

**BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE**

**IN THE MATTER OF:**

An Ordinance of the City of Lafayette, California to )	
Approve the City-initiated Zoning Text Amendment )	
(ZT03-12) creating Article 5 in Chapter 6-5 of the )	Ordinance 616
Lafayette Municipal Code to regulate the demolition of )	
<u>structures in the Downtown</u> )	

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

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

**WHEREAS**, Lafayette Municipal Code ("LMC") Chapter 6-21, entitled "Historical Landmarks," provides a procedure for the designation of structures as historic landmarks and the protection of structures that have been designated historical landmarks in the City of Lafayette ("City"), in recognition of the fact that the preservation, protection, perpetuation and use of areas, places, sites, buildings, structures, works of art and other objects with special historical or archeological community interests or values is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the public;

**WHEREAS**, except for those structures designated as historical landmarks, the issuance of a demolition permit is currently a ministerial action administered by the Contra Costa County Building Inspection Department, which means it is exempt from discretionary review and regulation by the City. Because of this fact, the City has no way of evaluating a proposed demolition based on the historical, cultural, or civic merit of a structure which has not been designated a historical landmark;

**WHEREAS**, structures with a historical landmark designation, as listed in the Land Use Element of the Lafayette General Plan, are currently limited to Lafayette Plaza, Wayside Inn, the former Pioneer Store, Town Hall Theater, and a portion of the Lafayette United Methodist Church known as the Old Lafayette Grammar School;

**WHEREAS**, there is concern that structures in the Downtown (as defined below), which may have historical, civic, or cultural significance, but which have not been designated historical landmarks may be lost to demolition due to the City's inability to evaluate or regulate the otherwise ministerial issuance of demolition permits by the County;

**WHEREAS**, to address the concern described above, it is necessary for the City to implement a discretionary review procedure to regulate demolition of buildings and structures that are located in the Downtown, which for the purposes of this ordinance is defined as any land that falls within the boundaries of the area designated as the Downtown, as shown on General Plan Map I-3 ("Downtown");

**WHEREAS**, the Lafayette Redevelopment Agency had previously implemented a discretionary review procedure for the issuance of demolition permits to protect structures in the Redevelopment Project Area, pursuant to Resolution R2006-01, adopted May 22, 2006 ("R2006-01"). However, the dissolution of the Redevelopment Agency eliminated this requirement;

**WHEREAS**, adoption of an ordinance to codify the regulatory features of R2006-01, will give the City the ability to consider and evaluate proposed demolition of structures which may have historical, civic, or

cultural significance in the Downtown but that have not been designated as a historical landmark and therefore are without protection under Chapter 6-21 LMC;

**WHEREAS**, oversight of demolition contributes to the City's ability to preserve and maintain significant buildings and structures in the Downtown by ensuring that the City has consideration over approval of demolition permit applications before they are issued and an early awareness of the proposed development, rehabilitation, or other physical changes associated with the demolition;

**WHEREAS**, the City prepared a Zoning Text Amendment ZT03-12 to amend Chapter 6-5 of the LMC by adding Article 5 to regulate demolition within the Downtown;

**WHEREAS**, on November 19, 2012, the Planning Commission of the City of Lafayette conducted a duly noticed public hearing pursuant to Government Code section 65854, at which time all persons wishing to testify in connection with ZT03-12 were heard and ZT03-12 was fully studied;

**WHEREAS**, on December 10, 2012, January 14, 2013, and January 28, 2013, the City Council of the City of Lafayette conducted a duly noticed public hearing pursuant to Government Code section 65854, at which time all persons wishing to testify in connection with application ZT03-12 were heard and the matter was fully studied; and

**WHEREAS**, all other legal prerequisites to the adoption of the Ordinance have occurred.

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

**Section 2. CEQA.** The City Council finds and determines that the amendments to the Lafayette Municipal Code described in ZT03-12 are not subject to the requirements of the California Environmental Quality Act ("CEQA"), pursuant to (1) CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that such approval would not involve commitment to any specific project which may result in a potentially significant physical impact on the environment, and (2) State CEQA Guidelines Section 15302, because such approval would potentially consist of the replacement of an existing structure with a new structure of substantially the same size, purpose, and capacity.

**Section 3. Notice of Exemption.** The City Council directs staff to prepare and file a Notice of Exemption no more than five (5) working days after adoption of this Ordinance.

**Section 4. Zoning Text Amendment Findings.** Pursuant to the notification procedures outlined in Lafayette Municipal Code Section 6-213, and based on the record before the City Council, including all written and oral evidence received at the public hearing on this matter, the City Council hereby makes and adopts the following findings:

- (a) The subject Zoning Text Amendment is compatible with the General Plan and all elements therein, for the following reasons:
  - (1) Goal LU-8 of the Lafayette General Plan calls for enhancing commercial vitality and encouraging a variety of businesses in the Downtown. A discretionary review process for proposed demolition in the Downtown will ensure that structures are not demolished unless the property is proposed to be redeveloped with new structures, thus maintaining existing square footage associated with commercial and retail activities.
  - (2) Policy LU-9.5, under the goal of maintaining the Downtown as a commercial area and

- enhancing the tax base (Goal LU-9), calls for the protection and enhancement of economic vitality in Lafayette's commercial areas. A discretionary review process for proposed demolition in the Downtown will allow for a closer evaluation of the economic benefits and disadvantages of a proposed demolition as it relates to the economic vitality of the Downtown.
- (3) Goal LU-10 of the Lafayette General Plan calls for improving the appearance and identity of the Downtown Core. Policy LU-10.5 specifies the preservation of "character areas" within the Downtown Core, such as the BART Block, Shield Block/ La Fiesta Square, Lafayette Plaza, and Golden Gate Way. A discretionary review process for proposed demolition in the Downtown will enable the City to determine whether a proposed demolition will pose a substantial change to the appearance and identity of "character areas" in the Downtown.
- (4) Policy LU-22.2 of the Lafayette General Plan, under the goal of preserving archaeological and historic resources (Goal LU-22), calls for the identification, recognition, and protection of sites, buildings, structures, and districts with significant cultural, aesthetic, and social characteristics which are part of Lafayette's Heritage. A discretionary review process for proposed demolition in the Downtown will identify structures of importance that have not otherwise been designated as a historical landmark and provide an avenue to consider the value of these structures before they are demolished.
- (b) The Amendment is compatible with the uses authorized in, and the regulations prescribed for, the land use districts for which it is proposed because the preservation and enhancement of the physical environment is consistent with LMC policies and regulations intended to promote economic activity in the Downtown. Notable examples include:
- (1) For the Retail Business District "RB", as outlined in Chapter 6-9 LMC, a purpose is to "create, preserve, and enhance areas with a selective range of retail and personal service establishments in attractive, compact locations oriented towards pedestrians". The Amendment is compatible with Section 6-914 LMC requiring design review for alterations that may affect exterior appearance with a structure in the business and commercial districts.
  - (2) For the Special Retail District "SRB," a purpose of regulation is to foster development of an especially attractive, high-quality retail shopping area, emphasizing pedestrian convenience.
  - (3) For the General Commercial District 1 "C-1", a purpose is to "provide for, and enhance opportunities for, and protect existing establishments offering a variety of supplies essential to the economy of Lafayette. "
- (c) There is demonstrated community need to amend Chapter 6-5 of the Lafayette Municipal Code as proposed by ZT03-12 because preventing the demolition of structures with historical, civic, or cultural significance that have not been otherwise designated as historical landmarks is critical to maintaining and protecting historical, civic, and cultural assets of the residents, employees, and visitors of Lafayette.

**Section 5. Adoption of Amendment.** Based on the record before the City Council, all written and oral evidence presented to the City Council, and the findings made in this ordinance, the City Council hereby approves ZT03-12, creating Article 5 in Chapter 6-6 of the Lafayette Municipal Code, as described in Exhibit "A" attached hereto and incorporated herein by reference.

**Section 6. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, invalid or

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

**Section 7. Public Records.** The location and custodian of the documents and any other material which constitute the record of proceedings upon which the City Council based its decision is as follows: City Clerk, City of Lafayette, 3675 Mt. Diablo Blvd. #210, Lafayette, California 94549.

**Section 8. Publication.** The City Clerk shall either (a) have this Ordinance published in a newspaper of general circulation once within fifteen (15) days after its adoption, including the names of the city council members voting for and against its passage, or (b) have a summary of this Ordinance published twice in a newspaper of general circulation, once five (5) days before its adoption and again within fifteen (15) days after adoption, including the names of the city council members who voted for and against its passage.

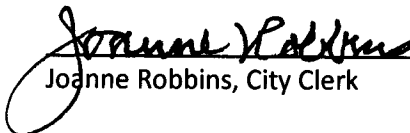
**Section 9. Effective Date.** This Ordinance becomes effective thirty (30) days after its adoption.

**Section 10. Certification.** The Secretary shall certify to the adoption of this Ordinance.

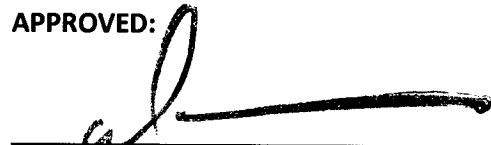
**PASSED AND ADOPTED** by the City Council of the City of Lafayette at a regular meeting on January 28, 2013, by the following vote:

AYES:	M. Anderson, Tatzin, B. Andersson, Mitchell, Reilly
NOES:	None
ABSTAIN:	None
ABSENT:	None

ATTEST:

  
\_\_\_\_\_  
Joanne Robbins, City Clerk

APPROVED:

  
\_\_\_\_\_  
Mike Anderson, Mayor

**Exhibit "A"**

**Chapter 6-5**

**GENERAL PROVISIONS**

**Article 5 - Demolition in the Downtown**

**6-580 Purpose.**

The purpose of this article is to require discretionary review of a proposal that involves demolishing, moving, or removing a structure in the Downtown in order to protect structures with historical, cultural or civic importance to Lafayette; and preserve the supply of commercial and residential units in the Downtown.

**6-581 Definitions.**

In this article, unless the context otherwise requires:

- (a) "Demolish" means to move, remove or destroy all or any exterior portion of any structure, with "move" meaning to transfer all or part of any structure from its current location to alternative on-site or off-site location, and "remove" meaning to move all or part of any structure from its current location to an alternative off-site location, as determined by the manager.
- (b) "Downtown" means any land that falls within the boundaries of the area designated as the Downtown, as shown on General Plan Map I-3.
- (c) "Manager" means the planning and building services manager or the manager's designee.

**6-582 Demolition permit required.**

No structure in the Downtown may be demolished without a demolition permit issued as provided in this article.

**6-583 Demolition permit process; application, hearing body, issuance and appeal.**

The procedure for a demolition permit in the Downtown is as follows:

- (a) An application for a demolition permit shall be submitted with an application for design review describing the proposed development, rehabilitation, or physical change for the site, in a form prescribed by the manager;
- (b) The application for a demolition permit shall be reviewed concurrently with the application for design review;
- (c) The hearing body for the application for a demolition permit shall be the hearing body designated for the design review application as established in Title 6;
- (d) The hearing body may approve, conditionally approve, or deny the application; and
- (e) The decision of the hearing body is subject to the right of appeal in the manner as set forth in Chapter 6-2, Article 3, of this code.

**6-584 Findings.**

In order to approve or conditionally approve an application for a demolition permit, the hearing body shall make the following findings:

- (a) The proposed demolition and development, rehabilitation or other physical change are consistent with the goals and policies of the General Plan and all applicable specific plans; and
- (b) The proposed demolition will not eliminate an integral structure located in a historic block that would negatively impact the character and aesthetics of that block; or
- (c) The proposed demolition will not eliminate a structure of architectural or historical significance in the Downtown, unless the benefits to the community from the proposed development, rehabilitation, or physical alteration significantly outweigh the historic, civic, or

cultural significance of the existing structure.

**6-585 Conditions of approval.**

The hearing body may apply such conditions in connection with the approval of a demolition permit as it deems necessary in order to fulfill the purposes of this article, and may require reasonable guarantees and evidence that such conditions will be complied with. Such conditions may include, but are not limited to, the following:

- (a) Making a good faith effort to preserve, relocate, or reuse all or part of a structure within the city;
- (b) Salvaging fixtures and architectural features from the existing structure and reusing them in the replacement building or elsewhere within the city;
- (c) Documenting the existing structure following the historical, drawing, or photographic guidelines for Historic American Building Survey standards prescribed by the National Park Service under their Heritage Documentation Programs, or to an alternative widely-established standard as determined by the hearing authority;
- (d) Replacing the demolished structure with one commensurate in scale and style with the surrounding development;
- (e) Applying measures to mitigate the visual impact of the structure on surrounding properties, such as landscape screening, fencing, walls, or other means;
- (f) Maintaining the property in a condition so as to not be detrimental to the public health, safety, or general welfare, or in such a manner as to constitute a public nuisance.

**6-586 Exemptions.**

Structures in the Downtown classified as historical landmarks under Chapter 6-21 of this code are exempt from the provisions of this article. Historical landmarks are subject to regulations contained in Chapter 6-21.

# Contra Costa Times

PO Box 4147  
Walnut Creek, CA 94596  
(925) 935-2525

LAFAYETTE, CITY OF  
ATTN: ACCOUNTS PAYABLE, 3675 MT. DIABLO BLVD.,  
#210  
LAFAYETTE CA 94549-3793

## PROOF OF PUBLICATION

FILE NO. Ord 616

In the matter of

Contra Costa Times

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter.

I am the Principal Legal Clerk of the Contra Costa Times, a newspaper of general circulation, printed and published at 2640 Shadelands Drive in the City of Walnut Creek, County of Contra Costa, 94598

And which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Contra Costa, State of California, under the date of October 22, 1934. Case Number 19764.

The notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

1/18/2013

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Executed at Walnut Creek, California.  
On this 22th day of January, 2013.

Signature

Legal No.

0004736321

**NOTICE AND SUMMARY OF PROPOSED AMENDMENTS TO THE LAFAYETTE MUNICIPAL CODE CONSISTING OF ORDINANCE 616 AMENDING CHAPTER 6-5 OF THE LAFAYETTE MUNICIPAL CODE, ESTABLISHING REGULATIONS FOR DEMOLITION OF EXISTING BUILDINGS IN THE DOWNTOWN**

Notice is given that on Monday, January 28, 2013 the City Council of the City of Lafayette will conduct a public hearing commencing at 7:00 p.m. in the Community Hall at the Lafayette Library & Learning Center, 3491 Mt. Diablo Blvd. Ordinance 616 (Z103-12), if adopted, will include the following amendments to Chapter 6-5 of the Lafayette Municipal Code:

1. Establish a permit process; application, hearing body, issuance and appeal for demolition of existing buildings located in the downtown
2. Establish findings required to issue a demolition permit

Note: The above is a summary of the major highlights of the ordinance. A reading of the entire ordinance is necessary to obtain a full understanding of the ordinances. Certified copies of the full text of the ordinances are posted in the City Clerk's office at 3675 Mt. Diablo Boulevard, Lafayette, California 94549. A copy may be obtained from that office upon payment of the fee based on the City's actual cost of providing the copy.

Publish Date: January 18, 2013  
Joanne Robbins  
City Clerk

CCT# 4736321 Jan. 18, 2012

# Contra Costa Times

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Walnut Creek, CA 94596  
(925) 935-2525

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2/5/2013

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Executed at Walnut Creek, California.  
On this 12th day of February, 2013.



Signature

Legal No. 0004754476

### NOTICE OF ADOPTION OF ORDINANCE 616 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE

At its regular meeting on Monday, January 28, 2013 the City Council of the City of Lafayette adopted Ordinance 616. The recorded vote of the City Council was as follows:

**Ayes:** M. Anderson, Tatzin, B. Andersson, Mitchell, and Reilly  
**Noes:** None  
**Abstain:** None  
**Absent:** None

The following is a summary: **Ordinance 616: City-initiated zoning text amendment to amend Chapter 6-5 of the Lafayette Municipal Code, establishing regulations for demolition of existing buildings in the Downtown**

Note: The above is a summary of the major highlights of the ordinance. A reading of the entire ordinance is necessary to obtain a full understanding of the ordinance. Certified copies of the full text of the ordinance are posted in the City Clerk's office at 3675 Mt. Diablo Boulevard, Lafayette, California 94549. A copy may be obtained from that office upon payment of the fee based on the City's actual cost of providing the copy.

Publish Date: February 5, 2013  
Joanne Robbins, City Clerk  
CCT 4754476 Feb. 5, 2013



# Contra Costa Times

PO Box 4147  
Walnut Creek, CA 94596  
(925) 935-2525

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LAFAYETTE CA 94549-3793

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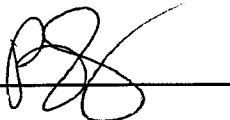
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2/5/2013

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Executed at Walnut Creek, California.  
On this 14th day of February, 2013.

Signature



Legal No. 0004754476

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**Abstain:** None  
**Absent:** None

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Publish Date: February 5, 2013  
Joanne Robbins, City Clerk  
CCT 4754476 Feb. 5, 2013