



## **STAFF REPORT TO THE CITY COUNCIL**

**DATE:** January 28, 2025

**TO:** Mayor and Members of the City Council

**VIA:** Dante Hall, City Manager

**SUBMITTED BY:** Timothy Rood, AICP, Community Development Director

**SUBJECT:** Public Hearing for the Introduction of Zoning Amendments to Implement the Housing Element, New State Laws and Other Needed Updates

### **RECOMMENDED ACTION:**

Staff recommends that the City Council hold a public hearing to introduce and waive the first reading of Ordinance No. 25-XX (Attachment 1), the proposed amendments to Hercules Municipal Code Land Use Regulation Tables 13-6.1, 13-12.1, 13-15.1, 13-18.1, and 13-32.1; and amending Section 13-35.320 Accessory Dwelling Units, Chapter 13-36 Two-Unit Development, Chapter 13-42 Design Review, Chapter 13-53 Reasonable Accommodations For Persons with Disabilities, and Chapter 13-60 Definitions, to implement the 6<sup>th</sup> Cycle Housing Element; comply with Senate Bills No. 450, 477, 745 and 1211, Assembly Bill No. 2162, and the Religious Land Use and Institutionalized Persons Act (RLUIPA); correct identified inconsistencies and finding the action exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3).

### **PLANNING COMMISSION RECOMMENDATION:**

On December 2, 2024, at their regularly scheduled meeting, the Planning Commission approved Resolution No. 24-08 (Attachment 2), recommending City Council approval of the amended provisions of the Hercules Municipal Code to implement the 6<sup>th</sup> Cycle Housing Element; comply with Senate Bills No. 450, 477, 745 and 1211, Assembly Bill No. 2162, and RLUIPA and to correct identified consistencies.

## EXECUTIVE SUMMARY:

The City of Hercules has adopted an updated 6<sup>th</sup> Cycle Housing Element of the General Plan to affirmatively further fair housing and accommodate the 995-unit Regional Housing Needs Allocation (RHNA) for the 2023-2031 Housing Element cycle. In a letter dated January 9, 2025, the California Department of Housing and Community Development (HCD) confirmed that the adopted Element is in substantial compliance with State Housing Element Law. The content of the 2023-2031 Housing Element is structured for consistency with the requirements set forth in State law. In addition to responding to requirements of State law, the Housing Element also demonstrates the City's strategy for meeting its locally determined housing needs, and that these needs are addressed through policies and programs outlined within the Housing Element. Public review and input has been a critical component of this 6th Cycle Housing Element Update.

During the Housing Element review and adoption process, HCD mandated that the Housing Element include a program to amend the Hercules Municipal Code, Zoning Ordinance, by January 31, 2025 to promote housing development and remove barriers to the development of housing. In addition to the mandated text amendments, City staff has also developed other changes to comply with new State laws and made other modifications for consistency purposes.

## ANALYSIS:

In addition to the required Municipal Code text amendments resulting from the adopted 2023-2031 Housing Element, several other modifications are needed to comply with State code and to correct other code inconsistencies. A complete overview of all of the proposed amendments is below:

### ***Housing Element***

Resulting from the Housing Element Program H3-1, the following revisions to the Hercules Municipal Code are required:

Promote Housing Development:

- **Single-Family Homes:** Remove the Administrative Use Permit (AUP) requirements for single-family homes and allow them by right in the RS-E and RS-L zones.
- **Multi-Family Homes:** Remove the Conditional Use Permit (CUP) requirement and have all multi-family housing projects, regardless of the number of units, allowed by-right.

Hercules Municipal Code Tables 13-6.1, 13-12.1, 13-15.1 and 13-18.1, have been modified to allow Single-Family Home (RS-E & RS-L zones), Duet, Duplex, Multifamily Dwelling, Townhouse/Condominium, Transitional Housing, Senior Housing as Permitted (P) Uses.

- **Manufactured Housing:** A manufactured housing definition has been added to Hercules Municipal Code Section 13-60.200. The definition provides that manufactured housing is allowed in any residential zone where a conventional single-family detached dwelling is permitted subject to the same density and the same property development regulations.

**Use Permit Findings:** Hercules Municipal Code Section 13-50.300, Finding 3, for Use Permit applications may be considered subjective due to the “compatible” requirement. However, requirements for approval of a use permit are being eliminated for residential uses. Therefore, no change to the findings are required or proposed.

**Design Review Findings:** Hercules Municipal Code Section 13-42.500, required findings 4 and 5 for design review approval, contain subjective language that may serve as a constraint to development. The findings are proposed to be amended to remove subjective language with language that promotes approval certainty for housing projects.

**Residential Care Facilities:** Hercules Municipal Code Table 13-6.1 Land Use Regulations: Residential District and Chapter 13-60 Definitions have been modified to allow group homes that operate as single-family residences to locate in single-family neighborhoods, subject only to the generally applicable, nondiscriminatory health, safety, and zoning laws that apply to all single-family residences.

**Reasonable Accommodation Procedures:** Hercules Municipal Code Section 13-53.150, Finding 6 in the Reasonable Accommodation for Persons with Disabilities has been deleted to provide for approval certainty.

**Emergency Shelters:** Housing Element Program H3-1 required the City to modify parking requirements for Emergency Shelters to accommodate staff only, pursuant to State law. As of March 2024, the Zoning Code has already been updated to be consistent with AB 139 and AB 2339.

**Supportive and Transitional Housing:** Amend the Residential Land Use Regulations table in the Zoning Ordinance, and associated text, to comply with:

- **SB 745:** requires transitional and supportive housing to be considered a regular residential use to be similarly permitted as other similar residential uses in the same zone.
- **AB 2162:** requires that supportive housing meeting specific criteria to be permitted by right in zones where multi-family and mixed-use developments are permitted. Specific criteria include the size of the project and percentage set aside for target population, and specified amount of floor area for supportive services, among others. For projects locating within 0.5 mile from transit, no minimum parking requirements may be applied. This is related to Housing Element Programs H3-1 and H3-2.

Hercules Municipal Code Tables 13-6.1, 13-12.1, 13-15.1, 13-18.1 and Chapter 13-60 Definitions have been modified to accommodate the requirements of SB 745 and AB 2162.

### ***Senate Bill No. 450***

Planning and Zoning law requires no more than two (2) residential units within a single residential zone to be considered ministerially. Hercules Municipal Code Chapter 13-36 Two-Unit Development, includes standards for this type of development. Senate Bill No. 450 further prohibits the City from imposing objective zoning standards, objective subdivision standards and objective design standards that do not apply uniformly to development within the underlying zone, however a local agency may adopt or impose objective zoning standards, objective subdivision standards and objective design standards to the development if the standards are more permissive than applicable standards within the underlying zone. Upon review of this Chapter (HMC 13-36), the included Objective Zoning Standards (Section 13-36.400) and the Objective Design Review Standards (Section 13-36.500) both contain requirements that are more restrictive than the underlying zone. The standards that are not more permissive are proposed to be removed, and the remaining subsections that pertain to Building Height, Lot Coverage, Minimum Living Area, Parking, Setbacks and Paving have been retained as they are no more restrictive than the underlying zoning minimum standards.

### ***Senate Bill No. 477***

Senate Bill 477 reorganized and consolidated Accessory Dwelling Unit (ADU) laws into Government Code Chapter 13, Accessory Dwelling Units. This requires an update of two (2) references that currently point to previous Government Code Section 65852.2. Updates are needed to Hercules Municipal Code Section 13-35.320(1 & 4.B.1) to remove the outdated references and replace them with the new Government Code Chapter reference.

### ***Senate Bill No. 1211***

Senate Bill No. 1211 increases the allowable detached accessory dwelling units (ADUs) on a lot with an existing multifamily dwelling from no more than two (2) detached ADUs to no more than eight (8) detached ADUs. Hercules Municipal Code Section 13-35.320 is proposed to be amended to increase the number of allowable ADUs from the existing two (2) to eight (8). It also prohibits a local agency from requiring replacement parking when an uncovered parking space is demolished or replaced with an ADU.

### ***Other Text Amendment Updates***

Religious and non-religious assembly uses are separately referenced in the Land Use Regulations tables of the Municipal Code. The Religious Land Use and Institutionalized Persons Act (RLUIPA) of 2000 prohibits zoning and landmarking laws that substantially burden the religious exercise of churches or other religious assemblies or institutions. The Zoning Ordinance has historically regulated religious institutions differently than other general assembly uses; therefore, the "Church" and "Religious Assembly" uses are being removed and the City will rely on general public assembly types of uses to regulate religious land uses. Changes can be found in Hercules Municipal Code Tables 13-6.1 and 13-32.1.

Within the Land Use Regulations tables, Design Review Required (DR) is included within the Key to Land Use Regulations. However, the DR designation is not utilized within the table itself. Therefore, it is being removed from the key, and customers will rely on Hercules Municipal Code Chapter 13-42, Design Review, to understand the requirements.

The "Mobile Home" land use category is being removed from the Residential District zoning table (Section 13-6.1) to avoid confusion between "Mobile Home" and "Manufactured Home" classifications. However, any new or expanded mobile home park development will still be subject to Chapter 13-7, P-M Mobile Home Park District standards, including obtaining a use permit.

The Planned Unit Development (PUD) use is proposed to be removed from the Land Use Regulations tables. The Zoning Ordinance may have included standards for PUDs in the past, however these standards no longer exist within the Zoning Ordinance, therefore this reference is proposed to be removed from Hercules Municipal Code Tables 13-12.1, 13-15.1 and 13-18.1. Planned Development Plans (PDPs) continue to be allowed as an optional approval path pursuant to Hercules Municipal Code Chapter 13-48.

### **ENVIRONMENTAL DETERMINATION**

The proposed ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) – Common Sense Exemption in that the proposed ordinance would only establish and clarify administrative processes and would not facilitate new construction or other groundbreaking activities. It can be seen with certainty that there is no possibility that the ordinance would result in either a direct physical change to the environment or a reasonably foreseeable indirect physical change to the environment. Further, none of the circumstances described in CEQA Guidelines Section 15300.2 applies.

### **FISCAL IMPACT:**

There is no direct fiscal impact associated with this item.

### **ATTACHMENTS:**

- Attachment 1 – Draft Ordinance
- Attachment 2 – Planning Commission Resolution No. 24-08
- Attachment 3 – Presentation