

## Chapter 11.10: Introduction

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### Sections:

11.10.010 Purpose and Applicability

#### **11.10.010 Purpose and Applicability**

- A. Part 11 provides the regulations and standards for, and guidance on the review and processing of applications for multifamily and mixed use residential development projects, and other housing types.
- B. Part 11 sets forth the objective development, design, and operating standards for specific types of multifamily residential and mixed use development projects in residential and commercial areas.
- C. The land uses and activities covered by Part 11 shall comply with the provisions of this Part and all other applicable provisions of this Development Code.
- D. In the event of any conflict between the requirements of Part 11 and those of Part 3 (Specific to Zones), Part 4 (General to Zones) or Part 5 (Building Types), the requirements of Part 11 shall control.
- E. Part 11 was developed with the intent to summarize the requirements of various California State Government Code sections related to the development of housing. In the event of ambiguities, gaps, or conflict between State statutes and any of chapters of this Part, State statutes shall govern.

## Chapter 11.20: Definitions

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### Sections:

- 11.20.010 Purpose
- 11.20.020 Definitions of Specialized Terms and Phrases

#### 11.20.010 Purpose

This Chapter provides definitions of terms and phrases used in Part 11, Housing, that are technical or specialized, or that may not reflect common usage. If any of the definitions in this Chapter conflict with definitions in other provisions of the Development Code or Municipal Code, these definitions shall control for the purposes of how the term or phrase should be defined in relation to Part 11, Housing. If a word is not defined in this Chapter, or in other provisions of the City of Livermore Development Code or Municipal Code, the Director shall determine the correct definition. The Mixed-Use and Multifamily Objective Design Standards (MODS) has a glossary of terms applicable to building and site design.

#### 11.20.020 Definitions of Specialized Terms and Phrases

For the purpose of this chapter, the following terms and phrases shall be defined as follows:

- A. **Accessory Dwelling Unit (ADU).** An attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An ADU also includes an efficiency unit or a manufactured home, as defined in Section 18007 of the Health and Safety Code. (Gov't Code 66313)
- B. A person "**Acting in Concert with the Owner,**" means a person that has common ownership or control of the subject parcel with the owner of the adjacent 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. As used here, "common ownership or control" means that the property is owned or controlled by the same person, persons, or entity, or by separate entities in which any shareholder, partner, member, or family member of an investor of the entity owns ten percent or more of the interest in the property.
- C. **Adjacent Parcel.** Any parcel of land that is (1) touching the parcel being subdivided at any point; (2) separated from the parcel being subdivided at any point only by a public right-of-way, private street or way, or public or private utility, service, or access easement; or (3) separated from the parcel being subdivided only by other real property which is in common ownership or control of the applicant.
- D. **Affordable Housing.** Housing is considered affordable if it does not exceed a specified percentage of a household's income, depending on the income level,

and provided at an “affordable housing cost” as defined in Health and Safety Code § 50052.5 or “affordable rent” as defined in Health and Safety Code § 50053.

- E. **Affordable to Low-Income or Very-Low-Income Households.** Being of a condition in which sales prices or rental rates for a housing development conform with the current “City of Livermore Affordable Housing Sales Prices and Rental Rates,” established annually by resolution of the City Council.
- F. **Agricultural Employee Housing.** Includes any dwellings, living quarters, or accommodations provided specifically for agricultural employees, which is any person employed in agriculture, as defined by California Labor Code Section 1140.4(b), which includes farming, dairying, horticulture, viticulture, and related agricultural work. (Health and Safety Code §17008)
- G. **Approved Nonprofit Housing Group.** A nonprofit corporation, or a housing authority, with the mission to provide quality affordable housing and has entered into an agreement with the City to rent affordable rental units to very-low- and low-income households at a cost that does not exceed maximum monthly rental rates for those households consistent with the requirements of Chapter 11.70, Affordable Housing.
- H. **Area Median Income.** The median household income, adjusted for family size, established and published annually by the United States Department of Housing and Urban Development (HUD) for a metropolitan area or nonmetropolitan county. (Health and Safety Code § 50093)
- I. **Architectural Style.** An architectural style is a classification of buildings, based on a set of characteristics and features, including overall appearance, arrangement of the building’s components, method of construction, building materials used, form, size, structural design, and regional character, as identified by the American Institute of Architects (AIA).
- J. **Car Share Vehicle.** A motor vehicle that is operated as part of a regional fleet by a public or private car sharing company or organization and provides hourly or daily service. (California Vehicle Code, specifically Section 22507.1)
- K. **Commercial Corridor.** A highway, that is not a freeway (as defined in Section 332 of the Vehicle Code) that has a right-of-way of at least 70 and not greater than 150 feet. (Gov’t Code § 65912.101)
- L. **Commercial to Residential Adaptive Reuse.** The process of converting existing commercial buildings (such as office buildings, malls, hotels, or industrial structures) into residential housing units.
- M. **Complete Independent Living Facilities.** Describes a unit that has a separate entrance and provides permanent provisions for living, sleeping, cooking, and sanitation independent of another structure or unit. (Gov’t Code § 65852.2)
- N. **Coordinated Entry System.** As related to Low Barrier Navigation Centers, means a centralized or coordinated assessment system designed to coordinate

program participant intake, assessment, and referrals. (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)

- O. **Dedicated to Industrial Use.** At least one of the following criteria apply:
1. The property is presently utilized for industrial purposes.
  2. The most recently permitted use of the property was for industrial uses.
  3. The site was designated for industrial use in the latest version of the general plan adopted before January 1, 2022.
- P. **Density Bonus.** The increase in the number of residential units that a developer is allowed to build beyond the maximum permitted by local zoning ordinances. This bonus is granted when a developer agrees to include a specified percentage of affordable housing units for lower-income, very low-income, moderate-income, or senior households within the project. (Gov't Code § 65915)
- Q. **Density Bonus, "Super".** Assembly Bill 1763 is often referred to as the "Super Density Bonus" because the bill allows for up to an 80% density bonus for 100% affordable housing projects meeting certain criteria, and the density bonus units would also have to be affordable. AB 1763 projects that are located within a half mile of a major transit stop are also allowed a height increase of up to three stories or 33 feet. Furthermore, this bill also eliminated any parking requirements for a qualifying project and grants an additional concession or incentive to the housing developer.
- R. **Density Bonus Housing Agreement.** A legally binding agreement between a local government (city or county) and a developer that governs the provision of affordable housing units in exchange for a density bonus, concessions, incentives, waivers, or parking reductions. (Gov't Code § 65915)
- S. **Efficiency Unit.** A residential unit that: (Health and Safety Code § 17958.1)
1. Has a minimum area of 150 square feet (excluding a bathroom).
  2. Includes a bathroom and a kitchen or an efficiency kitchen, which typically consists of: a sink, cooking appliances, a refrigerator, a food preparation counter, and storage cabinets.
  3. May not be required to have separate rooms aside from the bathroom.
- T. **Emergency Shelter.** Housing with minimal supportive services for persons experiencing homelessness that is limited to occupancy of six months or less. No individual or household may be denied emergency shelter because of an inability to pay. (Gov't Code § 65582(d))
- U. **Extremely Low Income Household.** Household whose income does not exceed the qualifying limits for extremely low income families as established and amended from time to time pursuant to Section 8 of the United States Housing

Act of 1937. “Extremely Low Income” is typically defined as being below 30% of area median income, adjusted for family size and revised annually.

- V. **Ground Floor Activation.** When buildings provide street facing, publicly accessible, ground floor tenant spaces to support commercial, office, and/or recreational uses on all street-facing building facades. Ground floors shall not contain residential living units but may provide ground floor spaces for various private residential services and amenities, primarily on non-street facing building facades.
- W. **Heavy Industrial Use.** A source, other than a Title V source, that is subject to permitting by an air pollution control district, or an air quality management district created or continued in existence pursuant to provisions of Part 3 (commencing with Section 40000) of the Health and Safety Code.
- X. **High-Quality Transit Corridor.** A corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. (Public Resources Code § 21155)
- Y. **Household.** All persons occupying a housing unit, regardless of their relationship, who share common living arrangements.
- Z. **Housing Development Project.** Means a use consisting of any of the following: (Gov’t Code § 65589.5(h)(2))
  - 1. Residential units only.
  - 2. Mixed-use developments that include residential units and are subject to certain requirements.
  - 3. Transitional housing or supportive housing.
- AA. **Incentives (or Concessions).** In relation to density bonus, refers to: (Gov’t. Code § 65915(k))
  - 1. A reduction in site development standards or modification of zoning code requirements (such as setbacks, height restrictions, or parking requirements);
  - 2. Approval of mixed-use zoning in conjunction with a housing development, even if the zoning code does not normally permit it, if it helps the development economically; or
  - 3. Any other regulatory incentive or concession proposed by the applicant or the city/county that results in identifiable cost reductions for affordable housing units.
- BB. **Independent Institution of Higher Education.** Non-public higher education institutions that grant undergraduate degrees, graduate degrees, or both, and that are formed as nonprofit corporations in California and are accredited by an agency recognized by the United States Department of Education. (CA Education Code § 66010)

- CC. **Industrial Use.** Utilities, manufacturing, transportation storage and maintenance facilities, and warehousing uses. This definition, as it relates to State housing law and the California Government Code, does not include power substations or utility conveyances such as power lines, broadband wires, and pipes.
- DD. **Individual Dwelling Unit Format.** Emergency shelter providing separate private units for individuals or households.
- EE. **Junior Accessory Dwelling Unit (JADU).** A residential dwelling unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure. (Gov't Code § 66313)
- FF. **Light Industrial Use.** A use that is not subject to permitting by an air pollution control district or an air quality management district created or continued in existence pursuant to provisions of the California Health and Safety Code.
- GG. **Living Area.** The interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure. (Gov't Code § 66313)
- HH. **Low Barrier Navigation Center.** A Housing First, low-barrier, service-enriched shelter focused on quickly moving people into permanent housing. It provides temporary living facilities while case managers connect individuals experiencing homelessness with resources such as income, public benefits, health services, permanent housing, or other supportive services. A Low Barrier Navigation Center may be non-congregate and relocatable. "Low Barrier" means best practices to reduce barriers to entry, and may include, but is not limited to, the following: (Gov't Code § 65660)
1. The presence of partners if it is not a population-specific site, such as for survivors of domestic violence or sexual assault, women, or youth.
  2. Pets.
  3. The storage of possessions.
  4. Privacy, such as partitions around beds in a dormitory setting or in larger rooms containing more than two beds, or private rooms.
- II. **Low Income Household.** Household whose income does not exceed the qualifying limits for low income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. "Low Income" is typically defined as being within the range of 50-80% of area median income, adjusted for family size and revised annually.
- JJ. **Lower Income Household.** Household whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. The

limits shall be published by the department in the California Code of Regulations as soon as possible after adoption by the Secretary of Housing and Urban Development. In the event the federal standards are discontinued, the department shall, by regulation, establish income limits for lower income households for all geographic areas of the state at 80 percent of area median income, adjusted for family size and revised annually. (Health and Safety Code § 50079.5)

- KK. **Major Transit Stop.** Means a site containing any of the following: (Public Resources Code § 21064.3)
1. An existing rail or bus rapid transit station;
  2. A ferry terminal served by either a bus or rail transit service; or
  3. The intersection of two or more major bus routes with a frequency of service interval of 20 minutes or less during the morning and afternoon peak commute periods.
- LL. **Management Services.** Property management services for affordable housing projects, as determined appropriate by the Housing and Human Services Division.
- MM. **Manufactured Home.** A structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. “Manufactured home” includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974. (Health and Safety Code § 18007)
- NN. **Mobile Home.** A structure that was constructed prior to June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected onsite, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation system when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. “Mobile home” includes any structure that meets all the requirements of this paragraph and complies with the state standards for mobile homes in effect at the time of construction. “Mobile home” does not include a commercial modular, as defined in Health and Safety Code § 18001.8, factory-built housing, as defined in §19971, a manufactured home, as defined in §18007, a multifamily manufactured home, as defined in §18008.7, or a recreational vehicle, as defined in §18010. (Health and Safety Code § 18008)

- OO. **Mobile Home Park.** Any area or tract of land where two or more lots are rented or leased, held out for rent or lease, or were formerly held out for rent or lease and later converted to a subdivision, cooperative, condominium, or other form of resident ownership, to accommodate manufactured homes, mobile homes, or recreational vehicles used for human habitation. The rental paid for a manufactured home, a mobile home, or a recreational vehicle shall be deemed to include rental for the lot it occupies. This subdivision shall not be construed to authorize the rental of a mobile home park space for the accommodation of a recreational vehicle in violation of § 798.22 of the Civil Code. (Health and Safety Code § 18214)
- PP. **Moderate Income Household.** Household of low or moderate income whose income exceeds the income limit for lower income households. “Moderate Income” is typically defined as being within the range of 80-120% of area median income, adjusted for family size and revised annually. (Health and Safety Code § 50093)
- QQ. **Multifamily.** A residential use with more than one primary unit on a single parcel. May be for sale, for rent, attached, or detached.
- RR. **Neighborhood Plan.** For a site within a neighborhood plan area, the neighborhood plan applicable to the site permits multifamily housing development on the site.
- SS. **Notice of Intent.** Form of a preliminary housing development application that includes all of the information described in Gov’t Code § 65941.1, as that section read on January 1, 2020.
- TT. **Objective Zoning Standards, Objective Subdivision Standards, and Objective Design Standards.** Standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant and the public official before submission. (Gov’t Code § 65913.4)
- UU. **Primary Dwelling Unit.** The main residential structure or dwelling unit on a parcel. Typically used in the context of differentiating the main residence from an ADU or JADU on the same parcel.
- VV. **Qualified Urban Use.** Any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses. (Public Resources Code § 21072)
- WW. **Religious Institution.** An institution owned, controlled, and operated, and maintained by a bona fide church, religious denomination, or religious organization composed of multid denominational members of the same well-recognized religion, lawfully operating as a nonprofit religious corporation or as a corporation sole pursuant to the Corporations Code. (Gov’t Code § 65913.16)

- XX. **Reserved Unit.** A dwelling unit set aside or dedicated to satisfy the affordable housing requirement consistent with Chapter 11.70, Affordable Housing.
- YY. **Restricted Unit.** A unit which is affordable to very-low or low-income households as defined in the housing element of the City of Livermore General Plan and where an affordability covenant is recorded against the property.
- ZZ. **Senior Housing.** A residential development for individuals aged 55 and older (or 62 and older in certain cases).
- AAA. **Set Aside Unit.** A dwelling unit set aside for sale or rental at an affordable price, which conforms to the requirements of the City's Affordable Housing requirements.
- BBB. **Single Room Occupancy Unit.** A type of housing characterized by individual units, typically ranging from 150 to 400 square feet, that may include a kitchen and/or bathroom, and are intended for occupancy by no more than two persons. These dwelling units shall be offered on a monthly basis or longer.
- CCC. **Single Family.** A residential use with one primary unit on a single parcel. May be for-sale, for-rent, attached, or detached.
- DDD. **Single-Family Residential Zoning District.** Any zoning district as defined in Part 3 of the City's Development Code for which single-family residences are the only dwelling units allowed, including, without limitation, the R-R, R-S, and R-L zoning districts. This definition also applies to any area covered by a PD (Planned Development) or a PUD (Planned Unit Development) zoning district for which single-family residences are the only dwelling units allowed and which does not allow two-family residences or multifamily residences.
- EEE. **Specific Adverse Impact.** A significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions, as they existed on the date the application was deemed complete.
- FFF. **Substantially Surrounded.** Whereby at least 75 percent of the perimeter of the project site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses. The remainder of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that have been designated for qualified urban uses in a zoning, community plan, or general plan for which an environmental impact report was certified. (Public Resources Code § 21159.25)
- GGG. **Sufficient for Separate Conveyance.** Whereby each attached or adjacent dwelling unit is constructed in a manner adequate to allow for the separate sale of each unit in a common interest development as defined in Civil Code § 4100 (including a residential condominium, planned development, stock cooperative, or community apartment project), or any other ownership type in which the dwelling units may be sold individually.
- HHH. **Supportive Housing.** Housing with no limit on the length of stay, that is occupied by the target population, and is linked to on-site or off-site 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. Supportive housing can include nonresidential uses and administrative office space that is used for providing on-site services. The target population for supportive housing includes people with low incomes and one or more of the following characteristics: (Health Safety Code § 50675.14)

1. Homeless individuals, youth, and families;
  2. People with disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions;
  3. Individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act;
  4. Individuals exiting institutional settings, such as jails, hospitals, prisons, and institutes of mental disease; or
  5. Veterans.
- III. **Supportive Services.** Services that include, but are not limited to, a combination of subsidized, permanent housing, intensive case management, medical and mental health care, substance abuse treatment, employment services, and benefits advocacy (Gov't Code § 65582).
- III. **Tiny Home Project.** A project that includes more than one affordable residential unit that is reserved for individuals and families making less than average median income. The residential units on the project site must include all of the following features:
1. Each unit provides complete independent living facilities for one or more persons and shall include permanent provisions for living, sleeping, eating, cooking, and sanitation;
  2. All units are detached from one another and freestanding;
  3. Each unit is less than 500 square feet in size; and
  4. Each unit is not a Mobile Home.
- KKK. **Title V Industrial Use.** A use that is only a stationary source required by federal law to be included in an operating permit program established pursuant to Title V of the federal Clean Air Act (42 U.S.C. Secs. 7661 to 7661f, incl.) and the federal regulations adopted pursuant to Title V.
- LLL. **Transitional Housing.** Buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months. (Gov't Code § 65582(g))

- MMM. Two-Unit Residential Development.** A housing project that allows for the construction of up to two primary residential units on a single-family zoned lot, provided that the development meets specific criteria as outlined in Gov't Code § 65852.21.
- NNN. Urban Lot Split.** A ministerial (i.e., non-discretionary) approval process that allows a property owner to subdivide a single-family residential lot into two separate parcels. This process is intended to facilitate the development of additional housing within urban areas. (Gov't Code § 66411.7)
- OOO. Very Low Income Household.** Household whose income does not exceed the qualifying limits for extremely low income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. "Very Low Income" is typically defined as being within the range of 30-50% of area median income, adjusted for family size and revised annually.
- PPP. Very Low Vehicle Travel Area.** An urbanized area, as designated by the United States Census Bureau, where existing residential development generates vehicle miles traveled (VMT) per capita that is below 85 percent of either regional or city VMT per capita. (Gov't Code § 65589.5)

## Chapter 11.30: Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs)

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### Sections:

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### 11.30.010 Purpose and Enabling Authority

- A. The purpose of this Chapter is to provide an opportunity for the development of small units, to provide relatively affordable housing for low- and moderate-income individuals and families, to provide economic support for resident families, and to provide additional residential units in the City while still maintaining the residential character of the surrounding neighborhoods. This Chapter summarizes the requirements of Gov't Code § 66310 through § 66342 governing ministerial and streamlined approval of Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) and supplements these requirements with guidelines and procedures for processing applications under this law.
- B. Ambiguities or gaps in this Chapter shall be resolved first by reference to Gov't Code § 66310 through § 66342. In the event of any conflict between Gov't Code § 66310 through § 66342 and this Chapter, Gov't Code § 66310 through § 66342 shall govern.

### 11.30.020 ADU Typology

There are four types of ADUs:

- A. **Conversion ADU.** A new residential unit created by converting existing square footage in the primary dwelling unit or in accessory structure on a parcel.
- B. **Attached ADU.** A new residential unit that expands the size of an existing or proposed primary dwelling unit.

- C. **Detached ADU.** A new residential unit that is free-standing and physically separated from the primary dwelling unit.
- D. **JADU.** A new residential unit created by converting up to 500 feet of space contained entirely within a single-family primary dwelling unit, or its attached and enclosed garage. Regulations specific to JADUs are set forth in Section 11.30.080.

#### **11.30.030 Circumstance Under Which Compliance is Not Required.**

- A. Under no circumstance shall a requirement of this Chapter prohibit the development on one lot of one of the following:
  - 1. One JADU and either:
    - a. One Conversion ADU, or
    - b. One 800 square foot Detached ADU with at least four-foot side and rear yard setbacks, that meets the height requirements of this Chapter.
  - 2. Units as allowed in Section 11.30.040(B)
- B. Standards that prohibit the development described in this section shall be relaxed only to the degree needed to allow the development. All other standards shall continue to comply.

#### **11.30.040 Quantity of ADU or JADU Units Allowed**

- A. **Single Family Dwelling Unit.** For lots with an existing primary dwelling unit, one or all of the following shall be permitted:
  - 1. One Conversion ADU,
  - 2. One Detached or Attached ADU;
  - 3. One JADU.
- B. **Multifamily Unit(s).**
  - 1. Existing Multifamily Dwelling. For lots with an existing multi-family dwelling, one or both (a. and b. below) of the following shall be permitted:
    - a. Up to eight Detached ADUs, but shall not exceed the number of existing units on the lot;
    - b. A quantity of Conversion ADUs equal to 25% of the total number of existing units, but not less than one.
      - i Conversion ADUs are permitted in areas not currently used as livable space (e.g. storage rooms, boiler rooms, attics).

- ii Each Conversion ADU shall comply with Building Code standards for dwellings.
  - iii For any fractional Conversion ADUs, quantity of units shall be rounded down to the nearest whole number.
2. Proposed Multifamily Dwelling. For lots with a proposed multi-family dwelling, not more than two Detached ADUs.

### 11.30.050 General Regulations for ADUs

- A. **Approval Process.** ADUs shall be permitted ministerially and without discretionary review, subject to the requirements of Section 11.30.090 of this Chapter.
- B. **Occupancy and Conveyance.**
  - 1. There are no owner-occupancy requirements for an ADU.
  - 2. No ADU shall be rented for a period less than 30 days.
  - 3. Except as provided in Gov't Code § 66341, ADUs shall not be sold or otherwise conveyed separately from the primary dwelling unit nor shall any subdivision of the land separating the ADU and the primary structure be permitted.
  - 4. No certificate of occupancy for an ADU shall be issued before a certificate of occupancy has been issued for the primary dwelling unit.
- C. **Permitted Locations.** ADUs are permitted on any lot zoned to allow single-family or multi-family residential use that includes an existing or proposed primary dwelling unit, including Single-Family, Multi-Family, Mixed-Use, and residential Planned Development zoning districts, subject to the requirements of this Chapter.
- D. **Residential Conversion.** An existing residence may be converted to an ADU in conjunction with development of a new primary dwelling unit, so long as the new primary dwelling unit meets required development standards of the zoning district.
- E. **Modifications.** An existing ADU may be enlarged or modified only in accordance with the requirements of this chapter.

### 11.30.060 Objective Development Standards for ADUs

The following development standards shall apply to ADUs, as specified.

- A. **Minimum Unit Size.** An ADU may not be less than 150 square feet in size or the minimum required for an efficiency dwelling unit as defined in Health and Safety Code § 17958.1, as may be amended from time to time.
- B. **Maximum Unit Size.**
  - 1. **Detached ADU.**

- a. 850 square feet for an ADU with one or fewer bedrooms.
  - b. 1,000 square feet for an ADU with more than one bedroom.
2. **Attached ADU.** An attached ADU may not exceed 50% of the floor area of an existing or proposed primary dwelling unit on a lot. For the purposes of this section, floor area does not include attached garages or accessory structures. In no case shall this standard restrict an ADU of at least the following sizes:
- a. 850 square feet for an ADU with one or fewer bedrooms.
  - b. 1,000 square feet for an ADU with more than one bedroom.
3. **Conversion ADU.** Maximum unit size is not regulated for a Conversion ADU that is within the space of an existing or proposed primary dwelling unit or accessory structure, except that a Conversion ADU may include an expansion of no more than 150 square feet beyond the same physical dimensions as the existing structure to accommodate ingress and egress to the new ADU, irrespective of underlying zoning standards.

**C. Setbacks.**

1. **Detached ADU.**

- a. Front: 15 feet minimum or as required by the underlying zoning district, whichever is less.
- b. Side/Rear/Street Side: 4 feet minimum.

2. **Attached ADU.**

- a. Front: 15 feet minimum, or as required by the underlying zoning district, whichever is less.
- b. Side/Rear/Street Side: 4 feet minimum.

3. **Conversion ADU.**

- a. No additional setbacks beyond existing conditions if the setbacks comply with all applicable state and local building codes related to fire and safety. No additional setbacks for ADUs built in the same location and to the same dimensions as a permitted and existing accessory structure with setbacks that are sufficient for fire and safety.

**D. Building Separation.**

1. A Detached ADU shall be at least five feet from all structures on a lot, except:
  - a. Detached ADUs may be attached to detached garages or other accessory structures.



- b. Within one-half mile walking distance of public transit (includes local bus stops and ACE train).
  - c. Within a historic preservation overlay district or located on a property where the primary residence has a National Register status of 1, 2, or 3 or any property identified as “Significant” or “Potentially Significant” on the City’s Historic Resources Inventory.
  - d. When an on-street parking permit is required but not offered to the occupant of the ADU.
  - e. When a documented car-share vehicle parking is located within one block.
- 4. When a garage, carport, covered parking structure, or uncovered parking space is demolished or converted in conjunction with the construction of an ADU or JADU, replacement parking is not required.
  - 5. A garage and ADU may be attached, provided the garage meets all Development Code Accessory Structure standards.
- I. **Location.** ADU shall be located to the rear of the primary dwelling unit.

#### 11.30.070 Objective Design Standards for ADUs

##### A. Unit Access.

- 1. **All ADUs.** Shall have a separate exterior entrance from the primary dwelling.
- 2. **Detached ADU.** Access shall not be on a street-facing elevation.
- 3. **Attached ADU or Conversion ADU.** Access shall not be on the front elevation of the primary dwelling unit.
- 4. **Attached ADU.** May have, but is not required to have, an interior entry to the primary dwelling unit, so long as the entry contains a lockable door on each side.

B. **Stairways.** New stairways shall be completely enclosed as part of the interior of the structure, except for an existing stairway. All enclosed stairways shall be counted towards the ADU’s floor area.

C. **Privacy.** New balconies, roof decks, and decks over two feet above grade are prohibited.

##### D. Materials and finishes.

- 1. **Detached ADU.** Building roof materials, exterior finish material, and exterior color shall match the existing or proposed primary dwelling unit, and the building roof form and window and door type shall be architecturally compatible to the existing or proposed primary dwelling

unit. (For example, if the primary dwelling contains a shingle roof and lap siding, then the ADU shall contain a shingle roof and lap siding.)

2. **Attached ADU.** Building roof materials, exterior finish material, and exterior color shall match the existing or proposed primary dwelling unit, and the building roof form and window and door type shall be architecturally compatible to the existing or proposed primary dwelling unit. (For example, if the primary dwelling contains a shingle roof and lap siding, then the ADU shall contain a shingle roof and lap siding.)
  3. **Conversion ADU.** Not applicable.
- E. **Historic Resources.** The following additional standards apply to properties identified as “Significant” or “Potentially Significant” on the City’s Historic Resources Inventory.
1. Attached ADUs are prohibited.
  2. A Certificate of Appropriateness shall not be required to approve or deny an ADU or JADU. However, modifications to the historic resource shall be ministerially evaluated through the ADU Building Permit using the practices outlined in Chapter 9.02 of this Development Code.

#### **11.30.080 General Regulations for JADUs**

- A. **Approval Process.** JADUs shall be permitted ministerially and without discretionary review, subject to the requirements of Section 11.30.090 of this chapter.
- B. **Occupancy and Conveyance**
1. Owner-occupancy is required in the structure in which a JADU is permitted. The owner may reside in either the primary dwelling unit portion of the structure or the JADU. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.
  2. No JADU shall be rented for a period less than 30 days.
  3. JADUs shall not be sold or conveyed separately from the primary dwelling unit.
  4. No certificate of occupancy for a JADU shall be issued before a certificate of occupancy has been issued for the primary dwelling unit.
- C. **Location.** A JADU shall be contained entirely within an existing or proposed primary dwelling unit.
- D. **Size**
1. A JADU shall not exceed 500 square feet in size.
  2. A JADU shall not be less than 150 square feet in size or the minimum required for an efficiency dwelling unit as defined in Health and Safety Code Section 17958.1, as may be amended from time to time.

**E. Utilities and Facilities**

1. All utilities shall be shared with the primary dwelling unit, no separate meters or panels are permitted.
2. Sanitation facilities, such as bathrooms and sinks, may be shared with the primary dwelling unit, or the JADU may include separate sanitation facilities.

**F. Entrances**

1. A separate exterior entrance to the JADU is required and may not be on the front elevation of the primary dwelling unit.
2. A JADU may include an interior entry to the primary dwelling unit. A second interior door may be included for sound attenuation. If a permitted JADU does not include its own separate sanitation facilities, the JADU shall include an interior entry to the primary dwelling unit to share sanitation facilities, and the sanitation facilities shall be accessible by the JADU resident.

**G. Kitchen.** A JADU shall include an efficiency kitchen as defined by Gov't Code Section 66333, which shall include all of the following:

1. A sink, cooking appliances, a refrigerator, a food preparation counter, and storage cabinets.

**H. Deed Restriction.**

1. A deed restriction, which shall run with the land, shall be filed with the City, and shall include:
  - a. A statement that the sale of the JADU separate from the sale of the primary dwelling unit is prohibited,
  - b. A statement that the deed restriction may be enforced against future purchasers,
  - c. A statement that owner-occupancy is required in the structure in which a JADU is permitted. This is not required if the owner of the primary dwelling is a governmental agency, land trust, or housing organization, and
  - d. A statement restricting the size and attributes of the JADU to those permitted by State Law.
2. The deed restriction document shall be submitted with the initial building permit application and shall be recorded with the Alameda County Recorder prior to the final building inspection.

I. **Parking.** No off-street parking space is required for a JADU.

J. **Address.** A separate address shall not be issued for any JADU.

**11.30.090 ADU and JADU Application Review and Approval**

- A. **Approval Timelines**
1. If there is a primary dwelling unit or multi-family dwelling unit on the lot, an application for an ADU or JADU shall be approved or denied ministerially without discretionary review or a hearing.
  2. The application shall be processed within sixty (60) days after receiving a complete application unless the applicant requests a delay.
  3. If the application for the ADU or JADU is proposed in conjunction with an application for a new primary dwelling unit, the application shall be processed after the application for such primary dwelling unit.
- B. **Pre-Approved Plans.** If an applicant utilizes one of the following plans in their application for a Detached ADU, the completed application shall be ministerially approved or denied within thirty (30) days:
1. A plan for an ADU that has been preapproved by the City within the current triennial California Building Standards Code rulemaking cycle.
  2. A plan that is identical to a plan used in an application for a Detached ADU approved by the City within the current triennial California Building Standards Code rulemaking cycle.
- C. **Findings of Denial.** If an application for an ADU or JADU is denied, a full set of written comments shall be supplied to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied.
- D. **Approval by Inaction.** If a complete application for an ADU or JADU is not approved or denied within 60 days (unless a delay has been requested by the applicant), the application shall be deemed approved.
- E. **Building Permit Required.** ADUs and JADUs require a building permit issued in conformance with all Building Codes and this chapter.
- F. **Demolition Permit.** A demolition permit for a detached garage that is to be replaced with an ADU shall be reviewed with the application for the ADU and issued at the same time.

### 11.30.100 Impact Fee Waiver

No impact fee shall be assessed upon the development of an ADU less than seven hundred fifty (750) square feet or any JADU. Impact fees charged for an ADU of seven hundred fifty (750) square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

### 11.30.110 Compliance with Building Codes

- A. **Fire Sprinklers**
1. Fire sprinklers are required for Attached and Detached ADUs when the primary dwelling unit has fire sprinklers or is required to be fire sprinklered.

2. The construction of an ADU shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling unit, unless an attached ADU exceeds 50 percent of the size of the Primary Dwelling Unit.
- B. **Foundation Type.** New ADUs must be built on a continuous foundation as prescribed by the building code or a continuous foundation designed by a CA registered engineer. Pre-manufactured ADUs must be anchored to a continuous foundation as prescribed by the building code or anchored to a continuous foundation designed by a CA registered engineer.
  - C. **Utilities.** All ADU utilities, including water, sewer, and power, shall be connected to the Primary Dwelling Unit. Separate ADU utility connections are not permitted.
  - D. **Building Code Violations or Non-Conforming Zoning Conditions.** No application to create an ADU or JADU shall be denied due to the presence of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and that are not affected by the construction of the ADU or JADU.

#### **11.30.120 Energy Use and Generation**

- A. If an ADU is being constructed on a lot with an existing primary dwelling unit that uses natural gas, then the ADU can also connect a natural gas service line. If no natural gas service to the primary dwelling unit exists, no gas service shall be provided to the ADU.
- B. Newly-constructed, non-manufactured, detached ADUs are subject to the California Energy Code requirement to provide solar photovoltaic systems (some exceptions apply, Applicant to consult code for confirmation).

#### **11.30.130 Density**

An ADU or JADU built in conformance with this chapter does not count toward the allowed density for the lot upon which the unit is located.

#### **11.30.140 Severability**

If any section, subsection, clause, or provision of this code is held to be invalid or unenforceable, the remainder of this code shall remain in full force and effect.

## Chapter 11.40: Density Bonus

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### Sections:

- 11.40.010 Purpose and Enabling Authority
- 11.40.020 Applicability
- 11.40.030 Calculating the density bonus
- 11.40.040 Additional density bonus allowed
- 11.40.050 Condominium conversions
- 11.40.060 Developer incentives or Concessions
- 11.40.070 Waivers and modifications of development standards
- 11.40.080 Modified parking standards
- 11.40.090 Application procedures

### 11.40.010 Purpose and Enabling Authority

- A. The purpose of this Chapter is to comply with State density bonus law, California Gov't Code § 65915 through § 65918), by providing increased residential densities for projects that guarantee that a portion of the housing units will be affordable to very low-, low-, or moderate-income households, senior citizens, transitional foster youth, disabled veterans, homeless persons, students or projects which include childcare facilities.
- B. All developments shall be in compliance with Chapter 11.70 (Affordable Housing) for inclusionary housing. However, for the purposes of calculating the number of affordable units required by Chapter 11.70, any additional units authorized as a density bonus under this section will not be counted in determining the required number of inclusionary units.
- C. Ambiguities or gaps in this Chapter shall be resolved first by reference to Gov't Code § 65915 through § 65918. In the event of any conflict between Gov't Code § 65915 through § 65918 and this Chapter, Gov't Code § 65915 through § 65918 shall govern.

### 11.40.020 Applicability

The City shall grant a density bonus not exceeding the maximum allowed under State density bonus law, and incentive(s) or concession(s) described in Section 11.40.060 (Developer Incentives), when an applicant for a residential or senior housing development creating five or more units seeks and agrees to construct at least one of the following categories:

- A. **Low-Income Households.** At least 10 percent of the units are designated for low-income households, as defined in Health and Safety Code § 50079.5.
- B. **Very Low-Income Households.** At least five percent of the units are designated for very low-income households, as defined in Health and Safety Code § 50105.
- C. **Senior Housing.** A senior citizen housing development, as defined in Civil Code §§ 51.3 and 51.12, or a mobile home park that limits residency based on age requirements for housing for older persons pursuant to Civil Code §§ 798.76 and 799.5. For purposes of this subsection, "development" includes a shared housing building development and a residential care facility for the elderly, as defined in Health and Safety Code § 1569.2.
- D. **Moderate-Income Households.** At least 10 percent of the total dwelling units of a

housing development are sold to persons and families of moderate-income, as defined in Health and Safety Code § 50083, provided, that all units in the development are offered to the public for purchase.

- E. **Special Populations.** At least 10 percent of the units are designated for transitional foster youth, as defined in Education Code § 66025.9; disabled veterans, as defined in Gov't Code § 18541; or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units described in this category shall be subject to a recorded affordability restriction for 55 years and shall be provided at the same affordability level as very low-income units.
- F. **Student Housing.** At least 20 percent of the total units are designated for low-income students in a student housing development meeting the requirements of Gov't Code § 65915(b)(1)(F).
- G. **100% Low-Income Households.** 100 percent of all units in the development, including total units and density bonus units, but exclusive of a manager's unit or units, are for low-income households, as defined by Health and Safety Code § 50079.5, except that up to 20 percent of the units in the development, including total units and density bonus units, may be for moderate-income households, as defined in Health and Safety Code § 50053. For purposes of this subsection, "development" includes a shared housing building development.

**11.40.030 Calculating the density bonus**

A Density Bonus is an increase in density on a property above the maximum density set for the property under the General Plan. The Density Bonus shall be calculated as follows:

- A. **Senior Housing.** For housing developments meeting the criteria of Section 11.40.020.C, the density bonus shall be 20 percent of the number of senior housing units.
- B. **Student Housing.** For housing developments meeting the criteria of Section 11.40.020.F, the density bonus shall be:
  1. 35% when 20% of the total units are designated for low-income students;
  2. 38.75% when 21% of the total units are designated for low-income students;
  3. 42.5% when 22% of the total units are designated for low-income students;
  4. 46.25% when 23% of the total units are designated for low-income students; and
  5. 50% when 24% of the total units are designated for low-income students.
- C. **100% Low-Income Households.** For housing developments meeting the criteria of Section 11.40.020.G, the density bonus shall be 80 percent of the number of units for low-income households.
  - I. If the housing development is located within one-half mile of a major transit stop or if the housing development is located in a very low vehicle travel area within a designated county, there are no maximum controls on density.
- D. **Very Low, Low, and Moderate-Income Housing.** The density bonus shall be calculated as shown in Table 11.40-1 for very low-, low-, and moderate-income households.

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- I. All density calculations resulting in fractional units shall be rounded up to the next whole number.

<b>Table II.40-I: Percentage of Inclusionary Units and Corresponding Density Bonus.</b>					
<b>Very Low-Income Households Earning &lt; 50% AMI*</b>		<b>Low-Income Households Earning &lt; 80% AMI*</b>		<b>Moderate-Income Households Earning &gt;80%-120% AMI*</b>	
<b>Percentage Very Low- Income Units</b>	<b>Percentage Density Bonus*</b>	<b>Percentage Low-Income Units</b>	<b>Percentage Density Bonus*</b>	<b>Percentage Moderate- Income Units</b>	<b>Percentage Density Bonus*</b>
5	20	10	20	10	5
6	22.5	11	21.5	11	6
7	25	12	23	12	7
8	27.5	13	24.5	13	8
9	30	14	26	14	9
10	32.5	15	27.5	15	10
11	35	16	29	16	11
12	38.75	17	30.5	17	12
13	42.5	18	32	18	13
14	46.25	19	33.5	19	14
15	50	20	35	20	15
		21	38.75	21	16
		22	42.5	22	17
		23	46.25	23	18
		24	50	24	19
				25	20
				26	21
				27	22
				28	23
				29	24
				30	25
				31	26
				32	27
				33	28
				34	29
				35	30
				36	31

	37	32
	38	33
	39	34
	40	35
	41	38.75
	42	42.5
	43	46.25
	44	50

\*Notes:

-“AMI”: Area Median Income

-Applicant may request a Density Bonus ranging from no Density Bonus to the maximum allowed.

**11.40.040 Additional density bonus allowed**

A project shall be eligible for an increased density bonus described in this subsection pursuant to any of the following options. The additional density bonus shall be calculated using the number of units excluding any density bonus already awarded.

**A. Increased Affordable Percentage.**

- I. An additional Density Bonus may be granted to projects that meet the following requirements:
  - a. The project shall not exceed 50 percent affordability after the use of the additional Density Bonus.
  - b. The project meets the Applicability Requirements specified in Section 11.40.020 and one of the following:
    - i Low-Income Households. Provides 24 percent of the total units to low-income households.
    - ii Very Low-Income Households. Provides 15 percent of the total units to very low-income households.
    - iii Moderate-Income Households. Provides 44 percent of the total units to moderate-income households.

2. Additional units shall be calculated based on the table below:

<b>Table 11.40-2: Percentage of Additional Inclusionary Units and Corresponding Additional Density Bonus.</b>			
Percentage Very Low-Income Units	Percentage Density Bonus	Percentage Moderate-Income Units	Percentage Density Bonus
5	20	5	20

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6	23.75	6	22.5
7	27.5	7	25
8	31.25	8	27.5
9	35	9	30
10	38.75	10	32.5
		11	35
		12	38.75
		13	42.5
		14	46.25
		15	50

### B. Land donation.

- I. Site Characteristics. An additional Density Bonus may be granted to projects that provide a land donation, prior to the project's Final Map or Parcel Map approval, that meets the following:
  - a. Affordability. The site shall provide a quantity of very low-income units equal to at least 10 percent of the project's total units.
  - b. Size. The site is at least one acre in size, or of sufficient size to permit development of at least 40 units.
  - c. Land Use. The site has a General Plan designation and Zoning classification that allow for the required quantity of affordable units.
  - d. Public Utilities. The site is or will be served by adequate public facilities and infrastructure.
  - e. Approvals. The site's affordable units are properly entitled through the City.
  - f. Location. The transferred land shall be located within the boundary of the proposed development, or if the City agrees, within  $\frac{1}{4}$  mile of the boundary of the proposed development.
  - g. Deed Restriction. The transferred land and the affordable housing units shall be subject to a deed restriction, which shall be recorded on the property at the time of transfer, ensuring continued affordability of the units for a term of at least 55 years.
  - h. Transfer. The land is transferred to the City or to another housing developer approved by the City. The City may require the applicant to identify and transfer the land to the developer.
  - i. Funding Source. A proposed source of funding for the very-low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.
2. Density Bonus. The additional Density Bonus shall be calculated as follows:
  - a. Baseline. A 15 percent increase above the site's maximum allowed General

Plan density.

- b. Increase. For each one percent increase above the minimum 10 percent land donation requirement specified in section B(1)(a), the additional density bonus shall be increased by one percent, up to a maximum of 35 percent density bonus.
- c. Bonus Limit. This density bonus shall be in addition to any density bonus mandated by subsection 11.40.030(D) of this section, up to a maximum combined density increase of 35 percent, if the applicant seeks both the increase required under this subsection and the increase under subsection 11.40.030(D) of this section.

**C. Childcare facilities**

- 1. When an applicant proposes to construct a housing development that conforms to the requirements of section 11.40.020 and includes a childcare facility that will be located on the premises of, as part of, or adjacent to, the housing development, the City shall grant either of the following:
  - a. Size. An additional density bonus that is an amount of square feet of residential space that is equal to the amount of square feet in the childcare facility; or
  - b. Concession/Incentive. An additional concession or incentive designated that would contribute significantly to the economic feasibility of the construction of the childcare facility.
- 2. The City shall require, as a condition of approving the housing development, that the following occur:
  - a. Operation Period. The childcare facility shall remain in operation for a period of time that is as long as, or longer than, the period of time during which the affordable housing units are required to remain affordable pursuant to this section; and
  - b. Income Requirement. Of the children who attend the childcare facility, the children of very low-income households, low-income households, and moderate-income households shall equal a percentage that is equal to, or greater than, the percentage of dwelling units that are made affordable to very low-income households, low-income households, or families of moderate-income households.

**11.40.050 Condominium conversions**

- A. **Eligibility.** A condominium conversion project is eligible for a Density Bonus if the project agrees to pay for City administrative costs related to implementing this section and satisfies one of the following:
  - 1. Includes at least 33 percent of its total units restricted to moderate-income households for 55 years; or
  - 2. Includes at least 15 percent of its total units affordable to low-income households for 55 years.

- B. Density Bonus.** If the project meets the eligibility requirements of section 11.40.050(A), the City shall either:
1. **Density.** Grant a density bonus, increasing the number of residential units by 25 percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion; or
  2. **Financial Incentives.** Provide other incentives of equivalent financial value to be determined by the City. For purposes of this section, “other incentives of equivalent financial value” shall not be construed to require the City to provide cash transfer payments or other monetary compensation, but may include the reduction, or waiver, of requirements that the City might otherwise apply as conditions of conversion approval.
- C. Ineligibility.** An applicant shall be ineligible for a condominium conversion density bonus or other incentives under this subsection if:
1. **Previous Density Bonus.** The apartments proposed for conversion constitute a residential development project for which a density bonus or other incentives were previously granted under this Section.
  2. **Existing Affordable Rental Units.**
    - a. The condominium project is proposed on any property that includes a parcel or parcels on which affordable rental dwelling units:
      - i Currently Exist;
      - ii Do not currently exist, but were vacated or demolished within the five-year period directly preceding the application; or,
      - iii Have been:
        - (a) Subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low-income;
        - (b) Subject to any other form of rent or price control through a public entity's valid exercise of its police power; or
        - (c) Occupied by low or very low-income households, unless the proposed condominium project replaces those units, as defined in Gov't Code § 65915(c)(3)(B), and either of the following applies:
          - (A) **Affordable Units.** The proposed condominium project, inclusive of the units replaced pursuant to Gov't Code § 65915(c)(3)(B), contains affordable units at the percentages set forth in Table 11-40-1.
          - (B) **Low-Income Units.** Each unit in the development, exclusive of a manager's unit or units, is affordable to, and

occupied by, either a low or very low-income household.

**11.40.060 Developer Incentives or Concessions**

A. **Eligibility.** When an applicant seeks a density bonus as prescribed by Gov’t Code § 65915, the City will grant the number of concessions or incentives as required by this section, unless it makes any of the following findings:

1. The developer concessions or incentives do not result in identifiable and actual cost reductions to provide for affordable housing.
2. The developer concessions or incentives would have a specific, adverse impact, as defined in paragraph Gov’t Code § 65589.5(d)(2) upon public health and safety or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low- and moderate-income households.
3. The developer concessions or incentives would be contrary to state or federal law.

**Table 11.40-3: Number of Developer Incentives**

Number of Incentives	Inclusionary Units		
	Very Low-Income Units	Low-Income Units	Moderate-Income Units in For-Sale Development
1*	5	10	10
2	10	17	20
3	15	24	30
4	16	N/A	45
5	A project meeting the criteria of 11.40.020(G) – Low-Income Households. Additionally, if such a project is located within one-half mile of a major transit stop or is located in a very low vehicle travel area in a designated county, the applicant shall also receive a height increase of up to three additional stories, or 33 feet.		

\* Note: One incentive or concession shall be granted for projects that include at least 20 percent of the total units for low-income students in a student housing development. If a project includes at least 23 percent of the total units for low-income students in a student housing project, the applicant shall instead receive two incentives or concessions.

**B. Developer Incentives or Concessions Defined.**

- I. For the purposes of this section, concession or incentive means any of the following:
  - a. **Local Standards.** A reduction in site development standards or a modification of zoning code or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and the ratio of vehicular parking spaces than would otherwise be required. Reductions or modifications shall result in identifiable and actual cost reductions to provide for affordable housing costs or rents;

- b. **Mixed-Use Zoning.** Approval of mixed-use zoning if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located; and
- c. **Other Incentives.** Other regulatory developer incentives proposed by the developer or the City that result in identifiable and actual cost reductions to provide for affordable housing costs or rents.

**11.40.070 Waivers and modifications of development standards**

- A. **Eligibility.** In accordance with Gov’t Code § 65915(e), an applicant may propose a waiver or modification of development standards if they would physically preclude the construction of a development meeting the criteria of section 11.40.020, at the densities and/or with the developer incentives permitted by this section.
  - 1. A proposal for the waiver or reduction of development standards pursuant to this subsection shall neither reduce nor increase the number of developer incentives to which the applicant is entitled pursuant to Section 11.40.060 (Developer Incentives).
  - 2. When a housing development qualifies for a “super” density bonus because it constructs a 100% affordable project and is eligible for an unlimited percent increase in density, the housing development is not further eligible for waivers of development standards beyond the five incentives or concessions for a project allowed in Table 11.40-3 or the allowance of no maximum controls on density.
- B. **Grounds for Denial.** In accordance with Gov’t Code § 65915(e), the City may deny an applicant’s request to waive or modify the City’s development standards in any of the following circumstances:
  - 1. The application does not conform with the requirements of this section or Gov’t Code §§ 65915-65918.
  - 2. The applicant fails to demonstrate that the City’s development standards physically preclude the utilization of a density bonus on a specific site.
  - 3. The waiver or reduction would have a specific, adverse impact, as defined in Gov’t Code § 65589.5(d)(2), upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.
  - 4. The waiver or reduction would have an adverse impact on any real property that is listed in a National, State, or Local Register of Historic Places.
  - 5. The waiver or reduction would be contrary to State or Federal law.

**11.40.080 Modified parking standards**

- A. **Maximum Parking Ratios.** Upon the request of the applicant, a development meeting the criteria in Section 11.40.020 (Applicability) shall not be required to provide onsite parking that exceeds the following ratios (inclusive of accessible and guest parking):
  - 1. Zero to one bedroom: one on-site parking space.

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2. Two to three bedrooms: one and one-half on-site parking spaces.
  3. Four and more bedrooms: two and one-half on-site parking spaces.
  4. One bedspace in a student housing development: zero parking spaces.
- B. Reduced Parking Ratio.** A vehicular parking ratio that exceeds 0.5 spaces per unit shall not be required for projects that meet all the following:
1. Are located within one-half mile of a major transit stop;
  2. Have unobstructed access to the transit stop; and
  3. Meet one of the following density requirements:
    - a. At least 20 percent low-income units for housing developments meeting the criteria of Section 11.40.020.A (Low-Income Households); or
    - b. At least 11 percent very low-income units for housing developments meeting the criteria of Section 11.40.020.B (Very Low-Income Households); or
    - c. At least 40 percent moderate-income units for housing developments meeting the criteria of Section 11.40.020.D (Moderate-Income Households)
- C. Eliminated Parking Ratio.** There is no required vehicular parking ratio for projects that:
1. Meet the criteria of Section 11.40.020(G) (100% Low-Income Households) of this Section; and
  2. Meet one of the following requirements:
    - a. Are located within one-half mile of a major transit stop with unobstructed access to the transit stop; or
    - b. The development is a for-rent housing development for individuals who are 55 years of age or older that complies with Civil Code §§ 51.2 and 51.3 and the development has either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day; or
    - c. The development is either a special needs housing development, as defined in Health and Safety Code § 51312, or a supportive housing development, as defined in Health and Safety Code § 50675.14. A development that is a special needs housing development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.
- D. Major Transit Stop Defined.**
1. A site containing any of the following:
    - a. An existing rail or bus rapid transit station.
    - b. A ferry terminal served by either a bus or rail transit service.
    - c. The intersection of two or more major bus routes with a frequency of

service interval of 20 minutes or less during the morning and afternoon peak commute periods.

- E. **Located Within One-Half Mile of a Major Transit Stop Defined.** “Located within one-half mile of a major transit stop” means that any point on a proposed development is within one-half mile of any point on the property on which a major transit stop is located, including any parking lot owned by the transit authority or other local agency operating the major transit stop.
- F. **Unobstructed Access to a Major Transit Stop Defined.** “Unobstructed access to the major transit stop” means a resident is able to access the major transit stop without encountering natural or constructed impediments. For purposes of this chapter, “natural or constructed impediments” includes, but is not limited to, freeways, rivers, mountains, and bodies of water, but does not include residential structures, shopping centers, parking lots, or rails used for transit.
- G. **Fractional Parking.** If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subsection, a development may meet parking requirements through on-site tandem parking or uncovered parking, but not through on-street parking.

**11.40.090 Application procedures**

- A. **Submittal Requirements.** An application for a density bonus, developer incentive, or waiver or modification of development standards must include the following information:
  - 1. **Quantity of Units.** The total number of units before the addition of a density bonus, the number of proposed affordable housing units included in the project, and the number of proposed density bonus units;
  - 2. **Incentives.** The specific developer incentive(s) sought, if any;
  - 3. **Waivers.** The specific waiver or modification to development standards sought, if any;
  - 4. **Documentation.** If seeking a developer incentive or waiver, documentation that the incentive will reduce costs and the waiver will physically preclude development;
  - 5. **Parking Ratio.** The specific vehicular parking ratio requested as allowed by this chapter;
  - 6. **Land Donation.** If requesting a density bonus based on land donation in accordance with Gov't Code § 65915(g), information sufficient to permit the City to determine that the proposed donation conforms with the requirements of § 65915 and this chapter; and
  - 7. **Child Daycare.** If requesting a density bonus based on the provision of a childcare facility in accordance with Gov't Code § 65915(h), the application must:
    - a. Provide the location of the proposed childcare facility and the proposed operator; and
    - b. Agree to operate the childcare facility for a period of time that is as long as or longer than the period of time during which the density bonus units (the units that qualify the development for a density bonus) are required to

remain affordable.

**B. City Determination.** At the time an application for a density bonus is deemed complete, the City shall provide a determination as to the following:

1. Density Bonus. The amount of density bonus for which a development is eligible;
2. Parking Ratio. If the applicant requests a parking ratio modification consistent with section 11.40.080, the ratio for which the applicant is eligible; and
3. Incentives, Concessions, and Waiver. If the applicant requests incentives, concessions, or waivers or reductions in development standards, whether the applicant provided reasonable documentation for the City to make a determination as to those incentives, concessions, or waivers or reductions.

## Chapter 11.50: Two-Unit Residential Developments and Urban Lot Splits

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### Sections:

- 11.50.010 Purpose and Enabling Authority
- 11.50.020 Review Authority
- 11.50.030 Submittal Requirements
- 11.50.040 Two-Unit Residential Developments
- 11.50.050 Urban Lot Splits
- 11.50.060 Adverse Impacts
- 11.50.070 City Manager Authority
- 11.50.080 Project Review and Decision

### 11.50.010 Purpose and Enabling Authority

The purpose of this Chapter is to summarize the requirements of Government Code Sections 65852.21 and 66411.7, which govern the ministerial and streamlined approval of Two-Unit Residential Developments and Urban Lot Splits, and to supplement these requirements with guidelines and procedures for processing applications under these laws. Government Code Sections 65852.21 and 66411.7, which were originally added to the Government Code by SB 9 (2021), provide for ministerial approval of projects that include up to two detached or attached housing units on one parcel and of certain parcel maps creating two lots.

Ambiguities or gaps in this Chapter shall be resolved first by reference to Government Code Sections 65852.21 and 66411.7. In the event of any conflict between Government Code Sections 65852.21 and 66411.7 and this Chapter, Government Code Sections 65852.21 and 66411.7 shall control.

### 11.50.20 Review Authority

- A. **Two-Unit Residential Developments.** The Building Official shall ministerially review Two-Unit Residential Development applications.
- B. **Urban Lot Splits.** The City Engineer shall ministerially review Urban Lot Split applications.

### 11.50.030 Submittal Requirements

- A. Each Two-Unit Residential Development or Urban Lot Split application, submitted pursuant to Government Code Sections 65852.21 and 66411.7, shall be filed with the Department on a City application form. The application shall be submitted with all required fees and/or deposits and all other information and materials specified in the application submittal checklist prepared for the specific type of application and/or as specified by

the Community Development Director. The application shall also include the following:

1. Existing and proposed property boundary lines;
2. Existing and proposed utilities;
3. Existing and proposed easements (including access easements);
4. Existing and proposed structures, including public infrastructure (i.e. curb, gutter, sidewalk and driveway approaches); and
5. Proposed elevation views including a 75-degree ground ladder exhibit for second story or eaves (if applicable).

#### **11.50.040 Two-Unit Residential Developments**

- A. **Eligibility Requirements.** A Two-Unit Residential Development may be combined with an Urban Lot Split, as described in Section 11.50.050 of this Chapter. A Two-Unit Residential Development may be located on all parcels within all Single-Family Residential Zoning Districts that have a Residential General Plan land use designation, except for the following parcels:
1. **Affordable and Rented Properties.** Any parcel where the Two-Unit Residential Development would require demolition or alteration of any of the following housing types:
    - a. 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.
    - b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
    - c. Housing that has been occupied by a tenant within the last three years.
  2. **Withdrawn Accommodations Property.** A parcel or parcels 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 I of the Government Code to withdraw accommodations from rent or lease within fifteen years before the date that the development proponent submits an application.
  3. **Historic Property.** A parcel located within a historic district or property included on the State Historic Resources Inventory, as defined in Public Resources Code Section 5020.1, or any property identified as "Significant" or "Potentially Significant" on the City's Historic Resources Inventory.
  4. **Environmentally Sensitive Lands.** A parcel of one or more of the types specified in subparagraphs (B) to (K), inclusive, of Government Code

Section 65913.4(a)(6). Without limiting the foregoing, the most applicable of those specifications to the City are the following:

- a. **Significant Farmland.** A parcel identified as 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.
- b. **Fire Hazard Zone.** A parcel within a very high fire hazard severity zone, as determined the Department of Forestry and Fire Protection pursuant to Government Code Section 51178, or within a high or very high fire hazard severity zone as indicated on the maps adopted by the Department of Forestry and Fire Protection pursuant to Public Resources Code Section 4202. This subsection does not apply to parcels that have been excluded from the specified hazard zones by actions of the City pursuant to Government Code Section 51179(b), or parcels that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the Two-Unit Residential Development.
- c. **Earthquake Fault Zone.** A parcel 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 the City of Livermore City Council under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2 of the Government Code.
- d. **Conserved Lands.** 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.
- e. **Lands under Conservation Easement.** Properties encumbered by a conservation easement held by a public agency, land trust, or private party.
- f. **Wetlands.** Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

- g. **Flood Zones.** Within a special flood hazard area subject to inundation by the 1 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.

**B. Development Standards.**

1. No development standard shall preclude the construction of two units of 800 square feet in size or less on each parcel.
2. Development pursuant to this Chapter shall comply with all applicable objective zoning, subdivision, and design review standards of the Development Code and underlying Zoning District, except for the following:
  - a. **Number of Units.** No more than two units may be constructed on each parcel. For purposes of this Chapter, “unit” means a primary dwelling unit, an ADU, or a JADU, all as defined in Chapter 11.30 of this Development Code.
  - b. **Side and Rear Setback.** Each unit shall have a minimum side and rear setback of four feet. No setback requirement shall apply for a new structure built with the same dimensions and in the same location as an existing permitted structure.
  - c. **Height.** Each unit shall meet the standards of the underlying zoning district.
  - d. **Parking.** Each dwelling unit created pursuant to this section shall provide one off-street parking space, unless exempt pursuant to Government Code Section 65852.21(c)(1) as follows:
    - i 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.
    - ii When a documented car-share vehicle is located within one block of the parcel.

**C. Design Standards.** Below terms defined within Chapter 11.20: Definitions and/or within Mixed-Use and Multifamily Objective Design Standards - Glossary of Terms.

1. **Architectural Style.** The same architectural style shall be used for both units of any Two-Unit Residential Development. The units shall not have a flat roof.
2. **Differentiation.** The primary building wall, trim, and door color of each unit shall not be identical.

3. **Architectural Features.** Each new unit shall have at least two of the following architectural features on the street-facing façade:
  - a. Window shutters.
  - b. Corbel, bracket, or support brace.
  - c. Rafter tails.
  - d. Exposed bracing.
  - e. Material change.
  - f. Vents or grills.
4. **Front Porch.** Each new unit shall have one front porch that faces the street. Porch dimensions shall be at least five feet by ten feet.
5. **Front Entryway.** The front door shall directly face the nearest public street and shall have one pathway that leads from the street to the unit entry.
6. **Finished Floor Height.** The first-floor finish level shall be at least 18 inches above the finished grade.
7. **Window Inset.** All street facing windows shall have a minimum inset of two inches.
8. **Materials.** Each unit shall incorporate at least two different material types, excluding the roof material.
9. **Eave Dimension.** All building eaves shall have a minimum depth of at least two feet.
10. **Garage Location.** The front of each garage shall be located at least 20 feet to the rear of each unit's front facade.
11. **Tree Planting.** Each new unit shall plant in the front yard at least one tree with the following characteristics:
  - a. California native.
  - b. 24" box size at planting.
  - c. Mature height and spread of at least 30 feet.
  - d. Drought tolerant.
12. **Foundation Planting.** Each new unit shall plant along its street-facing foundation shrubs with the following characteristics:
  - a. 5-gallon size at planting.
  - b. Attract pollinators and birds.
  - c. Drought tolerant.

**D. Other Standards.**

1. **Rental.** Any rental of a dwelling unit constructed pursuant to this Chapter shall be for a term of longer than thirty (30) days.
2. **Septic System.** For any unit that will be connected to an onsite septic system, the applicant must provide a percolation test showing compliance with applicable public health and safety standards. The percolation test shall be completed within the last five years, or, if the percolation test has been recertified, within the last ten years.
3. **Adjacent or Connected Units.** Units may be adjacent or connected if they meet all applicable building code safety standards and are designed to allow for separate conveyance(s).

### 11.50.050 Urban Lot Splits

#### A. Eligibility Requirements.

1. **Eligibility.** An Urban Lot Split may be combined with a Two-Unit Residential Development, as described in section 11.50.040 of this Chapter. An Urban Lot Split may occur on any parcel within a Single-Family Residential Zoning District that has a Residential General Plan land use designation, except for the following parcels:
  - a. **Special Housing Types.** Any parcel where the Urban Lot Split would require demolition or alteration of any of the following housing types:
    - i 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.
    - ii Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
    - iii Housing that has been occupied by a tenant within the last three years.
    - iv A parcel or parcels 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 of the California Government Code to withdraw accommodations from rent or lease within fifteen years before the date that the development proponent submits an application pursuant to this Chapter.
  - b. **Historic Property.** A parcel located within a historic district or property included on the State Historic Resources Inventory, as defined in Public Resources Code Section 5020.1, or any property identified as "Significant" or "Potentially Significant" on the City's Historic Resources Inventory.

- c. **Previous Urban Lot Split.** Any parcel that has been established through prior exercise of an Urban Lot Split as provided for in this Chapter and Government Code Section 66411.7.
  - d. **Adjacent Urban Lot Split.** Any parcel for which either the owner of the parcel or any person acting in concert with the owner has previously subdivided an adjacent parcel using an Urban Lot Split as provided for in this Chapter and Government Code Section 66411.7.
  - e. **Environmentally Sensitive Lands.** A parcel of one or more of the types specified in subparagraphs (B) to (K), inclusive, of Government Code Section 65913.4(a)(6).
2. **Residential Use.** Any parcel created by this Chapter shall be limited to residential uses.
- B. **Development Standards.** A parcel map for an Urban Lot Split shall be allowed with ministerial approval if the City Engineer determines the parcel map for the lot split meets all of the following requirements:
1. **Lot Area.** 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 forty percent of the lot area of the original parcel proposed for subdivision.
  2. **Lot Size.** Both newly created lots are no smaller than one thousand two hundred (1,200) square feet.
  3. **Lot Frontage.** Each lot resulting from the Urban Lot Split either:
    - a. Adjoins the public right-of-way via a twenty foot street frontage; or
    - b. Has access to the public right-of-way via a recorded access easement of no less than five (5) feet width benefiting the lot without direct frontage to the public right of way. If necessary to allow one lot resulting from an Urban Lot Split to meet this requirement, the other resulting lot shall provide such an access easement.
- C. **Improvement Standards.** Development on a lot created by an Urban Lot Split pursuant to this Chapter shall comply with the following improvement standards and all applicable objective standards of the Development Code, except as otherwise expressly provided for in subsections (1) through (4) below.
1. **Existing Structure.** No setback shall be required for an existing structure on the lot.
  2. **Dedications.** No provision of this Development Code shall apply that requires dedication of any right-of-way for the parcels being created as a condition of issuing a parcel map for an Urban Lot Split pursuant to this Chapter.

3. **Improvements.** No provision of the Development Code shall apply that requires offsite improvements for the parcels being created as a condition of issuing a parcel map for an Urban Lot Split pursuant to this Chapter. However, any onsite improvement necessary for public health and safety may be required, including onsite frontage improvements.
  4. **Public Easements.** The City Engineer may require easements necessary for the provision of public services and facilities.
- D. **Residency Requirement.** An applicant for an Urban Lot Split shall sign an affidavit stating that the applicant intends to occupy one of the housing units on the resulting lots as their principal residence for a minimum of three years from the date of the approval of the Urban Lot Split. No affidavit requirement shall apply to an applicant that is a “community land trust,” as defined in Revenue and Taxation Code Section 402.1(a)(11)(C)(ii), or is a “qualified nonprofit corporation” as described in Revenue and Taxation Code Section 214.15.

**11.50.060 Adverse Impacts**

An application under this Chapter may be denied if the Building Official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in Government Code Section 65589.5(d)(2), upon public health and safety for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

**11.50.070 City Manager Authority**

The City Manager, or their designee, shall have the authority to establish administrative policies and regulations that may be necessary to implement the provisions of this Chapter.

**11.50.080 Project Review and Decision**

- A. **Completeness Review.** If the City cannot approve an application for either a Two-Unit Residential Development or an Urban Lot Split, the City shall provide a full set of written comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.
- B. **Timeline from Completeness.** An application for either a Two-Unit Residential Development or an Urban Lot Split shall be considered and approved or denied within 60 days from the date a completed application is received by the City.
- C. **Automatic Approval.** If the City has not approved or denied the completed application within 60 days of its receipt of a completed application, the application shall be deemed approved.

## Chapter 11.60: Streamlined Review and Objective Design Standards

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### Sections:

- 11.60.010 Purpose and Enabling Authority
- 11.60.020 Application of Mixed-Use and Multifamily Design Standards (MODS)
- 11.60.030 Projects Eligible for Streamlined Review
- 11.60.040 Applicability of Mixed-Use and Multifamily Objective Design Standards (MODS)
- 11.60.050 Expiration of Governing Regulations
- 11.60.060 Sustainability Design Standards Findings

### 11.60.010 Purpose and Enabling Authority

- A. The purpose of this Chapter is to provide context for Chapters 11.61 through 11.69, and 11.80, which apply to specific types of mixed-use and multifamily residential projects that have been identified in the California Government Code to have specific processing and/or review requirements. Mixed-use and multifamily projects governed by Chapters 11.61 to 11.69, and 11.80, are subject to a streamlined review process in accordance with State Law.
- B. Chapters 11.61 through 11.69, and 11.80, each address a particular use type, and the sections in each chapter identify the standards and requirements for the streamlined processing of applications for the use as well as eligibility requirements a project must meet to qualify for streamlined review. Many of the project applications are subject to ministerial approval as well.

### 11.60.020 Projects Eligible for Streamlined Review

The following Development Code Chapters are applicable to different types of projects that are eligible for streamlined review and subject to this Chapter:

- 11.61 Streamlined Review in Residential Zoning Districts
- 11.62 Streamlined Review in Non-Residential Zoning Districts
- 11.63 Transitional and Supportive Housing
- 11.64 Affordable Housing on Faith and Higher Education Lands
- 11.65 Adaptive Reuse: Conversion of Non-Residential Buildings to Residential Uses
- 11.66 Low-Barrier Navigation Centers
- 11.67 Emergency Shelters
- 11.68 Agricultural Employee Housing
- 11.69 Streamlined Review of Eligible Subdivisions
- 11.80 Residential Development in Non-Residential Areas

**11.60.030 Submittal Requirements, Review Authority and Process**

All development applications that seek state housing law relief and that fall under any streamlined review process identified in Part 11 shall:

- A. Submit all required application materials, forms, and fees as specified in Development Code Part 9 and Part 10, as applicable, except where it conflicts with the requirements of Part 11;
- B. Be reviewed by the appropriate review authority established in Development Code Part 9 and Part 10, as applicable, except where it conflicts with the requirements of Part 11;
- C. Conform to all objective Development Standards established in the underlying Zoning District and the Development Code, as applicable, except where it conflicts with the requirements of Part 11;
- D. Conform to all objective Subdivision Standards established in Part 10, as applicable, except where it conflicts with the requirements of Part 11;
- E. Conform to all objective City Design Standards and Guidelines, as applicable, except where it conflicts with the requirements of Part 11; and
- F. Conform to all objective development and design standards of any Specific Plan, as applicable, except where it conflicts with the requirements of Part 11.

**11.60.040 Applicability of Mixed-Use and Multifamily Objective Design Standards (MODS)**

- A. All multifamily and mixed-use residential development projects that contain more than 10 residential units, shall either:
  1. Comply with all requirements of the MODS; or
  2. Pursue an Alternative Design Plan.
    - a. The Alternative Design Plan would allow for a project to deviate from any objective design standard(s) of the MODS.
    - b. A project seeking an Alternative Design Plan shall enter into a Development Agreement with the City, as authorized by the City Council.
- B. In the event that any objective standards are inconsistent amongst these documents, the objective general plan standards shall prevail, followed by the objective standards contained in an applicable specific plan, the subdivision ordinance, the zoning ordinance, the MODS, and any other City documents containing objective standards, in that order.

**11.60.050 Expiration of Governing Regulations**

Individual Chapters of Part 11 will remain in affect until Government Code Section(s) identified within each Chapter's Purpose and Enabling Authority are repealed; upon repeal of an identified corresponding Government Code Section, Chapter shall be of no further effect.

### **11.60.060 Sustainability Design Standards Findings**

With respect to the standards contained within the Mixed-Use and Multifamily Objective Design Standards that are relevant to the City's Climate Action Plan strategies, as denotated with a grape leaf symbol within the document, the City of Livermore finds the standards are appropriate to protect public health and safety, promote environmental sustainability, and ensure the long-term resilience and livability of the community:

1. **Purpose and Intent:** The standards promote environmental sustainability, climate resiliency, and public safety. The standards are intended to reduce the urban heat island effect, mitigate wildfire risks, improve air quality, and enhance overall community well-being by incorporating climate-responsive strategies into site and building design.
2. **Protection of Public Health and Safety:** Expanding tree canopy, integrating sustainable landscaping practices, and requiring effective shade through natural and built elements reduce surface and ambient temperatures, which in turn decrease the risk of heat-related illnesses and improve thermal comfort. In addition, the use of fire-resistant building materials and defensible space design reduces the vulnerability of structures and residents to wildfires—a growing threat in Livermore and the greater Tri-Valley region. These measures directly support the health, safety, and welfare of the Livermore community.
3. **Environmental Stewardship and Air Quality Improvement:** Trees and vegetation provide critical environmental benefits by sequestering carbon dioxide, filtering air pollutants, reducing stormwater runoff, and increasing urban biodiversity. These benefits align with Livermore's environmental goals and contribute to regional air quality improvements, which are essential for protecting public health, particularly among sensitive populations such as children, seniors, and individuals with respiratory conditions.
4. **Climate Resiliency:** The standards support Livermore's efforts to prepare for the increasing frequency and severity of extreme heat events and wildfires. Proactive incorporation of cooling features, fire-resilient materials, and adaptive landscaping ensures that new development contributes to a more resilient built environment that can withstand climate-related stresses.
5. **Community Livability and Equity:** The standards contribute to a healthier, safer, and more livable city for all residents. By addressing urban heat, wildfire risk, and environmental quality, the standards support equitable access to a safe and comfortable environment, particularly for communities that are more vulnerable to climate impacts. Trees, landscaping, and shading result in tangible benefits such as reducing energy costs for households, enhancing neighborhood aesthetics, and increasing property values. These features contribute meaningfully to quality of life and promote a more equitable and visually cohesive built environment.
6. **Consistency with City Plans and Policies:** The standards are consistent with and advance key objectives in the Livermore General Plan, the Climate Action Plan, the

Hazard Mitigation Plan, and the Livermore Fire Code. They support the City's broader goals of sustainability, environmental stewardship, and hazard mitigation by embedding resiliency and health-promoting features into the development process.

## Chapter 11.61: Streamlined Review in Residential Zoning Districts

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### Sections:

- 11.61.010 Purpose and Enabling Authority
- 11.61.020 Projects Eligible for Streamlined Review
- 11.61.030 Projects Not Eligible for Streamlined Review
- 11.61.040 Affordability Requirements
- 11.61.050 Applicability of Objective Criteria
- 11.61.060 Streamlining Provisions
- 11.61.070 Implementation
- 11.61.080 Expiration of Governing Regulations.

### 11.61.010 Purpose and Enabling Authority

- A. The purpose of this Chapter is to summarize the requirements of Gov't Code § 65913.4 governing ministerial and streamlined approval of residential and mixed-use development projects in residential zoning districts, and to supplement these requirements with guidelines and procedures for processing applications under this law. Gov't Code § 65913.4 was originally added to the Government Code by SB 35 (2017), which has been subsequently amended.
- B. The provisions of Gov't Code § 65913.4 apply in cities that are not meeting their Regional Housing Need Allocation (RHNA) goal for construction of either above-moderate income housing and/or housing for households below 80% area median income (AMI). Gov't Code § 65913.4 requires these local entities to streamline the approval of certain housing projects by providing a ministerial approval process, removing the requirement for CEQA analysis, and removing the requirement for discretionary entitlements. The provisions of this Chapter shall only apply during periods in which the California Department of Housing and Community Development (HCD) has determined the City is subject to Gov't Code § 65913.4 due to not meeting its RHNA goal for the applicable housing element cycle.
- C. Streamlined and ministerial review will apply only if requested by the project applicant and the project meets eligibility criteria as set out in this Chapter and State law.
- D. Ambiguities or gaps in this Chapter shall be resolved first by reference to Gov't Code § 65913.4. In the event of any conflict between Gov't Code § 65913.4 and this Chapter, Gov't Code § 65913.4 shall govern.

### 11.61.020 Projects Eligible for Streamlined Review

A residential or mixed-use project is eligible for streamlined and ministerial review if it meets all of the following criteria (Gov't Code § 65913.4(a)). The project must be:

- A. **Unit Quantity.** Comprised of two residential units or more.
- B. **Adjacent Use.** Located on a site where 75% of the perimeter adjoins parcels that are developed with any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.
- C. **Land Use Designation.** Located on a legal parcel that meets one of the following criteria:
  - 1. Is zoned for residential use or residential mixed use.
  - 2. Is designated in the General Plan for residential use or residential mixed use.
- D. **Residential Proportion.** At least two-thirds of the square footage of the project is designated for residential use. Additional density, floor area, and units, and any other concession, incentive, or waiver of development standards granted pursuant to Chapter 11.40 and Gov't Code § 65915, both governing Density Bonus, shall be included in the square footage calculation. The square footage of the project shall not include underground space, such as basements or underground parking garages.
- E. **Objective Design Standards.** Consistent with the City's Mixed-Use and Multifamily Objective Design Standards in effect at the time a Notice of Intent was submitted for the project. Any additional density or any concessions, incentives, or waivers of development standards granted pursuant to Density Bonus Chapter 11.40 and Gov't Code § 65915, are excluded from this consistency requirement.
- F. **Labor Requirements.** Consistent with contractor, wage and labor requirements, as further detailed in Gov't Code § 65913.4(a)(8) unless the project is both ten or fewer units and not a public work (Gov't Code § 65913.4(a)(9)). A project that is 100% affordable to households earning 80% AMI or lower is exempt from the skilled and trained workforce provisions of Gov't Code § 65913.4(a)(8).
- G. **Tribal Consultation.** Consistent with one of the following:
  - 1. Consultation Decline. A California Native American tribe that received a formal notice of the applicant's notice of intent to submit an application pursuant to the scoping process set out in Section 11.61.040 did not accept the invitation to engage in a scoping consultation.
  - 2. Non Responsive. The California Native American tribe accepted an invitation to engage in a scoping consultation but substantially failed to engage in the scoping consultation after repeated documented attempts by the City to engage the California Native American tribe.
  - 3. No Impact. The parties to a scoping consultation find that no potential tribal cultural resource will be affected by the proposed project.

4. **Mitigated Impact.** A scoping consultation between a California Native American tribe and the local government has occurred, the parties find that a potential tribal cultural resource could be affected by the proposed project and an enforceable agreement is documented between the California Native American tribe and the local government on methods, measures, and conditions for tribal cultural resource treatment.

#### **11.61.030 Projects Not Eligible for Streamlined Review**

A project is not eligible for streamlined and ministerial review if any of the following apply:

- A. **Sensitive Lands.** It is located on property that is prime farmland, wetlands, a high fire hazard severity zone, a delineated earthquake fault zone, a flood plain, a floodway, a hazardous waste site, a community conservation plan area, a habitat for protected species, or under a conservation easement, each as further qualified and defined in Gov't Code § 65913.4(a)(6).
- B. **Demolition.** It would involve the demolition of existing affordable housing, housing occupied by tenants within the past ten years, or a historic structure, as further detailed in Gov't Code § 65913.4(a)(7).
- C. **Mobile Homes.** It is on a site governed by the Mobilehome Residency Law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act.
- D. **Tribal Consultation.** After concluding the scoping consultation set out in subsection (G) above, the parties do not agree as to whether a potential tribal cultural resource will be affected by the proposed project or the parties find that a potential tribal cultural resource could be affected by the proposed project and an enforceable agreement is not documented between the California Native American tribe and the local government regarding methods, measures, and conditions for tribal cultural resource treatment.
- E. **Tribal Resource.** There is a tribal cultural resource that is on a national, state, tribal, or local historic register list located on the site of the project.

#### **11.61.040 Affordability Requirements**

- A. **Annual Change.** The affordability criteria for projects that are eligible for streamlined and ministerial review change annually based on the City's annual progress toward meeting its above moderate-income RHNA, progress towards meeting its lower-income RHNA, and its timely submittal of its latest annual Housing Element Annual Progress Report to HCD.
- B. **State Consultation.** The City intends to annually consult the State Department of Housing and Community Development to determine which affordability criteria are in effect for the City and what percentage of units at specified income levels a project must provide in order to meet eligibility requirements for streamlined processing.
- C. **Rental Projects.** The affordability criteria for for-rent and for-sale projects may be different.

- D. **Deed Restrictions.** Projects approved under this Chapter shall be subject to a deed restriction ensuring that units will remain affordable for no less than:
1. Fifty-five (55) years for rental units; or
  2. Forty-five (45) years for ownership units.
- E. **Affordability Levels.** Required affordability levels shall be as follows:
1. **Low and Very Low.** If the City's latest Annual Progress Report to HCD reflects that there were fewer units of housing issued building permits affordable to either very low income or low-income households by income category than were required for the regional housing needs assessment cycle for that reporting period, the project must dedicate 50 percent of the total number of units, before calculating any density bonus, to housing affordable to households making at or below 80 percent of the area median income.
  2. **Above Moderate, Low, Very Low.** If the City did not submit its latest Annual Progress Report to HCD to the Department of Housing and Community Development by the time period required by Gov't Code § 65400, or if the production report reflects that there were fewer units of housing affordable to above moderate-income households or to either very low income or low-income households that were issued building permits than were required for the regional housing needs assessment cycle for that reporting period, the project seeking approval must include either the number and income level of units required under subsection (1) above or one of the following:
    - a. **Rental Projects.** The project must dedicate a minimum of 10 percent of the total number of units, before calculating any density bonus, to housing that is affordable to households making at or below 50 percent of the area median income.
    - b. **For Sale Projects.** The project must dedicate a minimum of 10 percent of the total number of units, before calculating any density bonus, to housing affordable to households making at or below 80 percent of the area median income.
    - c. **For Sale or Rental Projects.** The project must dedicate 20 percent of the total number of units, before calculating any density bonus, to housing affordable to households making below 100 percent of the area median income with the average income of the units at or below 80 percent of the area median income. In order to comply with this subclause, the rent or sale price charged for units that are dedicated to housing affordable to households between 80 percent and 100 percent of the area median income shall not exceed 30 percent of the gross income of the household.
  3. Whenever the inclusionary requirement results in an odd number of units, the majority of units shall be provided as low-income. Whenever

the number of units result in a fraction of a unit greater than 0.5, the requirement shall be rounded up to the nearest whole unit. Whenever the number of units results in a fraction of a unit less than or equal to 0.5, the requirement shall be rounded down to the nearest whole unit.

#### **11.61.050 Applicability of Objective Criteria**

The project shall comply with:

- A. **Development Standards.** The objective development standards of the applicable zoning district in effect at the time that a Notice of Intent is submitted for the project.
- B. **Design Standards.** The Mixed-Use and Multifamily Objective Design Standards in effect at the time that a Notice of Intent is submitted for the project.
- C. **Other Standards.** Objective criteria of the General Plan, any applicable specific plan, relevant sections of the Development Code, or any other Municipal Code section that applies to the project.

#### **11.61.060 Streamlining Provisions**

If the Community Development Director determines that a project application submitted pursuant to this section is consistent with the eligibility requirements in Section 11.61.020, the affordability requirements in Section 11.61.040 (as applicable), and the objective criteria identified in Section 11.61.050, the Director shall ministerially approve the project, subject to the following:

- A. **Parking Reductions.** The following reduced parking standards shall be applied, as required by Gov't Code § 65913.4(e):
  - 1. The City shall not impose parking standards for any project determined to be eligible under this chapter if any of the following apply to the project:
    - a. The project is located within one-half mile of public transit.
    - b. The project is located within an architecturally and historically significant historic district.
    - c. When on-street parking permits are required but not offered to the occupants of the project.
    - d. When there is a car share vehicle located within one block of the project.
  - 2. If none of the above conditions exist, the project shall provide one parking space per unit.
- B. **Reduced Review Timeline.** The following reduced review times shall be applied:

<b>Project size</b>	<b>Completeness Determination (Gov't Code § 65943(a))</b>	<b>Determination of Consistency (Gov't Code § 65913.4(c))</b>	<b>Project Approval (Gov't Code § 65913.4(d))</b>
150 units or less	30 days from submittal of application	60 days from submittal of application	90 days from submittal of application
More than 150 units	30 days from submittal of application	90 days from submittal of application	180 days from submittal of application

C. **CEQA.** The development project shall not be subject to CEQA review.

**11.61.070 Implementation**

A. **Tribal Consultation.** The City and applicant shall comply with the procedural requirements of Gov't Code § 65913.4(b)(1) regarding tribal consultation.

B. **Determination of Inconsistency.** Upon a determination that a project application submitted pursuant to this section is in conflict with any of the eligibility requirements in Section 11.61.030, the Mixed-Use and Multifamily Objective Design Standards, and other applicable objective criteria, the City shall provide the applicant written documentation of which standard or standards the project conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards in the timelines noted in Section 11.61.060(B). (Gov't Code § 65913.4(c)).

C. **Expiration of Approval.**

1. Project approval expires after three years from the date of the final action establishing approval unless construction activity has commenced on the site (including grading and demolition) and the site permit for the project has been issued. The City may grant a one-time, one-year extension if there has been significant progress towards getting the project construction ready (Gov't Code § 65913.4(g)(2)).

2. Project approval does not expire if a project receives public investment other than tax credits and provides at least 50% of the units at 80% AMI or below (Gov't Code § 65913.4(g)(1)).

D. **Modification of Approval.** An applicant may request a modification to a project that has been approved under the streamlined, ministerial approval process if that request is submitted to the City before the issuance of the final building permit required for construction of the project. The City's consideration of such modification request shall be governed by Gov't Code § 65913.4(h).

**11.61.080 Expiration of Governing Regulations.**

Gov't Code § 65913.4 will remain in effect until January 1, 2036 and after that time is repealed. This Chapter will remain in effect until the repeal of Gov't

Code § 65913.4; upon repeal of that section this Chapter shall be of no further effect.

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## Chapter 11.62: Streamlined Review in Non-Residential Zoning Districts

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### Sections:

- 11.62.010 Purpose and Enabling Authority
- 11.62.020 Site and Location Criteria for All Projects
- 11.62.030 Design and Development Standards for All Projects
- 11.62.040 Site and Development Criteria for 100% Affordable Projects
- 11.62.050 Site and Development Criteria for Mixed-Income Projects
- 11.62.060 Affordability Criteria for Mixed-Income Projects
- 11.62.070 Development Application Processing, Review, and Timeline for All Projects
- 11.62.080 Expiration of Governing Regulations.

### 11.62.010 Purpose and Enabling Authority

- A. The purpose of this Chapter is to summarize the requirements of Gov't Code § 65912.100 through § 65912.130 governing ministerial and streamlined approval of residential and mixed-use development projects in non-residential zoning districts, and to supplement these requirements with guidelines and procedures for processing applications under this law. Gov't Code § 65912.100 through § 65912.130 were added to the Government Code by AB 2011 (2022).
- B. Ambiguities or gaps in this Chapter shall be resolved first by reference to Gov't Code § 65912.100 through § 65912.130. In the event of any conflict between Gov't Code § 65912.100 through § 65912.130 and this Chapter, Gov't Code § 65912.100 through § 65912.130 shall govern.

### 11.62.020 Site and Location Criteria for All Projects

To be eligible for streamlined and ministerial review, the housing development project must meet all of the requirements in this section (Gov't Code §§ 65912.110 and 65912.111) and meet the standards of either subsection 11.62.040 (100% affordable development project) or 11.62.050 (mixed-income development project):

- A. **Location.** Located on one or more legal parcels and in a zone where office, retail, or parking are a principally permitted use.
- B. **Surrounding Parcels.** Located on a site where 75% of the perimeter adjoins parcels that are developed with urban uses. For purposes of this subdivision, parcels only separated by a street, pedestrian path, or bicycle path shall be considered to be adjoined;
- C. **Neighborhood Plan.** For a site within a neighborhood plan area, the neighborhood plan applicable to the site permits multifamily housing development on the site.
- D. **Land Types.** The site shall not be any of the following:

1. Sensitive Lands. Located on property that is prime farmland, wetlands, a high fire hazard severity zone, a delineated earthquake fault zone, a flood plain, a floodway, a hazardous waste site, a community conservation plan area, a habitat for protected species, or under a conservation easement, each as further qualified and defined in Gov't Code § 65913.4(a)(6).
2. Industrial Lands. Located on a site or adjoined to any site in which 1/3 of the uses or more are dedicated to industrial use, meaning that either:
  - a. the current use is industrial, or
  - b. the most recently permitted use of the square footage is an industrial use and the site has been occupied within the past three years, or
  - c. the site was designated for industrial use by the current General Plan before January 1, 2022, and residential uses are not principally permitted on the site.

For purposes of this subdivision, parcels only separated by a street shall be considered to be adjoined.
3. Historic Structure. On a site where the development would require the demolition of a historic structure that was placed on a national, state, or local historic register.
4. Mobile Homes. On a site governed by the Mobile home Residency Law, the Recreational Vehicle Park Occupancy Law, the Mobile home Parks Act, or the Special Occupancy Parks Act.
5. Cultural Resources. Vacant and containing tribal cultural resources, as defined by Public Resources Code § 21074, that could be affected by the development that were found pursuant to a consultation as described by the Public Resources Code § 21080.3.1 and the effects of which cannot be mitigated pursuant to the process described in Public Resources Code § 21080.3.2.

**E. Mixed Use Projects**

1. For mixed-use developments consisting of residential and nonresidential retail commercial or office uses, at least two-thirds of the square footage of the new construction associated with the project shall be designated for residential use.
2. None of the square footage of any such development shall be designated for hotel, motel, bed and breakfast inn, or other transient lodging use, except for a residential hotel.
3. If the project is 500 net new residential units, the two-thirds residential requirement does not apply.

**11.62.030 Design and Development Standards for All Projects**

- A. **Objective Standards.** All housing development projects eligible for ministerial and streamlined approval under this Chapter shall be consistent with the City's Mixed Use and Multifamily Objective Design Standards in effect at the time that an application is submitted.
- B. **Density Bonus.** The housing development project shall be eligible for a density bonus, incentives or concessions, waivers or reductions of development standards, objective design standards, and parking ratios pursuant to Gov't Code § 65915, except that the development project shall not use a concession to reduce the requirement for the provision of ground floor retail if required by this Chapter (Gov't Code § 65912.124 (f)).
- C. **Indoor Air Quality.** For any housing on the site located within 500 feet of a freeway, all of the following shall apply:
  - 1. The building shall have a centralized heating, ventilation, and air-conditioning system.
  - 2. The outdoor air intakes for the heating, ventilation, and air-conditioning system shall face away from the freeway.
  - 3. The building shall provide air filtration media for outside and return air that provide a minimum efficiency reporting value of 16.
  - 4. The air filtration media shall be replaced at the manufacturer's designated interval.
  - 5. The building shall not have any balconies facing the freeway.
- D. **Proximity to Hazardous Uses.** No housing on the site shall be located within 3,200 feet of a facility that actively extracts or refines oil or natural gas.
- E. **Open Space.** No common open space shall be required beyond the existing amount already on site for a project that is converting an existing non-residential building to a residential building.
- F. **Phase I ESA.** The housing development project must complete a Phase I Environmental Assessment (ESA), as defined in Health and Safety Code § 78090 and address any findings (Gov't Code § 65912.114(k) and § 65912.124(k)).
  - 1. If a recognized environmental condition is found, the development project proponent shall undertake a preliminary endangerment assessment, as defined in Health and Safety Code § 78095, prepared by an environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.
  - 2. If a release of a hazardous substance is found to exist on the site, the release shall be removed, or any significant effects of the release shall be

mitigated to a level of insignificance in compliance with current state and federal requirements, prior to Certificate of Occupancy.

3. If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with current state and federal requirements, prior to Certificate of Occupancy.

#### **11.62.040 Site and Development Criteria for 100% Affordable Projects**

To be eligible for streamlined and ministerial review, a 100% affordable housing development project must meet the following requirements (Gov't Code § 65912.112 through § 65912.114) and the site requirements of Section 11.62.030 (Site and Location Criteria for All Projects):

- A. **Multifamily Development.** Shall be a multifamily housing development project.
- B. **Affordability Requirements.**
  1. **Income Level.** All new units created by the housing development project shall be dedicated to lower income households at an affordable cost, as defined by Health and Safety Code § 50052.5, or an affordable rent set in an amount consistent with the rent limits established by the California Tax Credit Allocation Committee, with the exception of manager's units.
  2. **Deed Restriction.** All new units created by the housing development project shall be subject to a deed restriction ensuring that all housing units will meet the requirement of subsection (B)(1) above for no less than:
    - a. Fifty-five (55) years for rental units; or
    - b. Forty-five (45) years for ownership units.
- C. **Density.** Shall be developed at a density of at least 30 units/acre.
- D. **Applicable Zoning Standards.**
  1. Shall be consistent with the applicable objective zoning, subdivision, and development standards for the zone that allows residential use at a greater density between the following:
    - a. **Existing Zoning.** The existing zoning designation for the parcel at the time the development project application is submitted pursuant to this chapter, if existing zoning allows multifamily residential use; or
    - b. **Most Applicable Zoning.** The Zoning standards of another parcel within a residential General Plan designation that most closely matches the project's proposed density. (Gov't Code § 65912.113(e)).

2. Density Exception. No objective standards shall preclude a development from being built at the residential density required pursuant to subsection (C) and no standard shall require the development to reduce unit size to meet the objective standards.
- E. **Labor Standards.** Shall be compliant with the labor standards identified in Gov't Code § 65912.130, including, but not limited to, meeting certain requirements for construction worker employment, prevailing wages, among others.

#### **11.62.050 Site and Development Criteria for Mixed-Income Projects**

To be eligible for streamlined and ministerial review, a mixed-income housing development project shall meet the following requirements (Gov't Code § 65912.121 through § 65912.124) and the site requirements of Section 11.62.030 (Site and Location Criteria for All Projects):

- A. **Multifamily Development.** Shall be a multifamily housing development project.
- B. **Location.** Shall be:
  1. Commercial Corridor. Located on a site that abuts a commercial corridor and has a frontage along the commercial corridor of a minimum of 50 feet;
  2. Site Size. Located on a site not greater than 20 acres, unless the site is a regional mall, in which case the site is not greater than 100 acres;
  3. Existing Dwellings. Not located on a site containing one to four dwelling units;
  4. Vacant Single-Family Residential Land. Not located on site that is vacant and zoned for housing but not for multifamily residential use; and
  5. Demolition. Not located on a site that would involve the demolition of existing affordable housing, housing occupied by tenants within the past ten years, or a historic structure, as further detailed in Gov't Code § 65912.121(h).
- C. **Density.**
  1. Allowable residential density shall be the greater of the following (Gov't Code § 65912.123(b)):
    - a. The maximum residential density allowed on the parcel by the applicable zoning designation; or
    - b. For a site of less than one acre in size, 30 units per acre;
    - c. For a site of one acre in size or greater located on a commercial corridor of less than 100 feet in width, 40 units per acre; or
    - d. For a site of one acre in size or greater located on a commercial corridor of 100 feet in width or greater, 60 units per acre; or

- e. Notwithstanding subsection (b), (c), or (d), for sites within a very low vehicle travel area or within one-half mile of a major transit stop, 80 units per acre.
  - 2. For a housing development project application that has been determined to be consistent with the objective planning standards specified in this Chapter, before January 1, 2027, the development project shall be developed at a density that is either:
    - a. 50 percent or greater of the applicable allowable residential density contained in section I(b) through I(e) above; or
    - b. For a site within one-half mile of an existing passenger rail or bus rapid transit station, 75 percent or greater of the applicable allowable residential density contained in section I(b) through I(e) above
- D. **Height.** Meet the greater of the following height limits (Gov't Code § 65912.123(c)):
  - 1. The height allowed on the parcel by the applicable zoning designation; or
  - 2. For a site on a commercial corridor of less than 100 feet in width: 35 feet; or
  - 3. For a site on a commercial corridor of 100 feet in width or greater: 45 feet.
- E. **Commercial Uses Required.** At least one half (50%) of the ground floor square footage of the housing development project shall be designated for commercial use (Gov't Code § 65912.123(j))
- F. **Setbacks.** Shall comply with the following setback requirements (Gov't Code § 65912.123(d)):
  - 1. For the portion of the property that fronts a commercial corridor:
    - a. Front Minimum: None
    - b. Ground Floor Front Maximum: 10 feet for at least 80 percent of the frontage.
    - c. Parking Front Minimum: 25 feet
    - d. Side: None for adjacent properties that front the Commercial Corridor
  - 2. Front, Side, Rear Setback Adjacent to a Residential Use.
    - a. Ground Floor Minimum: 10 feet.
    - b. Upper Floor Minimum: Starting with the second floor of the property, each subsequent floor of the project shall be stepped back in an amount equal to seven feet multiplied by the floor number. For purposes of this paragraph, the ground floor counts as the first floor.

3. All Other Areas. Front, side, rear setbacks are a minimum of 15 feet.
- G. **Parking.** No parking, including replacement parking, is required for a housing development project under this Chapter, except that any requirement of the Code or state or federal law imposed on a new multifamily residential, mixed-use, or non-residential development project to provide bicycle parking, electric vehicle supply equipment installed parking spaces, or parking spaces that are accessible to persons with disabilities that would have otherwise applied to the development continue to apply (Gov't Code § 65912.123(e)).
- H. **Applicable Zoning Standards.** Other than the provisions listed in this Section, the housing development project shall be consistent with the applicable objective zoning, subdivision, and design review standards for:
1. The most applicable zoning district that allows multifamily residential use at the residential density determined pursuant to subsection (C); or
  2. If no zoning district exists that allows the residential density determined pursuant to subsection (C), the applicable objective standards shall be those for the zoning district that allows the greatest density. (Gov't Code § 65912.123(j)).
- I. **Labor Standards.** The project must be compliant with the labor standards identified in Gov't Code § 65912.130, including, but not limited to, meeting certain requirements for construction worker employment, prevailing wages, among others.

#### 11.62.060 Affordability Criteria for Mixed-Income Projects

To be eligible for streamlined and ministerial review, a mixed-income housing development project must meet the following affordability criteria (Gov't Code § 65912.122):

- A. **Rental Housing.** Rental housing development project shall include either (1) or (2), except as modified by subsection (E) below:
1. Eight percent of the base quantity units for very low income households and five percent of the units for extremely low income households; or
  2. Fifteen percent of the base quantity units for lower income households.
- B. **Rental Deed Restriction.** All new housing units created by the project will be subject to a deed restriction ensuring they will meet the above affordability requirements for no less than fifty-five years. Rents shall be set at an affordable rent, as defined in Health and Safety Code § 50043.
- C. **Owner-Occupied Housing.** Owner-occupied housing development project shall include either (1) or (2) except as modified by subsection (E) below:
1. Thirty percent of the base quantity units must be offered at an affordable housing cost, as defined in Health and Safety Code § 50052.5, to moderate-income households; or

2. Fifteen percent of the base quantity units must be offered at an affordable housing cost, as defined in Health and Safety Code § 50052.5, to lower income households.
- D. **Owner-Occupied Deed Restriction.** All new ownership housing units created by the project will be subject to a deed restriction ensuring they will meet the above affordability requirements for no less than forty-five years.
- E. **Inclusionary Ordinance Requirement.** The mixed-income housing development project shall comply with all of the following:
1. **Affordability Percentage.** If Chapter 11.70 would require a higher percentage of affordable units than any part of this Section, Chapter 11.70 shall control.
  2. **Income Level.** If Chapter 11.70 requires a project to provide units at lower income levels than any part of this Section, Chapter 11.70 shall control.
  3. **Rental Housing.** For a rental housing project, if Chapter 11.70 (Inclusionary Ordinance) requires greater than fifteen percent of the units to be dedicated for lower income households and does not require the inclusion of units affordable to very low and extremely low income households, then the development project shall do both of the following:
    - a. Allocate eight percent of the base units for very low income households and five percent of the units for extremely low income households; and
    - b. The City's Inclusionary requirement for Lower Income households listed in Chapter 11.70 shall be reduced by fifteen percent.
- F. **Comparability.** Affordable units in the mixed-income housing development project shall have the same bedroom and bathroom count ratio as the market rate units, be equitably distributed within the development project, and have the same type or quality of appliances, fixtures, and finishes.

#### **11.62.070 Development Application Processing, Review, and Timeline for All Projects**

- A. **Review Authority.** If the Community Development Director determines that a housing development project application submitted pursuant to this section is consistent with the requirements in Sections 11.62.030 to 11.62.070, the Director shall approve the development project. Upon a determination that a development project application submitted pursuant to this section is inconsistent with applicable standards, the City shall provide the applicant written documentation of which criteria, standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards in the timelines noted (Gov't Code § 65912.114(a) and § 65912.124(a))

- B. **Timeline for Review.** Development project review is subject to following deadlines (Gov't Code § 65912.114 and § 65912.124):

<b>Project size</b>	<b>Completeness Determination</b>	<b>Consistency Determination</b>	<b>Project Approval</b>
150 units or less	30 days from submittal	60 days from submittal (or within 30 days of resubmittal to address written feedback)	60 days from consistency determination
More than 150 units	30 days from submittal	90 days from submittal (or within 30 days of resubmittal to address written feedback)	90 days from consistency determination

- C. **CEQA.** The development project shall not be subject to CEQA review.
- D. **Notice to Tenants.** The applicant shall provide written notice of the pending application to each commercial tenant on the parcel when the application is submitted and shall provide relocation assistance to each eligible commercial tenant located on the site in accordance with Gov't Code § 65912.123(h).
- E. **Expiration of Approval.** Approvals pursuant to this Chapter shall be subject to the expiration timeframes set out in Gov't Code § 65912.114(l) for development projects under Section 11.62.040 and Gov't Code § 65912.124(l) for development projects under Section 11.62.050.
- F. **Modifications.** Any proposed modifications to a development project approved pursuant to this section shall be undertaken pursuant to Gov't Code § 65913.4(g).

**11.62.080 Expiration of Governing Regulations.**

Gov't Code § 65912.100 through § 65912.130 will remain in effect until January 1, 2033, and after that time are repealed. This Chapter will remain in effect until the repeal of § 65912.100 through § 65912.130; upon repeal of those sections this Chapter shall be of no further effect.

## Chapter 11.63: Transitional and Supportive Housing

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### Sections:

- 11.63.010 Purpose and Enabling Authority
- 11.63.020 Development and Performance Standards
- 11.63.030 Planning Review Timeline and Approval
- 11.63.040 Administrative Policies and Regulations.
- 11.63.050 Fees.

### 11.63.010 Purpose and Enabling Authority

- A. The purpose of this Chapter is to summarize the requirements of Gov't Code §§ 65650 through 65656 governing the establishment of transitional and supportive housing facilities, and to supplement these requirements with guidelines and procedures for processing applications under this law. Gov't Code §§ 65650 through 65656 were added to the Government Code by AB 2162 (2018).
- B. Ambiguities or gaps in this Chapter shall be resolved first by reference to Gov't Code §§ 65650 through 65656. In the event of any conflict between Gov't Code and this Chapter, Gov't Code §§ 65650 through 65656 shall govern.
- C. Transitional and Supportive Housing developments shall mean buildings configured as rental housing developments that are linked to onsite or offsite services that assist the target population in retaining housing, improving their health status, and maximizing their ability to live and, when possible, work in the community. Such developments are operated under housing program requirements and include Tiny Home projects. Transitional Housing requires recirculation, while Supportive Housing may be indefinite.

### 11.63.020 Development and Performance Standards

A Transitional and Supportive Housing project that meets all of the criteria below shall be approved ministerially and without discretionary review or a public hearing.

- A. **Size.** The project shall consist of no more than 50 housing units.
- B. **Location.** Transitional and Supportive Housing are a permitted use in all zoning districts identified in Housing Element Table 3-5 and Table 3-6.
- C. **Affordability.** All of the proposed residential units in the project, excluding the manager's unit(s), must be dedicated as affordable to lower-income households, as defined in Health and Safety Code § 50079.5 at 80% AMI or below for a period of at least 55 years pursuant to a recorded restriction, and the units are or will be receiving public funding to ensure affordability of the housing to lower income Californians (Gov't Code § 65651(a)(2)).
- D. **Housing Use.** At least 25 percent of the units in the project or 12 units, whichever is greater, shall be restricted to residents in transitional and supportive housing who meet criteria of the target population. If the

development consists of fewer than 12 units, then 100 percent of the units, excluding managers' units, in the development shall be restricted to residents in transitional and supportive housing (Gov't Code § 65651(a)(3) and (c)).

- E. **Supportive Services Area and Type.** For projects with 20 units or fewer, at least 90 square feet of nonresidential space must be dedicated to supportive services. For projects with more than 20 units at least 3 percent of the total nonresidential floor area shall be provided for onsite supportive services that are limited to tenant use, including, but not limited to, community rooms, case management offices, computer rooms, and community kitchens.
- F. **Amenities.** Units within the project, excluding managers' units, must include at least one full bathroom and a kitchen or other cooking facilities, including, at minimum, a stovetop, a sink, and a refrigerator.
- G. **Replacement of Existing Units.** If the project proposes onsite demolition of existing dwelling units, any existing dwelling units on the site of the project shall be replaced with at least the same number of units of equivalent size in the project, and shall be made available to lower income households in the manner described in Gov't Code § 65915(c)(3).
- H. **Consistent with Objective Standards.** The project must be consistent with the City's Mixed Use and Multifamily Objective Design Standards in effect at the time that the application was filed. Any additional density or any concessions, incentives, or waivers of development standards granted pursuant to Density Bonus Chapter 11.40 and Gov't Code § 65915, are excluded from this consistency requirement.
- I. **Parking Requirement.** If the project is located within one-half mile of a public transit stop, there are no minimum parking requirements for the units occupied by transitional and supportive housing residents. If the project is located more than one-half mile from a Public Transit Stop, the project is subject to parking requirements in the applicable zoning district.
- J. **Density Bonus.** This Chapter shall not preclude or limit the ability of a developer to seek a density bonus, including any concessions, incentives, or waivers of development standards from the City pursuant to Chapter 11.40 or any State program that offers additional density or other development bonuses when affordable housing is provided.
- K. **Supportive Services Plan.** The project shall submit a Supportive Services Plan that provides the following (Gov't Code § 65652):
  - 1. **Description of Services.** The type of Supportive Services that will be provided to residents.
  - 2. **Floor Plan.** The onsite location and size of each services space.
  - 3. **Name and Address** The name and address of the proposed entity or entities that will provide supportive services.

4. Funding Sources. The proposed funding source or sources for the provided onsite supportive services.
  5. Staffing. Proposed staffing levels.
  6. Hours of Operation. The times in which services will be provided.
- L. **Recirculation Requirement.** All units shall be recirculated if required by housing program requirements, as determined by the Director.

### **11.63.030 Planning Review Approval and Timeline**

- A. **Ministerial Zoning Review.** The Director shall ministerially approve all Transitional and Supportive Housing projects that meet: 1) all Development and Performance Standards listed in Section 11.63.020; and 2) all objective Development Standards of the underlying zoning district. All Transitional and Supportive Housing applications shall require the following land use entitlements:
1. Zoning Clearance. To authorize the Transitional and Supportive Housing land use, as allowed by this Chapter; and
  2. Site Plan Design Review. To authorize the architecture, landscape, and site design.
- B. **CEQA.** The project shall not be subject to CEQA review.
- C. **Completeness Review Timeline.** The Community Development Director shall determine if the project application is complete and eligible for streamlined and ministerial review within 30 days of application submittal.
- D. **Approval Timeline.** If determined to be a complete application for an eligible project, the Community Development Director shall approve the project if it complies with the applicable requirements of this Chapter within 60 days of a completeness determination, or 120 days if the project exceeds 50 units.

**11.63.040 Administrative Policies and Regulations.** The Director, or their designee, shall have the authority to establish administrative policies and regulations that may be necessary to implement the provisions of this Chapter.

**11.63.050 Fees.** The City Council may establish by Resolution a non-refundable permit fee to cover the permit review costs incurred within the Section.

## Chapter 11.64: Affordable Housing on Faith and Higher Education Lands

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### Sections:

- 11.64.010 Purpose and Enabling Authority
- 11.64.020 Eligibility Criteria
- 11.64.030 Project Requirements
- 11.64.040 Project Review and Timeline
- 11.64.050 Expiration of Governing Regulations

### 11.64.010 Purpose and Enabling Authority

- A. The purpose of this Chapter is to summarize the requirements of Gov't Code § 65913.16 governing the development of affordable housing on sites owned either by an independent institution of higher education or a religious institution, and to supplement these requirements with guidelines and procedures for processing applications under this law. Gov't Code § 65913.16 was added to the Government Code by SB 4 (2023).
- B. Gov't. Code § 65913.16(b) provides a ministerial approval process for 100% affordable projects located on land that is both currently, and was, on or before January 1, 2024, owned by an independent institution of higher education or a religious institution. This is a voluntary program that a project sponsor may elect to pursue if the criteria in this Chapter and Gov't Code § 65913.16 are met.
- C. Ambiguities or gaps in this Chapter shall be resolved first by reference to Gov't Code § 65913.16. In the event of any conflict between Gov't Code § 65913.16 and this Chapter, Gov't Code § 65913.16 shall govern.

### 11.64.020 Eligibility Criteria

A project that meets all of the eligibility criteria in this section and the project requirements in Section 11.64.030 shall be approved ministerially and without discretionary review or a public hearing.

- A. **Land Ownership.** The project shall be located on land that is both currently, and was, on or before January 1, 2024, owned by an independent institution of higher education or a religious institution. This includes ownership through an affiliated or associated nonprofit public benefit corporation organized pursuant to the Nonprofit Corporation Law (Part 2 (commencing with § 5110) of Division 2 of Title 1 of the Corporations Code).
- B. **Location.** The project shall not be located on prime farmland, wetlands, a high fire hazard severity zone, a delineated earthquake fault zone, a flood plain, a floodway a community conservation plan area, a habitat for protected species, or under a conservation easement, all as defined in Gov't Code § 65913.4(a)(6).

- C. **Hazardous Waste Site.** The project shall not be on property that is classified as a hazardous waste site as defined under Gov't Code § 65912.111(e), unless the project sponsor has secured a letter or other determination from the State Department of Public Health, State Water Resources Control Board, or the Department of Toxic Substance Control stating that the site is suitable for residential uses.
- D. **No Demolition of Specified Residential Units or Historic Buildings.**
1. **Demolished Housing.** The project shall not be located on a site which was previously used for housing that was occupied by tenants that was demolished within 10 years before the project proponent applies for approval under this chapter.
  2. **Occupied Housing.** The project shall not demolish any of the following types of housing:
    - a. Units that have been occupied by tenants in the last 10 years.
    - b. Units subject to any form of rent or price control, or units subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low incomes.
  3. **Historic Structures.** The project may not cause the demolition of historic structures that are on a national, state, or local historic register.
- E. **Proximity to Industrial Uses.** The project shall meet all of the following criteria:
1. **Light Industrial.** A project shall not be adjacent to a site in which more than 1/3 of the square footage is dedicated to light industrial use, meaning that the current use is light industrial use, has been most recently permitted as light industrial use, or the site was designated for industrial use by the current General Plan before January 1, 2022 .
  2. **Heavy Industrial.** A project site shall not be located within 1,200 feet of an existing heavy industrial use, or a site that has been most recently permitted as a heavy industrial use.
  3. **Title V Industrial.** A project site shall not be located within 1,600 feet of an existing Title V industrial use, or a site that was most recently permitted as a Title V industrial use.
  4. **Oil and Natural Gas.** If a project site does not permit multifamily uses, then the project shall not be located within 3,200 feet of a facility that actively extracts or refines oil or natural gas.
- F. **Tribal Resources.** The project shall not be located on a vacant site, that contains tribal cultural resources, as defined in Public Resources Code § 21074, that could be affected by the development that were found pursuant to a consultation as described in Public Resources Code § 1080.3.1, and the effects of

which cannot be mitigated pursuant to the process described in Public Resources Code § 21080.3.2.

**11.64.030 Project Requirements**

To be subject to the ministerial process set out in this Chapter, a project shall meet the following requirements.

**A. Use.**

- I. Required Uses. The project shall consist of one or more of the following:
  - a. Residential. Two or more residential units.
  - b. Mixed-Use. Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.
  - c. Special Housing. Transitional Housing or Supportive Housing.
  - d. Religious Institution. Any religious institutional use, or any use that was previously existing and legally permitted by the City on the site, is allowed in combination with a residential use on the project site if all of the following criteria are met:
    - i Nonresidential Space. The total square footage of nonresidential space on the site does not exceed the amount previously existing or permitted in a Conditional Use Permit.
    - ii Parking. The total parking requirement for nonresidential space on the site does not exceed the lesser of the amount existing or of the amount required by a Conditional Use Permit.
    - iii Conditional Use Permit. The new uses abide by the same operational conditions as contained in a previously-approved Conditional Use Permit.
2. Other Permitted Uses. In addition to the uses listed immediately above, the project may also include, on the ground floor only:
  - a. Social Services. In zoning districts that allow single-family residential uses, childcare centers and facilities operated by community-based organizations for the provision of recreational, social, or educational services for use by the residents of the project and members of the local community in which the project is located.
  - b. Commercial. In zoning districts that do not allow single-family residential uses, commercial uses that are permitted in that zone without a conditional use permit or planned unit development permit.

**B. Affordability.**

1. **Income Level.** 100 percent of the total residential units, excluding manager's unit(s), shall be for lower income households, as defined by Health and Safety Code § 50079.5, except that:
    - a. **Moderate-Income.** Up to 20 percent of the total units in the development may be for moderate-income households, as defined in Health and Safety Code § 50053, and
    - b. **Institution Staff.** 5 percent of the units may be for staff of the independent institution of higher education or religious institution that owns the land.
  2. **Deed Restriction.** All affordable units shall be subject to a recorded deed restriction of 55 years for rental units (unless other applicable binding requirements impose a longer term), and 45 years for for-sale units.
- C. **Replacement Units.** If a project requires the demolition of residential units or is located on a site where residential units have been demolished within the past five years, the project sponsor shall comply with Gov't Code § 65913.16(c)(11).
- D. **Density.**
1. **Single Family Residential and Commercial Districts.** In Single Family and/or Commercial Zoning Districts, the project shall have a density of 30 units per acre or less, except that if the General Plan designation or underlying zoning allows for a higher residential density on the project site or a site adjacent to the project site, then the highest density shall apply.
  2. **All Other Zoning Districts.** In zones not listed above in section D(1), the project shall have a density of 40 units per acre or less, except that if zoning allows for a higher residential density on a site adjacent to the project site, then the higher density shall apply.
- E. **Building Height.**
1. **Maximum Height.** The project shall have a maximum building height of one story above the zoned height. If zoning allows for a higher residential height limit on a site adjacent to the project site, then the higher height limit shall apply.
  2. **Density Bonus.** The project may be eligible for waivers, and incentives/concessions under the State Density Bonus Law (Gov't Code § 65915), except that a project subject to section D.2 above shall not use an incentive, waiver, or concession to increase the height of the project to greater than the height stated in section E.1.
- F. **Labor Standards.** A project that includes more than 10 units that is not in its entirety a public work shall comply with the prevailing wage requirements set forth in Gov't Code § 65913.16(c)(12).
- G. **Craft Construction.** In addition to the Labor Standards set forth in Gov't Code § 65912.130, a project with 50 or more units shall employ construction

craft employees and provide for health care expenditures as set forth in Gov't Code § 65913.16(g).

- H. **Proximity to Freeway.** If the project is within 500 feet of a freeway, regularly occupied areas of the building shall provide air filtration media for outside and return air that provide a minimum efficiency reporting value (MERV) of 13.
- I. **Objective Standards.** The project shall be consistent with the City's applicable objective, written design and development standards and policies that were published or adopted before the date the project application was submitted to the City, and that are not in conflict with this Chapter or Gov't Code § 65913.16, inclusive of the City's Mixed-Use and Multifamily Objective Design Standards.
- J. **Parking.**
  - 1. **Baseline Parking Requirement.** Except as provided in subsection J(2) below, the project shall provide off-street parking of one space per unit, unless a State law or City ordinance provides for a lower standard of parking, in which case the lower standard shall apply.
  - 2. **No Parking Alternatives.** The project shall not be subject to any off-street parking requirement if either of the following is true:
    - a. **Public Transit.** The project site is located within one-half mile walking distance of public transit, either a high-quality transit corridor or a major transit stop as defined in Public Resources Code § 21155(b).
    - b. **Car Share.** There is a car share vehicle located within one block of the parcel.

**11.64.040 Project Review and Timeline**

- A. **Ministerial review and approval required.** If the Community Development Director determines that a project application submitted pursuant to this section is consistent with the eligibility requirements in Section 11.64.020, the project requirements identified in Section 11.64.030, all Objective Development Standards of the underlying Zoning District not in conflict with this Section, and all Objective Design Standards not in conflict with this Section, the Director shall ministerially approve the application, subject to the following review timeline (Gov't Code § 65913.16(l)(5)):

<b>Project Size</b>	<b>Completeness Determination</b>	<b>Determination of Consistency</b>	<b>Project Approval</b>
150 units or fewer	30 days from submittal	60 days from submittal	90 days from submittal
More than 150 units	30 days from submittal	90 days from submittal	180 days from submittal

If the project is determined not to be consistent with the project requirements identified in this chapter, all Objective Development Standards of the underlying Zoning District not in conflict with this Section, and all Objective Design Standards not in conflict with this Section, the City shall notify the applicant in writing and provide a written explanation of the inconsistency.

- B. **CEQA.** The development project shall not be subject to CEQA review if the Project is consistent with the project requirements identified in this chapter, all Objective Development Standards of the underlying Zoning District not in conflict with this Section, and all Objective Design Standards not in conflict with this Section.
- C. **Expiration of Approval.**
1. Project approval expires after three years unless construction activity has commenced on the site (including grading and demolition) and the Building Permit for the project has been issued. The Director may grant a one-time, one-year extension if there has been significant progress towards getting the project construction ready (Gov't Code § 65913.16(l)(8)).
  2. Project approval does not expire if a project receives public investment other than tax credits and provides at least 50% of the units at 80% AMI or below.
- D. **Modification of Approval.** An applicant may request a modification to a project that has been approved under this chapter if the request is submitted to the City before the issuance of the final building permit required for construction of the project. The City's consideration of such modification request shall be governed by Gov't Code § 65913.16(l)(9).

#### **11.64.050 Expiration of Governing Regulations**

Gov't Code § 65913.16 will remain in effect until January 1, 2036, and after that time is repealed. This Chapter will remain in effect until the repeal of § 65913.16; upon repeal of that section this Chapter shall be of no further effect.

## Chapter 11.65 Adaptive Reuse: Conversion of Non-Residential Buildings to Residential Uses

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### Sections:

- 11.65.010 Purpose and Enabling Legislation
- 11.65.020 Eligibility Criteria
- 11.65.030 Development and Performance Standards
- 11.65.040 Project Review and Decision

### 11.65.010 Purpose and Enabling Legislation

- A. The purpose of this Chapter is to summarize the requirements of Gov't Code § 65913.12 governing the transition of conversion of non-residential buildings to residential use, and to supplement these requirements with guidelines and procedures for processing applications under this law. Gov't Code § 65913.12 was added to the Government Code by AB 1490 (2023).
- B. Ambiguities or gaps in this Chapter shall be resolved first by reference to Gov't Code § 65913.12. In the event of any conflict between Gov't Code § 65913.12 and this Chapter, Gov't Code § 65913.12 shall govern.

### 11.65.020 Eligibility Criteria

A project for adaptive reuse shall be an allowable use if it meets the following eligibility criteria:

- A. **Building Conversion.** The project meets all of these requirements:
  - 1. **Multifamily.** The project is a multifamily housing development project.
  - 2. **Retrofitting.** The project involves the retrofitting and repurposing of a residential building or commercial building that currently allows temporary dwelling or occupancy, to create new residential units.
  - 3. **Building Envelope.** The development will be entirely within the envelope of the existing building.
- B. **Site.** The development is located on a site, where either of the following conditions exist:
  - 1. **Surrounding Uses.** At least 75 percent of the perimeter of the site of the development adjoins parcels that are developed with urban uses; or
  - 2. **Transit Proximity.** The parcel is within one-half mile of a major transit stop as defined in Public Resources Code § 21064.3.
- C. **Industrial Uses.** Neither the project site nor any adjoining site is a site where more than one-third of the square footage on the site is dedicated to industrial use.

- D. **Affordability Criteria.** The development shall meet all of the following affordability criteria:
1. Lower Income. 100 percent of the units within the development project, excluding managers' units, shall be dedicated to lower income households at an affordable housing cost, as defined by Health and Safety Code § 50052.5, or an affordable rent set in an amount consistent with the rent limits established by the California Tax Credit Allocation Committee.
  2. Very Low Income. At least 50 percent of the units within the development project shall be dedicated to very low income households at an affordable housing cost, as defined by Health and Safety Code § 50052.5, or an affordable rent set in an amount consistent with the rent limits established by the California Tax Credit Allocation Committee.
  3. Deed Restriction. The units shall be subject to a recorded deed restriction ensuring the affordability requirements of this subsection are met for a period of 55 years for rental units and 45 years for owner-occupied units.

#### 11.65.030 Development and Performance Standards

- A. **Objective Design Standards.** The project shall meet the City's Mixed-Use and Multifamily Objective Design Standards, except for any standards that would require the curing of any preexisting deficit or conflict with regard to:
1. Density. Any maximum density requirements.
  2. FAR. Any maximum floor area ratio requirements.
  3. Parking. Any requirement to add additional parking.
  4. Open Space. Any requirement to add additional open space
- B. **Open Space.** The project shall not eliminate any existing open space on the parcel.
- C. **Management Services.** For projects of 50 units or more, the development shall provide onsite management services.

#### 11.65.040 Project Review and Decision

- A. **Project Consistency.** For the purposes of the Housing Accountability Act, a project that is consistent with the provisions of Sections 11.65.020, Eligibility Criteria, 11.65.030, Development and Performance Standards, and 11.65.040, Affordability Criteria, shall be deemed consistent, compliant, and in conformity with required objective standards.
- B. **Review Authority.** If the Community Development Director determines that a project application submitted pursuant to this section is consistent with the requirements of this chapter, the Director shall ministerially approve the project within the timelines required in subsection (D) below. Upon a determination that a development project application is inconsistent with the above standards, the City shall provide the applicant written documentation of which criteria,

standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards in the timelines required in subsection (D) below.

**C. Denial.**

1. In addition to any other legally available grounds for denial, the City may deny a project that is located on a site or adjoined to a site where any of the square footage on the site is dedicated to industrial use if the City makes written findings that approving the development would have an adverse effect on public health and safety.
2. The City shall approve without conditions a project proposed on a site, including a candidate site for rezoning, that is identified as suitable or available for very low, low-, or moderate-income households in the Housing Element if the project is consistent with the density specified in the Housing Element, even if the project is inconsistent with both zoning ordinance and general plan land use designation on the date the application was deemed complete.

**D. Timelines.** Project review is subject to the following deadlines. If the project is determined to be consistent with the requirements of this chapter, or if the City fails to provide the applicant with written documentation explaining the inconsistencies in the timeframes provided below, it is considered an allowed use and the application shall be deemed “consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision” insofar as the Housing Accountability Act is concerned. Therefore, the project review and approval timelines will be the same as for Streamlined Review in Non-Residential Zoning Districts (Chapter 11.62):

<b>Project size</b>	<b>Completeness Determination</b>	<b>Consistency Determination</b>	<b>Project Approval</b>
150 units or less	30 days from submittal	60 days from submittal (or within 30 days of resubmittal to address written feedback)	60 days from consistency determination
More than 150 units	30 days from submittal	90 days from submittal (or within 30 days of resubmittal to address written feedback)	90 days from consistency determination

**E. CEQA.** The development project shall not be subject to CEQA review.

## Chapter 11.66 Low Barrier Navigation Centers

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### Sections:

- 11.66.010 Purpose and Intent
- 11.66.020 Eligibility Criteria
- 11.66.030 Application Processing Timelines
- 11.66.040 Expiration of Governing Regulations
- 11.66.050 CEQA
- 11.66.060 Administrative Policies and Regulations
- 11.66.070 Fees

### 11.66.010 Purpose and Intent

- A. The purpose of this Chapter is to summarize the requirements of Gov't Code §§ 65660 through 65666 governing the establishment of Low Barrier Navigation Centers, and to supplement these requirements with guidelines and procedures for processing applications under this law.
- B. Ambiguities or gaps in this Chapter shall be resolved first by reference to Gov't Code §§ 65660 through 65666. In the event of any conflict between Gov't Code §§ 65660 through 65666 and this Chapter, Gov't Code §§ 65660 through 65666 shall govern.
- C. A Low Barrier Navigation Center is 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. "Low Barrier" means best practices to reduce barriers to entry, and may include, but is not limited to, the following:
  - 1. The presence of partners if it is not a population-specific site, such as for survivors of domestic violence or sexual assault, women, or youth.
  - 2. Pets.
  - 3. The storage of possessions.
  - 4. Privacy, such as partitions around beds in a dormitory setting or in larger rooms containing more than two beds, or private rooms.

### 11.66.020 Eligibility Criteria

A Low Barrier Navigation Center shall be permitted by right in mixed-use zones and non-residential zones permitting multifamily uses, medical uses, or faith-based uses, if the Low Barrier Navigation Center meets all of the following requirements:

- A. **Services.** The Low Barrier Navigation Center offers case management services to connect individuals to housing resources and supportive services.

- B. **Coordinated Entry System.** The Low Barrier Navigation Center 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.
- C. **Welfare and Institutions Code.** The Low Barrier Navigation Center complies with Chapter 6.5 (commencing with Section 8255) of Division 8 of the Welfare and Institutions Code.
- D. **Database System.** The Low Barrier Navigation Center 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.

#### **11.66.030 Application Processing and Timelines**

- A. **Ministerial Zoning Review.** A Zoning Clearance shall be required for all Low Barrier Navigation Center applications, subject to ministerial Director approval. The Director shall only review the project for consistency with the objective Development Standards of the underlying zoning district, together with the eligibility requirements listed in Section 11.66.020 of this Chapter.
- B. **Completeness Review.** Within 30 days of receipt of an application for a Low Barrier Navigation Center development, the City shall notify the applicant whether the developer's application is complete pursuant to Gov't Code Section 65943.
- C. **Decision.** Within 60 days of receipt of a completed application for a Low Barrier Navigation Center development, the City shall act upon its review of the application.

#### **11.66.040 Expiration of Governing Regulations**

Gov't Code § 65660 through § 65666 will remain in effect until January 1, 2027. This Chapter will remain in effect until the repeal of § 65660 through § 65666; and upon repeal of that section, this Chapter shall be of no further effect.

**11.66.050 CEQA.** The project shall not be subject to CEQA review.

**11.66.060 Administrative Policies and Regulations.** The Director, or their designee, shall have the authority to establish administrative policies and regulations that may be necessary to implement the provisions of this Chapter.

**11.66.070 Fees.** The City Council may establish by Resolution a non-refundable permit fee to cover the permit review costs incurred within the Chapter.

## Chapter 11.67 Emergency Shelters

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### Sections:

- 11.67.010 Purpose and Enabling Authority
- 11.67.020 Requirements
- 11.67.030 CEQA
- 11.67.040 Administrative Policies and Regulations
- 11.67.050 Fees

### 11.67.010 Purpose and Enabling Authority

- A. The purpose of this Chapter is to provide procedures and standards to encourage and facilitate the establishment of Emergency Shelters.
- B. Gov't Code § 65583 allows for local jurisdictions to identify objective standards within the confines of State law governing the development of Emergency Shelters in their communities.
- C. Ambiguities or gaps in this Chapter shall be resolved first by reference to Gov't Code § 65583. In the event of any conflict between Gov't Code § 65583 and this Chapter, Gov't Code § 65583 shall govern.
- D. An Emergency Shelter is housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay. (Gov't Code § 65582 and HSC § 50801)

### 11.67.020 Requirements

- A. **Allowed Zoning Districts.** Emergency Shelters are a permitted use in various zoning districts, as identified in Housing Element Table 3-5 and Table 3-6.
- B. **Ministerial Zoning Review.** A Zoning Clearance shall be required for all Emergency Shelter applications, subject to ministerial Director approval. The Director shall only review the project for consistency with the objective Development Standards of the underlying zoning district, together with the Objective Standards listed in Section 11.67.020(C) of this Chapter.
- C. **Objective Standards.** An Emergency Shelter shall meet the following objective standards:
  - 1. **Management and Security.** On-site management and on-site security shall be provided during all hours when the Emergency Shelter is in operation.
  - 2. **Lighting.** External lighting shall be provided on all buildings, in common areas, and in parking areas for security purposes, consistent with the City's Security Ordinance. The lighting shall be stationary, directed downward and shielded so as not to produce off-site glare.

3. Common Facilities. The development may provide one or more of the following specific common facilities for the exclusive use of the residents and staff:
  - a. Central cooking and dining room(s).
  - b. Recreation room.
  - c. Counseling center.
  - d. Child day care facilities.
  - e. Other support services.
4. Enclosed Facilities. Parking and outdoor facilities shall be enclosed, but are not required to be covered, and designed to provide security for residents, visitors, employees and the surrounding area.
5. Parking. The Emergency Shelter shall provide a quantity of parking spaces equal to that required by a residential or commercial use of the underlying zoning district.
6. Operations. The agency or organization operating the Emergency Shelter shall comply with the following requirements:
  - a. Shall be available to residents for no more than six months, as tracked by onsite management.
  - b. Staff and services shall be provided to assist residents in obtaining permanent shelter and income.
  - c. The provider shall have a written management plan including, as applicable, provisions for the following:
    - i. Size and location of exterior and interior onsite waiting and client intake areas.
    - ii. Staff training;
    - iii. Neighborhood outreach;
    - iv. Security;
    - v. Screening of residents to ensure compatibility with services provided at the facility; and
    - vi. Training, counseling, and treatment programs for residents.
7. Proximity. No Emergency Shelter shall be located within 300 feet of another Emergency Shelter site.
8. Required Licenses. The facility shall be in, and shall maintain at all times, good standing with City and/or State licenses, such as a business license, if

required by these agencies for the owner(s), operator(s), and/or staff on the proposed facility.

9. Number of Beds. The Emergency Shelter shall have no more than the following quantity of beds:
  - a. Individual Dwelling Unit Format: A quantity of beds equal to the unit density of the underlying General Plan designation.
  - b. All Other Formats: A quantity of beds equal to three times the unit density of the underlying General Plan designation.

**11.67.030 CEQA.** The project shall not be subject to CEQA review.

**11.67.040 Administrative Policies and Regulations.** The Director, or their designee, shall have the authority to establish administrative policies and regulations that may be necessary to implement the provisions of this Chapter.

**11.67.050 Fees.** The City Council may establish by Resolution a non-refundable permit fee to cover the permit review costs incurred within the Section.

## Chapter 11.68: Agricultural Employee Housing

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### Sections:

- 11.68.010 Purpose and Intent
- 11.68.020 Permitted Use
- 11.68.030 Project Requirements
- 11.68.040 Streamlined Review and Approval
- 11.68.050 CEQA Review Not Required
- 11.68.060 Grounds for Project Denial

### **11.68.010 Purpose and Intent**

- A. The intent of these provisions is to allow sufficient agricultural employee housing units necessary to support agricultural operations and that are consistent with the applicable provisions of Health and Safety Code (HSC) §§ 17021.6 and 17021.8.
- B. Ambiguities or gaps in this Chapter shall be resolved first by reference to Health and Safety Code §§ 17021.6 and 17021.8. In the event of any conflict between Health and Safety Code §§ 17021.6 and 17021.8 and this Chapter, Health and Safety Code §§ 17021.6 and 17021.8 shall govern.

### **11.68.020 Permitted Use**

Agricultural Employee Housing shall be deemed a permitted agricultural land use and shall not require a conditional use permit, zoning variance, or other discretionary zoning clearance that is not required of any other agricultural activity in the same zoning district.

### **11.68.030 Project Requirements**

- A. **General Plan Designation.** The project shall be located on land designated Open Space, Limited Agriculture, Agriculture/Viticulture, or Large Parcel Agriculture in the General Plan.
- B. **Maximum size.** The project shall not have more than one group quarters or 12 family units.
  - 1. Group Quarters shall not contain more than 36 beds.
  - 2. Family units shall not contain more than three beds.
- C. **Occupancy.** Occupancy of the housing is limited to:
  - 1. Agricultural employees who work on the property where the employee housing is located plus their family members; and
  - 2. Agricultural employees who do not work on the property where the employee housing is located, but work within the Municipal City Limits of Livermore.

- D. **Maintenance and Operation.** The agricultural employee housing will be maintained and operated by a qualified affordable housing organization that has been certified pursuant to HSC § 17030.10. The project applicant shall submit proof of issuance of the qualified affordable housing organization's certification by the California Department of Housing and Community Development. The qualified affordable housing organization shall provide for onsite management of the development.
- E. **Deed Restriction.** An affordability covenant shall be recorded on the property to ensure the affordability of the proposed agricultural employee housing for agricultural employees for not less than 55 years. For purposes of this paragraph, “affordability” means the agricultural housing is made available at an affordable rent, as defined in HSC § 50053, to lower income households, as defined in HSC § 50079.5.

#### **11.68.040 Streamlined Review and Approval**

- A. **Requirements for Streamlining.** A project applicant may submit an application for agricultural employee housing that is subject to a streamlined, ministerial approval process. However, if any of the following below applies, streamlined, ministerial review is not applicable and a conditional use permit is required:
1. Wetlands, as defined by the United States Fish and Wildlife Service.
  2. Within a very high fire hazard severity zone or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection.
  3. A hazardous waste site.
  4. Within a delineated earthquake fault zone.
  5. Within a flood plain as determined by maps promulgated by the Federal Emergency Management Agency.
  6. Within a floodway as determined by maps promulgated by the Federal Emergency Management Agency.
  7. Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act, habitat conservation plan, or other adopted natural resource protection plan.
  8. Lands under conservation easement. For purposes of this section, “conservation easement” shall not include a contract executed pursuant to the Williamson Act.
  9. Lands with groundwater levels within five feet of the soil surface and for which the development would be served by an onsite wastewater disposal system serving more than six family housing units.

- B. Objective Standards.** An agricultural employee housing development that is approved pursuant to this section must comply with all of the following objective development standards:
1. **Utilities.** The development must have adequate water and wastewater facilities and dry utilities to serve the project.
  2. **Water Supply.** The development must be connected to an existing public water supply system that has not been identified as failing or being at risk of failing to provide an adequate supply of safe drinking water.
  3. **Sewer Connection.** If the development proposes to include 10 or more units, the development must connect to an existing municipal sewer system that has adequate capacity to serve the project. Any approved local agency management program for onsite wastewater treatment system requirements shall apply to the development.
  4. **Location.** The property on which the development is located must be either of the following:
    - a. Within one-half mile of a duly designated collector road rated for Average Daily Trips (ADT) of 6,000 or greater; or
    - b. Adjacent to a duly-designated collector road rated for ADT of 2,000 or greater.
  5. **Parking.** The development must provide at least two parking spaces per unit or at least two parking spaces per 6 beds, if group quarters.
  6. **Hazards.** If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.
- C. Completeness.** If an application for agricultural employee housing does not meet the requirements specified in this Chapter, the City shall provide the applicant written documentation of which requirement(s) the development does not satisfy and an explanation for the reason(s) the development does not satisfy the requirement(s), as follows:
1. Within 30 days of submission if the development contains 50 or fewer housing units.
  2. Within 60 days of submission if the development contains more than 50 housing units.
- If the City does not provide the required documentation pursuant to this Section, the development shall be deemed to satisfy the requirements of the Chapter.
- D. Approval.** Review of the proposed project shall be subject to the objective development standards described in Section B. The Community Development

Director shall approve a project that is in conformance with the requirements of this chapter as follows:

1. Within 90 days of submission if the development contains 50 or fewer housing units.
2. Within 180 days of submission if the development contains more than 50 housing units.

**11.68.050 CEQA Review Not Required**

The project shall not be subject to CEQA review.

**11.68.060 Grounds for Project Denial**

The City may disapprove an eligible agricultural employee housing development if any of the following conditions exist:

- I. **Adverse Impact.** The eligible agricultural employee housing development as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to lower income households, as defined in HSC §50079.5, or rendering the development financially infeasible.

As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete;

- B. **State and Federal Law.** The project would be in violation of any applicable state or federal law; or
  - I. **Existing Laws.** The project would change any obligations to comply with any other existing laws.

## Chapter 11.69: Streamlined Review of Eligible Subdivisions

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### Sections:

11.69.010	Purpose and Enabling Authority
11.69.020	Projects Eligible for Streamlined Review
11.69.030	Projects Not Eligible for Streamlined Review
11.69.040	Development Criteria for Subdivisions
11.69.050	Development Criteria for New Units
11.69.060	Project Review and Timeline
11.69.070	Issuance of Building Permits

### 11.69.010 Purpose and Enabling Authority

- A. The purpose of this Chapter is to summarize the requirements of Government Code Sections 65852.28, 65913.4.5, and 66499.41, which govern the ministerial and streamlined approval of housing development projects with ten or fewer residential units, and parcel maps, tentative maps, and final maps for housing development projects with ten or fewer parcels, in residential zoning districts, and to supplement these requirements with guidelines and procedures for processing applications under these laws. Government Code Sections 65852.28, 65913.4.5, and 66499.41 were added to the Government Code by SB 684 (2023).
- B. Ambiguities or gaps in this chapter shall be resolved first by reference to Government Code Sections 65852.28, 65913.4.5, and 66499.41. In the event of any conflict between Government Code Sections 65852.28, 65913.4.5, and 66499.41 and this Chapter, Government Code Sections 65852.28, 65913.4.5, and 66499.41 shall control.

### 11.69.020 Projects Eligible for Streamlined Review

A parcel map or a tentative and final map for a housing development project that meets all of the following requirements shall be considered without discretionary review or a hearing:

- A. **Ten Parcel/Unit Maximum.** The proposed subdivision will result in ten or fewer parcels and the housing development project on the lot proposed to be subdivided will contain ten or fewer Primary Dwelling Units.
- B. **Zoning.** The lot is a legal parcel that is either zoned to allow multifamily residential development or vacant pursuant to Government Code Section 66499.41(a)(2)(A)(ii) and zoned for single-family residential development.
- C. **No Previous Subdivision.** The lot was not established pursuant to this Chapter or Chapter 11.50 (Two Unit Residential Development and Urban Lots Splits) of this Development Code.

**D. Urban Context.** The lot is:

1. No larger than five acres, if developed and located within a multifamily zoning district, and is substantially surrounded by qualified urban uses; or
2. No larger than one-and-a-half acres, if vacant and located within a single-family zoning district, and is substantially surrounded by qualified urban uses.
3. For purposes of this subsection, the following definitions apply:
  - a. “Qualified urban use”: Any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses. (Public Resources Code § 21072)
  - b. “Substantially surrounded”: Whereby at least 75 percent of the perimeter of the project site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses. The remainder of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that have been designated for qualified urban uses in a zoning, community plan, or general plan for which an environmental impact report was certified. (Public Resources Code § 21159.25)

**11.69.030 Projects Not Eligible for Streamlined Review**

A parcel map or a tentative and final map for a housing development project shall not be considered for streamlined review under this Chapter if any of the following conditions exist:

- A. **Demolition of Housing.** The development of a housing project on the lot proposed to be subdivided will require the demolition or alteration of any of the following types of housing:
  1. **Affordable Housing.** Housing that is subject to a recorded covenant, ordinance, or law that restricts rent to levels affordable to persons and families of low, very low, or extremely low income.
  2. **Rent Controlled Housing.** Housing that is subject to any form of rent or price control through the City’s valid exercise of its police power.
  3. **Tenant Occupied Housing.** Housing occupied by tenants within the five years preceding the date of the application, including housing that has been demolished or that tenants have vacated prior to the submission of the application for a development permit.
  4. **Withdrawn Accommodations Properties.** Housing on a parcel in 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 I of the Government Code to withdraw accommodations from rent or lease within 15 years before the date that the development

proponent submits an application for a parcel map or a tentative and final map pursuant to this Chapter.

- B. Protected Property.** The lot proposed to be subdivided is located on a site that is any of the following:
1. **Significant Farmland.** Either prime farmland or farmland of statewide importance.
  2. **Wetlands.** Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
  3. **Fire Hazard Zone.** Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178 of the Government Code, 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.
  4. **Hazardous Waste Site.** A hazardous waste site that is listed pursuant to Section 65962.5 of the Government Code or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to former Section 25356 of the Health and Safety Code, unless either of the following apply:
    - a. The site is an underground storage tank site that received a uniform closure letter.
    - b. The State Department of Public Health, State Water Resources Control Board, Department of Toxic Substances Control, or a local agency making a determination pursuant to subdivision (c) of Section 25296.10 of the Health and Safety Code, has otherwise determined that the site is suitable for residential use or residential mixed uses.
  5. **Earthquake Fault Zone.** 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.
  6. **Flood Zones.** Within a special flood hazard area subject to inundation by the 1-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. However, 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.
- 7. **Floodway.** Within a regulatory floodway as determined by the Federal Emergency Management Agency, except as provided in Government Code Section 66499.41(a)(9)(G).
- 8. **Conserved Lands.** Land identified for conservation in an adopted natural community conservation plan or natural resource protection plan.
- 9. **Sensitive Habitat.** 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, the California Endangered Species Act, or the Native Plant Protection Act.
- 10. **Conservation Easement.** Land under conservation easement(s) held by a public agency, land trust, or private party.

#### **11.69.040 Development Criteria for Subdivisions**

Eligible parcel maps or tentative and final maps for housing development projects, as described in Section 11.69.020 of this Chapter, shall meet the following standards:

##### **A. Parcel Attributes.** All newly-created parcels shall:

- 1. Be of at least 600 square feet if located in multifamily zones and of at least 1,200 square feet if located in single family zones.
  - a. A housing development project on a parcel proposed to be subdivided pursuant to this Chapter is not required to meet the minimum development standards of the underlying zoning district regarding parcel size, width, depth, frontage, or dimensions, except for the minimum lot size identified above.
- 2. The housing units on the lot proposed to be subdivided pursuant to this Chapter must be one of the following:
  - a. Constructed on fee-simple ownership lots.
  - b. Part of a common-interest development.
  - c. Part of a housing cooperative, as defined in Section 817 of the Civil Code.
  - d. Constructed on land owned by a community land trust. For the purpose of this subparagraph, “community land trust” means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code and satisfies the requirements of Government Code Section 66499.41(a)(4)(D).

- e. Part of a tenancy in common, as described in Section 685 of the Civil Code.
- B. **Public Utilities.** Newly-created lots shall be served by a public water system and a municipal sewer system.
- C. **Urban Lot Split Prohibited.** An Urban Lot Split in accordance with Chapter 11.50 (Two Unit Residential Development and Urban Lots Splits) of this Development Code is not allowed on new lots created under this Chapter.
- D. **Compliance with Subdivision Ordinance Required.** The proposed subdivision shall conform to all objective subdivision standards identified in Part 10 of this Development Code (Subdivisions) and applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410) of the Government Code), except as otherwise expressly provided in this Chapter.
- E. **Homeowners Association.** The formation of a homeowners' association, except as required by the Davis-Stirling Common Interest Development Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code) is not required. However, a mechanism for the maintenance of common space within the subdivision, including, but not limited to, a road maintenance agreement, may be required.

#### **11.69.050 Development Criteria for New Units**

- A. **Unit Size.** The average total area of floorspace for the housing units on the parcels created pursuant to this Chapter shall not exceed 1,750 net habitable square feet per lot.
- B. **ADU/JADUs Prohibited.** Neither an ADU nor a JADU, as defined in Chapter 11.30 of this Development Code, are allowed on new lots created under this Chapter.
- C. **Compliance with Zoning and Design Standards Required.** Units on newly-created lots shall be consistent with all applicable objective zoning standards and design standards, unless a standard is inconsistent with a requirement identified in this Chapter or Government Code Section 65852.28(a)(2).
- D. **Residential Density and Affordability.** The proposed development shall meet one of the following requirements:
  - I. **Housing Element Sites.**
    - a. **Density.** If the parcel is identified in the General Plan Housing Element for the current planning period that is in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of the Government Code, the development will result in at least as many units as projected for that parcel in the Housing Element.

- b. **Affordability.** If the parcel is identified to accommodate any portion of the City's share of the regional housing need for low- or very low income households, the development shall result in at least as many low- or very low income units as projected in the Housing Element. These units shall be subject to a recorded affordability restriction of at least 55 years. Newly-created units shall also comply with Chapter 11.70 (Affordable Housing) of this Development Code, as applicable and to the extent Chapter 11.70 does not conflict with this Chapter or Government Code Section 66499.41.

2. **Other Sites.**

- a. **Density.** If the parcel is not identified in the City's Housing Element for the current planning period that is in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division I of the Government Code, the development shall result in at least as many units equal to two-thirds the maximum allowable residential density of the underlying General Plan designation, or 20 units per acre, whichever is greater.
- b. **Affordability.** The project on the proposed lot to be subdivided complies with all local inclusionary housing ordinances adopted by the City, including, without limitation, Chapter 11.70 of this Development Code.

E. **Development Standards.** A housing development project on a lot that is subdivided pursuant to this Chapter shall meet the following requirements:

1. **Minimum Setback.** There is no required minimum setback between units, except when minimum setbacks are required in the California Building Code.
2. **Minimum Side and Rear Setback.** A minimum setback of four feet from the side and rear lot lines is required, except when otherwise provided by Government Code Section 65852.21(b)(2)(B).
3. **Parking.** Parking may be uncovered. A minimum of one off-street parking space per unit is required, except in either of the following circumstances:
  - i 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.
  - ii When a documented car-share vehicle is located within one block of the parcel.
4. **Exceptions.** No development standard shall preclude the development of a housing development project under this Chapter at the following:

- a. **Density.** Minimum of 20 units/acre.
- b. **Floor Area Ratio.**
  - i 1.0 or greater for a housing project consisting of three to seven units.
  - ii 1.25 or greater for a housing project consisting of eight to ten units.

#### 11.69.060 **Project Review and Timeline**

- A. **Project Review.** The City shall approve or deny an application for a parcel map, tentative map, or for a housing development project submitted to the City pursuant to this Chapter within 60 days from the date the City receives a completed application. If the project is not approved or denied within that timeframe, the application shall be deemed approved.
- B. **Corrections and Denial.**
  1. **Correction Letter.** If the application cannot be approved, the City shall, within 60 days from the date it receives the completed application, return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the applicant can remedy the application.
  2. **Basis for Denial.** The City may deny the issuance of a parcel map, a tentative map, a final map, or a housing development project that meets the requirements of this chapter if it makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined by Government Code Section 65589.5(d)(2), upon public health and safety and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.
- C. **Mapping Procedure.** If the development proponent of a housing development project pursuant to this Chapter proposes a Parcel Map, Tentative Map, Final Map, or Condominium Map, the project shall follow all submittal and review authority procedures described in Part 10 of the Development Code, except as otherwise expressly provided in this Chapter or in Government Code Section 66499.41. However, the Final Map or Condominium Map may be approved prior to, or concurrent with, Certificate of Occupancy of the proposed buildings, as required by a project Condition of Approval.
- D. **Site Plan Design Review.** If the project proposal includes residential development, the Project shall follow all submittal and review authority procedures described in Part 9 of the Development Code, except when Part 9 conflicts with the requirements of this Chapter.

**11.69.070 Issuance of Building Permits**

- A. **Permit Issuance.** The City shall issue a building permit for one or more residential units that are part of a housing development project under this Chapter if the applicant for the permit has met all of the following requirements:
1. The applicant has received a tentative map approval or parcel map approval for the subdivision;
  2. The applicant has submitted a building permit application that the City deemed complete pursuant to Government Code Section 65913.3(b);
  3. The building permit application is consistent with the California Building Standards Code in place at time the application was submitted, as determined by the Building Official; and
  4. The project is consistent with the approved entitlement(s) and all conditions of approval, as determined by the Director.
- B. **Permit Conditions.** The requirements of Gov't Code § 65913.4.5(a) regarding conditions of the permit, conditions of the tentative or parcel map ,and performance bonds apply to building permit applications for units approved under this chapter.
- C. **Permit Denial.** The requirements of Gov't Code § 65913.4.5(a) regarding terms of permit denial apply to building permit applications for units approved under this chapter.

## Chapter 11.70: Affordable Housing

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### Sections:

- 11.70.010 Purpose and Enabling Authority
- 11.70.020 Residential Affordable Requirement
- 11.70.030 Percentage of Affordable Units
- 11.70.040 Alternative Means of Compliance
- 11.70.050 Performance Measures
- 11.70.060 Implementation
- 11.70.070 Commercial and Industrial
- 11.70.080 Enforcement

### 11.70.010 Purpose and Enabling Authority

- A. The purpose of this Chapter is to help the City, region, and State meet the goal of providing housing affordable across a range of income categories. This Chapter requires new development to contribute to the City's affordable housing stock through the provision of housing units, land dedication, and/or fees.
- B. California Gov't Code § 65850(g) allows for local jurisdictions to require, as a condition of the development of residential rental units, that the development include a certain percentage of residential rental units affordable to, and occupied by lower income households, within the confines of State law governing residential development in their communities.

### 11.70.20 Residential Affordable Requirement

- A. **Affordable Option.** As a condition of approval for each tentative or vesting tentative map or land use entitlement having residential parcels or units, the developer is required to either:
  - 1. Allocate a percentage of total project units as Affordable units, as described in Section 11.70.030; or
  - 2. Satisfy this requirement by an Alternative Means of Compliance, as described in Section 11.70.040.
- B. **Exceptions.**
  - 1. Residential projects that provide 10 or less for-sale units shall be allowed to satisfy the requirements of this Chapter through an In-Lieu Fee.
  - 2. Residential projects that provide 10 or less rental units shall be wholly exempt from the requirements of this Chapter.

### 11.70.030 Percentage of Affordable Units

When the developer intends to provide the required affordable housing units within the proposed development project, the developer shall construct the types and quantities as described below:

- A. **General Plan Areas.**
  - 1. **For-Sale Units.** The developer shall reserve 15 percent or more of the total for-sale units as affordable units to be sold to low- and moderate-income households at

## EXHIBIT B

a price that does not exceed the maximum affordable purchase price for a unit for those households. The maximum purchase price for low- and moderate-income households shall be as adopted annually by City Council resolution.

- a. At least seven and one-half percent of the reserved units shall be set aside for low-income households, with the balance set aside for moderate-income households.
  - b. Whenever the inclusionary requirement results in an odd number of units, the majority of units shall be provided as low-income. Whenever the number of units result in a fraction of a unit greater than 0.5, the requirement shall be rounded up to the nearest whole unit. Whenever the number of units results in a fraction of a unit less than or equal to 0.5, the requirement shall be rounded down to the nearest whole unit.
  - c. The for-sale units shall be encumbered in a manner acceptable to the City, so that if a buyer resells the reserved unit within the restricted time period for a price in excess of the inflation-adjusted purchase price, then the excess profit will be returned to the City for use in affordable housing programs.
2. **Rental Units.** The developer shall reserve 15 percent or more of the total rental units as affordable units to be rented to very-low- and low-income households at a cost that does not exceed maximum monthly rental rates for those households. The maximum monthly rental rates for very-low- and low-income households shall be adopted annually by City Council resolution.
- a. At least seven and one-half percent of the reserved units shall be set aside for very-low-income households, with the balance set aside for low-income households.
  - b. Whenever the inclusionary requirement results in an odd number of units, the majority of units shall be provided as very-low-income. Whenever the number of units result in a fraction of a unit greater than 0.5, the requirement shall be rounded up to the nearest whole unit. Whenever the number of units results in a fraction of a unit less than or equal to 0.5, the requirement shall be rounded down to the nearest whole unit.
  - c. The rental units shall be marketed and made available through an application process directed by the City, and the development shall be managed by an experienced management company approved by the City.

### B. **Downtown Specific Plan Area.**

1. **For-Sale Units.** The developer shall reserve 10 percent or more of the total for-sale units to be sold to low-income households at a price that does not exceed the maximum affordable purchase price for the units.
  - a. Whenever the number of units results in a fraction of a unit less than or equal to 0.5, the requirement shall be rounded down to the nearest whole unit.
2. **Rental Units.** The developer shall reserve 10 percent or more of the rental units to be rented to low-income households at a cost not to exceed the maximum monthly rental rates for those households.
  - a. Whenever the number of units results in a fraction of a unit less than or equal to

0.5, the requirement shall be rounded down to the nearest whole unit.

**C. Isabel Neighborhood Specific Plan Area.**

1. **For-Sale Units.** The developer shall reserve 15 percent or more of the total for-sale units as affordable units to be sold to low- and moderate-income households at a price that does not exceed the maximum affordable purchase price for a unit for those households. The maximum purchase price for low- and moderate-income households shall be as adopted annually by City Council resolution.
  - a. At least seven and one-half percent of the reserved units shall be set aside for low-income households, and at least seven and one-half percent for moderate-income households.
  - b. Whenever the inclusionary requirement results in a fraction of units, the units shall be combined and provided as low-income units. Whenever the number of units result in a fraction of a unit greater than 0.5, the requirement shall be rounded up to the nearest whole unit.
2. **Rental Units.** The developer shall reserve 20 percent or more of the total rental units as affordable units to be rented to very-low-income, low-income, median-income, and moderate-income households at a cost that does not exceed maximum monthly rental rates for those households. The maximum monthly rental rates for very-low-income, low-income, median-income, and moderate-income households shall be adopted annually by City Council resolution.
  - a. At least six percent of the reserved units shall be set aside for very-low-income households, at least seven percent shall be set aside for low-income households, and at least four percent shall be set aside for median-income households, with the balance set aside for moderate-income households.
  - b. Whenever the inclusionary requirement results in a fraction of units, the units shall be combined and provided as very-low-income units. Whenever the number of units result in a fraction of a unit greater than 0.5, the requirement shall be rounded up to the nearest whole unit.

**11.70.040 Alternative Means of Compliance**

**A. Prerequisites**

1. **Economic Equivalence.** Each alternative must be economically equivalent to the affordable housing requirement and may satisfy part or all of the affordable housing requirement.
2. **City Council Approval.** Alternatives to constructing affordable units on site specified in subsections B.1 through B.3 of this section require prior City Council approval.
3. **Concurrent Submittal.** An Alternative Means of Compliance request shall be presented concurrently to the City Council as part of a residential tentative subdivision map or land use entitlement application that is submitted to the City.
4. **Report Required.** The request shall be accompanied by a report demonstrating economic equivalence and either: 1) why it is not feasible for the applicant to construct affordable units within the development project; or 2) that the proposed alternative exceeds the City's affordable requirement.. The report shall include

independent data, including financial information.

- B. Alternatives.** The following alternatives may satisfy the requirements of this Chapter:
1. In-Lieu Fee.
    - a. A developer may satisfy the affordable housing requirement by paying an in-lieu fee for each market-priced unit.
    - b. The method of calculating the in-lieu fee is specified in LMC 3.26.050.
    - c. Whenever the number of affordable units required to be constructed includes a fraction of a unit, the payment of a proportional in-lieu fee shall satisfy that partial unit requirement.
    - d. The applicable fee rate shall be determined at the time of building permit application unless otherwise agreed to in the project's low-income housing agreement.
  2. Dedication of Land.
    - a. A developer may satisfy the affordable housing requirement by dedicating to the City a parcel of land suitable for development of housing units equal to or exceeding the number of affordable units required to be provided in compliance with this section.
    - b. The General Plan designation and zoning designation on the land proposed for dedication shall be consistent with the intended use of the property for affordable housing at the appropriate density, and there shall be direct access to improved streets and utilities.
  3. Alternative Affordable Plan.
    - a. A developer may satisfy the requirements of this Chapter through an alternative affordable plan.
    - b. The alternative affordable plan shall meet the following requirements:
      - i May only be considered as part of a Development Agreement between a developer and the City of Livermore;
      - ii The Development Agreement may only allow for the following deviations from this Chapter:
        - (a) Timing of affordable unit construction.
        - (b) Quantity of affordable units.
        - (c) Affordability Level of affordable units.
        - (d) Comparability of affordable units.
        - (e) Location of affordable units.
        - (f) Bonding Structure and timing.
        - (g) Deed Restriction Term for Rental Units.
      - iii Shall not conflict with affirmatively furthering fair housing and state housing requirements.

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All affordable units required as part of this Chapter shall meet the following performance measures. Each performance measure is applied to affirmatively further fair housing, in compliance with state housing law.

- A. **Timing of Construction.** The developer shall construct the affordable units concurrently with all other units.
- B. **Comparability of Units.** Affordable and market-rate units in the same development project shall not be distinguishable from one another and shall have the same features and characteristics, as follows:
1. Unit type (e.g. townhouse, flat, loft, duplex, etc.)
  2. Size, as determined by habitable square footage.
  3. Bedroom count.
  4. Bathroom count.
  5. Interior finishes and fixtures.
  6. Access to common areas and amenities such as a community pool, gym, and open space.
  7. Floor and wall treatments.
  8. Exterior appearance.
  9. Size, amount, and location of parking.
  10. Laundry facility location, size, and type.
  11. Kitchen facility features, including quality of cabinetry and countertops.
  12. Open space quantity and type (e.g. common vs. private).
- C. **Minimum Unit Size.** Notwithstanding the requirements for comparability of units, the affordable units shall meet or exceed the gross floor areas specified in the following table:

<b>Number of Bedrooms</b>	<b>Units Reserved for Rent</b>	<b>Units Reserved for Sale</b>
Studio unit	450 square feet	600 square feet
One bedroom unit	500 square feet	750 square feet
Two bedroom unit	750 square feet	900 square feet
Three bedroom unit	1,000 square feet	1,000 square feet
Four bedroom unit	1,200 square feet	1,250 square feet

- D. **Location and Integration.**
1. **Distribution.** The developer shall construct affordable units in locations uniformly dispersed throughout the project site.
  2. **Concentration.** Each building within a multi-building project shall contain a representative proportion of the total required affordable units.
  3. **Arrangement.** All affordable units shall be arranged on the project site in a similar manner as all market-rate units, including proximity to amenities, vistas, and open

space.

4. **Grouping.** Within a building, all affordable units shall not be grouped together, and shall be located in a manner similar to all market-rate units.

- E. **Tenant Services Requirement.** Rental projects in excess of 50 units shall include resident services space and provisions for on-site resident services (i.e., childcare, senior services, or mobility services) sufficient to meet the needs of the population housed as determined by the Director.

**11.70.060 Implementation**

- A. **Plans.** The affordable unit locations, quantities, and affordability levels required by this Chapter shall be identified on a tentative map, site plan, affordable plan, and/or other affordable exhibit approved by the Director.
- B. **Security.** The developer shall provide security to satisfy the affordable housing requirement before approval of a final map, improvement plan, Master Plan, or Building Permit as determined by the Director. The security shall be one or a combination of the following:
  1. A performance bond to cover the construction costs for all required affordable units and related improvements and amenities;
  2. Other appropriate security approved in writing by the Director.
- C. **Low Income Housing Agreement.** The project applicant shall enter into a Low Income Housing Agreement in a form provided by the City, to be recorded against the property before issuance of building permits or recordation of a final map, as determined by the Director. The agreement shall include the following:
  1. **Fifty-Five-Year Restriction.** The affordable units required as part of this Chapter shall be deed restricted as affordable for a minimum of 55 years, unless otherwise authorized by an Alternative Affordable Plan, as described in Section 11.70.040(B)(3).
  2. **Site Plan.** The Low Income Housing Agreement shall include an approved tentative map, site plan, or affordable plan showing locations, quantities, and affordability levels of all required affordable units.
  3. **Administrative Cost Recovery.** The Low Income Housing Agreement for for-sale residential projects shall include provisions that allow the City to charge the developer for administrative costs associated with selling the affordable housing units.
  4. **Monitoring.** The Low Income Housing Agreement shall include provisions that allow the City to regularly inspect and monitor project compliance after construction is completed. Monitoring costs incurred by the City shall be borne by the developer.
  5. **Legal Documents.** The Low Income Housing Agreement shall reference all required legal documents, including but not limited to Promissory Note, Deed of Trust, Regulatory Agreement and any other document, as determined by the Director.
- D. **For Sale Prices.** The maximum purchase price for all for-sale Affordable units shall be adopted annually by City Council resolution.
- E. **For Sale Deed Restriction.** For-sale units shall be encumbered in a manner acceptable to the City, so that if a buyer resells the reserved unit within the restricted time period for a

price in excess of the inflation-adjusted purchase price, then the excess profit will be returned to the City for use in affordable housing programs.

- F. **For Rent Prices.** The maximum monthly rental rates for low-income households shall be adopted annually by City Council resolution.
- G. **For Rent Marketing and Management.** The rental units shall be marketed and made available through an application process directed by the City, and the development shall be managed by an experienced management company acceptable to the City.
- H. **Additional Fees.** Affordable units shall not be charged additional costs or fees that are not charged to market-priced units.
- I. **Unit Eligibility.** Employees or family members of the developer or developer's property management agent may not be eligible to apply for the affordable units.

**11.70.070 Commercial and Industrial Development**

The developer is required to pay the affordable housing fee established in compliance with Chapter 3.26 LMC.

**11.70.080 Enforcement**

Enforcement provisions regarding this section are specified in Chapter 9.20 (Enforcement).

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## Chapter 11.80: Residential Development on Non-Residential Properties

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### Sections:

- 11.80.010 Purpose and Enabling Authority
- 11.80.020 Eligibility Criteria
- 11.80.030 Processing Requirements
- 11.80.040 Expiration of Governing Regulations.

### 11.80.010 Purpose and Enabling Authority

- A. The purpose of this Chapter is to summarize the requirements of Gov't Code § 65852.24 governing residential and mixed-use development projects on non-residential properties, and to supplement these requirements with guidelines and procedures for processing applications under this law. Gov't Code § 65852.24 was added to the Government Code by SB 6 (2022).
- B. Ambiguities or gaps in this Chapter shall be resolved first by reference to Gov't Code § 65852.24. In the event of any conflict between Gov't Code § 65852.24 and this Chapter, Gov't Code § 65852.24 shall govern.

### 11.80.020 Eligibility Criteria

- A. **Project Criteria.** A residential project shall be deemed an allowable use on a parcel that is within a zone where office, retail, or parking are a principally permitted use if it complies with all of the following:
  - 1. **Ground Floor Commercial.** At least one half (50%) of the ground floor square footage of each proposed building is designated for commercial or office use.
  - 2. **Site Requirements.** Located on a site that meets all of the following standards:
    - a. **Parcel Size.** 20 acres or less, unless the site is a regional mall, as defined in Gov't Code § 65912.101(r), in which case the site is not greater than 100 acres;
    - b. **Use.** A legal parcel where office, retail, or parking are a principally permitted use; and
    - c. **Proximity to Industrial.** Not a site or adjoined to a site in which 1/3 of the uses or more are dedicated to industrial use, meaning that the current use is industrial, has been most recently permitted as industrial, or has been identified as a industrial site by the General Plan before January 1, 2022. For purposes of this subdivision, parcels only separated by a street or highway shall be considered to be adjoined.

3. Density. At least 30 units/acre.
- B. Site and Development Criteria.** A residential or mixed-use project on a non-residential property developed under this Chapter shall conform to the following requirements:
1. Rental Term. All units created under this chapter are required to be rented for terms of longer than 30 days.
  2. Development Standards. Subject to the standards and requirements applicable to the processing and permitting of a housing development in a zone that allows at least 30 units/acre
  3. Design Standards. Consistent with the Mixed-Use and Multifamily Objective Design Standards.
  4. Process Standards. Consistent with all applicable process requirements in Chapter 9.
  5. Sustainable Community Strategy. Consistent with the City's Climate Action Plan and Active Transportation Plan.
  6. Labor. Compliant with the labor standards and skilled and trained workforce requirements identified in Gov't Code § 65852.24(b)(8)(A) and (B), including, but not limited to, meeting certain requirements for construction worker employment and prevailing wages, among others.

#### **11.80.030 Processing Requirements**

- A. **Tenant Notice and Relocation Assistance.** Applicant shall provide written notice of the pending application to each commercial tenant on the parcel when the application is submitted and shall provide relocation assistance to each eligible commercial tenant located on the site in accordance with Gov't Code § 65852.24(c).
- B. **State Code Consistency.** The California Environmental Quality Act (CEQA), provisions of the Housing Accountability Act (Gov't Code § 65589.5), Density Bonus law (Chapter 11.40), obligations to affirmatively further fair housing, affordable housing laws (Chapter 11.70), the City's building demolition requirements, and tenant protection laws continue to apply to projects proposed under this chapter.
- C. **Streamlining Ineligibility.** A project subject to this chapter shall not be eligible for streamlining pursuant to Chapter 11.61 (Streamlined Review in Residential Zoning Districts) or Gov't Code § 65913.4 if it meets either of the following conditions:
  1. The site had previously been developed pursuant to Chapter 11.61 or Gov't Code § 65913.4 with a project of 10 units or fewer; or
  2. The developer of the project, or any person acting in concert with the developer, has previously proposed a project pursuant to

Chapters 11.61 or Gov't Code § 65913.4 of 10 units or fewer on the same or an adjacent site

**11.80.040 Expiration of Governing Regulations.**

Gov't Code § 65852.24 will remain in effect until January 1, 2033, and as of that date is repealed. This Chapter will remain in effect until the repeal of § 65852.24; upon repeal of those sections this Chapter shall be of no further effect.

## Chapter 11.90: Mobile Homes and Mobile Home Parks

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### Sections:

- 11.090.010 Purpose, Enabling Authority, and Conformance
- 11.090.020 Mobile Homes Outside of Mobile Home Parks
- 11.090.030 Mobile Home Parks

### 11.090.010 Purpose, Enabling Authority, and Conformance

- A. The purpose of this Chapter is to summarize the requirements of Health and Safety Code §§ 18300 through 18307 governing Mobile Homes and Mobile Home Parks, and to supplement these requirements with guidelines and procedures for processing applications under this law.
- B. Ambiguities or gaps in this Chapter shall be resolved first by reference to Health and Safety Code §§ 18300 through 18307. In the event of any conflict between Health and Safety Code and this Chapter, Health and Safety Code §§ 18300 through 18307 shall govern.
- C. Mobile homes, mobile home parks, trailer parks, travel trailer parks, and recreation trailer parks, where permitted, shall conform to Title 25 of the California Code of Regulations and the additional provisions of this Chapter.

### 11.090.020 Mobile Homes Outside of Mobile Home Parks

- A. Design Standards. A Mobile Home located outside of a mobile home park shall comply with the same architectural standards required for single-family dwellings in the City of Livermore Design Standards and Guidelines.
- B. Development Standards. A Mobile Home located outside of a mobile home park shall comply with the development standards of the zoning district in which the Mobile Home is located.

### 11.090.030 Mobile Home Parks

The following requirements apply to areas zoned for mobile home parks.

- A. Location Where Permitted. Mobile Home Parks may be located in any Residential Zoning District.
- B. Maximum Density. Maximum density for mobile home parks shall not exceed the density permitted by the applicable zoning district where the mobile home park is located.
- C. Development Standards. The following standards apply to mobile home parks, no other Development or Design Standards shall be used during the course of Mobile Home Park review:
  - a. **Parking requirements.** The overall parking ratio shall be two parking spaces for each mobile home lot. At least one parking space shall be

provided on, or immediately adjoining to, each mobile home lot, in compliance with Chapter 4.04 (Parking Standards). Guest parking shall be provided in a location near the vehicular entrance to the park.

- b. **Pedestrian access.** There shall be provided a system of landscaped pathways to be used exclusively by pedestrians. Pathways shall serve all mobile home lots and all buildings used in common. In the event such pathways are provided adjacent to driveways, the pedestrian pathway shall be at a grade height at least four inches higher than the adjacent driveway.
- c. **Perimeter Walls.** The following screening shall be allowed around the entire perimeter of the mobile home park.
  - i. A solid masonry wall not less than six feet high shall be placed across the street frontage (but not within the street frontage yard).
    - 1. Screening landscaping shall be planted in the street frontage yard, located in front of the masonry wall but behind a curb (or other protective device), to soften the view of the wall;
    - 2. Screening landscaping shall include fast-growing, wide-spreading trees planted and irrigated at an average spacing of 40 feet on center, clustered at appropriate locations to intensify the screening effect;
    - 3. Pedestrian and vehicular access shall be provided along at least one property frontage; and
    - 4. All masonry walls and landscaping shall comply with Livermore Development Code Figure 4.13 pertaining to vehicle site lines.
- d. **Signage.** A Mobile Home Park shall be allowed one Monument Sign with the following criteria:
  - i. Placement: Shall be located within the street frontage setback area and set back at least five feet from all property lines.
  - ii. Height: Four feet maximum, including supporting structure.
  - iii. Size: 16 square feet maximum.
  - iv. Design: Shall be externally up or down lit, shall not be internally illuminated, shall have extruded letters with reveals of at least two inches, and shall include a stone or concrete base.
- e. **Utilities.** All utilities, except those owned, operated, and maintained by a public utility, shall be installed underground.
- f. **Use.** Mobile Home Parks shall be used for residential purposes only.
- g. **Common Structures.** Common structures such as offices, gyms, recreation centers, etc. for the communal use of all Mobile Home Park residents shall comply with all objective Development and Design

standards of the underlying zoning district.

- h. **Accessory Structures.** Accessory Structures used for personal or individual use of one Mobile Home Park resident shall comply with all Accessory Structure standards listed in Livermore Development Code Section 4.02.030.
- D. Review Procedure. A Mobile Home Park shall be reviewed and approved consistent with all requirements of Livermore Development Code Chapter 9. The Mobile Home Park shall be classified as a residential use.
- E. Other laws, regulations and ordinances. All applicable County and State laws and regulations concerning the development and operation of mobile home parks shall be observed. Nothing contained in this Chapter shall be construed to abrogate, void, or minimize other pertinent requirements of law.