

BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE

IN THE MATTER OF:

An Ordinance of the City Council of the City of)
Lafayette approving a Zoning Text Amendment)
(ZT03-14) to: (1) amend Chapter 6-5 of the Lafayette)
Municipal Code ("LMC") to: (1) permit the keeping of a)
limited number of "Small Farm Animals" on parcels)
within single-family residential zoning districts; (2))
amend the definition of "Livestock" in §6-334 LMC;)
and (3) amend the regulations governing the location)
of "Animal Structures" in §6-524 LMC.)

Ordinance 631

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

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

WHEREAS, the 2013-2014 Planning & Building Department work plan includes updating the City's zoning regulations regarding the keeping of small farm animals such as chickens or rabbits.

WHEREAS, historically, staff had determined that chickens fell under the City's regulations governing the keeping of livestock, defined as "domestic farm animals such as horses, cows, sheep, goats, etc." (§6-334 LMC).

WHEREAS, a more recent interpretation of the code found that chickens would fall under Small Farming, which speaks to fowl, where "livestock" does not. This resulted in chickens (and other fowl) being considered small farm animals along with "rabbits and other grain-fed rodents." (§6-353 Small Farming).

WHEREAS, Small Farming is permitted in zones R-40 and larger by right, and in the R-20 district with the benefit of a Land Use Permit. A limited number of small farms animals on smaller single-family residential lots is not permitted under the current code.

WHEREAS, in light of the above and multiple requests from residents to allow backyard chickens, and in light of the community's efforts to become more sustainable.

WHEREAS, staff worked with volunteers John Kiefer and Wendy McClain to research what other communities permit, best practices, and insights from communities that have recently updated their codes on chickens.

WHEREAS, the City of Lafayette proposes a Zoning Text Amendment (ZT03-14) to: (1) amend the Lafayette Municipal Code ("LMC") to add a new Article 6 "Small Farm Animals" to Chapter 6-5 "General Provisions" which would permit the keeping of a limited number of Small Farm Animals on parcels within single-family residential zoning districts; (2) amend the definition of "Livestock" in §6-334 LMC; and (3) amend the regulations governing the location of "Animal Structures" in §6-524 LMC.

WHEREAS, pursuant to the California Environmental Quality Act ("CEQA") the City evaluated the proposed regulations and determined that they are exempt from CEQA under Section 15061(b)(3)

because their adoption could not have any foreseeable potential for a significant impact on the environment. The proposed regulations impose a low limit on the number of Small Farm Animals that could be kept on a given parcel, as a function of gross lot area, and existing rules and regulations of the City and other agencies address animal welfare and potential nuisance issues for Small Farm Animals, as they do for the keeping of pets such as dogs and cats.

WHEREAS, on June 2 and October 20, 2014, the Planning Commission of the City of Lafayette conducted duly noticed public hearings pursuant to Government Code section 65854, at which time all persons wishing to testify in connection with ZT03-14 were heard and ZT03-14 was fully studied and the Planning Commission recommended approval to the City Council;

WHEREAS, on June 23, July 14, July 28 and September 22, 2014, the City Council of the City of Lafayette conducted a duly noticed public hearing pursuant to Government Code section 65854, at which time all persons wishing to testify in connection with application ZT03-14 were heard and the matter was fully studied; and

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

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

Section 2. CEQA. The City Council hereby finds that the subject Zoning Text Amendment is exempt from CEQA under Section 15061(b)(3) because it can be seen with certainty that there is no possibility that keeping of a limited number of Small Farm Animals on parcels in single-family residential zoning district, consistent with Chapter 6-5 Article 6, may have a significant effect on the environment.

Section 3. Zoning Text Amendment Findings. Pursuant to Lafayette Municipal Code Section 6-213 and based on the record before the City Council and all written and oral evidence presented to the Council, the City Council hereby makes and adopts the following findings:

- A. The Amendment is compatible with each element of the General Plan and serves to preserve and enhance the character of Lafayette as a semi-rural community.
- B. The Amendment is compatible with the uses authorized in, and the regulations prescribed for, the zoning districts for which it is proposed.
- C. There is community need to amend Chapter 6-5 to add Article 6 LMC "Small Farm Animals" to allow residents to reasonably enjoy their properties by keeping a limited number of small farm animals and the fresh food they produce.

Section 4. Adoption of Amendment. Based on the record before the City Council, all written and oral evidence presented to the City Council, and the findings made in this Ordinance, the City Council hereby approves ZT03-14 amending: (1) Chapter 6-5 of the Lafayette Municipal Code to add Article 6 "Small Farm Animals", (2) the definition of "Livestock", and (3) the regulations governing the location of "Animal Structures" as shown in Exhibits "A", "B" and "C" attached hereto and incorporated herein by reference.

Section 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby

declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivision, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. To this end the provisions of this Ordinance are declared to be severable.

Section 6. Public Records. The location and custodian of the documents and any other material which constitute the record of proceedings upon which the City Council based its decision is as follows: City Clerk, City of Lafayette, 3675 Mt. Diablo Boulevard, Suite 210, Lafayette, California 94549.

Section 7. Publication. The City Clerk shall either (a) have this Ordinance published in a newspaper of general circulation once within fifteen (15) days after its adoption, including the names of the city council members voting for and against its passage, or (b) have a summary of this Ordinance published twice in a newspaper of general circulation, once five (5) days before its adoption and again within fifteen (15) days after adoption, including the names of the city council members who voted for and against its passage.

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

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

PASSED AND ADOPTED by the City Council of the City of Lafayette at a regular meeting on October 27, 2014, by the following vote:

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

NOES: None

ABSENT: None


ABSTAIN: None

ATTEST:



Joanne Robbins, City Clerk

APPROVED:



Don Tatzin, Mayor

Attachments

- Exhibit A. Amendments to Chapter 6-5 LMC "General Provisions" adding a new Article 6 "Small Farm Animals"
- Exhibit B. Amendments to §6-334 LMC "Livestock" and (3) §6-524 LMC "Animal Structures"
- Exhibit C. Amendments to single-family residential zoning districts to permit the keeping of small farm animals by right

EXHIBIT "A"

AMENDMENTS TO CHAPTER 6-5 LMC "GENERAL PROVISIONS"
ADDING A NEW ARTICLE 6 "SMALL FARM ANIMALS"

Article 6. Small Farm Animals

- 6-590 Purpose
- 6-591 Definitions
- 6-592 Applicability
- 6-593 Standards
- 6-594 Prohibited
- 6-595 Beekeeping
- 6-596 Enclosure
- 6-597 Maintenance
- 6-598 Slaughtering
- 6-599 Exceptions

6-590 Purpose.

The purpose of this article is to maintain the semi-rural quality of Lafayette and promote sustainability by allowing small farm animals in single-family residential zoning districts while protecting the health, safety and general welfare of the community.

6-591 Definitions.

In this article, unless the context otherwise requires the following definitions shall apply:

- (a) "Animal Farming" means the raising and keeping of Small Farm Animals.
- (b) "Beehive" shall mean any container made or prepared for the intended use of bees or a container of which bees have taken possession.
- (c) "Small Farm Animals" means small un-hooved animals including chickens, turkeys, doves, pigeons, quail, game birds, rabbits and honey bees (*Apis mellifera*). Small farm animals do not include:
 - (1) Companion animals, also known as pets, kept primarily for a person's company or protection, including dogs, cats, hamsters, parakeets, and exotic animals.
 - (2) Livestock as defined in §6-334.

6-592 Applicability

This article applies to all single-family residential zoning districts within the city. Individuals must comply with the more restrictive of federal, state or local law with respect to the topics covered in this article.

6-593 Standards

The keeping of Small Farm Animals, with the exception of bees, is permitted subject to the following standards:

- (a) Small Farm Animals shall be kept for personal enjoyment or home consumption;
- (b) Small Farm Animals and small farm animal products shall not be sold for commercial purposes;
- (c) Small Farm Animals may be kept on parcels in the R-6, R-10, R-12, R-15, R-20, R-40, R-65, R-100, LR-5 or LR-10 zoning districts; and
- (d) Excepting bees, the number of Small Farm Animals permitted on a given parcel, based on gross lot area, is:
 - (1) Parcels 6,000 sq.ft. – 10,000 sq.ft. maximum of 4
 - (2) Parcels 10,001 sq.ft. – 20,000 sq.ft. maximum of 6
 - (3) Parcels 20,001 sq.ft. – 40,000 sq.ft. maximum of 8
 - (4) Parcels > 40,000 sq.ft. maximum of 16

6-594 Prohibited

- (a) Roosters, waterfowl, peacocks, guinea hens and other animals which produce undue noise and/or create a nuisance to neighboring residents are prohibited.

6-595 Beekeeping

- (a) Beekeeping Permit Required.
 - (1) A beekeeping permit is required prior to placement of beehives on a property.
 - (2) An application for beekeeping permit shall be submitted to the Planning & Building Department along with the required fee set by City Council resolution and submittal requirements set forth on the application form.
 - (3) Staff shall provide notice of the application to all property owners within 300-ft. of the subject property a minimum of 10 days prior to taking action on the application.
 - (4) The Zoning Administrator shall approve the application for beekeeping permit if all of the standards in subsection (b) below are met.

(b) Beekeeping Standards

- (1) Number: The number of beehives permitted on a given parcel, based on gross lot area, is:
 - i. Parcels 6,000 sq.ft. - 40,000 sq.ft. maximum of 2
 - ii. Parcels 40,001 sq.ft. - 5 acres maximum of 6
 - iii. Parcels > 5 acres maximum of 12
- (2) Size: Notwithstanding any support structure, a beehive shall not exceed 2' x 2' x 6'. A beehive, including any support structure, shall not exceed 6' in height or length.
- (3) Location: Beehives shall be located in the rear yard and shall comply with the setbacks applicable to the primary residence, but in no case less than 15-ft. from a property line.
- (4) Orientation: Beehives shall be placed so the opening is oriented away from the nearest neighboring residence or outdoor living area (e.g. patio, deck, pool).
- (5) Flyway Barrier: Wherever a beehive is less than 100-ft. from a neighboring residence or outdoor living area a flyway barrier is required. The flyway barrier shall be:
 - i. A minimum 6-ft. high, consisting of a solid wall or fence or dense vegetation, and
 - ii. A minimum of 20-ft. long, centered on and perpendicular to the shortest line that could be drawn between the hive and the neighbor's residence or outdoor living area.
- (6) Water: A convenient source of water shall be made available to the bees at all times during the year so that the bees are not encouraged to visit swimming pools, hose bibs, pet watering bowls, or other water sources where they may cause human or domestic pet contact.
- (7) Minimal Risk to Neighbors: A beehive or hives may not be installed if a neighbor with a residence or outdoor living area within 300-ft. of a proposed hive location demonstrates a serious health risk associated with bees (for example, a letter from a doctor stating the neighbor has a systemic allergic reaction to bee stings, submitted prior to the Zoning Administrator taking action on the permit application).

6-596 Enclosure

- (a) Small Farm Animals, with the exception of bees, shall be kept within a structure or fenced area at all times to ensure against trespass onto neighboring or public property.
- (b) Small Farm Animals shall have access to a coop, cage, or similar structure, which:
 - (1) Provides protection from the elements and predators; and
 - (2) Is located in the rear or side yard; and
 - (3) Does not exceed 8-ft. in height as defined in Section 6-1903(b), and
 - (4) Meets the minimum front, side and rear setbacks required for the primary residence. Structures to house Small Farm Animals do not qualify for reduced side or rear yard setbacks for accessory buildings or structures.

6-597 Maintenance

- (a) Enclosures, animal products and manure storage must be maintained to be free from odor, and prevent a breeding place for flies, pests or vermin.
- (b) Animal feed shall be stored in a rodent and predator proof container.

6-598 Slaughtering

Slaughtering of small farm animals is permitted on any parcel where the keeping of small farm animals is permitted, provided that:

- (a) Slaughtering shall take place in the privacy of the property, taking necessary precautions to ensure the privacy of neighbors and shall not be seen from adjoining properties; and
- (b) Remains shall be disposed of in accordance with local waste regulations and in a timely manner to prevent deterioration of the remains and odor.

6-599 Exceptions

- (a) An application seeking an exception from 6-593(d), 6-594, 6-595(b) or 6-596 may be filed on a form prescribed by the city, along with the required fee.
- (b) Notification to neighbors shall be provided at least 10 calendar days prior to the decision on the application consistent with Section 6-211(a)(3).
- (c) The burden is on the applicant to demonstrate that potential impacts are adequately mitigated.
- (d) The Director may deny, approve, approve subject to conditions, or refer the application to the Planning Commission.
- (e) The Director or Planning Commission shall consider the potential for noise, odor, safety, health and other impacts to neighboring properties, and whether the impacts are adequately mitigated.
- (f) The Director may impose reasonable conditions to protect the health, safety and general welfare of the community.



EXHIBIT "B"

AMENDMENTS TO §6-334 LMC "LIVESTOCK" AND §6-524 LMC "ANIMAL STRUCTURES"

6-334 Livestock.

"Livestock" means domestic farm animals such as horses, cows, sheep, goats, ostrich and emu.
(Ord. 221 § 4 (part), 1980)

6-524 Animal structures.

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

- (a) Barns, stables and similar accessory structures used to shelter livestock shall be located in the rear yard of the principal structure.
- (b) Barns, stables and similar accessory structures used to shelter livestock shall be set back not less than 60 feet from the front property line and from any street line and shall be not less than 55 feet from any point on an adjoining parcel of land, at which point the exterior wall of a dwelling unit either exists or could legally be constructed.
- (c) Fenced pasture, paddocks or other enclosures for livestock shall not be located nearer than ten feet to any property line.
- (d) Variance permits to modify subsections (a), (b) and (c) of this section may be granted in accordance with the applicable provisions of Chapter 6-2 of this title.



EXHIBIT "C"

**AMENDMENTS TO SINGLE-FAMILY RESIDENTIAL ZONING DISTRICTS
TO PERMIT THE KEEPING OF SMALL FARM ANIMALS BY RIGHT**

The regulations for each of the R-6, R-10, R-12, R-15, R-20, R-40, R-65, R-100, LR-5 and LR-10 zoning districts are hereby amended to insert "Animal Farming consistent with Chapter 6-5 Article 6 "Small Farm Animals" into Uses Permitted.

- 6-703 Uses Permitted [in the R-6 district]. Add:
(f) Animal Farming consistent with Chapter 6-5 Article 6 "Small Farm Animals"
- 6-722 Uses Permitted [in the R-10 district]. Add:
(e) Animal Farming consistent with Chapter 6-5 Article 6 "Small Farm Animals"
- 6-742 Uses Permitted [in the R-12 district]. Add:
(f) Animal Farming consistent with Chapter 6-5 Article 6 "Small Farm Animals"
- 6-762 Uses Permitted [in the R-15 district]. Add:
(e) Animal Farming consistent with Chapter 6-5 Article 6 "Small Farm Animals"
- 6-782 Uses Permitted [in the R-20 district]. Add:
(f) Animal Farming consistent with Chapter 6-5 Article 6 "Small Farm Animals"
- 6-7102 Uses Permitted [in the R-40 district]. Add:
Animal Farming consistent with Chapter 6-5 Article 6 "Small Farm Animals"
- 6-7122 Uses Permitted [in the R-65 district]. Add:
Animal Farming consistent with Chapter 6-5 Article 6 "Small Farm Animals"
- 6-7142 Uses Permitted [in the R-100 district]. Add:
Animal Farming consistent with Chapter 6-5 Article 6 "Small Farm Animals"
- 6-7183 Uses Permitted [in the LR-5 district]. Add
(f) Animal Farming consistent with Chapter 6-5 Article 6 "Small Farm Animals"
- 6-7203 Uses Permitted [in the LR-10 district]. Add:
(f) Animal Farming consistent with Chapter 6-5 Article 6 "Small Farm Animals"

