



CITY OF MARTINEZ

**CITY COUNCIL AGENDA
February 19, 2014**

TO: Mayor and City Council
FROM: Mercy G. Cabral, Deputy City Clerk
SUBJECT: Adopting Ordinance 1379 C.S.
DATE: February 13, 2014

RECOMMENDATION:

Adopt Ordinance No. 1379 C.S. amending the Martinez Municipal Code Chapters 22.04 (Definitions), 22.12 (Permitted Uses and Conditional Uses - R- Residential Districts), 22.16 (Permitted Uses - SC-Service Commercial and Conditional Uses C-Commercial Districts), 22.18 (Li- Light Industrial District Permitted Uses), Section 22.34.010 (General Requirements and Exceptions - Purpose), Section 22.36.070 (Parking Miscellaneous Use Table), and adding Sections 22.34.230 (Homeless Shelters), 22.34.240 (Reasonable Accommodation) and Chapter 22.57 (Density Bonus) to provide regulations implementing State Housing Law Relating to Permitting of Emergency Shelters, Supportive and Transitional Housing, providing Reasonable Accommodation, and adopting Density Bonus Regulations; and finding that the adoption of the Ordinance is exempt from the requirements of The California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Sections 15301, 15305, and 15061(B)(3).

BACKGROUND:

At the City Council meeting of February 5, the above ordinance was introduced and a public hearing was held in accordance with California Government Code. The ordinance is now before you for adoption and will become effective after 30 days.

FISCAL IMPACT:

No fiscal impact associated with the proposed ordinance.

ACTION:

Motion to adopt Ordinance No. 1379 C.S. amending Title 22, Zoning, as the sections as it relates to the Housing Element; and that the adoption of the Ordinance is exempt from the requirements of The California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Sections 15301, 15305, and 15061(B)(3).

Attachment: Ordinance

APPROVED BY:


Interim City Manager

ORDINANCE NO. 1379 C.S.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 1. Record of Proceedings.

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

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

surrounding properties. State and federal law already require that the City provide a density bonus and make reasonable accommodation in the application of regulations for those with disabilities. In addition, pursuant to existing City regulations, emergency shelters can locate within the districts contemplated by this ordinance with a use permit. The proposed ordinance imposes regulations and operational requirements which would otherwise be included in use permit conditions. Transitional and supportive housing are not currently distinguished in the zoning ordinance from other types of housing and the proposed regulations adopted herein merely provide clarification of that fact. It can therefore be seen with certainty that there is no possibility that the adoption of this ordinance will have a significant effect on the environment. There are no unusual circumstances surrounding these regulations or the properties to which they would apply which would result in a reasonable possibility that the activity would have a significant effect on the environment. No project is proposed for a site subject to listing in accordance with Section 65962.5 of the California Government Code, located within a flood plain, or a state scenic highway or which could affect an historic resource.

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

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

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

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

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

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

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

- A. A supervised, publically or privately operated shelter designed to provide temporary living accommodations, including but not limited to emergency shelters, congregate shelters and transitional housing;
- B. An institution that provides a temporary residence for individuals intended to be institutionalized; or
- C. A public or private place not designed for, or ordinarily used as, regular sleeping accommodations for human beings.

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

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

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

22.04.248 Homeless Shelter, Ongoing. "Homeless Shelter, Ongoing" means a program, operated by a religious or eleemosynary institution (with the intent of placing the homeless in

permanent dwelling units within 90 days after first occupying the shelter) that provides overnight shelter, two meals a day and case management services for homeless persons, with no predetermined limitation to length of occupancy.

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

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

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

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

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

- 22.04.543 - Tattoo Parlors

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

22.04.541 Supportive Housing. "Supportive Housing" means housing with no limit on length of stay, that is occupied by the target population as defined in subdivision (d) of Section 53260 and as per subdivision (b) of Section 50675.14 of the California Health and Safety Code, and that is linked to on- or off-site

services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

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

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

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

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

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

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

M. Supportive Housing. Supportive Housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential uses and dwellings of the same type and in the same zone (e.g.

permits single-family dwellings within a single-family zoning district and subject to the same maximum density, minimum lot size and maximum lot coverage, etc. applicable to a single-family dwelling. Also permits multi-family dwellings within a multi-family zoning district and subject to the same maximum density, minimum lot size and maximum lot coverage, etc. applicable to a multi-family dwelling. Does not permit single-family zoning requirements to be applied to multi-family residential units and vice versa).

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

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

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

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

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

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

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

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

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

22.34.010 Purpose

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

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

22.34.230 Homeless Shelters

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

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

4. Parking and outdoor facilities shall be designed to provide security for residents, visitors, employees and the surrounding area. On-site parking spaces shall be provided as required by Section 22.36.070.A.11; PARKING - MISCELLANEOUS USE TABLE.
 5. A refuse storage area shall be provided that is completely enclosed with masonry walls not less than five feet high with a solid-gated opening and that is large enough to accommodate a standard-sized trash bin adequate for use on the parcel. The refuse enclosure shall be accessible to refuse collection vehicles.
 6. The agency or organization operating the shelter shall comply with the following requirements:
 - a. Temporary shelter shall be available to residents for no more than 180 days in a calendar year. No individual or household may be denied emergency shelter because of an inability to pay.
 - b. Staff and services shall be provided to assist residents to obtain permanent shelter and income.
 - c. The provider shall have a written management plan including, as applicable, provisions for staff training, neighborhood outreach, security, screening of residents to insure compatibility with services provided at the facility, and for training, counseling, and treatment programs for residents.
 7. No Emergency Homeless Shelter shall be located within three hundred feet of another Emergency Homeless Shelter site.
 8. The facility shall obtain and shall at all times maintain good standing with any and all Federal, State, County and City licenses as required by each such agencies for the owner(s), operator(s), and/or staff on the proposed facility.
 9. The maximum number of beds or clients permitted to be served (eating, showering and/or spending the night) shall not exceed 30 persons.
- B. Homeless Shelters, Ongoing are subject to the same requirements for Emergency Homeless Shelters in Subsection A above, with the exception of 22.34.230.A.9, as maximum occupancy is to be established by Use Permit.

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

22.34.240 Reasonable Accommodation

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

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

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

- C. Findings. The Planning Division Director or his or her designee shall approve the application, with or without conditions, if the following findings are made:
1. The housing will be used by a disabled person;
 2. The requested accommodation is necessary to make specific housing available a disabled person;
 3. The requested accommodation would not impose an undue financial or administrative burden on the City; and
 4. The requested accommodation would not require a fundamental alteration in the nature of a City program or law, including but not limited to land use and zoning.
- D. Appeal. An appeal of the decision by the Planning Division Director or his or her designee may be made pursuant to the appeal procedures in Section 22.06.050.
- E. Review with other land use applications. If the project for which the request for reasonable accommodation is being made also requires other discretionary approval (including but not limited to: design review, variance, conditional use permit, rezoning, general plan amendment, etc.), then the applicant shall file the information required by Subsection A together for concurrent review with the application for discretionary approval.

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

22.36.070 - Parking-Miscellaneous Uses.

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

PARKING-MISCELLANEOUS USE TABLE

Use and Required Parking Spaces.

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

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

requirements and provided further that an attested copy of a contract between the parties concerned setting forth the agreement to joint use of a common parking facility is filed with the application for a certificate of occupancy

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

**CHAPTER 22.57
DENSITY BONUS**

22.57.010 Purpose

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

22.57.020 Definitions.

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

22.57.030 Applicability.

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

22.57.040 State Density Bonus and Incentives.

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

22.57.050 Application Requirements and Review.

- A. An application for a state density bonus, incentive or concession, waiver or modification of a development standard, or a revised parking standard in accordance with Section 22.57.040, shall be submitted with the first application for approval of a housing development and shall be processed concurrently with all other applications

required for the housing development. The application shall be submitted on a form prescribed by the City and shall include, at a minimum, the following information:

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

considered and acted upon by the City body with review authority for the housing development.

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

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

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

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

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

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

- F. If a density bonus or concession or incentive is based on the provision of child care facilities, the approval body may deny the density bonus or concession or incentive if it finds, based on substantial evidence, that the City already has adequate child care facilities.

22.57.060 - Density Bonus Housing Agreement.

- A. Density Bonus Housing Agreement. An applicant requesting a density bonus shall agree to enter into an affordable housing agreement ("agreement") with the City in the City's standard form of agreement. Execution of the agreement shall be made a condition of approval for any discretionary planning permit for housing developments pursuant to this Chapter and shall be recorded as a restriction on any parcels on which the housing units which qualify the housing development for a density bonus will be constructed.

- B. Recording of Agreement. The agreement shall be recorded prior to the final or parcel map approval, or, where the housing development does not include a map, prior to the issuance of a building permit.

- C. Contents of the Agreement. Each agreement shall include, but not be limited to, the following:
 - 1. A description of the residential development, including whether the housing units which qualify the housing development for a density bonus will be rented or owner-occupied;
 - 2. The number, size and location of the housing units which qualify the housing development for a density bonus;
 - 3. Provisions and/or documents for resale restrictions, deeds of trust, right of first refusal or rental restrictions;
 - 4. Provisions for monitoring the ongoing affordability of the housing units which qualify the housing development for a density bonus, and the process for qualifying prospective resident households for income eligibility; and
 - 5. Any additional obligations relevant to the compliance with this Chapter.

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

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

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

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

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

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

APPROVED: _____
Rob Schroder, Mayor

ATTEST: _____
Deputy City Clerk

* * * * *

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

AYES:

NOES:

ABSENT:

ABSTAIN:

RICHARD G. HERNANDEZ, CITY CLERK
CITY OF MARTINEZ

EXHIBIT A
CITY COUNCIL ORDINANCE NO. C.S.

GENERAL PLAN – HOUSING ZONING ELEMENT
CONSISTENCY FINDINGS

FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN

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

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

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

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

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

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

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

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