

## ORDINANCE NO. 15-03

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA, IMPLEMENTING THE HOUSING ELEMENT 2015-2023 OF THE GOLETA GENERAL PLAN BY AMENDING THE GOLETA MUNICIPAL CODE AS ADOPTED BY CITY COUNCIL ORDINANCE NO. 02-17 ON APRIL 22, 2002 TO INCLUDE NEW DEFINITIONS; ADD REGULATIONS TO REASONABLY ACCOMMODATE PERSONS WITH DISABILITIES; AND UPDATE AFFORDABLE HOUSING DENSITY BONUS REGULATIONS**

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

**SECTION 1.** The City Council finds and declares as follows:

- A. This Ordinance is intended to implement the Housing Element 2015-2023 of the Goleta General Plan;
- B. The City's ability to exercise its powers in accordance with Article XI, § 7 of the California Constitution to regulate land use is well-established. This ordinance is intended to regulate aesthetics, traffic, parking, public peace, and other, similar, matters related to public health, safety, and welfare;
- C. A review of the Goleta Municipal Code ("GMC"), as defined by this Ordinance, demonstrates that amendments are needed to bring the City's land use regulations into conformance with applicable federal and California laws;
- D. Adopting this Ordinance is in the public interest since it is designed to protect public health and safety while also promoting public welfare; and
- E. The City Council intends that this Ordinance will be incorporated and codified into the GMC at a later date. Specifically, the City Council notes that it is currently undergoing a process to update all regulations of the GMC regarding land use. The regulations and definitions adopted by this Ordinance require immediate approvals in order to comply with federal and California law.

**SECTION 2.** *General Plan Findings.* As required under Government Code § 65454 the GMC amendments proposed by this Ordinance are consistent with the Goleta General Plan as follows:

- A. Density bonus regulations will facilitate the development of affordable housing consistent with Housing Element Program HE 2.4a (*Provide Assistance and Incentives to Developers*);
- B. Definitions for emergency shelters will facilitate and clarify the provision of temporary housing for homeless persons consistent with Housing Element Program HE 3.2b (*Emergency Shelters*);

C. Regulations and definitions for review and approval of requests for reasonable accommodation for persons with disabilities will facilitate implementation of Housing Element Program HE 3.2h (*Reasonable Accommodation*); and

D. Definitions for terms related to affordable and special needs housing will facilitate implementation of Housing Element Policy HE 3.2 (*Facilitate the Provision of Housing for Persons with Special Needs*).

**SECTION 3. *Zone Text Amendment Findings.*** Pursuant to GMC § 35-180.6 and § 35-325.5, the City Council finds as follows:

A. This Ordinance is in the interest of the general community welfare since it implements the Housing Element 2015-2023 of the Goleta General Plan and applicable federal and California laws intended to protect public health and safety;

B. This Ordinance is consistent with the Goleta General Plan and, specifically, the Housing Element 2015-2023. In addition, it complies in all respects with California and local law including, without limitation, the Government Code, Health and Safety Code, Public Resources Code, and the GMC.

C. The Ordinance is consistent with good zoning and planning practices since it implements the Housing Element 2015-2023, and other applicable law, in a manner designed to encourage construction of affordable housing; accommodate persons with disabilities; and update the GMC regarding public health, safety and welfare.

**SECTION 4. *Repeal and Supersession.*** The City Council adopts this Ordinance with the specific intent of superseding any contrary regulation or administrative policy and procedure. Consequently, all regulations that conflict with this Ordinance are superseded and repealed including, without limitation, conflicting definitions and regulations set forth in §§ 35-58; 35-144; 35-209, and 35-292 of the GMC as adopted by City Council Ordinance No. 02-17 on April 22, 2002.

**SECTION 5. *Density Bonus.*** Persons seeking to construct affordable housing developments in accordance with the GMC may utilize the density bonus regulations set forth in Government Code §§ 65915, *et seq.* The City Manager, or designee, is authorized to promulgate administrative policies and procedures to implement this Section.

**SECTION 6. *Definitions.*** Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this Ordinance. Words and phrases not defined by this Ordinance have the meanings stated in the GMC and applicable federal and state law including, without limitation, the Fair Housing Act (42 U.S.C. 3601, *et seq.*); the Americans with Disabilities Act (42 U.S.C. § 12101, *et seq.*); Fair Employment and Housing Act

(Government Code § 65008; § 12955 *et seq.*); density bonus regulations (Government Code §§ 65915, *et seq.*); and any successor statutes or regulations. If the definition of any term contained in this ordinance conflicts with the definition of the same term in applicable law, then the definition contained in the federal or California code governs.

**Disabled or Handicapped Person.** An individual who has a physical or mental impairment that limits one or more of that person's major life activities; anyone who is regarded as having such impairment; or anyone who has a record of having such an impairment, but not including an individual's current, illegal use of a controlled substance.

**Emergency Shelter.** Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay in accordance with Health and Safety Code § 50801(e).

**Family.** One or more persons, related or unrelated, living together as a single housekeeping unit.

**Farmworker.** Has the same meaning as "agricultural employee" as set forth in California Labor Code § 1140.4(b).

**Farmworker Housing.** Has the same meaning as "employee housing" as set forth in Health & Safety Code § 17008(a) for farmworkers. Such housing must be restricted by deed for occupancy by farmworkers. Before the City issues a building permit, the applicant must demonstrate that it has a valid permit to operate from the California Department of Housing and Community Development. Farmworker housing providing accommodations for six or fewer employees is a single-family structure with a residential land use designation.

**Farmworker Housing Complex.** Farmworker housing that: (1) contains a maximum of 36 beds if the housing consists of any group living quarters, such as barracks or a bunkhouse, and is occupied exclusively by farmworkers; or (2) contains a maximum of 12 residential units occupied exclusively by farmworkers and their households, if the housing does not consist of any group living quarters. A permitted use in any zone where agriculture is a permitted use.

**Reasonable Accommodation.** Any deviation requested and/or granted from the strict application of the City's zoning and land use laws, rules, policies, practices and/or procedures under provisions of federal or California law to make housing or other facilities readily accessible to and usable by persons with disabilities and thus enjoy equal employment or housing opportunities or other benefits guaranteed by law.

**Residential Care Facilities.** Facilities that are licensed by the State of California to provide permanent living accommodations and 24-hour, primarily non-medical care and supervision for persons in need of personal services, supervision, protection, or assistance for sustaining the activities of daily living. Living accommodations are shared living quarters with or without separate kitchen or bathroom facilities for each room or unit. This classification includes facilities that are operated for profit as well as those operated by public or not-for-profit institutions, including hospices, nursing homes, convalescent facilities, and group homes for minors, persons with disabilities, and people in recovery from alcohol or drug additions. This use classification excludes Supportive Housing, Transitional Housing, and Social Service Facilities.

Large. A facility providing care for more than six persons.

Small. A facility providing care for six or fewer persons. Small residential care facilities are permitted as a single-family residential use in any zone where residential uses are permitted.

**Supportive Housing.** Housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing is a residential use subject only to those standards and procedures as they apply to other residential uses of the same type in the same zone.

**Target Population.** Persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Welfare and Institutions Code §§ 4500, *et seq.*) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

**Transitional Housing.** Buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that is not less than six months from the beginning of the assistance. Transitional housing is a residential use subject only to those standards and procedures as they apply to other residential uses of the same type in the same zone.

**SECTION 7.** *Reasonable Accommodations – Applicability.*

A. Any person lacking fair housing opportunities due to the disability of existing or proposed residents, may request a reasonable accommodation in the city's rules, policies, practices, and procedures. This request for reasonable accommodation must be made on a form prescribed by the city for that purpose.

B. If, pursuant to this ordinance, the project for which the request is being made requires an application for an additional approval, permit or entitlement, the applicant must file the request for reasonable accommodation along with such additional application for approval, permit or entitlement.

C. An applicant seeking reasonable accommodation pursuant to this ordinance may seek an accommodation that is also available under other provisions allowing for modifications of otherwise applicable standards under this title. In such case, an accommodation under this ordinance must be in lieu of any approval, permit or entitlement that would otherwise be required.

D. An applicant submitting a request for reasonable accommodation pursuant to this ordinance may request an accommodation not otherwise available under the GMC.

**SECTION 8.** *Reasonable Accommodation – Application.* In addition to any other information that is required under the GMC, an applicant submitting a request for reasonable accommodation must provide the following information:

A. Applicant's name, address and telephone number;

B. Address of the property for which the request is being made;

C. The current actual use of the property;

D. The GMC provision, regulation(s), policy, or procedure for which accommodation is requested;

E. A statement describing why the requested accommodation is reasonably necessary to make the specific housing available to the applicant, including information establishing that the applicant is disabled or handicapped. Any information related to a disability status and identified by the applicant as confidential must be retained in a manner so as to respect the applicant's privacy rights and must not be made available for public inspection;

F. Such other relevant and permissible information as may be requested by the Director.

**SECTION 9.** *Reasonable Accommodation – Process.*

A. If an application filed pursuant to this ordinance is filed along with an application for an additional approval, permit or entitlement pursuant to this title, it must be heard and acted upon at the same time, in the same manner, and in accordance with the same procedures, as such additional application. If an application filed pursuant to this ordinance is filed along with more than one additional application pursuant to this title, the Zoning Administrator must determine the appropriate procedure to evaluate the applications.

B. If an application filed pursuant to this ordinance is the only application filed by the applicant, the Planning and Environmental Review Director must consider and act on the requests for reasonable accommodation.

**SECTION 10.** *Reasonable Accommodation – Actions on Application, Criteria, Findings, Appeal.*

A. An application filed pursuant to this ordinance may be approved, approved subject to conditions, or denied.

B. The following factors must be considered in making a determination regarding an application filed pursuant to this ordinance:

1. Need for the requested modification, including alternatives that may provide an equivalent level of benefit;
2. Physical attributes of, and any proposed changes to, the subject property and structures;
3. Whether the requested modification would impose an undue financial or administrative burden on the city;
4. Whether the requested modification would constitute a fundamental alteration of the city's zoning or building laws, policies, procedures, or subdivision program;
5. Whether the requested accommodation would result in a concentration of uses otherwise not allowed in a residential neighborhood to the substantial detriment of the residential character of that neighborhood;
6. Any other factor that may bear on the request.

C. Any decision on an application filed pursuant to this ordinance must be supported by written findings and conclusions addressing the criteria set forth in this section, and is subject to appeal pursuant to §§ 35-182 and 35-327 of the GMC. A written determination to the applicant, which must include notice of the right to appeal the determination must be provided pursuant to Ch. 35, Art. 2, Div. 10 and Ch. 35, Art. 3, Div. 11 of the GMC.

**SECTION 11.** *Reasonable Accommodation – Rescission.* Any approval or conditional approval of an application filed pursuant to this ordinance may provide for its rescission or automatic expiration under appropriate circumstances.

**SECTION 12.** *Reasonable Accommodation – Fees.* There must be no fee in connection with the filing of a request for reasonable accommodation. If the request for reasonable accommodation is filed concurrently with an application for an additional approval, permit or entitlement, the applicant must pay only the fee for the additional approval, permit or entitlement.

**SECTION 13.** *Environmental Determination.* Pursuant to CEQA Guidelines § 15061(b)(3) and § 15378(b)(5), this Ordinance does not qualify as a "project" for the purposes of CEQA because the Ordinance does not result in direct or indirect physical changes in the environment. The regulations and definitions provided in this Ordinance implements existing California law and do not, by themselves, have the potential to cause a significant effect on the environment. Any subsequent development project will be separately examined in accordance with CEQA.

**SECTION 14.** *Construction.* This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

**SECTION 15.** *Enforceability.* Repeal of any provision of the GMC does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

**SECTION 16.** *Validity of Previous Code Sections.* If this entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal or amendment of the GMC or other city ordinance by this Ordinance will be rendered void and cause such previous GMC provision or other the city ordinance to remain in full force and effect for all purposes.

**SECTION 17.** *Severability.* If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

**SECTION 18.** *Certification.* The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Goleta's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

**SECTION 19.** *Effective Date.* This Ordinance will become effective on the thirty-first (31st) day following its passage and adoption.


INTRODUCED ON the 17<sup>th</sup> day of February, 2015.


PASSED, APPROVED, AND ADOPTED this 3<sup>rd</sup> day of March, 2015.

  
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PAULA PEROTTE, MAYOR

ATTEST:

APPROVED AS TO FORM:

  
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DEBORAH S. LOPEZ  
CITY CLERK

  
\_\_\_\_\_  
TIM W. GILES  
CITY ATTORNEY



STATE OF CALIFORNIA            )  
COUNTY OF SANTA BARBARA        ) ss  
CITY OF GOLETA                    )

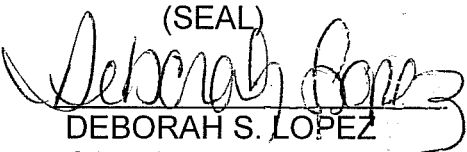
I, DEBORAH S. LOPEZ, City Clerk of the City of Goleta, do hereby certify that the foregoing Ordinance No. 15-03 was duly adopted by the City Council of the City of Goleta at a regular meeting, held on March 3, 2015 by the following vote of the Council:

AYES:                    MAYOR PEROTTE,   MAYOR PRO TEMPORE   FARR,  
                              COUNCILMEMBERS BENNETT AND VALLEJO

NOES:                    COUNCILMEMBER ACEVES

ABSENT:                 NONE

ABSTENTIONS:        NONE

(SEAL)  
  
DEBORAH S. LOPEZ  
CITY CLERK

