



**Planning & Building Department**  
3675 Mt. Diablo Boulevard, Suite 210  
Lafayette, CA 94549  
Tel. (925) 284-1976  
[www.lovelafayette.org](http://www.lovelafayette.org)

## HILLSIDE DEVELOPMENT PERMIT SUBDIVISION APPLICATION

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### GENERAL

A Hillside Development Permit (HDP) is required for subdivisions or development in the Hillside Overlay District (HOD). The Hillside Overlay District is intended to protect the health, safety and welfare of the city by establishing regulations for the development of ridgeline, hillside and other rural residential areas within the city.

**This application is to be used to accompany an application for a Minor Subdivision or Tract (aka Major Subdivision) in the Hillside Overlay District.**

Subsequent development of a new building on a vacant lot in the Hillside Overlay District shall be reviewed in two separate Hillside Development Permit applications:

- **Phase 1:** Siting and massing determination by the Planning Commission
- **Phase 2:** Review of the design and impacts of the project by the Design Review Commission (and Planning Commission for ridgeline development or as determined by the Commissions)

### PROCEDURES

#### Step 1: Pre-application (optional)

Prior to applying for a Subdivision in the HOD, it is recommended that the applicant discuss the proposed project with a member of Planning staff (by appointment) to determine what regulations may apply. Once it is clear that a Hillside Development Permit is required, the applicant should carefully assess the aesthetic and environmental impacts and public service demands of the project. Are there likely to be problems with utilities, street improvements, drainage, visibility, privacy or other identifiable issues? The applicant should discuss any potential problems with the appropriate governmental agency, as well as those neighboring property owners that may be affected by the proposed project.

#### Step 2: Filing the Application

The applicant should carefully complete the application form (to be signed by the applicant *and* the current property owner) and ensure that all submittal requirements are included. The application will be assigned to a staff planner who will check the application for completeness and provide an invoice for the applicable fee<sup>1</sup>. Once staff has reviewed the plans (within 30 days), the applicant will be notified whether the application is complete or incomplete. If the application is incomplete, the applicant will be notified of any necessary

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<sup>1</sup> A schedule of Planning & Development fees is available at [www.lovelafayette.org](http://www.lovelafayette.org) > City Hall > City Departments > Planning & Building > [Fees](#)

alterations to the plans or additional information and submittals required. Once an application is deemed complete, it will be reviewed for compliance with the California Environmental Quality Act (CEQA) before being scheduled for a hearing.

### Step 3: Environmental Review

The staff planner will notify the applicant (within 30 days after the application is deemed complete) whether the proposed project is exempt from CEQA or requires an additional level of environmental review such as a negative declaration, mitigated negative declaration, or environmental impact report (EIR). If the project is not exempt, requests for supplementary information, further fees, and additional processing time are to be expected.

### Step 4: Public Notification and Project Determination

The Planning Commission (“PC”) is the hearing authority for (1) Phase 1 HDP (siting and massing determination for vacant hillside land) and (2) subdivisions in the HOD. The Design Review Commission (“DRC”) is the hearing authority for subsequent Phase 2 Hillside Development applications.

Once an application is deemed complete, staff will confirm the public notification and hearing process and decision-making authority. Project determination is based on information contained in the application, site visits, staff analyses and reports, conformance with applicable ordinances, regulations, development criteria, policies and findings, and all correspondence and testimony presented by the public.

**Public Notification and Hearing.** If an application requires a public hearing, written notice of the hearing is mailed at least 10 days in advance to all property owners within 300 feet of the project site. Notified parties may provide written and/or oral comments. The applicant or representative should be present at the hearing to make a presentation and answer questions. Project determination can consist of approval, approval with amendments and/or conditions, or denial. The hearing authority may continue an application to a future date if additional information or staff review is required or project revisions requested. The decision becomes effective upon expiration of a 14-day appeal period. In considering a Hillside Development Permit, the authority may impose conditions on the project to make the use more acceptable, to correct existing deficiencies, or to carry out the purpose and intent of Chapter 6-20 of the Hillside Development ordinance.

## **APPEAL OF DETERMINATION**

The applicant or other aggrieved party may appeal the action of the decision-making authority within 14-calendar days following the determination to the next level of decision-making authority. The decision-making hierarchy is Zoning Administrator, Design Review Commission, Planning Commission, and City Council. The appeal must be in writing and explain the grounds for the appeal. The fee to file an appeal is 75 percent of the original application fee. If an appeal has been timely filed, a de novo public hearing before the appropriate Commission or the City Council will be scheduled. The applicant should be present and any interested person(s) may submit testimony. After close of testimony, the hearing authority for the appeal will make a decision on the appeal, or if necessary, continue the matter to a date certain for future action. Action taken by the City Council is final.

## **PROCESSING TIME**

The total time for processing a Subdivision in the HOD varies depending on the complexity and magnitude of the project. After an application has been deemed complete, it usually takes five to six weeks for the first meeting before the hearing authority. The requirement for a negative declaration or environmental impact report could add six to twelve months to the processing time, respectively.

## TIME AND PLACE OF MEETINGS

**NOTE: Design Review Commission and Planning Commission** hearings occur on **MONDAYS**. Zoning Administrator hearings occur on Thursdays.

- Zoning Administrator hearings: **first** and **third** Thursdays of each month, commencing at 2:00 p.m. at the City Offices, 3675 Mt. Diablo Boulevard, Suite 210.
- Design Review Commission hearings: **second** and **fourth** Mondays of each month, commencing at 7:00 p.m. at the new Lafayette Library and Learning Center, 3491 Mt. Diablo Boulevard in the Arts and Science Discovery Center.
- Planning Commission hearings: **first** and **third** Mondays of each month, commencing at 7:00 p.m. at the new Lafayette Library and Learning Center, 3491 Mt. Diablo Boulevard in the Community Hall.

A calendar of adopted meeting dates is available at [www.lovelafayette.org](http://www.lovelafayette.org).

## PERMIT EXPIRATION

An approval automatically expires if the use or action authorized is not started or construction incident thereto is not begun on or before the time limit specified in the permit, and thereafter diligently pursued. If no time is specified, the permit expires 12 months after the date of approval. The Planning and Building Department Director may grant one 12-month extension of time upon written request prior to the expiration date of the permit if the City has not made relevant changes to the Lafayette Municipal Code and the development is not changed.

# Hillside Development Permit - Subdivision

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## HILLSIDE DEVELOPMENT PERMIT SUBDIVISION APPLICATION SUBMITTAL REQUIREMENTS

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A signed copy of this checklist is required with each box checked affirming submittal of the required item(s). The application will not be accepted for processing unless all pertinent information listed in this checklist is provided. The reason for the absence of any required items must be acknowledged and substantiated in writing to the satisfaction of the Planning & Building Department Director or the application will not be accepted.

All plan sheets shall have a north arrow, scale, graphic (bar) scale, name of the project owner/proponent and name of the engineer, architect, or owner's representative, site address, and assessor's parcel number (or name of subdivision and lot number). All plans shall be dated; all revised plans shall include revision date and revised portions shall be clearly identified.

- 1. **APPLICATION MATERIALS**
  - Standard application form, completed and signed
  - Response to findings
  - Brief description of the scope of work, including 1) proposed use of the land, 2) provision for storm drainage, sewage disposal and public utilities, and 3) how the development conforms to the General Plan and any applicable specific plans
  - Checklist completed and signed by the preparer with each box checked acknowledging submittal of the required item(s) and listing the corresponding sheet number(s)
  - Agreement to Pay for City Services, completed and signed<sup>2</sup>
  - Processing fee(s): credit card (Visa, MasterCard, or Discover) or check (payable to City of Lafayette)
  
- 2. **PRELIMINARY TITLE REPORT:** One (1) electronic (PDF) copy of report not more than six (6) months old, listing all recorded easements and restrictions, and providing legal description of the property
  
- 3. **PRELIMINARY SOILS REPORT:** One (1) electronic (PDF) copy of report (which may include colored attachments and/or exhibits), prepared by a registered geotechnical engineer
  
- 4. **ENVIRONMENTAL INFORMATION FORM:** Based on the [Environmental Information Form](#), your project may be subject to additional environmental review set by the State. Additional environmental review is not included in the Planning Application fee. Please refer to the [Planning Fee Schedule](#) for current fees.
  
- 5. **OFF-SITE EASEMENTS:** To accomplish your subdivision, will you need any easements across the property of a third party? These might be easements for access, utilities or drainage. If so, you need to investigate securing these easements in advance of submitting your application. If you are

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<sup>2</sup> The ACS is for services and fees that are in addition to the application fee(s). The signee agrees to pay for services of consultants retained by the City in connection with the development application at the hourly rate charged by each consultant. These services include but are not limited to review of legal, landscape, engineering, technical reports, site analysis, and environmental services.

unsuccessful in securing the necessary easements(s), you will need to provide evidence of a good faith effort to acquire the easement. At a minimum this evidence should consist of the following:

- a. Written description of the easement in question
- b. The property owner(s) involved
- c. A record of the contacts made in attempting to secure the easement.

- 6. **BIOTIC RESOURCES ANALYSIS**<sup>3</sup>: One (1) electronic (PDF) copy of report, including:
  - a. Type and location of threatened and endangered plant and animal species.
  - b. Riparian vegetation on and within 100' of subject property.
  - c. Oak woodland and other plant communities providing habitat.
  - d. Location of watercourses, springs, drainage swales, wetlands, wildlife corridors, other natural features that may provide habitat or be subject to Department of Fish and Wildlife or Army Core of Engineers jurisdiction.
  - e. Area and location of undeveloped land on the subject property required to protect and enhance the continued viability of significant biotic resources, where applicable.
  - f. Mitigation measures for impacts on significant biotic resources.
  
- 7. **TENTATIVE MAP**: One (1) electronic (PDF) copy not to exceed 30" x 42" containing the following information:
  - The Title, which shall contain the type of subdivision.
  - Names and addresses for:
    - a. Legal owner of property
    - b. Subdivider
    - c. Person(s) who prepared the map (including registration number)
  - A topographical contour map showing accurately (within one foot) the existing terrain within the subdivision, and, a minimum of 100' beyond the perimeter of the project boundary, including existing drainage channels, roads, culverts, 2 of 5 overhead and underground utility lines which affect the design of the subdivision, wells and springs, major structures, irrigation ditches, utility poles, and other improvements in their correct location. Topography and other site details under trees or heavy vegetation shall be field verified if located within 100 ft. of any proposed house location, driveway or grading. Elevations shall be in accord with the U.S. Geological Survey (1929 Sea Level Datum). The map shall be drawn to an engineer's scale large enough to show all information clearly, but not smaller than thirty feet to the inch. Contour interval shall not be greater than 2' feet if the ground slope is less than ten percent nor larger than five feet for ground slopes greater than ten percent; and at such intervals that the contour lines will not be spread more than one hundred-fifty feet (ground distance) apart.
  - Per the Hillside & Ridgeline Preservation Ordinance (Section 6-2006) a building site may not exceed 30% slope; therefore, the footprint of a schematic house located in the less than 30% slope area shall be shown.
  - The topography within the footprint and 100' outside the footprint and any driveway shall be field surveyed. The 100' may be reduced to 10' beyond an existing intervening property line.

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<sup>3</sup> Required if the site is environmentally sensitive, including but not limited to containing open slopes and hillsides, native plant communities, wildlife corridors, wetlands and waterways, habitat for protected species, etc.

- The outline of existing slides, slips, slump areas, and areas subject to inundation or ponding
- The edges of pavement on both sides of existing paved roads, driveways, and the edges of existing traveled ways within the public rights-of-way and easements or within private common rights-of-way
- Location of existing property lines and approximate boundaries of existing easements within the subdivision, with the names of the owners of record, of easements, exclusions, and the properties abutting the subdivision
- The proposed lot and street layout with scaled dimensions and sizes of each lot. Engineering data must show the approximate finished grading of each lot, the preliminary design of all grading, the elevation of proposed building pads, the top and toe of cut and fill slopes to scale, and the identifying Parcel Letter of each lot
- Preliminary grading for streets, house sites, driveways, lots and drainage
- The location of all proposed easements for drainage and access
- Street names, width of streets and easements, approximate grade, and radius of curves along property lines of each street
- Typical geometric sections for streets showing pavement width, curbs, sidewalks, grading in marginal strips, slopes of cuts and fills, and other construction proposed or applicable
- Areas to be used for public purposes
- Location, approximate grade, direction of flow and type of facility of existing drainage channels and storm drains. If there are any creeks on the property, the map shall show the creek centerline, top of bank and creek setback line<sup>4</sup>
- A vicinity map showing roads, adjoining subdivisions, towns, creeks, railroad, and other data sufficient to locate the proposed subdivision and show its relation to community development
- North arrow and scales for maps and contour interval. A temporary benchmark is required on-site or nearby and it shall be identified on the map and staked.
- Boundary lines of existing land use zones shall be delineated
- Type of trees, field verified location of all trees over 4" in diameter as measured 4 ft. above grade, and spot elevation at the base and driplines for trees within 100' of house footprint, driveway or any grading or within 20' of any street right-of-way. Tree canopies shall be filled with a medium gray tone on the tentative map. Any trees proposed to be removed shall be identified with a prominent "X".
- A conceptual drainage plan prepared by a registered civil engineer, showing the proposed alignment and layout for the collection of drainage originating within the subdivision, as well as drainage entering the subdivision, and the means of conveying drainage downstream, drainage easements or erosion control shall be indicated on the plan.
- Small scale drawing showing the watershed, drainage basin in which the subdivision is located including approximate acreage.

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<sup>4</sup> See separate handout entitled "[Creek Setback Determination Guide](#)"

8. **FORM AND CONTENT:** Data to accompany Tentative Map. The Tentative Parcel Map shall be accompanied by one (1) electronic (PDF) copy of the following data:
- A written statement of general information containing the following information:
    - a. Existing use or uses of property.
    - b. Comment on each of the applicable items listed in the Lot Split Policy<sup>5</sup>.
    - c. A description of the proposed subdivision, including the number of lots, their average and minimum size, and nature of development.
    - d. A preliminary title report, prepared within three months prior to filing the Tentative Map
    - e. Source of water supply.
    - f. Calculations for each lot size as required by Chapter 6-20 Hillside Development, including a map indicating any excluded area, if the project site is located in the Hillside Overlay District.
    - g. The method of sewage disposal proposed.
    - h. Other improvements proposed
    - i. Certification in writing from all utilities that the proposed subdivision can be adequately served.
  
  - Site Plans. When a Tentative Map is filed on an area which is part of a larger single ownership which may be subdivided in the future, the Planning Department may require a map drawn at 1" = 30' or larger showing the proposed future development, including its street location and design, topography, grading, house locations, and the following information:
    - Context map (minimum 1" = 50') showing all parcels immediately adjacent to the site, property ownership, the footprints of all structures, significant landscaping, and any significant topographic or man-made landforms or features on said parcels. Label and note the distance to existing structures on adjacent lots. Indicate the approximate finished floor elevations of these adjacent residences.
    - Existing natural land features and topography including each designated ridgeline. The topography shall be shown at a maximum of two foot contour intervals in the area to be developed.
    - All property lines and dimensions and square footage of property.
    - All public and private roads, rights-of-way, and easements, within and to the parcel, fully dimensioned. Indicate whether public or private.
    - Existing street improvements (curb, gutter, sidewalk, extent of paving).
    - Location and dimensions of all existing structures with dimensions to all property lines.
    - Proposed building site(s) and footprint(s) of all proposed structures with dimensions to all property lines. All changes or additions to existing structures shall be hatched,

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<sup>5</sup> See separate handout titled "[Lot Split Policy](#)"

shaded, or otherwise highlighted. A conceptual siting, massing and design study is required for each building site less than 15, 000 square feet.

- Circulation plans for each vehicular and pedestrian way.
- Location, dimensions and quantity of existing and proposed covered and uncovered parking facilities and driveways.
- All existing and proposed impervious surfaces, including but not limited to sidewalks, roofs, patios, stairs, pool decks, and driveways (shaded or hatched appropriately). Call out square footage of impervious surfaces on the site plan.
- Location and dimensions of existing and proposed fences and retaining walls with top-of-wall (TW) and bottom of wall (BW) spot elevations.
- Surveyed locations of each tree having a trunk of 4 or more inches in diameter at 4'6" above grade and within 100 feet of all construction and grading. The plan shall denote tree species, accurate drip lines, base of trunk elevations, and indicate with an "X" any trees proposed for removal.
- Proposed or altered landscaping. New or replacement vegetation in a restricted ridgeline area shall be native to the surrounding area.
- General location of each hiking, riding and bicycle trail and recreational facility.
- Areas of natural open space that will remain upon completion of development.
- Location of any Class I, Class II, or Class III ridgelines within the project boundaries or within 100 feet beyond the project boundaries.
- Ridgeline setback areas (measured in plan view from the centerline of the ridge). The ridgeline setback for Class I ridges is 400 feet and 250 feet for Class II ridges.

Prepare a Stormwater Control Plan<sup>6</sup> if your project meets either of the following:

- a. Single-family residence creating or replacing > 10,000 sq. ft. of impervious surface.
- b. All other projects creating or replacing between 5,000 sq. ft. and one acre of impermeable surface.

9. **ADDITIONAL HILLSIDE REQUIREMENTS**

Provide cross-sections through the project site as follows:

- a. For Class I and Class II ridges, provide an adequate number of cross-sections through the project site to show ridgeline declination. No portion of a structure may be erected adjacent to a Class I or Class II ridge that is higher than a plane sloping downward at a declination of 15 degrees from the horizontal intercept of the ridge. The measurement shall be made at the nearest point of the development to the ridgeline and measured perpendicular to the ridgeline or as a radius from the endpoint of the ridgeline. The declination line terminates at the boundary line of the hillside overlay district.

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<sup>6</sup> See separate handout entitled "[Stormwater Control Plan Submittal Requirements](#)" (PDF pg. 11)

- b. For Class III ridges, provide an adequate number of cross-sections through the project site to show horizontal planes intercepting the ridge. No portion of a structure may be erected higher than the horizontal plane. The horizontal plane shall be at the nearest point of the development to the ridgeline and perpendicular to the ridgeline or have an arc of 90 degrees from the endpoint of the ridgeline.

Provide preliminary grading and/or improvement plans showing:

- Anticipated grading for the development; note amount of cut, fill, import or export and destination of exported earth shall be indicated on building permit application.
  - Existing and proposed drainage facilities<sup>7</sup> including swales, creeks, drainage ditches, discharge facilities, catch basins, and subsurface drainage pipes (closed and open), within and adjacent to the site.
  - Location of existing and proposed sanitary sewers and storm drain facilities
- One (1) electronic (PDF) copy of average slope calculations for the entire, unsubdivided property and for each proposed lot. The calculation of the average percent slope shall be based upon a complete topographic survey of the property at a contour interval no greater than five feet and a horizontal map scale of 1" = 100', or as required by the Planning & Building Dept. Director, shall be used.

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**Please note:** Additional information may be required by the Planning and Building Dept. Director or imposed by the city's zoning, subdivision, building and grading regulations, and environmental review procedures.

SIGNATURE OF PREPARER: \_\_\_\_\_

DATE: \_\_\_\_\_

PRINT FULL NAME: \_\_\_\_\_

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<sup>7</sup> See separate handout entitled "[Drainage Plan Guidelines](#)"

## HILLSIDE DEVELOPMENT PERMIT SUBDIVISION APPLICATION RESPONSE TO FINDINGS

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In granting approval for this application, a number of findings must be made. To ensure all applicable findings are submitted with your application, answer the questions below to determine which additional forms will be required for your proposal. Please respond to each statement listed on the “General Findings” pages of this application and to any other accompanying form(s) as applicable to your project.

**Is the property subject to a Restricted Ridgeline Setback?**

- No: respond only to **General Findings** on the following pages.  
 Yes:       Class I Ridge       Class II Ridge       Class III Ridgeline Protected Area

**Is the project requesting an exception to the required ridgeline setback?**

- No  
 Yes: complete form **HDP-SUBD-A** (Class I) or **HDP-SUBD-B** (Class II or III) as applicable.

**Is the project requesting an exception to maximum density?**

- No  
 Yes: complete form **HDP-SUBD-C**.

**Is the project requesting an exception to min/max slope calculations?**

- No  
 Yes: complete form **HDP-SUBD-D** or **HDP-SUBD-E** as applicable.

**Is the project requesting an exception for development to exceed the 15-degree ridgeline declination?**

- No  
 Yes: complete form **HDP-SUBD-F**.

**Please check the boxes to indicate each applicable supplemental form you are submitting with your project:**

- General Findings for Hillside Development Permit Subdivision  
 Subdivision within a Class I ridgeline setback (FORM HDP-SUBD-A)  
 Subdivision within a Class II ridgeline setback or Class III ridge protected area (FORM HDP-SUBD-B)  
 Increase the maximum allowed density (FORM HDP-SUBD-C)  
 Allow for a building site with greater than a 30 percent slope (FORM HDP-SUBD-D)  
 Alteration of a slope in excess of 35 percent (FORM HDP-SUBD-E)  
 Height of development exceeds the 15-degree declination (FORM HDP-SUBD-F)

## HILLSIDE DEVELOPMENT PERMIT SUBDIVISION APPLICATION

### GENERAL FINDINGS

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**In approving any subdivision in the Hillside Overlay District, a number of findings must be made per Section 6-2072. Please respond to each of the following statements on a separate sheet:**

- (A) The design of the subdivision is consistent with the applicable goals and policies of the general plan and is in conformance with applicable zoning regulations;
- (B) The design of the subdivision will preserve open space and physical features, including rock outcroppings and other prominent geological features, streams, streambeds, ponds, drainage swales, native vegetation, native riparian vegetation, animal habitats and other natural features;
- (C) The design of the subdivision and the proposed development are derived from naturally contoured sites of reasonably regular configuration, do not create building sites on slopes exceeding 30 percent nor result in the need for construction of primary structures outside the areas of 30 percent or less slopes;
- (D) The design of the subdivision and the proposed development will result in each structure being substantially concealed, as required by section 6-2048, when viewed from lower elevations from public places, using the viewing evaluation map as a guide to establish locations from which views are considered;
- (E) The design of the subdivision provides for a trail or portions of trails in conformance with the city's adopted master trails map or an adopted regional trail plan, and the trail is dedicated and conditioned for improvement in accordance with adopted standards;
- (F) The design of the subdivision and proposed development use clustering or other site planning techniques to preserve hillsides, ridgelines, knolls and open space, minimize impacts on wildlife habitats to the extent feasible, and provide for the preservation of vegetation, terrain, scenic vistas, trail corridors, streams or water courses, or other areas of ecological significance through dedication, easement, land trust or other suitable regulation;
- (G) Development grading will be minimized to limit scarring and cutting of hillsides especially for long roads or driveways, preserve existing geologic features, topographic conditions and existing vegetation, reduce short and long-term erosion, slides and flooding, and abate visual impacts;
- (H) The design of the subdivision and the proposed development are arranged so that no portion of the lot exceeding a slope of 35 percent, is proposed to be altered by grading removal or alteration of a natural feature, the removal of vegetation or other activity related to the preparation of the site for development, except fire protection, or other measures necessary for public safety, slope or geologic stabilization or the provision of a trail in conformance with the city's adopted master trails map or an adopted regional trail plan or where the planning commission finds that an exception is necessary to provide the least intrusive or damaging access to an approved building site;
- (I) The development, including site design and the location and massing of all structures and improvements will be located away from prominent locations such as ridgelines, hilltops, knolls and open slopes, preserve the open and uncluttered topography of the city, and not interfere with a ridgeline corridor or compromise the open space or scenic character of the corridor;

- (J) The development and each associated improvement is located and designed to complement the natural terrain and landscape of the site and surrounding properties, and in when in close proximity to an existing neighborhood relates to the development pattern, including density and distribution, of that neighborhood;
- (K) The new or replacement vegetation for the development is native to the surrounding area in areas abutting open space and natural areas, such as oak woodland, chaparral, grassland and riparian areas, excluding planting for erosion control or land stabilization, and conforms to the policies of Section 6-2051;
- (L) The development complies with the city's residential design guidelines, and landscaping will ensure visual relief and complement each proposed structure to provide an attractive environment;
- (M) Each proposed house location and the location of each related structure is sited to minimize loss of privacy and not unduly impact, restrict or block significant views;
- (N) The design of streets, streetlights, storm drainage, utilities and other common improvements incorporated into the subdivision comply with adopted city standards and are designed to preserve the character of the site and surrounding area, minimize visual impact and avoid adverse impacts on surrounding properties and neighborhoods;
- (O) Street right-of-way incorporated into the design of the subdivision is based on the conditions set forth in Section 6-2054 "Streets";
- (P) The design of the subdivision and the proposed development provide adequate emergency vehicle access, including turn-around space, to each building site and surrounding undeveloped areas, while protecting valuable trees, minimizing grading and preserving the natural hillside character of the site and vicinity; and
- (Q) The development will not create a nuisance, hazard or enforcement problem within the neighborhood or the city, nor require the city to provide an unusual or disproportionate level of public services.

# Hillside Development Permit – Subdivision Findings

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REQUEST FOR EXCEPTION TO PERMIT SUBDIVISION WITHIN A CLASS I RIDGELINE SETBACK  
PER SECTIONS 6-2026 AND 6-2068.

**In approving an exception to the prohibition of subdivision within a Class I ridgeline setback, a number of findings must be made. Please respond to each of the following statements on a separate sheet.**

- (A) Explain in detail how the 400-foot setback requirement from the Class I ridge and/or the structure height limitation based on the 15-degree declination has the effect of depriving the property of all economically viable use<sup>8</sup>.
- (B) Describe how the proposed density does not exceed the density permitted by the underlying zoning district or the slope density formula ([LMC Sec. 6-2043\(a\)](#)), whichever is less.
- (C) Explain in detail how the proposed density does not exceed that necessary to provide the property with an economically viable use.

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<sup>8</sup> The information required from the applicant to support this finding is found at the end of these forms.

**HILLSIDE DEVELOPMENT PERMIT - SUBDIVISION  
SUPPLEMENTAL FORM HDP-SUBD-B**

**Required for Subdivision Within a  
Class II Setback or Class III  
Ridgeline Protected Area**

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**REQUEST FOR EXCEPTION TO PERMIT SUBDIVISION WITHIN A CLASS II RIDGELINE SETBACK  
OR CLASS III RIDGELINE PROTECTED AREA PER SECTIONS 6-2027 AND 6-2069**

**In approving an exception to the prohibition of subdivision within a Class II ridgeline setback or Class III ridgeline protected area, the hearing authority must make a finding for either (A) or (B), below. Please respond to either (A) or (B), as applicable, on a separate sheet.**

- (A) Explain in detail the special conditions and unique characteristics of the subject property and how the site plan and design are such that the proposed development would provide a result that satisfies the policies in section 6-2071, which may be found in the handout entitled “Subdivision in Hillside Overlay District”, respectively, OR
  
- (B) Explain how prohibition of subdivision within a Class II or Class III ridgeline protected area would deprive the property of all economically viable use<sup>9</sup> and how the subdivision meets the standards in section 6-2071, as the case may be; AND
  - 1. How the proposed density does not exceed the density permitted by the slope density formula (Section 6-2043A) or the underlying zoning district, whichever is less; AND
  
  - 2. How the proposed density does not exceed that necessary to avoid an unconstitutional taking of property.

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<sup>9</sup> The information required from the applicant to support this finding is found at the end of these forms.

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**REQUEST FOR EXCEPTION TO ALLOW AN INCREASE IN MAXIMUM DENSITY  
PER SECTION 6-2045**

**For properties zoned R-6, R-10, R-12, R-15, R-20, or R-40, the Planning Commission may grant an increase in the maximum density outlined in [LMC Sec. 6-2043\(a\)](#), not to exceed a total of 40 percent, only if it can make the findings outlined below. Please respond to each of the following statements on a separate sheet.**

- (A) Provide documentation to support that the resulting dwelling unit density will not exceed the average density of existing dwelling units on properties any portion of which is within 500 feet of the subject property and within the same zoning district as the subject property.
- (B) Explain how the resulting density will not be greater than the maximum density allowed by the underlying land use district.

**For properties zoned R-65 or R-100, the Planning Commission may grant an increase in the maximum density outlined in [LMC Sec. 6-2043\(a\)](#), not to exceed a total of 20 percent, only if it can make the findings outlined below. This exception applies only to the division of land into not more than two lots. Please respond to each of the following statements on a separate sheet.**

- (A) Provide documentation to support that the resulting dwelling unit density will not exceed the average density of existing dwelling units on properties any portion of which is within 500 feet of the subject property and within the same zoning district as the subject property.
- (B) Explain how the resulting density will not be greater than the maximum density allowed by the underlying land use district.

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**REQUEST FOR EXCEPTION TO PERMIT A BUILDING SITE  
GREATER THAN 30 PERCENT PER SECTION 6-2047B**

*LMC [Section 6-2047](#) states that each lot shall have a suitable naturally contoured building site of 30 percent or less slope and that the 30 percent slope area shall be of reasonably regular configuration.*

**In approving an exception to the 30 percent slope maximum, a number of findings must be made. Please respond to each of the following statements on a separate sheet.**

- (A) Explain how restricting construction and development to a naturally contoured building site of 30 percent or less slope would deprive the property of all economically viable use<sup>10</sup>.
- (B) Describe how the proposed density does not exceed the density permitted by the underlying zoning district or the slope density formula ([LMC Section 6-2043\(a\)](#)), whichever is less.
- (C) Explain in detail how the proposed density does not exceed that necessary to avoid an unconstitutional taking of property.

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<sup>10</sup> The information required from the applicant to support this finding is found at the end of these forms.

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**REQUEST FOR EXCEPTION TO ALLOW ALTERATION OF A SLOPE  
IN EXCESS OF 35 PERCENT PER SECTION 6-2050**

*Section 6-2050 states that the portion of a lot which has a ground slope in excess of 35 percent may not be altered by grading, the removal or alteration of a natural feature, such as a stream, rock outcrop, ridgeline, drainage swale, the removal of vegetation or other activity related to the preparation of the site for development.*

**In approving an exception to the prohibition on alterations of a slope exceeding 35 percent, a number of findings must be made. Please respond to each of the following statements on a separate sheet.**

- (A) Explain how the restriction against altering a ground slope in excess of 35 percent would deprive the property of all economically viable use<sup>11</sup> AND
1. How the exception is required in the interest of public safety, such as for the removal of poisonous or noxious plants, the controlled removal or thinning of vegetation as a part of a fire protection program required by the fire district, or other public safety purpose approved by the manager; OR
  2. How the exception is necessary for provision for a trail comprising a component of the city's adopted master trails plan or an adopted regional trail plan; OR
  3. How the exception is necessary in order to provide the least intensive or damaging access to an approved building site.
- (B) Describe how the proposed density does not exceed the density permitted by the underlying zoning district or the slope density formula (Section 6-2043A), whichever is less.
- (C) Explain in detail how the proposed density does not exceed that necessary to avoid an unconstitutional taking of property.

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<sup>11</sup> The information required from the applicant to support this finding is found at the end of these forms.

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**REQUEST FOR EXCEPTION TO ALLOW DEVELOPMENT  
WITHIN THE 15-DEGREE DECLINATION PER SECTION 6-2070**

*Section 6-2070 states that the Planning Commission may grant an exception to the restriction of development within the 15-degree declination line of a class I or class II ridge if it makes the findings in (A) or (B) or (C) below:*

**In granting approval for this exception, a number of findings must be made. Please respond to each of the following statements on a separate sheet.**

(A) The topography or existing vegetation are such that:

1. The building will not have a substantial visual impact and will not silhouette above the ridge when viewed from lower elevations in the city, using the Viewing Evaluation Map as a guide for areas from which views are considered; and
2. Grant of exception will not interfere with an existing or proposed ridge trail or compromise its open space and scenic character.

(B) For existing lots of record where it is not possible to substantially conceal the building in conformance to section (A) above, the Planning Commission may grant an exception if it finds that:

1. The height, size, siting, design and landscaping are such that the building is concealed to the maximum extent feasible and the structure will not silhouette above the ridge when viewed from lower elevations in the city, using the Viewing Evaluation Map as a guide for areas from which views are considered; and
2. Grant of an exception will not interfere with an existing or proposed ridge trail or compromise its open space and scenic character.

(C) For subdivision, when the prohibition would deprive the property of all economically viable use and the subdivision meets the standards in section 6-2071 to the maximum extent feasible. In granting an exception under this subsection the density:

1. Shall not exceed the density permitted by the slope density formula or the underlying zoning district, whichever is less; and
2. Shall not exceed that necessary to avoid an unconstitutional taking of the property.

## ECONOMICALLY VIABLE USE SUBMITTAL REQUIREMENTS

The applicant shall provide the following information setting forth the basis upon which the applicant believes that the exception is necessary to provide the property with economically viable use. The applicant shall cooperate with City requests for financial information regarding the property. Confidential business information provided by the applicant to the City shall remain confidential consistent with the requirements of the Public Records Act (Government Code §6250 et. seq.) Please respond to the following statements on a separate sheet.

### 1. Basis for application

- a. Date of acquisition of the property.
- b. Purchase prices of property.
- c. An explanation of how the exception is necessary to provide the property with an economically viable use.

### 2. Economic data

- a. Current market value of the property.
- b. Dates and amounts of invested capital following acquisition of the property.
- c. Description and amount of each assessment imposed upon the property for public improvements.
- d. Existing activities for the property.
- e. Planned activities for the property including the timing for development.
- f. Market value claimed if the exception is denied.
- g. Portion of the property retaining economic use if the exception is not granted.
- h. Reduced profits if the exception is not granted including the assumption underlying the estimates.

### 3. Such additional information as the City may request in order to take action on the request.

### 4. The name, address and occupation of each consultant and expert providing information or in any way assisting in the preparation of the application.

# Hillside Development Permit – Subdivision Economically Viable Use

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**STANDARD APPLICATION FORM**

**PROJECT INFORMATION**

Project Address / Location		Assessor's Parcel Number (APN)	Zoning District	Flood Zone
General Plan Designation	Parcel Size (sq.ft.)	Grading: Cut (cu.yds.)	Grading: Fill (cu.yds.)	
Existing Gross Floor Area (sq.ft.)	Existing Building Footprint (sq.ft.)	Existing Impervious Surface (sq.ft.)	Existing # Parking Spaces (sq.ft.)	
Proposed Gross Floor Area (sq.ft.)	Proposed Building Footprint (sq.ft.)	Proposed Impervious Surface (sq.ft.)	Proposed # Parking Spaces (sq.ft.)	

Existing Land Use  
 Single-Family Residential  Multi-Family Residential  Commercial  Office  Vacant  Other (specify) \_\_\_\_\_

Proposed Land Use  
 Single-Family Residential  Multi-Family Residential  Commercial  Office  Vacant  Other (specify) \_\_\_\_\_

**APPLICANT INFORMATION**

**OWNER INFORMATION**

Applicant Name:			Owner Name:		
Applicant Address			Owner Address		
City	State	Zip	City	State	Zip
Phone ( ) -	Cell ( ) -		Phone ( ) -	Cell ( ) -	
Email (for official use only):			Email (for official use only):		
Party Responsible for Fee Payment: <input type="checkbox"/> Owner <input type="checkbox"/> Applicant			Payment Method: <input type="checkbox"/> Check <input type="checkbox"/> Cash <input type="checkbox"/> Credit Card* * Online payment includes a 2.9% convenience fee		

**CHECK ALL APPLICABLE REQUESTS**

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> 15-Degree Declination Exception          | <input type="checkbox"/> Land Use Permit                      | <input type="checkbox"/> Sign Permit                               |
| <input type="checkbox"/> Accessory Dwelling Unit Permit (Class C) | <input type="checkbox"/> Lot Line Revision                    | <input type="checkbox"/> Study Session                             |
| <input type="checkbox"/> Address Assignment / Change              | <input type="checkbox"/> Major Subdivision / Tract (≥ 5 lots) | <input type="checkbox"/> Temporary Land Use Permit                 |
| <input type="checkbox"/> Appeal (App. # _____)                    | <input type="checkbox"/> Minor Subdivision (4 lots or fewer)  | <input type="checkbox"/> Tree Removal Permit                       |
| <input type="checkbox"/> Certificate of Compliance                | <input type="checkbox"/> Preapproved ADU (vendor only)        | <input type="checkbox"/> Variance / Exception                      |
| <input type="checkbox"/> Change of Conditions                     | <input type="checkbox"/> Public Art Permit                    | <input type="checkbox"/> Wireless Communications Facilities Permit |
| <input type="checkbox"/> Design Review                            | <input type="checkbox"/> Reasonable Accommodation             | <input type="checkbox"/> Zoning Text Amendment                     |
| <input type="checkbox"/> Family Day Care                          | <input type="checkbox"/> Reconsideration (App. # _____)       | <input type="checkbox"/> Other _____                               |
| <input type="checkbox"/> General Plan Amendment                   | <input type="checkbox"/> Re-Zone Property                     | <b>SB 9 Application</b>  |
| <input type="checkbox"/> Grading Permit (≥ 50 cu. yds.)           | <input type="checkbox"/> Ridgeline Setback Exception          | <input type="checkbox"/> SB 9 Housing Development                  |
| <input type="checkbox"/> Hillside Development Permit              | <input type="checkbox"/> Right-of-Way Abandonment             | <input type="checkbox"/> SB 9 Urban Lot Split                      |

**OWNER / AGENT STATEMENT**

**Property Owner Consent** – I am the legal owner of record of the land specified in this application or am authorized and empowered to act as an agent on behalf of the owner of record on all matters relating to this application. I declare that the foregoing is true and correct and accept that false or inaccurate owner authorization may invalidate or delay action on this application. I hereby grant permission to access the property to individuals involved in the processing of the subject application(s). I agree to defend, indemnify and hold harmless the City, its agents, officers, officials, and employees from all claims, demands, lawsuits, writs of mandamus, and other actions or proceedings (collectively "Actions") brought against the City or its departments, commissions, agents, officers, officials, or employees to challenge, attack seek to modify, set aside, void or annul any City decision made in connection with this application. In the event the City becomes aware of any such Actions, the City shall promptly notify me and shall cooperate fully in the defense. It is expressly agreed that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and I shall reimburse City for any attorney's fees, costs and expenses, including any plaintiff's or other third party's attorneys' fees, costs and expenses, directly and necessarily incurred by the City in the course of the defense.

Print Name \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_

# Standard Application Form

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**City of Lafayette  
Planning & Building Department**

**AGREEMENT TO PAY FOR CITY SERVICES**

**Complete and submit this form with the development application.**

In consideration for the City providing the services described in this Agreement, the undersigned agrees as follows:

1. The City services requested relate to development application number \_\_\_\_\_, property in the City of Lafayette located at \_\_\_\_\_, assessor's parcel number \_\_\_\_\_.
2. This Agreement is for services and fees that are in addition to the planning fees paid upon the filing of the referenced development application. I agree to pay for the additional charges imposed by the City for staff time spent processing the application based upon an hourly rate established by resolution of the City Council. These services include but are not limited to City staff time spent for engineering and other City administrative services regarding the application. In addition, I agree to pay for services of consultants retained by the City and required by it in connection with the development application at the hourly rate charged by each consultant to the City. These services include but are not limited to legal, landscaping, traffic engineering and environmental services and may also include the costs associated with such services such as mileage and photographic copies.
3. The City will bill for the services performed under this Agreement upon a monthly or other periodic basis. If at any time the balance due exceeds \$500.00, the City may cease processing the application, prepare a recommendation for taking action on the application and present the application to the appropriate hearing body for final action.
4. The development application account will remain open until it is paid in full. Final payment in full is due as follows:
  - a. In the case of a subdivision, upon release of the final improvement bond or when conditions of approval are satisfied, which ever is later in time;
  - b. In the case of all other applications, when the City authorizes Contra Costa County to issue final building inspection clearance or when work for which a permit is issued is completed;
  - c. If an application is denied, upon expiration of the appeal period or upon a final decision on appeal;
  - d. If an application is withdrawn, when all remaining staff work on the application is completed;
  - e. Upon the expiration of 12 consecutive months during which there was no activity on the application.
5. The undersigned is responsible for the payment of the costs and charges involved with the application even though the property or project is sold or assigned to another party. If the undersigned desires to transfer payment responsibility to another, it is the undersigned's responsibility to have this Agreement replaced by a new agreement with the responsible party. Any outstanding balance must be paid before the City will accept a replacement agreement.
6. The undersigned agrees to advise the City in writing of any change to their billing address and represents that (s)he is the party responsible for payment of the costs or any other obligations incurred under this Agreement.
7. The undersigned agrees to defend, indemnify and hold harmless the City, its agents, officers, officials, and employees from all claims, demands, lawsuits, writs of mandamus, and other actions or proceedings (collectively "Actions") brought against the City or its departments, commissions, agents, officers, officials, or employees to challenge, attack seek to modify, set aside, void or annul any City decision made in connection with this application or Agreement. In the event the City becomes aware of any such Actions, the City shall promptly notify the undersigned and shall cooperate fully in the defense. It is expressly agreed that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the undersigned shall reimburse City for any attorney's fees, costs and expenses, including any plaintiff's or other third party's attorneys' fees, costs and expenses, directly and necessarily incurred by the City in the course of the defense.

PROPERTY OWNER NAME (Print): \_\_\_\_\_ MAILING ADDRESS: \_\_\_\_\_

PROPERTY OWNER SIGNATURE: \_\_\_\_\_ CITY, STATE, ZIP: \_\_\_\_\_

DATE: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_

NOTE: THIS DOCUMENT IS NOT TRANSFERABLE • ORIGINAL TO FINANCE •  COPY TO APPLICANT •  COPY TO APPLICATION FILE

APPLICATION NO. \_\_\_\_\_

FOR OFFICIAL USE ONLY

ACCOUNT NO. \_\_\_\_\_

# Agreement for City Services

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