

ORDINANCE NO. 2022-1090

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YORBA LINDA AMENDING THE TEXT OF THE LAND USE ELEMENT OF THE CITY OF YORBA LINDA GENERAL PLAN (GENERAL PLAN AMENDMENT 2022-01) PURSUANT TO THE IMPLEMENTATION PROGRAMS OF THE CITY OF YORBA LINDA 2021-2029 HOUSING ELEMENT, AND FINDING THAT GENERAL PLAN AMENDMENT 2022-01 IS NOT SUBJECT TO A VOTE OF THE ELECTORATE OF THE CITY OF YORBA LINDA UNDER THE YORBA LINDA RIGHT-TO-VOTE AMENDMENT

WHEREAS, under California law, every city must adopt a general plan, which must include specified mandatory elements, in furtherance of the State policy to provide a comprehensive, long-term plan for the physical development and use of property within a city's jurisdiction; and

WHEREAS, under California law, every city has the authority to adopt and amend a zoning code pursuant to a city's general police power, which allows for the orderly division of property within a city's jurisdiction into compatible uses and development standards so as to improve and protect the general welfare; and

WHEREAS, under California law, all of the elements within a city's general plan must be internally consistent, and all zoning must be in conformity with a city's general plan; and

WHEREAS, on October 28, 2016, the City of Yorba Linda (City) adopted its current General Plan (General Plan); and

WHEREAS, the City may amend all or part of its adopted General Plan to promote the public interest up to four times during any calendar year pursuant to Government Code Section 65358; and

WHEREAS, under California law, Government Code Section 65580 *et seq.* (Housing Element Law), every city in the State is required to periodically review and update the housing element of a general plan for the city, every city is mandated to include State-specified content in a housing element, and every city is required to submit a draft of its housing element to the California Department of Housing and Community Development (HCD) for review and determination as to whether the city's draft housing element substantially complies with the Housing Element Law; and

WHEREAS, since October 2020, City staff conducted numerous study sessions and community workshops with stakeholders, consultants, and members of the public to comment and provide direction on the content of the City's draft housing element; and

WHEREAS, since October 2020, the City Council for the City of Yorba Linda (City Council) and Planning Commission of the City of Yorba Linda (Planning Commission) held study and scoping sessions at public meetings to inform and receive comments from the general public regarding the procedure and required content of the City's housing element; and

WHEREAS, the Planning Commission on multiple dates between February 24, 2021 and July 28, 2021, and the City Council on August 3, 2021, reviewed a draft of the City's housing element that, in accordance with State law, was submitted to HCD for review and comment; and

WHEREAS, since submitting the City's draft housing element to HCD, City and HCD staff have reviewed and revised the draft housing element to accommodate all State-mandated content, and the City Council and Planning Commission have periodically held public meetings to inform and receive comments from stakeholders, consultants, and members of the public with respect to the draft housing element process; and

WHEREAS, on January 12, 2022, the Planning Commission conducted a public hearing recommending that the City Council approve the final Housing Element; and

WHEREAS, on February 9, 2022, the City Council conducted a public hearing approving the 2021-2029 Housing Element; and

WHEREAS, on April 8, 2022, HCD determined that the City's 2021-2029 Housing Element was substantially complying with State Housing Element law; and

WHEREAS, the City of Yorba Linda 2021-2029 Housing Element identifies for the applicable 2021-2029 planning period the housing needs in the community and programs to achieve the housing goals, policies and objectives of the City, which substantially comply with State-mandated content under the State Housing Element law pursuant to the certification issued by HCD on April 8, 2022; and

WHEREAS, the adopted Housing Element includes implementation programs that, if and when adopted by the City Council by separate and subsequent approvals from the approval of the Housing Element, would commence implementing actions (i) to amend the Land Use Element and Land Use Map of the City's General Plan; and, (ii) to amend specified sections of the City of Yorba Linda Zoning Code, Title 18 of the Yorba Linda Municipal Code (Zoning Code) and Zoning Map; and

WHEREAS, the implementation programs included in the adopted Housing Element are intended to be carried out separately from the adoption by the City Council of the Housing Element to facilitate the compliance, if and as applicable, with the requirements of the Yorba Linda Right-to-Vote Amendment, Yorba Linda Municipal Code Section 18.01.010 *et seq.* (commonly known as "Measure B"), and are intended to preserve HCD's certification of the adopted Housing Element for the entirety of the 2021-2029 planning period; and

WHEREAS, the City Council has determined that the proposed amendment to specified provisions in the Land Use Element of the General Plan, as identified in Exhibit "A" attached to this Ordinance and incorporated herein by this reference ("General Plan Amendment 2022-01"), does not constitute a "Major Amendment" as defined in the Yorba Linda Right-to-Vote Amendment (Measure B) and is therefore not subject to the approval of a majority vote of the electorate of the City to become effective; and

WHEREAS, General Plan Amendment 2022-01 would amend the Land Use Element to include the following new land use designation: "Residential Overlays"; and

WHEREAS, General Plan Amendment 2022-01 includes provisions that are part of the implementation programs and implementing actions of the adopted Housing Element, and is necessary to ensure that the Land Use Element and Housing Element will be internally consistent within the City's General Plan, as required by State law; and

WHEREAS, the proposed revisions in General Plan Amendment 2022-01 are internally consistent with the other elements of the General Plan; and

WHEREAS, notices of a public hearing were published, posted, and delivered in accordance with State and City laws for the consideration by the Planning Commission of the proposed amendments to the Land Use Element of the General Plan (referred to herein as "General Plan Amendment 2022-01") as part of the consideration of the proposed Housing Element and implementation programs included therein; and

WHEREAS, General Plan Amendment 2022-01 as identified in Exhibit "A" attached to this Ordinance, includes all of the amendments to the General Plan that do not constitute "Major Amendments" as defined in the Yorba Linda Right-to-Vote Amendment (Measure B) and are therefore not subject to the approval of a majority vote of the electorate of the City to become effective. General Plan Amendment 2022-02 includes all of the amendments to the General Plan and General Plan Land Use Diagram that constitute a "Major Amendment" as defined in the Yorba Linda Right-to-Vote Amendment (Measure B) and are therefore individually and/or collectively subject to the approval of a majority vote of the electorate of the City to become effective; and

WHEREAS, in accordance with State and City laws, on June 29, 2022, the Planning Commission conducted a public hearing to receive public testimony with respect to General Plan Amendment 2022-01 as part of the consideration of the adopted Housing Element implementation programs included therein; and

WHEREAS, the Planning Commission considered the information provided by City staff, the public testimony, and the evidence presented at the Planning Commission public hearing on June 29, 2022, which includes, without limitation, the staff reports submitted by the Community Development Department; and

WHEREAS, on June 29, 2022, the Planning Commission, at a regular public meeting, considered and decided to recommend to the City Council the approval of General Plan Amendment 2022-01, subject to compliance, as applicable, with the requirements of Yorba Linda Right-to-Vote Amendment (Measure B), in furtherance of the implementation programs included in the Housing Element; and

WHEREAS, notices of a public hearing were published, posted, and delivered in accordance with State and City laws for the consideration by the City Council of General Plan Amendment 2022-01 as part of the consideration of the adopted Housing Element implementation programs included therein; and

WHEREAS, in accordance with State and City laws, on August 2, 2022, the City Council conducted a public hearing to receive public testimony with respect to General Plan Amendment 2022-01 as part of the consideration of the Housing Element implementation programs included therein; and

WHEREAS, the City Council considered the information provided by City staff, the public testimony, and the evidence presented at the public hearing on August 2, 2022, which includes, without limitation, the staff reports submitted by the Community Development Department.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF YORBA LINDA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The City Council has read and considered the amendments to the General Plan (referred to herein as "General Plan Amendment 2022-01") as part of the consideration of the adopted Housing Element implementation programs included therein.

Section 3. The City Council finds that General Plan Amendment 2022-01 is necessary to ensure that the Zoning Code and Zoning Code Map are consistent within the City's General Plan.

Section 4. The City Council finds that General Plan Amendment 2022-01 is necessary to implement the Housing Element programs established in the 2021-2029 Housing Element, and as approved by the State of California, and would permit and encourage the development of affordable housing opportunities pursuant to the Regional Housing Needs Assessment (RHNA) requirements, as set forth in the Housing Element Law and applicable State Guidelines, in locations adjacent to supporting services and public transportation provided they are compatible with, and will not adversely impact, the integrity and continuity of adjacent uses.

Section 5. The City Council hereby accepts the recommendation of the Planning Commission to adopt General Plan Amendment 2022-01 as part of the consideration of the adopted Housing Element implementation programs included therein.

Section 6. The City Council hereby adopts General Plan Amendment 2022-01.

Section 7. The City Council hereby finds that General Plan Amendment 2022-01 is not a "Major Amendment" as defined in the Yorba Linda Right-to-Vote Amendment (Measure B), and is therefore not subject to the approval of a majority vote of the electorate of the City to become effective, because General Plan Amendment 2022-01 does not result in any of the changes identified in Section 18.01.030(A) of the Yorba Linda Municipal Code to a Planning Policy document for any parcel of land affected by General Plan Amendment 2022-01 that would do any of the following: (1) increase the number of residential units which may be constructed on a parcel designated for residential uses; (2) increase the number of separate parcels which may be created from an existing parcel; (3) change any residential land use to allow any other land use;

(4) change any non-residential land use to allow any residential land use greater than ten (10) net dwelling units per acre or allow a mix of commercial and residential uses; (5) increase the allowed maximum height of development; (6) provide for the private development of land owned by a government entity within five years of the date of the approval to develop the land; or (7) repeal any "Planning Policy Document" as defined in Section 18.01.02 of the Yorba Linda Municipal Code; rather, General Plan Amendment 2022-01 is comprised of the establishment of land use classifications for overlay zones that do not, in and of themselves, effect a particular parcel of land.

Section 8. The City Manager or his designee is hereby authorized and directed to incorporate into the General Plan the amendments thereto as set forth in General Plan Amendment 2022-01, upon the effective date of this Ordinance.

Section 9. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Yorba Linda hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

Section 10. This Ordinance is contingent upon a successful approval by the voters of the City of Yorba Linda of General Plan Amendment 2022-02 and Zoning Code Amendment 2022-02 and shall go into effect ten (10) days after such successful vote is declared by the legislative body.

Section 11. The City Clerk shall certify to the passage and adoption of this Ordinance, and shall cause the same to be published within fifteen (15) days after passage in accordance with law and as designated by resolution of the City Council, and shall cause this Ordinance and its certification, together with proof of publication, to be entered into the Book of Ordinances of the City of Yorba Linda.

PASSED, APPROVED AND ADOPTED at an adjourned regular meeting of the City Council of the City of Yorba Linda on this 9th day of August, 2022.

CARLOS RODRIGUEZ, MAYOR
CITY OF YORBA LINDA

ATTEST:

MARCIA BROWN, CITY CLERK
CITY OF YORBA LINDA

(SEAL)

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF YORBA LINDA)

I, MARCIA BROWN, City Clerk of the City of Yorba Linda, California, **DO HEREBY CERTIFY** that the foregoing Ordinance was adopted at an adjourned regular meeting of the City Council of the City of Yorba Linda held on the 9th day of August, 2022, and was carried by the following roll call vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

MARCIA BROWN, CITY CLERK
CITY OF YORBA LINDA

EXHIBIT "A"

GENERAL PLAN AMENDMENT 2022-01

MODIFICATIONS TO THE TEXT OF THE LAND USE ELEMENT
OF THE CITY OF YORBA LINDA GENERAL PLAN

Item No.	Page/Location	Amendment/Change
1	LU-25 – First Paragraph	<p><i>Add the following paragraphs describing overlay zones:</i></p> <p><i>Residential Overlays (20 – 35 du/ac)</i> – <i>The Affordable Housing Overlay, Congregational Lands Overlay, and Mixed-Use Overlay zones permit a variety of multi-family dwelling types at a density of 20.0 to 35.0 dwelling units per acre. The appropriate housing types are predicated based on the site, location, adjacent land uses, and the purpose of the individual overlay zone as described in Section 18.17 of the Yorba Linda Zoning Code. Clustering of buildings allows for the provision of appropriate private recreational and open space amenities. The overlay zones encourage the inclusion of at least 20% affordable housing units in an effort to affirmatively further fair housing opportunities.</i></p>