BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE

IN THE MATTER OF:

An Ordinance of the City Council of the City of Lafayette Amending and Adopting Title 6, Part 2, Chapter 6-3 "Definitions", Chapter 6-4 "Activity Classifications", Chapter 6-5, Article 1, Section 6-534 "Supportive care criteria", Part 3, "Land Use Districts", Part 7, Chapter 6-34, "Reasonable Accommodation", Chapter 6-35 "Emergency Shelters", Chapter 6-37 "Inclusionary Housing", and Chapter 6-38 "Housing Development and Urban Lot Splits" and Repeal Title 6, Part 3, Chapter 6-13, Article 2 "General Agricultural District" and Article 3 "Heavy Agricultural District"	)	Ordinance No. 697

WHEREAS, the City of Lafayette, California (the "City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, on January 23, 2023, the Lafayette City Council certified the Housing Element Environmental Impact Report (EIR) and Mitigation Monitoring and Reporting Program (MMRP), and adopted the 6th Cycle Housing Element Update to the Lafayette General Plan;

WHEREAS, on December 16, 2024, the Lafayette City Council adopted an Addendum to the certified Housing Element Environmental Impact Report (EIR) and Mitigation Monitoring and Reporting Program (MMRP), and adopted the Revised Housing Element Update to the General Plan and the revised Land Use Element and map;

WHEREAS, the City desires to implement the Housing Element Implementation Plan submitted to the California Department of Housing and Community Development on May 13, 2024; and

WHEREAS, the Housing Element Implementation requires amendments to the Municipal Zoning Code and rezoning of parcels requiring amendments to the zoning map, consistent with the other elements of the General Plan.

WHEREAS, on December 2, 2024, the Planning Commission conducted a duly noticed public hearing, where it received written and oral testimony including a written staff report; after consideration and deliberation, the Commission recommended adoption of an Addendum to the Certified Housing Element EIR and adopted Resolution 2024-04 and 2024-15, forwarding an approval recommendation to the City Council for the Housing Element and rezonings; and

WHEREAS, On December 6, 2024, the City published legal notice of this public hearing of the City Council pursuant to California Government Code Section 65090; and

WHEREAS, on December 16, 2024, the City Council conducted a duly noticed public hearing, where it received written and oral testimony, including a written staff report, and at which time all persons wishing to testify in connection with the matter were heard and fully studied. After consideration and deliberation, the City Council introduced Ordinance No. 696 to rezone properties,

waived the first reading, and continued the matter to January 13, 2025 for a second reading and adoption and adopted Resolution No. 2024-47 to adopt the Housing Element; and

WHEREAS, on January 13, 2025, the City Council, waived the second reading and adopted Ordinance No. 696; and

WHEREAS, on April 21, 2025 and June 2, 2025, the Planning Commission conducted a duly noticed public hearing, where it received written and oral testimony including a written staff report, after consideration and deliberation, the Commission recommended adoption of the amended zoning text, adopting Resolution 2025-03, forwarding the approval recommendation to the City Council; and

WHEREAS, on July 14, 2025, the City Council conducted a duly noticed public hearing where it received written and oral testimony, including a written staff report, and at which time all persons wishing to testify in connection with the matter were heard and fully studied. After consideration and deliberation, the City Council introduced Ordinance No. 697, waived the first reading, and continued the matter to July 28, 2025 for a second reading and adoption; and

WHEARES, on July 28, 2025, the City Council, requiring no additional public notification, conducted a public hearing of this item as a matter on the consent calendar. After consideration and deliberation, the City Council waived the second reading and adopted Ordinance No. 697;

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

Section 1. The recitals above are each incorporated by reference and adopted as findings by the City Council.

Section 2. Pursuant to the California Environmental Quality Act (Pub. Res. Code §§ 21000 et seq.) ("CEQA"), and the State CEQA Guidelines (14 Cal. Code Regs. §§ 15000 et seq.) the City determined that an Environmental Impact Report (EIR) be prepared for the Housing Element pursuant to CEQA in order to analyze all potential adverse environmental impacts of the City's Housing Element Update to its General Plan and Housing Element Implementation; the City prepared and certified the Final EIR (FEIR) on January 23, 2023 for the Housing Element, consisting of comments received during the 60-day public review and comment period on the Draft FEIR, written responses to those comments, and revisions and errata to the Draft FEIR. For the purposes of this Resolution, the "FEIR" shall refer to the Draft FEIR, as revised by the Final FEIR's errata section, together with the other sections of the Final FEIR; the FEIR (State Clearinghouse #2021080038) was certified, and the Housing Element Update was approved and adopted by the City on January 23, 2023 pursuant to the certified FEIR;

Pursuant to CEQA, staff prepared, and the City Council adopted an addendum to the FEIR concerning the Housing Element ("Addendum"), pursuant to State CEQA Guidelines Section 15164, subdivision (c), the Addendum is not required to be circulated for public review, but can be included within the public record with the FEIR;

Pursuant to CEQA, zoning text amendment is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3), which provides that a project is exempt from CEQA when it is covered by the common sense exemption that CEQA only applied to projects which have the potential for causing a significant effect on the environment and does not apply where it can be seen with certainty that there is no possibility of significant effect;

Section 3. Title 6, Part 2, Chapter 6-3 "Definitions", Chapter 6-4 "Activity Classifications", Chapter 6-5, Article 1, Section 6-534 "Supportive care criteria", Part 3, "Land Use Districts", Part 7, Chapter 6-34, "Reasonable Accommodation", Chapter 6-35 "Emergency Shelters", Chapter 6-37 "Inclusionary Housing", and Chapter 6-38 "Housing Development and Urban Lot Splits" and Repeal Title 6, Part 3, Chapter 6-13, Article 2 "General Agricultural District" and Article 3 "Heavy Agricultural District" are hereby amended and adopted as provided in Exhibit "A" attached hereto and incorporated herein by reference.

Section 4. This ordinance takes effect thirty (30) days after its adoption.

Section 5. The City Clerk shall either: (a) have this ordinance published in a newspaper of general circulation within fifteen (15) days after its adoption or (b) have a summary of this ordinance published twice in a newspaper of general circulation, once five (5) days before its adoption and again within fifteen (15) days after its adoption.

Section 6. The City Clerk shall submit a copy of this ordinance to the Department of Housing and Community Development within sixty (60) days after adoption.

Section 7. If any provision of this ordinance or its application to any person or circumstance is held to be invalid, such invalidity has no effect on the other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this ordinance are severable. The City Council declares that it would have adopted this ordinance irrespective of the invalidity of any portion thereof.

Section 8. The location and custodian of the documents and any other material that constitute the record of proceedings upon which the City Council based its decision is as follows: City Clerk, City of Lafayette, 3675 Mt. Diablo Blvd #210, Lafayette, CA 94549.

The foregoing ordinance was introduced at a regular meeting of the City Council held on the 14th day of July 2025, and duly adopted at the next regular meeting of the City Council held on the 28th day of July, 2025 by the following vote:

AYES: Candell, Anduri, Cervantes, McCormick, and Wotherspoon
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST: **APPROVED:**

Joanne Robbins, City Clerk

CITY OF LAFAYETTE INCORPORATED JULY 29 1968 CALIFORNIA

Susan Candell, Mayor

EXHIBIT "A"

Lafayette Municipal Code Title 6, Part 2, Chapter 6-3 "Definitions", Chapter 6-4 "Activity Classifications", Chapter 6-5, Article 1, Section 6-534 "Supportive care criteria", Part 3, "Land Use Districts", Part 7, Chapter 6-34, "Reasonable Accommodation", Chapter 6-35 "Emergency Shelters", Chapter 6-37 "Inclusionary Housing", and Chapter 6-38 "Housing Development and Urban Lot Splits" and Repeal Title 6, Part 3, Chapter 6-13, Article 2 "General Agricultural District" and Article 3 "Heavy Agricultural District"

[BEHIND THIS PAGE]

Title 6 - PLANNING AND LAND USE

Part 2. - General Regulations

Chapter 6-3 DEFINITIONS

Sections:

6-301 General.

The definitions in this chapter govern the construction of this title unless the context otherwise requires. Unless the natural construction of the word indicates otherwise, the present tense shall include the future and the plural number shall include the singular.

(Ord. 221 § 4 (part), 1980)

6-302 Accessory building.

"Accessory building" means a subordinate building of 120 square feet or less, the use of which is incidental to that of a main building on the same lot.

(Ord. 221 § 4 (part), 1980)

(Ord. No. 655, § 3, 12-20-2016)

6-303 Accessory use.

"Accessory use" means a use incidental and accessory to the principal use of a lot, or a use accessory to the principal use of a building located on the same lot.

(Ord. 221 § 4 (part), 1980)

6-304 Accessory sign.

"Accessory sign" means any surface, or portion thereof, on which lettered, figured or pictorial matter is displayed for the purpose of advertising or identifying goods and services sold or produced on the property upon which the surface is located.

(Ord. 221 § 4 (part), 1980)

6-305 Agriculture.

"Agriculture" means the tilling of soil, the raising of crops, horticulture, dairying and the raising and managing of livestock, including all uses customarily incident, but not including slaughterhouses, fertilizer yards, bone yards, plants for the reduction of animal matter, or any other industrial use which may be objectionable because of odor, smoke, dust or fumes.

(Ord. 221 § 4 (part), 1980)

6-306 Apartment unit.

"Apartment unit" means a separate suite, including kitchen facilities, designed for and occupied as the home, residence or sleeping place of one or more persons living as a single housekeeping unit.

(Ord. 221 § 4 (part), 1980)

6-307 Average dwelling unit density.

"Average dwelling unit density" is expressed as one dwelling unit per the unit of area that results from dividing the entire area of a parcel of residentially zoned land proposed for subdivision by the proposed number of lots. In computing average dwelling unit density, those portions of lots lying within the exterior boundaries of an existing or proposed public road, street, highway, right-of-way or easement owned, dedicated or used for purposes of vehicular access shall not be included in order to satisfy minimum area requirements. Example: eight hectares is proposed to be divided into four lots. A private road easement will require 0.2 hectare, an area which cannot be counted in the calculation of average dwelling unit density. Therefore, since eight hectares minus 0.2 hectare equals 7.8 hectares, which, when divided by four lots, equals 1.95 hectares, the proposed average dwelling unit density is one unit for each 1.95 hectares. That is, average dwelling unit density H (8 F 0.2 % 4) H 1.95 hectares per unit.

(Ord. 221 § 4 (part), 1980)

6-308 Average width.

"Average width" of a lot is the total area of the lot divided by the depth of the lot.

(Ord. 221 § 4 (part), 1980)

6-309 Reserved.

6-310 Reserved.

6-311 Reserved.

6-312 Building.

"Building" means any structure with a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals or chattels.

(Ord. 221 § 4 (part), 1980)

6-313 Building height.

"Building height" means the vertical distance between the average of the highest and lowest grade at the lowest foundation wall (measured at existing grade or finished grade, whichever is lower) and the (1) highest point of a flat roof or (2) deck line of a mansard roof or (3) average height of the highest gable of a pitched or hip roof.

(Ord. 494 § 1, 1999: Ord. 221 § 4 (part), 1980)

6-314 Repealed by Ordinance 266.

6-315 Repealed by Ordinance 240.

6-316 Depth of a lot.

"Depth of a lot" means the distance normal to the frontage to the point of the lot farthest from the frontage.

(Ord. 221 § 4 (part), 1980)

6-317 District.

"District" means a portion of the territory of the city within which certain uses of land, buildings and structures are permitted; certain other uses of land, buildings and structures are not permitted; certain yards and other open spaces are required, and certain minimum lot areas and maximum heights are established for buildings and structures, under the regulations of this title.

(Ord. 221 § 4 (part), 1980)

6-318 Repealed by Ordinance 266.

6-319 Duplex.

"Duplex" means a detached building or part of it, designed for occupancy as the residence of two families living independently of each other.

(Ord. 221 § 4 (part), 1980)

6-320 Dwelling—Dwelling unit.

"Dwelling" or "dwelling unit" means a room or suite of rooms designed or occupied as separate living quarters for one of the persons or groups specified in Section 6-323 of this chapter.

(Ord. 240 § 3, 1981)

6-321 Existing grade.

"Existing grade" means the elevation of the ground surface prior to any disturbance of the site resulting from construction of the proposed improvements.

(Ord. 494 § 2, 1999)

6-322 Flag lot.

"Flag lot" means a lot, which is configured in the general shape of a flag on a pole, in which access from the street is accomplished by an easement, license or fee interest at least 20 feet in width through or along side another lot for creation of a private driveway (pole portion) connecting the building site (flag portion) of the lot to the street.

(Ord. 468 § 2, 1998)

6-323 Family.

"Family" means one or more persons occupying a dwelling unit as a single housekeeping unit. (See "Single Housekeeping Unit.")

(Ord. 221 § 4 (part), 1980)

6-324 Front yard.

"Front yard" means an open area extending across the front of a lot, measured toward the rear of the lot to the nearest line of any building on it. If any setback is established by this Part 2 of this title for a lot, the area between the setback line and the boundary line that determines the position of the setback line shall constitute the front yard of the lot.

(Ord. 221 § 4 (part), 1980)

6-325 Frontage.

"Frontage" of a lot means the distance measured between the two points on the principal road, street or access that are farthest apart.

(Ord. 221 § 4 (part), 1980)

6-326 Half story.

"Half story" means that portion of a building under a gable, hip or gambrel roof, the top wall plates of which on at least two opposite exterior walls are not more than three feet above the floor of such building portion.

(Ord. 221 § 4 (part), 1980)

6-327 Home occupation.

"Home occupation" means an activity conducted by a person at his principal place of residence as a means of livelihood or in expectation of profit, which may involve not more than one nonresident employee employed in the home occupation, and which:

(a) Does not change the residential character of the dwelling;

(b) Is not detrimental to the health, safety or welfare of the occupants of nearby property or of the community generally;

(c) Involves no evidence outside any structure or visible from outside the structure that the activity is being conducted on the premises;

(d) Requires no vehicular or pedestrian traffic or parking in excess of that normally associated with a strictly residential use of the premises;

(e) Is not a use which is an otherwise prohibited use in a residential area.

(Ord. 433 § 1, 1994: Ord. 221 § 4 (part), 1980)

6-328 Hotel.

"Hotel" means a building or part of it containing six or more guest rooms designed, intended to be used, or used by six or more persons for money, goods, services or other compensation. Excepted are buildings where occupants are housed or detained under legal restraint, buildings for the refuge, maintenance or education of needy, aged, infirm or young persons and buildings where patients or injured persons receive medical or surgical treatment.

(Ord. 221 § 4 (part), 1980)

6-329 Reserved.

6-330 Reserved.

6-331 Kitchen.

"Kitchen" means any room or portion thereof containing facilities designed or used for the preparation of food, including but not limited to stoves, ranges, ovens and/or hot plates.

(Ord. 240 § 4, 1981)

6-332 Inner court.

"Inner court" means a court enclosed either in whole or in part on all sides by buildings.

(Ord. 221 § 4 (part), 1980)

6-333 Landscaping.

"Landscaping" means the following unless specifically noted to the contrary: walks, fences, retaining walls, stairs, terraces, surface drainage necessary for landscape development, irrigation (lawn and hose bibb systems), pools, fountains, recreation areas, garden lighting; rough grading, excavation, filling and fine grading required for preparation of an area for planting; and general planting (lawns, shrubs, trees and ground covers). Excluded are roads, parking areas, driveways, general site drainage, fire hydrants, public sidewalks and public utility items.

(Ord. 221 § 4 (part), 1980)

6-334 Livestock.

"Livestock" means domestic farm animals such as horses, cows, sheep, goats, ostrich and emu.

(Ord. 221 § 4 (part), 1980)

(Ord. No. 631, § 4(exh. B), 10-27-2014)

6-335 Lot.

"Lot" means a parcel or area of land occupied or to be occupied by a building and buildings accessory thereto, together with such open and yard spaces as are required by the provisions of Part 2 of this title. In computing the area of a lot, those portions lying within the exterior boundaries of an existing or proposed public

or private road, street, highway, right-of-way, or easement owned, dedicated or used for purposes of vehicular or pedestrian access to the lot shall not be included in order to satisfy minimum area, yard or dimensional requirements.

In the case of a flag lot, the pole portion of the lot, the primary function of which is connecting the building site (flag portion) to a public or private street must be at least 20 feet wide and is excluded from the calculation of the lot area requirements.

(Ord. 468 § 1, 1998: Ord. 221 § 4 (part), 1980)

6-336 Motel.

"Motel" means detached or attached dwelling units providing automobile storage space for each dwelling unit and providing transient living accommodations primarily for automobile travelers.

(Ord. 221 § 4 (part), 1980)

6-337 Multiple-family building.

"Multiple-family building" means a detached building designed and used exclusively as a dwelling by three or more families occupying separate suites or apartments.

(Ord. 221 § 4 (part), 1980)

6-338 Multiple-family building group.

"Multiple-family building group" means two or more detached single-family buildings, duplexes or multiple-family buildings occupying a parcel of land in one ownership, with common yards.

(Ord. 221 § 4 (part), 1980)

6-339 Multiple-family dwelling.

"Multiple-family dwelling" means a dwelling including one and only one kitchen and designed for occupancy as a residence of one family, and located in a multiple-family building.

(Ord. 240 § 5, 1981)

6-340 Reserved.

6-341 Reserved.

6-342 Nonaccessory sign.

"Nonaccessory sign" means any surface, or portion thereof, on which letters, figures or pictorial matter is displayed for purposes of advertising other than the name and occupation of the user of the premises on which such surface is located, or advertising other than the nature of the business or activity conducted thereon, or advertising of goods and services other than those primarily sold or produced thereon.

(Ord. 221 § 4 (part), 1980)

6-343 Nonconforming use.

"Nonconforming use" means a use of land, building or structure on land that does not conform to this Part 2 of this title for the district in which it is situate.

(Ord. 221 § 4 (part), 1980)

6-344 Repealed by Ordinance 240.

6-345 Repealed by Ordinance 240.

6-346 Rear yard.

"Rear yard" means an open area extending across the rear of a lot, measured from the rear line toward the front to the nearest line of any building on the lot.

(Ord. 221 § 4 (part), 1980)

6-347 Residential business.

"Residential business" means an activity conducted by a person at his principal place of residence as a means of livelihood or in expectation of profit, which may involve more than one nonresident employee employed in the business at the residence, and which:

(a) Does not change the residential character of the dwelling;

(b) Is not detrimental to the health, safety or welfare of the occupants of nearby property, or of the community generally;

(c) Involves no activity which is incompatible because of noise, vibration, glare, odor or appearance with the surrounding land uses; and

(d) Requires no vehicular or pedestrian traffic or parking in excess of that normally associated with a strictly residential use of the premises.

(Ord. 221 § 4 (part), 1980)

6-348 Retail business.

"Retail business" means the sale, barter and exchange of retail goods, wares, merchandise, services or other personal or real property or any interest in them for profit or livelihood; and includes all types of business and professional offices.

(Ord. 221 § 4 (part), 1980)

6-349 Reserved.

6-350 Single-family dwelling.

"Single-family dwelling" means a dwelling including one and only one kitchen, designed for occupancy as a residence of one family and located on a single lot of its own. This includes manufactured homes certified under the National Manufactured Home Construction and Safety Standards Act of 1974, and any subsequent revisions

thereto, and conforming to the requirements of Section 6-527 of this code. Employee/farmworker housing that serves six or fewer persons is included in this definition.

(Ord. 275 § 3, 1982: Ord. 240 § 6, 1981)

(Ord. No. 618, § 3, 8-12-2013)

6-350.5 Single Housekeeping Unit.

"Single Housekeeping Unit" means use of a dwelling unit in a way that satisfies each of the following criteria:

1. The residents have established ties and familiarity and interact with each other.

2. Membership is fairly stable as opposed to transient or temporary.

3. Residents share meals, household activities, expenses, or responsibilities.

4. All adult residents have chosen to jointly occupy the entire premises of the dwelling unit and they each have access to all common areas.

5. If the dwelling unit is rented, each adult resident is named on and is a party to a single written lease that gives each resident joint use and responsibility for the premises.

6. Membership of the household is determined by the residents not by a landlord, property manager or other third party.

7. The residential activities of the household are conducted on a nonprofit basis.

8. Residents generally do not have separate entrances or separate secured food-storage facilities such as cabinets or refrigerators.

6-351 Side yard.

"Side yard" means an open area between each side line of a lot and the nearest line of any building on the lot and extending from the front line to the rear line of the lot.

(Ord. 221 § 4 (part), 1980)

6-352 Repealed by Ordinance 240.

6-353 Small farming.

"Small farming" means horticulture on a small area of land and the raising and keeping of more than 24 fowl, rabbits, other grain-fed rodents, or livestock.

(Ord. 221 § 4 (part), 1980)

6-354 Story.

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and ceiling or roof above. If the finished floor level directly above a basement, cellar or unused under-floor space is more than six feet above the ground adjacent to the building for more than 50 percent of the total perimeter or is more than 12 feet above ground at any point, such basement, cellar or unused under-floor space shall be considered a story.

(Ord. 221 § 4 (part), 1980)

6-355 Structure.

"Structure" means anything constructed or erected and permanently attached to land, except (a) a building as defined in Section 6-312 of this title; and (b) sidewalks, gateways, pipes, meters, meter boxes, manholes, mailboxes, poles and wires, and appurtenant parts of all devices for the transmission and transportation of electricity and gas for light, heat or power, devices for the transmission of telephone and telegraphic messages, and devices for the transportation of water.

(Ord. 243 § 1, 1981: Ord. 221 § 4 (part), 1980)

6-356 Repealed by Ordinance 240.

6-357 Repealed by Ordinance 240.

6-358 Townhouse.

"Townhouse" means an attached or detached family unit with air space or air space and yard space for each individual unit. Townhouse ownership may include ownership of common grounds or facilities.

(Ord. 221 § 4 (part), 1980)

6-358.5 Vacant Lot.

"Vacant lot" means any parcel or lot that has no permanent structures, is undeveloped, or contains a permanent structure that is abandoned, uninhabitable, and tenant free for a period of at least one year.

6-359 Yard.

"Yard" means an open space other than a court, on the same lot with the building, which open space is unobstructed from the ground upward to the sky, except as otherwise provided in this Part 2 of this title. In determining the dimensions of a yard as provided in this Part 2, the line of the building shall mean a line drawn parallel to the nearest lot line through the point of a building which is the nearest building to the lot line, without regard to parts of the building designated in this Part 2 as parts not to be considered in measuring yard dimensions. (Ord. 221 § 4 (part), 1980)

Title 6 - PLANNING AND LAND USE
Part 2. - General Regulations

Chapter 6-4 ACTIVITY CLASSIFICATIONS

Sections:

6-401 General.

The planning director shall assign each type of business or other economic activity to one of the activity classifications defined in this chapter. His decision as to each assignment shall be appealable once as provided in Section 6-234 of this title. The planning director shall keep a list of uses that have been determined to be included in each activity classification.

(Ord. 221 § 5 (part), 1980)

6-402 Administrative activity.

"Administrative activity" means the executive, management, administrative and clerical activities of private, profit-oriented firms, including public utility administrative offices.

(Ord. 221 § 5 (part), 1980)

6-403 Administrative civic activity.

"Administrative civic activity" means the local offices of state and federal legislators, city administrative offices and chamber of commerce offices.

(Ord. 221 § 5 (part), 1980)

6-404 Repealed by Ordinance 359.

6-405 Animal care commercial activity.

"Animal care commercial activity" means the provision of animal care, treatment, grooming and boarding services.

(Ord. 221 § 5 (part), 1980)

6-406 Automotive repair and cleaning activity.

"Automotive repair and cleaning activity" means the major repair or painting of motor vehicles, including body work and installation of major accessories, as well as the washing and polishing of motor vehicles.

(Ord. 221 § 5 (part), 1980)

6-407 Automotive sales, rental and delivery activity.

"Automotive sales, rental and delivery activity" means the retail or wholesale sale or rental, from the premises, of motor vehicles, with incidental maintenance, as well as the retail or wholesale sale or rental, from the premises, of any type of goods where orders are placed predominantly by telephone or mail order with delivery being provided by motor vehicle.

(Ord. 221 § 5 (part), 1980)

6-408 Automotive servicing activity.

"Automotive servicing activity" means the sale, from the premises, of goods and the provision of services which are generally required in the operation and maintenance of automotive vehicles and the fulfilling of motorist needs, including sale of petroleum products together with sale and servicing of tires, batteries, automotive accessories and replacement items, lubricating services, and performance of minor repairs.

(Ord. 221 § 5 (part), 1980)

6-409 Boarding House.

"Boarding House" means a dwelling unit, other than a hotel, where two or more of its occupants are subject to separate rental agreements, leases, or subleases, either written, oral, or implied; or the occupants do not operate as a single housekeeping unit. A boarding house is a transitory-lodging use.

6-410 Community assembly and education activity.

"Community assembly and education activity" means and consists of activities typically performed by, or at, the following institutions or installations:

(a) Churches, temples, synagogues and other religious institutions;

(b) Private clubs, lodges, meeting halls and recreation facilities, such as golf clubs, swimming pools and tennis clubs, whether or not operated for profit;

(c) Public, parochial and private schools, including elementary, intermediate and high schools.

(Ord. 245 § 1, 1981)

6-411 Business and communication service activity.

"Business and communication service activity" means the provision to firms and individuals of services of a clerical, communication or minor processing nature, including multicopy and blueprinting services, but excluding printing of books, other than pamphlets and small reports.

(Ord. 221 § 5 (part), 1980)

6-412 Commercial automotive fee parking activity.

"Commercial automotive fee parking activity" means the parking and storage of motor vehicles on a fee basis, including those fee or non-fee basis facilities operated by or contracted by the city.

(Ord. 221 § 5 (part), 1980)

6-413 Commercial laundry or dry cleaning activity.

"Commercial laundry or dry cleaning activity" means the wholesale cleaning or repair of personal apparel or other household or institutional goods, but excluding self-service laundry and retail dry cleaning.

(Ord. 359 § 2(B), 1987: Ord. 221 § 5 (part), 1980)

6-414 Commercial recreation activity.

"Commercial recreation activity" means the provision of entertainment, amusement and athletic services to assembled groups of spectators or participants.

(Ord. 221 § 5 (part), 1980)

6-415 Consultative service activity.

"Consultative service activity" means the provision of advice, designs, information or consultation of a professional nature, such as architects, engineers, attorneys or accountants.

(Ord. 221 § 5 (part), 1980)

6-416 Construction sales and service activity.

"Construction sales and service activity" means construction storage and incidental storage activities performed by construction contractors on lots other than construction sites, also the storage of heavy equipment, trucks or other vehicles, as well as the retail or wholesale sale, from the premises, of materials used in construction of buildings or other structures, other than paint, fixtures and hardware.

(Ord. 221 § 5 (part), 1980)

6-417 Convenience market activity.

"Convenience market activity" means the retail sale of food, beverages and small personal convenience items, primarily for off-premises consumption and typically found in establishments with long or late hours of operation and a relatively small building; but excludes delicatessens, other specialty food shops and establishments which have a sizable assortment of fresh fruits and vegetables and fresh-cut meat.

(Ord. 221 § 5 (part), 1980)

6-418 Day-care and educational services activity.

"Day-care and educational services activity" means the following:

(a) Child-care services for seven or more children, provided, however, that care for four or more children be provided only in facilities licensed by a state or county agency;

(b) Nursery schools and kindergartens.

(Ord. 221 § 5 (part), 1980)

6-419 Fast-food restaurant activity.

"Fast-food restaurant activity" means the retail sale of ready-to-eat cooked foods and beverages, for on-premises or off-premises consumption, wherever the foods and beverages are available upon a short waiting time and primarily served in or on disposable wrappers, containers or plates.

(Ord. 221 § 5 (part), 1980)

6-420 Financial service activity.

"Financial service activity" means the provision of financial advice, receiving, deposit, lending or changing of money, such as banks, savings and loans, and finance companies.

(Ord. 221 § 5 (part), 1980)

6-421 Firearm sales.

"Firearm sales" means the sale, transfer, lease, offer or advertising for sale or lease of a firearm, which includes a gun, pistol, revolver, rifle or any device designed to be used as a weapon from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

(Ord. 443 § 1, 1995: Ord. 433 § 2, 1994)

6-422 Reserved.

Editor's note(s)—Ord. No. 635, § 4(exh. A), adopted October 14, 2014, repealed § 6-422, which pertained to health care activity and derived from Ord. No. 245, 1981.

6-423 Full-service restaurant activity.

"Full-service restaurant activity" means a place which is regularly and in a bona fide manner used and kept open for the serving of at least lunch or dinner to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking and assortment of foods which may be required for such meals. The sale or service of sandwiches (whether prepared in a kitchen or made elsewhere and heated up on the premises) or snack foods does not constitute a full-service restaurant.

(Ord. 221 § 5 (part), 1980)

6-424 General commercial sales and service activity.

"General commercial sales and service activity" means the retail or wholesale sale of goods, or provision of services, of a nature which are not readily carried by a pedestrian and usually necessitates the use of a motor vehicle to transport the goods or materials, and requires that parking or loading areas be provided on-site to facilitate convenient loading or unloading of goods by patrons. Generally these uses by their nature are almost totally reliant upon on-site patron parking and loading facilities.

(Ord. 221 § 5 (part), 1980)

6-425 General food sales activity.

"General food sales activity" means the retail sale from the premises of a comprehensive variety of generally used foods and beverages, including sizable assortments of fresh fruits and vegetables and fresh-cut meat; but excludes convenience markets.

(Ord. 359 § 2(C), 1987: Ord. 221 § 5 (part), 1980)

6-426 General personal service activity.

"General personal service activity" means the provision to individuals of informational, instructional, personal care, repair of personal apparel, and similar services of a nonprofessional small-scale nature which are not needed frequently, such as barber and beauty care and shoe repair.

(Ord. 342 § 1, 1985: Ord. 221 § 5 (part), 1980)

6-427 General retail sales activity.

"General retail sales activity" means the retail sale from the premises of shopper goods which are generally of a nature that are easily carried or transported from place to place by a pedestrian, and does not normally necessitate the use of motor vehicles for portage of goods or the provision of parking in close proximity to the place of business.

(Ord. 221 § 5 (part), 1980)

6-428 Light manufacturing and research activity.

"Light manufacturing and research activity" means a limited-volume function of on-site production, processing or examination of goods when the goods or the materials which are used in the production, processing or examination of the goods, or the process itself, do not create noise, odor, dust, smoke or vibration which might be obnoxious or offensive to persons residing or conducting business on neighboring properties.

(Ord. 221 § 5 (part), 1980)

6-429 Limited child-care activity.

"Limited child-care activity" means the provision of day-care service for six or fewer children, provided, however, that care for four or more children be provided only in facilities licensed by a state or county agency.

(Ord. 221 § 5 (part), 1980)

6-429.5 Cannabis uses.

For purposes of this code, the following definitions shall apply.

(a) "Cannabis" means all parts of the plant cannabis sativa linnaeus, cannabis indica, or cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also includes marijuana as defined by Section 11018 of the Health and Safety Code. Cannabis includes "cannabis" as defined in Business and Professions Code, Section 26001, as may be amended from time to time.

(b) "Cannabis cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

(c) "Cannabis delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a cannabis retailer of any technology platform that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of cannabis or cannabis products.

(d) "Cannabis distribution" means the procurement, sale, and transport of cannabis and cannabis products.

(e) "Cannabis manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product. Cannabis manufacture includes the production, preparation, propagation, or compounding of manufactured cannabis, or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or cannabis products or labels or relabels its container.

(f) "Cannabis products" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients. Cannabis products includes "cannabis products" as defined in Business and Professions Code, Section 26001, as may be amended from time to time.

(g) "Cannabis retailer" means a facility where cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products as part of a retail sale. For purposes of this code, cannabis retailer includes medical cannabis dispensaries, patient collectives and cooperatives operating, or proposing to operate, pursuant to the Compassionate Use Act and Health and Safety Code Section 11362.775.

(h) "Cannabis testing laboratory" means a facility, entity, or site in the state that offers or performs tests of cannabis or cannabis products and that is both of the following:

(1) Accredited by an accrediting body that is independent from all other persons involved in the commercial cannabis activity in the state; and

(2) Licensed by the bureau of cannabis control.

(i) "Commercial cannabis uses" includes all cannabis cultivation, cannabis manufacture, cannabis distribution, cannabis testing laboratories, cannabis retailers, cannabis delivery, and sale of cannabis and/or cannabis products, whether intended for medical or adult-use, and whether or not such activities are carried out for profit. Commercial cannabis uses includes "commercial cannabis activity" as defined in Business and Professions Code, Section 26001, as may be amended from time to time, and includes any activity that requires a license from a state licensing authority pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act, Business and Professions Code, Section 26000 et seq., as may be amended from time to time. Commercial cannabis activity does not include possession or cultivation of cannabis for personal use that is not sold and in strict accordance with Health and Safety Code, Section 11362.1 et seq.

(j) "Digital currency" means a digital representation of value that can be digitally traded and is used to facilitate the sale, purchase, and exchange of goods, services, or other digital representations of value. Sometimes referred to as virtual currency.

(k) "Electronic payment method" means any kind of non-cash payment method, including but not limited to, credit cards, debit cards, electronic funds transfers, automated clearing house (ACH) networks or digital currency.

(l) "Indoor" means any location that is totally contained within a fully enclosed and secure private residence or building.

(m) "Outdoor" means any location that is not totally contained within a fully enclosed and secure accessory building or primary residence.

(n) "Private residence" means a house, an apartment unit, a mobile home, or other similar dwelling occupied for residential purposes.

(o) "Secure" means in a locked area or room, safe, or vault, and in a manner reasonably designed to prevent loss, and access or theft, particularly by persons under the age of 21 years.

(Ord. No. 643, § 4, 2-8-2016; Ord. No. 660, § 2, 11-27-2017)

Editor's note(s)—Ord. No. 643, § 4, adopted February 8, 2016, amended § 6-429.5 in its entirety to read as herein set out. Former § 6-429.5, pertained to medical marijuana dispensary, and derived from Ord. No. 601, adopted July 11, 2011.

6-430 Medical service activity.

"Medical service activity" means the provision of therapeutic, preventive or corrective personal treatment services by physicians, dentists and other medical practitioners, and includes medical testing and analysis services.

(Ord. 221 § 5 (part), 1980)

6-431 Kennel activity.

"Kennel activity" means the keeping of more than 20 cats and/or dogs over six months old; or the keeping of any cats or dogs for certain commercial purposes, including boarding, breeding, sales for resale (wholesaling), training and similar purposes, but not including veterinary or medical treatment, grooming, hospitalization, impoundment or retail sales, nor killing of such animals.

(Ord. 266 § 2, 1982)

6-432 Multiple pet activity.

"Multiple pet activity" means keeping more than three dogs over six months old, or more than five cats over six months old, but not more then 20 dogs and/or cats, none of which are kept for commercial purposes.

(Ord. 266 § 3, 1982)

6-433 Real estate service activity.

"Real estate service activity" means the provision of real estate sales or brokerage services, or both, and includes provision of advice, information or consultation relative to the sale, rental, lease or financing of real estate.

(Ord. 221 § 5 (part), 1980)

6-434 Self-service laundry or retail dry cleaning activity.

"Self-service laundry or retail dry cleaning activity" means a facility providing one or more of the following: (a) coin-operated washing, drying or dry-cleaning machines for self-service; (b) drop-off, pick-up station; or (c) on-site professional dry cleaning of personal apparel and household goods brought into the facility by retail customers.

(Ord. 359 § 2(D), 1987: Ord. 221 § 5 (part), 1980)

6-435 Repealed by Ordinance 359.

6-436 Hotels and motels activity.

"Hotels and motels activity" means the provision of lodging services to transient guests on a less-than-weekly basis other than in the case of activities involving the provision of a special kind of care such as in nursing homes or orphanages.

(Ord. 359 § 2(E), 1987: Ord. 221 § 5 (part), 1980)

6-437 Undertaking service activity.

"Undertaking service activity" means the provision of undertaking and funeral services involving the care and preparation of the human dead prior to burial or cremation.

(Ord. 221 § 5 (part), 1980)

6-438 Utility distribution and civic service activity.

"Utility distribution and civic service activity" means the maintenance and operation of the following installations:

(a) Communications equipment installations and exchanges;

(b) Electrical substations;

(c) Gas substations;

(d) Police stations and fire stations;

(e) Neighborhood newscarrier distribution centers;

(f) Recycling center.

(Ord. 221 § 5 (part), 1980)

6-439 Home/business furnishings activity.

"Home/business furnishings activity" means the sale or rental of home or business furnishings.

(Ord. 359 § 2(F), 1987)

6-440 Sales representatives and goods brokers activity.

"Sales representatives and goods brokers activity" means the sales of goods by contract, provided that the associated sales tax is coded and credited to the city. The use must be in compliance with the purpose section of the zoning district in which the business is located. The use may include display and storage of goods in appropriate amounts in compliance with the purpose section of the zoning district in which the business is located.

(Ord. 359 § 2(G), 1987)

6-441 Hospital.

"Hospital" means an institution providing medical or surgical treatment and care for the recovery of people with major illnesses or injuries on an inpatient and outpatient basis including ambulance bays, trauma units, maternity wards, intensive care units or pharmacies.

(Ord. No. 635, § 4(exh. A), 10-14-2014)

6-442 Supportive care.

"Supportive care" means supportive housing, transitional housing, emergency shelters, low barrier navigation centers, or residential care facilities.

(Ord. No. 635, § 4(exh. A), 10-14-2014)

6-443 Domicile.

"Domicile" means an individual's legal residence and permanent home. A domicile is not lodging, which is only a temporary residence. (See "Lodging.") A dwelling unit that is rented by a person on a month-to-month, or longer, basis is presumed to be the renter's domicile if the renter has no other legal residence or permanent home. Indicia of legal residency include, but are not limited to, evidence that the resident uses the street address for government identification purposes, such as a driver's license, and for tax-filing purposes.

6-444 Foster home.

"Foster home" means a foster family home as defined by Health and Safety Code section 1502: "any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian. It also means a foster family home described in Section 1505.2." Foster homes are a type of residential care facility.

6-445 Group home.

"Group home" means a residential care facility.

6-446 Lodging or lodgings.

"Lodging" or "Lodgings" means a temporary residence or place to live, which includes sleeping accommodations. Lodging is not a domicile because the former is a temporary residence and the latter is a permanent one. (See "Domicile.")

6-447 Low barrier navigation center.

"Low barrier navigation center" has the same meaning as in Government Code section 65660: "a Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing."

6-448 Residential care facility.

"Residential care facility" means: an intermediate care facility/developmentally disabled-habilitative or an intermediate care facility/developmentally disabled-nursing, as defined by California Health and Safety Code Section 1250; a congregate living health facility, as defined by California Health and Safety Code Section 1250; a community care facility, as defined by California Health and Safety Code Section 1502; a residential care facility for the elderly, as defined by California Health and Safety Code Section 1569.2; a residential care facility for persons

with chronic life-threatening illness, as defined by California Health and Safety Code Section 1568.01; an alcoholism or drug abuse recovery or treatment facility, as defined by California Health and Safety Code Section 11834.02; a pediatric day health and respite care facility, as defined by California Health and Safety Code Section 1760.2; or a family care home, foster home, or group home serving persons with mental health disorders or other disabilities or dependent and neglected children under California Welfare and Institutions Code Section 5116. Residential care facilities except for those with a valid state license to serve six or fewer persons are a subset of boarding houses.

6-449 Supportive housing. "Supportive housing" has the same meaning as in Government Code section 65582: "housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community."

6-450 Transitional housing. "Transitional housing" has the same meaning as in Government Code section 65582: "buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance."

6-451 Transitory lodging.

"Transitory lodging" means the use of any structure or portion of a structure to provide lodging in exchange for compensation on either: (a) a short-term basis (regardless of the number of rental agreements); or (b) a long-term basis under multiple agreements. Boarding houses, hotels, and short-term rentals are examples of transitory-lodging uses.

Title 6 – PLANNING AND LAND USE

Part 2. – General Regulations

Chapter 6-5 - General Provisions

Article 1. - Miscellaneous

6-534 Supportive care.

(a) Transitional housing. Transitional housing is a residential use of property, subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

(b) Supportive housing.

(1) Supportive housing is a residential use of property, subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

(2) Notwithstanding the above, supportive housing is a use by right in all zones where multifamily and mixed uses are permitted, in accordance with Government Code section 65650 et seq. (c) Residential care facilities. Residential care facilities may be established and operate where other boarding house uses may not, subject to the following:

(1) Residential care facilities with a state license to serve six or fewer persons are regulated as single-family residential uses.

(2) Other residential care facilities must comply with each of the following standards:

(A) Maximum Occupancy. Occupancy is limited to two persons per bedroom, except that one bedroom must be reserved for an on-site house manager.

(B) Separation. No residential care facility may be located within 650 feet of another.

(d) Low Barrier Navigation Centers. As required by Government Code section 65662, Low Barrier Navigation Centers are permitted by right in all areas zoned for mixed use and nonresidential zones that permit multifamily housing if the following criteria are all met:

1) It offers services to connect people to permanent housing through a services plan that identifies services staffing.
2) It is linked to a coordinated entry system, so that staff in the interim facility or staff who co-locate in the facility may conduct assessments and provide services to connect people to permanent housing. "Coordinated entry system" means a centralized or coordinated assessment system developed pursuant to Section 576.400(d) or Section 578.7(a)(8), as applicable, of Title 24 of the Code of Federal Regulations, as those sections read on January 1, 2020, and any related requirements, designed to coordinate program participant intake, assessment, and referrals.
3) It complies with Chapter 6.5 (commencing with Section 8255) of Division 8 of the Welfare and Institutions Code.
4) It has a system for entering information regarding client stays, client demographics, client income, and exit destination through the local Homeless Management Information System as defined by Section 578.3 of Title 24 of the Code of Federal Regulations.

(Ord. No. 635, § 4(exh. A), 10-14-2014)

6-536 Boarding houses.

Boarding houses are prohibited in all zoning districts within the City. No person shall operate, establish, maintain, or permit the operation of a boarding house on any property.

Article 2. Repealed by Ordinance 697.

Article 3. Repealed by Ordinance 697.

Title 6 - PLANNING AND LAND USE

Part 7. - Special Housing Regulations

Chapter 6-34 REASONABLE ACCOMMODATION

Sections:

6-3401 Purpose.

The city of Lafayette's policy is to comply with the Federal Americans with Disabilities Act, the Federal Fair Housing Act and the California Fair Employment and Housing Act by providing reasonable accommodation in the application of its land use and zoning regulations and reasonable modification in a policy, practice, or procedure for housing designed for occupancy by qualified persons with disabilities seeking fair access to housing. The city also recognizes the importance of sustaining and enhancing residential neighborhoods. This chapter is intended solely for residential use. In determining whether a requested modification is reasonable, the city will consider, among other relevant factors, the extent to which the modification might be in conflict with the legitimate purposes of its existing zoning regulations, including where relevant, those regulations aimed at sustaining residential neighborhoods and preserving a suitable environment for family life. The purpose of this chapter is to provide a process for making and acting upon requests for reasonable accommodation.

(Ord. 556 § 2 (Exh. A) (part), 2006)

6-3402 Definitions.

(a) "Housing designed for occupancy by, or with supportive services for persons with disabilities" includes a wide range of housing types, including, but not limited to, housing that is physically accessible to people with mobility impairments, residential care facilities for individuals with disabilities or for the elderly, group homes, housing for individuals with Alzheimer's disease, housing for persons with HIV/AIDS, housing with support services and transitional housing that serve homeless with disabilities.

(b) "Person with disabilities" means an individual who has a physical or mental impairment that substantially limits one or more of the major life activities of such individual.

(c) "Reasonable accommodation and modification" means the act of making facilities used by residents readily accessible to and usable by individuals with disabilities, through the removal of constraints within the land use, zoning, permit and processing procedures.

(Ord. 556 § 2 (Exh. A) (part), 2006)

6-3403 Application required.

(a) Any person who requests reasonable modification, based on the disability of residents, in the application of a land use or zoning law which may be acting as a barrier to fair housing opportunities, may do so on a form prescribed for that purpose by the city.

(b) If the project for which the request is being made also requires some other planning permit or approval, then the applicant shall file the request together with the application for such permit or approval.

(c) If the zoning administrator finds that the proposed development is minimal in nature and complies with the purpose and intent of this chapter and/or other related chapters of this title, the zoning administrator may waive the requirement for related discretionary permits, including, but not limited to, a hillside development permit.

(Ord. 556 § 2 (Exh. A) (part), 2006)

6-3404 Submittal requirements.

The applicant shall provide the following information:

(a) Applicant's name, address, and telephone numbers;

(b) Project property address;

(c) The current use of the property;

(d) The zoning code provision, regulation, or policy from which the modification is being requested;

(e) The basis for the claim that the person(s) and the housing for which modification is sought qualify under Sections 6-3402(a) and (b) of this chapter, and why the modification is reasonably necessary;

(f) Other relevant information as requested by the zoning administrator or his or her designee; and

(g) Upon request and when necessary to establish a substantial impairment or the need for a modification, a medical certification may be required (this will not be required where the impairment and need for modification are readily apparent).

(Ord. 556 § 2 (Exh. A) (part), 2006)

6-3405 Procedures for reasonable accommodation and modification.

The procedure for reasonable modification is as follows:

(a) Application. An application shall be filed with the zoning administrator on a form approved by the city. The application shall include all submittal requirements as described in Section 6-3404 of this chapter. If assistance is needed to complete the application, or an alternative format for the application is necessary, the zoning administrator should be contacted for assistance.

(b) Public Notice. Within ten days of deeming an application complete, a notice of pending application shall be sent to all property owners within 300 feet of the subject property. If the zoning administrator finds that the request for reasonable modification is de minimus in nature and complies with the purpose and intent of this chapter, the zoning administrator may waive the requirement for public notification. If a notice is appropriate, it shall include the following information:

  (1) Description of reasonable modification request;

  (2) Statement about the scope of application review permitted by this chapter;

  (3) Date by which public comments regarding the application shall be submitted for consideration;

  (4) Date that the zoning administrator shall make a determination on the application; and

  (5) Appeal rights as described in Section 6-3406 of this chapter.

(c) Determination. Within 30 days of deeming an application complete, the zoning administrator shall approve, conditionally approve, or deny the application.

(d) Expiration of Permit. The permit is valid for 12 months from the date of issuance unless a longer period is stated in the permit. If the applicant does not begin the work authorized by the permit by the expiration date, the permit shall expire. The applicant may request one 12-month extension from the zoning administrator.

(Ord. 556 § 2 (Exh. A) (part), 2006)

6-3406 Appeals.

A person desiring to appeal the determination of the zoning administrator regarding the approval, conditional approval, or denial of a request for reasonable modification shall file a notice of appeal with the city clerk within 14 days after the date of determination. The city council will consider the appeal within 30 days after the notice is filed. The city council shall limit its consideration of the appeal to whether the reasonable modification meets the findings in Section 6-3407 of this chapter. There shall be no appeal fee for appealing a denial of a request for reasonable modification.

(Ord. 556 § 2 (Exh. A) (part), 2006)

6-3407 Specific findings required.

In making a determination regarding the reasonableness of a requested modification, the following factors shall be considered:

(a) Special needs created by the disability;

(b) Potential benefit that can be accomplished by the requested modification;

(c) Physical attributes of and any proposed changes to the subject property and structures;

(d) Alternatives which may provide an equivalent level of benefit;

(e) Whether the requested modification would impose an undue financial or administrative burden on the city;

(f) Whether the requested modification would require a fundamental alteration in the nature or effect of the city's land use and zoning ordinances, programs or policies;

(g) Whether the modification would create a "direct threat," which is a significant risk to the health or safety of others, that cannot be eliminated or reduced to an acceptable level by further modification of the city's policies, practices, or procedures; and

(h) Whether the requested modification is consistent with the Federal Americans with Disabilities Act, the Federal Fair Housing Act and the California Fair Employment and Housing Act.

(Ord. 556 § 2 (Exh. A) (part), 2006)

6-3408 Fees.

(a) There is no application fee associated with requests for reasonable modification.

(b) No application fee shall apply to the request for reasonable modification unless the request is made concurrently with an application for some other discretionary approval, in which case, the applicant shall pay only the required application fee for the discretionary approval.

(Ord. 556 § 2 (Exh. A) (part), 2006)

6-3409 Conditions of approval.

In granting a request for reasonable modification, the reviewing authority may impose any conditions deemed reasonable and necessary to ensure that the reasonable modification would comply with the findings required by Section 6-3407 of this chapter. Conditions may be imposed to ensure that any removable structures or physical design features that are constructed or installed in association with the reasonable modification be removed once those structures or physical design features are no longer necessary for housing designed for a

person with a disability. Any approval or conditional approval of an application may be conditioned to provide for its rescission or automatic expiration under appropriate circumstances.

(Ord. 556 § 2 (Exh. A) (part), 2006)

Title 6 - PLANNING AND LAND USE

Part 7. - Special Housing Regulations

Chapter 6-35 EMERGENCY SHELTERS

Sections:

6-3501 Purpose.

The purpose of this Chapter is to provide temporary shelter for homeless persons or others in need in a manner that protects the health, safety, and general welfare of nearby residents and businesses, consistent with California Government Code § 65583, which requires all California cities to identify in their General Plan Housing Element at least one zone where emergency shelters are permitted by right without requiring discretionary permits or action, provided they comply with objective operating standards established by the City.

(Ord. No. 610, § 1(exh. A), 9-10-2012)

6-3502 Definition of emergency shelter.

In this chapter, unless the context otherwise requires:

"Emergency shelter" includes, but is not limited to, shelters, interim uses, navigation centers, bridge housing, and respite or recuperative care. It is intended that the housing provided by these uses be of short term, not permanent housing, and consistent with best practices for these interim uses.

(Ord. No. 610, § 1(exh. A), 9-10-2012)

6-3503 By-Right Allowance .

An emergency shelter that complies with the provisions of this Chapter shall be permitted within the General Commercial District 1 (C-1), pursuant to an emergency shelter application.

(Ord. No. 610, § 1(exh. A), 9-10-2012)

6-3504 Emergency shelter; application and issuance.

(a) An application for an emergency shelter shall be filed with the Zoning Administrator on a form approved by the City together with a fee fixed by resolution of the City Council. The Zoning Administrator shall approve an application that meets the development standards set forth in Section 6-3505 without discretionary review or a public hearing, as soon as practicable, and in no event more than 30 days after the application has been deemed complete.

(b) Pursuant to Section 6-250 of the Lafayette Municipal Code, this approval shall expire one year from the approval date unless a building permit has been issued for the project. The Zoning Administrator may extend the period to exercise the permit for up to one additional year upon a showing of good cause, if such request is received in writing prior to the expiration date.

(Ord. No. 610, § 1(exh. A), 9-10-2012)

6-3505 Development and management standards.

(a) Development standards. An emergency shelter shall conform to the development standards set forth below, as well as all development standards of the C-1 zoning district set forth in Title 6, Part 3, Chapter 6-9 of this Code, including the requirement for design review for any building constructed or altered to affect the exterior appearance. If there is a conflict between the C-1 development standards set forth in Title 6, Part 3, Chapter 6-9 of this Code and the standards set forth below, the standards set forth below shall be controlling:

(1) Proximity to Other Shelters. No emergency shelter shall be closer than 300 feet to another emergency shelter.

(2) Vehicle Parking. An emergency shelter shall provide one parking space for every four beds and one parking space for every employee.

(3) Bicycle Parking. An emergency shelter shall provide at least one bicycle space for every five beds.

(4) Shelter Capacity. No emergency shelter shall contain more than 30 beds, and the size of the facility must accommodate clients at a ratio of at least 200 square feet per person. The city council may establish a maximum number of beds to be allowed in all emergency shelters in the city by resolution. The maximum number of beds in all emergency shelters in the city shall not be less than the number of unsheltered homeless persons in Lafayette as determined in the bi-annual homeless count conducted by the Contra Costa Homeless Program.

(5) Length of Stay. The length of stay per individual in an emergency shelter shall not exceed six months in a consecutive 12-month period.

(6) Screening of Outdoor Uses. An emergency shelter shall not allow or include any of the following to occur in front of an emergency shelter or in any other location incidental to the shelter that is visible from adjoining properties or the public right-of-way, unless the same is entirely screened from public view:

(a) Designated outdoor smoking area;

(b) Outdoor waiting and client intake area;

(c) Outdoor public telephones; and

(d) Outdoor refuse area.

(7) Exterior Lighting. Lighting in or on an emergency shelter shall be stationary, directed away from adjacent properties and public rights-of-way, and of an intensity that is consistent with existing lighting in the neighborhood in which the shelter is located.

(8) Laundry Facilities. An emergency shelter shall provide laundry facilities to serve the number of residents.

(9) Personal Property Storage. An emergency shelter shall provide secure areas for temporary storage of personal property of the persons residing in the emergency shelter.

(b) Management Standards. An emergency shelter shall conform to the management standards set forth below:

(1) Emergency Shelter Management Plan. The operator of an emergency shelter shall prepare and submit a management plan to the Zoning Administrator that includes, as applicable, the following: established staff training program to meet the needs of emergency shelter residents; adequate security measures to protect emergency shelter residents and the neighboring land uses; a list of services provided to assist emergency shelter residents with obtaining permanent shelter and income; and a method of screening emergency shelter residents to ensure compatibility with services provided at or through the emergency shelter prior to admittance to the shelter.

(2) On-Site Management and Security Plan. Security measures shall be sufficient to protect clients and neighboring land uses. On-site management and on-site security shall be provided during the hours when the emergency shelter is in operation and at all times that clients are present on-site. An on-site staff person shall be designated as a neighborhood liaison to respond to, and address, any questions or concerns from surrounding residents regarding facility operations. Clients shall be screened for compatibility with shelter resources and for compliance with applicable State and Federal laws prior to admittance to the emergency shelter.

(Ord. No. 610, § 1(exh. A), 9-10-2012)

6-3506 Appeals.

An appeal of a decision made pursuant to this chapter shall be brought and governed as set forth in Section 6-232 of this code.

(Ord. No. 610, § 1(exh. A), 9-10-2012)

Title 6 - PLANNING AND LAND USE

Part 7. - Special Housing Regulations

Chapter 6-37 INCLUSIONARY HOUSING

Sections:

6-3701 Purpose.

The purpose of this chapter is to facilitate the development and availability of housing affordable to a broad range of households of various income levels and sizes in Lafayette. This chapter is intended to:

(a) Implement state policy that declares local governments have a responsibility to facilitate development to provide for the housing needs of all economic segments of the community;

(b) Implement the housing element of the general plan, which calls for the adoption of an inclusionary housing program;

(c) Facilitate the development of affordable housing units within a project; and

(d) Assist in the dispersal of affordable housing units throughout the City.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3702 Definitions.

In this chapter, unless the context requires otherwise:

(a) "Affordable rent" means a rental rate that results in monthly housing costs, including utilities, that collectively do not exceed the following:

(1) For a very low-income household, one-twelfth of the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.

(2) For a low-income household, one-twelfth of the product of 30 percent times 80 percent of the area median income adjusted for family size appropriate for the unit.

(b) "Affordable sales price" means a sales price that results in monthly housing costs, including mortgage (principle and interest), property taxes, utilities, property insurance and homeowner association fees, that collectively do not exceed the following:

(1) For a very low-income household, one-twelfth of the product of 35 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.

(2) For a low-income household, one-twelfth of the product of 35 percent times 80 percent of the area median income adjusted for family size appropriate for the unit.

(3) For a moderate-income household, one-twelfth of the product of 35 percent times 110 percent of the area median income adjusted for family size appropriate for the unit.

(c) "Area median income" means the combined salaries, wages or other sources of income of a single household, based upon household size, for Contra Costa County as published annually by the State of California Department of Housing and Community Development.

(d) "Downtown" means the area within the boundaries of the downtown specific plan map.

(e) "First time homebuyer" means a household that has had no ownership in a principal residence during the three-year period ending on the date of purchase of the affordable unit.

(f) "Inclusionary housing agreement" means a document that has been reviewed and approved by the planning and building director that delineates the exact requirements that a developer shall meet to fulfill the requirements under this chapter.

(g) "Inclusionary unit" means a dwelling unit that has an affordable sales or rental price for households for a household at the applicable income level under the requirements of this chapter.

(h) "Large family" means a household with five or more members.

(i) "Low-income household" means a household whose annual income does not exceed 80 percent of area median income, adjusted for household size as published by the State of California Department of Housing and Community Development for Contra Costa County.

(j) "Moderate-income household" means a household whose annual income does not exceed 110 percent of area median income, adjusted for household size as published by the State of California Department of Housing and Community Development for Contra Costa County, and would apply to for-sale moderate income housing.

(k) "Project" means a residential or mixed-use development creating a net increase of two or more for sale or rental dwelling units. This excludes a legal second unit unless that unit is built to satisfy the requirements of this chapter.

(l) "Very low-income household" means a household whose annual income does not exceed 50 percent of area median income, adjusted for household size as published by the State of California Department of Housing and Community Development for Contra Costa County.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3703 Basic provisions.

(a) Geographic Area. The provisions of this chapter applies City-wide.

(b) Development Size Threshold. The provisions of this chapter apply to all projects creating a net increase of two or more residential units.

(c) Income Calculations. The State of California calculates annual income limits for very low-, low- and moderate-income households that may vary from the definitions for such households contained in this chapter. In applying Sections 6-3702(a), (b), (g), (h) and (j) above to a proposed project, applicants may use the higher of the household income limits established in this chapter (50 percent of area median income for very low, 80 percent of area median income for low, and 110 percent of area median income for moderate), or the household income limits established by the State of California for the same income categories.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3704 Inclusionary percentage.

(a) Single-Family. For projects creating single-family dwellings, 15 percent of the units must be inclusionary units sold or rented at an affordable price to moderate-income households.

(b) Multi-Family. For projects creating multiple for sale family dwellings, 15 percent of the total units must be inclusionary units, with nine percent sold at an affordable sales price to low or moderate-income households and six percent sold to an affordable sales price of very low-income households.

For projects that are multi-family rental dwellings, 15 percent of the total units must be inclusionary units, with nine percent rented at an affordable price to low-income households and six percent rented at an affordable price to very low-income households.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3705 Calculation of inclusionary units.

(a) To calculate the number of inclusionary units required, multiply 15 percent with the total number of units in the project.

(b) When six percent and nine percent are multiplied with the total units to determine the number for each respective income category and the result is less than one unit for each income category, then the total combined percentage may be affordable to low or moderate-income households.

(c) Notwithstanding subsections (a) and (b) above, a project with two to six units may elect to pay the applicable in-lieu fees and is not required to build inclusionary units.

(d) Notwithstanding subsections (a) and (b) above, a project with seven to 20 for-sale units may elect to make all of the inclusionary units affordable at moderate-income. Similarly, a project with seven to 20 rental units may elect to make all of the inclusionary units affordable at low-income.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3706 Fractional units.

If multiplying the required 15 percent with the total number of units results in other than a whole number, a result equal to or greater than one-half shall be rounded up to the next whole unit. An in-lieu fee shall be paid for a result less than one-half.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3707 In-lieu fee.

This chapter establishes provisions under which an in-lieu fee is collected for inclusionary units. The city council shall establish the amount based on an appropriate fee study and shall update the fee over time. The in-lieu fee requirements of this chapter shall be effective only after the city council has adopted or updated the fee by resolution.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3708 Segmentation.

Segmentation of a project in order to avoid the requirements of this chapter is not permitted. Construction of proximate dwelling units within any five-year period for which there is evidence of common ownership, control or interest, and whether or not covered by the same land use entitlements, shall be subject to the regulations of this chapter. However, nothing herein shall prohibit the phased development of a project, as approved by the city.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3709 Term of affordability.

(a) For-sale inclusionary units shall be restricted to the applicable income level for a period not less than 45 years.

(b) Rental inclusionary units shall be restricted to the applicable income level for a period not less than 55 years, including inclusionary units proposed as rentals under Section 6-3712 of this chapter.

(c) The term of for-sale units' affordability resets upon sale of the unit(s).

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3710 Design.

Inclusionary units must be dispersed throughout the project and be comparable in terms of bedroom count and exterior design to the market rate units. The inclusionary units must have access to all amenities available to the market rate units.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3711 Timing.

Inclusionary units must be constructed prior to or concurrently with the construction of the market rate units. The developer shall complete construction of all inclusionary units prior to final inspection of the final market rate unit. In phased developments, inclusionary units may be constructed and occupied in proportion to the number of units in each phase.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3712 Alternatives.

(a) Off-site Development. Instead of providing inclusionary units on-site to satisfy the requirements of this chapter, a developer may propose providing all or a portion of the inclusionary units off-site, including for-sale housing or rental housing (see subsection (b) for-rent alternative to fee or sale, below).

(1) In order to approve such a proposal, the city council must find that on-site production of such units is infeasible or that greater public benefit will result from the units being off-site.

(2) The city council shall require the provision of a minimum of one and may require up to two off-site units for every unit not provided on-site.

(3) Regardless of the number of off-site for-sale units that are required, 40 percent of the off-site units shall be affordable to very low-income households and 60 percent shall be affordable to low- or moderate-income households.

(4) Regardless of the number of off-site rental units that are required, 40 percent of the off-site units shall be affordable to very low-income households and 60 percent shall be affordable to low-income households.

(5) Nothing in this section shall obligate the council to allow any off-site units.

(6) A developer proposing to provide the inclusionary units off-site must provide a relocation plan for any current tenants that may be displaced by the development of affordable units at the off-site location.

(7) All other provisions of this chapter apply, whether the units are produced on-site or off-site.

(b) For-Rent Alternative to Fees or Sale.

(1) Ownership Projects. An applicant for a residential ownership project may elect to provide all or a portion of the inclusionary units required for the residential project at affordable rent to lower income households rather than provide for-sale units. Fifteen percent of the total units must be affordable to lower incomes, with nine percent rented at an affordable rent to low income households and six percent rented at an affordable rent to very low income households. If the applicant proposes to provide rental units off-site, 40 percent of the off-site rental units shall be affordable to very low-income households and 60 percent shall be affordable to low-income households.

(2) Sales of Affordable Rental Units. If the owner of the ownership project later determines to offer the affordable rental units in the project for sale at an affordable sales price, any subsequent regulatory

agreement shall include provisions for sale of the affordable units, as well as relocation benefits for tenants of the affordable rental units.

(3) All other provisions of Section 6-3712(a) apply, except Section 6-3712(a)(3).

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3713 Inclusionary housing agreement.

(a) An inclusionary housing agreement between the developer and the city shall be required for any project subject to the provisions of this chapter in a form approved by the planning and building director. The agreement shall be executed prior to issuance of a building permit.

(b) The inclusionary housing agreement shall contain the following information:

(1) The location, tenure (rental or ownership) and size of the proposed market rate and inclusionary units;

(2) The calculations used to determine the number of inclusionary units;

(3) A floor plan or site plan depicting the location of the inclusionary units;

(4) The affordability level for each inclusionary unit;

(5) The term of affordability;

(6) A phasing plan for phased developments;

(7) A description and details of any requested incentives, waivers or exemptions;

(8) For projects including a density bonus, documentation that the density bonus is requested for units provided that are inclusive of the city's inclusionary requirements;

(9) The process by which eligibility of qualified households will be reviewed and selected to rent or purchase affordable units;

(10) An annual reporting schedule and requirements;

(11) In for-sale housing, priority to first time home buyers and/or large families and in for-rent housing, priority to large families;

(12) Additional information as requested by the planning and building director.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3714 Allowances.

In approving an inclusionary housing agreement, the city may, at its sole discretion, include one or more of the following allowances:

(a) Unit Size Reduction. The size of the required inclusionary units may be smaller than the market rate units, consistent with all other provisions herein.

(b) Interior Finishes. Inclusionary units may have different interior finishes than market rate units so long as the interior features are durable, of good quality and consistent with current state building code standards for new housing.

(c) Accessory Dwelling Units. Projects consisting of single-family detached units may meet the inclusionary unit requirements by providing an accessory dwelling unit in accordance with the provisions of the city's accessory dwelling unit regulations on a one-for-one basis. All other requirements of this chapter, including income restrictions and term of affordability, shall be applied to second units.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3715 Reductions, adjustments, or waivers.

(a) A developer of a project subject to the requirements in this chapter may petition the city council for a reduction, adjustment, or waiver of these requirements based upon substantial evidence showing the absence of any reasonable relationship or nexus between the impact of the development and the inclusionary requirements.

(b) A project subject to the requirements of this chapter and which has received approval for a tentative subdivision or parcel map, use permit or other discretionary approval and submits a new or revised application for the same property may petition for a reduction, adjustment or waiver of the requirements with respect to the number of lots or square footage of construction previously approved.

(c) Any such petition shall be made in writing and filed with the planning and building department, along with the required fee established by city council resolution, not later than ten days before the first public hearing on any discretionary approval or permit for the development, or if no such discretionary approval or permit is required, or if the developer is protesting an action taken pursuant to this ordinance after the first public hearing on such permit or approval, then the petition shall be filed within ten days after the date of the action objected to by the developer. The petition shall set forth in detail the factual and legal basis for the claim of waiver, reduction, or adjustment.

(d) The city council shall consider the petition at the public hearing on the permit application or at a separate hearing within sixty days after the filing of the petition, the appellant shall bear the burden of presenting substantial evidence to support the petition including comparable technical information to support petitioner's position.

(e) No waiver shall be granted by the city council for a new project where a prior project was approved within the last three years unless the city council finds that:

(1) The new project is superior to the approved project both in its design and its mitigation of environmental impacts,

(2) Adequate affordable housing already exists in that the aggregate of new or substantially rehabilitated dwelling units within the City makes available more than 15 percent of such units at affordable housing cost to, and occupied by, persons and families of low and moderate income, and of such 15 percent, not less than 40 percent thereof is available at affordable housing cost to, and occupied by, very low-income households, or

(3) Exceptions to the affordable housing requirements will result in a better project that better meets the city's housing goals.

(f) The decision of the city council shall be final. If a reduction, adjustment, or waiver is granted, any change in the project shall invalidate the waiver, adjustment, or inclusionary requirements unless such change is approved by the city in advance.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

Chapter 6-38 HOUSING DEVELOPMENTS AND URBAN LOT SPLITS[1]

Sections:

6-3801 Purpose.

The purpose of this chapter is to provide objective zoning standards for housing developments and urban lot splits within single-family residential zones, to implement the provisions of state law as reflected in Government Code sections 65852.21 and 66411.7, and to facilitate the development of new residential housing units in a manner compatible with existing single-family residential uses and ensure sound standards of public health and safety.

(Ord. No. 689 , § 3(Exh. B), 10-23-2023)

6-3802 Definitions.

As used in this chapter, the following terms have the following meanings:

"Adjacent parcel" means a parcel sharing any portion of its property line(s) with the parcel being subdivided using the provisions of an urban lot split.

"Person acting in concert" means a person that has common ownership of the adjacent parcel with the owner of the subject parcel, or a person acting on behalf of, acting for the predominant benefit of, acting on the instructions of, or actively cooperating with, the owner of the parcel being subdivided.

"Hillside overlay district" means the area shown on the map entitled Hillside Overlay District dated July 8, 2002, adopted by Ordinance 528, a copy of which is on file at the city offices.

"Housing development" means one or two residential units on a single parcel within a single-family residential zone.

"Building footprint" means the area within the exterior walls of a building.

"Lafayette area ridge map" means the map entitled Lafayette Area Ridge Map, dated July 8, 2002 adopted by Ordinance 528, a copy of which is on file at the city offices.

"Natural contours" mean those contours existing on January 1, 2022 created through natural processes or pursuant to a valid permit to alter the grades on the site.

"Light reflectance value" (LRV) means the percentage of light a color reflects and is measured on a scale that ranges from zero (absolute black, absorbing all light) to 100 percent (pure white, reflecting all light).

"Percent slope" means the slope ("S") calculated for an area using either of the following formulas:

$S = 0.002296 \, i \, L / A$ or $S = 100 \, i \, L / a$

Where S = average percent slope

i= contour interval in feet

L = summation of length of all contours in feet

A = area in acres of parcel being considered

---

[1]Ord. No. 689 , § 3(Exh. B), adopted Oct. 23, 2023, repealed the former Ch. 6-38, §§ 6-3801—6-3811, and enacted a new Ch. 6-38 as set out herein. The former Ch. 6-38 pertained to similar subject matter and derived Ord. No. 681 , § 3(exh. A), adopted Dec. 13, 2021.

a = area in square feet of parcel being considered

"Protected tree" means a tree that is defined as a protected tree in Chapter 6-17 of the Lafayette Municipal Code

"Urban lot split" means a subdivision of an existing legal lot of record into no more that two separate parcels meeting the objective standards set forth in this chapter and the Subdivision Map Act.

"Viewing evaluation map" means the map entitled Viewing Evaluation Map, dated March 1, 1993, as amended by Ordinance 558 on September 25, 2006, a copy of which is on file at the city offices.

(Ord. No. 689 , § 3(Exh. B), 10-23-2023)

6-3803 Eligibility.

(a) To be eligible for a housing development or urban lot split as specified under state law and this chapter, the proposed housing development or urban lot split shall meet all of the following criteria:

(1) The parcel is located within a single-family residential district as provided for in Chapter 6-7 of the Lafayette Municipal Code.

(2) The parcel is not located on either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

(3) The parcel is not located on wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(4) The parcel is not located within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Government Code Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

(5) The parcel is not located within a hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

(6) The parcel is not located within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

(7) The parcel is not located within a special flood hazard area subject to inundation by the one percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not

comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:

(A) The site has been subject to a letter of map revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction.

(B) The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(8) The parcel is not located within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.

(9) The parcel is not located within lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

(10) The parcel is not located on lands with habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(11) The parcel is not under a conservation easement .

(12) The parcel is not included on the State Historic Resources Inventory.

(13) The urban lot split or housing development would not require demolition or alteration of:

Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

Housing that is subject to any form of rent or price control though a public entity's valid exercise of its police power.

Housing that has been occupied by a tenant in the last three years.

(14) The parcel is not a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(b) In addition, to be eligible for a housing development, the proposed housing development:

(1) Creates one or two new dwelling units, and

(2) Does not allow the demolition of more than 25 percent of the existing exterior structural walls unless the site has not been occupied by a tenant in the last three years.

(c) In addition, to be eligible for an urban lot split the proposed urban lot split shall meet all of the following criteria:

(1) The new created parcels are no smaller than 1,200 square feet.

(2) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.

(3) The parcel has not been established through prior exercise of an urban lot split as provided for in this chapter.

(4) Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split.

(Ord. No. 689 , § 3(Exh. B), 10-23-2023)

6-3804 Application procedure.

All housing developments and urban lot splits as permitted under state law and this chapter shall be considered ministerially, without discretionary review or a hearing.

A proposal for a housing development or urban lot split under this chapter shall be initiated by an application on a form prescribed by the city together with the required fees as adopted by city council resolution.

(Ord. No. 689 , § 3(Exh. B), 10-23-2023)

6-3805 Permit expiration.

A permit 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 manager may grant one 12-month extension of time upon written request if the city has not made applicable changes to the Lafayette Municipal Code and the development is not changed.

(Ord. No. 689 , § 3(Exh. B), 10-23-2023)

6-3806 Application of this chapter.

The requirements of this chapter are in addition to other applicable provisions of the Lafayette Municipal Code. Where there is a conflict between this chapter and other sections of the Lafayette Municipal Code, this chapter shall prevail.

(Ord. No. 689 , § 3(Exh. B), 10-23-2023)

6-3807 Construction of up to two units of at least 800 square feet.

The standards set forth in this chapter shall not physically preclude the construction of up to two units per parcel and shall not preclude each unit from being at least 800 square feet in floor area, unless otherwise precluded by law. If the housing project cannot be designed to meet the objective standards and the objective standards would preclude two 800 square foot units, the city will provide relief from one or more of the objective standards set forth in this chapter and as prioritized by the city council. The city shall determine the extent of relief necessary to allow two 800 square foot units. The purpose of this section is for the housing development and/or urban lot split to comply with the objective standards, General Plan and Lafayette Municipal Code to the maximum extent.

The city council hereby lists the following objective standards from lowest-to-highest priority. Encroach into 1) side yard, 2) rear yard, 3) front yard, 4) creek setback, and 5) ridgeline setback in that order.

(Ord. No. 689 , § 3(Exh. B), 10-23-2023)

6-3808 Number and type of units allowed.

(a) No more than two total units on each parcel, including accessory dwelling units and junior accessory dwelling units, shall be allowed on parcels that have been created by an urban lot split pursuant to state law and this chapter.

(b) No more than two primary dwelling units and four dwelling units total, including accessory dwelling units and junior accessory dwelling units, shall be allowed on a parcel that has utilized the housing development provisions pursuant to state law and this chapter.

(Ord. No. 689 , § 3(Exh. B), 10-23-2023)

6-3809 Owner occupancy.

(a) For a housing development, one of the two units shall be the property owner(s)' principal residence.

(b) An applicant for an urban lot split shall sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split. This does not apply to a community land trust or a qualified nonprofit corporation.

(Ord. No. 689 , § 3(Exh. B), 10-23-2023)

6-3810 Deed restriction.

The property owner must record a deed restriction, acceptable to the city, that does each of the following:

(a) Documents the parcel or housing development was created using the provisions of SB 9.

(b) Expressly prohibits any rental of any dwelling on the property for a term of 30 days or less.

(c) Expressly prohibits any non-residential use of the lots.

(d) Expressly requires the property owner(s) to occupy one of the dwelling units on the lot as the property owner(s)' principal residence. This provision does not apply to dwelling units on parcels created pursuant to an SB 9 urban lot split.

(Ord. No. 689 , § 3(Exh. B), 10-23-2023)

6-3811 Objective standards.

(a) Housing Development. Primary dwelling units developed under Government Code section 65852.21 are subject to the following objective standards or the objective standards in the underlying zone, whichever is less restrictive:

(1) The front setback, side yard setback, rear yard setback and secondary front setback shall be those established by the zoning district in which the property is located pursuant to Chapter 6-7 of the Lafayette Municipal Code. If one or more of those setbacks would preclude construction of two units of 800 square feet each, then the city will relax one or more setbacks to allow two units of 800 square feet each. At no time shall the side yard setback or rear yard setback be reduced to less than four feet for new construction.

Nonconforming setbacks shall be permitted to be maintained for an existing structure or structures constructed in the same location and to the same dimensions as an existing structure. Increased non-conforming setbacks are not permitted.

(2) Building height shall not exceed 35 feet as defined in Section 6-313 and two and one-half stories. Where permitted, building height for accessory dwelling units shall not exceed applicable heights as specified in Article 3 – Accessory Dwelling Units.

(3) One off-street parking space per unit shall be provided, unless the parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code or there is a car share vehicle located within one block of the parcel. The parking space shall have minimum dimensions of at least ten feet by 20 feet, either covered or open, and shall not be located within the required setback or side yard

(4) Import and off-haul shall be limited to a maximum of 200 cubic yards combined for grading outside the building footprint.

(5) Retaining walls outside the building footprint shall not exceed four feet in height. Multiple four-feet walls are permissible if they are separated by a minimum of four feet. Walls shall be constructed of natural stone or concrete and/or masonry with a cultured stone or stucco finish with a light reflectance value not to exceed 50 percent. Cut and fills shall be balanced so that off-hauling is maintained under 200 cubic yards.

(6) Grade changes outside a building footprint within the dripline of protected trees are prohibited. If required to comply with state law, building footprints within the dripline of protected trees shall be drilled pier construction.

(7) Building footprints shall not encroach in creek setbacks as calculated using the formula in Section 6-1841 LMC.

(8) No protected tree shall be removed. If a protected tree must be removed in order to comply with state law, the applicant shall replace the removed tree pursuant to the tree mitigation calculations in Chapter 6-17, Tree Protection.

(9) Driveways shall be constructed with permeable pavers where slope is under five percent. Impermeable paving is permissible where the driveway is over five percent slope.

(10) Patios and walkways shall be constructed with permeable pavers, decomposed granite or other permeable materials and applicant shall provide a permeability certificate. Impermeable surfaces adjacent to pools shall be limited to a ten-feet radius outboard.

(11) A stormwater control plan on a form established by the Contra Costa Clean Water Program shall be completed for each project demonstrating compliance by the Municipal Regional Water Quality Permit 3.0 established by the CA Clean Water Act and the National Pollutant Discharge Elimination System (NPDES).

(12) Detention basins for regulating stormwater shall not be constructed within ten feet of downhill adjoining properties.

(13) Windows facing side property lines shall have a five-feet minimum sill height, except as otherwise required by fire code. This requirement does not apply to ground floor windows.

(14) Compressors, pumps and HVAC equipment shall not be located between the front of residence and the front property line or secondary frontage and shall not be located within ten feet of a side or rear property line.

(15) Applicant shall comply with the city's water efficient landscape ordinance (WELO) (LMC 6-24.5).

(16) Each dwelling unit must demonstrate legal access meeting current fire district standards which shall be demonstrated by a sign off from the fire district prior to application submittal.

(17) Utilities shall be installed underground in accordance with applicable underground utility ordinances and with the rules and regulations of the state Public Utilities Commission (6-2053).

(18) Electric, gas and water utilities shall be separately metered for energy conservation purposes except for ADUs under 800 square feet and shall be subject to grading requirements of this section unless superseded by state standards.

(b) Hillside Development. For properties located in the mapped Hillside Overlay District (HOD), primary dwelling units developed under Government Code section 65852.21 are subject to the following objective standards or the objective standards in the underlying zone, whichever is less restrictive in addition to those listed above in Section 6-3812(1)(a)—(q).

(1) No portion of a structure may be erected within a mapped ridgeline setback as shown on the Lafayette Area Ridge Map (LARM).

(2) Specifically, no development may take place within 400 feet (measured in plan view) of a Class 1 ridgeline; no development may take place within 250 feet (measured in plan view) of a Class II ridgeline and no portion of a structure may be erected within 250 feet of a class III ridge that is higher than a horizontal plane that intercepts the ridgeline. The horizontal plane shall be at the nearest point of the structure to the ridgeline and perpendicular to the ridgeline or have an arc of 90 degrees from the endpoint of the ridgeline.

(3) Each structure in the hillside overlay district shall not be visible when viewed from lower elevations using the adopted viewing evaluation map showing the streets/locations from which views are considered. If a structure permitted under state law is visible, the applicant shall plant and maintain a minimum of one 15-gallon tree along each five linear feet of visible structure to screen the structure. The trees shall be of a species listed in Chapter 6-17, Tree Protection. Trees for this purpose shall be planted on the side of the residence that is visible and the exterior colors of the residence must have a light reflectance value below 50.

(4) Buildings shall be designed to have their longest dimensions parallel the natural contours.

(5) Beyond 30 feet from a house any new tree species planted shall be one of the species listed in Chapter 6-17, Tree Protection.

(6) Grading located outside a building footprint shall be limited to an aggregate maximum of cut and fill of 200 cubic yards.

(7) No portion of a lot which has a ground slope in excess of 35 percent may be altered by grading.

(c) Urban Lot Split.

(1) Size. Each new parcel shall be a minimum of 1,200 square feet in area.

(2) Number. Each parcel shall not be split into more than two parcels.

(3) Fire Safety. Each new parcel must demonstrate legal access meeting current fire district standards which shall be demonstrated by a sign off from the Fire District prior to application submittal.

(4) Depth. Minimum lot depth requirements shall be that established by zoning district in which the parcel is located.

(5) Width. Average lot width requirements shall be that established by zoning district in which the parcel is located.

(6) Slope. Each lot in the hillside overlay district will have a naturally contoured (not manmade) building site of 30 percent slope or less. All construction on each building site shall take place within the designated 30 percent slope area with the exception of:

(A) An access road or driveway (not parking area) that does not require grading;

(B) An ancillary structure, such as a deck supported by posts or cantilevered, and where the natural grade is undisturbed.

(Ord. No. 689 , § 3(Exh. B), 10-23-2023)

Part 3. - Land Use Districts

C = General Commercial (35 DU/A)
C-1 = General Commercial -1 (35 DU/A)
RB = Retail Business (35 DU/A)
SRB = Special Retail Business (35 DU/A)
MRA = Multiple Family Residential Distr20ict A (35 DU/A)

C-60 = General Commercial -60 (60 DU/A)
C-1-60 = General Commercial -1-60 (60 DU/A)
RB-60 = Retail Business -60 (60 DU/A)
SRB-60 = Special Retail Business -60 (60 DU/A)
MRB = Multiple Family Residential District B (35 DU/A)

MRO = Multiple Family Residential / Office (35 DU/A)

MRP = Multiple Family / Professional Office (35 DU/A)

P = Permitted by right L = Land Use Permit required -- = Not Permitted

#	USE	SRB	SRB-60	RB	RB-60	C	C-60	C-1	C-1-60	MRA	MRB	MRO	MRP
1	Administrative	L (1)	L (1)	P/L (2)	P/L (2)	P	P	P (3)	P (3)	--	--	--	P (11)
2	Administrative civic	P	P	P	P	P	P	L	L	--	--	--	--
3	Animal care, commercial	--	--	--	--	--	--	P	P	--	--	--	--
4	Auto repair and cleaning	--	--	--	--	--	--	L	L	--	--	--	--
5	Auto sales, rental and delivery	--	--	--	--	--	--	L	L	--	--	--	--
6	Auto servicing	--	--	--	--	L	L	L	L	--	--	--	--
7	Boarding House	--	--	--	--	--	--	--	--	--	--	--	--
8	Business and communication services	P/L (4)	P/L (4)	P/L (4)	P/L (4)	P	P	P	P	--	--	--	P (11)
9	Charitable/philanthropic institutions											L	L
10	Commercial automotive fee parking	L	L	L	L	L	L	L	L	--	--	--	--
11	Commercial laundry and dry cleaning	--	--	--	--	L	L	L	L	--	--	--	--
12	Commercial recreation	L	L	L	L	L	L	L	L	--	--	--	--
13	Community assembly and education	--	--	--	--	L	L	L	L	L	L	L	--

#	USE	SRB	SRB-60	RB	RB-60	C	C-60	C-1	C-1-60	MRA	MRB	MRO	MRP
14	Community buildings, clubs, and activities of a quasi-public character											--	L
15	Consultative service	L (1)	L (1)	P/L (2)	P/L (2)	P	P	P (3)	P (3)	P (10)	--	P	P
16	Construction sales and service	--	--	--	--	L	L	L	L	--	--	--	--
17	Convalescent homes											L	L
18	Convenience market	--	--	--	--	L	L	L	L	--	--	--	--
19	Day care and educational services	--	--	L	L	L	L	L	L	L		L	--
20	Fast food restaurant	P/L (5)	P/L (5)	P/L (5)	P/L (5)	P/L (5)	P/L (5)	P/L (5)	P/L (5)	--	--	--	--
21	Financial service	L (1)	L (1)	L (2)	L (2)	L	L	--	--	--	--	--	--
22	Firearm sales	--	--	--	--	--	--	L	L	--	--	--	--
23	Full-service restaurant	P	P	P	P	P	P	L	L	--	--	--	--
24	General commercial sales & service	--	--	--	--	P/L (6)	P/L (6)	P/L (6)	P/L (6)	--	--	--	--
25	General food sales	P/L (4)	P/L (4)	P/L (4)	P/L (4)	--	--	L	L	--	--	--	--
26	General personal service	P	P	P	P	P	P	P	P	--	--	--	P (11)
27	General retail sales	P	P	P	P	--	--	P (7)	P (7)	--	--	--	--
28	Health care	--	--	--	--	L	L	--	--	--	--	--	--
29	Home/Business furnishings	P/L (4)	P/L (4)	P/L (4)	P/L (4)	P	P	P	P	--	--	--	--
30	Home occupations											P	P
31	Hotels and motels	--	--	--	--	L	L	L	L	--	--	--	--
32	Light manufacturing and research	--	--	--	--	L	L	L	L	--	--	--	--
33	Limited child care (≤9 children)	P	P	P	P	P	P	P	P	P	P	P	--
34	Medical service					L (8)	L (8)	P (9)	P (9)	P (10)		P	P
35	Nursery schools											--	L
36	Publicly owned buildings											L (13)	L (13)
37	Real estate sales and service			L (2)	L (2)	P	P	L	L	--	--	--	P (11)
38	Residential - Multi-Family*	P	P	P	P	P	P	P	P	P	P	P	P
39	Residential business	L	L	L	L	L	L	L	L	L	L	L	L

#	USE	SRB	SRB-60	RB	RB-60	C	C-60	C-1	C-1-60	MRA	MRB	MRO	MRP
40	Sales representatives & goods brokers	L	L	L	L	P	P	--	--	--	--	--	P (11)
41	Self-service laundry/dry cleaning	L (12)	L (12)	L (12)	L (12)	P (12)	P (12)	L (12)	L (12)	--	--	--	--
42	Supportive Care	P	P	P	P	P	P	P	P	P	P	P	P
43	Undertaking service	--	--	--	--	L	L	L	L	--	--	--	--
44	Utility distribution and civic service	L	L	L	L	L	L	L	L	--	--	--	--
45	Uses which the Planning Commission has found, after notice and hearing, to be comparable to the above uses or which are determined to be compatible with the uses and purpose of the district.	--	--			L	L	L	L	L	L	L	L

1. Not permitted on the ground floor; for exceptions see the SRB zoning regulations
2. Permitted on upper floors; land use permit required on ground floor
3. Permitted at designated sites – see Section 6-997
4. Permitted if area is less than 2,000 sq.ft.; Land Use Permit is required for more than 2,000 sq.ft.
5. Permitted without a drive-through, drive-up or pass-through window;
   Land Use Permit required for a drive-through, drive-up or pass-through window; see also SRB zoning regulations
6. Permitted if area is under 7,500 sq.ft., use permit required over 7,500 sq.ft.
7. Permitted only in the Brown Avenue Overlay Area – see Section 6-983
8. Cumulative gross floor area is restricted to a maximum of 3,000 sq.ft.
9. Permitted only in the Golden Gate Way Overlay Area – see Section 6-983
10. Permitted if building permits were issued for the use before 6/1/82 & if not converting residential to nonresidential – see Section 6-823
11. Permitted if determined by the Planning Director to be compatible with the purpose of the district – see Section 6-8103
12. Permitted if the facility complies with Section 6-532
13. Except a local agency is regulated as provided in Government Code Sections 53091 through 53096 ; see Section 6-516

* For multifamily projects on properties identified as opportunity sites in the 6th Cycle Housing Element to meet Regional Housing Needs Allocation or by the Department of General Services Housing and Local Land Development Opportunities Map, in which 20 percent or more of the units are affordable to lower income households (as set forth in Sections 50079.5, 50093, and 50105 of the Health and Safety Code), owner-occupied and rental multifamily uses are considered a use by right pursuant to subdivisions (h) and (i) of Government Code Section 65583.2 and shall be approved ministerially.