit within 1 year following the expiration of an initial or a renewal permit, the work may not be completed pending the issuance of a new permit. The building official shall have the authority to require the resubmittal of some or all of the plans and specifications, a partial or complete plan review, the payment of additional review and filing fees, and that all work conform to the laws, regulations, rules, and ordinances in effect at the time of the latest permit application.

**105.5.2.1 Fees for completion permits.** A new section, 105.5.2.1 is added as follows:

Fees for completion permits as described in Section 105.5.2 shall be based upon the percentage of work that has passed inspection prior to the expiration of the renewed permit. If either valuation or fees have changed since the original permit was issued, the fees or the valuation shall be updated to the new fees or valuations in effect at the time the completion permit is issued. The percentages to be charged will remain the same.

This schedule is intended to apply to conventional wood frame building construction. In the event that the work is not conventional wood frame construction, or does not constitute a complete building, or is a type of structure other than a building, the building official shall determine the fee based upon the number of the inspections remaining to be performed.

|  |  |
| --- | --- |
| Completed Inspections | % of Updated Valuation |
| None | 60 |
| Foundation | 55 |
| Under-floor | 50 |
| Shear Wall | 40 |
| Rough Frame | 30 |
| Lath or Gypsum Board | 20 |
| All, except Final | 10 |

**109.2 Schedule of permit fees.** This section is amended to read as follows:

Fees shall be as set forth in a fee schedule adopted, for this purpose, by resolution of the City Council. The said schedule shall establish, but not be limited to, fees for permit issuance and inspections and regular plan reviews. The fees for the plan checking and permit issuance of related items shall also be included in the said fee schedule.

**109.4.1 Investigation fees for work without a permit.** New Section 109.4.1 is added as follows:

Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, the building official shall perform an investigation prior to the issuance of the permit authorizing the work. An investigation fee shall be charged to offset the cost of the said investigation shall be established. This fee shall be in addition to any other regular plan review or permit fee and shall be collected whether or not a permit is then or subsequently issued. The amount of the investigation fee shall be assessed by the building official in accordance with the schedule described in Section 109.2 and based upon the circumstances and extent of the violation, but in no case shall be less than the amount of the permit fee required by this code. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law.

**109.6 Refunds.** This section is revised to read as follows:

The building official shall not authorize refunding of any fee paid to the Building Division except on written application filed by the original permittee.

The building official may authorize refunding of any fee paid under this code that was erroneously paid or collected.

The building official may authorize the refunding of a maximum of 60% of the initial permit fee paid to the Building Division when no work has been done under an unexpired permit issued in accordance with this code. If no work has been done and an issued permit has expired, the building official may authorize refunding of not more than 30% of the said permit fee, provided that the request for refund is submitted within 1 year following the permit expiration; after 1 year beyond the permit expiration date, no refund of the permit fee shall be authorized.

The building official may authorize the refunding of a maximum of 60% of the plan review fee paid to the Building Division if no plan review comments have been issued by the building official prior to the receipt of the request for refund. No refund of this fee shall be authorized following the issuance of the initial plan review comments by the building official.

**111.3 Temporary occupancy.** Two new paragraphs are added at the end of Section 111.3 as follows:

If the building official finds that no substantial hazard will result from occupancy or use of any building or structure, or portion thereof, before the same is completed, he/she may authorize such a temporary occupancy or use pending the completion of the entire building or structure.

The building official, in authorizing temporary occupancy or use, may impose any reasonable conditions that may be necessary to protect life, health, and property and may include a time limit on such occupancy or use. In the event that any such condition is violated, the building official may revoke a temporary occupancy or use. Failure to comply with conditions of said temporary occupancy may result in penalties and/or revocation of permit.

**CALIFORNIA BUILDING CODE CHAPTER 4: SPECIAL DETAILED REQUIREMENTS BASED ON USE AND OCCUPANCY LOCAL AMENDMENTS**

*See Hayward Fire Code Ordinance for Amendments*

**CALIFORNIA BUILDING CODE CHAPTER 9: FIRE PROTECTION SYSTEMS LOCAL**  
**AMENDMENTS**

*See Fire Hayward Code Ordinance for Amendments*

**CALIFORNIA BUILDING CODE CHAPTER 17: STRUCTURAL TESTS AND SPECIAL**  
**INSPECTIONS LOCAL AMENDMENTS**

**1705.3 Concrete construction.** Revise section 1705.3 Exception as follows:

Special inspections and tests of concrete construction shall be performed in accordance with this section and Table 1705.3.

**Exception (1):** Special inspections and tests shall not be required for: 1. Isolated spread concrete footings of buildings three stories or less above grade plane that are fully supported on earth or rock, where the structural design of the footing is based on a specified compressive strength, f'c, no greater than 2,500 pound per square inch (psi) (17.2 Mpa).

**CALIFORNIA BUILDING CODE CHAPTER 19: CONCRETE LOCAL AMENDMENTS**

Revise section 1905.1.7. ACI 318 section 14.1.4 that allows the use of plain concrete in residential structures assigned to Seismic Design Category C, D, E or F.

**1905.1.7 ACI 318, section 14.1.4.** Delete ACI 318, Section 14.1.4, and replace with the following:

14.1.4 - Plain concrete in structures assigned to Seismic Design Category C, D, E or F.

14.1.4.1 - Structures assigned to Seismic Design Category C, D, E or F shall not have elements of structural plain concrete, except as follows:

(a) Isolated footings of plain concrete supporting pedestals or columns are permitted, provided the projection of the footing beyond the face of the supported member does not exceed the footing thickness.

**Exception:** In detached one- and two-family dwellings three stories or less in height, the projection of the footing beyond the face of the supported member is permitted to exceed the footing thickness.

(b) Plain concrete footing supporting walls are permitted, provided the footings have at least two continuous longitudinal reinforcing bars. Bars shall not be smaller than No. 4 and shall have a total area of not less than 0.002 times the gross cross-sectional area of the footing. A minimum of one bar shall be provided at the top and bottom of the footing. Continuity of reinforcement shall be provided at corners and intersections.

**Exception:** In detached one- and two-family dwellings three stories or less in height and constructed with stud bearing walls, plain concrete footings with at least two continuous longitudinal reinforcing bars not smaller than No. 4 are permitted to have a total area of less than 0.002 times the gross cross-sectional area of the footing.

**CALIFORNIA BUILDING CODE APENDIX P: EMERGENCY HOUSING**

Adopt entire appendix as written and published in the 2022 California Building Code except as amended: Section P108 LOFTS IN EMERGENCY HOUSING shall not be adopted in this local ordinance.

**CALIFORNIA RESIDENTIAL CODE CHAPTER 6: WALL CONSTRICTION LOCAL**  
**AMENDMENTS**

**Table R602.10.3(3)** Add a new footnote "i" to the end of the table to read:

i. In Seismic Design Categories D 0 , D 1 , and D 2 , Method GB is not permitted, and the use of Method PCP is limited to one-story single-family dwellings and accessory structures.

Add the "i" footnote notation in the title of Table R602.10.3(3) to read:

**TABLE R602.10.3(3)i**

**R602.10.4.3.1 Limits on methods GB and PCP.** Add a new subsection R602.10.4.3.1, to read:

In Seismic Design Categories D 0 , D 1 , and D 2 , Method GB is not permitted for use as intermittent braced wall panels, but gypsum board is permitted to be installed when required by this section to be placed on the opposite side of the studs from other types of braced wall panel sheathing. In Seismic Design Categories D 0 , D 1 , and D 2 , the use of Method PCP is limited to one-story single-family dwellings and accessory structures."

**CALIFORNIA RESIDENTIAL CODE APENDIX AZ: EMERGENCY HOUSING AS AMENDED**

Adopt entire appendix as written and published in the 2022 California Building Code except as amended: Section AZ108 LOFTS IN EMERGENCY HOUSING shall not be adopted in this local ordinance.

(Amended by Ordinance 20-05, adopted March 24, 2020; Amended by Ordinance 22-10, adopted November 15, 2022)

### ARTICLE 2 BUILDING ALONG WATERCOURSES[[2]](#footnote-2)

SEC. 9-2.00 DEFINITIONS.

For the purposes of this Article, certain words and phrases are defined, and certain provisions shall be construed as herein set out, unless it shall be apparent from the context that a different meaning is intended.

SEC. 9-2.01 WATERCOURSE DEFINED.

Watercourse is defined as a river, stream, creek, watercourse, waterway or channel land including any property over which the City of Hayward has an easement for drainage purposes duly recorded in the Office of the County Recorder of the County of Alameda.

SEC. 9-2.02 STRUCTURE DEFINED.

Structure is defined as any wall, retaining wall, crib wall, bulkhead, dwelling, business structure, garage or other outbuilding and anything of such substance and conformation capable of deflecting or controlling the flow of water in a watercourse under any circumstances and to any degree or capable of damaging, weakening or reducing the effectiveness of the bank of a watercourse to withhold storm or flood waters.

SEC. 9-2.03 RUBBISH DEFINED.

Rubbish is defined as any substance which is not readily soluble in water.

SEC. 9-2.04 BANK DEFINED.

Bank is defined as a strip of land lying parallel to and adjoining the center line of a watercourse and extending on each side of said centerline a width equal to one-half the distance determined by multiplying by two, the horizontal distance measured at right angles from the center line of a watercourse at any given point to a point constituting the highest ground elevation at right angles to the center line at said given point provided, however, that the bank so measured on each side of the centerline of a watercourse shall not extend beyond a horizontal distance of one hundred (100) feet from the said centerline at any given point where the average slope of the intervening land between said centerline and the actual point of highest ground elevation on the side under consideration is less than five percent (5%).

SEC. 9-2.10 DEPOSIT OF RUBBISH—PROHIBITED.

It shall be unlawful for any person to place or cause or permit to be placed or maintained in the channel or bed of any watercourse any rubbish that may impede, restrict, retard or change the direction of the flow of water in such watercourse or that will catch or collect debris carried by such water, or that is placed or maintained where the natural flow of the storm and flood water would carry the same downstream to the damage and detriment of either private or public property adjacent to said watercourse, and the presence of such rubbish shall constitute a public nuisance.

SEC. 9-2.20 REMOVAL OF SAND, GRAVEL. PERMIT REQUIRED.

It shall be unlawful for any person to remove any sand, gravel or material of any kind from any watercourse or any tributaries of the same in the City of Hayward without first securing a permit so to do as herein provided.

SEC. 9-2.30 BUILDING OF STRUCTURES. PERMIT REQUIRED.

It shall be unlawful for any person to build, construct or maintain any structure in or upon private property, which said structure abuts or is upon the bank of any watercourse, or any of the tributaries of the same in the City of Hayward, without first securing a permit to build, construct or maintain any such structure as herein provided.

SEC. 9-2.40 APPLICATION FOR PERMIT. FEE.

An application for any permit required herein shall be filed with the Division of Permits and Licenses upon forms furnished by said Division together with an application fee of twenty-five dollars ($25.00), no part of which shall be refundable.

The application shall set forth the location and exact nature of the work proposed to be done, names and addresses of all parties connected with said work, and such other information as may be required.

Applicant shall also furnish detailed plans and drawings of proposed structures, areas of proposed work, and of existing structures on said premises.

The application and all accompanying information shall be referred to the City Engineer for his review and action.

SEC. 9-2.50 ACTION BY CITY ENGINEER.

The City Engineer shall make such investigations as he deems necessary to conclude that the proposed construction will not impede, restrict, retard or change the direction of the flow of water in such watercourse and will not catch or collect debris carried by such water, and is not placed where the natural flow of the storm and flood waters will carry the structure or any part thereof downstream, and will not in his opinion damage, weaken, or reduce the effectiveness of bank to withhold storm and flood waters.

The City Engineer, before taking action on said application shall refer said application, together with all information to the Alameda County Flood Control and Water Conservation District for appraisal of said District of the effect of the proposed construction and work upon plans of said District within the area of the proposed construction and work.

The City Engineer may approve, conditionally approve, or disapprove said application on the basis of his investigations and findings.

Upon completion of the investigation, the City Engineer shall return said application to the Division of Permits and Licenses.

SEC. 9-2.60 PERFORMANCE OF PERMITTED WORK.

The application when approved and signed by the City Engineer or by his authorized representative shall constitute the permit except as to that work for which other permits are required by the City of Hayward, and as to that work for which other permits are required the said permits by this Article authorized to be granted shall not be effective prior to receipt of valid permits otherwise required.

All construction or work for which a permit is required shall be subject to inspection by the Building Inspector, and shall be subject to such administrative regulation as may be necessary to insure complete inspection.

SEC. 9-2.70 APPEAL.

In case an applicant is aggrieved by the action of the City Engineer, or by reason of the requirements of this Article, he may, within fifteen (15) days from the date of decision of the City Engineer, make an appeal in writing to the City Council. Notice of such appeal and of the time and place of hearing thereon shall be given by the City Clerk to the appellant and the City Engineer.

SEC. 9-2.80 ACTION BY COUNCIL.

Upon review of the matter, the City Council may approve, reverse, modify or reject, wholly or partly, the action taken by the City Engineer, and its decision shall be final and conclusive.

In the event action of the Council reverses, modifies or rejects, wholly or partly the action taken by the City Engineer, the Council must find that the action taken by the City Engineer will cause undue hardship on the applicant and prevent him from a reasonable use of his property and the structure so proposed will not impede, restrict, retard or change the direction of the flow of water in such watercourse and will not catch debris carried by such water, and is not placed where the natural flow of the storm and flood waters will carry the structure or any part thereof downstream, and will not damage, weaken or reduce the effectiveness of a bank to withhold storm and flood waters.

### ARTICLE 3 BUILDING ABATEMENT[[3]](#footnote-3)

SEC. 9-3.101 TITLE.

These regulations shall be known as the Building Abatement Code of the City of Hayward, may be cited as such, and will be referred to herein as "this code."

SEC. 9-3.102 PURPOSE.

It is the purpose of the provisions of this code to provide a just, equitable, and practicable method, to be cumulative with and in addition to any other remedy otherwise available at law or equity, whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety, or welfare of the general public or their occupants, may be required to be repaired, rehabilitated, vacated, removed, or demolished.

SEC. 9-3.103 SCOPE.

The provisions of this code shall apply to all unsafe, substandard, and dangerous buildings, as herein defined, which are now in existence or which may hereafter be constructed in the City of Hayward.

SEC. 9-3.104 ALTERATIONS, ADDITIONS, AND REPAIRS.

Any alterations, additions, or repairs to buildings or structures which are required to be repaired or rehabilitated under the provisions of this code shall be subject to the provisions of the Hayward Building Code.

#### ENFORCEMENT

SEC. 9-3.201 CITY BUILDING OFFICIAL.

For the purposes of this code, Building Official shall be defined as the City Building Official of the City of Hayward or his or her designee.

SEC. 9-3.202 ADMINISTRATION.

The Building Official is hereby authorized to enforce the provisions of this code. The Building Abatement Hearing Panel as established by section 9-3.500 of this article is empowered to hear appeals from notice and orders issued by the Building Official.

SEC. 9-3.203 INSPECTIONS.

The Public Works Director, County Health Officer, Fire Marshal, Building Official, or their duly authorized representatives are hereby authorized to make such inspections and take such actions as may be required to enforce provisions of this code.

SEC. 9-3.204 RIGHT OF ENTRY.

(a) Upon presentation of proper credentials, the Building Official, after having obtained the consent of the owner or occupant, may enter at reasonable times during daylight hours and for probable cause, any building, structure, or premises in the City to perform any duty imposed upon him by this code.

(b) Except in emergency situations, the Building Official shall not enter any building, structure, or premises without the consent of the owner or occupant thereof, unless he possesses an inspection warrant obtained and issued in the manner provided by sections 1822.50 et seq. of the Code of Civil Procedure of the State of California or any amendments thereto to or replacements thereof.

(c) Except as hereinabove permitted, no person shall hinder or prevent the Building Official while in the performance of the duties described above, from entering upon, and into any building, structure, or premises under his jurisdiction, at all reasonable hours during daylight hours and for probable cause, for the purpose of inspecting the same to determine whether or not the provisions of this code are observed therein.

SEC. 9-3.205 ABATEMENT.

All buildings or portions thereof which are determined after inspection by the Building Official to be unsafe, substandard, and dangerous as defined in this code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal as specified in this code.

SEC. 9-3.206 INSPECTION OF WORK.

All buildings within the scope of this code and all construction or work for which a permit is required shall be subject to inspection by the Building Official in accordance with and in the manner provided by the Hayward Building Code.

#### DEFINITIONS

SEC. 9-3.301 GENERAL.

For the purpose of this code, certain words, phrases, and terms, and their derivatives shall be construed as specified herein. Words, phrases, and terms used in this code, but not specifically defined herein, shall have the meanings stated therefor in the Hayward Building Code or Hayward Housing Code. Where not defined in this code or in said Building Code or Housing Code, such words, phrases, and terms shall have the meanings generally prescribed by dictionary definition.

SEC. 9-3.302 UNSAFE, SUBSTANDARD, AND DANGEROUS BUILDING.

For the purpose of this code, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a public nuisance and an unsafe, substandard, and dangerous building, provided that such conditions or defects exist to the extent that the life, health, property, or safety of the public or its occupants are endangered.

(a) Whenever any door, aisle, passageway, stairway, or other means of exit is not of sufficient width or size, or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

(b) Whenever the stress in any materials, member, or portion thereof, due to all dead and live loads, is more than one and one-half (1½) times the working stress or stresses allowed in the Hayward Building Code, for new buildings of similar structure, purpose, or location.

(c) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Hayward Building Code, for new buildings of similar structure, purpose, or location.

(d) Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

(e) Whenever any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached, or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in said Hayward Building Code, for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted in said Hayward Building Code for such buildings.

(f) Whenever any portion thereof has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

(g) Whenever the building or structure, or any portion thereof, because of:

(1) dilapidation, deterioration, or decay;

(2) faulty construction;

(3) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building;

(4) the deterioration, decay, or inadequacy of its foundation; or

(5) any other cause is likely to partially or completely collapse.

(h) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

(i) Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

(j) Whenever the building or structure, exclusive of the foundation shows thirty-three percent (33%) or more damage or deterioration of its supporting member or members, or fifty percent (50%) damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.

(k) Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood, or has become so dilapidated or deteriorated as to become:

(1) an attractive nuisance to children;

(2) a harbor for vagrants, criminals, or immoral persons; or

(3) as to enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

(l) Whenever any building or structure has been constructed, or exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this City, as specified in the Hayward Building Code, or Hayward Housing Code, or of any law or ordinance of this state or the City of Hayward relating to the condition, location, or structure of buildings.

(m) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion, less than fifty percent (50%), or in any supporting part, member, or portion less than sixty-six percent (66%) of the (1) strength, (2) fire-resisting qualities or characteristics, or (3) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location.

(n) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction, or arrangement, inadequate light, air, or sanitation facilities, or otherwise, is determined by the County Health Officer to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease.

(o) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Marshal to be a fire hazard.

(p) Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

(q) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure, or whenever any building or structure is abandoned for a period in excess of six (6) months, so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

#### NOTICES AND ORDERS OF BUILDING OFFICIAL

SEC. 9-3.401 NOTICE AND ORDER.

The Building Official shall examine or cause to be examined every building or structure or portion thereof to determine whether it is unsafe, substandard, and dangerous, and if such is found to be an unsafe, substandard, and dangerous building as herein defined, the Building Official shall notify or cause to have notified the owner of such building or structure and other persons having a beneficial or legal interest of record in the building or structure as hereinafter stated.

(a) The notice shall contain the street address and a description sufficient for identification of the premises upon which the building is located. The notice shall state the conditions which render the building or structure an unsafe, substandard, and dangerous building. The notice shall order the correction or abatement thereof either by repair, rehabilitation, demolition, or removal within such time (not to exceed thirty (30) calendar days from the date of the order) as the Building Official shall determine is reasonable under all of the circumstances. If in the opinion of the Building Official such conditions can be corrected or abated by repair or rehabilitation thereof, the notice shall state the repairs or rehabilitation which will be required. Such notice shall also state that if the repairs, rehabilitation, demolition, or removal are not completed within the time specified, or within such extension of time as may be granted by the Building Official, the work specified in the notice may be done or caused to be done by the Building Official and the cost thereof levied as a special assessment against the property.

If necessary, such notice may also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the Building Official. The notice shall also state that any person having any beneficial or legal interest of record in the building may appeal from the notice and order or any action of the Building Official to the Building Abatement Hearing Panel, provided the appeal is made in writing as provided in this code, and filed with the Building Official within ten (10) calendar days from the date of service of such notice and order, unless the Building Official determines that immediate action is necessary and must take action pursuant to chapter 1, section 102 of the Uniform Building Code. The notice shall further state that failure to appeal as provided in this code shall constitute a waiver of all right to an administrative hearing and determination of the matter and will waive all right to maintain any action, suit, or proceeding to set aside or modify the Building Official's notice, order, and action.

(b) If such building is encumbered by a mortgage or a deed of trust, of record, and the owner of such building shall not have complied with the order of the Building Official on or before the expiration of time specified on such notice and order, the mortgagee or beneficiary under such deed of trust may, within the same period, comply with the requirements of the order of the Building Official. For good cause shown, the Building Official may extend the time within which to complete said repairs, rehabilitation, demolition, or removal.

(c) The notice required hereinabove shall be given in the following manner:

The Building Official shall post or cause to be posted conspicuously at least one (1) copy of the notice on the building and a copy of such notice shall be personally served upon, or sent by certified mail, postage prepaid, return receipt requested, to the person owning the land on which the building is located, as such person's name and address appear on the last equalized assessment roll of the County of Alameda. One (1) copy of the notice shall be personally served upon, or sent by certified mail, postage prepaid, return receipt requested, to each of the following: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The notice shall be sent to such persons at their address as appears on the last equalized assessment roll of the County of Alameda or as is known to the Building Official. If the address of any known person entitled to service of the notice and order is unknown to the Building Official, then a copy shall be mailed, addressed to such person, at the address of the building involved in the proceedings.

A declaration of posting and mailing shall be made under penalty of perjury by the person or persons who posted and/or mailed said notice, certifying to the time and manner in which such notice was given, and such declaration shall be filed in the Development Inspection Services Division of the Department of Community and Economic Development of the City of Hayward. There shall also be filed therewith any receipt card which may have been returned in acknowledgment of receipt of such notice by registered mail. The failure of any owner or other person to receive such notice shall not affect in any manner the validity of any proceeding taken hereunder.

SEC. 9-3.402 POSTING OF SIGNS.

In those cases in which the Building Official has determined that it is necessary that such building, structure, or portion thereof be vacated forthwith, he shall cause to be posted at each entrance to such building a notice to read: 'DO NOT ENTER. UNSAFE TO OCCUPY. Development Inspection Services Division of the Department of Community and Economic Development of the City of Hayward.' Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the Building Official and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building until the required repairs, demolition, or removal have been completed and a Certificate of Occupancy issued pursuant to the provisions of the Hayward Building Code.

SEC. 9-3.403 RECORDATION.

If compliance with the Building Official's order is not achieved within the time specified therein, and no appeal has been properly and timely filed, or an appeal has been filed but determined by the Building Abatement Hearing Panel adversely to the appellant, the Building Official shall file in the office of the Recorder of the County of Alameda a certificate describing the property and certifying that the building is an unsafe, substandard, and dangerous building and that the owner has been so notified. Whenever the corrections ordered shall thereafter have been completed or the building demolished so that it no longer exists as an unsafe, substandard, and dangerous building on the property described in the certificate, the Building Official shall file a new certificate with the Alameda County Recorder certifying that the building has been demolished or all required corrections have been made so that the building is no longer unsafe, substandard, and dangerous, whichever is appropriate.

SEC. 9-3.404 STANDARDS TO BE FOLLOWED.

The following standards shall be followed by the Building Official (and by the Building Abatement Hearing Panel if an appeal is taken) in ordering the repair, vacation, or demolition of any dangerous building or structure:

(a) If the building or structure reasonably can be repaired so that it will no longer exist as a dangerous building, it shall be ordered to be repaired; otherwise it shall be ordered to be demolished.

(b) If the building or structure is in such condition as to make it immediately dangerous to life, limb, property, or safety of the public or its occupants, it shall be ordered to be vacated.

SEC. 9-3.405 DEMOLITION, AN ALTERNATIVE TO REPAIR.

An order to demolish shall not indicate an alternative permission to repair; however, an order to repair may be satisfied by demolition.

#### APPEAL OF BUILDING OFFICIAL'S NOTICE AND ORDER

SEC. 9-3.501 BUILDING ABATEMENT HEARING PANEL.

In order to provide for appeals from the Building Official's notice and order, there is hereby established a Building Abatement Hearing Panel. The Building Abatement Hearing Panel shall consist of three (3) members who are not employees of the City of Hayward, and who are qualified by experience and training to pass upon matters pertaining to building construction and maintenance. Each member shall have the following minimum qualifications:

(a) California state license as a general engineering contractor or general building contractor or four (4) years of building construction or inspection experience involving structural, housing, electrical and plumbing construction or inspection work;

(b) Have no conflict of interest, pecuniary interest or ethical barrier regarding the specific case the member will hear.

The Building Official shall act as secretary to said hearing panel. The City Manager shall appoint three (3) persons to the hearing panel. The hearing panel shall render all decisions and findings in writing to the appellant with a copy to the Building Official. The hearing panel may reverse or affirm, wholly or partly, or modify any notice and order of the Building Official.

SEC. 9-3.502 RIGHT TO APPEAL NOTICE AND ORDER.

Any person, firm, or corporation entitled to service under section 9-3.401 may appeal any notice and order or any action of the Building Official under this code by filing at the office of the Building Official within ten (10) calendar days from the date of the service of such notice and order, a written appeal to the Building Abatement Hearing Panel, except in cases where the Building Official must take immediate action pursuant to chapter 1, section 102 of the Uniform Building Code.

SEC. 9-3.503 FAILURE TO APPEAL NOTICE AND ORDER.

Failure of any person, firm, or corporation to file an appeal with the Building Official within ten (10) calendar days from the date of service of the Building Official's notice and order shall constitute a waiver of all right to an administrative hearing and determination of the matter by the Building Abatement Hearing Panel and will waive all right to maintain any action, suit, or proceeding to set aside or modify the Building Official's notice, order, and action.

SEC. 9-3.504 NOTICE OF HEARING.

Written notice of the time and place of the hearing shall be given at least ten (10) calendar days prior to the date of the hearing to each appellant either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the appeal.

SEC. 9-3.505 EFFECT OF APPEAL.

Except for vacation orders made pursuant to section 9-3.402, enforcement of any notice and order of the Building Official issued under this code shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

SEC. 9-3.506 DECISION OF HEARING PANEL.

The effective date of the decision of the Building Abatement Hearing Panel shall be as stated therein. The decision of the hearing panel is final. Any aggrieved party may bring an action in a court of competent jurisdiction to contest the validity of the proceedings or decision of the hearing panel as provided in Section. 9-3.901, otherwise all right to maintain any action, suit, or proceeding to set aside or modify the board's decision will be waived.

#### ENFORCEMENT OF ORDER

SEC. 9-3.601 FAILURE TO COMPLY WITH ORDER.

After any order or decision of the Building Official or the Building Abatement Hearing Panel made pursuant to this code shall have become final, no person to whom any such order is directed shall fail, neglect, or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any provisions of this code is committed, continued, or permitted and, upon conviction of any violation, such person shall be punishable by a fine of not more than five hundred dollars ($500.00), or by imprisonment for not more than six (6) months, or by both such fine or imprisonment.

SEC. 9-3.602 BUILDING OFFICIAL AUTHORIZED TO DO WORK.

If, after any order of the Building Official or Building Abatement Hearing Panel made pursuant to this code has become final, the person(s), firm(s), or corporation(s) to whom such order is directed shall fail, neglect, or refuse to obey such order, the Building Official may cause such person to be prosecuted under section 9-3.601 of this code, and institute any appropriate action to abate such building as a public nuisance. The Building Official may, in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order, or, if the notice and order required demolition, to cause the building to be sold and demolished or demolished and the materials, rubble, and debris therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot shall be paid over to the person or persons lawfully entitled thereto.

#### PERFORMANCE OF WORK

SEC. 9-3.701 PLANS AND SPECIFICATIONS FOR WORK.

When any work of repair or demolition is to be done pursuant to section 9-3.602 of this code, the Building Official shall issue his order and the work shall be accomplished by City personnel or by private contract. Plans and specifications therefor may be prepared by said Building Official, or architectural and engineering personnel hired on a contract basis as deemed reasonably necessary. If any part of the work is to be accomplished by private contract, Standard Public Works contractual procedures shall be followed.

SEC. 9-3.702 FINANCING OF WORK.

The cost of such work shall be paid from a special revolving fund to be established for such purpose and entitled 'Repair and Demolition Fund' or as authorized by the Hayward City Council on a case-by-case basis. Said costs may be made a special assessment against the property involved, in accordance with the procedure set forth in sections 9-3.801 to 9-3.805.

#### RECOVERY OF COSTS

SEC. 9-3.801 NOTICE OF LIEN/SPECIAL ASSESSMENT.

Pursuant to California State Government Code Sections 38773.1 and 38773.5, prior to placing any liens or special assessments against a property for unpaid costs, fees, charges or penalties, all applicable owners shall be properly served written notice of past due amounts, and the right to have a Lien/Special Assessment Hearing as described hereinafter.

SEC. 9-3.802 LIEN/SPECIAL ASSESSMENT HEARING.

Any owner may request a Lien/Special Assessment Hearing by written request within 14 days of receipt of the notice of lien/special assessment. The purpose of the Lien/Special Assessment Hearing is to provide an opportunity for any objections which may be raised by the owner liable to be charged for the work of abating cited code violations and related charges associated with their property. The Building Official shall attend said Lien/Special Assessment Hearings with his or her record thereof, and upon the hearing, the Building Abatement Hearing Panel may make the modifications in the proposed lien/special assessment as deemed necessary. When a Lien/Special Assessment Hearing is requested, the amount of the cost of abating cited code violations upheld by the hearing panel, including inspection charges and administrative expenses shall, after being confirmed by the city council, constitute a lien or special assessment on the property for the amount of the charges until paid. The right to judicial review shall be governed by Section 9-3.901.

SEC. 9-3.803 REPORT OF COSTS.

The Building Official shall keep an itemized account of the expense incurred by the City of Hayward in the inspection, repair or demolition of any building done pursuant to the provisions of section 9-3.602 of this code. Upon the completion of the work of repair or demolition, said Building Official shall render an annual itemized report in writing to the City Council showing the cost of abatement. The City Council shall review and confirm the annual report and lien/special assessment list, amended as necessary, by way of resolution.

SEC. 9-3.804 NOTICE OF REPORT.

The City Clerk shall post a copy of the report and lien/special assessment list on the bulletin board designated for the posting of agendas for City Council meetings together with a notice of filing thereof and of the time and place when and where it will be submitted to the City Council for confirmation by way of resolution. Notice shall also be published once in a newspaper of general circulation that is published and circulated within the City. The posting and first publication of the notice shall be made and completed at least ten (10) days before the time the report is considered by the City Council.

SEC. 9-3.805 COLLECTION ON TAX ROLL.

After City Council confirmation of the annual report and lien/special assessment list, a copy shall be given to the City Director of Finance who may receive the amount due on the abatement cost and issue receipts at any time after the confirmation and until a list of unpaid liens/special assessments is sent annually to the County Auditor for effecting collection on the tax roll at the time and in the manner of ordinary municipal taxes. The descriptions of the parcels reported shall be those used for the same parcels on the County Assessor's map books for the current year. All laws and ordinances applicable to the levy, collection, and enforcement of City taxes are hereby made applicable to such liens or special assessments and this lien or special assessment shall have priority of the taxes with which it is collected.

#### JUDICIAL REVIEW

SEC. 9-3.901 JUDICIAL REVIEW OF HEARING PANEL DECISION.

(a) Any person aggrieved by a decision of the hearing panel ordering the abatement of a nuisance or any associated administrative penalties or reimbursement for costs set forth in an order, may seek review of the administrative decision in the Superior Court by filing with the court a petition for writ of mandate pursuant to Section 1094.5 of the Code of Civil Procedure.

(b) If the responsible party fails to so appeal the notice and order and/or the notice of lien/special assessment, no further administrative remedy will be provided and the failure to appeal shall preclude judicial review of the hearing panel's decision.

(c) The filing of a request for judicial review shall not stay the operation or effect of an administrative decision or order unless a court of competent jurisdiction issues a specific stay order.

### ARTICLE 4 FLOOD PLAIN MANAGEMENT[[4]](#footnote-4)

SEC. 9-4.00 STATUTORY AUTHORIZATION.

The Legislature of the State of California has in Government Code Sections 65302, 655560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Hayward does hereby adopt the following flood plain management regulations.

SEC. 9-4.01 FINDINGS OF FACT.

The City Council has adopted this article, which may be referred to as the City of Hayward's Flood Plain Management Ordinance, to promote the public health, safety and general welfare of Hayward residents and property owners, implement the Cobey-Alquist Flood Plain Management Act (Water Code sections 8400 set seq. and amendments thereto) and comply with the eligibility requirements of the National Flood Insurance Program established pursuant to federal law (42 U.S.C. section 4001 et seq. and amendments thereto). The flood hazard areas of the City of Hayward are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which can adversely affect the public health, safety, and general welfare. Such flood losses are caused by uses which are inadequately elevated, flood-proofed or protected from flood damage and by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities and contribute to the flood loss.

SEC. 9-4.02 PURPOSE.

It is the purpose of this article to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by legally enforceable regulations applied uniformly throughout the community to all publicly and privately owned land within flood prone, mudslide [i.e. mudflow] or flood related erosion areas by provisions designed to:

(a) Protect human life and health;

(b) Minimize expenditure of public money for costly flood control projects;

(c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) Minimize prolonged business interruptions;

(e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets and bridges located in areas of special flood hazard;

(f) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blight areas caused by flood damage;

(g) Ensure that potential buyers are notified that property is in an area of special Flood hazard; and

(h) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SEC. 9-4.03 METHODS OF REDUCING FLOOD LOSSES.

To accomplish its purposes, this article includes methods and provisions that:

(a) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;

(b) Require that properties vulnerable to floods, including facilities on such properties, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(d) Control filling, grading, dredging, and other development which may increase flood damage; and

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(f) These regulations take precedence over any less restrictive conflicting local laws, ordinances, and codes.

SEC. 9-4.10 DEFINITIONS.

For the purpose of this article, certain words and phrases are defined and shall be construed as set out in this section. Any other words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

(a) *A zone* - see Special flood hazard area.

(b) *Accessory structure,* low-cost and small means a structure that is solely for the parking of no more than two (2) cars or limited storage (small, low-cost sheds)

(c) *Accessory use* means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

(d) *Alluvial fan* means a geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

(e) *Apex* means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

(f) *Appeal* means a request for a review of the enforcement or interpretation of any provision of this article.

(g) *Area of Shallow Flooding* means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; a velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(h) *Area of Special Flood Hazard*. See 'Special Flood Hazard Area.'

(i) *[Reserved.]*

(j) *Base Flood* means a flood having a one percent (1%) chance of being equaled or exceeded in any given year (also called the '100-year flood'). Base flood is the term used throughout this ordinance.

(k) *Base flood elevation* (BFE) means the elevation shown on the Flood Insurance Rate Map for Zones AE, AG, A1-30, VE, and V1-V30 that indicates the water surface elevation resulting from a flood that has a one percent (1%) or greater chance of being equaled or exceeded in any given year.

(l) *Basement* means any area of the building having its floor subgrade, i.e., below ground level on all sides.

(m) *Breakaway Walls* are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. A breakaway wall shall have a safe design loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

(1.) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

(2.) The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

(n) *Building* - see "Structure".

(o) *Coastal High Hazard Area* means an area of special flood hazard extending from offshore to the inland limit of primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, VE, or V.

(p) *Development* means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations, or storage of equipment or materials.

(q) *Encroachment* means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures, or development into a flood plain which may impede or alter the flow capacity of a flood plain.

(r) *Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before July 21, 1981.

(s) *Expansion to an existing manufactured home park or subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(t) *Federal Emergency Management Agency (FEMA)* refers to the federal agency, which administers the National Flood Insurance Program pursuant to 42 U.S.C. section 4001 et seq. and amendments thereto.

(u) *Flood, Flooding or Flood Waters* means:

A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.

(v) *Flood Boundary and Floodway Map (FBFM)* means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of flood hazard and the floodway.

(w) *Flood Insurance Rate Map (FIRM)* means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

(x) *Flood Insurance Study (FIS)* means the official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

(y) *Flood Plain or Flood-Prone Area* means any land area susceptible to being inundated by water from any source (see Flooding).

(z) *Flood Plain Administrator* is the Flood Plain Administrator is the Director of Public Works or his/her designee and shall administer, implement, and enforce this article, including the grant or denial of a development permit required by this article.

(aa) *Flood Plain Management* means the operation of an overall program of corrective and preventive measures for reducing flood damage, and preserving or enhancing, where possible, natural resources in the flood plain, including but not limited to emergency preparedness plans, flood control works, and flood plain regulations and open space plans.

(bb) *Flood Plain Management Regulations* means applicable federal and state regulations, this article and the following regulations: HMC Chapter 10 Article 1, the Zoning Ordinance, which contains the flood plain zoning regulations; HMC Chapter 10 Article 3, the Subdivision Ordinance; the building regulations contained in HMC Chapter 9 Article 1 and the uniform building codes, adopted by the City of Hayward special purpose ordinances, such as the grading and clearance regulations contained in HMC Chapter 10 Article 8; health regulations, and other applications of police power. The term "Flood Plain regulations" also includes any combination of applicable federal, state, and local regulations, which provide standards for the purpose of flood damage prevention and reduction.

(cc) *Flood-proofing* means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents, consistent with the guidelines on dry and wet flood proofing, contained in FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93, and amendments thereto.

(dd) *Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. This term is synonymous with the term "regulatory floodway."

(ee) *Floodway fringe* is that area of the flood plain on either side of the "Regulatory Floodway" where encroachment may be permitted.

(ff) *Fraud and victimization* as related to Section 9-4.190 of this ordinance, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City Council will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one-hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

(gg) *Functionally Dependent Use* means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or regulated manufacturing facilities.

(hh) *Governing body* is the local governing unit, i.e. county or municipality that is empowered to adopt and implement regulations to provide for the public health, safety, and general welfare of its citizenry.

(ii) *Hardship* as related to Section 9-4.200 of this ordinance means the exceptional hardship that would result from a failure to grant the requested variance. The City Council of the City of Hayward requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive or requires the property owner to build elsewhere, or put the parcel to a different use that originally intended.

(jj) *Highest Adjacent Grade* means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(kk) *Historic Structure* means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or;

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(i) By an approved state program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior in states without approved programs.

(ll) *Levee* means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water, so as to provide protection from temporary flooding.

(mm) *Levee system* means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

(nn) *Lowest Floor* means the lowest floor of the lowest enclosed area in a structure, including the basement (see "Basement" definition).

(1) An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements, including but not limited to:

(a) The wet floodproofing standard in subdivision 9-4.110(c)(3) of this article;

(b) The anchoring standards in subdivision 9-4.110(a);

(c) The construction material and construction method standard in subdivision 9-4.110(b);

(d) The standard for utilities in section 9-4.120.

(2) For residential structures, all subgrade enclosed areas in a special flood hazard area are prohibited as they are considered to be basements (see "Basement" definition). This prohibition includes below-grade garages and storage areas.

(oo) *Manufactured home* means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term 'manufactured home' also includes a mobile home, park trailer, travel trailer, and other similar vehicles placed on a site for greater than 180 consecutive days, and excludes a recreational vehicle.

(pp) *Manufactured Home Park or Subdivision* means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for sale or rent, including but not limited to a mobile home park.

(qq) *Market Value* shall be determined by estimating the cost to replace the structure in new condition and adjusting that cost figure by the amount of depreciation which has accrued since the structure was constructed. The cost of replacement of the structure shall be based on a square foot cost factor determined by reference to a building cost estimating guide recognized by the building construction industry. The amount of depreciation shall be determined by taking into account the age and physical deterioration of the structure and functional obsolescence as approved by the flood plain administrator, but shall not include economic or other forms of external obsolescence. Use of replacement costs or accrued depreciation factors different from those contained in recognized building cost estimation guides may be considered only if such factors are included in a report prepared by an independent professional appraiser and supported by a written explanation of the differences.

(rr) *Mean Sea Level* means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

(ss) *New Construction* for flood plain management purposes means a structure for which the 'start of construction' commenced on or after July 21, 1981, and includes any subsequent improvements to such structure.

(tt) *New manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after July 21, 1981.

(uu) *Obstruction* includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culver, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

(vv) *One Hundred Year Flood or 100-Year Flood* - See "Base Flood."

(ww) *Primary frontal dune* means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively mild slope.

(xx) *Program deficiency* means a defect in a community's flood plain management regulations or administrative procedures that impairs effective implementation of those flood plain management regulations.

(yy) *Public safety and nuisance,* as related to Section 9-4.200 of this ordinance, means that the granting of a variance must not result n anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

(zz) *Person* means an individual person, firm, partnership, association or corporation, or agent thereof. Also includes the State of California, its agencies, and political subdivisions.

(aaa) *Recreational Vehicle* means a vehicle that is:

(1) Built on a single chassis;

(2) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light-duty truck; and

(4) Designed for and used as a temporary living quarters for recreational, camping, travel, or seasonal use.

(bbb) *Regulatory Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

(ccc) *Remedy a Violation* means to bring the structure or other development into compliance with state or local flood plain regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this article or otherwise deterring future similar violations, or reducing the federal financial exposure with regard to the structure or other development.

(ddd) *Riverine* means relating to, formed by, or resembling a river (including tributaries), stream, brook, and similar bodies of water.

(eee) *Sand Dunes* means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

(fff) *Sheet flow area* - see "Area of shallow flooding."

(ggg) *Special Flood Hazard Area (SFHA)* means an area in the flood plain subject to a one percent (1%) or greater chance of flooding in any given year, which is shown on an FHBM or FIRM as Zone A, AO, Al-30, AE, A99, AH, V1-V30, VE, or V.

(hhh) *Start of Construction* includes substantial improvement and other proposed new development and means the date on which a building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement occurs within 180 days of the date on which the permit was issued. Alternatively, the commencement of substantial improvements, where no building permit is necessary. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets, and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(iii) *Structure* means a walled and roofed building, including, but not limited to a gas or liquid storage tank, that is principally above ground, and a manufactured home.

(jjj) *Substantial Damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(kkk) *Substantial Improvement* means any reconstruction, or improvement of a structure or other proposed development of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction. For the purposes of this definition 'substantial improvement' is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include the following:

(1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

(2) Any alteration of a structure designated as a historic structure, which is either listed on the National Register of Historic Places, the State Inventory of Historic Places or is designated as a historic structure pursuant to HMC Article 10-11, the Historic Preservation Ordinance; provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(lll) *V Zone* - see "Coastal high hazard area."

(mmm) *Variance* means a grant of relief from the requirements of this article, to enable construction or location of a structure in a manner that would otherwise be prohibited by this article.

(nnn) *Violation* means the failure of a structure or other development to be fully compliant with this article. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this article, is presumed to be in violation until such time as that documentation is provided.

(ooo) *Water Surface Elevation* means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

(ppp) *Watercourse* means a lake, river, creek, stream, wash, arroyo, channel, or other topographic feature on or over which water flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

SEC. 9-4.20 APPLICABILITY.

This article shall apply to all areas of special flood hazard within the jurisdiction of the City of Hayward.

SEC. 9-4.30 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the most recent Flood Insurance Study (FIS), Flood Insurance Rate Maps (FIRM), Flood Boundary and Floodway Maps (FBFMs) dated February 9, 2000, and all amendments thereto shall be deemed to be a part of this article upon the adoption of a City Council resolution approving the use of such FIS, FIRM or FBFM. The FIS and attendant maps delineate the minimum areas to which this article applies and may be supplemented by studies for other areas which allow implementation of this ordinance, when the Flood Plain Administrator approves the use of such studies.

SEC. 9-4.40 COMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this article and other applicable regulations. Violations of any requirement of this article, including conditions and safeguards established in connection with conditions, shall constitute a misdemeanor. In addition, the City retains the discretion to take any lawful action which the City deems necessary to prevent or remedy any violation.

SEC. 9-4.50 ABROGATION AND GREATER RESTRICTIONS.

This article is not intended to repeal, abrogate, or impair any existing easement, covenant, or deed restriction. However, where this article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SEC. 9-4.60 INTERPRETATION.

In the interpretation and application of this article, all provisions shall be:

(a) Considered as minimum requirements;

(b) Liberally construed in favor of the governing body; and

(c) Deemed neither to limit nor repeal any other powers granted under state statutes.

SEC. 9-4.70 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the City of Hayward, the State of California, the Federal Insurance Administration or Federal Emergency Management Agency, or any of such agency's officers or employees, for any flood damage that results from reliance on this article or any administrative decision lawfully made thereunder.

SEC. 9-4.80 FLOOD PLAIN ADMINISTRATOR.

The Director of Public Works, or his/her designee, is the Flood Plain Administrator. The Flood Plain Administrator is responsible for making determinations in accordance with this article, acting on all development permit applications and enforcing the requirements of this article.

SEC. 9-4.90 DUTIES OF THE FLOOD PLAIN ADMINISTRATOR.

The duties and responsibilities of the Flood Plain Administrator include, but are not limited to:

(a) *Permit review.* The Flood Plain Administrator shall review all development permits pertaining to properties in the flood plain, to determine the following:

(1) Compliance with this article's requirements.

(2) That required state and federal permits have been obtained.

(3) That the site is reasonably safe from flooding.

(4) That the proposed development does not adversely affect the carrying capacity of areas where the base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the City of Hayward; and

(5) All Letters of Map Revision (LOMR's) for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

(b) *Development of Substantial Improvement and Substantial Damage Procedures.*

(1) Using FEMA publication FEMA 213, "Answers to Questions About Substantially Damaged Buildings," develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining "Market Value."

(2) Assure procedures are coordinated with other department/divisions and implemented by community staff.

(c) *Review, Use, and Development of Other Base Flood Data.*

(1) When base flood elevation data has not been provided in accordance with Section 9-4.30, the Flood Plain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency or other source, deemed necessary to administer Sections 9-4.110 through 9-4.160.

(2) A base flood elevation may be obtained using one (1) of two (2) methods from the FEMA publication, FEMA 265, "Managing Floodplain Development in Approximate Zone A Areas - A Guide for Obtaining and Developing Base (100 year) Flood Elevations," dated July 1995.

(d) *Notification of Other Agencies.* When a watercourse is to be altered or relocated, the Flood Plain Administrator shall also:

(1) Notify adjacent communities and the California Department of Water Resources prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency; and

(2) Require that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.

(3) Base Flood Elevation changes due to physical alterations:

a) Within six (6) months of information becoming available or project completion, whichever comes first, the flood plain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revisions (LOMR).

b) All LOMR's for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements are based on current data.

(4) Changes in corporate boundaries: Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

(e) *Documentation of Flood Plain Development.* The Flood Plain Administrator shall also obtain, maintain, and make available for public inspection the following:

(1) Certification required by subdivisions 9-4.110(c)(1), (lowest floor elevations);

(2) Certification required by subdivision 9-4.110(c)(2), (elevation of floodproofing of nonresidential structures);

(3) Certification required by subdivision 9-1.110(c)(3), (wet floodproofing standards);

(4) Certification of elevation required by subdivision 9-4.130(b), which contains subdivision standards;

(5) Certification required by subdivision 9-4.160(a), (floodway encroachments);

(6) Information required in subdivision 9-4.170(f), (coastal construction standards);

(7) Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

(f) *Map Determinations.* The Flood Plain Administrator is also authorized to make determinations and interpretations as to the exact location of the boundaries of the areas of special flood hazard. Where there appears to be a conflict between a mapped boundary and actual field conditions, grade and base flood elevations shall be used to determine the boundaries of the special flood hazard area. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal an interpretation made pursuant to Section 9-4.180.

(g) *Remedial Action.* The Flood Plain Administrator also has the discretion to take action to remedy violations of this article pursuant to Section 9-4.40.

(h) *Biennial Report.* Complete and submit Biennial Report to FEMA.

(i) *Planning.* Assure community's General Plan is consistent with floodplain management objectives herein.

SEC. 9-4.100 DEVELOPMENT PERMIT REQUIREMENTS.

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established pursuant to Section 9-4.30. Application for a Development Permit shall be made on forms furnished by the Flood Plain Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing, and the following information:

(a) A Site Plan, which includes, but is not limited to, the following:

(1) All Proposed Structures: Spot Ground elevations at building corners and 20 foot or smaller intervals along the foundation footprint, or one (1) foot contour elevations throughout the building site.

(2) Proposed locations of water supply, sanitary sewer, and utilities

(3) Grading information showing existing and proposed contours, any proposed fill, and drainage facilities.

(4) If available, the base flood elevation from the FIS or FIRM.

(5) If applicable, the location of the regulatory floodway.

(b) Foundation design detail, which includes, but is not limited to, the following:

(1) Proposed elevation in relation to mean sea level, of the lowest floor, including basement, of all structures.

(2) For a crawl-space foundation, the location and total net area of foundation openings, as required in Section 9-4.110(c)(3) and FEMA Technical Bulletins 1-93 and 7-93, and amendments thereto.

(1) For a foundation placed on fill, the location and height of fill and compaction to ninety-five percent (95%) using the Standard Proctor Test method.

(c) Proposed elevation in relation to mean sea level, to which any nonresidential structure will be floodproofed, as required in Section 9-4.110(c)2 and FEMA Technical Bulletin TB 3-93, and amendments thereto.

(d) All appropriate certifications listed in subdivision 9-4.90(e); and

(e) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(f) Certification from a registered civil engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in Section 9-4.110(c).

SEC. 9-4.110 GENERAL CONSTRUCTION STANDARDS.

In any area of special flood hazard, compliance with the following standards is required:

(a) *Anchoring.*

(1) All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(2) All manufactured homes shall meet the anchoring standards of subdivision 9-4.140(b).

(b) *Construction Materials and Methods.* All new construction and substantial improvements shall be constructed utilizing methods and practices that minimize flood damage, including the following:

(1) Use flood resistant materials specified in FEMA Technical Bulletin TB 2-93 and amendments thereto.

(2) Utility equipment shall be resistant to flood damage.

(3) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(4) Construction and substantial improvements to properties located within Zones AH and AO shall include adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

(c) *Elevation and Flood-Proofing.*

(1) Residential Construction structures. The lowest floor in any new or substantial improvement of any residential structure shall meet the requirements specified below. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered professional civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Flood Plain Administrator.

(i) Zone AO. In an AO zone, the lowest floor shall be elevated to a height which is elevated above the highest adjacent grade to a height which is at or above the depth number specified on the FIRM or at least two (2) feet above the highest adjacent grade if no depth number is specified.

(ii) Zone A. In an A zone, the lowest floor shall be elevated to a level at or above the base flood elevation.

(iii) All other FIRM Zones. In all other zones, the lowest floor shall be elevated to a height at or above the base flood elevation.

(2) Nonresidential structures. The lowest floor in any new non-residential structure or substantial improvement of a non-residential structure, shall either be elevated to meet the requirements of subdivision (c)(1) of this Section 9-4.110, or such structure, together with attendant utility and sanitary facilities shall meet the requirements specified in this subdivision (c)(2) of Section 9-4.110. A registered professional engineer or architect shall certify compliance with such requirements and provide a copy of such certification to the Flood Plain Administrator.

(i) The lowest floor of a nonresidential structure, including the basement, shall be floodproofed so that the structure's walls located below the base flood level are substantially impermeable to the passage of water; and

(ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(3) Lowest enclosed areas used for parking or storage. New construction and substantial improvement of any fully enclosed area below the lowest floor used solely for parking of vehicles, building access or storage, shall be designed to automatically equalize hydrostatic flood forces on the exterior, if such areas are subject to flooding, by containing openings which allow for the entry and exit of floodwater in accordance with the guidelines in the FEMA Technical Bulletin TB-193 and TB7-93 and amendments thereto. Designs for meeting the requirements of this subdivision must be certified by a registered civil engineer or architect, as meeting such FEMA guidelines and as exceeding the following minimum criteria:

(i) Include a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding; with the bottom of all openings no higher than one (1) foot above grade.

(ii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) Manufactured homes placed within manufactured home parks or subdivision shall also meet the standards in Section 9-4.140. Additional guidance may be found in FEMA Technical Bulletins TB 1-93 and TB 7-93.

(5) Garages and low cost accessory structures.

(a) Attached garages.

(1) A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry of flood waters. See Section 9-4.110(c)(3). Areas of the garage below the BFE must be constructed with flood resistant materials. See Section 9-4.110(b)(1).

(2) A garage attached to a nonresidential structure must meet the above requirements or be dry flood-proofed. For guidance on below grade parking areas, see FEMA Technical Bulletin TB-6.

(b) Detached garages and accessory structures.

(1) "Accessory structures" used solely for parking (two-car detached garages or smaller) or limited storage (small low-cost sheds), as defined in Section 2, may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements:

a) Use of the accessory structure must be limited to parking or limited storage;

b) The portions of the accessory structure located below the BFE must be built using flood-resistant materials.

c) The accessory structure must be adequately anchored to prevent flotation, collapse, and lateral movement;

d) Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;

e) The accessory structure must comply with flood plain encroachment provisions in Section 9-4; and

f) The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with Section 9-4.

(2) Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 9-4.

SEC. 9-4.120 UTILITY STANDARDS.

(a) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters.

(b) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SEC. 9-4.130 SUBDIVISION STANDARDS.

(a) All preliminary subdivision proposals, including parcel map and lot line adjustment proposals, shall identify any special flood hazard area and the elevation of the base flood.

(b) All final subdivision plans will provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood elevation, the lowest floor and pad elevation shall be certified by a registered professional engineer or surveyor and a copy of such certification provided to the Flood Plain Administrator.

(c) All subdivision proposals shall be consistent with the need to minimize flood damage.

(d) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(e) All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

SEC. 9-4.140 MANUFACTURED HOME STANDARDS.

All new, replaced and substantially improved manufactured homes shall meet the requirements of this section. Upon completion of the manufactured home structure, a registered professional engineer or surveyor shall certify the elevation of the lowest floor, including the basement, and provide a copy of the certification for the Flood Plain Administrator's review and verification. For any site located in a mobile home park, the Flood Plain Administrator shall also provide a copy of the verification to the Codes and Standards Division of the California Department of Housing and Community Development.

(a) *Elevation and anchoring requirements.* All manufactured homes which are placed or substantially improved within Zones A1-A30, AH, AE, V1-V30, V, and VE, on the sites listed below, shall be elevated on a permanent foundation such that the lowest floor is elevated to a level at or above the base flood elevation and shall be securely anchored to a permanent foundation system to resist flotation, collapse, or lateral movement. In addition, all manufactured homes which are placed or substantially improved within Zones V1-V30, V, and VE shall also comply with the requirements contained in Section 9-4.170. The manufactured home sites which are subject to such requirements are as follows:

(1) A site located outside of a manufactured home park or subdivision.

(2) A site in a new manufactured home park or subdivision.

(3) A site which is part of an expansion of an existing manufacture home park or subdivision.

(4) A site in an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as a result of a flood.

(b) *Alternative requirements for certain existing sites.* Any manufactured home which is to be placed or substantially improved on a site in an existing manufactured home park or subdivision within Zones A1-A30, AH, AE, V1-V30, V, or VE., which is not subject to the provisions of subdivision (a) must be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. Such manufactured home shall also be elevated to meet one (1) of the following elevation standards:

(1) The lowest floor of the manufacture home is at or above the base flood elevation, or,

(2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade.

SEC. 9-4.150 RECREATIONAL VEHICLE STANDARDS.

(a) All recreational vehicles placed on sites within Zones A1-A30, AH, and AE will either:

(1) Be on the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use - a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions, or,

(2) Meet the development permit requirements of Section 9-4.100 and the elevation and anchoring requirements for manufactured homes in Section 9-4.140.

(b) Zones V1-V30, V, and VE. Recreational vehicles placed on sites within Zones V1-V30, V, and VE shall meet the requirements of subdivision (a) and Section 9-4.170.

SEC. 9-4.160 FLOODWAYS.

Within the areas of special flood hazard referenced in Section 9-4.30, certain areas are designated floodways (floodways), which are extremely hazardous areas due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential. Accordingly, the following provisions apply to construction and improvements located in or near a floodway area:

(a) Prohibited Encroachments. All encroachments, including fill, new construction, substantial improvement, and other development are prohibited, unless a determination is made that such encroachment will not endanger life, will not significantly restrict the carrying capacity of the floodway, and a registered professional engineer provides a certification that such encroachment will not result in an increase in the base flood elevation level during the occurrence of the base flood discharge.

(b) Additional Requirements. If subdivision (a) is satisfied, all new construction and substantial improvements shall comply with other applicable flood hazard reduction provisions of Section 9-4.110 through 9-4.170.

SEC. 9-4.170 COASTAL HIGH HAZARD AREAS.

Within coastal high hazard areas established pursuant to Section 9-4.30, the following standards shall apply:

(a) All new construction and substantial improvement shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood elevation. The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by the applicable building code standards.

(b) All new construction shall be located on the landward side of the reach of mean high tide.

(c) The space below the lowest floor in any new construction and substantial improvement shall be free of obstructions or constructed with breakaway walls. Any temporarily enclosed space in such area shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.

(d) Fill shall not be used for structural support of buildings.

(e) Man-made alteration of sand dunes which would increase potential flood damage is prohibited.

(f) The Flood Plain Administrator shall obtain and maintain the following records:

(1) Certification by a registered engineer or surveyor that a proposed structure complies with subdivision (a).

(2) The elevation (in relation to mean sea level) of the bottom of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement.

SEC. 9-4.180 AVAILABILITY OF APPEAL.

Any affected property owner, who believes that the Flood Plain Administrator has made an error as to any requirement, decision, or determination as to the administration or enforcement of this article, may file a written notice of appeal within ten (10) days after the Flood Plain Administrator has provided notice of such action. Any notice of appeal filed pursuant to this section shall identify the appellant, describe the basis for the appeal and shall be filed with the City Clerk. Within thirty days thereafter, the City Manager shall either render a written decision on such appeal or refer such appeal to the City Council. The City Manager's decision may be further appealed to the City Council by filing a notice of appeal within ten (10) days after notice of the City Manager's decision. The City Council shall hold a public hearing on the appeal within sixty days after the filing of the notice of appeal and issue its written decision after the close of the public hearing. The City Council's appeal decision shall be final when it is rendered.

SEC. 9-4.190 APPEAL AND VARIANCE DECISIONS.

The decision maker on all matters and determinations made pursuant to this article, except a variance, shall be the Flood Plain Administrator. The decision maker as to any variance application shall be the City Council, which shall hold a public hearing and act on a variance application within the time periods contained in Section 9-4.180. The following procedures, conditions, and considerations shall apply to consideration of a Development Permit, appeal, or variance.

(a) Scope of Review. The decision maker shall consider all technical evaluations, the standards referenced in this article and other relevant information.

(b) Upon consideration of all relevant factors, the decision maker may attach such conditions to the granting of a Development Permit or a variance deemed necessary to carry out the purposes of this article.

(c) The Flood Plain Administrator shall maintain the records of all Development Permit and appeal actions and actions on variances.

(d) If a variance is granted which permits a structure to be built with a lowest floor elevation below the regulatory flood elevation, the Flood Plain Administrator shall provide written notice to the variance applicant which states that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. The Flood Plain Administrator shall also record a copy of the notice of variance approval with the Alameda County Recorder so that it appears in the chain of title of the affected parcel of land.

(e) The Flood Plain Administrator shall further report any variance approved pursuant to this article in the City of Hayward's biennial report to the State of California Department of Water Resources and Reclamation Board, as well as the Federal Insurance Administration and Federal Emergency Management Agency.

SEC. 9-4.200 VARIANCE STANDARDS.

(a) Nature of Variances. The City Council may consider a variance for a property with physical characteristics so unusual that compliance with this article's requirements would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics which form the basis for a variance request must be unique to the land on the property which is the subject of the variance application, not to the proposed structure or its inhabitants or property owners. In addition, such characteristic must not be shared by any adjacent parcel.

(b) Historic Sites and Structures. A variance may be issued for the repair, rehabilitation, or restoration of structures listed in the National Register of Historic Places or the State Inventory of Historic Places, upon a determination that the proposed repair, rehabilitation, or restoration will not preclude the structure's continued designation as an historic structure.

(c) Property Located in a Designated Floodway. A variance shall not be approved for a property in any designated floodway if the proposed improvement or structure would result in any increase in flood levels during the base flood discharge.

Approval of a variance for a property in a designated floodway also requires the consent of the State Department of Water Resources or Reclamation Board, pursuant to Water Code Section 8414.2 and amendments thereto.

(d) Extent of Variance. A variance shall only be issued upon a determination that the variance from the requirements of this article is the minimum relief necessary to afford relief, after considering the potential flood hazard and other consequences of the variance approval.

(e) Size of Property. The size of the property shall also be considered in any variance application as follows:

(1) Certain Lots Containing No More Than One-Half Acre. As a rule, a variance may be issued for new construction only if the lot is no more than one-half acre, where the property is contiguous to and surrounded by lots with existing structures constructed below the base flood level, based on a consideration of all relevant factors and the adoption of the findings required by subdivision (g).

(2) Certain Lots Containing More than One-Half Acre. Greater technical justification shall be required to approve a variance which contains more than one-half acre.

(f) Scope of Review. The City Council shall consider technical evaluations pertaining to the variance and all relevant factors, including the following factors:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger of life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner and future owners of the property;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location, where applicable;

(6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship for the proposed use to the comprehensive plan and flood plain management program for that area;

(9) The safety of access to the property in time of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and

(11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.

(g) Variance Findings. The City Council may approve a variance if the City Council determines there is good and sufficient cause, based on the evidence presented, and makes all of the following findings:

(l) The land which is the subject of the variance has unique characteristics not shared by the land on adjoining properties.

(2) The failure to grant the variance would result in exceptional hardship to the applicant.

(3) The granting of a variance will not result in increased flood height, additional threats to public safety, extraordinary public expense, creation of a nuisance or detrimental impact on persons or property; and will not conflict with existing local laws or ordinances.

(4) The California Department of Water Resources or Reclamation board has consented to a variance, as required by Water Code Section 8414.2, from this article's regulations for a designated floodway area.

(h) Additional Variance Findings for a Development Necessary to Conduct a Functionally Dependent Use. A variance may be issued for new construction and for other Development Necessary for the Conduct of a Functionally Dependent Use if the structure or other development is protected by methods that minimize flood damage during the base flood, and the approval of the requested variance will not result in a threat to public safety or create a public nuisance.

### ARTICLE 5 RESIDENTIAL RENTAL INSPECTION[[5]](#footnote-5)

SEC. 9-5.101 TITLE.

These regulations shall be known as the Residential Rental Inspection Ordinance of the City of Hayward, may be cited as such, and will be referred to herein as "this code."

SEC. 9-5.102 PURPOSE.

The purpose of this code is to safeguard the stock of decent, safe, and sanitary rental housing units within the City and to protect persons entering or residing in them by providing for inspection of rental housing units and the common areas when certain indicators show that violations of State or local codes may exist in a unit or pursuant to a systematic area-wide inspection program.

SEC. 9-5.103 SCOPE.

The provisions of this code shall apply to all rental housing units and to all hotel and motel units as herein defined. Provisions of this code shall be supplementary and complementary to all of the provisions of the Hayward Municipal Code, State law, and any law cognizable at common law or equity, and nothing herein shall be construed, read, or interpreted in any manner so as to limit any existing right or power of the City of Hayward to abate and prosecute any and all nuisances or to enforce any other conditions in violation of State or local codes, including, but not limited to, any building, housing, property maintenance, plumbing, mechanical, electric, substandard buildings, and public nuisance codes and/or ordinances.

#### DEFINITIONS

SEC. 9-5.201 GENERAL.

For the purpose of this code, certain words, phrases, and terms, and their derivatives shall be construed as specified herein. Words, phrases, and terms used in this code, but not specifically defined herein, shall have the meanings assigned to them as stated in the applicable State or local code. Where not defined in this code or in the applicable State or local code, such words, phrases, and terms shall have the meaning generally prescribed by dictionary definition.

SEC. 9-5.202 ENFORCEMENT OFFICIAL.

Enforcement Official shall mean the City Manager or his/her designee authorized to administer the provisions of this code.

SEC. 9-5.203 HEARING OFFICER.

Hearing Officer shall mean the City Manager or his/her designee authorized to conduct hearings pursuant to this code.

SEC. 9-5.204 HOTEL AND MOTEL.

A hotel or motel of common Ownership on a single parcel is any structure or group of attached or detached structures containing six (6) or more guest rooms intended or designed to be used, or which are used, rented or leased to be occupied, or which are occupied for sleeping purposes by guests. For the purpose of this definition, common Ownership shall be deemed to exist whenever a single individual or entity has any kind of Ownership interest whether as an individual, partner, joint venturer, stock Owner, or some other capacity.

SEC. 9-5.205 IMMINENT HAZARD.

All buildings or portions thereof which are determined after inspection by the Building Official to be unsafe, substandard, or dangerous, as defined by California Health and Safety Code Section 17920.3 et seq., the California Building Code, or Article 9, Chapter 3 of the Hayward Municipal Code, Building Abatement Ordinance, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal as specified in the Hayward Building Abatement Ordinance.

SEC. 9-5.206 RENTAL HOUSING UNIT.

A rental housing unit is any residential dwelling in a single structure, or in a group of attached or detached structures containing one (1) or more such dwelling units on the same parcel of land under common Ownership that (a) contains one (1) or more rooms with a single kitchen designed for living and sleeping purposes as an independent housekeeping unit, and (b) is occupied or intended to be occupied on a rental basis. For the purposes of this section, the following types of dwelling units or facilities are not considered rental housing units:

a. Accommodations in any hospital, extended care facility, convalescent home, nonprofit home for the aged, or dormitory that is owned and operated by an educational institution.

b. Accommodations in a nonprofit cooperative that is owned, occupied, and controlled by a majority of the residents.

For the purpose of this section, common Ownership shall be deemed to exist whenever a single individual or entity has any kind of Ownership interest whether as an individual, partner, joint venturer, stock Owner, or some other capacity.

SEC. 9-5.207 OWNER.

Shall mean any person owning rental property as shown on the last equalized assessment roll for City taxes or his/her designee.

#### GENERAL RESPONSIBILITIES

SEC. 9-5.301 ADMINISTRATION.

The City Manager, or his/her designee, hereinafter known as the Enforcement Official, is authorized to administer the provisions of this code.

SEC. 9-5.302 MANDATORY INSPECTION PROGRAM.

The City of Hayward hereby institutes a systematic code enforcement program that will ensure that residential rental units, hotels, and motels are inspected over time. The program will include mandatory inspection of units based on factors including, but not limited to: Age of rental housing stock, condition of rental housing stock, and history of previous code violations. The Mandatory Inspection Program is a part of the City of Hayward overall effort to encourage conservation of existing rental housing units, motels, and hotels. Owners of these types of structures will be required to bring these units to applicable State and local code standards. Owners, managers and tenants shall allow for the inspection of these units. If an Owner, manager or tenant refuses to permit an inspection, the Enforcement Official is authorized to procure an inspection warrant.

SEC. 9-5.303 EXEMPTION FROM MANDATORY INSPECTION.

Exemption from the mandatory inspection shall be available for well-maintained properties that qualify under the Self-Certification Program. A property must have the following characteristics to participate in the Self-Certification Program:

a. No current complaint of code violations on the property;

b. No more than two (2) verified code violation on the property within the previous twelve-month period.

c. No previously-identified and uncorrected violations of the California Code of Regulations, State Housing Code, California Health and Safety Code, California Building, Plumbing, Mechanical or Electrical Codes, Uniform Code for the Abatement of Dangerous Buildings, International Property Maintenance Code or provisions of the Hayward Municipal Code at the time the applicant submits the application for self-certification;

d. No outstanding fees, charges and/or penalties due to the City of Hayward; and

e. No code enforcement liens and/or special assessments on the property.

f. Notwithstanding an exemption, the City retains the right to inspect any exempted unit or property upon information that a code violation may exist thereon. Cause for inspection of an exempted unit or property shall be the same as the causes set forth in Section 9-5.305.

SEC. 9-5.304 SELF-CERTIFICATION PROGRAM.

a. *Application for Self-Certification:* A property owner or his/her designee must complete an Application for Self-Certification to obtain an exemption from mandatory inspection. As part of the Application process, a property owner or his/her designee must:

1. Conduct a self-inspection of all rental units, including interior conditions, exterior conditions, common areas and site conditions, and

2. Certify that conditions at the property achieve the interior, exterior, and site standards as listed on the Self-Certification Checklist.

b. *Qualifying Inspections:* Qualifying inspections shall be required for properties that have not been the subject of a Residential Rental inspection within the ten (10) years preceding application for the Self-Certification Program. Upon receipt of the application to participate in the Self-Certification Program, the City shall inspect a minimum of twenty percent (20%) of the property's total units. Any fraction thereof will be calculated as a whole unit.

1. Minimum Inspection: For qualifying participants, the number of inspections will be limited to a minimum of twenty percent (20%) of the complex's total units, and, upon verification of compliance, the property shall be allowed to remove itself from the mandatory inspection requirement, provided that the conditions do not deteriorate to the point where the property would no longer meet eligibility standards for program participation.

2. Notice to Tenants: The property owner or his/her designee must notify the individual tenants of any inspection and ensure access to units which will be randomly selected for inspection by City staff.

c. *Violations during Qualifying Inspections:* If during the course of a qualifying inspection the Enforcement Official discovers a code violation(s), the violation must be corrected by the first progress check in order to be eligible for participation in the Self-Certification Program. A property owner who fails to correct a violation by the first progress check shall be ineligible to participate in the Self-Certification Program for a period of five (5) years from the date of correction and shall be subject to inspection fees/penalties pursuant to the City's Master Fee Schedule.

Where the Enforcement Official discovers a violation during the qualifying inspection process, the Enforcement Official shall give written notice to the Owner of said property stating the section(s) being violated. The notice shall direct the property Owner to correct the violation(s), set forth a reasonable time limit for the Owner to correct the condition, which shall be no less than ten (10) calendar days from the date of the notice, and which may also set forth suggested methods of correcting the violation(s). If the Enforcement Official finds that a violation constitutes an imminent danger to the public health or safety, he or she shall have the authority to require immediate correction.

d. *Annual Self-Certification Affidavit:* If the Enforcement Official determines that the property is qualified to participate in the Self-Certification Program, the property owner shall thereafter be required to conduct an annual self-inspection and complete the self-certification affidavit each year in which the property remains in the self-certification program.

e. *Expiration:* An exemption from the mandatory inspection shall expire upon a failure to correct a confirmed code violation(s) on the property by the first progress check. A property shall be ineligible to reapply for Self-Certification for a period of five (5) years from the date of correction of the code violation.

SEC. 9-5.305 CAUSE FOR INSPECTIONS.

A rental housing unit, motel, or hotel shall be inspected for violations of the California Code of Regulations, State Housing Code, California Health and Safety Code, California Building, Plumbing, Mechanical or Electrical Codes, Uniform Code for the Abatement of Dangerous Buildings, International Property Maintenance Code or provisions of the Hayward Municipal Code as part of the City of Hayward mandatory inspection program or whenever information from the following sources indicates that a pertinent code violation may exist therein:

a. Complaints from the tenant of a rental housing unit, motel unit or hotel unit that a code violation may exist;

b. Records maintained by the Enforcement Official which were established during previous apartment inspection programs and which reflect the prior existence of code violations and/or the absence of correction of such violations;

c. Direct referrals for inspection from other City officials with code enforcement responsibility or from officials of a federal, state, or local agency, or from officials with a public or private utility; or

d. Reports that the exterior condition of a rental housing unit, motel, or hotel reflects the existence of code violations.

SEC. 9-5.306 NOTICE TO TENANTS.

Owners of rental units covered under the provisions of this code shall be required to provide notice of the availability of the Residential Rental Inspection Program and its complaint procedures to each tenant upon execution of a lease or rental agreement. Such notice shall be in a form set forth by the City and made available to each Owner of rental housing by the City.

SEC. 9-5.307 RETALIATION.

No landlord may retaliate against a tenant for exercising his or her right under Section 9-5.305 of this code to file a complaint with the City that a code violation may exist. In any action by or against the tenant, evidence of the exercise by the tenant of his/her right under Section 1942.5 of the Civil Code occurring within six (6) months of the alleged retaliation shall create a presumption that the landlord's conduct was in retaliation for the tenant's exercise of rights under this code.

SEC. 9-5.308 NOTICE AND ENTRY.

The City shall serve written notice of the date and time of any inspection, including initial inspections and any follow-up inspections, to be conducted pursuant to this code, by mailing such notice at least fourteen (14) calendar days prior to the date of the inspection. Notice shall be mailed to the Owner or the Owner's designated representative at their last known address. In the case of multiple owners of the same property, notice to any one (1) of the Owners is sufficient. The City shall also mail a copy of the inspection notice to the rental housing units on the property.

It shall be the responsibility of the Owner or the Owner's designated representative to make a good faith effort to obtain the consent of the tenants to inspect the subject rental housing units or otherwise obtain legal access to the units. If consent to enter on to any rental housing property or any rental housing unit is refused or otherwise cannot be obtained, the Enforcement Official is authorized to seek an inspection warrant from a court of competent jurisdiction.

The Owner or the Owner's designated representative shall be present at the rental housing property at the time of the inspection. The time of the inspection shall be at the time indicated in the notice issued pursuant to this code, or the time that the inspection was properly rescheduled in accordance with the provisions of this code. Violations of this paragraph may result in a re-scheduling fee.

An inspection may be rescheduled once by the Owner or the Owner's designated representative by giving notice to the Enforcement Officer at least five (5) calendar days prior to the scheduled inspection date. An inspection may only be rescheduled to a date within fourteen (14) calendar days of the previously scheduled inspection date. Violations of this paragraph may result in a re-scheduling fee.

SEC. 9-5.309 CORRECTION NOTICE.

Whenever the Enforcement Official determines that a rental property is being maintained in violation of one (1) or more of the provisions of applicable State or local code, the Enforcement Official shall give written notice to the Owner of said property stating the section(s) being violated. The notice shall set forth a reasonable time limit for the Owner to correct the condition, which shall be no less than ten (10) calendar days from the date of the notice, and which may also set forth suggested methods of correcting the violation(s). The notice shall direct the property Owner either to correct the violation(s) or request an Administrative Hearing to show cause why the condition(s) does not constitute a violation(s). If the Enforcement Official finds that a violation constitutes an imminent danger to the public health or safety, he or she shall have the authority to require immediate correction.

SEC. 9-5.310 ADMINISTRATIVE HEARING.

An Owner may file a written request with the Enforcement Official for an Administrative Hearing within ten (10) days from the date of service of a correction notice. If the notice period is less than ten (10) days due to health and safety concerns, an Owner may request an administrative hearing at any time prior to the expiration of that notice. The purpose of an Administrative Hearing is to allow the Owner to dispute the factual findings of the violation(s). If a Hearing is requested, at the time fixed for the Administrative Hearing, the Hearing Officer shall hear and consider all relevant evidence, objections, or protests offered on behalf of the Owner which show why the condition should not be corrected. The Hearing Officer may also consider rebuttal evidence offered by the City. If, at the conclusion of the hearing, based upon the record, the Hearing Officer is satisfied that the violation exists and concludes that it should be corrected, he/she shall issue a written decision setting forth his/her finding and shall cause the same to be served upon the Owner and the persons attending the hearing. The right to Judicial Review shall be governed by section 1-7.13 Administrative Citation - Right to Judicial Review.

SEC. 9-5.311 ENFORCEMENT: REPORT TO FRANCHISE TAX BOARD.

The Enforcement Official shall take appropriate action to cause the correction, repair, or abatement of violations that are found as a result of any inspection required by this code. In addition to employing the applicable enforcement measures that are or may hereafter be provided by law, including but not limited to the enforcement provisions of the following codes: California Code of Regulations, State Housing Code, California Health and Safety Code, California Building, Plumbing, Mechanical or Electrical Codes, Uniform Code for the Abatement of Dangerous Buildings, International Property Maintenance Code or provisions of the Hayward Municipal Code. The Enforcement Official shall also comply with the provisions of sections 17299.9(c) and 24436.5(c) of the Revenue and Taxation Code of the State of California.

(Amended by Ordinance 17-09, adopted June 20, 2017)

SEC. 9-5.312 NOTICES.

The notice informing a property Owner of a mandatory inspection or any follow-up inspection shall be by first class mail. All other notices, including notices of Administrative and Lien/Special Assessment Hearing, shall be provided in accordance with state law. Delivery will be made to the Owner's address as it appears on the last equalized assessment roll or as known to the Enforcement Official. The failure of any person to receive notice properly given shall not affect the validity of any proceedings hereunder.

#### FEES/PENALTY CHARGES

SEC. 9-5.401 FEES/PENALTY CHARGES.

The annual fee and fees or penalty charges for any inspection or re-inspection performed pursuant to the provisions of this code shall be established from time to time by resolution of the City Council. Payment of such fees shall be made by Owner of the rental housing unit or hotel or motel upon demand by the City.

#### RECOVERY OF FEES/PENALTY CHARGES

SEC. 9-5.501 NOTICE OF LIEN/SPECIAL ASSESSMENT.

Pursuant to Government Code Sections 38773.1 and 38773.5, prior to placing any liens or special assessments against a property for unpaid inspection fees, charges or penalties, all Owners shall be properly notified in writing of past due amounts, and of the right to have a Lien/Special Assessment Hearing as described herein.

SEC. 9-5.502 LIEN/SPECIAL ASSESSMENT HEARING.

Any owner may request a Lien/Special Assessment Hearing by written request within ten (10) days of receipt of the notice of lien/special assessment. The purpose of the Lien/Special Assessment Hearing is to provide an opportunity for any objections which may be raised by any person liable to be charged for the work of abating cited code violations and related charges associated with his or her property. The Enforcement Official shall attend said Lien/Special Assessment Hearings with his or her record thereof, and upon the hearing, the Hearing Officer may make the modifications in the proposed lien/special assessment as deemed necessary. When a Lien/Special Assessment Hearing is requested, the amount of the cost of abating cited code violations that are upheld by the Hearing Officer, including inspection charges and administrative expenses, shall, after being confirmed by the City Council, constitute a lien or special assessment on the property for the amount of the charges until paid. The right to Judicial Review shall be governed pursuant to section 1-7.13 Administrative Citation - Right to Judicial Review.

SEC. 9-5.503 REPORT ON FEES/PENALTY CHARGES.

The Enforcement Official shall keep an itemized account of the fees and penalty charges incurred in administering the provisions of this code. Once a year the Enforcement Official shall prepare and file with the City Clerk a report specifying the date and nature of the inspections performed, the amount of unpaid program and other fees and penalty charges imposed in the prior year, and the names and addresses of the Owner of the rental housing unit or hotel or motel, and any mortgagee or beneficiary under a deed of trust of the property, as such names and addresses appear on the last equalized assessment roll of Alameda County or as known to the Enforcement Official. The City Council shall review and confirm the annual report and lien/special assessment list, amended as necessary, by way of resolution.

SEC. 9-5.504 NOTICE OF REPORT.

The City Clerk shall post a copy of the report and lien and special assessment list on the bulletin board designated for the posting of agendas for City Council meetings together with a notice of filing thereof and of the time and place when and where it will be submitted to the City Council for confirmation by way of resolution. A notice shall also be published once in a newspaper of general circulation that is published and circulated within the City. The posting and first publication of the notice shall be made and completed at least ten (10) days before the time the report is considered by the City Council.

SEC. 9-5.505 COLLECTION ON TAX ROLL.

After City Council confirmation of the fees charged, the same shall become a lien or special assessment against the property affected. A copy of the report and lien/special assessment list shall be given to the City Finance Director, who may receive payment thereon until a list of unpaid assessments shall have been sent annually to the County Auditor for effecting collection on the tax roll at the time and in the manner of ordinary municipal taxes. The descriptions of the property reported shall be those used for the same property on the County Assessor's map books for the current year. All laws and ordinances applicable to the levy, collection, and enforcement of City taxes are hereby made applicable to the assessment hereby imposed, and the special assessment shall have priority of the taxes with which it is collected.

SEC. 9-5.506 ANNUAL REPORT OF ENFORCEMENT OFFICIAL.

The Enforcement Official shall prepare a report each year concerning the administration of this code. The annual report shall describe the number of units inspected, whether the inspection was mandatory or complaint generated, the nature of violations observed, enforcement measures taken, and the status of all billings for fees that have been made. The Enforcement Official shall submit the annual report to the City Manager each calendar year at such a time that it may be submitted to the City Council with the proposed City budget for the following fiscal year.

SEC. 9-5.507 PROCEDURE NOT EXCLUSIVE.

The procedures for abatement set forth herein shall not be exclusive and shall not in any manner limit or restrict the City from enforcing other City ordinances and regulations or abating public nuisances in any other manner provided by law. Nothing in this code shall be deemed to prevent the City Council from ordering the commencement of a civil proceeding to abate a public nuisance pursuant to applicable law or from pursuing any other remedy available under applicable law.

### ARTICLE 6 WOOD-BURNING APPLIANCES[[6]](#footnote-6)

SEC. 9-6.100 DEFINITIONS.

For purposes of this Article, the following words and phrases shall have the meaning ascribed to them as defined by this section:

(a) EPA means the United States Environmental Protection Agency.

(b) Gas fireplace means any device designed to burn natural gas in a manner that simulates the appearance of a wood-burning fireplace.

(c) Pellet-fueled wood heater means any wood-burning appliance that operates exclusively on wood pellets.

(d) Wood-burning appliance means fireplace, wood heater, or pellet-fired wood heater or any similar device burning any solid fuel.

SEC. 9-6.101 LIMITATIONS.

Only gas fireplaces, EPA-certified wood heaters, pellet-fueled wood heaters and fireplaces certified by the Northern Sonoma County Air Pollution District to meet the EPA's emission limit of 7.5 grams of particulate matter per hour, may be installed in new residential construction or in existing residential structures undergoing renovation or expansion where a new wood-burning appliance is proposed. Nothing in this section is intended to prohibit the repair or maintenance of any wood-burning appliance installed prior to the effective date of this Article.

SEC. 9-6.102 ENFORCEMENT AND REMEDIES.

Any person who plans to install a wood-burning appliance must submit documentation to the City demonstrating that the appliance satisfies the requirements of this Article. Any person, firm or corporation violating any of the provisions of this Article shall be subject to the enforcement procedures provided in Chapter 1, Article 3 of this Code.

SEC. 9-6.103 PROHIBITED FUELS.

No person shall cause or allow the burning of any of the following materials in a wood-burning appliance: garbage; plastic products; rubber products; waste petroleum products; paints or paint solvents; coal.

### ARTICLE 7 MANDATORY SEISMIC SCREENING OF CERTAIN RESIDENTIAL BUILDINGS[[7]](#footnote-7)

#### SEC. 9-7.100 ADMINISTRATION

SEC. 9-7.100.10 TITLE.

This article shall be known as "Mandatory Seismic Screening of Certain Residential Buildings," may be cited as such, and will be referred to herein as "this article."

SEC. 9-7.100.20 INTENT.

This article is intended to promote public safety and welfare through a program of mandatory seismic screening of certain residential buildings. The program is intended to identify certain buildings vulnerable to earthquake damage and collapse.

SEC. 9-7.100.30 SUBJECT BUILDINGS.

This article shall apply to buildings constructed or permitted for construction before January 1, 1978 or designed based on an adopted version of the 1976 or earlier edition of the Uniform Building Code and that contain three or more dwelling units.

SEC. 9-7.100.40 NOTIFICATION.

Within 90 days of the effective date of this article, the building official shall send a written notice to the owner or owners of each known subject building informing the owner of the requirement to comply with this article.

Failure of the building official to send or provide a written notice to unidentified owners of subject buildings or to owners of buildings not known to be subject buildings shall not relieve the owner of a subject building from the requirement to comply with this article. Failure of an owner to receive a written notice shall not relieve the owner of a subject building from the requirement to comply with this article.

SEC. 9-7.100.50 DESIGN PROFESSIONALS.

Unless specifically noted, all work intended to comply with this article and related to the structural attributes of a subject building shall be performed by appropriately licensed individuals, and all documents submitted for compliance and related to the structural attributes of a subject building shall be sealed by a California-licensed architect or civil engineer.

SEC. 9-7.100.60 SUBMITTALS.

The building official is authorized to develop, distribute, and require the use of certain forms, templates, and other tools as needed to facilitate compliance, review, approval, and records maintenance contemplated by this article.

SEC. 9-7.100.70 TECHNICAL BULLETINS AND ADMINISTRATIVE REGULATIONS.

The building official is responsible for the administration of this article and is authorized to develop and require compliance with one or more technical bulletins and/or administrative regulations containing interpretations, clarifications, and commentary to facilitate implementation of the engineering criteria and other requirements set forth in this article.

SEC. 9-7.100.80 RETENTION OF PLANS.

The building official shall retain an official copy of any approved materials submitted to comply with this article.

SEC. 9-7.100.90 PUBLIC RECORD KEEPING.

The building official shall maintain a listing of buildings subject to this article and shall make that listing readily accessible to the public.

#### SEC. 9-7.200. COMPLIANCE

SEC. 9-7.200.10 SCOPE FOR THE OWNER OF A SUBJECT BUILDING.

The owner of each parcel containing a subject building shall submit a screening document following procedures to be prescribed by the building official. At a minimum, the document shall confirm that the building either does or does not have a wood frame target story. The building official is authorized to require the submittal of additional information regarding the subject building or other buildings on the same parcel to confirm or supplement the City's inventory and to support future mitigation planning.

SEC. 9-7.200.20 COMPLIANCE TIERS.

Each parcel containing a subject building shall be assigned to a compliance tier as follows.

Tier 1. Parcels containing at least one subject building with five or more dwelling units.

Tier 2. Parcels not assigned to Tier 1.

SEC. 9-7.200.30 SCHEDULE.

The owner of a parcel assigned to Tier 1 shall submit the screening document within 12 months of the notification deadline. The owner of a parcel assigned to Tier 2 shall submit the screening document with 18 months of the notification deadline. In no case shall transfer of title cause any deadline to be extended.

#### SEC. 9-7.300. DEFINITIONS

SEC. 9-7.300.10 SUPPLEMENTAL DEFINITIONS.

In addition to or in place of definitions given elsewhere in the Hayward Building Code, the following definitions shall apply for purposes of this article.

Dwelling unit. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation; or any individual residential unit in a building with R-1 or R-2 occupancy; or any guestroom, with or without a kitchen, in either a tourist or residential hotel or motel. Any unit occupied as a dwelling unit, whether approved or not approved for such use, shall be counted as a dwelling unit.

Target story. Either (1) a basement story or underfloor area that extends above grade at any point or (2) any story above grade, where the wall configuration of such basement, underfloor area, or story is substantially more vulnerable to earthquake damage than the wall configuration of the story above; except that a story is not a target story if it is the topmost story or if the difference in vulnerability is primarily due to the story above being a penthouse, or an attic with a pitched roof.

Wood frame target story. A wood frame target story means a target story in which a significant portion of lateral or torsional story strength or story stiffness is provided by wood frame walls.

#### SEC. 9-7.400. VOLUNTARY SEISMIC EVALUATION

SEC. 9-7.400.10 INTENT.

An evaluation satisfying the criteria set forth in this section shall be allowed as a means of demonstrating that a subject building does not have a wood frame target story. If the evaluation is completed after the screening deadline, the owner may submit a revised screening document.

SEC. 9-7.400.20 EVALUATION CRITERIA.

Any of the following criteria, as applicable and as interpreted by the building official, may be used to satisfy the intent of Section 9-7.400.10. The evaluation criteria need only be applied to the existing elements along a load path between the foundation and the diaphragm at the top of the uppermost wood frame target story, inclusive.

A. ASCE 41. The latest edition of *Seismic Evaluation and Retrofit of Existing Buildings* [ASCE/SEI 41], with a performance objective of Structural Life Safety in the BSE-1E hazard.

B. FEMA P-807. The latest edition of *Seismic Evaluation and Retrofit of Multi-Unit Wood-Frame Buildings With Weak First Stories* [FEMA P-807] with a performance objective and detailed provisions as provided by the building official.

C. CEBC Appendix Chapter A4. For evaluation of retrofits designed after January 1, 2000, the latest edition of Appendix Chapter A4 of the *California Existing Building Code*.

#### SEC. 9-7.500. VOLUNTARY SEISMIC RETROFIT

SEC. 9-7.500.10 INTENT.

A retrofit satisfying the criteria set forth in this section shall be allowed as a means of eliminating an existing wood frame target story and as a means of demonstrating eligibility for such incentives as the City of Hayward may offer. If the retrofit is completed after the screening deadline, the owner may submit a revised screening document.

SEC. 9-7.500.20 CONFORMANCE PERIOD.

No subject building for which retrofit work is completed in compliance with this section shall be required by the City of Hayward to undergo additional seismic retrofit of its seismic force-resisting system within a period of 15 years after the effective date of this chapter, except that any provisions in the Hayward Building Code related to addition, alteration, repair, or change of occupancy shall still apply. Any additional seismic retrofit requirements waived by this provision during the conformance period shall apply at the end of the conformance period, with schedule adjustments to be determined by the building official.

SEC. 9-7.500.30 RETROFIT CRITERIA.

Any of the following criteria, as applicable and as interpreted by the building official, may be used to satisfy the intent of Section 9-7.500.10. The retrofit criteria need only be applied to the existing elements along a load path between the foundation and the diaphragm at the top of the uppermost wood frame target story, inclusive.

A. ASCE 41. The latest edition of *Seismic Evaluation and Retrofit of Existing Buildings* [ASCE/SEI 41], with a performance objective of Structural Life Safety in the BSE-1E hazard.

B. FEMA P-807. The latest edition of *Seismic Evaluation and Retrofit of Multi-Unit Wood-Frame Buildings With Weak First Stories* [FEMA P-807] with a performance objective and detailed provisions as provided by the building official.

C. CEBC Appendix Chapter A4. The latest edition of Appendix Chapter A4 of the *California Existing Building Code*.

D. CHBC. For a subject building qualified as an historical resource in accordance with Chapter 10 Article 11 of this code, the latest edition of the *California Historical Building Code*, with CEBC Appendix Chapter A4 taken as the regular code.

### ARTICLE 8 2022 ALL-ELECTRIC & ELECTRIC-READY ORDINANCE - NEW CONSTRUCTION[[8]](#footnote-8)

#### SEC. 9-8.100.000 FUEL GAS PLUMBING INFRASTRUCTURE IN NEWLY CONSTRUCTED BUILDINGS

SEC. 9-8.100.010 Applicability.

A. The requirements of this Chapter shall apply to the building permits for all newly constructed buildings proposed to be located in whole or in part within the City.

B. The prohibition of fuel gas infrastructure shall apply to permit applications on or after the effective date of this Chapter, and in perpetuity.

C. The requirements of this Chapter shall not apply to the use of portable propane appliances for outdoor cooking or heating.

D. This chapter shall in no way be construed as amending California Energy Code requirements under California Code of Regulations, Title 24, Part 6, nor as requiring the use or installation of any specific appliance or system as a condition of approval.

E. The requirements of this Article shall be deemed objective planning standards under Government Code Section 65913.4 and objective development standards under Government Code Section 65589.5.

(Amended by Ordinance 23-06, § 2, adopted June 20, 2023)

SEC. 9-8.100.020 Definitions.

A. "Fuel Gas" shall be defined as natural, manufactured, liquefied petroleum, or a mixture of these, as defined in the California Mechanical Code.

B. "Fuel Gas Infrastructure" shall be defined as fuel gas piping, other than service pipe, in or in connection with a building, structure or within the property lines of premises, extending from the point of delivery at the gas meter, service meter assembly, outlet of the service regulator, service shutoff valve, or final pressure regulator, whichever is applicable, as defined in the California Mechanical Code.

C. "Newly Constructed" building shall be defined as a building that has never before been used or occupied for any purpose. New construction in existing buildings, such as alterations, additions, and tenant improvements, shall not be considered Newly Constructed.

D. "Residential Building" shall be defined as a building, other than a hotel/motel, that is Occupancy Group R-2, multifamily, R-3, single-family; or U-building, located on a residential site. For the purposes of this Article, a Residential Building shall include accessory dwelling units and all portions of a mixed-use building, including those portions to be occupied by a non-residential use.

E. "Non-Residential Building" shall be defined as any building which is classified as occupancy Group A, B, E, F, H, I, M, S, and/or U, as defined by Part 2 of Title 24 of the California Code or Regulation.

(Amended by Ordinance 23-06, § 2, adopted June 20, 2023)

SEC. 9-8.100.030 PROHIBITED FUEL GAS INFRASTRUCTURE IN NEWLY CONSTRUCTED RESIDENTIAL BUILDINGS.

A. Fuel Gas Infrastructure shall be prohibited in newly constructed residential buildings.

(Amended by Ordinance 23-06, § 2, adopted June 20, 2023)

SEC. 9-8.100.035 ELECTRIC READINESS IN NEWLY CONSTRUCTED NON-RESIDENTIAL BUILDINGS.

A. Where Fuel Gas Infrastructure is installed as part of a Newly Constructed Non-Residential Building, the building shall be required to have sufficient electrical capacity, including reserved circuit breakers, electrical conduit, subpanels, panels, switchboards, and transformers, to facilitate future full building electrification in accordance with the California Electrical Code and manufacturer specifications, in addition to all other code requirements, and shall be depicted on the construction drawings.

B. Physical space for future electric heating appliances, including equipment footprint and any associated ducting, shall be depicted on the construction drawings. The footprint necessary for future electric heating appliances may overlap with non-structural partitions and with the location of currently designed combustion equipment.

(Amended by Ordinance 23-06, § 2, adopted June 20, 2023)

SEC. 9-8.100.040 PERIODIC REVIEW OF ORDINANCE.

The City shall review the requirements of this ordinance every 18 months for consistency with the California Energy Code and the Energy Commission's mid-cycle amendments and triennial code adoption cycle as applicable.

(Amended by Ordinance 23-06, § 2, adopted June 20, 2023)

1. Cross reference(s)—Fire Prevention Code of the City of Hayward, § 3-14.00 et seq.

   Note(s)—Added by Ordinance 16-22, adopted December 13, 2016, effective January 1, 2017; amended by Ordinance 17-11, adopted July 18, 2017; repealed and replaced by Ordinance 19-21, adopted December 3, 2019, effective January 1, 2020. [↑](#footnote-ref-1)
2. Ordinance 16-22, adopted December 13, 2016, effective January 1, 2017, repealed the former Article 2 "Moving Structures" and renumbered existing Article 1 as Article 2. [↑](#footnote-ref-2)
3. Note(s)—Added by Ordinance No. 69-027 C.S., adopted October 21, 1969; replaced in full by Ordinance No. 97-11, adopted July 15, 1997; amended by Ordinance No. 12-09, adopted November 27, 2012. [↑](#footnote-ref-3)
4. Note(s)—Added by Ordinance No. 81-026 C.S., adopted July 21, 1981, Amended in full by Ordinance 88-01 C.S., adopted January 12, 1988; Amended by Ordinance 90-22 C.S., adopted September 4, 1990; Amended in its entirety by Ordinance 00-01, adopted February 1, 2000; Amended in full by Ordinance 08-15, adopted October 7, 2008. [↑](#footnote-ref-4)
5. Chapter 9, Article 5 repealed and replaced by Ordinance 14-13, adopted May 20, 2014. [↑](#footnote-ref-5)
6. Note(s)—Added by Ordinance 04-02, adopted February 17, 2004. [↑](#footnote-ref-6)
7. Note(s)—(Added by Ordinance 19-14, adopted July 2, 2019) [↑](#footnote-ref-7)
8. Note(s)—Added by Ordinance 22-11, adopted November 15, 2022, effective January 1, 2023. [↑](#footnote-ref-8)