

E4 Housing Constraints Analysis

Constraints to the development of adequate and affordable housing include market, governmental, infrastructure, and environmental factors. These constraints may result in housing that is not affordable to low- and moderate-income households and may render residential construction economically infeasible for developers. Constraints to housing production significantly impact households with low and moderate-incomes and special needs.

According to Government Code Section 65583, local governments are required to analyze governmental and non-governmental constraints to the production, maintenance, and improvement of housing for persons of all income levels and those with special needs and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing as part of a housing element update. Where constraints to housing production are related to the City's regulations or land use controls, the City must identify appropriate programs to mitigate these constraints, particularly ones that impact the production of affordable housing or housing for special needs populations.

The following chapter outlines non-governmental, governmental, environmental and infrastructure constraints and was used in the development of specific policies and actions included in the Housing Plan to remove barriers to housing and to incentivize housing production, specifically targeting housing production at all income levels and housing for persons with special needs.

E4.1 Summary of Local Housing Constraints

- The costs associated with developing housing, including land costs and construction costs, are rising rapidly. There is a lack of federal, state, and local funding and the funding that is available is increasingly competitive. The time and effort needed to identify, compete for, and layer affordable housing funds is a major constraint to development of affordable housing.
- Although Livingston's development regulations allow for a variety of densities throughout the city, development standards are not sufficiently flexible. Height restrictions for affordable developments and permitting requirements single-room occupancy units potentially constrain the development of a variety of housing types.
- Livingston does not allow residential care facilities with seven or more persons in residential zoning districts as a permitted land use, which could pose a constraint to housing for individuals with special needs. A Use Permit is presently required for care facilities serving seven to 14 persons in residential districts. Additionally, use permit regulations for emergency shelters in certain zoning districts could pose a constraint on housing access for unsheltered individuals.

E4.2 Non-Governmental Constraints

The availability of housing is affected by a complex set of interrelated market factors including but limited to cost of land, cost of construction, and availability of financing. These factors contribute to determining a new home's sale price or the rents required to make a project feasible. Non-governmental constraints include factors outside of direct governmental control that directly impact housing prices. The cost of construction and the availability of financing contribute to the cost of

housing and can hinder the production of affordable housing. The following analysis accounts for these non-governmental constraints.

E4.2.1 Land Costs

The cost of land can impede the production of affordable housing. Land costs are influenced by many variables, including land scarcity and developable density (both of which are indirectly controlled through governmental land use regulations), location, site constraints, and the availability of public utilities.

Table E4-1 summarizes land prices for properties available for sale in July 2023. Data indicates that the price per acre for small parcels was significantly higher than large parcels. There was only one small parcel listed (0.57 acres) priced at \$296,491 per acre. Large parcels range from 13 to 418.08 acres in size and had an average listed price of \$90,340 per acre. The average list price for small and large parcels is \$119,790 per acre.

Table E4-1 Listed Land Prices – Livingston

Lot Size	Average Price Per Acre (Listed)
Less than 10 acres	\$296,491.23
10 or more acres	\$90,340.56
Average \$/acre	\$119,790.66

Source: Zillow, Inc., 2023.

Table E4-2 includes the average prices paid for land per acre in the Livingston in 2022. When compared to prices for currently listed land, average prices for land sold were generally less. There were two parcels sold within the last 12 months, one small parcel and one large parcel. The small parcel was 1.2 acres and had a sales price of \$291,666 per acre. The large parcel was 40.74 acres and had a sales price of \$36,818 per acre. The average list price for both parcels was \$164,242 per acre.

Table E4-2 Sold Land Prices – Livingston

Lot Size	Average Price Per Acre (Listed)
Less than 10 acres	\$291,666.67
10 or more acres	\$36,818.85
Average \$/acre	\$164,242.76

Source: Zillow, Inc., 2023.

Conclusion

The housing market (vacant and developed land) in Livingston can vary depending on location, allowable density, availability of improvements, and proposed land use of the site. In general, entitled single-family subdivisions with infrastructure extension plans command higher prices than raw undeveloped land.

While land costs increase over time, these raw costs are not necessarily a constraint to housing. In general, land costs in Merced County are lower compared to coastal counties, and comparable in price to other nearby counties such as Madera and Fresno counties. Land costs in Livingston are

consistent with neighboring cities. As a result, raw land costs are not considered a constraint to the development of housing.

Recommended Action

None required.

E4.2.2 Construction Costs

Construction costs include the price of land, site improvement costs, development impact fees and construction costs. The availability of water and sewer capacity is a major factor affecting the price of land, as well as the type of amenities included in the residential unit.

Another major cost component of new housing is labor. The cost of labor in Merced County is comparatively low because the area’s cost of living is relatively low compared to other areas in California. However, labor for government subsidized housing work is additionally costly for the Central Valley, as wages are rooted in the required state labor standards based on higher northern and southern California prevailing wages.

Based on recent affordable multi-family projects, the cost of construction in the county is estimated to be between \$400,000 and \$675,000 per unit.¹ The estimate includes direct and indirect (e.g., insurance, permits, utilities, plans) construction costs, including material, labor, and equipment costs, the price of land, development impact fees, and administrative costs.

Table E4-3 shows the estimated typical development costs in Livingston for a single-family home, assumed to be 1,600 square feet, and a 10-unit multi-family development with 800 square foot units. This includes the price of land, site improvement costs, construction costs, and permit and development impact fees; however, this does not include financing or marketing costs by the developer. As shown in the table below, the typical cost of an individual single-family development is an estimated \$772,779, while the development cost of a multi-family unit is an estimated \$367,556.

Table E4-3 Estimated Construction Cost

Cost Type	Single-Family¹	Multi-family²
Home Price ³	\$480,000	\$2,400,000
Site Improvement Cost	\$8,000	\$20,000
Construction Cost	\$267,790	\$1,198,400
Permit and Impact Fees	\$16,989	\$57,160
Total Cost	\$772,779	\$3,675,560
Cost per Unit	\$772,779	\$367,556

(1) Assumed to be a 1,600 sq. ft. single-family home.

(2) Assumed to be a 10-unit multi-family complex of 800 sq. ft. units.

(3) Land price based on average price per square foot provided by the city at \$300 per square foot

¹ Central Valley Voice, City of Merced Affordable Housing Project Update, October 1, 2022, <https://centralvalleyvoice.com/2023/02/22/city-of-merced-affordable-housing-project-update/> accessed June 2023.

There is little that municipalities can do to mitigate the impacts of high construction costs except by avoiding local amendments to uniform building codes that unnecessarily increase construction costs without significantly adding to health, safety, or construction quality.

Conclusion

Although the cost of construction constrains affordable housing development, construction costs are similar across jurisdictions in Merced County, illustrating that the constraints are market driven rather than an impact of local policy.

Recommended Action

None required.

E4.2.3 Availability of Financing

Mortgage interest rates have a large influence over housing affordability. Higher interest rates increase a homebuyer's monthly payment and decrease the range of housing that a household can afford. Lower interest rates result in a lower cost and lower monthly payments for the homebuyer.

When interest rates rise, the market typically compensates by decreasing housing prices. Similarly, when interest rates decrease, housing prices begin to rise. There is often a lag in the market, causing housing prices to remain high when interest rates rise until the market catches up. Lower-income households often find it most difficult to purchase a home during this period.

High interest rates can also affect the cost of development. Where financing is available, construction capital seems to be directed at the best transactions—those with large, established, and well-capitalized sponsors. Given recent trends of increasing interest rates, the availability of financing is likely to be more of a constraint on new housing construction during this Housing Element planning period than it has been in the recent past.

E4.2.3.1 Market-Rate Development Financing

As discussed in *Land Costs and Construction Costs*, above, market-rate development is generally financed by investors, and the cost to build a project must be recovered by revenue from sales or rents, which drives up the ultimate rent or sales prices of new housing as the component costs increase. A market in which housing supply is limited and demand is high can support higher housing prices, but lower-income segments of the community are priced out. Therefore, it is difficult for the private sector, for-profit developers, and market-rate housing to meet the housing needs of all community members.

E4.2.3.2 Affordable Housing Financing

A description of available funding sources for affordable development is provided in Chapter E3, *Housing Needs Assessment*.

E4.2.3.3 Mortgage and Rehabilitation Financing

The availability of financing affects the ability of residents to purchase or improve a home. Under the Home Mortgage Disclosure Act (HMDA), lending institutions are required to disclose information on the disposition of loan applications and the income, gender, and race of loan applicants. The primary purpose of reviewing the lending activity is to determine whether home

financing is available to city residents. The data presented in this section includes the disposition of loan applications submitted to financial institutions for home mortgages, home improvement, and refinance loans.

Lending activity data provides information regarding home financing availability for city residents. The most recent data set available for the County of Merced from 2022 shows that 10,760 households applied for a home financing loan which includes loans for home purchase, home improvement, and refinancing. As discussed in Chapter 3, *Regional Housing Constraints*, of the total applications received for home purchase, 47.7 percent of the loans originated while 15.7 percent were denied.

Conventional loans are made by the private sector (banks, mortgage companies, etc.) and are not guaranteed or insured by the U.S. government. Conversely, government-backed loans, such as those issued by the Federal Housing Administration, Department of Veterans Affairs, and the Rural Housing Services/Farm Service Agency, are completely or partially insured by the U.S. government. Within the county, 8,028 of the applications received were for conventional loans and 2,732 were for government backed loans. As discussed in Chapter 3, *Regional Housing Constraints*, 37 percent of the conventional loans originated, and 12.6 percent of the applications were denied. Additionally, 10.7 percent of the government backed loans originated and 3.1 percent of the applications were denied.

County data shows that of the loans originated, Hispanic/Latino applicants comprised approximately 50 percent of approvals, white, non-Hispanic/Latino comprised approximately 30 percent, Asian American represented 16 percent, Black/African American applications represented three percent, and American Indian/Alaskan Native comprised less than one percent of approved applications. American Indian/Alaskan Native and Black/African American residents were the only racial populations that were representative for mortgage applications relative to proportion of population.

Hispanic/Latino residents were underrepresented for mortgage applications (50 percent of applications, 61 percent of population). White, Non-Hispanic residents were overrepresented for mortgage applications approvals relative to proportion of population (30 percent of approvals, 26 percent of population), as were Asian American residents (16 percent of approvals, eight percent of population). Of application denials, Black/African American residents were overrepresented in application denials (four percent of denials, three percent of the population).

E4.2.3.4 Construction Financing Timing

The timing between project approval and requests for building permits affects project viability. Project delays may result from developers' inability to secure financing for construction. In Livingston, the average time between project approval and request for building permit is typically three to nine months but varies by type of project. Some projects take years to pull building permits and secure financing. Single-family homes usually experience the least delay (three to nine months). Multi-family housing construction tends to be more complex and usually requires more time between entitlement and building permit issuance (six to twelve months).

E4.2.3.5 Conclusion

Although discrimination in mortgage lending is prohibited by the federal Fair Housing Act, other factors may contribute to a potential homebuyer's ability to secure safe financing, such as credit history, savings, and education regarding the home-buying process. Federal Financial Institutions

Examination Council (FFIEC) HMDA data, by itself, does not provide insight into these other factors. Therefore, it is important that the City supports housing education and opportunities for all residents.

E4.2.3.6 Recommended Action

The City shall continue to implement goals and policies to support homeownership opportunities and home-buying education, particularly for racial and ethnic groups underrepresented in the homebuying market. The city will implement Program 11 to identify resources to assist moderate and lower-income homebuyers. Through this program, Livingston will promote the availability of Housing Choice Vouchers (HCVs) which offer affordable, decent, and safe housing in open market rentals selected by Voucher holders. In addition, Livingston is also implementing Program 13 which will help support homeownership opportunities and home-buying education by partnering with local organizations to distribute information on fair housing services and homebuyer education programs including flyers, local event presence, social media campaigns, and educational workshops in both English and Spanish.

E4.2.4 Requests for Lower Development Densities

The City has not received any requests for lower development densities.

E4.3 Governmental Constraints

Although local governments have little influence on market factors, such as interest rates, local policies and regulations can still impact where, how much, and what type of residential development is built. Land use controls, site improvement requirements, fees and exactions, and permit processing procedures, among other policies and regulations, may constrain the maintenance, development, and improvement of housing.

E4.3.1 Land Use Controls

Land use controls provided in the General Plan and the Zoning Ordinance influence housing production in several ways. The permitted and conditionally permitted uses in each district guide new development and provide both developers and the public with an understanding of how vacant land will develop in the future. This includes the density of development that will occur within a particular zone, the compatibility of planned uses in each area, and the range and type of buildings and uses that will be located throughout the city or the county.

E4.3.1.1 General Plan

Livingston's current General Plan was prepared in 1999. The City updated the General Plan in 2006, however it was invalidated by the Court. Currently, the City is in the process of updating its General Plan, but it will not be completed until after this Housing Element is published. Due to this, this section will be evaluating the Livingston 1999 General Plan Land Use Element. The Land Use Element sets forth the vision, goals, and policies for the City's urban form and land use patterns, including residential development. The Land Use Element includes land use categories which define the use and building intensity throughout the city.

The General Plan Land Use Element establishes land use categories that define the allowable uses and building densities/intensities throughout the city. The various types of housing units allowed in

the city include single-family dwellings, multi-family dwellings, and mobile homes. Livingston's land use designations allow for a range of 1 to 29 dwelling units per acre.

The Livingston General Plan contains the following residential land use designations:

- Low/Estate Density Residential: has a density range of 1.0 to 7.5 units per acre
- Medium Density Residential: has a density range of 7.6 to 11.9 units per acre
- High Density Residential: has a density range of 12 to 29 units per acre

Low/Estate density residential uses are generally located throughout the city, with the majority located south of F Street, and some located in the northeastern part of the city. While medium-density residential uses are seen throughout the city, they are concentrated near the downtown and along North Main Street. High-density residential uses are generally located near commercial uses, and in a few areas near downtown with this designation.

According to the 1999 General Plan, residential land use categories comprise 20 percent of Livingston's land area. Commercial land use categories cover 1 percent, agricultural uses 44 percent, industrial uses 6 percent, and public and open space 9 percent. Due to the agricultural history of the central valley, the percentage of land designated for agricultural uses in Livingston is similar to other cities in Merced County and the Northern San Joaquin Valley.

Conclusion

The General Plan includes three residential land use designations with density ranges from 1 to 29 dwelling units per gross acre. Since the General Plan is outdated, additional residential uses mentioned in the Municipal Code should be added to the updated General Plan, including but not limited to mixed-use and accessory dwelling units (ADU). However, the density is sufficiently high to allow the development of affordable housing for all income levels. Minimum densities are included to maximize residential development on a limited supply of land as well as achieve a balance and variety of housing types.

Recommended Action

The City will implement Program 7 to update the General Plan to include additional residential units in commercial zones for the encouragement of mixed-use development and include discussion on ADUs to ensure compliance with state law.

E4.3.1.2 Zoning Ordinance

The City regulates the type, location, density, and scale of residential development through the Zoning Ordinance. In general, the City's zoning regulations are designed to provide affordable housing opportunities for all income groups and protect the health and safety of residents. This section is informed by the Zoning Ordinance.

Livingston's Zoning Ordinance allows residential uses in the following districts:

- Estate Residential (R-E): The R-E district is intended to provide living areas within the city where development is limited to low-density concentrations of single-family dwellings with large lot sizes, generally between 10,000 to 12,500 square feet. This zone is appropriately used to promote larger lot homes and when the overall density of an area should be limited due to public facility, safety, or aesthetic concerns.

- **Low Density Residential (R-1):** The R-1 district is intended to provide living areas within the city where development is limited to low density concentrations of single-family dwellings and where regulations are designed to promote and encourage a suitable environment for living, provide space for community facilities needed to compliment urban residential areas and provide for the safety, health, and general welfare of its inhabitants.
- **Medium Density Residential (R-2):** The R-2 district is intended to provide living areas within the city where the development provides for medium-density concentrations of two-family dwelling units. These designations are typically integrated throughout the community and occur adjacent to transportation, community services, and commercial developments.
- **High Density Residential (R-3):** The R-3 district is intended to provide living areas within the city where development provides for high-density concentrations of dwelling units in various housing types and styles with provisions for on-site recreational amenities.
- **Downtown Commercial District (DTC):** The DTC district is intended to recognize the unique differences of the downtown area from the other commercial areas to create a mixed-use area that attracts businesses and residents to locate Downtown and provides a transition area between commercial areas and residential neighborhoods. Allow a mix of commercial, service, office, and residential uses that do not adversely impact one another in a significant way.
- **Neighborhood Commercial (C-1):** The C-1 district allows for residential uses (boarding houses, mixed-use, and residence/manager/owner) with a Use Permit.
- **Planned Development Overlay District (PD):** The PD district is intended to encourage a desired level of preplanning for the development or redevelopment of land and to establish innovative design solutions while retaining good land use relationships and compatibility with adjoining property. The land in this district can include residential uses.

In Livingston, minimum residential lot sizes are required in some zones. Table E4-4 provides the minimum lot area per dwelling unit standard by zone.

Table E4-4 Site Area Per Dwelling Unit

District	Lot Area
R-E	10,000 square feet (4.35 units per gross acre)
R-1	6,000 square feet (7.26 units per gross acre)
R-2	5,500 square feet with 2,750 square feet per dwelling unit (7.92 units per gross acre)
R-3	6,500 square feet with 1,500 square feet per dwelling unit (6.70 units per gross acre)
DTC	6,000 square feet (7.26 units per gross acre)
C-1	10,000 square feet (4.35 units per gross acre)
PD	Determined by PD Overlay Permit

Source: Livingston Zoning Ordinance

Conclusion

The City’s Zoning Ordinance provides for a range of densities and a variety of housing types and is consistent with the City’s General Plan land use designations.

Recommended Action

None required.

E4.3.2 Residential Development Standards

Table E4-5 shows the development standards for residential zones. The minimum parcel area for residential zones ranges from 5,500 square feet to 10,000 square feet. Maximum site coverage ranges from 40 to 55 percent of the lot area.

The minimum front setback requirement is 25 feet for R-E, 20 feet for R-1, and 15 feet for all R-2 and R-3 districts. The minimum side setback requirement is 10 feet for R-E and R-1 districts, 15 feet for R-2 and R-3 districts. Minimum rear setback requirement is 20 feet for R-E, 5 feet for the first floor and 15 feet for the second floor for R-1, and 15 feet for R-2 and R-3 districts.

Maximum height requirements are 30 feet for all districts, with the exception of DTC where the maximum height is 50 feet. Maximum density ranges from 4.4 units per gross acre in the R-E district to 29 units per acre in the R-3 and DTC districts.

Table E4-5 Residential Development Standards

Zoning District	Minimum Parcel Area	Minimum Setback (in feet)			Maximum Height (feet)	Maximum Height (Accessory Structure)	Maximum Site Coverage (percent of lot)	Maximum Density (du/acre)
		Front	Side	Rear				
R-E ¹	10,000 sq. ft.	25	10	20	30	15	N/A	4.4
R-1	6,000 & 7,000 sq. ft. ²	20	10	5 (First floor), 15 (second floor)	30	15	0.55	7.3
R-2	5,500 sq. ft. (2,750 sq. ft. per dwelling unit)	15	5 ³	15	30	15	0.40	15.8
R-3	6,500 sq. ft. (1,500 sq. ft. per dwelling unit)	15	5 ⁴	15	30	15	0.40	29
DTC	6,000 sq. ft.	N/A ⁵	N/A ⁶	N/A ⁶	50 ⁷	20	N/A	29

¹ In zone R-E setback requirements shall include a 40-foot minimum garage setback.

² In zone R-1 for lots located in the old section of the city, bounded by the railroad tracks on the north, 9th Street on the west, Peach Avenue on the south, and Prusso Street on the east, lot configurations shall remain at the 6,000 square feet minimum lot size; legally conforming lots in this area shall remain legally conforming lots after the adoption of the updated zoning ordinance on July 19, 2005.

³ In zone R-2 in no instance shall residence on adjoining R-2 lots be closer than 8 feet, except on the side next to a street on a corner lot, which shall be 15 feet deep; if a garage is present, or if developing on a reverse corner lot, street side yard setback shall be 20 feet.

⁴ In zone R-3 each interior lot shall have a minimum side yard of 5 feet; corner lots shall have 15 feet, except in the case of a reverse corner lot or a garage; then it shall be 20 feet.

⁵ Unless abutting residential, then minimum front setback is the same as residential district.

⁶ Unless abutting residential, then minimum setback is 15 feet.

⁷ In zone DTC an additional 10 feet in height may be permitted with site plan/design review approval.

PD zone development standards are determined by the PD Overlay permit.

Source: Livingston Municipal Code, Title 5, Zoning Regulations, adopted November 2022.

Conclusion

Development standards related to parcel area, setbacks, site coverage, and density do not constrain residential development. Limiting maximum height to thirty feet in multi-family zones is a potential constraint to affordable housing development. However, the Livingston Fire Department's

equipment is currently limited in its ability to perform firefighting rescue activities on structures three stories and above. The City should provide an opportunity for minor modifications to height restrictions for projects with an affordable component.

Recommended Action

The City will implement Program 6 to amend the Zoning Ordinance to provide an opportunity for minor modifications to height restrictions for projects with an affordability component.

E4.3.2.1 Parking

According to the Turner Center for Housing Innovation at UC Berkeley, parking can cost \$25,000 to \$75,000 per space to construct. However, given the age of data and the increased cost of land and construction costs discussed above, the costs per parking space are likely much higher.² Parking provided in underground or structured parking facilities, or if required to be covered or enclosed, can significantly increase the cost of housing and could affect the feasibility of various housing projects in the city. In addition, requirements for parking space locations and maximum distances from dwelling units may also increase the cost of housing and affect the feasibility of housing projects. Requiring less parking not only reduces the project budget but can allow for more space to build additional housing units.

Table E4-6 provides Livingston’s residential parking requirements. Two off-street parking spaces are required for most residential units. These spaces may be in a garage or carport, but do not have to be covered. For apartment complexes with seven or more units, one space is required per unit. For large apartment complexes, an additional one space for every 10 units is required for visitor parking. For mobile homes, two spaces are required for each mobile home unit. Homeowners can convert covered or enclosed parking spaces for living purposes if they provide replacement covered parking on-site.

Table E4-6 Residential Parking Requirements

Residential Use		Required Parking Spaces
Single-family Units		2 per unit
Duplex		2 per unit
Multi-family units	Three to six units	2 per unit
	Seven or more	1 per unit
	Visitor parking	1 per 10 units
Mobile Home/ Manufactured Housing		2 per unit
Second Unit		1 for each bedroom unit
Boarding Houses		1 for every 2 occupants
Residential Care Facilities		1 per employee
Rest Home		1 per 3 beds

Source: Livingston Zoning Ordinance, adopted September 2022.

² Turner Center for Housing Innovation at UC Berkeley, 2016. Available at: <http://turnercenter2.berkeley.edu/proforma/>

Conclusion

Livingston's parking requirements are based on the size of the project, not the size of the unit. These requirements pose a constraint to housing development as requiring more than one parking space for smaller units, including mobile homes, senior citizen housing, one-bedroom units, and studios can be cost prohibitive for developers and may pose site design challenges.

Recommended Action

The City will implement Program 6 to revise the Zoning Ordinance to reduce parking requirements for mobile homes, senior citizen housing, one-bedroom units, and studios to require no more than one space per unit.

E4.3.2.2 Open Space and Park Requirements

Only projects in a planned development overlay are subject to open space requirements. This zone allows for residential units if the underlying general plan designation is residential.

Private open space requirement is a minimum of 300 square feet of private open space per unit and shall be provided for all ground-level dwelling units.

Conclusion

Open space and park requirements are not a constraint to the development of housing as they are only applicable to a small number of projects.

Recommended Action

None required.

E4.3.2.3 Density Bonus

California law requires local jurisdictions to provide density bonuses (generally ranging from five to 80 percent) and development incentives or concessions for housing developments that include housing units that are affordable to lower- and moderate-income households or senior housing or the donation of land for housing within the local jurisdiction (Government Code Section 65915-65918). Certain housing development projects may be granted unlimited density if they meet certain conditions, including projects where 100 percent of units are affordable units (including density bonus units) with no more than 20 percent of units for moderate-income households and the project is located within on-half mile of a major transit stop as defined by subdivision (b) of Section 21155 of the Public Resources Code. An unlimited density bonus means there is no cap on the total number of residential units per acre permitted on the site; however, there are other restrictions, such as height limits, that have a practical limiting effect on the number of units that can be built. Development incentives or concessions are reductions or modifications to site development standards or architectural design requirements that result in cost reductions, such as setbacks, parking requirements, and maximum building height.

Pursuant to Government Code Section 65915, the City shall grant a density bonus with a minimum 20 percent increase and with a maximum 35 percent increase to qualifying projects (no project can be granted more than three density bonuses), as stated in the Zoning Ordinance. Livingston does not have an inclusionary housing ordinance, so the City relies on state law. In order to be eligible for a density bonus and other incentives a proposed residential development shall consist of five or

more dwelling units, eligibility applies for projects which propose to construct any one of the following:

- Lower-Income Units. Ten percent of the total units of a housing development are affordable to lower-income households, as defined in Section 50079.5 of the Health and Safety Code.
- Very Low-Income Units. Five percent of the total units of a housing development are affordable to very low-income households, as defined in Section 50105 of the Health and Safety Code.
- Senior Citizen Housing Development. If a housing development qualifies as a Senior Citizen Housing Development, as defined in Section 51.3 of the Civil Code.
- Moderate-Income Units in Condominium and Planned Use Developments. Ten percent of the total dwelling units in a condominium project, as defined in Subdivision (f) of, or in a Planned Development, as defined in Subdivision (k) of Section 1351 of the Civil Code, are affordable to persons and families of moderate-income, as defined in Section 50093 of the Health and Safety Code.

Conclusion

Recently passed state legislation includes new updates for density bonuses. Assembly Bill (AB) 571 prohibits local governments from charging affordable housing impact fees (including inclusionary zoning fees, public benefit fees, and in-lieu fees) on deed-restricted affordable units that are part of a project eligible for a density bonus under state Density Bonus Law. AB 491 requires common entrances to amenities for affordable housing units and market-rate housing units in mixed income multi-family structures. AB 2345 amended the state Density Bonus Law to increase the maximum density bonus from 35 percent to 50 percent and the levels of bonus density between 35 percent and 50 percent are granted on a sliding scale. AB 1287 requires that additional density bonuses are to be administered when housing development conforms to specified requirements.

Recommended Action

The City will implement Program 6 to revise the City's density bonus requirements to comply with state law. In addition, Program 8 will establish density bonus standards and density increases under the City's Density Bonus Ordinance. Standards for this include an expedited and streamlined project application review for housing for very low-income households, large families, persons with disabilities or developmental disabilities, and farmworkers. Under this program, the Zoning Ordinance will be amended by January 31, 2025, to establish density bonuses for the housing types listed above.

E4.3.3 On- and Off-Site Improvement Standards

The typical improvements required by local jurisdictions for subdivision and development of property include reasonable off-site and on-site improvements for the parcels being created, including those that are necessary for public health and safety and/or a necessary prerequisite for the orderly development of the surrounding area. The City of Livingston requires that developers provide on-site improvements such as grading and the installation of water, sewer, storm drainage, and other utilities. As stated in the Department of Housing and Urban Development (HUD) study of Subdivision Requirements as a Regulatory Barrier, such requirements can reasonably be considered regulatory barriers to affordable housing if Livingston determines that the requirements are greater (and hence, more costly) than those necessary to achieve health and safety requirements in the

community.³ Required off-site improvements include the installation of streets, sidewalks, curbs, gutters, street lights, and traffic signals as appropriate. As conditions of approval, Livingston requires housing developers to construct various on- and off-site improvements as described below.

E4.3.3.1 Improvement Standards

In accordance with the City's 1999 General Plan, the street improvements generally serving residential projects consist of local residential streets. Local residential streets consist of a 60-foot-wide right-of-way, which includes two travel lanes, bike/parking lane, landscape strip, and sidewalk. These improvements supplement and implement California's Subdivision Map Act.

In addition to street improvements, residential development must be connected to the City's water and sewer infrastructure. Residential development is also subject to water and sewer connection fees. When infrastructure is lacking or inadequate to serve proposed development, improvements (such as the installation of sewer or water lines or other related facilities) have been set as conditions of approval. In addition, for those developments in areas without infrastructure, new wells that are connected to the City's system have been required to serve the new development and maintain adequate water pressure, and meet daily and peak water demands, and fire flow.

Site improvements typically represent about 10 percent of the total cost of a finished lot with a home (excluding land costs). While these improvements add to the cost of housing, they are necessary in order to provide services to new residents and are typical of many other small jurisdictions in the area.

Typical engineering standards and approximate values for each standard are listed below.

- Local Street – 60-foot right-of-way comprised of a 40-foot-wide asphalt concrete (AC) pavement (two inches of AC over six inches of compacted aggregate) to support two travel lanes and two parking lanes, plus curb and gutter, five-foot-wide sidewalk, and a five-foot-wide landscaped parkway strip.
- Curb and Gutter – 30 inches from asphalt pavement to back of curb, 7.5 inches of concrete over compacted native soil.
- Sidewalk – Four inches of concrete over compacted native soil.
- Sewer Lateral – Four-inch PVC (dependent upon depth) with minimum slope of ¼-inch per foot.
- One-inch Water Service – One inch copper tube size polyethylene pipe, meter boxes, bronze saddles, straps, and bolts.

E4.3.3.2 Conclusion

On- and off-site improvement standards for Livingston are typical of small cities and comparable to surrounding jurisdictions. The City does not consider the requirements to be greater than those necessary to achieve health and safety requirements.

E4.3.3.3 Recommended Action

None required.

³ U.S. HUD. 2007. Study of Subdivision Requirements as a Regulatory Barrier.
https://www.huduser.gov/portal/publications/commdev/subdiv_report.html

E4.3.4 Provision of a Variety of Housing Types

State Housing Element Law (Government Code Section 65583(c)(1) and 65583.2(c)) requires that local governments analyze the availability of sites that will facilitate and encourage the development of a variety of types of housing for all income levels, including multi-family rental housing, factory-built housing, mobile homes, housing for farmworkers and employees, emergency shelters, transitional and supportive housing, single-room occupancy (SRO) units, group homes and residential care facilities, and accessory dwelling units. Table E4-7 summarizes the housing types permitted and conditionally permitted for Livingston.

Table E4-7 Residential Use Matrix

Residential Use	R-E ⁸	R-1 ⁸	R-2 ^{7,8}	R-3 ^{7,8}	C-1 ¹²	DTC ^{7,8}
Single-Family	P	P	C			
Multi-family			C ²	P ³		C
Duplex		C ¹	P			
Accessory Dwelling Unit	P	P	P	P		P
Junior Accessory Dwelling Unit ⁵	P	P				
Daycare, residential	P	P	P			
Housing, Boarding				C	C	C
Housing, Farm Labor ⁶	P	P	P	P		P
Mobilehome	p ⁴	p ⁴				
Mobilehome Park			C	C		
Shipping container accessory structure	C	C	C	C	C	C
Licensed community care facility ⁹		p ¹¹	p ¹¹	C		C
Mixed Use ¹⁰					C	C
Emergency Shelter				C		P

P = permitted; C= Use Permit

(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 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.

(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 use permit.

(4) See Section 5-5-3-1 for mobilehomes on private lots.

(5) See Section 5-5-6 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) 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.

(8) Transitional and supportive housing are permitted in all zones subject to normal requirements and restrictions; see Chapter 7, Definitions, of this title.

(9) The adopted housing element allows facilities serving 7 or more persons in single-family R-1 Zones, subject to a use permit.

(10) Mixed-use development is permitted in DTC and C-1 Zones, subject to securing a use permit, and shall encourage projects that contain affordable housing units; development standards in these districts shall allow for a maximum density of 29 du/ac for residential units above ground floor commercial.

(11) A use permit shall be required for care facilities serving 7 to 14 persons in residential districts; facilities serving 15 or more persons shall not be permitted at all in single-family residential districts.

(12) 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.

Source: Livingston Zoning Ordinance Section 5-3-15

E4.3.4.1 Manufactured Housing

Manufactured homes are permitted as an accessory dwelling unit (ADU) and are allowed in any residential zone, only if they are installed on permanent foundations. To be consistent with the California Health and Safety Code Sections 18007 and 18008 definitions, mobile home is included in the definition of manufactured home in the Livingston Municipal Code, where uses are only permitted in areas zoned for single-family dwelling district.

Manufactured homes shall be designed and operated in compliance with the following standards:

- **General Requirements.** A mobile home or manufactured home, under certain conditions, may be placed on a foundation system on a private lot in the city's areas zoned for single-family dwellings (R-1 District).
- **Design Review Requirements.** The following requirements for a manufactured home to be placed upon a permanent foundation on a single-family residential lot must be met:
 - The manufactured home is five years old or newer on the day of application, and bears the insignia of approval by the U.S. Department of Housing and Urban Development, and has not been altered in violation of applicable codes.
 - The application is determined compatible with the residential area in which the manufactured home is proposed to be located.
 - Occupancy is only a residential type use.
 - Subject to all provisions of the zoning ordinance applicable to residential structures.
 - Be attached to a permanent foundation that complies with all building regulations.
 - Have a minimum width of 24 feet.
 - The exterior covering material shall extend to the ground, except where a solid concrete or masonry perimeter foundation is used, the exterior covering material must extend at least to the top of the foundation. Exterior wall materials shall be limited to stucco, wood, brick, stone, decorative concrete block, or other materials commonly used in the area. No shiny or reflective materials shall be permitted which are more reflective than semigloss paint.
 - Have a roof with a pitch of not less than two-inch vertical rise for every 12-inch of horizontal run and consisting of composition shingles, shake shingles, rock or concrete or adobe tile, or similar other materials commonly used in the area. No shiny or reflective materials shall be permitted which are more reflective than semigloss paint.
 - Have a minimum of 12-inch eave overhang on all four sides.
 - All windows, doors and gable ends shall be architecturally treated with a trim, with materials no more reflective than semigloss paint.
 - Fascia boards shall be used on all sides of the structure to screen exposed rafters, vents and the like to give the roof a finished edge.
 - Two enclosed or covered off-street parking spaces of compatible wall materials and roofing materials of dwelling unit.
 - Screening shall be provided for all mechanical and electrical equipment so that they are not visible from the public right-of-way.

Conclusion

Manufactured housing is subject to the same development and design standards as single-family homes. Additionally, manufactured homes must be permitted in the same manner and in the same

zones as conventional structures are permitted according to Government Code Section 65852.3. The Zoning Ordinance complies with state law and is not a constraint to the development of mobile homes.

Recommended Action

None required.

E4.3.4.2 Accessory Dwelling Units

An Accessory Dwelling Unit (ADU) or junior accessory dwelling unit (JADU) is an additional self-contained living unit either attached to or detached from the primary residential unit on a single lot. It has cooking, eating, sleeping, and full sanitation facilities. ADUs can be an important source of affordable housing since they can be constructed relatively cheaply and have no associated land costs. They can also provide supplemental income to the homeowner, allowing the elderly to remain in their homes or moderate-income families to afford a home.

In recent years, several bills have added requirements for local governments related to ADU regulation. Updates to state law in 2016 and 2017 included changes pertaining to the allowed size of ADUs, permitting ADUs by-right in at least some areas of a jurisdiction, and reduced parking requirements related to ADUs. More recent bills reduce the maximum allowable time to review and approve ADU applications to 60 days and remove lot size and replacement parking space requirements. AB 68 allows an ADU and a JADU to be built on a single-family lot, if certain conditions are met. The state has also removed owner-occupancy requirements for ADUs, created a tiered permit fee structure for ADUs based on their size and location, and prohibits fees on units of less than 750 square feet. In addition, AB 671 requires the Housing Element to include plans to incentivize and encourage affordable ADU rentals.

In 2022, two laws were passed that affect ADU law. Both went into effect in 2023. SB 897 increases the existing height limit for attached and detached ADUs that meet certain conditions. AB 2221 clarifies existing ADU law to close procedural and permitting loopholes for approving ADUs, including the requirement for approving or denying applications within 60 days of application submittal and providing a full set of comments and remedies to applicants with denied applications. Additionally, AB 2221 adds front setbacks to the list of local development standards that local governments cannot impose if they would preclude construction of an attached or detached ADU of at least 800 square feet, that is at least 16 feet in height and that has at least four-foot side and rear yard setbacks.

To encourage ADUs and JADUs, state law requires cities and counties to adopt an ordinance authorizing ADUs to be allowed ministerially and by-right in any zoning district which allows either single-family or multi-family residential uses. Local governments are precluded from prohibiting ADUs in residentially zoned areas or zones which allow either single-family or multi-family residential uses. The City permits the construction of ADUs in all residential zoning districts, including permitted residential uses in the Planned Development Overlay Districts and JADUs is residential estate and single-family residential zones. An accessory dwelling unit shall be located, developed, and operated in compliance with Section 5-5-6 Specific Use Regulations and the following standards:

- Permitted locations and types.
 - ADUs are permitted in all zoning districts allowing single-family or multi-family residential uses on lots with existing or proposed dwellings.

- An ADU may be established in the following methods:
 - Attached to, or located within, an existing or proposed primary dwelling;
 - As a new detached structure, or located within or attached to an accessory structure, including garages, storage areas or similar structures;
 - As a conversion of existing attached or detached accessory structures, including garages, storage areas or similar structures; or
 - As a 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.
- One ADU and one JADU may be established per lot with a proposed or existing single-family dwelling if all of the following apply:
 - 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;
 - The space has exterior access from the proposed or existing single-family dwelling;
 - The side and rear setbacks are sufficient for fire and safety access; or
 - The JADU complies with the requirements of Cal. Gov't Code Section 65852.22.
- 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. 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 1,200 square feet and a height of 16 feet with four-foot side and rear yard setbacks.
- ADUs shall be permitted only on residentially zoned lots developed with existing multi-family dwellings subject to the following provisions:
 - A minimum of one ADU may be constructed, or up to 25 percent of the existing multi-family 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.
 - The construction of two detached ADUs shall have a maximum height of 16 feet and four-foot side and rear setbacks. In this case, only two detached ADUs are permitted on lots developed with existing multi-family dwellings.
- Development Standards.
 - *ADU type, location and size.*
 - Attached. An ADU attached to an existing primary dwelling shall not exceed 50% of the total existing or proposed living area of the primary dwelling, except that a one bedroom attached ADU shall be allowed up to 850 square feet, and 1,000 square feet for attached ADUs with more than one bedroom pursuant to Cal. Gov't Code Section 65852.2(c)(2)(B).
 - Detached. An ADU structurally independent and detached from the existing or proposed primary dwelling shall not exceed 1,200 square feet.

- *JADU location and size.* A JADU shall be constructed entirely within an existing or proposed primary dwelling and shall not exceed 500 square feet. JADUs shall have an independent exterior entrance from the primary dwelling but may also include shared access between two units. A JADU, at a minimum, shall include an efficiency kitchen that includes a cooking facility with appliances, and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.
 - The property owner shall reside in either the principal dwelling unit or the junior accessory dwelling unit.
 - 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 Government Code Section 65852.22 and state the following: “The property contains an approved ADU 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 ADU, 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”.
- *Setback standards.* The minimum setback for an ADU is four feet from the side and rear lot lines, 10 feet from the street side lot line and 20 feet from the front lot line. 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 ADU or to a portion of an ADU, and a setback of no more than four 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. 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 ADU or to a portion of an ADU.
- *Utilities and impact fees.* 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. No impact fee shall be imposed for an ADU less than 750 square feet. Any impact fees charged for an ADU of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.
- *Provisions for development.* Permits for ADUs and JADUs shall be in compliance with underlying zoning requirements and regulations, except as may be provided in this section.
 - An ADU 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.
 - An ADU shall not count towards density requirements on the lot.

- An ADU shall not count towards determining the building square footage in calculating the maximum lot coverage percentage.
- ADUs shall have independent exterior access from the primary dwelling. No passageway to the primary dwelling shall be required.
- ADUs shall be in compliance with applicable building, fire and other health and safety codes. Fire sprinklers shall not be required for an ADU if sprinklers are not required for the primary dwelling unit.
- ADUs 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. ADUs 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.
- Off-street parking. One additional off-street parking space for the ADU or per bedroom, whichever is less. The parking can be tandem, uncovered, and located in the front yard if all yard requirements are met. If 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.
- Off-street parking exemption. Off-street parking shall not be imposed if: The ADU is located within one half mile walking distance to public transit; the ADU located within an architecturally and historically significant historic district; the ADU is part of the existing primary residence or an existing accessory structure; when on-street parking permits are required, but not offered to the occupant of the ADU; and when there is a car-share vehicle located within one block of the ADU.
- Owner occupancy. 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 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.
 - 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.
- Process and timing. An ADU or JADU is considered and approved ministerially, without discretionary review or hearing, if it meets the minimum standards in this chapter. The City must act on a building permit application to create an ADU or JADU within 60 days from the date that the City receives a completed permit application, unless either:
 - The applicant requests a delay, in which the 60-day time period is tolled for the period of the request delay; or
 - If the building permit application to create an ADU or JADU 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.

Conclusion

The City of Livingston’s ADU Ordinance was last amended in June of 2022 and complies with current state ADU Law.

Recommended Action

None required.

E4.3.4.3 Multi-Family

Multi-family housing is permitted by-right in the R-3 district, whereas the R-2 and DTC districts require a use permit, as displayed in Table 10.8. In the R-2 zone on corner lots, multi-family housing development is further regulated, only allowed provided that in no case shall any dwelling contain more than 4 living units and meet the required development standard for this district. Additionally, projects in the R-3 district that are more than 25 units or with a density in excess of 24 units per gross acre require a use permit.

Conclusion

While multi-family housing is allowed in zones across the city, this type of development is constrained by the need for a use permit in the R-2 and DTC zones, and the additional development standards that apply to corner lots in the R-2 zone.

Recommended Action

The City will implement Program 6 to revise the Zoning Ordinance to allow additional by-right development of multi-family housing in the R-2 and DTC zones.

E4.3.4.4 Group Homes/Residential Care Facilities

State law requires residential care facilities with six or fewer persons to be allowed by right in all zones that allow residential uses in zones where single-family residential uses are allowed.

Group homes or residential care facilities of six or fewer persons are considered residential uses and are permitted by-right in the R-1 and R-2 districts. However, in the R-1 and R-2 districts a use permit is required for care facilities serving seven to 14 persons; facilities serving 15 or more persons are not permitted at all in single-family residential districts. The City’s Zoning Ordinance permits residential care facilities serving more than six persons in the R-3 and DTC districts with a use permit.

In 2018, AB 2162 required cities to change their zoning to provide a “by-right” process and to expedite review for supportive housing projects of 50 units or fewer. This law applies to sites in zones where multi-family and mixed uses are permitted, including in nonresidential zones permitting multi-family use. Additionally, AB 2162 prohibits local governments from imposing any minimum parking requirements for units occupied by supportive housing residents if the development is located within one-half mile of a public transit stop. AB 2162 requires 25 percent of the units (or a minimum of 12 units, whichever is greater) to be approved by-right with no minimum

parking. If the development consists of fewer than 12 units, then 100 percent of the units, excluding managers' units, in the development shall be restricted to residents in supportive housing.

Conclusion

Currently, the City of Livingston allows supportive and transitional housing and group homes with six or fewer residents "by-right" in the R-1 and R-2 zones. The City does not comply with AB 2126 to allow supportive housing "by-right" in all zones that allow housing. This can be considered a constraint to transitional and supportive housing and group homes.

Recommended Action

The City will implement Program 6 to revise the Zoning Ordinance to allow care facilities of seven or more residents in all zones that permit housing, approved with objectivity and certainty, and subject only to the requirements of residential uses of similar type and form.

E4.3.4.5 Emergency Shelters

AB 139, which went into effect on January 1, 2020, mandates that emergency shelters may only be subject to standards that apply to residential and commercial development within the same zone. AB 139 also states that there should be sufficient parking to accommodate all staff working in the emergency shelter.

AB 2339 was passed in 2022 and went into effect January 1, 2023. AB 2339 requires that jurisdictions identify zoning designations where emergency shelters are allowed to include sites that meet at least one of the following:

- Vacant and zoned for residential use
- Vacant and zoned for nonresidential use and located near amenities and services for homeless individuals
- Nonvacant and is suitable for use as a shelter in the current planning period

Zoning designations identified to allow emergency shelters as a permitted use without a discretionary permit must allow residential uses. The City only permits emergency shelters in the R-3 zoning districts with a use permit which does not comply with state laws. The Zoning Ordinance also doesn't provide development standards for emergency shelters.

State law requires that sites that permit emergency shelters by-right must also have a minimum area of 200 square feet per unsheltered person to accommodate the number of people experiencing homelessness. The Merced County Point-in-time count estimated that 855 unhoused individuals in Merced County in 2022, including 35 in Livingston. This indicates that the City must permit emergency shelters in at least one zone that has at least 7,000 square feet of land that meets the requirements of AB 2339. As shown in Table E4-8, Livingston has the potential capacity for 207 individuals in emergency shelters in the DTC and P-F zones.

Table E4-8 Emergency Shelter Capacity Analysis

APN	Acreage	Realistic Capacity (beds)
024-171-011	0.18 acres	39 beds
024-141-005	0.26 acres	56 beds
024-112-005	0.26 acres	56 beds
024-141-002	0.26 acres	56 beds
Total	0.96	207

Source: City of Livingston Planning Staff

In 2019, AB 101 was passed requiring that Low-Barrier Navigation Centers be a use by-right in mixed-use zones and nonresidential zones permitting multi-family uses. A Low-Barrier Navigation Center is a low-barrier, temporary, service-enriched shelter that helps homeless individuals and families obtain permanent housing. The City will need to amend its Zoning Ordinance to explicitly allow the development of Low-Barrier Navigation Centers, by-right, in mixed-use zones and nonresidential zones permitting multi-family uses.

Conclusion

Emergency shelter requirements require a use permit in the R-3 zone and therefore poses a constraint to emergency shelter development. The P-F zone district, where emergency shelters are permitted by-right, does not permit multi-family residential uses.

The City’s Zoning Ordinance is also inconsistent with state law requiring Low-Barrier Navigation Centers to be allowed by-right in areas zoned for mixed use and nonresidential zones permitting multi-family uses.

Recommended Action

The City will implement Program 6 to revise the Zoning Ordinance to allow low-barrier navigation centers by-right in mixed-use and nonresidential zones permitting multi-family uses.

E4.3.4.6 Transitional and Supportive Housing

“Transitional housing” is defined as buildings configured as rental housing operating under program requirements that require the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months from the beginning of the assistance. Transitional housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone.

“Supportive housing” is defined as 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 permanent housing, health services, and employment, as needed. Supportive housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone. AB 2162, which went into effect on January 1, 2019, requires that cities allow supportive housing with up to 50 units by-right in multi-family and mixed-use zones and precludes cities from imposing parking requirements on supportive housing developments located within 0.5-mile of a public transit stop.

Livingston permits transitional and supportive housing in all zoning districts that allow multi-family uses, subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone.

Conclusion

The City does not impose additional requirements on transitional and supportive housing types. However, the Zoning Ordinance does not currently comply with AB 2162, where parking standards for residential care facilities do not exempt parking requirements for supportive housing developments located within 0.5-mile of a public transit stop.

Recommended Action

Program 6 will revise the Zoning Ordinance to provide supportive housing meeting the specific requirements under AB 2162 will be permitted by right in zones that permit multi-family housing.

E4.3.4.7 Farmworker and Employee Housing

The Employee Housing Act (Health & Safety Code Section 17021.6) requires that any employee housing consisting of no more than 36 beds in group quarters or 12 units or spaces designed for use by a single family or household, shall be deemed an agricultural land use. No use permit, zoning variance, or other zoning clearance shall be required of employee housing that is not required of any other agricultural activity in the same zone. The permitted occupancy in employee housing in a zone allowing agricultural uses shall include agricultural employees who do not work on the property where the employee housing is located.

Livingston permits agricultural uses only in P/OS Parks And Open Space districts with a use permit. While farm labor housing in all zoning districts that allow residential uses, farm labor housing is not permitted in P/OS districts, which does not comply with the Employee Housing Act.

Conclusion

The City's Zoning Ordinance does not comply with state law regarding farmworker/employee housing.

Recommended Action

The City will implement Program 6 to revise the Zoning Ordinance to ensure compliance with the Employee Housing Act (Health & Safety Code Section 17021.6).

E4.3.4.8 Single-Room Occupancy Units

Single Room Occupancy (SRO) Unit refers to a living or efficiency unit, as defined by California Health and Safety Code section 17958.1, intended or designed to be used as a primary residence by not more than two persons for a period of more than 30 consecutive days and having either individual bathrooms and kitchens or shared bathrooms and/or kitchens. SRO units can provide affordable private housing for lower-income individuals, seniors, and persons with disabilities. These units can also serve as an entry into the housing market for formerly homeless people.

Single-room occupancy units are not mentioned in Livingston's Municipal Code or in the General Plan.

Conclusion

An SRO zoning ordinance standard does not currently exist in Livingston, potentially constraining the development of a variety of housing units.

Recommended Action

The City will implement Program 6 to revise the Zoning Ordinance to allow the development of SROs in residential zones allowing multi-family uses and/or commercial zones allowing hotel and motel uses.

E4.3.5 Housing for Persons with Disabilities

California Government Code Section 65583 requires local jurisdictions to analyze potential and actual government constraints on the maintenance, improvement, and development of housing for people with disabilities. This is to ensure that persons with either physical or mental disabilities are provided reasonable accommodation for access to and the enjoyment of all facilities, including housing. Government Code Section 65583(c)(3) also requires housing elements to provide a program to “...address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing for persons with disabilities.”

This section analyzes if the zoning policies and permitting procedures in Livingston impose any constraints on persons with disabilities accessing appropriate and adequate housing in the city.

E4.3.5.1 Definition of Family

Local jurisdictions may restrict access to housing for households that do not meet the jurisdiction’s definition for “family.” A restrictive definition of “family” that limits the number of individuals living together may illegally limit the development and siting of group homes for persons with disabilities, but not for housing families that are similarly sized or situated.

The City of Livingston’s definition of family is as follows:

- 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.

Conclusion

The City’s definition of “family” is not restrictive.

Recommended Action

None required.

E4.3.5.2 Reasonable Accommodation Procedures

The federal Fair Housing Act and the California Fair Employment and Housing Act require that cities and counties provide reasonable accommodation where such accommodation may be necessary to afford individuals with disabilities equal housing opportunities. Cities and counties must also consider requests for accommodations related to housing for people with disabilities and provide the accommodation when it is determined to be “reasonable” based on fair housing laws and the case law interpreting the statutes.

Reasonable accommodation is one of the tools intended to further housing opportunities for people with disabilities. These accommodations require that local jurisdictions make modifications or exceptions in their zoning laws and other land-use regulations when accommodations are necessary to afford individuals with disabilities an equal opportunity to use and enjoy a dwelling. For example, it may be a reasonable accommodation to waive a setback requirement so that a paved path of travel can be provided to residents with mobility impairments.

Reasonable accommodation enables developers and providers of housing for people with disabilities a means of requesting from the local government flexibility in the application of land use and zoning regulations or, in some instances, even a waiver of certain restrictions or requirements because it is necessary to achieve equal access to housing.

In April 2016, the City adopted its current reasonable accommodation process. The ordinance can be found in Chapter 6, titled “Administration” under Section 5-6-12. This section authorizes Staff to work with developers to accommodate specific concessions to achieve reasonable accommodation adjustments protected by state or federal law.

Conclusion

The City of Livingston provides a procedure for reasonable accommodation that is consistent with state law. However, additional information regarding the procedure or additional assistance is not posted on the City website.

Recommended Action

The City will implement Program 13 to update the City’s website to provide a link to the City’s Reasonable Accommodations policy on the Housing Division page and add contact information for City Staff who oversee the application process.

E4.3.6 Planning and Development Fees

The development review process is intended to regulate all projects. Through this process, residential yard size and other open space uses are determined, which in turn control population density for conformance with the General Plan. Regulation is necessary to conserve and stabilize property values, provide adequate open space, diminish street congestion; facilitate adequate community utilities such as transportation, water, sewage, schools, parks, and other public facility requirements; and to safeguard public health, safety, and general welfare.

The City charges various fees and assessments to cover the cost of processing permits and providing certain services and utilities. Development impact fees in Livingston are reasonable in comparison to other jurisdictions in the state and region. Table E4-9 describes some of the residential development planning fees for both single- and multi-family development.

Table E4-9 Residential Development Planning Fees

Fee Title	Amount
Annexation Process	\$3,270 + planning & engineering deposit
Preliminary Subdivision Review	\$715 + engineering deposit
Tentative Subdivision Map Review	\$3,445 + engineering deposit
Final Subdivision Map Review	\$1,260 + planning & engineering deposit
Parcel Map	\$1,2335 + planning & engineering deposit
Final Parcel Map	\$940 + engineering deposit
Lot Line Adjustment	\$1,080 + engineering deposit
Certificate of Compliance	\$810 + engineering deposit
Site Plan & Design Review (Existing Structure)	\$1,350 + engineering deposit
Site Plan & Design Review (New Construction)	\$1,560 + engineering deposit
General Plan Amendment	\$2,560 + engineering deposit
Rezoning	\$2,565 + engineering deposit
Initial Environmental Study	\$3,670 + planning & engineering deposit, plus County and state recording fees
Environmental Impact Report	\$2,300.00 + all costs + planning & engineering deposit plus County and state recording fees
Categorical Exemption	\$390 + County & state recording fees
Use Permit (Residential)	\$1,505 + engineering deposit

Source: City of Livingston Schedule of Development Fees, Effective 2022.

Development in the city is typically required to pay a range of development fees, including, water service fee, sewer service fee, and transportation impact fee. In Livingston, development impact fees average about \$18,000 for a single-family home and about \$92,000 per structure for a multi-family project (assumed to be a 10-unit multi-family complex or around \$9,200 per unit). The costs of service and infrastructure are nearly three times as much for multi-family projects because in most cases they require larger/increased capacity that involves higher costs associated with the project.

Table E4-10 Residential Development Fees

Impact Fee	Single-Family Unit	Multi-family Unit
Building Permit	\$1,324	\$614
Plan Check	\$993	\$461
Site Plan and Design Review (for new construction)	--	\$156
Administrative Fee (15% of planning and permit fees)	\$960	\$763
SMI Tax	\$21	\$9
Municipal Facility	\$2,992	\$1,496
Water Connection	\$1,771	\$177
Sewer Connection line	\$1,892	\$189
Water Meter	\$114	\$11
Police Mitigation	\$448	\$448
Fire Mitigation	\$428	\$37

Impact Fee	Single-Family Unit	Multi-family Unit
General Plan	\$794	\$356
Park-In-Lieu	\$576	\$332
Livingston Union School District	\$5,376	\$269
Regional Transportation Fee	\$3,115	\$243
Total	\$20,804	\$5,561

Source: City of Livingston Schedule of Development Fees, Effective 2022.

Single-family development fees in Livingston are much slightly lower than for similarly sized cities in the same county. Fees for a single-family unit range are approximately \$20,804 in Livingston but range from \$12,326 to \$32,961 in the cities of Atwater, Dos Palos, Gustine, Los Banos, and Merced. However, fees for multi-family are much lower, fees for a multi-family unit are approximately \$5,561 per multi-family unit in Livingston but range from \$8,997 to \$26,423 per unit in other cities. Table E4-11 shows a comparison of development fees in other Merced County jurisdictions.

Table E4-11 Residential Development Fee Comparison

Jurisdiction	Total Cost Per Unit	
	Single-Family	Multi-family
Atwater	\$21,958	\$13,945
Dos Palos	\$12,435	\$12,435
Gustine	\$58,103	\$47,550
Livingston	\$20,804	\$5,561
Los Banos	\$32,961	\$26,197
Merced (City)	\$12,326	\$8,997
Merced (County)	\$30,996	\$26,423

Conclusion

Planning and development fees are slightly lower than similarly sized cities in the region and are not considered a constraint to development.

Recommended Action

None required.

E4.3.7 Permit Types

The City of Livingston provides the full range of services relating to the development of property within its Sphere of Influence. Subdivision map processing, parcel maps, planned developments, special use permits, and building plans are all processed by the City. The City actively encourages developers to meet and confer with Planning Staff prior to the formal submittal of an application as a means to facilitate the timely processing of the application. Pre-application conferences can resolve misunderstandings regarding zoning and development standards and processing procedures.

Several permitting processes may be required depending on the type of development proposal.

E4.3.7.1 Site Plan and Design Review

The City's site plan and design review process are discretionary actions, subject to the California Environmental Quality Act (CEQA) and require a recommendation from the Planning Commission and approval by the City Council. Site plan and design review projects are referred to the Planning Commission for review and recommendation once the application is deemed complete by the City Staff. Livingstons' site plan and design review process consists of review by the City Staff, evaluating the project's consistency with the General Plan, applicable specific plans, design standards, and the Zoning Ordinance. City staff also ensures that the site plan, building layout, size, shape, scale, mass, height, architectural design, architectural components, materials, colors, landscaping, on- and off-site parking and traffic circulation, and other aspects of the physical plan for development projects are compatible with neighboring developments, are adequate and appropriate for the site, achieve the highest level of design that is feasible for the project; and that City services are adequate and available to the project. City Staff issues an advisory recommendation to the Planning Commission and recommended conditions to be imposed on the project. The project is presented to the Planning Commission as a public hearing item for evaluation for project consistency which all applicable standards, compatibility with existing and proposed development in the project vicinity, and design compatibility with the surrounding neighborhood. The Planning Commission, based on the information presented and public testimony received, makes a recommendation to City Council to either approve or deny project. The project is then presented to City Council as a public hearing item for evaluation and determination. Site plan review takes an average of five to seven months after the application is deemed complete, or longer if environmental review is required.

Residential housing projects subject to the City's site plan and design review process include any project requiring a discretionary permit, including subdivisions, use permits, and variances. Residential projects including five or more units or an addition to an existing project that would result in five or more units is subject to the City's site plan and design review process. Projects consisting solely of individual owner, custom-built lots and homes are exempt from this requirement. The design requirements for approval include:

- The provision for benches, telephones and shaded areas at major transit destinations shall be determined based upon necessity with city approval during a site plan review procedure.
- The height and scale of new commercial and industrial development should be compatible with that of surrounding buildings where an established pattern or character is apparent. New development shall provide a transition from the height of adjacent structures to the maximum height of new development.
- All roof equipment shall be screened from a horizontal line of sight. Ground or interior mounted mechanical equipment with appropriate screening is encouraged as an alternative to roof mounting.
- Entries shall be protected from the elements and shall create a focus or sense of entry for the building. Use of wall recesses, roof overhangs, canopies, arches, signs, and similar architectural features shall be integral elements of the building's design.
- Buildings, landscaping, parking, and other development features shall be arranged in a manner that is compatible with the size, scale, and appearance of nearby development.
- Site planning shall emphasize a strong relationship to the adjoining street(s) and encourage pedestrian circulation and access. Pedestrian access shall be separate from vehicular access, where feasible.

- Site plans shall provide safe and well-defined pedestrian connections from buildings to parking areas, from buildings to the adjoining street(s), and among buildings on the same site. Pedestrian connections between commercial development and surrounding residential neighborhoods should also be provided.
- Buildings, sidewalks, and parking lots shall be located to minimize conflicts between pedestrian and vehicular circulation on a site.
- On-site circulation shall be designed to provide safe and efficient access for delivery vehicles, visitors and employees, and pedestrians.
- Loading and trash facilities shall be located where they may be adequately screened from view, generally at the rear of the structures, away from the street.
- Long expanses of fence shall be offset and architecturally designed to prevent monotony. Landscaped pockets and limited openings are encouraged.
- Where industrial development abuts nonindustrial uses, appropriate buffering techniques shall be employed such as setbacks or screening landscaping.

These requirements may be considered subjective.

E4.3.7.2 Administrative Permits

The administrative permitting process involves project review by the Community Development Director to determine conformance with applicable standards in the Zoning Ordinance. If the Community Development Director determines that the project may be objectionable to property owners within the vicinity of the site, the applicant is instructed to show project maps and information to those property owners and request consent or objective to the proposed project. These comments are considered by the Community Development Director during consideration of project approval. Project determination on an administrative permit request by the Community Development Director usually takes about one month, once the application is deemed complete.

E4.3.7.3 Use Permits

All projects subject to a use permit are discretionary projects, subject to CEQA requiring a public hearing before the Planning Commission. The Planning Commission makes findings on the project's consistency with the General Plan and Zoning Ordinance, and evaluates the project based on subjective requirements such as compatibility with adjacent and nearby uses and whether the project would adversely affect nearby uses such as religious facilities, schools, and recreational uses. Project determination on a use permit request by the Planning Commission takes five to seven months after the application is deemed complete, or longer if environmental review is required. Findings for approval include the following:

- The site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by the applicable zoning district;
- The site for the proposed use is served by streets and highways adequate to carry the quantity and kind of traffic generated by the proposed use;
- Public facilities are currently adequate to serve the proposed use or improvements are included in an approved capital improvement plan or otherwise will be complete prior to the issuance of building permits;

- The proposed development is consistent with the general plan. If granted, it should be made subject to those conditions necessary to preserve the general welfare, not the individual welfare, of any particular applicant; and
- The proposed development must not be unreasonably incompatible with permitted uses in the area considering damage and nuisance from light sources, noise, smoke, odor, dust or vibration, hazard resulting from unusual volume or character of traffic, or congestion of a large number of persons or vehicles.

These findings may be considered subjective.

E4.3.7.4 Variances

Projects requesting a waiver of any Zoning Ordinance requirement are subject to a variance which requires a public hearing and approval by the Planning Commission. The project must be found to be consistent with the General Plan to receive approval. Project determination on a variance request by the Planning Commission takes four to five months after the application is deemed complete. The criteria for a variance include:

- There are exceptional and extraordinary circumstances or conditions applying to the land, building and/or use referred to in the application which do not generally apply to other land, buildings and/or uses in the same district;
- Granting of such variance will not adversely affect the general plan of the city;
- Such variance is necessary for the preservation and enjoyment of the substantial property right possessed by other property in the same vicinity and district denied to the property in question; and
- The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity.

Findings that refer to “preservation and enjoyment of the substantial property,” “materially detrimental to public welfare of injurious to the property” are subjective and can be a constraint to requesting a variance. However, variances are rare.

E4.3.7.5 General Plan Amendments and Zone Changes

Projects that are not consistent with the General Plan or Zoning Ordinance may require approval of a General Plan amendment, zone change, Zoning Ordinance amendment, or specific plan amendment. Approval of these types of proposals are discretionary, subject to CEQA, and require recommendations from the Planning Commission and approval by the City Council. A simple General Plan amendment typically takes six to nine months to complete, while more complicated projects that require environmental review and additional applications may take 12 to 18 months.

Conclusion

Several development review processes require subjective determinations from the reviewing authority. This is a constraint to the development of housing.

Recommended Action

The City will implement Program 6 to remove subjective judgement from the site plan review, administrative permits, and use permits, in accordance with SB 330, and provide objectives with

regard to what constitutes an impairment to the integrity and character of the zoning district, thereby streamlining the review of multi-family projects.

E4.3.8 Permit Procedures and Processing Times

While permit processing and development review are necessary to ensure that development proceeds in an orderly manner, permit processing fees, the costs of studies, and implementation of conditions, as well as time consumed, can impact the cost of housing development.

The Community Development Department, which includes the Planning and Building Divisions, and the Public Works and Engineering Departments, are responsible for most permit processing in Livingston. In general, development of a residential unit on an appropriately zoned lot requires a building permit. The application for the permit must be filed with the Building Division. After approximately two to three days, the application is typically forwarded to the Planning Division, Engineering, and the Fire Departments to ensure that the development conforms with the required setbacks and other standards for that district. The Building Division, after its technical review, then issues the permit to the developer. For subdivision maps and site plan and design review, it is usually a four-to-six-month process, which includes Planning Commission review and recommendation, and City Council review and approval. Improvement plan review takes about two to three weeks and final maps usually take 60 to 90 days. Building permit issuance usually takes one to two weeks. The most common housing applications and permit processing times are indicated in Table E4-12.

Table E4-12 Timelines for Permit Procedures

Type of Approval or Permit	Typical Processing Time
Use Permit	120 - 150 Days
Variance	120 Days
Planned Unit Development	8 to 10 Months
Subdivision Map and Site Plan/Design	4-6 Months
Improvement Plan	Draft 2-3 weeks Final 60-90 days
Building Permit	1-2 weeks
General Plan Amendment	6 to 9 months
Zone Change	4 to 6 months

Table E4-13 shows the typical processing procedures by project type for Livingston. As shown, single-family units have the shortest estimated processing times (two to four weeks) while subdivisions have the longest (34 to 43 weeks, or 8 to 10 months).

Table E4-13 Typical Processing Procedures by Project Type

One Single-Family Unit (Weeks)	Subdivision (Weeks)	Multi-family Units (Weeks)	Planned Unit Development (Weeks)
Design Review (2-4)		Design Review (3-6)	Design Review (2-4)
Site Plan (2 - 4)		Site Plan (6-8)	Site Plan (6-8)
	Tentative Map (12-15)	Use Permit (6-9)	Use Permit (6-9)
	Environmental Assessment (12)	Environmental Assessment (12)	Environmental Assessment (12)
	Final Map (10)		
Total 2-4 Weeks	34-43 Weeks	26-33 Weeks	26-33 Weeks

Source:

E4.3.8.1 Building Permits

Building permit review timelines for all projects are as follows depending on complexity and scope of work:

- First review: 1 to 10 working days
- Second review: 1 to 5 working days
- Third review: 1 to 5 working days
- Fourth review: 1 to 5 working days
- Fifth review: 1 to 5 working days

E4.3.8.2 Conclusion

Permit procedures and processing times are not considered a constraint to development.

E4.3.8.3 Recommended Action

None Required.

E4.3.9 State Streamlining

Under the 5th Cycle Housing Element reporting period (2015-2023), the City of Livingston made insufficient progress toward its above moderate-income RHNA and is subject to SB 35 streamlining provisions for projects that include at least 10 percent affordability. SB 35 requires that eligible projects be reviewed for compliance and consistency with the City’s objective standards and are not subject to discretionary processes, such as CEQA environmental review and public hearings. Eligible projects with 150 units or fewer must be approved within 90 days and projects with more than 150 units must be approved within 180 days. In addition, AB 1397 requires that 5th cycle opportunity sites re-used in the 6th cycle and identified to accommodate lower-income units (very low-income and low-income) be subject to by-right approval if projects include 20 percent affordable units for lower-income households on-site. No projects have been approved through SB 35 ministerial approval. The City has not adopted procedures for processing SB 35 applications and has not created a checklist for SB 35 applications.

The Housing Crisis Act of 2019 (SB 330 and amended by SB 8) establishes a statewide housing emergency and creates new state laws focused on the production and preservation of housing. SB 330 and SB 8 aim to expedite and increase certainty in the development process with changes to the

Housing Accountability Act and Permit Streamlining Act that will be in effect from January 1, 2020, to January 1, 2030. SB 330 also addresses the statewide housing shortfall with new protections for existing housing and restrictions on certain zoning actions that reduce the availability of housing. The legislation creates a preliminary application process, and housing developments will only be subject to those ordinances, fees, and policies in effect when the completed preliminary application is submitted. Like SB 35, SB 330 limits jurisdictions from imposing subjective design standards on housing developments. Objective standards are limited to design standards that involve no personal or subjective judgment by a public official. They must be verifiable by reference to an external and uniform benchmark available to both the applicant and the public official prior to application submittal.

E4.3.9.1 Conclusion

The City should amend the Zoning Ordinance to address updates to SB 35 and SB 330 and create written procedures for the Streamlined Ministerial Approval Process.

E4.3.9.2 Recommended Action

The City will implement Program 6 to amend the Zoning Ordinance to address updates to SB 35 and remove subjective judgement from the site plan review, administrative permits, and use permits and provide objective standards for what constitutes an impairment to the integrity and character of the zoning district, in accordance with SB 330. Additionally, under Program 3, the City will create written procedures for the Streamlined Ministerial Approval Process.

E4.3.10 Transparency in the Development Process

To increase transparency in the development process, the City's website publishes resources that help developers and homeowners navigate the residential development and home improvement processes. The City's Community Development webpage⁴ provides connections to the Building Division, Engineering Division, Housing Division, and Planning Division's pages. Within these pages users can access links to planning and building permit resources, including the City's zoning and land use maps, permit application forms, development fee schedule, and Staff contacts. However, links to the municipal code are not under this webpage, rather are located under the City Council webpage. The overall layout does not provide a comprehensive view as to what is within the webpage, the search function is necessary to find what you are looking for.

E4.3.10.1 Conclusion

While the City's website provides information on permit processing and zoning, links to some resources should be included within the main webpage.

E4.3.10.2 Recommended Action

The City will implement Program 13 to evaluate its compliance with the new transparency requirements per Government Code Section 65940.1(a)(1) and make changes as necessary. Update links on the City's Community Development Department webpage to connect to the most recent versions of each resource and document.

⁴ Livingston Community Development webpage. <https://www.cityoflivingston.org/commdev>

E4.3.11 Short-Term Housing Rentals

The City of Livingston does not regulate short-term rental housing in the city. As of August 2023, per listing services VRBO and Airbnb, there were four active rentals in the city. There were two listings that rented the entire house and two listings that rented a private room within a housing unit. These short-term rentals are not concentrated in a particular area of the city. Due to the small number of listings, short-term rentals are not likely to contribute to a reduced availability of long-term rental housing, especially if concentrated in one area of the city.

E4.3.11.1 Conclusion

There are no regulations related to short-term rental housing that constrain housing in the city. Short-term rentals are not considered a constraint to development.

E4.3.11.2 Recommended Action

None required.

E4.3.12 Code Enforcement

The City's Building Division is responsible for enforcing the Building Code, Fire Code and other building codes adopted by the City. This division also investigates and responds to complaints and building code violations. The City's Building Division entered into a contract with CSG Consultants, Inc., to provide personnel for residential, commercial and industrial plan checks and building and fire inspection services. They maintain a telephone-based inspection request system that provides next-day inspection service. Turnaround time for minor residential remodels, single-family dwellings, and large tenant improvements will be five to ten working days.

Code Enforcement Staff responds to complaints in coordination with the City. The City's typical response process is as follows:

1. Complaint received and filed.
2. If hazardous or unsafe, Building Staff will red flag the structure as unsafe to occupy and notify the property owner.
3. If the structure is deemed safe, then Code Enforcement Staff investigate property information and reach out to property owner within a week and an inspection appointment is then set up within two weeks depending on owner availability.
4. After an inspection is conducted, then the owner is provided with a timeframe to come into compliance or face further legal action by the City.

City staff will offer suggestions to remedy the code violation and will often work with the owner to come up with a compliance timeframe. Owners that fail to comply with City code enforcement efforts may have a Notice and Order filed on the property to document the existence of an unsafe or unpermitted condition existing on the property.

The City of Livingston uses the California Building Code (CBC), 2022 Edition. All new buildings or structures, and any additions, modifications, alterations, or repairs of existing buildings shall comply with the requirements of the Livingston Municipal Code and the CBC as amended, including securing of all permits and inspections required by such code. Any application for a planning permit of any kind is not allowed to be accepted, processed, or issued for parcels in violation of the provisions of

the Zoning Ordinance. If an approved permit is deemed to be out of compliance with the Zoning Ordinance, the permit is considered void.

Any building or structure that is set up, erected, constructed, altered, enlarged, converted, moved, or maintained in violation of the regulations stated in the Municipal Code is deemed unlawful and constitutes a public nuisance. Upon the City Council's order, the City Attorney shall initiate immediate legal action for the abatement and removal of such violations, seeking injunctions as provided by law. The City Attorney will take all necessary steps and approach the appropriate courts to obtain the required relief, which may include the abatement and removal of the building or structure and restraining any person from engaging in such activities that violate the code. The party who received a notice and order for violations that do not pose an immediate danger to the health or safety will be given at least five calendar days to correct or address the violation. Once a building has been declared unsafe, the building official may issue notice that the structure be repaired, vacated, or demolished within a reasonable amount of time and with the appropriate permits.

The enforcement of building codes in the city is centered on the inspection of new construction and remodels or renovations requiring building permits. However, for existing structures, City Staff prioritize code enforcement complaints according to the severity of the violation on the community and individuals. Situations that appear to pose a serious risk to health and safety are given top priority; others are pursued in the order in which they are received, as resources are available. In most cases for non-emergency complaints, a warning letter or courtesy notice is sent to the alleged violator to verify the status of the potential compliant and to obtain compliance.

E4.3.12.1 Conclusion

The City of Livingston uses the most recent CBC (2022 edition).

E4.3.12.2 Recommended Action

None required.

E4.4 Environmental Constraints

A community's environmental setting affects the feasibility and cost of developing housing. Environmental issues range from the availability of water to the suitability of land for development due to potential exposure to seismic, flooding, wildfire, and other hazards. If not properly recognized and accommodated in residential design, these environmental features could potentially endanger lives and property. This section discusses potential environmental constraints to future housing development in Livingston.

E4.4.1 Flood

Official floodplain maps are maintained by the Federal Emergency Management Agency (FEMA). FEMA determines areas subject to flood hazards and designates these areas by relative risk of flooding on a map for each community, known as the Flood Insurance Rate Map (FIRM). The 100-year flood is defined as the flood event that has a one percent chance of occurring in any given year.

The flooding problems in Livingston are in the northern part of the city, closest to the Merced River. There is a small section of the city that has a one percent annual chance of flood hazard. This area is in a Zone A Flood Hazard area, this designation was determined using approximate methodologies because detailed hydraulic analyses have not been performed.

All sites in the Site Inventory are located outside of Zone A and are located in Zone X, which are areas of minimal flood hazards and do not pose any constraints on development. However, in portions of Zone A residential development can occur. Since no residential development is proposed in Zone A at this time, this condition is not a constraint to housing.

E4.4.2 Seismic Zones

While Livingston is in proximity to major California fault lines, there is no specific threat or hazard from seismic ground shaking to residential development within the county and all new construction must comply with current state building code requirements related to seismic retrofitting. Between the minimal historical hazard of earthquakes in the city and the use of the most current building codes and construction techniques, earthquakes pose a less-than-significant danger to residential development.

E4.4.3 Wildland/Urban Fire Hazards

Fire hazard potential is largely dependent on the extent and type of vegetation, known as surface fuels, that exists within a region. Fire hazards are typically highest in heavily wooded, undeveloped areas as trees are a greater source of fuel than low-lying brush or grassland. Suburban, urban areas, or rocky barren areas have minimal surface fuels and therefore typically have the lowest fire hazard.

Livingston is not considered to be a fire-prone city; structural fires pose a greater risk to life and property than wildland fires. The City of Livingston requires all new development and subdivisions to meet or exceed the California Fire Code provisions, which address topography, geology, climate, and development conditions. However, there is always a risk of wildland fires, since there are rural areas surrounding Livingston (crops and grasses) that are classified as low fuel loading areas by the California Department of Forestry and Fire Protection (CAL FIRE). Based on CAL FIRE's Fire Hazard Severity Zones, there are no areas in Livingston classified as a Fire Hazard Zones and the surrounding rural areas have Moderate or no Fire Hazard Zones.

E4.4.4 Conclusion

Environmental constraints in Livingston are not considered a constraint to development.

E4.4.5 Recommended Action

None required.