

**CITY OF SAN MATEO
RESOLUTION NO. 78 (2020)**

CALLING A GENERAL MUNICIPAL ELECTION ON TUESDAY, NOVEMBER 3, 2020 FOR THE PURPOSE OF SUBMITTING A PROPOSED ORDINANCE TO AMEND THE CITY OF SAN MATEO GENERAL PLAN TO EXTEND FOR TEN YEARS THE EXPIRATION DATE OF VOTER ENACTED POLICIES LIMITING BUILDING HEIGHTS, RESIDENTIAL DENSITIES AND NONRESIDENTIAL BUILDING INTENSITIES BUT TO AUTHORIZE THE CITY COUNCIL TO APPROVE CHANGES TO THESE LIMITS THAT EXCEED THE PREVIOUS LIMITS IN CERTAIN DESIGNATED AREAS, AND TO MAKE OTHER AMENDMENTS TO THE PLAN RELATING TO AFFORDABLE HOUSING POLICIES

WHEREAS, pursuant to authority provided by state law a petition to propose an ordinance to extend general plan policies enacted by Measure P in 2004 was qualified and on May 18, 2020, the City Council took action to call an election on the proposed measure and placed it on the November 3, 2020 ballot; and

WHEREAS, in February 2020, a group of San Mateo residents attempted to gather signatures to qualify a measure to provide an alternative to the measure previously qualified for the ballot;

WHEREAS, the signature gathering efforts of this group were interrupted by the Shelter in Place orders issued by the San Mateo County Health Officer in response to the novel coronavirus pandemic, and such orders remain in place and will prevent the proponents of the alternative measure from gathering sufficient signatures to qualify their measure for the November 3, 2020 ballot; and

WHEREAS, the proponents of the alternative measure have requested that the San Mateo City Council exercise its legal authority to submit their measure to the voters as a city council proposition; and

WHEREAS, pursuant to this authority the San Mateo City Council has decided to place a proposition to enact the alternative measure on the November 3, 2020 ballot.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN MATEO, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to the requirements of the laws of the State of California relating to charter cities, there is called and ordered to be held in the City of San Mateo, California, on Tuesday, November 3, 2020, a General Municipal Election for the purpose of submitting the following proposed ordinance:

| | |
|--|------------|
| Shall the proposed ordinance to amend the City of San Mateo General Plan to extend for ten years the expiration date for voter-enacted policies limiting building heights and intensities, but to authorize the City Council to approve increases in heights and intensities in designated areas that are close to major transit and to make other specified amendments to affordable housing policies in the plan, be adopted?" | YES |
| | NO |

SECTION 2. That the text of the measure submitted to the voters is attached as Exhibit A.

SECTION 3. That the vote requirement for the measure to pass is a majority (50%+1) of the votes cast.

SECTION 4. That the full text of the measure be printed in the voter information pamphlet.

SECTION 5. The City Clerk is directed to forward the proposed measure to the City Attorney for preparation of an impartial analysis in accordance with Section 9280 of the Elections Code.

SECTION 6. Arguments for and against the proposition may be submitted to the qualified voters of the City in accordance with sections 9282 through 9287 of the California Elections Code. The deadline date for submitting ballot arguments for or against the proposition shall be Friday, August 14, 2020. Proposed arguments shall not exceed 300 words and shall be submitted to the Office of the City Clerk. The deadline for submitting rebuttal arguments shall be Monday, August 24, 2020. Proposed rebuttal arguments shall not exceed 250 words and shall be submitted to the office of the City Clerk. The provisions of Section 9285(a) of the California Elections Code shall apply to the submittal of rebuttal arguments.

SECTION 7. The City Clerk and other City officers are directed to do all things necessary to meet the requirements of law for the November 3, 2020, municipal election.

SECTION 8. That the ballots to be used at the election shall be in form and content as required by law.

SECTION 9. The polls for said election shall be opened at seven o'clock a.m. of the day of said election and shall remain open continuously from said time until eight o'clock p.m. of the same day, except as provided in Section 14401 of the Elections Code of the State of California.

SECTION 10. The municipal election hereby called for November 3, 2020, shall be, and is hereby, ordered consolidated with the county election to be held within the City on said date, and within the territory affected by the consolidation, the election shall be held and conducted, election officers appointed, voting precincts designated, ballots printed, polls opened and closed, ballots counted and returned, returns canvassed, results declared, and all other proceedings incidental to and connected with the election shall be regulated and done in accordance with the provisions of law regulating the countywide election and as specified herein.

SECTION 11. The Board of Supervisors of the County of San Mateo is hereby requested to permit the County Elections Official to render specified services to the city relating to the conduct of the election; and is hereby authorized to canvass the returns of said municipal election; and said election shall be held in all respects as if there were only one election and only one form of ballot. The County shall certify the results of the canvass of the returns of said election to the City Council of this City which shall thereafter declare the results thereof.

SECTION 12. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 13. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 14. The City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill and the City Clerk is authorized to execute a service agreement for the provision of election services with the County with terms approved by the city attorney and provided the costs of such services have been appropriated by the City Council.

SECTION 15. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

SECTION 16. The City Council has determined that the proposed measure is not a "project" under CEQA. The CEQA statute and regulations define "project" as "an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." The proposed measure would merely maintain existing land use policies contained in the general plan and, for certain areas, authorize the City Council to make changes in land use policy. Any effort by the council to change these policies in the future will require CEQA review at that time. Attempting to review at this time what the council or voters might do in the future is purely speculative.

In addition, even if the proposed measure was considered to be a "project" under CEQA, it would be exempt from environmental review because "it can be seen with certainty that there is no possibility" that the measure "may have a significant effect on the environment." Again, the proposed measure merely maintains existing land use policies. It does not propose or permit any development of land or authorize any use of land not authorized at the present time.

SECTION 17. Effective date. This Resolution shall take effect upon adoption.

RESOLUTION NO. 78 (2020) adopted by the City Council of the City of San Mateo, California, at a regular meeting held on July 20, 2020, by the following vote of the City Council:

AYES: Council Members Goethals, Rodriguez, Bonilla, Lee and Papan
NOES: None
ABSENT: None

ATTEST:

/s/ Patrice M. Olds, City Clerk

/s/ Joe Goethals, Mayor

EXHIBIT A

The People of the City of San Mateo do hereby ordain as follows:

Section 1 Title

This initiative shall be known as the City of San Mateo Neighborhood Protection / Housing Opportunity and Affordability Act.

Section 2 Findings

- A. The City of San Mateo is currently in the process of preparing its General Plan 2040, which it currently anticipates adopting in March of 2023.
- B. San Mateo, the Bay Area, and the State have evolved dramatically since Measure H was adopted 30 years ago. Since then, some of the country's large tech companies, such as SolarCity and GoPro, have established headquarter offices in San Mateo, hiring tens of thousands of employees and generating billions of dollars in revenue. Ridership at the Hillsdale Caltrain station has more than doubled between 2009 and 2019, and Caltrain plans to triple its ridership system-wide by 2040. Growth and travel patterns throughout the Bay Area have changed dramatically as technology and financial industries continue to attract employees.
- C. In the last eight years, the Bay Area has added 676,000 new jobs, but only built 176,000 new housing units, a deficit of 275,000 homes for new workers. The Legislature has declared a statewide housing crisis and amended the Housing Element Law to require local governments to accommodate a significantly increased demand for housing at all affordability levels.
- D. This Initiative seeks to balance preservation of the low-density, suburban residential character of the City on one hand, with the need to accommodate a greater number of residential units in light of the unprecedented statewide housing crisis, on the other. It achieves this balance by allowing the City to plan for more dense transit-oriented residential and mixed-use development that represents 21st-century planning principles, creates opportunities for more affordable housing near transit, promotes sustainable development by reducing commuter driving and transportation costs, and helps to reduce San Mateo's carbon footprint.
- E. This Initiative does not create new height and density limits, but instead provides the City Council with flexibility to respond to changes in the economy, demographics, population, best practices, State law, affordable housing needs, public transit use, and more, by creating two new planning areas through a multi-year planning process as part of the City's 2040 General Plan, which the City anticipates completing in 2023. The new planning areas will help the City generate millions of dollars in resources for City services such as police, fire, roads and park maintenance, while avoiding increased taxes for homeowners. New development eligible for increased height and density in the two defined areas will not threaten the viability of the valued suburban character of the City's residential neighborhoods, which the voters sought to protect with Measures H and P.
- F. This Initiative furthers the intent of the voters to ensure the production of affordable housing. Although Measure H established the City's first affordable housing program, it in many ways has made the provision of affordable housing for veterans, the disabled, battered women, and others with special needs economically infeasible, because housing that best serves these populations requires heights and densities that exceed current limits. Further, the existing affordable housing requirements prohibit creative proposals that could increase the City's supply of affordable units, such as off-site construction and in-lieu fees.

- G. In 2017, the State Legislature adopted AB 1505 to clarify that if cities require residential projects to provide for inclusionary housing, alternative means of compliance such as in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units must also be allowed. Measure P does not provide the flexibility required by AB 1505, and this Initiative resolves the inconsistency.
- H. The new planning areas include portions of the General Plan 2040 study areas.

Section 3 **Purpose and Intent**

The purpose of this Initiative is to:

- A. Preserve the livability and suburban character of the City's established single-family neighborhoods while responding to the statewide housing crisis by authorizing the City Council to establish new height and density limits in a new planning area near the Downtown Caltrain Station and a new planning area near the Hillsdale and Hayward Park Caltrain stations in connection with the General Plan 2040, only after a thorough public process and environmental review.
- B. Increase opportunities for the production of affordable housing, workforce housing, and special needs housing by allowing projects to satisfy the City's inclusionary housing requirement in a greater variety of alternative ways, consistent with California Assembly Bill ("AB") 1505.

The Initiative accomplishes these goals by:

- A. Retaining the existing height and density limits throughout the City of San Mateo while granting the City Council authority to establish new height and density limits in a new planning area near the Downtown Caltrain Station and a new planning area near the Hillsdale and Hayward Park Caltrain stations, as illustrated in the attached map, in which height and density in excess of current limits may be established in connection with the General Plan 2040 to accommodate the increased housing demand and respond to the statewide housing crisis.
- B. Amending the City's Housing Element to allow projects subject to the affordable housing requirement flexibility to comply through alternative means, in compliance with AB 1505.
- C. Clarifying existing ambiguity regarding the requirement that projects include public benefits or amenities beyond code requirements to achieve the maximum density currently allowed.

Section 4 **Preservation of Existing Height and Density Limits in Neighborhoods; City Council Authority to Establish New Height and Density Limits in Two New Transit-Oriented Planning Areas**

This Initiative hereby amends the General Plan of the City of San Mateo ("General Plan"). Text to be inserted in the General Plan is indicated in underline type, and text to be deleted is indicated in ~~strike through~~ type. Non-underlined text currently appears in the relevant document and is not changed or readopted by this Initiative.

A. City of San Mateo General Plan Amendments

1. Land Use Policy LU 1.21 is hereby added to the General Plan Land Use Element as follows:

"LU 1.21: Voter Approval: Voter approval shall be required to amend the General Plan prior to January 1, 2031 to increase the height and density standards established by Measure P, except for a new planning area near the Downtown Caltrain Station and a new planning area near the Hillsdale and Hayward Park Caltrain stations. The boundaries of those new planning areas shall be consistent with the map attached to Appendix C of the General Plan as Figure 1. The City of San

Mateo may establish new height and density standards exceeding current height and density limits within the two new planning areas as part of the 2040 General Plan or by amending the General Plan without voter approval, only after it completes its community-planning process, and all required environmental review.”

2. Land Use Policy LU 1.5 on page II-10 of the General Plan is hereby amended to read as follows:

“LU 1.5: Building Height. Maintain maximum building height limits contained in Appendix C, and as specified in Policy LU 6 A.2, closely matched with the Land Use categories and Building Intensity standards.

Requests for height changes consistent with the height ranges for specific land uses as designated in Appendix C, entitled “Building Height”, may be considered by the City Council only when accompanied by a request for change in land use designation. Such requests may be approved only if the following findings are made:

1. The building has high design quality, which is enhanced by additional building height;
2. Increased building heights are visually related to surrounding building heights and promote the creation of a coherent City image;
3. Increased building heights will still provide for a variety of building heights in the vicinity of the project and the surrounding areas;
4. Increased building heights are compatible with surrounding land uses, and will not create adverse shadow or visual impacts on surrounding residential uses; and
5. The City’s infrastructure is adequate to accommodate the proposed development.

Maximum height limits are intended to permit development which will not overburden the City’s infrastructure or circulation system, which is consistent with the plan’s intensity/density standards and is compatible with surrounding land uses, and which will preserve, to the extent feasible, the City’s existing character. Height limits ~~range from 25 feet to 90 feet and~~ are contained in Appendices B and C.

Generally, the residential areas are restricted to low maximum heights (32 feet) to protect established neighborhoods, although medium- and high-density multi-family areas have height limits up to 55 feet, to accommodate increased density.

Generally, n~~Non~~-residential maximum heights range from 25 feet (nearest low-density residential areas) to 90 feet (manufacturing, public facilities, and major institutions). Generally, the maximum height is 55 feet.

Consistent with Land Use Policy LU 1.21, before January 1, 2031, voter approval shall be required to increase the height limits established in 2004 throughout the City, except that the City of San Mateo may establish height and density standards exceeding current height and density limits in a new planning area near the Downtown Caltrain Station and a new planning area near the Hillsdale and Hayward Park Caltrain stations in order to respond to the statewide housing crisis and promote more vibrant commercial areas and to promote a more informed and participatory planning process.”

3. Appendix C, Building Height

Appendix C of the General Plan is hereby amended as follows:

Appendix C
 Building Height*****

| LAND USE CATEGORY | Maximum Height |
|---|-----------------|
| Residential: | |
| Single-Family | 24' |
| Low-Density Multi-Family | 24' |
| Medium-Density Multi-Family | 35' to 55' |
| High-Density Multi-Family | 35' to 55' |
| Non-Residential: | |
| Neighborhood Commercial | 25' to 55' |
| Regional/Community Commercial | 35' to 55'* ** |
| Downtown | 55'* |
| Service Commercial | 30' |
| Manufacturing | 35' to 90' |
| Executive Office | 25' to 55'* |
| Public Facility | 25' to 75' |
| Parks/Open Space | 32' |
| Utilities | 32' |
| Transportation Corridors | 32' |
| Major Institution/Special Facility | 35' to 90' |
| Mixed Use: | |
| Executive Office/Low-Density Multi-Family | 25' to 45' |
| Executive Office/Medium-Density Multi-Family | 25' to 45' |
| Executive Office/High-Density Multi-Family | 25' to 55'* |
| Neighborhood Commercial/Medium-Density Multi-Family | 35' |
| Neighborhood Commercial/High-Density Multi-Family | 25' to 55' |
| Regional/Community Commercial/High-Density Multi- | 25' to 55'* |
| Transit-Oriented Development | 24' to 55'***** |

* Height limits up to a maximum of 75 feet may be allowed in some areas within these land use categories, as specified the area specific policy for Downtown (PA 3), and Policies PA 5.2 and PA 6.3 of the Land Use Element.

** Height limits up to a maximum of 60 feet are also established for the Hillsdale Shopping Center as shown on the Site Plan entitled "Hillsdale Shopping Center", dated April 19, 2004.

*** No new land use categories shall be authorized with building heights greater than 55 feet without voter approval, except that the City Council may establish height standards exceeding current height limits in the two planning areas designated on the map attached as Figure 1 and depicted below, as authorized by the voters in 2020, in connection with the General Plan 2040. The two planning areas are described as follows:

Hillsdale and Hayward Park Caltrain Stations Planning Area

This planning area generally includes a half-mile radius around the Hillsdale and Hayward Park Caltrain Stations. Beginning at the corner of E. 16th Ave and S. Delaware St., its boundary continues south to along S. Delaware St. to 25th Ave., then along the Caltrain tracks south to 36th Ave., then west to Edison St., then north to 26th Place, west to Flores St., and north to W. 20th Ave, with adjustments to include the properties bounded on the east by Flores St., on the west by Hacienda St., on the south by Mary Lu Lane, and on the north by Lula Belle Lane, and to include the properties west of Hacienda St. between 24th Ave. and W. 25th Ave. The planning area shall also include properties to the east and west of S. El Camino Real that are located within a half-mile radius of the Hayward Park Caltrain Station as depicted on the accompanying map. The area does not include single-family zoned property within the planning area, which may be designated as islands within the planning area on the accompanying map or may result in nuanced boundary lines when implemented by the City.

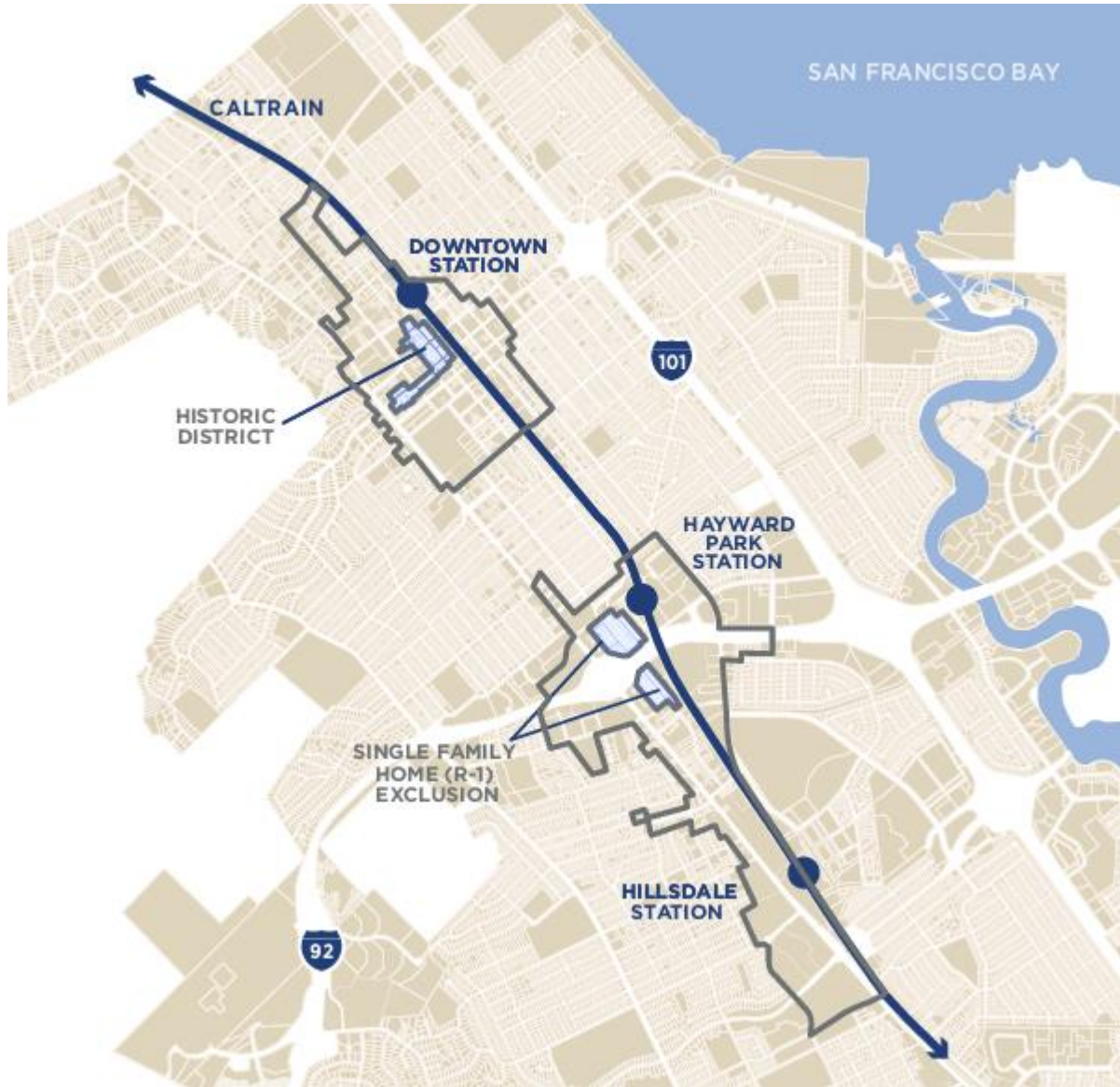
Downtown Caltrain Station Planning Area

This planning area generally includes a half-mile radius around the Downtown Caltrain Station. Beginning at the corner of E. Poplar Ave and Elm Street, its boundary continues east to N. Ellsworth Ave, then south to Baywood Ave, then east to the Caltrain tracks, then south to 1st Ave via N. Delaware St., then south to 9th Ave. along the property lines of the properties to the east of N. Delaware Street, then west to the property lines of the properties on the west side of S. El Camino Real, then north to the point of origination. The area does not include any single-family zoned property within the planning area.

**** Heights on areas indicated on the map that exceed the lowest height of the range are permitted if they conform with the 5 findings in General Plan Policy LU 1.5, ~~as amended by Measure P,~~ and subject to Land Use Policy LU-1.21.

***** In order to preserve height limits within the land use categories shown above in the City's neighborhoods, voter approval shall be required to amend the General Plan to increase the height limits established by Measure P prior to January 1, 2031, except for development in the new planning area near the Downtown Caltrain Station and new planning area near the Hillsdale and Hayward Park Caltrain stations, which may be subject to height and density standards exceeding current height and density limits to be established by the City of San Mateo as part of the 2040 General Plan or by General Plan amendment without voter approval.

Figure 1



Section 5 Increased Production of Affordable Housing

Text to be inserted in the General Plan is indicated in underline type, and text to be deleted is indicated in ~~strike through~~ type. Non-underlined text currently appears in the relevant document and is not changed or readopted by this Initiative.

1. Subsection 1 of Program H 2.4 of the City of San Mateo’s Housing Element, commencing on page 100, is hereby amended to read as follows:

“Program H 2.4: Private Development of Affordable Housing.
Encourage the provision of affordable housing by the private sector through:

1. Maintain an inclusionary housing ordinance to implement Policy H 2.4. The ordinance shall include, at a minimum:

a) At a minimum, require all projects which include more than 10 residential units, including mixed-use projects, ~~shall be required~~

to include 10% of the residential units for exclusive use as affordable housing units.

b) Consistent with Government Code Section 65850(g), the City Council shall provide alternative means of compliance with the City's inclusionary housing ordinance that may include, but are not limited to, in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units.

~~The project proponent shall build the unit(s) on site, either in partnership with a public or nonprofit housing agency, or on its own. Off site building shall be allowed only if the proponent demonstrates that on site construction is infeasible; and in any event, any off site units must be built within the City of San Mateo. No in lieu fees shall be allowed except for: i. Projects which include 10 units or less; or ii. Fractional affordable housing unit requirements of less than .5.~~

c) The affordable units shall be as similar in exterior design and appearance as possible to the remaining units in the project.

d) Affordable rental units shall carry deed restrictions which guarantee their affordability.

e) Affordable for sale units shall have deed restrictions which allow for first right of refusal to the local government, upon the sale of the unit, in accordance with a procedure specified in an ordinance approved by the City Council. The City local government should only refuse the option of purchase if it has already expended all of its financial resources available for housing, including Community Development Block Grant funds, local housing trust fund monies, and any other federal, state or local funds typically available for affordable housing purposes.

Lead: Neighborhood Improvement and Housing Division (Ongoing)"

Section 6 **Clarification of Public Benefits Required to Achieve the Maximum Density Currently Allowed to Promote Additional Housing**

Text to be inserted in the General Plan is indicated in underline type, and text to be deleted is indicated in ~~strikethrough~~ type. Non-underlined text currently appears in the relevant document and is not changed or readopted by this Initiative.

1. The last four paragraphs of text following Land Use Policy LU 1.4 (Development Intensity/Density), commencing at the top of page II-10 of the Land Use Element of the City of San Mateo General Plan, are hereby amended as follows:

"The plan permits new multi-family residential development at a range of densities from 9 to 50 units net per acre, with the higher end of the density range to be used only for projects which provide substantial public benefits or amenities. Residential development is also allowed in commercial districts. ~~If expected development takes place, the city-wide average density is expected to increase from 10 to at least 12 units per net acre.~~

Building intensity is a measurement of the amount of physical development allowed on a parcel. The Land Use Element utilizes a combination of building height and floor area ratio

(FAR) (the gross floor area of a building divided by the net lot area to measure building intensity).

The plan anticipates a range of new non-residential development by providing an FAR range of 0.5 up to a theoretical maximum of 3.0, and by establishing a range of permitted building heights ~~from 25 feet to 90 feet~~. Higher height limits and the higher end of the FAR range are available only for projects which provide public benefits or amenities substantially greater than code requirements. Notwithstanding the foregoing sentence, in light of the unprecedented statewide housing crisis, residential and mixed-use projects that comply with the City's inclusionary housing ordinance shall be deemed eligible for higher height limits and the higher end of the FAR range, and shall not be required to provide additional public benefits or amenities beyond code requirements.

~~The city-wide average FAR is expected to increase from .59, but to stay below .70, while average height will remain less than 45 feet."~~

Section 7 **Subsequent General Plan Amendments**

- A. Current General Plan.** Except as provided elsewhere in this Initiative, the City of San Mateo may consider General Plan amendments relating to height and density, but shall not take final action to approve such an amendment without voter approval until the earlier of March 1, 2023, or the effective date of the City's adoption of a new General Plan 2040.
- B. Non-material Amendments.** Notwithstanding the foregoing, and subject to any existing limitations on the number of times that the General Plan may be amended, the City of San Mateo may adopt non-material amendments to any portion of the General Plan at any time, except that any revisions proposed to Appendix B and C, which depict density and height limits throughout the City of San Mateo, prior to the sunset date of this Initiative that are not consistent with the purposes, intent, or operative provisions of this Initiative must be approved by the voters.
- C. Material Amendments.** The General Plan and all of its elements and parts may be reviewed and amended by the City of San Mateo pursuant to Policy LU 6-2 and as may be required to conform to State law, without limitation, except that the City of San Mateo may not amend the General Plan in a manner inconsistent with the purposes, intent, or operative provisions of this Initiative, including provisions establishing maximum height limits and densities for specified uses outside of the two designated transit-oriented planning areas, or altering the boundaries of the two new planning areas, without voter approval. If the voters fail to approve the amendment, a court order shall be required to adopt the proposed amendment.

Section 8 **Implementation**

This Initiative shall be interpreted liberally to further its purposes. The City Council has authority to particularize and implement this Initiative by appropriate legislation and actions, including interpreting the map depicting the new planning areas, in all cases in full compliance with the substantive content and purposes of the Initiative.

Section 9 **Severability**

If any portion of this Initiative is hereafter determined to be invalid by a court of competent jurisdiction, all remaining portions of this Initiative shall remain in full force and effect. Each section, subsection, sentence, phrase, part, or portion of this Initiative would have been adopted and passed irrespective of the fact that any one or more sections, subsections, sentences, phrases, parts of portions be declared invalid or unconstitutional.

Section 10 **Effective Date and Duration**

This Initiative shall take effect on January 1, 2021, and shall remain in effect through January 1, 2031.

Section 11 **Conflicting Ballot Measures**

In the event that this Initiative and another initiative relating to height and density standards in San Mateo shall appear on the same election ballot, the provisions of the other initiative shall be deemed in conflict with this Initiative. In the event that this Initiative shall receive a greater number of affirmative votes, the provisions of this Initiative shall prevail in their entirety, and the provisions of the other initiative shall be null and void.