

**Chapter 8.19
RIGHT TO DOWNTOWN OPERATIONS**

Sections:

8.19.010 Purpose and intent.

8.19.020 Definitions.

8.19.030 Downtown operations deed notification requirements.

8.19.040 Notification to transferees.

8.19.050 Notice of right to downtown operations.

8.19.060 Properly operated downtown operations not a nuisance.

8.19.070 Resolution of disputes.

8.19.080 Designated information contact person.

8.19.010 Purpose and intent.

The purpose of this chapter is to:

A. Notify property owners, tenants and users of property within the downtown specific plan area of the vibrant, active downtown environment, the revitalization efforts and public improvements occurring downtown, the special events and community and business activities that are part of the vitality of the downtown, and the expectations and responsibilities associated with owning, purchasing, renting or making other use of property within a vibrant, active downtown environment;

B. Protect all permitted uses from potential conflicts with one another due to the inherent impacts and inconveniences associated with permitted operations in the downtown specific plan area;

C. Promote a good neighbor policy between uses operating in the downtown specific plan area by advising purchasers, tenants and users of property of the potential impacts associated with such purchase, occupation, operation or use including, but not limited to, sounds, odors, traffic, light and glare, pedestrian activity, music, festivals, street construction and closures, traffic rerouting, railroad operations, outdoor sales, trash and recycling collection activities, 24-hour activity and other permitted uses that may occur within the downtown specific plan area, so that such purchasers, tenants and users will understand, acknowledge, and be prepared to accept, such impacts;

D. Encourage the use of dispute resolution, rather than expensive court proceedings, to amicably resolve any complaints about downtown operations; and

E. Promote ongoing communication between all property owners, tenants and users of property within the downtown specific plan area. (Ord. 1711 § 1, 2004)

8.19.020 Definitions.

For the purpose of this chapter, the following terms shall have the following meanings:

A. "Downtown operations" means any activity, use, facility or operation associated with a permitted temporary or permanent use occurring within the boundaries of the downtown specific plan, as well as any lawful public uses.

Downtown operations and their associated impacts include, but are not limited to, the following:

1. Music, dancing, singing, and voices associated with permitted uses and downtown activities;
2. Odors associated with operation of restaurants and other businesses;
3. High levels of traffic and traffic congestion;
4. Increased vehicular traffic from special events and other activities;
5. Street construction, closures and traffic re-routing, including exclusion of vehicle access during certain times due to festivals, parades or other special events;
6. Railroad operations, including increased rail activity associated with passenger rail operations;
7. Outdoor sales of merchandise and outdoor restaurant seating;
8. Festivals, parades and/or cultural events which may result in gatherings of large groups of people, street closures, parking impacts, noise, odors and other impacts;
9. Increased levels of pedestrian activity;
10. Operation of delivery trucks and vans, trash and recycling collection trucks, and other such vehicles;
11. Impacts associated with artists' studios and spaces, including noise, odors, and vibration;
12. General increases in activity levels occurring on a 24-hour basis, including increases in noise and other impacts during late night and early morning hours;
13. High levels of nighttime lighting and illumination;
14. Trash collection, including trash collection before 6:00 a.m.

B. "Downtown specific plan area" means the land within the boundaries identified by the Livermore downtown specific plan, adopted by the city council by Ordinance No. 1710.

C. "Property" means any real property located within the Livermore downtown specific plan area limits, including property intended for residential, commercial, business, public purposes and other uses.

D. "Tenant" means any renter or leasee of property.

E. "Transfer" means the sale, lease, trade, exchange, rental or gift of property.

F. "Transferee" means any buyer or tenant of property.

G. "Transferor" means the owner and/or transferor of title of real property or seller's authorized selling agent as defined in Business and Professions Code Section 10130 et seq., or Health and Safety Code Section 18006, or a landlord/sublessor leasing or renting real property to a tenant. (Ord. 1711 § 1, 2004)

8.19.030 Downtown operations deed notification requirements.

A. As a condition of approval of any discretionary development permit, including, but not limited to, tentative subdivision and parcel maps, conditional use permits and zoning use permits relating to property located within the downtown specific plan area, every property owner shall record the deed

notification provided in LMC 8.19.050 on the property for which the discretionary development permit is issued.

B. The notice of right to downtown operations shall be included in all subsequent deeds and leases for this property until such time as the property is no longer located within the downtown specific plan area. (Ord. 1711 § 1, 2004)

8.19.040 Notification to transferees.

Every transferor of property, as transferor is defined herein, subject to the requirements of LMC 8.19.030 shall, upon transfer, also provide to any transferee the notice of right to downtown operations recited in LMC 8.19.050. The notice of right to downtown operations may be contained in any form of agreement or contract; however, the notice need be given only once in any transaction. The transferor and transferee shall provide each other with written acknowledgement of delivery and receipt of the notice. (Ord. 1711 § 1, 2004)

8.19.050 Notice of right to downtown operations.

A. The notice provided in this subsection is intended to advise property owners, tenants and users of property within the downtown specific plan area of the inherent impacts and inconveniences associated with purchase, tenancy or use of property in the downtown specific plan area. This notice shall be provided as required by LMC 8.19.030 and 8.19.040.

NOTICE OF RIGHT TO DOWNTOWN OPERATIONS

The City of Livermore permits the operation of a variety of residential, business, cultural, civic and other activities within the downtown specific plan area.

You are hereby notified that the property you own, are renting, leasing, using, occupying or acquiring an interest in is located within the downtown specific plan area. You may be subject to impacts, including inconvenience and discomfort, from lawful activities occurring within the downtown specific plan area. Impacts may include, but are not limited to: Noise from music, dancing and voices associated with permitted downtown uses and activities, odors associated with restaurants, business operations and special events, traffic congestion, street closures and traffic rerouting, exclusion of vehicle access to certain areas during special events, increased pedestrian activity, trash and recycling collection, including trash and recycling collection before 6 a.m., railroad operations, including rail activity associated with passenger rail operations, outdoor sales of merchandise and outdoor restaurant seating, festivals, parades and other civic and cultural activities, generally high activity levels occurring on a 24-hour basis, including impacts during late night and early morning hours, high levels of lighting and illumination, and noise and other impacts associated with the operation of any permitted use located in the downtown specific plan area.

One or more of the inconveniences described above may occur as a result of downtown operations and activities which are in compliance with existing laws and regulations and accepted customs and standards. If you own, lease, rent or otherwise utilize property within the downtown specific plan area, you should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of owning, living in, operating a business in, or otherwise utilizing an area with a vibrant downtown character.

The City of Livermore's Right to Downtown Operations Ordinance does not exempt downtown businesses or other participants in downtown activities from compliance with the law. Should any business or person not comply with appropriate state, federal or local laws, legal recourse may be possible by, among other ways, contacting the appropriate agency.

This notification is given in compliance with Livermore Municipal Code, Chapter 8.19.

B. The failure to give the notice required by this section shall not invalidate any transfer. (Ord. 1711 § 1, 2004)

8.19.060 Properly operated downtown operations not a nuisance.

Downtown operations shall not be considered a nuisance under this chapter unless such operations are deemed to be a nuisance under California Civil Code Section 3479. Downtown operations shall comply with all state, federal and local laws and regulations applicable to the operations, including applicable noise and other operational standards contained in the general plan and/or downtown specific plan. (Ord. 1711 § 1, 2004)

8.19.070 Resolution of disputes.

Any dispute or controversy that arises regarding inconveniences or discomforts occasioned by downtown activities, operations, facilities, or uses should be settled by direct negotiation of the parties involved. Any such dispute or controversy that cannot be settled by direct negotiation of the parties involved should be submitted to a private mediator, a community mediation service, or another agency which provides dispute resolution services prior to the filing of any court action. Any costs associated with negotiation, mediation or dispute resolution pursuant to this section shall be borne by the parties. (Ord. 1711 § 1, 2004)

8.19.080 Designated information contact person.

Every developer or owner of commercial, residential, or other property within the downtown specific plan area, consisting of two or more residence, business or tenant spaces, shall, as a condition of approval of any discretionary development permit (including, but not limited to, tentative subdivision and parcel maps, conditional use permits and zoning use permits) relating to property located within the downtown specific plan area, designate an information contact person. The information contact shall be available to disperse information distributed by the city or other public or quasi-public organizations, to tenants or property owners within the development. The information contact role may be undertaken by the property owner, a homeowner's association, a property management company or other similar organization. (Ord. 1711 § 1, 2004)