

BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE

IN THE MATTER OF:

An Ordinance of the City Council of the City of)	
Lafayette, California recommending approval of a)	Ordinance 634
Zoning Text Amendment ("ZT01-14") to Chapter 6-5,)	
Article 1 "Miscellaneous" and Chapter 6-5, Article)	
2 "Nonconforming Uses" of the Lafayette)	
<u>Municipal Code.</u>)	

The City Council of the City of Lafayette does ordain as follows:

Section 1. Findings. The City Council finds the following:

WHEREAS, in 1986, the City of Lafayette adopted Ordinance No. 359, which amended Title 6 of the Lafayette Municipal Code, "LMC", to modify regulations in the General Commercial (C), General Commercial-1 (C-1), Retail Business (RB), and Special Retail Business (SRB) Land Use Districts; and

WHEREAS, based on Ordinance No. 359, §6-531 Residential Conversions, was amended to the Lafayette Municipal Code which established the requirement for a Land Use Permit to convert a dwelling unit from a residential use to a non-residential use or to replace a residential building with a building for a non-residential use within the SRB, RB, C, and C-1 Districts; and

WHEREAS, Resolution No. 2009-59 adopted the Housing Element, which has the following statement, "The single most important goal of the Lafayette Housing Chapter is to achieve an adequate supply of safe, decent housing for all residents of Lafayette. In order to achieve this goal, the policies and programs of the Housing Chapter address several major issues [including] maintaining and preserving the existing housing stock." (General Plan Page V-1) To this end, the General Plan sets forth the following program: "Program H-1.2.2: Conversion of Housing Units Downtown- Develop an inventory of residential units that have been converted to non-residential uses without the required permits and are in violation of the Zoning Ordinance in the C, C-1, SRB, and RB zoning districts. Work with property owners to convert and reclaim these units back to their original residential use"; and

WHEREAS, the City conducted extensive research to complete the inventory of properties in violation of §6-531 LMC, set forth in Program H-1.2.2 of the Housing Element. The results of the City's research indicate that the vast majority of conversions preceded 1986 or have gone through the proper Land Use Permit process. Two properties, totaling 32 units, were found to have been converted from residential use to non-residential use without the benefit of a Land Use Permit after 1986; and

WHEREAS, on April 1, 2013, the Planning Commission conducted a public hearing where it received written and oral testimony, including a staff report that detailed the research, options, and recommendations. After consideration and deliberation, the Planning Commission endorsed a five-year sunset period and recommended such to the City Council. This sunset period will require units in violation of §6-531 LMC to revert back to their prior residential use no later than five years from the effective date of the enacting ordinance. The Planning Commission also requested that:

- a) Over the next year, the City will work with property owners to set-up a program to help them through the process of converting units in violation of §6-531 LMC back to residential use.

- b) The City inform property owners that they can apply for Land Use Permit at any time.
- c) The City report back to the City Council in two years to provide information on the status of the converted units; and

WHEREAS, on May 13, 2013 the City Council conducted a public hearing where it received written and oral testimony, including a staff report that detailed the research, options, and recommendations from the City. After consideration and deliberation, the City Council adopted Resolution No. 2013-19 and established a five-year sunset period for residential uses in violation of §6-531 LMC to be converted back to their prior residential use. The City Council also directed City staff to initiate a Zoning Text Amendment to reflect the aforementioned sunset period; and

WHEREAS, the City prepared Zoning Text Amendment ZT01-14 to amend Chapter 6-5, Section 1 “Miscellaneous” and Chapter 6-5, Section 2 “Nonconforming Uses” of the Lafayette Municipal Code to codify the provisions of a five-year sunset period for residential uses in violation of §6-531 LMC to be converted back to their prior residential use; and

WHEREAS, on July 7, 2014, the Planning Commission of the City of Lafayette conducted a duly noticed public hearing pursuant to Government Code section 65854, at which time all persons wishing to testify in connection with ZT01-14 were heard and ZT01-14 was fully studied. Planning Commission adopted Resolution No. 2014-15, forwarding a recommendation of approval to the City Council; and

WHEREAS, on September 8, 2014 and September 22, 2014, the City Council of the City of Lafayette conducted a duly noticed public hearing pursuant to Government Code section 65854, at which time all persons wishing to testify in connection with ZT01-14 were heard and ZT01-14 was fully studied; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF LAFAYETTE CITY COUNCIL THAT:

Section 2. Zoning Text Amendment Findings. Pursuant of Lafayette Municipal Code Section 6-213 and based on the entire record before the City Council and all written and oral evidence received at the public hearing on this matter, the City Council hereby makes and adopts the following findings:

- (a) The Zoning Text Amendment is compatible with the General Plan and each of its elements and all elements therein because:
 - 1. The General Plan includes a stated goal to “Conserve and improve the existing housing supply to provide adequate, safe, and decent housing for all residents, with emphasis on maintaining the semi-rural character of the City.” (Goal H-1); and
 - 2. The General Plan includes as a stated policy to “Discourage the conversion of older residential units to other uses.” (Policy H-1.2.2); and
 - 3. The General Plan includes as a stated program to “Develop an inventory of residential units that have been converted to non-residential uses without the required permits and in violation of the Zoning Ordinance in the C, C-1, SRB, and RB zoning districts. Work with property owners to convert and reclaim these units back to their original residential use.” (Program H-1.2.2)

- (b) The Amendment is compatible with the uses authorized in, and the regulations prescribed for, the land use districts for which it is proposed and with the regulations for each land use district.
- (c) There is community need to amend Chapter 6-5, Section 1 “Miscellaneous” and Chapter 6-5, Section 2 “Nonconforming Uses” of the Lafayette Municipal Code.

Section 3. CEQA. The City finds and determines with certainty that the project described in ZT01-14 will not have a significant effect on the environment. A Negative Declaration will be filed upon final City Council approval of the project.

Section 4. Adoption of Amendment. Based on the record before the City Council, all written and oral evidence presented to the City Council, and the findings made in this ordinance, the City Council hereby approves ZT01-14 amending Chapter 6-5, Section 1 “Miscellaneous” and Chapter 6-5, Section 2 “Nonconforming Uses” of the Lafayette Municipal Code, as described in Exhibit “A” and Exhibit “B” attached hereto and incorporated herein by reference.

Section 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivision, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. To this end the provisions of this Ordinance are declared to be severable.

Section 6. Public Records. The location and custodian of the documents and any other material which 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.

Section 7. Publication. The City Clerk shall either (a) have this Ordinance published in a newspaper of general circulation once within fifteen (15) days after its adoption, including the names of the city council members voting for and against its passage, 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 adoption, including the names of the city council members who voted for and against its passage.

Section 8. Effective Date. This Ordinance becomes effective thirty (30) days after its adoption.

Section 9. Certification. The City Clerk shall certify to the adoption of this Ordinance.

PASSED AND ADOPTED by the City Council of the City of Lafayette at a regular meeting on September 22, 2014, by the following vote:

AYES: Tatzin, B. Andersson, M. Anderson, Mitchell and Reilly

NOES: None

ABSENT: None

ABSTAIN: None

ATTEST:

APPROVED:

Joanne Robbins, City Clerk

Don Tatzin, Mayor

Attachments

- Exhibit "A" Amendments to Chapter 6-5, Section 1 "Miscellaneous" (Strikethrough and underline version)
- Exhibit "B" Amendments to Chapter 6-5, Section 2 "Nonconforming Uses" (Strikethrough and underline version)

Exhibit "A"

Amendments to Chapter 6-5 "General Provisions"
Article 1 "Miscellaneous" of the Lafayette Municipal Code

~~[Strikethrough and~~ Underline Version beginning on following page]

Chapter 6-5 "General Provisions"
Article 1 "Miscellaneous" of the Lafayette Municipal Code
~~Strikethrough~~ and Underline Version

6-501 - Repealed by Ordinance 221.

6-502 - Synonymous symbols and phrases.

- (a) Map symbol "R-2" is synonymous with "D-1."
- (b) "Transitional residential agricultural district" is synonymous with "single-family residential district-20" and map symbol "R-A" is synonymous with "R-20."
(Ord. 54 § 2 (part), 1971)

6-503 - Enforcement.

- (a) No land in the city shall be used for any purpose not permitted under Part 2 of this title, nor shall any building or structure be erected, constructed, altered, moved or maintained contrary to this Part 2. Any use of land, building or structure contrary to this Part 2 is unlawful and may be subject to provisions of Chapters 1-9 and/or 8-21 of this municipal code.
- (b) All property improvements or other changes permitted under this title shall be maintained in accordance with such permits. Violations of permits may be subject to enforcement in accordance with Chapters 1-9 and/or 8-21 of this municipal code.
(Ord. 560 § 5 (part), 2006: Ord. 54 § 2 (part), 1971)

6-504 - Land use permits.

- (a) A qualified applicant may apply for a land use permit to apply to land in any land use district established in this Part 2 of this title, for one or more of the uses for which land use permits may be granted in the district. A qualified applicant is any person having a freehold interest in land, a possessory interest entitling him to exclusive possession, or a contractual interest which may become a freehold or exclusive possessory interest and is specifically enforceable. An application shall be filed with the planning director.
- (b) The planning commission shall administer land use permits.
(Ord. 54 § 2 (part), 1971)

6-505 - Variances in new subdivisions.

- (a) A modification or variance in the requirements of lot area, side yards, height or setback necessary to the consideration of a tentative map of a subdivision shall be considered and granted or denied as an exception, under Division 4 of Title 8 of the Contra Costa County Ordinance Code; notice of the hearing of the exception shall be given as for notice of the hearing on an application for a land use permit.
- (b) The planning commission shall administer modification or variance in lot area, side yard, height or setback necessary to the consideration of the tentative map of a subdivision.
(Ord. 54 § 2 (part), 1971)

6-506 - Repealed by Ordinance 221.

6-507 - Division and consolidation of lots.

- (a) Except as otherwise provided in this section, a person shall not divide any lot or parcel of land and shall not convey any lot or parcel of any part of it if the division or conveyance so reduces the area, width, yard or setback of the lot or parcel or creates a lot or parcel with an area, width, yard or setback so small that it does not conform to this Part 2 of this title.
 - (b) No land providing the required area, width, yard or setback for a dwelling unit shall be considered as providing the required lot area, width, yard or setback for any other dwelling unit.
 - (c) Any lot or parcel of the land of less width or area than the minima established in this Part 2 may be occupied by a single-family dwelling and its accessory buildings if:
 - (1) The owners of the lot or parcel do not own enough adjoining property to make the lot or parcel of proper width and area;
 - (2) The setback, side yard and rear yard requirements of this Part 2 are met; and
 - (3) The lot is delineated on a recorded subdivision map, or its ownership is of record in the county recorder's office on the effective date of the adoption of the zoning district applicable to the lot or parcel.
- (Ord. 287 § 2, 1982; Ord. 54 § 2 (part), 1971)

6-508 - Required area reduced by public use.

If part of the lot or parcel of land having not less than the required area for its land use district is acquired for public use in any manner, including dedication, condemnation or purchase, and if the remainder of the lot or parcel has not less than 80 percent of the area required for its land use district, the remainder shall be considered as having the required area, but setback, side yard and rear yard requirements shall be met. If a lot or parcel of land has an authorized nonconforming status as to area under any city ordinance, the parcel shall retain its nonconforming status if the acquisition for public use does not reduce the remainder below 80 percent of the existing nonconforming area. The setback, side yard and rear yard requirements of the land use district shall be met, except for buildings or structures in existence at the time of public acquisition.

(Ord. 54 § 2 (part), 1971)

6-509 - Lots divided by district.

When any zoning district boundary divides a lot or parcel owned of record as one unit, the regulations of the least restricted district shall extend for 30 feet into the more restrictive district, provided both zoning districts are generally similar (commercial to commercial, residential to residential).

(Ord. 361 § 2, 1987; Ord. 54 § 2 (part), 1971)

6-510 - Highway setback lines.

- (a) No building or structure (other than excepted structures as herein defined) shall hereafter be erected, constructed or placed on any land in this city between the highway setback lines hereby established and the common boundary line of the land and any state highway or public road in this city. The highway setback lines shall be lines parallel to the boundary lines of highways and public roads. In determining the location of highway setback lines the distance from the boundary of the state highway or public road to the setback line shall be measured inward on the land, at right angles to the boundary lines. The setback line on land bounded on one or more sides by a public road other than a state highway shall be ten feet inward from each boundary line.

- (b) Land use permits to modify the provisions of subsection (a) of this section may be granted after application in accordance with Part 1 of this title.

(Ord. 54 § 2 (part), 1971)

6-511 - Sight obstructions at intersections.

- (a) Obstructions Prohibited. No structure (including but not limited to fences and gateways) or vegetation which obstructs the visibility of and from vehicles approaching the intersection of a state highway, public road or street with another state highway, public road or street shall be constructed, grown, maintained or permitted higher than two and one-half feet above the curb grade, or three feet above the edge of pavement, within a triangular area bounded by the right-of-way lines and a diagonal line joining points on the right-of-way lines 25 feet back from the point of their intersection, or, in the case of rounded corners, the triangular area between the tangents to the curve of the right-of-way line and a diagonal line joining points on said tangents 25 feet back from the point of their intersection. The tangents referred to are those at the beginning and at the end of the curve of the right-of-way line at the corner.
- (b) Exceptions. This section does not apply to existing public utility poles, or existing permanent structures or existing supporting members or appurtenances thereof; official traffic signs or signals; or corners where the contour of the land itself prevents visibility.
- (c) Enforcement. Violations of this section may be subject to enforcement in accordance with Chapters 1-9 and/or 8-21 of this municipal code.

- (d) Repealed by Ordinance 560.

(Ord. 560 § 5 (part), 2006; Ord. 54 § 2 (part), 1971)

6-512 - Setback requirements.

On a corner lot the setback requirements applicable to the district in which the lot is located shall apply to all state highway, public road and street frontages of the lot. The setback lines established by this Part 2 shall apply wherever any boundary line of a lot or parcel of land is common with the boundary line of any state highway, public road or street.

(Ord. 54 § 2 (part), 1971)

6-513 - Building height.

The limits of heights of structures established in this Part 2 of this title for any district shall not apply to chimneys, stacks, fire towers, radio towers, television towers, water towers, windmills, oil and gas well derricks, wind chargers, grain elevators, penthouses, cupolas, spires, belfries, domes, monuments, flagpoles, telephone poles, telegraph poles, silos, water tanks and necessary mechanical appurtenances attached to buildings. In all cases parapet or fire walls on buildings or structures otherwise conforming to the regulations established in this Part 2 may be constructed not higher than three feet.

(Ord. 54 § 2 (part), 1971)

6-514 - Obstructions in yard areas.

Every part of a required yard area shall be open and unobstructed to the sky, except that fire escapes, open stairways, chimneys and the ordinary projections of sills, belt-courses, cornices, eaves and ornamental features which do not obstruct the light and ventilation on any adjoining parcel of land shall not constitute obstruction nor violate required yard regulations.

(Ord. 54 § 2 (part), 1971)

6-515 - Side yards on lots established before effective date of zoning.

Notwithstanding any other provisions of this Part 2 of this title, side yards shall be permitted in any single-family residential district, multiple-family residential district, and forestry recreational district, according to the following table, for any lot or parcel of land which was established by records in the office of the recorder before the effective date of the initial zoning by Contra Costa County for the area or district in which the lot or parcel of land is situated:

Front Width of Lot	Minimum Aggregate Side Yard Allowed	Minimum Single Side Yard Allowed
100 feet or less but more than 80 feet	20 feet	10 feet
80 feet or less but more than 51 feet	15 feet	5 feet
51 feet or less but more than 41 feet	10 feet	5 feet
41 feet or less but more than 31 feet	8 feet	3 feet
31 feet or less	6 feet	3 feet

(Ord. 54 § 2 (part), 1971)

6-516 - Local agencies, utilities and pipelines.

- (a) The use of land for rights-of-way for the construction, maintenance and repair of public utilities and publicly owned facilities, and for privately owned pipelines for the transportation of oil, gas, water and other substances transportable by pipelines, is not regulated or restricted by this title.
 - (b) A local agency (an agency of the state for the local performance of governmental or proprietary functions within limited boundaries) is regulated as provided in Government Code Sections 53091 through 53096.
- (Ord. 358 § 1, 1987; Ord. 59 § 2, 1971)

6-517 - Accessory uses in rear yards.

An accessory building or accessory use may occupy not more than 30 percent of a required rear yard.

(Ord. 54 § 2 (part), 1971)

6-518 - Rear yard abutting on side yard.

In all single-family residential districts and multiple-family residential districts, there shall be a rear yard of not less than five feet wherever the rear yard of a lot or parcel of land abuts on a side yard.

(Ord. 54 § 2 (part), 1971)

6-519 - Contract zoning.

The city council may, pursuant to a written and recorded agreement between the city and all owners of record of the property, impose reasonable conditions to the land use reclassification of property, where it finds that the conditions must be imposed so as not to create problems inimical to the public health, safety and general welfare of the city.

(Ord. 50 § 2, 1971)

6-520 - Drilling for oil, gas and minerals.

Land use permits may be granted, after application in accordance with the provisions of Chapter 6-1 of this title,

for exploration and drilling for the production of oil, gas or minerals in all land use districts.
(Ord. 59 § 3, 1971)

6-521 - Repealed by Ordinance 266.

6-522 - Drainage requirements.

Drainage facilities shall be installed under a permit issued pursuant to Divisions 1, 2 or 3 of Title 8 of the Contra Costa County Ordinance Code, adequate to meet and comply with the drainage design standards and requirements set forth in Chapter 3 of Division 4 of Title 8 of said code. A permit for the installation of drainage facilities will not be issued until applications, plans and exhibits for such facilities are submitted which comply with the requirements of this title.

(Ord. 59 § 5, 1971)

6-523 - Livestock.

- (a) Livestock may be kept in the single-family residential-10 (R-10), single-family residential-12 (R-12), single-family residential-15 (R-15), single-family residential-20 (R-20), single-family residential-40 (R-40), single-family residential-65 (R-65), single-family residential-100 (R-100) and low-density residential (L-R) land use districts, subject to the following requirements:
 - (1) Livestock may be kept only on a parcel of land of not less than 40,000 square feet in area in single fee ownership.
 - (2) No more than one head of livestock shall be maintained per 20,000 square feet of area.
 - (3) In the R-10, R-12 and R-15 zoning districts a land use permit shall be obtained for the keeping of livestock. Development in these districts, however, is of such a nature, because of small lots, narrow side yards and close development, that the keeping of livestock in such highly developed areas is seldom appropriate. Land use permits for the keeping of livestock will be issued only where it can be demonstrated that the lot involved in the application and lots in the surrounding area are of such a size and configuration that the keeping of livestock on such lots is compatible and consistent with the surrounding development and that such area is comparable to other areas within the city where a land use permit is not required for the keeping of livestock.
- (b) Variance permits to modify subsection (a)(1) of this section may be granted in accordance with the applicable provisions of Chapter 6-2 of this title.
(Ord. 232 § 1, 1980: Ord. 80 § 1, 1972: Ord. 63 § 2, 1972)

6-524 - Animal structures.

Notwithstanding the setback, side yard and rear yard provisions in the single-family residential land use districts, the following provisions shall apply to the location of animal structures in all such districts, provided such structures are permitted at all:

- (a) Chicken houses, rabbit hutches, barns, stables and similar accessory structures used to shelter poultry, small animals or livestock shall be located in the rear yard of the principal structure.
- (b) Chicken houses, rabbit hutches, barns, stables and similar accessory structures used to shelter poultry, small animals or livestock shall be set back not less than 60 feet from the front property line and from any street line

and shall be not less than 55 feet from any point on an adjoining parcel of land, at which point the exterior wall of a dwelling unit either exists or could legally be constructed.

- (c) Fenced pasture, paddocks or other enclosures for livestock, poultry or small animals shall not be located nearer than ten feet to any property line.
- (d) Variance permits to modify subsections (a), (b) and (c) of this section may be granted in accordance with the applicable provisions of Chapter 6-2 of this title.
(Ord. 125 § 1, 1974: Ord. 80 § 2, 1972: Ord. 63 § 3, 1972)

6-525 - Repealed by Ordinance 543.

6-526 - Height limitations in required yards.

- (a) Accessory buildings, as defined in Section 6-302 of this title, and structures, as defined in Section 6-355 of this title, shall not exceed the following height limits, if constructed in the required setback (front yard), side yard or rear yard which is applicable to the main building or principal structure on the lot:

- (1) Accessory buildings, 12 feet;

- (2) Structures, six feet.

For example, if the rear yard for the principal structure is 15 feet, but the rear yard for an accessory building is three feet, any accessory building within the 15-foot rear yard required for the principal structure shall not exceed 12 feet in height.

- (b) For the purpose of this section, the height of a structure shall be determined by measurement on its tallest side between natural grade and its highest part; and the height of an accessory building shall be determined as provided in Section 6-313 of this title.
- (c) Variance permits to modify the provisions of this section may be granted in accordance with the applicable provisions of Chapter 6-1 of this title.
(Ord. 274 § 1, 1982: Ord. 243 § 2, 1981)

6-527 - Mobilehomes.

Mobilehomes shall be permitted in the R-6, R-10, R-12, R-15, R-20, R-40, R-65, R-100 and LR districts, subject to the following provisions:

- (a) The mobilehome shall be certified under the National Mobilehome Construction and Safety Standards Act of 1974, and any subsequent revisions thereto.
- (b) The mobile home shall comply with all applicable zoning regulations, including but not limited to use restrictions, number and location of required parking spaces, setback and yard requirements, and height limits.
- (c) The mobilehome shall be installed on a permanent foundation approved by the Contra Costa County building inspection department.
- (d) The exterior covering material shall extend to the ground, consistent with the requirements of the Uniform Building Code.

(e) After making an inspection of the proposed site, and of its neighborhood, but without requiring notice and hearing, the zoning administrator shall make a finding that the mobilehome is compatible with the neighborhood surroundings. Such finding shall be based on the following standards:

- (1) The exterior material, the roofing material, the roof pitch and the roof overhang shall be the same as those on existing structures in the surrounding area. Where there is no consistency of materials, pitch and/or overhang, the mobilehomes shall be compatible in these respects with the surrounding area.
- (2) The landscape treatment of the property and placement of structures on the site shall be such as to ensure compatibility with the surrounding area.
- (3) Additions to the mobilehome, including those of conventional or modular construction, and accessory buildings such as a garage or storage shed, shall be compatible with the design treatment of the mobilehome.

(Ord. 275 § 4, 1982)

6-528 – Prohibited uses and activities.

The following uses and activities are prohibited in all land use classification (zoning) districts:

- (a) Any use or activity which is prohibited by local, regional, state, or federal law;
- (b) Construction or use of helicopter landing pads, heliports and all other helicopter facilities;
- (c) Establishment or operation of medical marijuana dispensaries, as defined in Section 6-429.5; and
- (d) Cultivation or production of medical marijuana.

(Ord. 601 § 1 (Exhibit A), 2011)

6-529 - Temporary sales.

Notwithstanding other provisions in this title, the temporary sales of perishable goods from vehicles or from temporary structures or facilities may be conducted subject to written conditional approval of the planning director for each such use, and subject to the restrictions contained in this section.

- (a) The planning director may authorize the conduct of these uses in any zoning district except the RB and SRB districts, provided that:
 - (1) The property fronts on either Mt. Diablo Boulevard, Moraga Road, St. Mary's Road, Pleasant Hill Road or Deer Hill Road;
 - (2) The property owner gives written consent thereto;
 - (3) The use will, in the planning director's opinion, neither create nor aggravate a traffic hazard nor a parking problem; and
 - (4) Not more than two advertising or identification signs, totaling not more than 50 square feet in total area, and not more than 25 square feet in area for a single sign, are displayed.

- (b) A person who desires to conduct a temporary sale as defined in this section shall submit a written application therefor, in a form acceptable to the planning director, and containing such information as he may reasonably require.
 - (c) There shall be a nonrefundable application fee for the processing of an application submitted pursuant to this section. The city council shall by resolution prescribe the amount of said fee, or the method of calculating it.
 - (d) Approval of a temporary sales use shall be for not more than three months, subject to reconsideration by the planning director and renewal by him for additional periods of three months each.
 - (e) The planning director may impose reasonable conditions on such temporary sales uses. Such conditions may include, but are not limited to, restricting the days and/or hours of operation, prescribing the appearance, location and size of signs, controlling the locations for customer and employee parking, limiting the scope or size of the activity, requiring a minimum number of persons to be on duty, controlling refuse collection and cleanup of the premises, and prescribing the appearance of the vehicles, structures or facilities to be used.
 - (f) Upon request by any person, the planning director shall refer the application for conduct of temporary sales to the planning commission for action.
 - (g) The temporary sales allowed by this section are exempted from the provisions of this title which may otherwise be in conflict with the provisions of this section.
 - (h) The provisions in this section shall not exempt these temporary uses, their structures or facilities, from the requirements of any applicable construction code, nor from any applicable health or safety law or ordinance.
 - (i) This section is not intended to prohibit permanent sales from movable structures, such as carts, kiosks, etc., if such sales are conducted pursuant to the necessary permits under this chapter; or the conduct of special events for short periods of time, if such special events are conducted pursuant to the necessary city approvals.
- (Ord. 281 § 1, 1982)

6-530 - Satellite dish antennas.

- (a) Purpose and Definition. This section regulates the installation of satellite dish antennas in all residential and agricultural districts of the city. A satellite antenna is any parabolic or spherical antenna over three feet in diameter which receives television or other signals from orbiting satellites or other devices.
- (b) Findings. The council finds that the installation of satellite dish antennas, unless regulated, may adversely affect the aesthetic values and safety of residential areas of the city. Therefore, the installation of these antennas is regulated to protect views from public rights-of-way and from adjacent properties, while not preventing the installation of such antennas in an unobtrusive and aesthetically pleasing manner.
- (c) Regulations. The following regulations apply to the installation of a satellite dish antenna (unless a modification to subparagraphs (7) through (10) of this subsection is approved under subsection (e) of this section).
 - (1) A satellite dish shall be constructed and erected in a secure and wind-resistant manner.
 - (2) A satellite dish shall be constructed of noncombustible and noncorrosive materials.
 - (3) A satellite dish shall be constructed of nonreflective materials, and its color shall blend in with the surroundings. Perforated or wire-mesh dishes are encouraged.

- (4) No advertising or signage of any type is permitted on a satellite dish.
 - (5) All wires or cables necessary for the operation of the satellite dish should be placed underground. Guy wires are discouraged.
 - (6) A satellite dish shall be maintained in an operable state with no structural defects or visible damage.
 - (7) There shall be no more than one satellite dish per lot.
 - (8) For a ground-mounted antenna located in an interior side or rear yard, a setback equal to the height of the antenna is required between the property line and any part of the antenna, notwithstanding Section 6-526
 - (9) The maximum height permitted is 12 feet, measured from ground level immediately under the antenna to the highest point of the antenna or any appurtenance attached to it. The height is measured when the satellite dish is directed at a point 20 degrees above horizontal.
 - (10) In any case where a side or rear yard abuts a public right-of-way or private street, a setback of 15 feet is required between the public right-of-way or the right-of-way of a private street and any portion of the satellite dish.
 - (11) For hillside lots, additional attention, evaluation and conditions may be imposed by the city to assure that visual impacts on other properties are minimized.
 - (12) The planting of screening landscape materials or provision of solid fencing is encouraged and may be required by the city to screen satellite dishes from public rights-of-way and other properties.
- (d) Procedures.
- (1) The planning director shall establish submittal requirements for applications for satellite dish antennas. Each application shall be accompanied by a fee in an amount established by city council resolution.
 - (2) Except as provided in subsection (d)(3), the planning director is authorized to review and approve an application for a satellite dish antenna provided he sends written notice to all property owners within 300 feet at least ten days beforehand and considers any comments received before making a decision. The planning director may impose conditions of approval consistent with the intent and purpose of this section.
 - (3) The planning director (A) may refer any application to the design review commission and (B) shall refer to the design review commission an application for a satellite dish antenna to be placed in one of the sensitive locations listed in subsection (e) of this section. Before approving a satellite dish antenna in one of the listed sensitive locations, the design review commission shall hold a noticed public hearing in accordance with Section 6-211(b). The design review commission may impose conditions of approval consistent with the intent and purpose of this section.
 - (4) A decision by the planning director or design review commission may be appealed under Section 6-280
- (e) Sensitive Locations and Required Findings.

(1) An application for a satellite dish antenna to be placed in one of these sensitive locations requires approval by the design review commission:

(A) On a roof top;

(B) In a required front setback, or street sideyard on a corner lot;

(C) Between the required front setback, or street sideyard of a corner lot, and a dwelling when the antenna is visible from the abutting street;

(D) At a location in conflict with subsection (c), subparagraphs (7) through (10).

(2) Before approving a satellite dish antenna in one of the listed sensitive locations, the design review commission shall make the following findings:

(A) There is no other location which can effectively receive incoming signals; and

(B) Because of topography, house design or location or landscaping, the proposed satellite dish will not have a significant adverse impact on any surrounding property.

(Ord. 350 § 1, 1986)

6-531 - Residential conversions.

(a) No person may convert a building from a residential to a non-residential use or replace a residential building with another building or facility for non-residential use in the SRB, RB, C or C-1 districts without first obtaining a land use permit. In reviewing an application, the planning commission shall consider all of the following:

(1) The number of residential tenants who would be displaced;

(2) Whether the proposed conversion or redevelopment would reduce the availability of low and moderate housing in the city;

(3) Whether the building is in a desirable or marginal location for residential use;

(4) The compatibility with the adjacent uses, whether residential or nonresidential;

(5) Whether the proposed conversion would result in a significant reduction of the existing amenities such as landscaping and open space;

(6) Whether the proposed conversion complies with:

(A) The off-street parking requirements of Sections 6-601 through 6-661 of this code,

(B) The commercial building requirements of the building code (including access for the handicapped) and the fire code.

(b) If a structure is converted from a residential use to a non-residential use without a land use permit, the property is subject to the provisions in Chapter 6-5, Article 2.

(Ord. 359 § 1(A), 1987; Ord. 349 § 8, 1986)

6-532 - Criteria for retail dry cleaners.

A retail dry cleaners shall comply with all of the following:

- (a) The dry cleaning system shall be a self-contained enclosed system, nonvented to the atmosphere;
- (b) Evidence of approval of the proposed system by the Bay Area air quality management district shall be submitted prior to commencement of use; and
- (c) Maximum square footage of the facility shall be 2,000 square feet total.
(Ord. 359 § 1(B), 1987)

6-533 - Firearm sales.

- (a) Purpose. It is the purpose of this section to provide for the appropriate location of firearm sales activity and regulate such activity through the permitting process.
- (b) Permit Requirement. The sale of firearms is permitted on the issuance of a land use permit, and a police permit as provided under Chapter 8-6, Article 2, in the Retail Business District (RB), General Commercial District (C), Special Retail Business District (SRB) and General Commercial District 1 (C-1). Firearm sales are prohibited in all other land use districts.
- (c) Procedure. An applicant for a land use permit for sale of firearms shall apply to the planning commission by application prescribed by the city in the manner provided by Section 6-201 et seq.
- (d) Criteria. In addition to the findings required under Section 6-215, the planning commission shall review an application for a land use permit for the sale of firearms for satisfaction of the following criteria:
 - (1) Locational compatibility of the proposed use with other existing uses in close proximity, in particular elementary, middle or high school, pre-school or day-care center, other firearms sales business, liquor stores and bar, and residentially zoned area;
 - (2) Architectural compatibility of the proposed use with other existing uses in the vicinity, due to the requirements of Chapter 8-6, Article 2 regarding a "secure facility."
- (e) Conditions. An approved land use permit is not valid until the applicant satisfies the following terms and conditions:
 - (1) Possession of a valid police permit as required under Sections 8-605 et seq.;
 - (2) Possession of all licenses and permits required by federal and state law; and
 - (3) Compliance with the requirements of the city's building code, fire code and other technical code and regulation which governs the use, occupancy, maintenance, construction or design of the building or structure. The use permit shall also contain a condition that the applicant must obtain a final inspection from the city building official demonstrating code compliance before the applicant may begin business at the premises at issue.
- (f) Nonconforming Use. An operator of a firearm sales activity in a residential zone who is the holder of a valid seller's permit issued by the State Board of Equalization and a valid certificate of eligibility issued by the California Department of Justice, all of which were issued prior to October 24, 1994, may continue his/her firearms sales activity provided a police permit and business registration are obtained from the city within 60

days of the effective date of the ordinance codified in this section, and provided the operator remain fully licensed by all agencies listed above.
(Ord. 433 §§ 3, 4, 1994)

Exhibit "B"

Amendments to Chapter 6-5 "General Provisions"
Article 2 "Nonconforming Uses" of the Lafayette Municipal Code

[~~Strikethrough~~ and Underline Version beginning on following page]

Chapter 6-5 "General Provisions"
Article 2 "Nonconforming Uses" of the Lafayette Municipal Code
~~Strikethrough~~ and Underline Version

6-550 - General.

- (a) Unless otherwise stated in the regulations for a specific zoning district, the regulations in this article shall apply to all nonconforming uses.
- (b) The use of land, or the use of a building, structure or improvement, existing on May 1, 1980, which does not conform to the land use regulations in this title, may continue as provided in this article, so long as the use does not violate any other ordinance or law.
- (c) "Land, building, structure or improvement," as used in this section, refers only to that portion which is actually utilized for the nonconforming but preexisting use. The term does not include an improvement which is not a part of the existing use; and any land, building, structure or improvement which is not a part of the existing use shall be disregarded in the application of the provisions of this article.

(Ord. 221 § 7 (part), 1980)

6-551 - Regulations.

The following regulations apply to each nonconforming use:

- (a) No physical change in the use is permitted other than ordinary maintenance and repair, except as provided by Section 6-553
- (b) No increase or enlargement of the area, space or volume occupied and used is permitted.
- (c) No change in the nature or character of the nonconforming use is permitted.
- (d) If the nonconforming use is replaced by a conforming use, the right to continue the nonconforming use is automatically terminated.
- (e) If the nonconforming use discontinues active operation, except for reasons defined by Section 6-554 for a continuous period of 120 days, the nonconforming use terminates and the facilities accommodating or serving such activity shall thereafter be utilized only for uses permitted or conditionally permitted by the regulations of the applicable zoning district.
- (f) If the nonconforming use is a non-permitted residential conversion in the downtown, the property owner shall apply for a land use permit or restore the property back to its original residential use when the following occurs:
 - (1) At or before the end of a five-year period from the date of discovery; or
 - (2) When the property is sold; or
 - (3) When the property is developed.

(Ord. 221 § 7 (part), 1980)

6-552 - Certificates.

- (a) The planning director shall compile a list of all nonconforming uses which exist within the commercial districts of the city and shall issue a "certificate of nonconforming use" to the proprietor of each such use and to the owner of property upon which the nonconforming use exists. No use of land, building or structure may be made other than that specified in the certificate of nonconforming use unless the use conforms with the regulations of the land use district in which the property is located. Failure of the proprietor or owner to receive such certificate of nonconforming use, or failure of the planning director to issue such certificate, shall not affect

the nonconforming status of such use.

(b) The planning director shall file a copy of each certificate of nonconforming use in the office of the building inspection department. No building permit may be issued to an applicant for property for which a certificate of nonconforming use exists, without the prior written approval of the planning director.

(Ord. 221 § 7 (part), 1980)

6-553 - Alterations.

Physical changes may be made in a building or structure which contains a nonconforming use, and the use may continue after said changes are made, provided that:

- (a) A land use permit is obtained prior to the making of, and authorizing, the physical changes; and
- (b) There is no expansion or extension of the nonconforming use, nor any change in the nature, character or intensity of such use.

(Ord. 221 § 7 (part), 1980)

6-554 - Reconstruction.

A building or structure containing a nonconforming use may be rebuilt and the use continued if the building or structure is damaged by fire, collapse, explosion or act of God, occurring after May 1, 1980; and if the expense of the work to restore the building to its former status prior to the damage does not exceed 50 percent of the fair market value of the building or structure in its damaged state at the time immediately before the proposed work will be undertaken. The 50-percent factor is a determinant of whether or not a nonconforming use may continue and is not a maximum limit of moneys which could be expended for restoration work. The value of the structure shall be determined by an independent appraisal and approved by the planning commission. The floor area and overall outside dimensions of any building, or portion thereof, devoted to the nonconforming use shall not be increased; no open parking, loading, sales, display, service, production or storage area accommodating or serving the nonconforming use shall be relocated or increased in size; and no such building or open area shall be wholly reconstructed.

(Ord. 221 § 7 (part), 1980)

6-555 - Rezoning or changes in district boundaries.

When the city changes the boundaries of a land use district or rezones an area from one land use district to another, the provisions of this article apply to a nonconforming use created by the change in boundaries or change in land use district classification.

(Ord. 221 § 7 (part), 1980)