

ORDINANCE NO. 649

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON, AMENDING LIVINGSTON MUNICIPAL CODE TITLE 5, CHAPTER 5, CHAPTER 2, SECTION 5-2-2: RESIDENTIAL, CHAPTER 3, SECTION 5-3-15: LAND USE REGULATIONS (ZONING MATRIX), CHAPTER 5, SECTION 5-5-6: SECOND RESIDENTIAL UNITS BY REPEALING SECTION 5-5-6 IN ITS ENTIRETY AND SUBSTITUTING IT WITH A NEW SECTION 5-5-6, AND CHAPTER 7, SECTION 5-7-2: DEFINITIONS OF WORDS AND PHRASES RELATED TO ACCESSORY DWELLING UNITS

WHEREAS, pursuant to Title 5, Chapter 6, Section 2 (B) 4 of the Livingston Municipal Code (LMC), the City Planner, by the Authority of the City Manager, has prepared text amendments to the LMC related to Accessory Dwelling Units; and

WHEREAS, the Planning Commission, has reviewed the proposed text amendments at a duly noticed public hearing on May 10, 2022, and has fully considered all comments whether orally or in writing regarding the proposed text amendments and has adopted its Resolution 2022-02, recommending that the City Council amend the LMC, as provided for in this Ordinance; and

WHEREAS, effective January 1, 2020, Assembly Bill 671, Senate Bill 13, Assembly Bill 68, Assembly Bill 881, and Assembly Bill 587 amended Sections 65583, 65852.2, 65852.22, and 65852.26 of the Government Code, adding Sections 17980.12 and 50504.5 to the Health and Safety Code, and Assembly Bill 670 added Section 4751 to the Civil Code, and effective January 1, 2021, Assembly Bill 3182 amended Section 65852.2 of the Government Code and Section 4740 of the Civil Code and added Section 4741 of the Civil Code, changing the requirements for local governments related to accessory dwelling units and junior accessory dwelling units; and

WHEREAS, State law provides that a local agency may adopt an ordinance that provides ministerial approval of accessory dwelling units in any zone that allows residential use, and junior accessory dwelling units in any zone that allows one-family residence, subject to applicable development standards; and

WHEREAS, the proposed amendments to the Livingston Municipal Code implement the requirements of State law and add local policies that are within the scope of the State law; and

WHEREAS, LMC Section 5-6-2 (A) states that City zoning regulations shall be consistent with the General Plan in accordance with State Government Code, Section 65860 and the Planning Commission has determined, and the City Council concurs, that the proposed text amendments are consistent with the 1999 Livingston General Plan Objective B, "Provide for the compatible integration of residential and commercial uses", Objective A, "Designate and allow for the development of a wide range of housing types in the City including housing for middle and upper income families to meet the needs of all Livingston residents"; and

WHEREAS, the proposed text amendments are exempt from California Environmental Quality Act (CEQA) pursuant to Article 5, Section 15061 (B) (3) of the CEQA Guidelines by the "Common Sense Exemption" that CEQA applies only to projects that have the potential for causing a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment; and

WHEREAS, the City Council on June 7, 2022, conducted a public hearing to introduce the proposed Zoning Ordinance Text Amendment; and

WHEREAS, a Notice of the summary of the Ordinance was published on June 15, 2022 on a local paper of general circulation, the Merced Sun Star.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LIVINGSTON, CALIFORNIA does ordain as follows:

SECTION 1. Section 5-2-2: RESIDENTIAL of Title 5, Chapter 2 of the Livingston Municipal Code is revised to read as follows:

Apartment House. A building or portion thereof other than a hotel or motel, designed and/or used to house three (3) or more households, living independently of each other.

Daycare, residential. The nonmedical care and supervision of eight (8) or fewer persons on a less than twenty four (24) hour a day basis. The use includes childcare operations.

Dwelling, duplex (two-family). A building containing exclusively two (2) dwelling units under a common roof, designed and/or used as separate living units.

Dwelling, multiple-family. A building or portion thereof containing three (3) or more separate dwelling units, including apartments and flats, but excluding, boarding houses, motels, mobilehome parks and hotels.

Dwelling, single-family. A building containing exclusively one dwelling unit that may include one or more habitable rooms designed for living and sleeping purposes.

Dwelling unit, accessory. An attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following: (A) an efficiency unit; and (B) a manufactured home.

Dwelling unit, junior accessory. A 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 facilities, or may share sanitation facilities within the existing structure.

Home occupation. A commercial enterprise that is clearly incidental and secondary to the residential use of a property, and defined herein.

Housing, boarding. A building, other than a hotel, or where meals or lodging or both are provided for compensation.

Housing, farm labor. Premises used for residential purposes for temporary or seasonal periods by six (6) or less unrelated persons employed to perform agricultural labor.

Housing, transitional. Housing containing sleeping, kitchen, and bathroom facilities that is used to ease the transition of homeless individuals to independent living. Usually provided with supportive services to assist in finding and keeping permanent housing.

Mobilehome. In accordance with California Health And Safety Code sections 18007 and 18008, a mobilehome is a transportable structure, which is built on a permanent chassis and designed as a dwelling when connected to the required utilities, and includes the plumbing, heating, air conditioning, and

electrical systems contained therein. The minimum dimensions for a mobilehome structure are eight feet (8') wide, forty feet (40') long, and a total area of three hundred twenty (320) square feet. Consistent with the California Health And Safety Code definitions, mobilehome is included in the definition of manufactured home.

Mobilehome park. Any area or tract of land where two (2) or more mobilehome sites are rented or held out for rent. The use does not include placement of unoccupied mobilehomes for storage or sales.

Rooming house. Same as boarding house. (Ord. 533, 8-16-2005)

SECTION 1. Table 2 “RESIDENTIAL USES” of Section 5-3-15: LAND USE REGULATIONS (ZONING MATRIX), of Title 5, Chapter 3 of the Livingston Municipal Code is revised to read as follows:

	R-E ¹⁰	R-1 ¹⁰	R-2 ^{9,10}	R-3 ^{9,10}	C-1 ^{9,10}	DTC ^{9,10}	C-2 ^{9,10}	C-3 ^{9,10}	M-1 ^{9,10}	M-2 ^{9,10}	P-F ¹⁰	P/OS ¹⁰
Residential uses:												
Daycare, residential	P	P	P									
Dwelling, duplex		C ¹	P									
Dwelling, multiple-family/apartment			C ²	P ³		C						
Dwelling unit, accessory	P	P	P	P		P						
Dwelling unit, junior accessory ⁵	P	P										
Dwelling, single-family	P	P	C									
Home occupation	P	P	P	C								
Housing, boarding				C	C	C						
Housing, farm labor ⁶	P	P	P	P		P						
Mobilehome	P ⁴	P ⁴										
Mobilehome park			C	C								
Personal cannabis cultivation ⁸	P	P	P	P	P	P	P	P	P	P	P	P
Public uses, schools/parks/playgrounds ⁷	P	P	P	P		C			C		P	P
Shipping container accessory structure	C	C	C	C	C	C	C	C	C	C	C	C

Notes:

1. General Plan provisions for low density residential allow for innovative designs, which utilize clustering, duplexes or halfplexes on corner lots, zero lot line, or planned development features, in the R-1 Zone.
2. Multi-family or group dwellings are permitted in R-2 Districts on corner lots, subject to a conditional use permit, provided that in no case shall any dwelling contain more than 4 living units. Multi-family dwellings in the R-2 District shall meet development standards of section 5-3-16 of this chapter.

3. Projects in excess of 25 units or with a density in excess of 24 units per gross acre on R-3 lots require a conditional use permit.
4. See section 5-5-3-1 of this title for mobilehomes on private lots.
5. See section 5-5-6 of this title for accessory dwelling unit provisions.
6. Farm labor housing that serves 6 or fewer persons shall be treated as a single-family unit and is permitted by right in all R-E, R-1, R-2, R-3, and DTC Districts.
7. Joint use of school multipurpose facilities and open space is encouraged.
8. See section 5-5-15 of this title for personal cannabis cultivation use provisions; this use is only allowed inside a private residence by individuals 21 years of age and older or at least 18 years of age and either a qualified patient or a primary caregiver according to regulations.
9. Site plan/design review is required for all uses involving new construction, significant exterior alterations to existing structures, or significant site plan alterations in the R-2, R-3, C-1, DTC, C-2, C-3, M-1 and M-2 Zones.
10. Transitional and supportive housing are permitted in all zones subject to normal requirements and restrictions. See chapter 7, "Definitions", of this title.

SECTION 3. Section 5-5-6: SECOND RESIDENTIAL UNITS of Title 5, Chapter 5 of the Livingston Municipal Code shall be repealed in its entirety and substituted with a new Section 5-5-6: Accessory Dwelling Units, which shall read as follows:

5-5-6: ACCESSORY DWELLING UNITS

(A) Purpose and Intent: The purpose of these regulations is to provide clearly stated land use regulations and development standards that allow for the development of accessory dwellings in compliance with applicable state regulations and local land use policy. In accordance with the applicable sections of California Government Code 65852.2 and 65852.22, this section is intended to define and provide standards by which the City staff shall evaluate and ministerially approve an application for the siting and construction of an accessory dwelling unit (ADU) or junior accessory dwelling unit (JADU).

These regulations are intended to encourage the development of accessory dwellings providing for the expanded variety of housing opportunities for all income levels while retaining compatibility with surrounding uses.

(B) Applicability: The regulations set forth in this Section shall apply in all R-E (Estate Residential District), R-1 (Low Density Residential District), R-2 (Medium Density Residential District), R-3 (High Density Residential District), and DTC (Downtown Commercial District) zoning districts. These regulations shall also apply in all PD (Planned Development Overlay District) zoning districts permitting residential uses.

(C) Permitted Uses: Accessory Dwelling Units and Junior Accessory Dwelling Units are permitted by right in residential zoning districts pursuant to Section 5-3-15, in compliance with the regulations herein.

(D) Provisions for Development. The following provisions shall apply to permit applications for new accessory dwelling units:

1. Permits for ADU's and JADU's shall be in compliance with underlying zoning requirements and regulations, except as may be provided in this section.

2. An accessory dwelling unit shall not be considered a new residential use unless it is built concurrently with the new construction of a single-family unit or multi-family building.

3. An accessory dwelling unit shall not count towards density requirements on the lot.
4. An accessory dwelling unit shall not count towards determining the building square footage in calculating the maximum lot coverage percentage.
5. Accessory dwelling units shall have independent exterior access from the primary dwelling. No passageway to the primary dwelling shall be required.
6. Accessory dwelling units shall be in compliance with applicable building, fire, and other health and safety codes. Fire sprinklers shall not be required for an accessory dwelling unit if sprinklers are not required for the primary dwelling unit.
7. Accessory dwelling units are required to provide solar panels if the unit(s) is a newly constructed, non-manufactured, detached ADU. Per the California Energy Commission (CEC), the panels can be installed on the ADU or the primary dwelling unit. Accessory dwelling units that are constructed within existing space, or as an addition to existing homes, including detached additions where an existing detached building is converted from non-residential to residential space, are not subject to the Energy Code requirement to provide solar panels.

(E) Permitted Locations and Types:

1. ADUs are permitted in all zone districts allowing single-family or multifamily residential uses on lots with existing or proposed dwellings.
2. An ADU may be established in the following methods:
 - (a) Attached to, or located within, an existing or proposed primary dwelling.
 - (b) A new detached structure, or located within or attached to an accessory structure, including garages, storage areas, or similar structures.
 - (c) Conversion of existing attached or detached accessory structures, including garages, storage areas, or similar structures.
 - (d) Reconstruction of an existing structure or living area that is proposed to be converted to an ADU, or a portion thereof, in the same location and to the same dimensions and setbacks as the existing structure.
3. One ADU and one JADU may be established per lot with a proposed or existing single-family dwelling if all of the following apply:
 - (a) The ADU or JADU is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
 - (b) The space has exterior access from the proposed or existing single-family dwelling.
 - (c) The side and rear setbacks are sufficient for fire and safety access.

(d) The junior accessory dwelling unit complies with the requirements of California Government Code Section 65852.22.

4. One JADU may be established within the space of an existing or proposed single-family residence, only on a lot that is zoned to allow single-family residential uses.

5. A JADU may be established within the space of the primary dwelling in combination with the construction of one detached, new construction ADU not exceeding one thousand two hundred (1,200) square feet and a height of sixteen (16) feet with four-foot (4') side and rear yard setbacks.

6. ADUs shall be permitted only on residentially zoned lots developed with existing multifamily dwellings subject to the following provisions:

(a) A minimum of one ADU may be constructed, or up to twenty-five percent (25%) of the existing multifamily dwelling units, within non-livable space, including but not limited to, storage rooms, passageways, attics, basements, or closets if each unit complies with state building standards for dwellings.

(b) The construction of two (2) detached ADUs, subject to a maximum height of sixteen (16) feet, and four-foot (4') side and rear setbacks. In this case, only two (2) detached ADUs are permitted on lots developed with existing multifamily dwellings.

(F) Development Standards

1. ADU Type, Location & Size:

(a) Attached Unit. An ADU attached to an existing primary dwelling shall not exceed fifty percent (50%) of the total existing or proposed living area of the primary dwelling, except that a one (1) bedroom attached ADU shall be allowed up to 850 square feet and 1,000 square feet for attached ADUs with more than one (1) bedroom pursuant to Government Code Section 65852.2(c)(2)(B).

(b) Detached Unit. An ADU structurally independent and detached from the existing or proposed primary dwelling shall not exceed one thousand two hundred (1,200) square feet.

2. JADU Location, Size, and Standards:

(a) A JADU shall be constructed entirely within an existing or proposed primary dwelling and shall not exceed five hundred (500) square feet.

(b) JADUs shall have an independent exterior entrance from the primary dwelling but may also include shared access between two units.

(c) A JADU, at a minimum, shall include an efficiency kitchen that includes the following:

i. A cooking facility with appliances.

ii. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(d) The property owner shall reside in either the principal dwelling unit or the junior accessory dwelling unit.

(e) Prior to the issuance of a certificate of occupancy for the JADU, the property owner shall file with the City a deed restriction for recordation with the County Recorder, which shall run

with the land and include provisions listed in California Government Code Section 65852.22 and state the following:

“The property contains an approved accessory dwelling unit pursuant to Chapter 5 of the Livingston Municipal Code and is subject to the restrictions and regulations set forth in that chapter. These restrictions and regulations generally address development regulations, owner occupancy, and lease requirements, limitations on the size of the accessory dwelling unit, and parking requirements. Current restrictions and regulations may be obtained from the City of Livingston planning division. These restrictions and regulations shall be binding upon any successor in ownership of the property.”

3. Setbacks:

(a) The minimum setback for an accessory dwelling unit is four (4) feet from the side and rear lot lines, ten (10) feet from the street side lot line, and twenty (20) feet from the front lot line.

(b) No setback shall be required for an existing living area or accessory structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an ADU, and a setback of no more than four (4) feet from the side and rear lot lines shall be required for an ADU that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(c) Where feasible, setbacks from other structures on the lot shall be consistent with the city-adopted building code for new construction ADUs, except for a legally established existing structure that is converted to an accessory dwelling unit or to a portion of an ADU.

4. Utilities and Impact Fees:

(a) Adequate roadways, public utilities, and services shall be available to serve the ADU. ADUs shall not be considered a new residential use for the purpose of calculating connection fees or capacity charges for sewer and water. Installation of a separate direct connection between an ADU contained within an existing structure and the utility shall not be required. ADUs not within an existing structure shall be required to install a new or separate utility connection and be charged a connection fee and/or capacity charge. These charges shall be proportionate to the burden imposed by the ADU on the water or sewer system on either its size or the number of plumbing fixtures as determined by the city.

(b) No impact fee shall be imposed for an accessory dwelling unit less than seven hundred fifty (750) square feet. Any impact fees charged for an accessory dwelling unit of seven hundred fifty (750) square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(G) Mobile Homes or Manufactured Homes. Mobilehomes or manufactured housing shall be permitted as an ADU, only if they are installed on permanent foundations, the mobilehome complies with the 1974 National Manufactured Housing Construction and Safety Act, and is ten (10) years or newer and connected to public utilities. Recreational vehicles, including but not limited to motor homes, travel trailers, fifth-wheel trailers, and houseboats do not qualify as an ADU as defined in this Section.

(H) Off-Street Parking:

1. At least one (1) additional off-street parking space shall be required for the ADU or per bedroom, whichever is less, unless otherwise exempt under Section H.

2. The parking spaces required for the ADU can be in tandem to the required off-street parking of the main dwelling unit, may be uncovered, and can be located within the front yard as long as all other yard requirements are met.

3. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced.

(I) Off-Street Parking Exemption. Off-street parking shall not be imposed in any of the following instances:

1. The ADU is located within one-half mile walking distance to public transit.
2. The ADU is located within an architecturally and historically significant historic district.
3. The ADU is part of the existing primary residence or an existing accessory structure.
4. When on-street parking permits are required but not offered to the occupant of the ADU.
5. When there is a car share vehicle located within one block of the ADU.

(J) Owner Occupancy.

1. If the owner occupies the primary residential unit, the owner may rent the ADU to one party. If the owner occupies the ADU, the owner may rent the primary residence to one party. The owner may rent both the primary residential unit and the ADU together to one party who may further sublease any unit(s) or portion(s) thereof. The owner shall be a signatory to any lease for the rented unit, for which the City may reasonably require a copy of to verify compliance with this Chapter and shall be the applicant for any permit issued under this Chapter. Owner occupancy for the primary dwelling or the ADU is not required for ADUs approved between January 2020 and January 2025. The rental of the ADU shall be longer than 30 days.

2. The ADU shall not be sold or held under a different legal ownership than the primary residence; nor shall the lot containing the ADU be subdivided, except as provided in Government Code Section 65852.26.

(K) Process and Timing.

1. An ADU or JADU is considered and approved ministerially, without discretionary review or hearing, if it meets the minimum standards in this Chapter.

2. The City must act on a building permit application to create an ADU or JADU within sixty (60) days from the date that the City receives a completed permit application, unless either:

(a) The applicant requests a delay, in which the sixty (60) day time period is tolled for the period of the request delay; or

(b) If the building permit application to create an ADU or JADU is submitted is submitted with a permit application to create a new single-family dwelling on the lot, the City may delay acting on the permit application for the ADU or the JADU until the City acts on the permit application to create the new single-family dwelling, but the application to create the ADU or JADU unit shall still be considered ministerially, without discretionary review or a hearing.

SECTION 4. Section 5-7-2: "DEFINITIONS OF WORDS AND PHRASES" of Title 5 of the Livingston Municipal Code is revised to read as follows:

The words, terms and phrases used in this title shall be given the meanings commonly assigned in the English language.

ABUTTING: Land or zoning district boundaries having a common property line. Lands or district boundaries separated by an alley, street or right of way shall be considered abutting.

ACCESSORY BUILDING: A detached subordinate structure or building located on the same premises as the main building or buildings, the use of which is customarily incidental to that of the main building or to the use of the land. Where any portion of a wall of an accessory building or structure is attached to the main building, or where an accessory structure is attached to the main building in a substantial manner by a roof or deck, the accessory building or structure shall be considered and treated as part of the main building.

ACCESSORY DWELLING UNIT: An attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following: (A) an efficiency unit; and (B) a manufactured home.

ACCESSORY USE: A use naturally and normally incidental to, subordinate to, or exclusively devoted to a principal use and located on the same lot therewith.

AFFORDABLE HOUSING: Affordable sales housing or affordable rental housing. Affordable housing focuses on moderate, low and very low income households as defined herein and by state statute.

AGRICULTURE: The tilling of soil, the raising of crops and horticulture, including all uses customarily incidental thereto, but not including slaughterhouses, feed yards, hog farms, fertilizer works, bone yards or plants for the reduction of animal matter or any other industrial or agricultural use which is similarly objectionable because of noise, odor, smoke, dust or fumes.

ALLEY: Any public or private thoroughfare less than forty feet (40') in width, which affords only a secondary means of access to property, where such property is accessible by a "street" as defined in this section.

APARTMENT: One or more rooms in an apartment house intended or designed to be occupied by one family for living and sleeping purposes and containing kitchen and bath facilities.

APPLICANT: The person, public or private, listed as the applicant on an application for a project and includes the record owner of the real property that is the subject of the project at the time of the application for the project.

BASEMENT: That portion of a building between the floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to floor is greater than the vertical distance from grade to ceiling.

BLOCK: All property fronting on one side of a street between intersecting and intercepting streets, or between a street railroad right of way, dead end street, waterway, natural barrier or unsubdivided acreage. An intercepting street shall determine only the boundary of the block on the side of the street that it intercepts.

BUILDING: Any permanent structure built for the occupancy, support, shelter or enclosure of persons or animals, or personal property of any kind and/or for use in commercial, industrial or other enterprises.

BUILDING, ACCESSORY: A subordinate building such as a carport or garage, the use of which is clearly incidental and secondary to that of the main building, on the same lot or parcel of land.

BUILDING AREA: The total amount of ground area occupied by all buildings and structures on a parcel of land.

BUILDING HEIGHT: The vertical distance from the average level of the highest and lowest point of that portion of the lot covered by the main building to the topmost point of the roof of such building.

BUILDING, MAIN: A building in which is conducted the principal use of the lot upon which it is situated.

BUILDING SITE: The ground area of a building or group of buildings with its principal building fronting on a street, road or highway, together with all yard and open spaces as required by this title.

CANNABIS: Shall have the same meaning as set forth in Business and Professions Code section 19300.5(f) as the same may be amended from time to time. For purposes of this title, cannabis and marijuana shall have the same meaning. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this definition, "cannabis" does not mean "industrial hemp" as defined by section 11018.5 of the Health and Safety Code.

CANNABIS CULTIVATION: Means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, including nurseries.

CANNABIS CULTIVATION AREA: Means the total aggregate area(s) of cannabis cultivation on a single premises as measured around the outermost perimeter of each separate and discrete area of cannabis cultivation at the drip-line of the canopy expected at maturity and includes, but is not limited to, the space between plants within the cultivation area, the exterior dimensions of garden beds, garden plots, hoop houses, green houses, and each room or area where cannabis plants are grown, as determined by the review authority.

CANNABIS CULTIVATION - INDOOR: Means the cultivation of cannabis using exclusively artificial lighting.

CANNABIS CULTIVATION - MIXED-LIGHT: Means the cultivation of cannabis using any combination of natural and supplemental artificial lighting. Greenhouses, hoop houses, hothouses and similar structures, or light deprivation systems are included in this category.

CANNABIS CULTIVATION - OUTDOOR: Means the cultivation of cannabis using no artificial lighting conducted in the ground or in containers outdoors with no covering. Outdoor cultivation does not include greenhouses, hoop houses, hothouses or similar structures.

CANNABIS CULTIVATION SITE: Means the premises, leased area(s), property, location or facility where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where all or any combination of those activities.

CANNABIS DISPENSARY, DISPENSARY OR RETAIL CANNABIS ACTIVITY: Means a facility, whether fixed or mobile, operated in accordance with State and local laws and regulations, where cannabis and/or cannabis products are offered for retail sale, including an establishment that delivers cannabis and/or cannabis products as part of a retail sale.

CANNABIS DISTRIBUTION FACILITY: Means the location or a facility where a person conducts the business of procuring cannabis from licensed cultivators or manufacturers for sale to licensed dispensaries or delivery operations, and the inspection, quality assurance, batch testing by a type 8 licensee, storage, labeling, packaging and other processes, prior to transport to licensed dispensaries or delivery operations. This facility requires a type 11 license pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA") or a State cannabis license type subsequently established.

CANNABIS LICENSE: Means a State license issued pursuant to MAUCRSA.

CANNABIS LICENSEE: Means a person issued a State license under MAUCRSA to engage in commercial cannabis uses or activity.

CANNABIS MANUFACTURER: Means a person that produces, prepares, propagates, or compounds manufactured cannabis or cannabis products, either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container, that holds a valid State type 6 or 7 license, or a State cannabis license type subsequently established, and that holds a valid local license or permit.

CANNABIS MANUFACTURING: Means a facility, whether fixed or mobile, that produces, prepares, propagates, or compounds manufactured cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.

CANNABIS NURSERY: Means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

CANNABIS PRODUCTS: Means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

CANNABIS TESTING SERVICE OR CANNABIS TESTING LABORATORY: Means a laboratory, facility, or entity that offers or performs tests of cannabis or cannabis products, including the equipment provided by such laboratory, facility, or entity.

CAREGIVER OR PRIMARY CAREGIVER: Shall have the same meaning as set forth in Health and Safety Code section 11362.7 as the same may be amended from time to time.

CARPOR: A permanent roofed structure, not enclosed on more than two (2) sides, used or intended to be used for vehicular shelter and storage.

CENTERLINE: The centerline of a street as referred to in this title shall mean the right-of-way centerline as established by official survey.

CHILD CARE CENTER: Shall have the same meaning as "child day care facility" in Health and Safety Code section 1596.750, and as "day care center" in Health and Safety Code section 1596.76, as both may be amended from time to time: any child care facility, and includes infant centers, preschools, extended day care facilities, and school-age child care centers where nonmedical care is provided to children under eighteen (18) years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a twenty four (24) hour basis.

CITY MANAGER: Means the City Manager or his/her designee(s).

COMMERCIAL CANNABIS ACTIVITY OR COMMERCIAL CANNABIS USES: Means any commercial cannabis activity licensed pursuant to MAUCRSA, including but not limited to, cultivation, possession, distribution, laboratory testing, labeling, transport, retail activity, delivery, sale or manufacturing of cannabis or cannabis products. "Commercial cannabis uses" also means any cannabis activity licensed pursuant to additional State laws regulating such businesses. Commercial cannabis uses shall not include legal medical cannabis or cannabis activities carried out exclusively for one's personal use that does not involve commercial activity or sales.

COMMERCIAL CANNABIS PERMIT OR CANNABIS PERMIT: Means a permit issued by the City pursuant to this title and section 5-5-14 of this title for the operation of a commercial cannabis business within the City.

CONDOMINIUM: A building/structure wherein the owner holds title to his/her dwelling unit while sharing title to the land and other common areas of the development and sharing maintenance/operating costs with other dwelling unit owners through a condominium corporation.

COURTYARD: An open, unoccupied space, other than a yard on the same lot with a building, and bounded on two (2) or more sides by such building or buildings.

CULTIVATION SITE: Shall have the same meaning as set forth in Business and Professions Code section 19300.5(x) as the same may be amended from time to time.

DENSITY BONUS: Entitlement to build additional residential units above the maximum number of units permitted pursuant to the existing General Plan, applicable specific plan and zoning designations. Density bonus units may be constructed only in developments where units of affordable housing are located. Density bonus means a bonus of units awarded to a development pursuant to Government Code section 65915 et seq.

DISTRIBUTOR: Means any commercial cannabis operation that distributes cannabis or cannabis products under a valid State type 11, or a State cannabis license type subsequently established.

DISTRICT: An area of the City defined on the official zoning map within which certain uses of land and building regulations and requirements or various combinations thereof apply under provisions of this title.

DWELLING: A building or portion thereof designed and used exclusively for residential occupancy with cooking and bath facilities. Uses include single-family, two-family, multiple-family dwellings and apartments, but not hotels or motels or boarding houses.

DWELLING GROUP: A group of two (2) or more detached or semidetached dwellings occupying a parcel of land in one ownership and having a yard, court or place in common, but not including motels.

EASEMENT: A space on a lot or parcel of land and so indicated on a subdivision map or in a deed restriction, reserved for and/or used for public utilities and/or public uses.

EFFECIENCY UNIT: Has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

FAMILY: One or more persons occupying a dwelling unit and living as a single housekeeping unit, and distinguished from a group occupying a boarding house, lodging house, motel or hotel.

FENCE: A constructed, unroofed barrier of wood, metal, masonry, or other material as allowed in this zoning ordinance that is intended to enclose, separate, define, secure, protect, and/or screen one or more areas of a site.

GARAGE, PRIVATE CARPORT: A building or portion of a main building, enclosed on three (3) or more sides and designed for the storage of private passenger motor vehicles wherein no service for profit is rendered.

GARAGE, PUBLIC: The use of any building for the storage, care or repair of motor vehicles for compensation and profit.

GENERAL PLAN: Statement of goals and policies and all amendments thereto, adopted by the City Council as a long range, comprehensive guide to the City's growth and development.

GRADE: The ground surface immediately adjacent to the exterior base of a structure, typically used as the basis for measurement of the height of the structure.

GUESTHOUSE: A detached structure necessary to a single-family dwelling, accommodating living/sleeping quarters, but without kitchen or cooking facilities.

JUNIOR ACCESSORY DWELLING UNIT: A 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 facilities, or may share sanitation facilities within the existing structure.

JUNK: Any worn out, cast off or discarded article or material that is ready for destruction or has been collected or stored for salvage or conversion to some other use. Any article or material which, unaltered or unchanged and without further reconditions, can be used for its original purpose as readily as when new, shall not be considered junk.

JUNKYARD: Primary or accessory use of a parcel of land for the storage or keeping of junk, including scrap metals or other scrap materials.

KITCHEN: A room or space within a building used or intended to be used for the cooking or preparation of food, which includes any of the following: refrigerator, stove, oven, range top, dishwasher, kitchen sink.

LANDSCAPING: The planting and continued maintenance of ornamental plant material including the installation, use and continued maintenance of a permanent irrigation system.

LIVESTOCK ANIMALS: Animals of a category normally referred to as livestock, including horses, goats, sheep or cattle, but not including swine.

LIVING AREA: The interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

LOADING SPACE, OFF STREET: An off street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

LOT: A parcel of land occupied or to be occupied by a use, building or a unit group of buildings and accessory buildings and uses, under the provisions hereof, including both the building site and all required yards and other open spaces as defined in this title, and having the required street frontage.

Lot Area: The total horizontal area included within lot lines of a parcel of land.

Lot, Corner: A lot located at the intersection of two (2) or more streets or bounded on two (2) or more adjacent sides by street lines.

Lot Depth: The horizontal length of a straight line drawn from the midpoint of the front lot line to the midpoint of the rear lot line.

Lot Front: The portion of any lot that is adjoining a public street. Where a rectangular or roughly rectangular shaped lot is a corner lot, that portion which adjoins a street and is the lesser, measured linearly, than any other portion adjoining any other street, is the front of the corner lot. Where portions adjoin two (2) or more streets and the linear measurements of each such adjoining portions are the same, then the front of the lot shall be determined at the option of the owner, but once such front has been so determined, such portion shall be the front of the lot for all purposes provided in this title.

Lot, Interior: A lot other than a corner lot.

Lot, Key: The first lot to the rear of a corner lot, the front line of which is a continuation of the side line of the corner lot, exclusive of the width of any alley and fronting on the street which intercepts the street on which the corner lot fronts.

Lot, Reversed Corner: A corner lot, the side street line of which is substantially a continuation of the front line of the lot to its rear.

Lot, Through: A lot having frontage on two (2) parallel or approximately parallel streets.

Lot Width: The horizontal distance between side lot lines measured at right angles to the lot depth at the required front setback line.

LOT LINE:

Lot Line, Front: A line defining the front lot. The front lot line for lots fronting on a curved street shall be determined by measuring a cord located twenty five feet (25') from the edge of the street right-of-way.

Lot Line, Rear: A line which is opposite and most distant from the front lot line, and in the case of an irregular, triangular or gore shaped lot, a line within a lot ten feet (10') in length, parallel to and at the maximum distance from the front lot line.

Lot Line, Side: Any lot lines other than the front or rear lot lines.

MANUFACTURE: Means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

MANUFACTURED CANNABIS: Means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

MANUFACTURER: Means a licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

MEDICAL CANNABIS OR MEDICINAL CANNABIS: Means cannabis that is intended to be used for medical cannabis purposes in accordance with the Compassionate Use Act¹ ("CUA"), the Medical Marijuana Program Act² ("MMPA") and the Medicinal and MAUCRSA Act.

MICROBUSINESS: Means a commercial cannabis facility operating under a State type 12 license, or a State cannabis license type subsequently established, and meeting the definition of microbusiness Business and Professions Code section 26070(a)(3)(A), as may be amended from time to time, which cultivates less than ten thousand (10,000) square feet of cannabis and acts as a licensed distributor, level 1 manufacturer, and retailer.

NURSERY: Shall have the same meaning as set forth in Business and Professions Code section 26001(aj), and is a commercial cannabis use that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

OPEN SPACE: Land which is available for outdoor recreational activities, passively or actively, for public or private use.

OPERATOR: Means the natural person or designated officer responsible for the operation of any commercial cannabis use.

OUTDOOR DINING AREA: An area for dining which is not located within an enclosed structure and where patrons may consume food and/or beverages provided by an abutting restaurant/cafe. Such restaurants/cafes may either provide table service in the outdoor dining area or sell takeout items to be

consumed in the outdoor dining area. All alcohol served outdoors (beer, wine, hard alcohol) and amplified live entertainment requires a conditional use permit.

OVERLAY ZONE: A supplementary zoning designation applied to property in addition to a primary zoning district that highlights special regulations applying to those properties within the overlay zoning district.

PARKING AREA, PUBLIC: An open area, other than a street or alley which is paved, graveled or otherwise surfaced, and used for the parking or storage of vehicles and available for public use whether free, for compensation or as an accommodation for patrons, customers or clientele of a business, professional office or other commercial enterprise.

PARKING SPACE: A space within a lot or public parking area or a building or parking garage exclusive of driveways, ramps, columns, office and work area, for the temporary parking or storage of one vehicle.

PERSON: Means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, tribe, or any other group or combination acting as a unit and includes the plural as well as the singular number.

PERSONAL CANNABIS CULTIVATION: Shall mean that cannabis cultivation which is allowed for a single qualified patient or caregiver for medicinal purposes or that cultivation which is allowed for an adult twenty one (21) years of age or older.

PLANNED DEVELOPMENT: An area of land controlled by a landowner, which is, has been or is proposed to be developed as a single entity for any residential or neighborhood commercial endeavor, the plan for which need not conform in lot size, bulk or type of structure, number of structures per lot, height or yard regulations established for the affected district or districts by any other articles of this title. Such development will be permitted only after a planned unit permit is secured.

PREMISES: Means a legal parcel, or a leasehold interest in land, or a leased or owned space in a building where the commercial cannabis use or activity is or will be conducted.

PUBLIC TRANSIT. A location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

QUALIFYING PATIENT OR QUALIFIED PATIENT: Shall have the same meaning as set forth in Health and Safety Code section 11362.7 as the same may be amended from time to time.

REVIEW AUTHORITY: Means the individual or official City body (the City Manager, Director, Council, Commission, or Board) and others as identified in this Code as having the responsibility and authority to review and approve or deny land use permit applications.

SALE, SELL, AND TO SELL: Shall have the same meaning as set forth in Business and Professions Code section 26001(as), as the same may be amended from time to time: any transaction whereby, for any consideration, title to cannabis is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom such cannabis or cannabis product was purchased.

SCHOOL: Means any public or private school providing instruction to students in kindergarten or any grades 1 through 12.

SHIPPING CONTAINER: Any enclosed container constructed of metal, wood, or other material which container was designed or patterned after structures used in containerized shipping operations. No shipping container or similar structure shall be used as an accessory structure in any residential or commercial zoning district unless granted a temporary use permit pursuant to section 5-6-9 of this title. Shipping containers shall be painted an approved neutral color, allowing it to blend in with its surroundings.

SIGHT DISTANCE AREA: A triangular area, on a corner lot or reverse corner lot bounded by the lot line of such corner lot and a line joining points along such lot lines measured from the intersection of two (2) property lines or their projection to a distance equal to the sum of the building setbacks on each of the two (2) intersecting streets.

STORY: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six feet (6') above grade, such basement or cellar shall be considered a story.

STREET: A public thoroughfare that affords principal means of access to abutting property, including avenue, place, way, boulevard, drive, lane, highway, road and any thoroughfare except an "alley" as defined herein.

STRUCTURAL ALTERATION: Any change in the supporting members of a building, including bearing walls, columns, beams, or girders, floor joist, ceiling joist or roof rafters, foundations, piles or retaining walls or similar components or changes in roof or exterior lines.

STRUCTURE: Shall mean a building completely enclosed and detached from a residence that complies with the California Building Code, as adopted by the City, and has a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through one or more lockable doors.

SUPPORTIVE HOUSING: Housing with no limit on length of stay, that is occupied by the target population and that is linked to on site or off site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing units are residential uses allowed in any zone allowing residential uses, subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone.

SWIMMING POOL: A structure designed to contain water in excess of eighteen inches (18") in depth, located above or below grade or ground surface, commonly constructed of concrete, metal, wood, fiberglass, and/or plastic, and designed and used for recreation or therapy.

TARGET POPULATION: Persons with low income who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act¹ and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young

adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

TESTING LABORATORY: Shall have the same meaning as set forth in Business and Professions Code section 26001(at), and means a laboratory, facility, or entity in the State that offers or performs tests of cannabis or cannabis products and that is both of the following: credited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the State and licensed by the State Bureau of Cannabis Regulation.

TRANSITIONAL HOUSING: Rental housing 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 (6) months from the beginning of the assistance. Transitional housing units are residential uses allowed in any zone allowing residential uses, subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone.

USE: The purpose for which land or a building is arranged, designed or intended for which either land or a building is or may be occupied or maintained.

VOLATILE SOLVENT: Means volatile organic compounds, including but not limited to: a) explosive gases, such as butane, propane, xylene, styrene, gasoline, kerosene, O₂ or H₂; and b) dangerous poisons, toxins, or carcinogens, such as methanol, methylene chloride, acetone, benzene, toluene, and tri-chloroethylene as determined by the Fire Marshal.

YARD: An open space other than a court, on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided therein.

Yard, Front: A yard extending across the full width of the lot, the depth of which is the distance between the front property line and the setback line.

Yard, Rear: A yard extending across the full width of the lot between the most rear main building and the rear property line. The depth of the required rear yard shall be measured horizontally from the nearest part of a main building toward the nearest point of the rear property line.

Yard, Side: A yard, between a main building and the side property line, extending from the front yard to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side property line toward the nearest part of the main building.

YOUTH CENTER: Shall have the same meaning as in section 11353.1 of the Health and Safety Code, as may be amended from time to time: any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.


ZONE: A "district" as defined in this title. Portions of territory in the City within which certain uniform regulations and requirements or various combinations apply pursuant to this title.

ZONING MAP: An official map subscribed by the City and on file with the City that serves to delineate the boundaries of each "district" as defined herein. (Ord. 533, 8-16-2005; and. Ord. 556, 12-19-2006; Ord. 619, 6-17-2014; Ord. 626, 1-19-2016; Ord. 627, 4-5-2016; Ord. 632, 12-19-2017)

SECTION 5. Effective Date. This Ordinance shall become effective thirty (30) days after its final passage and adoption.

Introduced: June 7, 2022

Passed and Adopted: June 21, 2022



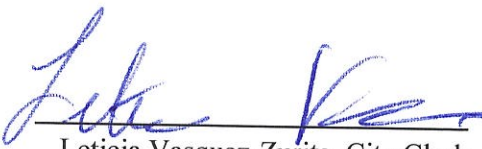
Juan Aguilar Jr., Mayor
of the City of Livingston

ATTEST:

State of California)
County of Merced)
City of Livingston)

I hereby certify that the foregoing Ordinance was duly introduced at a Regular Meeting of the City Council of the City of Livingston on the 7th day of June, 2022, and was passed and adopted at a Regular Meeting of the City Council of the City of Livingston this 21st day of June, 2022, by the following vote:

AYES: Mayor Aguilar and Council Members Baptista-Soto, Moran, Kang, and Garcia
NOES: None
ABSENT: None
ABSTAIN: None



Leticia Vasquez-Zurita, City Clerk
of the City of Livingston