



**TOWN OF LOS GATOS  
COUNCIL MEETING AGENDA  
NOVEMBER 05, 2019  
110 EAST MAIN STREET  
LOS GATOS, CA**

Steve Leonardis, Mayor  
Marcia Jensen, Vice Mayor  
Rob Rennie, Council Member  
Marico Sayoc, Council Member  
Barbara Spector, Council Member

**PARTICIPATION IN THE PUBLIC PROCESS**

**How to participate:** The Town of Los Gatos strongly encourages your active participation in the public process, which is the cornerstone of democracy. If you wish to speak to an item on the agenda, please complete a “speaker’s card” located on the back of the chamber benches and return it to the Clerk Administrator. If you wish to speak to an item NOT on the agenda, you may do so during the “Verbal Communications” period. The time allocated to speakers may change to better facilitate the Town Council meeting.

**Effective Proceedings:** The purpose of the Town Council meeting is to conduct the business of the community in an effective and efficient manner. For the benefit of the community, the Town of Los Gatos asks that you follow the Town’s meeting guidelines while attending Town Council meetings and treat everyone with respect and dignity. This is done by following meeting guidelines set forth in State law and in the Town Code. Disruptive conduct is not tolerated, including but not limited to: addressing the Town Council without first being recognized; interrupting speakers, Town Council or Town staff; continuing to speak after the allotted time has expired; failing to relinquish the podium when directed to do so; and repetitiously addressing the same subject.

**Deadlines for Public Comment and Presentations are as follows:**

- Persons wishing to make an audio/visual presentation on any agenda item must submit the presentation electronically, either in person or via email, to the Clerk’s Office no later than 3:00 p.m. on the day of the Council meeting.
- Persons wishing to submit written comments to be included in the materials provided to Town Council must provide the comments as follows:
  - For inclusion in the regular packet: by 11:00 a.m. the Thursday before the Council meeting
  - For inclusion in any Addendum: by 11:00 a.m. the Monday before the Council meeting
  - For inclusion in any Desk Item: by 11:00 a.m. on the day of the Council Meeting

***Town Council Meetings Broadcast Live on KCAT, Channel 15 (on Comcast) on the 1st and 3rd Tuesdays at 7:00 p.m.  
Rebroadcast of Town Council Meetings on the 2<sup>nd</sup> and 4<sup>th</sup> Mondays at 7:00 p.m.  
Live & Archived Council Meetings can be viewed by going to:  
[www.losgatosca.gov/Councilvideos](http://www.losgatosca.gov/Councilvideos)***

***IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT THE CLERK DEPARTMENT AT (408) 354-6834. NOTIFICATION 48 HOURS BEFORE THE MEETING WILL ENABLE THE TOWN TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING [28 CFR §35.102-35.104]***

**TOWN OF LOS GATOS  
COUNCIL MEETING AGENDA  
NOVEMBER 05, 2019  
7:00 PM**

**MEETING CALLED TO ORDER**

**ROLL CALL**

**PLEDGE OF ALLEGIANCE**

- i. Community Pledge Leader - Van Meter Elementary School Student Council

**PRESENTATIONS**

- ii. Recognition of CERT Volunteers

**APPOINTMENTS**

- iii. Conduct Appointments for Adult Commissioner Vacancies on Boards, Commissions, and Committees

**CONSENT ITEMS** *(Items appearing on the Consent Items are considered routine and may be approved by one motion. Any member of the Council or public may request to have an item removed from the Consent Items for comment and action. If an item is pulled, the Mayor has the sole discretion to determine when the item will be heard. Unless there are separate discussions and/or actions requested by Council, staff, or a member of the public, it is requested that items under the Consent Items be acted on simultaneously.)*

1. Approve Closed Session Meeting Minutes of October 15, 2019.
2. Approve Council Meeting Minutes of October 15, 2019.
3. Adopt an Ordinance to Amend Chapter 4 (Animals and Fowl) Article VI Sections 4.60.050 and 4.60.055 And Article VIII - Beekeeping of the Town Code.
4. Adopt Amendments to Chapter 11 (Garbage, Refuse and Weeds) of the Town Code regarding Weed Abatement regulations.
5. Adopt a Resolution Extending the Temporary Streamlining Resolutions until Code Amendments may be Adopted.
6. Authorize the Town Manager to Enter into an Agreement to Participate in the CalPERS California Employers' Pension Prefunding Trust (CEPPT) Program and Delegate Authority to the Town Manager to Request Disbursements.
7. Adopt a Resolution Authorizing the Town Manager to Apply for a Proposition 68 Per Capita Program Grant for Park Improvements.
8. Adopt a Resolution to Authorize the Application for and Receipt of Planning Grants Program Funds.
9. Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion for the Work of Interstate Grading and Paving and Authorize Recording by the Town Clerk for PPW Job No. 18-811-9901 Annual Street Repair and Resurfacing Project (Arterial/Collector Overlay).



## CONSENT ITEMS (continued)

### 10. Shannon Road Complete Streets Project (CIP Project #813-0218):

- a. Adopt a Resolution of Local Support Authorizing the Filing of an Application for One Bay Area Grant funding Assigned to the Metropolitan Transportation Commission, committing any Necessary Matching Funds, and Providing Assurance on Completion of the Shannon Road Complete Streets Project
- b. Authorize Revenue and Expenditure Budget Adjustments in the Amount of \$119,204 from Available Utility Undergrounding Fund Balance
- c. Authorize the Town Manager to Conduct a Request for Proposals and Negotiate and Execute a Consultant Agreement for the Shannon Road Complete Streets Project Design in an Amount not to Exceed \$200,000.

**VERBAL COMMUNICATIONS** *(Members of the public are welcome to address the Town Council on any matter that is not listed on the agenda. To ensure all agenda items are heard and unless additional time is authorized by the Mayor, this portion of the agenda is limited to 30 minutes and no more than three (3) minutes per speaker. In the event additional speakers were not able to be heard during the initial Verbal Communications portion of the agenda, an additional Verbal Communications will be opened prior to adjournment.)*

**PUBLIC HEARINGS** *(Applicants/Appellants and their representatives may be allotted up to a total of ten minutes maximum for opening statements. Members of the public may be allotted up to three minutes to comment on any public hearing item. Applicants/Appellants and their representatives may be allotted up to a total of five minutes maximum for closing statements. Items requested/recommended for continuance are subject to Council's consent at the meeting.)*

11. Town Code Application Amendment A-19-009. Project Location: **Town Wide**. Consider an ordinance repealing and replacing Chapter 6, Building Regulations, and Chapter 9, Fire Prevention and Protection, of the Town of Los Gatos Municipal Code with the New 2019 California Building and Fire Codes, as amended.

12. General Plan Amendment Application GP-19-001. Project Location: **Town Wide**. Applicant: Town of Los Gatos.  
Approve proposed General Plan Amendments by Resolution to Language Specific to Highway 17 in Goal TRA-4 and Supporting Policies.

13. Project Location: **Town Wide**. Applicant: Town of Los Gatos.  
Consider Modifications to Chapter III (Site Planning), Chapter IV (Development Intensity), Chapter V (Architectural Design), Chapter VI (Site Elements), Chapter VIII (Subdivision and Planned Development Projects), Chapter IX (Project Review and Approval Process), and Chapter X (Glossary) of the Hillside Development Standards and Guidelines.

14. Town Code Amendment Application A-19-007. Project Location: **Town Wide**. Applicant: Town of Los Gatos.  
Consider Amendments to Chapter 29 (Zoning Regulations) of the Town Code Regarding Demolition Regulations.

## **PUBLIC HEARINGS (continued)**

- [15.](#) Introduce an Ordinance by Title Only, Effecting Amendments to Chapter 23 (Streets and Sidewalks) of the Town Code Regarding Right of Way Dedication, Installation of Curbs, Gutters and Sidewalks and Undergrounding of Utilities.
- [16.](#) First Reading and Introduction of An Ordinance of the Town of Los Gatos Amending Chapter 18, Article VI, Section 18.60.020 of the Los Gatos Town Entitled Permits for Retailers of Tobacco Products to Prohibit the Sale of Electronic Cigarettes.

**OTHER BUSINESS** *(Up to three minutes may be allotted to each speaker on any of the following items.)*

- [17.](#) Acting as the Property Owner Representative for the Town's Parcels Included in the Proposed Property Business Improvement District (PBID), Discuss the Draft Service Plan for a PBID in Downtown Los Gatos, Provide Input on the Structure and Parameters of the Draft Plan, and Direct Staff on the Next Steps for Working with the PBID Steering Committee on Behalf of the Town.

## **COUNCIL / MANAGER MATTERS**

**ADJOURNMENT** *(Council policy is to adjourn no later than midnight unless a majority of Council votes for an extension of time)*

*Writings related to an item on the Town Council meeting agenda distributed to members of the Council within 72 hours of the meeting are available for public inspection at the front desk of the Los Gatos Town Library, located at 100 Villa Avenue, and are also available for review on the official Town of Los Gatos website. Copies of desk items distributed to members of the Council at the meeting are available for review in the Town Council Chambers.*

*Note: The Town of Los Gatos has adopted the provisions of Code of Civil Procedure §1094.6; litigation challenging a decision of the Town Council must be brought within 90 days after the decision is announced unless a shorter time is required by State or Federal law.*



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

APPOINTMENTS

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DATE: October 17, 2019  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Conduct Appointments for Adult Commissioner Vacancies on Boards,  
Commissions, and Committees

**RECOMMENDATION:**

Conduct the appointment process for the following vacancies: Arts and Culture Commission (ACC), Community and Senior Services Commission (CSSC), Complete Streets and Transportation Commission (CSTC), Council Finance Committee (CFC), General Plan Committee (GPC), Historic Preservation Committee (HPC), Library Board (LIB), Parks Commission, and Planning Commission. No applications were received for Building Board of Appeals (BOA), Personnel Board, and Sales Tax Oversight Committee (STOC).

**BACKGROUND:**

On August 20, 2019, with the recommendation of the Bicycle and Pedestrian Advisory Commission (BPAC) and the Transportation and Parking Commission (T&P), Council approved the sunsetting of the BPAC and the T&P effective December 31, 2019, and the formation of the Complete Streets and Transportation Commission (CSTC), effective January 1, 2020 (Attachment 3).

**DISCUSSION:**

Council will interview applicants for vacant Board, Commission, and Committee positions (Attachment 1) at a Special Meeting on November 5, 2019, at 5:00 p.m. Per the Town's Commission Appointment Policy (Attachment 2), candidates may apply for multiple Commissions. Please consult the individual applications to learn of the candidates' priority preferences.

**PREPARED BY:** Shelley Neis  
Town Clerk

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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DISCUSSION (continued):

Staff recommends Council appoint Commissioners for each Board/Commission/Committee per Council Policy 2-11 (Attachment 2) as follows:

**Arts and Culture Commission (ACC)**

Two (2) full term, three (3) year positions are open due to two (2) expiring terms.

- Full Term Appointment
  - One (1) full term of three (3) years to expire December 31, 2022.

**Community and Senior Services Commission (CSSC)**

One (1) full term, three (3) year position is open due to one (1) expiring term and two (2) one (1) year vacant terms are open due to two (2) unexpired vacancies.

- Full Term Appointment
  - One (1) full term of three (3) years to expire December 31, 2022.

**NEW: Complete Streets and Transportation Commission (CSTC)**

Two (2) full term, three (3) year positions, two (2) two (2) year partial terms, and two (2) one (1) year partial terms are open for the newly formed Commission. The initial Adult Commissioner terms are staggered. The Youth Commission will appoint the Youth Commissioner.

- Full Term Appointment
  - Two (2) full terms of three (3) years to expire December 31, 2022.
- Partial Term Appointments
  - Two (2) partial terms of two (2) years to expire December 31, 2021
  - Two (2) -partial terms of one (1) year to expire December 31, 2020.

**Council Finance Committee (CFC)**

One (1) full term, three (3) year position and one (1) partial two (2) year term is open due to two (2) expiring terms to allow for staggered terms.

- Full Term Appointment - One (1) full term of three (3) years to expire December 31, 2022.
- Partial Term Appointment – One (1) partial term of two (2) years to expire December 31, 2021.

DISCUSSION (continued):

**General Plan Committee (GPC)**

One (1) full term, four (4) year position is open due to one (1) expiring term.

- Full Term Appointment
  - One (1) full term of four (4) years to expire December 31, 2023.

**Historic Preservation Committee (HPC)**

One (1) full term, four (4) year position is open due to one (1) expiring term.

- Full Term Appointment
  - One (1) full term of four (4) years to expire December 31, 2023.

**Library Board (LIB)**

Two (2) full term, three (3) year positions are open due to two (2) expiring terms.

- Full Term Appointment
  - Two (2) full terms to expire December 31, 2022.

**Parks Commission**

Two (2) full term, three (3) year positions are open due to two (2) expiring terms.

- Full Term Appointment
  - Two (2) full terms to expire December 31, 2022.

**Planning Commission (PC)**

Two (2) full term, four (4) year positions are open due to two (2) expiring terms.

- Full Term Appointment
  - Two (2) full terms of four (4) years to expire December 31, 2023.

CONCLUSION:

It is recommended that Council appoint applicants to fill vacant Town Board, Commission, and Committee positions. Upon completion of the appointment process, direct the Town Clerk to re-advertise any vacant positions with a mid-year recruitment in conjunction with the Youth Commissioner recruitment, scheduled to begin in mid-February 2020.

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SUBJECT: Conduct Appointments for Adult Commissioner Vacancies

DATE: October 17, 2019

FISCAL IMPACT:

There is no fiscal impact with the appointments to the Town's Boards, Committees, and Commissions.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:

1. Adult Commissioner Applicants
2. Council Policy 2-11 Commission Appointments
3. CSTC Enabling Resolution 2019-047

# **Board, Commission, and Committee Adult Commissioner Applicants**

## **ARTS AND CULTURE COMMISSION (ACC)**

- Maureen Cappon-Javey (incumbent)

## **BUILDING BOARD OF APPEALS (BOA)**

- No applications were received.

## **COMMUNITY AND SENIOR SERVICES COMMISSION (CSSC)**

- Jeffrey Blum (1<sup>st</sup> choice)

## **COMPLETE STREETS AND TRANSPORTATION COMMISSION (CSTC)**

- Doug Brent
- Robert Buxton
- Bill Ehlers
- Peter Hertan
- Maria Ristow
- Cheryl Ryan (1<sup>st</sup> choice)
- Jeff Thompson
- Gillian Verga

## **COUNCIL FINANCE COMMITTEE (CFC)**

- Terry Duryea (incumbent)
- Rick Tinsley (incumbent)

## **GENERAL PLAN COMMITTEE (GPC)**

- Jeffrey Barnett (incumbent) (2<sup>nd</sup> choice)
- Jeffrey Blum (2<sup>nd</sup> choice)

## **HISTORIC PRESERVATION COMMITTEE (HPC)**

- Steven Raspe

## **LIBRARY BOARD (LIB)**

- Trish Goldfarb (incumbent)
- John Housley (incumbent)
- Gail Long
- Cheryl Ryan (2<sup>nd</sup> choice)

ATTACHMENT 1



## **Board, Commission, and Committee Adult Commissioner Applicants**

### **PARKS COMMISSION**

- Mike Buncic (incumbent)
- Sandy Gordon (incumbent)
- Alicia Shah
- Rob Stephenson

### **PERSONNEL BOARD**

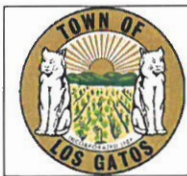
- No applications were received

### **PLANNING COMMISSION (PC)**

- Jeffrey Barnett (1<sup>st</sup> choice)
- Matthew Hudes (incumbent)
- Phoebe Peasley

### **SALES TAX OVERSIGHT COMMITTEE (STOC)**

- No applications were received



**TITLE:** Commission Appointments, Residency and Attendance Requirements, and Establishing A Quorum

**POLICY NUMBER:** 2-11

**EFFECTIVE DATE:** 2/28/1990

**PAGES:** 7

**ENABLING ACTIONS:**

**REVISED DATES:** 6/13/1994; 6/16/2014;  
4/7/2015; 10/18/2016; 2/21/2017;  
2/6/2018; 3/19/19; 9/3/2019

**APPROVED:**

## PURPOSE

To establish a policy to encourage participation by the Town's residents on Town Boards, Commissions and Committees (hereinafter referred to as "Commissions"). The Town will encourage residents to participate on Commissions by advertising vacancies on Commissions for at least 30 days, preparing easily understood applications, maintaining clear descriptions of the role of each Board, Commission, and Committee and its respective members, providing current meeting schedules, and conducting public interviews of all Commission applicants, except as provided by this Policy.

## SCOPE

This Policy applies to all applicants to Town Boards, Commissions and Committees.

## POLICY

The Town Council encourages public participation in all decision-making and to be successful residents must be assured both that the participation is meaningful and that their input will be valued. The widest representation from the community can only be achieved if vacancies are well advertised so that anyone interested will have the opportunity to apply. Interviews of the applicants conducted in public by the Town Council demonstrates that it values these appointments and that all have an equal opportunity to be appointed. Applicants may apply to more than one Commission and shall rank their choices in their preferred order, during each recruitment cycle.

To ensure the greatest possible participation by the public, it is the Town's policy that no person shall be appointed to more than one Commission except in those cases where they are ex-officio members of other Boards, Commissions and Committees. This Policy does not apply to Commission members serving as representatives of their Commission who have been appointed by the Town Council. (Revised on 4/07/15)

<b>TITLE:</b> Commission Appointments, Residency and Attendance Requirements, and Establishing A Quorum	<b>PAGE:</b> 2 of 7	<b>POLICY NUMBER:</b> 2-11
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## **RESIDENCY REQUIREMENTS**

Residency within the incorporated municipal limits of the Town of Los Gatos, California is required for appointment and continued membership on all Town of Los Gatos Boards, Commissions, and Committees, with the exception of the Youth Commission.

Youth Commission:

The members shall be students who are entering grades 8 through 12. Membership for the students requires either residency in the incorporated limits of the Town of Los Gatos or residency in the unincorporated areas of the County of Santa Clara, which have a Los Gatos mailing address.

## **ATTENDANCE REQUIREMENTS**

1. All members of all appointive Town Advisory Bodies should attend all regular and special meetings of said Advisory Bodies.
2. Any member not in attendance at a regular meeting of said Advisory Body for at least 70% of the meeting shall be considered absent.
3. Any member of an appointive Town Advisory Body who is absent from the number of regular meetings listed below appropriate to his or her Advisory Body shall, as a result, surrender his or her office on the Advisory Body and the office shall be considered vacant.
  - a. For an Advisory Body which holds six (6) or more regular meetings per a consecutive twelve (12) month period: three (3) regular meetings.
  - b. For an Advisory Body which holds five (5) or fewer regular meetings per a consecutive twelve (12) month period: two (2) regular meetings.
  - c. For an Advisory Body which holds sixteen (16) or more regular meetings per a consecutive twelve (12) month period: eight (8) regular meetings.
4. The vacant position shall be filled by appointment by a majority vote of the Town Council, for a term equal to the unexpired portion of the office vacated. Any member removed from office due to non-attendance may re-apply to serve on a Town Advisory Body, but will not be treated as an incumbent in any subsequent application to the same Advisory Body.
5. If a Youth Commissioner liaison misses three meetings of a liaison Commission during a \*consecutive twelve (12) month period, the Youth Commission shall appoint a different Youth Commissioner as liaison.

\*Consecutive twelve (12) month period is defined as any consecutive twelve-month period beginning with the first absence. A regular meeting shall not be cancelled and replaced with a special meeting in order to alleviate an absence by an advisory body member.

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## **QUORUM REQUIREMENTS**

The number of members needed to constitute a quorum on any Town Advisory Body shall be a majority of the total number of filled seats.

## **PROCEDURES**

The following procedures will be followed by the applicant, the Town Clerk and the Town Council for the appointment of applicants to Town Commissions:

### **Responsibility and Actions: Town Clerk**

#### **A. Annual Recruitments**

Adult Commission members' terms begin on January 1<sup>st</sup> and end December 31<sup>st</sup>, Youth Commissioners' terms follow the academic year and begin on August 1 and end on June 30. The Town Clerk shall perform the following duties in conducting an annual recruitment for Commission members:

1. Notify Town Council of vacancies on Commissions by indicating the names of the Commissions, the number of terms expiring or being vacated, names of individual(s) with expiring terms or vacating seats, advertising periods (at least 30 days) and the date of interview.
2. Advertise the vacancies, including the application deadline and the interview date, which shall be set for no later than the second Town Council meeting in December for Adult Commissioners, and by the fourth Wednesday in May, no earlier than 4:00 p.m., for Youth Commissioners.
3. Prepare and maintain easily understood applications for appointment to Commissions. Applications shall include the following policy information:
  - a. Prior to initial appointment to any Commission, non-incumbent applicants must be interviewed by the Town Council. The applications of those not appearing will be held for the next recruitment.
  - b. If an incumbent Commissioner is requesting reappointment to the same Commission, the incumbent may submit a request to be interviewed by telephone, with their application, instead of attending the interview or must submit a letter prior to the interviews, describing the reason why the applicant cannot be present telephonically or in person for the interview, and why the applicant should be reappointed to the Commission.
  - c. Submissions deadlines are mandatory; no exceptions are permitted.

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4. Applications:

- a. *For adult applicants* — Accept applications, verify eligibility, and distribute copies of the applications of eligible applicants to the Town Council prior to the interviews for appointment.
- b. *For student applicants* — Accept applications, verify eligibility, and distribute copies of the applications of eligible applicants to the Town Council Selection Committee prior to the interviews for appointment.

5. Notify the applicant by letter or email as to the date and time of the interview.

6. Facilitate the Council voting process set forth below by informing Council as to how many votes are possible on each Commission, calling out applicants' names, and identifying the applicants receiving sufficient votes for appointment. This process does not apply to student applicants.

7. Applicants:

- a. *For adult applicants* — After the interviews and Council vote are completed, notify all applicants of the Council's action, and explain Town policy of keeping application active for one year with notification of subsequent openings on that Commission to the interested applicants.
- b. *For student applicants* — After the interviews are completed, notify all applicants of the Council Committee's action, and prepare a staff report for the Town Council to ratify the Committee's appointment at the first Town Council meeting in June.

### Balloting Process

Unless determined otherwise, the Council shall conduct a ballot vote for the appointment of individuals to fill the vacancies for each Commission. Such ballot vote may be conducted at either a regular, adjourned or special meeting of the Town Council. The ballot vote process shall be conducted as follows:

1. The Town Clerk shall provide a ballot to each Town Council member listing the names of all applicants and "None of the above" for each respective Commission. Prior to the vote, the Town Clerk shall publicly announce the position vacancy and all applicant names that are listed on the ballot;
2. Each Council member may vote for the same number of applicants as there are current vacancies on the respective Commission. In no case, can a Council Member cast more votes than there are vacancies; or vote for the same candidate more than once on each



ballot (i.e. cumulative voting -- e.g. where there are three vacancies, a Council member may not give all three votes to the same candidate). A Council Member is not required to vote for any of the candidates or for the total number of vacancies available.

3. The Town Clerk shall collect all ballots and shall publicly announce the name of each Town Council member and how that Council member cast his or her vote. In the case of a tie vote, the Town Clerk will announce that there is a tie and that a run-off vote shall be conducted but will not announce the names of the applicants in the run-off. Once all voting is concluded and a decision made, the votes will be made public. The run-off ballot will also include a "None of the above" option.
4. Applicants receiving a majority number of votes shall be deemed appointed to the Commission. In the event of a tie, a run-off vote shall be conducted among the applicants receiving the highest number of votes from the previous round. This shall continue until a majority consensus on an applicant(s) is reached for the number of vacancies to be filled. In the event of an unbreakable tie, the Council may determine an alternative method for selecting the appointee(s) or direct the Town Clerk to re-advertise the vacancy.
5. If an applicant(s) is appointed to an Advisory Body which has vacancies for both full and partial, unexpired terms, the length of the appointee's term will be determined by the Mayor.

#### **B. Mid-Term Recruitments**

During the year, Commissions may experience vacancies that drop the number of filled seats to a number of members that is not sufficient to conduct Commission business. The Commission may request the Council to conduct a mid-term recruitment to fill seats. To the extent possible, the Town Clerk will consolidate mid-term recruitments to minimize the number of recruitments occurring throughout the year. In the event of a vacancy on the Planning Commission, the Town will automatically conduct a mid-term recruitment. Mid-term recruitments will not be conducted for student commissioners. The Town Clerk shall advertise mid-term vacancies on Commissions for at least 15 days.

#### **Responsibility and Action: Applicant**

1. Read the Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum Policy, complete and submit to the Town Clerk the application for appointment to a Town Commission by the advertised deadline date and time.
2. *For adult applicants:* Attend the Council meeting to be interviewed for Commission appointment.  
*For student applicants:* Attend the Council Selection Committee interview session.

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3. If an incumbent Commission member is requesting reappointment to the same Commission, the incumbent may submit a request to be interviewed by telephone, with their application, instead of attending the interview or must submit a letter prior to the interviews, describing the reason why the applicant cannot be present telephonically or in person for the interview, and why the applicant should be reappointed to the Commission.
4. If appointed, prior to starting the Commission term, appointees are required to attend a Commissioner Orientation and take the "Oath of Office."
5. Attend Advisory Body meetings once term begins.
6. Read the Commissioners' Handbook. The Handbook is to be returned to the Town Clerk when the term is complete.

#### **Responsibility and Action: Town Council**

1. Review applications.
2. *For adult applicants* – Interview applicants individually by Commission at a public meeting with all applicants present.  
*For youth applicants* – Town Council Selection Committee interviews applicants.
3. Determine if the incumbents not in attendance and having submitted a letter pursuant to this Policy should be considered for reappointment.
4. If there are limited applications for any vacancy to a Commission, the Mayor, on behalf of the Council, may request that the Town Clerk re-advertise the vacancy, reschedule the interviews, and notify all applicants of the new interview date.

#### **COMPLIANCE - GROUNDS FOR DISMISSAL**

A member may be removed from the Advisory Body prior to the end of his or her term by a three-fifths (3/5) vote of the Town Council and may not be reappointed for the following reasons:

1. Failure to attend Advisory Body meetings.
2. Failure to file the following documents required by the Fair Political Practices Commission (Adult Commissioners):
  - a. Form 700 – Assuming Office, Annual, and Leaving Office when term is complete.
  - b. Planning Commissioners are also required to complete AB 1234 Ethics Training and file the original certificate with the Town Clerk every two years.



3. Failure to comply with all Town Policies, Guidelines, and Handbooks.

### **CONFLICT OF INTEREST**

Under the Fair Political Practice Act, an advisory board member has a disqualifying conflict of interest in a governmental decision if it is foreseeable that the decision will have a financial impact on his or her personal finances or other financial interests. In such cases, there is a risk of biased decision-making that could sacrifice the public's interest in favor of the official's private financial interests. To avoid actual bias or the appearance of possible improprieties, the public official is prohibited from participating in the decision.

The Fair Political Practice Act does not prohibit an advisory board member from participating in a decision simply by virtue of holding a position as a board member, director, officer or employment with a nonprofit corporation. However, the Town strongly encourages that in the event that a decision concerns a nonprofit corporation for which an advisory board member is a board member, director, officer or employed with that nonprofit corporation, the person should recuse him or herself and at a minimum shall disclose the potential conflict of interest before any discussion and decision.

APPROVED AS TO FORM:

  
Robert Schultz, Town Attorney

## **RESOLUTION 2019-047**

### **RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS ESTABLISHING THE COMPLETE STREETS AND TRANSPORTATION COMMISSION AND RESINDING RESOLUTIONS 2016-052 AND 2016-058**

**WHEREAS**, multi-modal transportation issues throughout Los Gatos need to be carefully evaluated to ensure that the quality of life in Town is positively impacted by proper transportation management; and,

**WHEREAS**, the safety of all users of the transportation network is equally important; and,

**WHEREAS**, there is a need to review and recommend actions related to multi-modal transportation; and

**WHEREAS**, traffic congestion and traffic calming, particularly in the residential neighborhoods is an ongoing focus within the Town of Los Gatos; and,

**WHEREAS**, parking plays a significant role in the transportation network; and,

**WHEREAS**, a Commission dedicated to all modes of transportation meets the need of regional requirements for such a role, including the role of a Bicycle and Pedestrian Advisory Commission.

#### **NOW THEREFORE, BE IT RESOLVED:**

1. There is hereby created a Complete Streets and Transportation Commission for the Town.
  - a. The Commission shall be advisory to the Town Council and shall operate in the manner hereinafter prescribed.
2. Membership/ Organization
  - a. The Commission shall consist of seven (7) members. Membership composition shall be one (1) Youth Commissioner as a voting member, whose term of office shall be for one (1) year with no limitations on reappointments, appointed by the Youth Commission, and six (6) adult voting members appointed by the Town Council, whose terms of office shall be three (3) years and until their successors are appointed by Council.

ATTACHMENT 3

- b. Members of the Commission shall reside within the incorporated municipal limits of the Town of Los Gatos.
- c. Commission members shall serve without compensation.
- d. The Commission shall hold monthly regular meetings.
- e. The Commission shall establish a regular time and location for its meetings and shall otherwise call and conduct its meetings in compliance with the provisions of the Ralph M. Brown Act (Government Code Sections 54950 and following).
- f. Staff services as required shall be provided to the Commission by the Parks and Public Works Director, or designee, who shall also serve as Secretary of the Commission without vote.
- g. Meeting attendance requirements will conform with all current Town Resolutions and Policies.
- h. A record of all minutes and resolutions of the Commission shall be kept and shall be a public record.

3. Powers and Duties.

The duties of the Complete Streets and Transportation Commission shall be to:

- a. Act in an advisory capacity to the Town Council in matters pertaining to current trends and experiences in enhancing all modes of travel; integration of Town transportation infrastructure, including bike and pedestrian pathways, with neighboring jurisdictions; reviewing relevant grant applications; prioritizing transportation around schools, including enhancing safe routes to schools efforts; reviewing and updating Town master plans, including the Bicycle and Pedestrian Master Plan and others as relevant; and related topics as directed by the Town Council or requested by Town staff.
- b. Review policies and procedures on streets and trails.
- c. Appoint one member of the Commission as a representative of the Town to serve on the Valley Transportation Authority Bicycle and Pedestrian Advisory Commission.
  - i. Appointments shall be for a term of one year.

- ii. Appointee shall provide written and/or oral reports at each regularly scheduled meeting.
4. Not to affect powers of the Town Council. Nothing in this resolution shall be construed as restricting or curtailing any of the powers of the Town Council, or as a delegation to the Complete Streets and Transportation Commission of any of the authority or discretionary powers vested and imposed by law in such Council.
5. Resolutions 2016-052 and 2016-058 are hereby rescinded.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos held on the 20<sup>th</sup> day of August 2019 by the following vote:

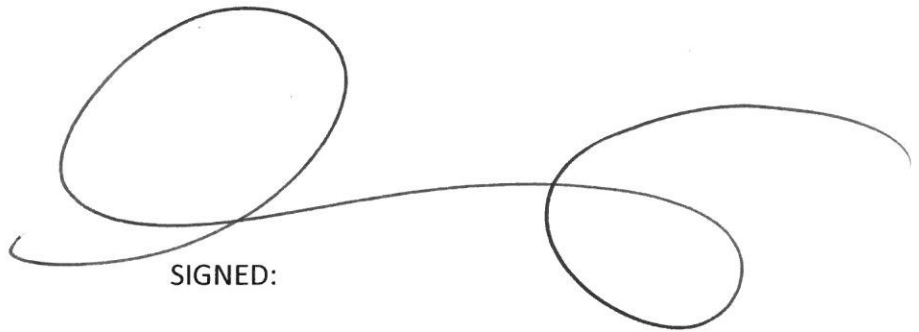
COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED: 

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: 8/23/19

ATTEST:

  
TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: 8/23/19



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/5/2019

ITEM NO: 1

---

**Minutes of the Special Town Council Meeting - Closed Session  
October 15, 2019**

The Town Council of the Town of Los Gatos conducted a Special Meeting on Tuesday, October 15, 2019, to hold a Closed Session at 5:45 p.m.

**MEETING CALLED TO ORDER AT 5:45 P.M.**

**ROLL CALL**

Present: Mayor Steven Leonardis, Vice Mayor Marcia Jensen, Council Member Rob Rennie, Council Member Marico Sayoc, Council Member Barbara Spector.

Absent: None

**VERBAL COMMUNICATIONS**

None.

**CLOSED SESSION**

1. **Public Employee Appointment, Employment, Evaluation of Performance, Discipline, and Dismissal**

**[Government Code Section 54957(b)(1)]**

Title: Town Attorney

**Conference with Labor Negotiator**

(Government Code Section 54957.6)

Town negotiator: Lisa Velasco, Human Resources Director

Unrepresented Employee: Town Attorney

2. **Public Employee Appointment, Employment, Evaluation of Performance, Discipline, and Dismissal**

**[Government Code Section 54957(b)(1)]**

Title: Town Manager

**Conference with Labor Negotiator**

(Government Code Section 54957.6)

Town negotiator: Lisa Velasco, Human Resources Director

Unrepresented Employee: Town Manager

PAGE 2 OF 2

SUBJECT: Draft Minutes of the Special Town Council Meeting - Closed Session of October  
15, 2019

DATE: November 5, 2019

**ADJOURNMENT**

Closed Session adjourned at 6:48 p.m.

Attest:

Submitted by:

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Michelle Radcliffe, Deputy Clerk

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Lynne Lampros, Deputy Town Attorney



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 2

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**DRAFT  
Minutes of the Town Council Meeting  
October 15, 2019**

The Town Council of the Town of Los Gatos conducted a Regular Meeting on Tuesday, October 15, 2019, at 7:00 p.m.

**MEETING CALLED TO ORDER AT 7:00 P.M.**

**ROLL CALL**

Present: Mayor Steven Leonardis, Vice Mayor Marcia Jensen, Council Member Rob Rennie, Council Member Marico Sayoc, Council Member Barbara Spector.

Absent: None

**PLEDGE OF ALLEGIANCE**

Dennis Gerber led the Pledge of Allegiance. The audience was invited to participate.

**PRESENTATIONS**

Mayor Leonardis presented a Small Business, Big Applause commendation to Mary Badame, Farmers Insurance.

Mayor Leonardis presented a commendation to Louise Abigail Wenke for administering life-saving measures to a fellow patron at Aldo's Restaurant. The County Fire Chief and his staff recognized Ms. Wenke and the Los Gatos Monte Sereno Police Officers Bazzar and Paul, and Corporal Campbell who also worked this incident.

**CLOSED SESSION REPORT**

Lynne Lampros, Deputy Town Attorney, stated Council met in Closed Session as duly noted on the agenda and there is no report.

**CONSENT ITEMS (TO BE ACTED UPON BY A SINGLE MOTION)**

1. Approve Closed Session Meeting Minutes of October 1, 2019.
2. Approve Council Meeting Minutes of October 1, 2019.
3. Approve Joint Town Council and Planning Commission Study Session Minutes of October 8, 2019.
4. Authorize the Town Manager to Execute a Seventh Amendment to the Professional Services Agreement with Innovative Claim Solutions, Inc. to Extend the Contract for Two Months to Perform Workers' Compensation Claim Administration.
5. Approve the Street List for the FY 2019/20 Annual Street Repair and Resurfacing Project (19-811-9901), and Authorize the Following Actions for the Annual Curb, Gutter, and Sidewalk Maintenance Project (19-813-9921):



- a. Approve the Plans and Specifications;
  - b. Authorize the Town Manager to Advertise the Project for Bid;
  - c. Authorize the Town Manager to Award and Execute a Construction Agreement in an Amount not to Exceed \$1,237,841, Including Contingencies and Change Orders;
  - d. Authorize Staff to Execute Future Change Orders in an Amount not to Exceed Ten Percent of the Contract Award Amount; and
  - e. Authorize an Expenditure Budget Transfer of \$310,257 from the Annual Street Repair and Resurfacing Project (19-811-9901) to the Annual Curb, Gutter, and Sidewalk Maintenance Project (19-813-9921).
6. Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion for the Work of American Pavement Systems and Authorize Recording by the Town Clerk for PPW Job No. 18-811-9901 Annual Street Repair and Resurfacing Project (Rubber Cape Seal).
  7. Accept Wildland Urban Interface Evacuation Assessment Report.

**MOTION: Motion by Vice Mayor Jenson to approve the Consent Items. Seconded by Council Member Sayoc.**

**VOTE: Motion passed unanimously.**

## **VERBAL COMMUNICATIONS**

Carl Guardino

- Invited Town Council and Town Staff to participate in the 15<sup>th</sup> Annual Silicon Valley Turkey Trot.

Jeff Seigel

- Commented on wildfire safety.

## **PUBLIC HEARINGS**

9. Introduce an Ordinance, by title only, effecting an amendment to Chapter 11 (Garbage, Refuse and Weeds) of the Town Code regarding Weed Abatement regulations.

Assistant Town Manager Arn Andrews provided the staff report.

Opened Public Comment.

Rob Stump

- Commented in support of the proposed Ordinance, weed abatement, and the wildland evacuation assessment given his work organizing Foster Road residents in emergency preparedness.

Closed Public Comment.

Council discussed the matter.

**MOTION: Motion by Council Member Spector** to move introduction and first reading of an ordinance, by title only, effecting an amendment to Chapter 11 (Garbage, Refuse, and Weeds) of the Town Code regarding Weed Abatement regulations. **Seconded by Council Member Rennie.**

**VOTE: Motion passed unanimously.**

8. Introduction of an Ordinance of The Town of Los Gatos Amending Chapter 4 – Animals and Fowl, Article VI, Sections 4.60.050 and 4.60.055 Entitled Animal Rescuer and Trap-Neuter-Return Registration and Maintenance of Animal Rescuer or TNR Activist Registration and Article VIII Entitled Beekeeping.

Deputy Town Attorney Lynne Lampros provided the staff report.

Opened Public Comment.

Tim Dauber

- Spoke in support of the Ordinance and commented on hives located on Town trees.

Elizabeth Victor

- Spoke in support of the Ordinance.

Closed Public Comment.

Council discussed the matter.

**MOTION: Motion by Vice Mayor Jensen** to move introduction and first reading of an ordinance, by title only, amending Chapter 4 – Animals and Fowl, Article VI and Article VIII. **Seconded by Mayor Leonardis.**

**VOTE: Motion passed unanimously.**

## **COUNCIL/TOWN MANAGER REPORTS**

### **Council Matters**

- Council Member Sayoc stated she attended the Silicon Valley Clean Energy Building Electrification workshop and the Cities Association meeting.

- Council Member Spector stated she attended the joint Town Council and Planning Commission meeting and the Council Finance Committee meeting.
- Mayor Leonardis stated he attended the joint Town Council and Planning Commission meeting, Council Finance Committee meeting, Multi-Cultural Day at the Terraces of Los Gatos, Leadership Los Gatos kick-off, Saratoga State of the City, West Valley Sanitation District Board meeting, Treatment Plan Advisory Committee meeting, and met with Assemblyman Evan Low's Office.
- Vice Mayor Jensen stated she had nothing to report.
- Council Member Rennie stated the Silicon Valley Clean Energy Building Electrification workshop, Silicon Valley Clean Energy Special Board meeting workshop, Silicon Valley Clean Energy Risk Oversight Committee, LAFCO meeting, the Housing Trust mixer, Silicon Valley Bicycle Coalition dinner, and Valley Transportation Authority Board Meeting.

### **Manager Matters**

- Announced that Adult Commissioner applications are being accepted until October 25, 2019.

### **ADJOURNMENT**

The meeting adjourned at 7:57 p.m.

Attest:

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Michelle Radcliffe, Deputy Clerk



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 3

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DATE: November 5, 2019  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Adopt an Ordinance to Amend Chapter 4 (Animals and Fowl) Article VI  
Sections 4.60.050 and 4.60.055 And Article VIII - Beekeeping of the Town  
Code

**RECOMMENDATION:**

Adopt an Ordinance to Amend Chapter 4 (Animals and Fowl) Article VI Sections 4.60.050 and 4.60.055 And Article VIII - Beekeeping of the Town Code

**DISCUSSION:**

On October 15, 2019, the Council considered and voted to introduce an ordinance amending Chapter 4 – Animals and Fowl, Article VI, Sections 4.60.050 and 4.60.055 and Article VIII - Beekeeping. Adoption of the attached ordinance (Attachment 1) would finalize that decision.

**Attachment:**

1. Draft Ordinance

**PREPARED BY:** Lynne Lampros  
Deputy Town Attorney

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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**ORDINANCE NO.**

**AN ORDINANCE OF THE TOWN OF LOS GATOS AMENDING CHAPTER 4 OF THE LOS GATOS TOWN CODE ENTITLED ANIMALS AND FOWL, ARTICLE VI, SECTIONS 4.60.050 AND 4.60.055, ENTITLED ANIMAL RESCUER AND TRAP-NEUTER-RETURN REGISTRATION AND MAINTENANCE OF ANIMAL RESCUER OR TNR ACTIVIST REGISTRATION, AND ARTICLE VIII ENTITLED BEEKEEPING**

**WHEREAS**, on September 18, 2018 the Town Council adopted Ordinance No. 2276 providing a comprehensive update to Chapter 4 entitled Animals and Fowl, and:

**WHEREAS**, the implementation of the September 2018 updates to the Town Code regarding feral cats and TNR registration has shown that the requirements of 4.60.050 and 4.60.055 pertaining to registration by TNR organizations were unduly burdensome and unnecessary to achieve desired outcome; and

**WHEREAS**, in addition, Chapter 4 Article VIII entitled Beekeeping was not part of the 2018 comprehensive update; and

**WHEREAS**, the Town of Los Gatos recently annexed in 24 County islands into Town jurisdiction that were formerly governed by County of Santa Clara beekeeping regulations; and

**WHEREAS**, beekeeping has been deemed to be an important activity to promote plant pollination which is necessary to food supply and nationally, there has been a decline in pollinator health and local jurisdictions are encouraged to aid in efforts to rebuild pollinator health;

**WHEREAS**, it is the intent of the Town Council, in amending this ordinance, to remove the registration and permit requirements for TNR organizations and regulate beekeeping compliance with best practices and in closer compliance with surrounding jurisdictions' regulations; and

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES ORDAIN AS FOLLOWS:**

**SECTION 1. INCORPORATION OF RECITALS.** The Town Council of the Town of Los Gatos finds that all Recitals are true and correct and incorporate them herein by this reference.

**SECTION 2. AMENDMENT OF MUNICIPAL CODE.** Chapter 4, Article VI, Sections 4.60.050 and 4.60.055 entitled Animal Rescuer and Trap-Neuter-Return Registration and Maintenance of Animal Rescuer or TNR Activist Registration is hereby amended to read as follows:

ATTACHMENT 1

**Sec. 4.60.050. - Animal rescuer.**

(a) Except as otherwise provided in this Title, any person or organization that maintains more than the number of adult animals allowed under this Chapter and Chapter 29, shall register with Town Manager or designee Animal Control Agency as an animal rescuer. In order to register as an animal rescuer, the applicant must provide the following information:

- (1) Verifiable proof of membership in or status as a State of California not-for-profit corporation that meets the requirements of Internal Revenue Code Section 501(c)(3) and is in good standing with the State of California.
- (2) Verifiable proof that animal adoption and placement of rescued animals with a new and permanent owner in a new home is one (1) of its primary organizational goals and proof of a history of placement of animals with new and permanent owners in new homes.
- (3) The location of the rescue work to be performed and the identity and contact information of the person(s) responsible for the care of the animals at that location.
- (4) A description of the practices that will be employed by the person or organization in conducting rescue work;
- (5) Payment of the registration fee in an amount established by resolution of the Town Council;
- (6) Agreement from the applicant to abide by the requirements set forth in this chapter, and;
- (7) Agreement from the applicant to any other conditions reasonably necessary for the proper care and maintenance of the animals.

**Sec. 4.60.055. - Maintenance of animal rescuer.**

(a) In order to maintain a valid animal rescuer registration, the animal rescuer shall comply with each of the following requirements:

- (1) Rescue work such as the temporary housing and care of domestic animals, or feeding for the purpose of trapping, shall be performed in conformity with all standards of animal care and housing set forth by state and local law;
- (2) Rescue work shall not create a public nuisance;
- (3) The animal rescuer shall cooperate with the animal control organization during investigations of complaints and inspections of animal areas; and
- (4) The animal rescuer shall limit the number of animals maintained at the registered location if the Animal Control Officer deems limitations are necessary because of space, finance, effect on surrounding area, history or any other criteria relevant to the animal rescuer's ability to maintain the animals.

(b) The Town Manager or Animal Control Agency may revoke the animal rescuer registration if the holder of the registration fails at any time to satisfy one (1) or more of the requirements specified in subsection (a).

**SECTION 3. AMENDMENT OF MUNICIPAL CODE.** Chapter 4, Article VIII, entitled Beekeeping is hereby amended to read as follows:

**Sec. 4.80.002. – “Abandoned Apiary” defined.**

As used in this article, “abandoned apiary” includes but is not limited to, a colony(s) or hive(s) and equipment a beekeeper has ceased to manage, is deserted, not maintained and/or left unattended, remains without authorization on the property of another, is without proper identification and/or registration, and/or where the owner is unable to be located and/or contacted.

**Sec. 4.80.005. - "Apiary" defined.**

As used in this article, "apiary" means bees, hives and appliances wherever the same are kept, located or found, including a fresh water source on the same property not more than one hundred (100) feet away from the hives (not a pool, hot tub nor spa.).

**Sec. 4.80.010. - "Bees" defined.**

As used in this article, "bees" means honey-producing insects of the species *Apis mellifera*, including the adults, eggs, larvae, pupae or other immature states thereof, together with such materials as are deposited into hives by their adults, except honey and rendered beeswax.

**Sec. 4.80.012. – “Flight dispersing barrier.**

As used in this article, “flight dispersing barrier”, also called flyover barrier, means a device such as a wall, fence, or dense vegetation or combination thereof that provides an obstruction through which honey bees cannot readily fly. Such barrier must be constructed at a minimum height of six feet from the ground and a maximum height in accordance with Town regulations for fences and accessory dwelling units. Barrier must surround the immediate vicinity of the colony(s) or hive(s) yet leave sufficient space for beekeeper to maintain colony(s) or hive(s). Property line fences or barriers may constitute flight dispersing barriers, if they are sufficiently close to the hive to redirect bee flight up and away from sensitive areas or neighboring properties. Barrier must conform with setback requirements for fences and accessory dwelling units as defined by Town regulations.

**Sec. 4.80.015. - "Hive" defined.**

As used in this article, "hive" means any receptacle or container made or prepared for the use of bees, or a box or similar container of which bees have taken possession.

**Sec. 4.80.020. - "Location" defined.**



As used in this article, "location" means any premises upon which an apiary is located.

**Sec. 4.80.022. – “Undesirable honey bee behavior” defined.**

As used in this article, “undesirable honey bee behavior” means any behavior exhibited by honey bees from a managed apiary that may result in harm to others. Such behaviors include, but are not limited to, characteristics of Africanized honey bees, bees exhibiting unusually aggressive defensive behavior, such as stinging or attempting to sting without provocation or exhibiting an unusual disposition toward swarming.

**Sec. 4.80.025. - Notice required when moving apiaries.**

No apiary shall be moved into the Town or within the confines of the Town without notice in writing being given to the Agricultural Commissioner of the County within thirty (30) days from the date movement is begun, stating:

- (a) The number of colonies of bees to be moved into or within the Town.
- (b) The location of the property in the Town to which bees are to be moved, and the name and address of the owner of the property or person in possession thereof.
- (c) The distance of the proposed location of the apiary from the nearest public road intersection.

**Sec. 4.80.027. – Number of apiaries**

- (a) Only two (2) hives may be kept or maintained on parcels over 5,000 square feet but less than 10,000 square feet in size.
- (b) Only three (3) hives may be kept or maintained on parcels over 10,000 square feet in size but less than 40,000 square feet in size.
- (c) Four (4) hives may be kept on parcels over 40,000 square feet in size. One (1) additional hive may be kept for each ½ acre over one acre.
- (d) Apiaries on properties under 10,000 square feet must be surrounded by a flight dispersing barrier. Apiaries on property over 10,000 square feet but under 40,000 square feet may require a flight dispersing barrier.
- (e) No hives may be kept on multi-family properties without the consent of the owner and all tenants in possession thereof.

**Sec. 4.80.030. - Location of apiary.**

No apiary shall be located:

- (a) In any required front or side setbacks. Apiaries shall only be located in the rear yard of any appropriately sized residential property. Apiaries may be located in a side setback

with written consent of adjacent property owner/resident or Director of Community Development Department.

- (b) No apiary may be kept or maintained within six (6) feet of a side property line nor within ten (10) of a rear property line without written consent of adjoining property owner/resident.
- (c) If an apiary is within 20 feet of a property line, either a flight dispersing barrier may be required or the entrance of the apiary may not face a property line.
- (d) On any lands not owned by the beekeeper without the written consent of the owner or person in possession thereof.
- (e) Closer than twenty-five (25) feet from any public road.

**Sec. 4.80.035. - Water supply.**

A water supply adequate in quantity for the apiary should be provided and maintained. If the property on which the apiary is located does not contain sufficient natural water, the beekeeper shall provide one or more water containers or water sources. The water supply shall provide landing sites for the honey bees to drink without drowning, undue competition, or over-crowding. It is unlawful for a beekeeper to allow a water source to become stagnant or a mosquito breeding site. The water supply should be not more than one hundred (100) feet away from the hives (not a pool, hot tub nor spa.)

**Sec. 4.80.040. - Identification of premises.**

Every person maintaining any apiary on premises other than their own residence shall identify the apiary by affixing and maintaining signs thereto showing the name of owner or person in possession of the apiary, the owner or person's current contact information, These signs shall be prominently placed and maintained on each entrance side of the apiary and immediately adjoining the same and lettered in black at least one (1) inch in height on a white or light background.

**Sec. 4.80.043. – Nuisance.**

No beekeeper shall own or operate an apiary that exhibits undesirable honey bee behavior, contains apiary pests, does not comply with all local, state and federal laws, or otherwise constitutes a health and safety hazard or nuisance.

**Sec. 4.80.045. - Notice, correction of violation.**

Any person transporting or maintaining an apiary who violates any of the provisions of this article may be given verbal or written notice by the agricultural commissioner of the county or

any law enforcement officer or animal control officer or code enforcement officer. A written notice shall also be posted on the location for forty-eight (48) hours, and it shall be unlawful for the owner or person in possession of said apiary to fail to correct the violations within that period. The provisions of this article, however, shall not authorize the keeping of bees in areas where they are not otherwise allowed by law.

**Sec. 4.80.050. – Penalty, abatement.**

Every person violating any provision of this article who has been given notice thereof as prescribed herein shall be guilty of a misdemeanor or infraction in the discretion of the Town Attorney and Office of Code Compliance. Remedies for violation of any of the provisions of this article may include administrative warnings, citations, maintenance by any party of civil cause of action, criminal prosecution or required removal of the nuisance apiary at owner's expense.

**Sec. 4.80.055. - Penalty, destruction of another's apiary**

It is illegal to kill an apiary that is not owned by yourself or without the permission from the apiary owner. No person may knowingly poison a hive with chemicals or any other substances with the intent to cause its death (or demise). Any person found guilty of this is subject to prosecution per municipal code as a misdemeanor. This section does not preclude or preempt prosecution under any relevant Penal Code sections or the maintenance of civil action by the apiary owner.

**SECTION 4. CONSTRUCTION.** The Town Council intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent. To the extent the provisions of the Los Gatos Municipal Code as amended by this Ordinance are substantially the same as the provisions of that Code as it read prior to the adoption of this Ordinance, those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.

**SECTION 5. CEQA.** The Town Council finds and determines that the adoption of this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines under the General Rule (Section 15061(b)(3)), which sets forth that the CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that the proposed Town Code text amendments will have no significant negative effect on the environment.

**SECTION 6. SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this ordinance. The Town Council of the Town of Los Gatos hereby declares that it would have passed this ordinance and

each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid. Except as expressly modified in this Ordinance, all other sections set forth in the Los Gatos Town Code shall remain unchanged and shall be in full force and effect.

**SECTION 7. EFFECTIVE DATE.** This ordinance shall take effect immediately and will be enforced thirty (30) days after its adoption.

**SECTION 8. PUBLICATION AND POSTING.** In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

**SECTION 9. INTRODUCTION AND ADOPTION.** This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 15<sup>th</sup> day of October 2019 and adopted by the following vote as an ordinance of the Town Council of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the 5<sup>th</sup> day of November 2019.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 4

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DATE: October 25, 2019  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Adopt Amendments to Chapter 11 (Garbage, Refuse and Weeds) of the Town Code regarding Weed Abatement regulations

**RECOMMENDATION:**

Adopt Amendments to Chapter 11 (Garbage, Refuse and Weeds) of the Town Code regarding Weed Abatement regulations.

**DISCUSSION:**

On October 15, 2019, the Town Council considered and voted to introduce an Ordinance amending Chapter 11 of the Town Code regarding Weed Abatement regulations. Adoption of the attached Ordinance (Attachment 1) would finalize that decision.

**Attachment:**

1. Draft Ordinance

**PREPARED BY:** Arn Andrews  
Assistant Town Manager

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Reviewed by: Town Manager, Town Attorney, and Director of Parks and Public Works

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## ORDINANCE

### ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING CHAPTER 11 (GARBAGE, REFUSE AND WEEDS) OF THE TOWN CODE REGARDING WEED ABATEMENT REGULATIONS

**WHEREAS**, the Town of Los Gatos originally adopted a Weed Abatement Ordinance in 1968;

**WHEREAS**, the Town Council recognizes that dry and overgrown weeds contribute visual blight and create hazardous conditions which increase risk of fire;

**WHEREAS**, On April 16, 2019, the Town Council recognizing the risk of wildfire in the Wildland Urban Interface (WUI) adopted the Town's Annex 9 to the Santa Clara County Community Wildfire Protection Plan (CWPP);

**WHEREAS**, the proposed amendment changes will reduce the risk of fire and effectuate safer passage for first responders and residents in the event of a wildfire;

**NOW, THEREFORE**, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES ORDAIN AS FOLLOWS:

#### SECTION I

Section 11.20.010 of Town Code Chapter 11 are hereby amended to read as follows:

##### **Sec. 11.20.010. – Definition**

For the purposes of this article, the word "weeds" shall mean all weeds growing upon or abutting streets, alleys, sidewalks, or private property in the Town, including, but not limited to, the following:

- (1) Weeds which bear or may bear seeds of a downy or wingy nature;
- (2) Sagebrush, chaparral and any other brush or weeds which may attain such large growth as to become, when dry, a fire menace;
- (3) Weeds which are otherwise noxious or dangerous;
- (4) Poison oak when the conditions of growth are such as to constitute a menace to the public health;
- (5) Dead vegetation, fallen limbs, brush, combustible trash, or other flammable material which endangers public safety by creating a fire hazard.

ATTACHMENT 1

## SECTION II

Section 11.20.015 of Town Code Chapter 11 are hereby amended to read as follows:

**11.20.015.** - Removal by property owner required.

(a) No owner, agent, lessee or other person occupying or having charge or control of any building, lot or premises within the Town shall permit weeds to remain upon such premises, or public sidewalks, or streets, or alleys between such premises and the centerline of any public street or alley.

(b) Every property owner shall remove or destroy such weeds from such owner's property, abutting sidewalks, and the abutting half of any streets or alleys between the lot lines as extended.

(c) Property owners within the Wildland Urban Interface (WUI) whose property abuts Hillside Collector, Neighborhood Collector, and/or Local Street roadway classifications shall remove or destroy such weeds within five (5) feet of the roadway to prevent or avoid undue hardship in fighting fire.

## SECTION III

With respect to compliance with the California Environmental Quality Act (CEQA), the Town Council finds as follows:

A. These Town Code amendments are not subject to review under CEQA pursuant to sections and 15061(b)(3), in that it can be seen with certainty that there is no possibility that the proposed amendment to the Town Code would have significant impact on the environment; and

B. The proposed Town Code amendments are consistent with the General Plan and its Elements.

## SECTION IV

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This Town Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

## **SECTION V**

Except as expressly modified in this Ordinance, all other sections set forth in the Los Gatos Town Code shall remain unchanged and shall be in full force and effect.

## **SECTION VI**

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on October 15, 2019 and adopted by the following vote as an ordinance of the Town of Los Gatos at a meeting of the Town Council of the Town of Los Gatos on November 5, 2019 and becomes effective 30 days after it is adopted.

In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_





**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 5

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DATE: October 21, 2019  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Adopt a Resolution Extending the Temporary Streamlining Resolutions until Code Amendments may be Adopted.

**RECOMMENDATION:**

Adopt a resolution extending the temporary streamlining resolutions until Code Amendments may be adopted.

**BACKGROUND:**

As a part of their adopted Strategic Priority related to Community Vitality, the Town Council adopted six temporary resolutions streamlining several of the businesses related permit processes (Attachments 1-5). Each of these resolutions are scheduled to sunset in December 2019.

**DISCUSSION:**

At their October 1, 2019 meeting, the Town Council voted 3-2 to move forward with Town Code amendments that would memorialize the actions of the temporary resolutions and extend the temporary resolutions until the Town Code amendments are adopted (Council Member Rennie and Council Member Spector opposed). Attachment 6 provides a resolution that extends the actions of the temporary resolutions until such time.

**CONCLUSION:**

Adopt a resolution extending the temporary streamlining resolutions until Code Amendments may be adopted.

**PREPARED BY:** Monica Renn  
Economic Vitality Manager

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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PAGE 2 OF 2

SUBJECT: Adopt a resolution extending the temporary streamlining resolutions until Code Amendments may be adopted.

DATE: October 21, 2019

COORDINATION:

This report has been written in coordination with the Town Managers Office, Town Attorney's Office, and Community Development Department.

FISCAL IMPACT:

There is no fiscal impact related to this item.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:

1. Temporary resolution suspending the CUP requirement for formula retailers
2. Temporary Resolution allowing restaurants to modify their CUP at the DRC
3. Temporary Resolution suspending Ordinance 2021 and allowing new restaurants to obtain a CUP at the DRC
4. Temporary Resolution allowing for minor exterior modifications to commercial buildings to be made at building permit
5. Temporary Resolution allowing group classes without a CUP in commercial zones outside of downtown, and those within downtown to obtain a CUP at the DRC
6. Resolution extending the temporary streamlining resolutions until Code Amendments may be adopted.

## **RESOLUTION 2018-032**

### **RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS SUSPENDING TOWN CODE SECTION 29.20.185 REGARDING THE REGULATIONS FOR FORMULA RETAIL BUSINESSES IN THE C-2 ZONE FOR A PERIOD NOT TO EXCEED 18 MONTHS.**

**WHEREAS**, since the adoption of the formula retail regulations in 2002, the retail industry continues to evolve through online shopping and new shopping models creating a different environment for brick and mortar retail locations; and

**WHEREAS**, additional commercial spaces are being added to the inventory through new developments in Los Gatos creating more opportunity for retail locations; and

**WHEREAS**, piloting a change to the regulations in the C-2 zone to match those in other commercial zones creates a more level playing field during the pilot period; and

**WHEREAS**, a temporary suspension of the Town Code Section 29.20.185 may allow the opportunity for the Town Council to gauge potential changes to the retail mix in the C-2 zone with the ability to modify the resolution at any time before the 18-month period expires.

**NOW, THEREFORE, BE IT RESOLVED:** The Town Council of the Town of Los Gatos suspends the Town Code Section 29.20.185 regarding the regulations for formula retail businesses in the C-2 zone for a period not to exceed 18 months with the following provisions:

1. **Existing Retail Locations**  
New formula retail businesses must occupy an existing commercial space that is less than 6,000 square feet in the C-2 zone, and may not combine spaces or add additional square footage; and
2. **Certificate of Use and Occupancy and Business License**  
New formula retail businesses must follow the same requirements as an independent retail business by filing a Certificate of Use and Occupancy, and a Business License with the Town prior to operating; and
3. **Maximum Threshold for Review**  
Should five new formula retail businesses open before the 18-month period expires, Town staff will provide the Town Council with an update and review of this resolution; and
4. **Town Council Approval**  
This resolution does not apply to formula retail businesses that intend to sell products (such as alcohol) that require approval by the Town Council.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, on the 5<sup>th</sup> day of June, 2018 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:



MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: 6/6/18

ATTEST:



TOWN CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: 6/6/18

## **RESOLUTION 2018-039**

### **RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS REGARDING TOWN CODE SECTION 29.20.745 AND SUSPENDING A PORTION OF 29.20.755(2) REGARDING THE ASSIGNMENT OF DUTIES TO ALLOW THE DEVELOPMENT REVIEW COMMITTEE TO APPROVE CERTAIN MODIFICATIONS TO EXISTING CONDITIONAL USE PERMITS FOR RESTAURANTS FOR A PERIOD OF 18 MONTHS.**

**WHEREAS**, many Conditional Use Permits for restaurants in the Town of Los Gatos have been in place for many years and contain language that is either contradictory to current Town Code and policies, or inconsistent with current business models; and

**WHEREAS**, additional commercial spaces are increasing the inventory through new developments in Los Gatos, creating more opportunity for commercial uses; and

**WHEREAS**, providing an 18-month time period in which businesses defined as a restaurant may apply for modifications to existing Conditional Use Permits to provide the ability to revise obsolete language, innovate their existing businesses, and/or make other adjustments within the existing business location and square footage; and

**WHEREAS**, the Town recently adopted a Town Code amendment to adjust seating and parking requirements for restaurants and revised policies allowing outdoor seating and entertainment for businesses, given policy parameters are met and proper Town permits obtained; and

**WHEREAS**, the Town recently rescinded the Alcohol Beverage Policy given that the State of California's Alcohol Beverage Control has strict requirements and a process in place for the review, control, and monitoring of all businesses that possess or apply to obtain a permit to sell alcoholic beverages on- and off-site; and

**WHEREAS**, the Town of Los Gatos Municipal Code Section 29.20.745 identifies the role of the Development Review Committee, including but not limited to: Section 29.20.745 (16) Determine and issue zoning approval for minor restaurants that are located outside of the Downtown (C-2 zone); and

**WHEREAS**, the Town of Los Gatos Municipal Code sets forth the public hearing and noticing requirements for the Development Review Committee and any appeals of its decisions; and

**WHEREAS**, the Town of Los Gatos Municipal Code Section 29.20.750 identifies the role of the Planning Commission, including but not limited to the following: Section 29.20.750 (8) Determine Conditional Use Permit applications that are not assigned to the Development Review Committee or the Town Council; and

**WHEREAS,** the Town of Los Gatos Municipal Code Section 29.20.755 identifies the role of the Town Council, including but not limited to the following: Section 29.20.755 (2) Hears and determines Planning Commission recommendations for the adoption or amendment of the general plan or any specific plans and conditional use permits for establishments selling alcoholic beverages for on premises consumption.

**NOW, THEREFORE, BE IT RESOLVED:** The Town Council of the Town of Los Gatos suspends a portion of 29.20.755(2) regarding the assignment of duties to allow the Development Review Committee to approve certain modifications to existing Conditional Use Permits for restaurants for a period of 18 months with the following provisions:

1. Restaurants

The Development Review Committee may issue approval of modifications to an existing Conditional Use Permit for a restaurant use as defined by Town Code Section 29.10.020 in any commercial zone; and

2. Locations

Restaurants with existing Conditional Use Permits may apply for modification of a Conditional Use Permit within the existing commercial space inclusive of both indoor and outdoor/patio areas at the same address (new restaurants or restaurants combining two or more commercial spaces would require full review by either the Planning Commission or Town Council); and

3. Development Review Application

To apply for the modification, businesses must complete the Development Review application and pay the associated fees adopted within the fee schedule.

**RESOLUTION 2019-008**

**RESOLUTION OF THE TOWN COUNCIL  
OF THE TOWN OF LOS GATOS  
REGARDING TOWN CODE SECTION 29.20.745 AND  
SUSPENDING A PORTION OF 29.20.755(2) REGARDING THE ASSIGNMENT OF DUTIES  
TO ALLOW THE DEVELOPMENT REVIEW COMMITTEE TO APPROVE NEW  
CONDITIONAL USE PERMITS FOR RESTAURANTS UNTIL DECEMBER 31, 2019.**

**WHEREAS**, the Town of Los Gatos Town Council has an adopted strategic priority to streamline Land Use and Economic Vitality policies; and

**WHEREAS**, the Town has recently experienced a high turnover in commercial spaces, particularly in Downtown and have additional commercial spaces that will increase the commercial space inventory through new developments in Los Gatos; and

**WHEREAS**, providing a 9-month period in which business uses defined as a *Restaurant* as identified in Town of Los Gatos Municipal Code Section 29.10.020 may apply for a new Conditional Use Permit to create more opportunities to attract businesses to Los Gatos; and

**WHEREAS**, by reassigning the duties to the Development Review Committee, the impact of cost and process time on prospective businesses is drastically decreased and more closely aligned with neighboring jurisdictions which could provide an incentive for businesses to consider locating Los Gatos; and

**WHEREAS**, the Town of Los Gatos Municipal Code Section 29.20.745 identifies the role of the Development Review Committee, including but not limited to: Section 29.20.745 (16) Determine and issue zoning approval for minor restaurants that are located outside of the Downtown (C-2 zone); and

**WHEREAS**, the Town recently rescinded the Alcohol Beverage Policy given that the State of California's Alcohol Beverage Control has strict requirements and a process in place for the review, control, and monitoring of all businesses that possess or apply to obtain a permit to sell alcoholic beverages on- and off-site; and

**WHEREAS**, the Town of Los Gatos Municipal Code sets forth the public hearing and noticing requirements for the Development Review Committee and any appeals of its decisions; and

**WHEREAS**, the Town of Los Gatos Municipal Code Section 29.20.750 identifies the role of the Planning Commission, including but not limited to the following: Section 29.20.750 (8) Determine Conditional Use Permit applications that are not assigned to the Development Review Committee or the Town Council; and

**WHEREAS**, the Town of Los Gatos Municipal Code Section 29.20.755 identifies the role of the Town Council, including but not limited to the following: Section 29.20.755 (2) Hears and determines Planning Commission recommendations for the adoption or amendment of the general plan or any specific plans and conditional use permits for establishments selling alcoholic beverages for on premises consumption.

**NOW, THEREFORE, BE IT RESOLVED:** The Town Council of the Town of Los Gatos suspends a portion of 29.20.755(2) regarding the assignment of duties to allow the Development Review Committee to approve new Conditional Use Permits for restaurants until December 31, 2019.

1. Restaurants

The Development Review Committee may issue new Conditional Use Permit for a restaurant use as defined by Town Code Section 29.10.020 in any commercial zone; and

2. Locations

New Conditional Use Permit applications for restaurants in conditionally permissible commercial zones as identified in 29.20.185, Section 1- Commercial, (j) and (k); and

3. Development Review Application

To apply for a new conditional use permit, businesses must complete the Development Review application and pay the associated fees adopted within the fee schedule.



**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, on the 5<sup>th</sup> day of March, 2019 by the following vote:

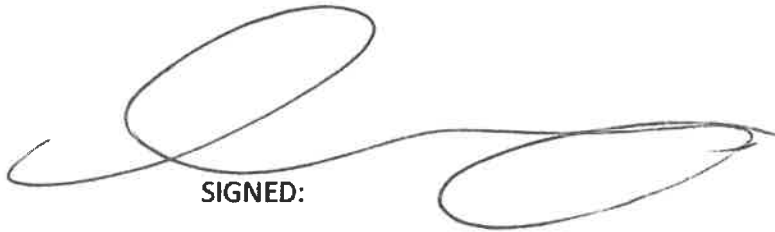
**COUNCIL MEMBERS:**

**AYES:** Marcia Jensen, Rob Rennie, Marico Sayoc, Barbara Spector, Mayor Steven Leonardis

**NAYS:** None.

**ABSENT:** None.

**ABSTAIN:** None.

  
SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: 3/10/19

**ATTEST:**

  
TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: 3/11/19

## **RESOLUTION 2019-009**

### **RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS SUSPENDING TOWN CODE SECTION 29.20.755 (8), REGARDING THE ASSIGNMENT OF DUTIES TO ALLOW THE MINOR EXTERIOR MODIFICATIONS TO COMMERCIAL BUILDINGS BE MADE AT THE BUILDING PERMIT LEVEL UNTIL DECEMBER 31, 2019**

**WHEREAS**, the Town of Los Gatos Town Council has an adopted strategic priority to streamline Land Use and Economic Vitality policies; and

**WHEREAS**, the Town has recently experienced a high turnover in commercial spaces, particularly in Downtown and have additional commercial spaces that will increase the commercial space inventory through new developments in Los Gatos; and

**WHEREAS**, providing a 9-month period in which businesses and commercial property owners may make minor exterior modifications to their store fronts and buildings to create more opportunities to attract and retain businesses in Los Gatos; and

**WHEREAS**, by reassigning the duties to the Planning Director at the building permit level will provide businesses and commercial property owners with a process that is significantly less expensive and quicker for minor exterior modifications to commercial buildings, which could provide an incentive for businesses to consider locating Los Gatos; and

**WHEREAS**, the Town of Los Gatos already has other provisions in place that guide such modifications within the Town Code, Commercial Design Guidelines, and the process with the Historic Preservation Committee (when applicable); and

**WHEREAS**, the Town of Los Gatos already has other provisions in place that provide framework for such modifications within the Town Code, Commercial Design Guidelines, and the process with the Historic Preservation Committee (when applicable).

#### **NOW, THEREFORE, BE IT RESOLVED:**

The Town Council of the Town of Los Gatos suspends a portion of Town Code Section 29.20.755 (8), regarding the assignment of duties to allow minor exterior modifications to commercial buildings be made at the building permit level until December 31, 2019.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, on the 5<sup>th</sup> day of March, 2019 by the following vote:

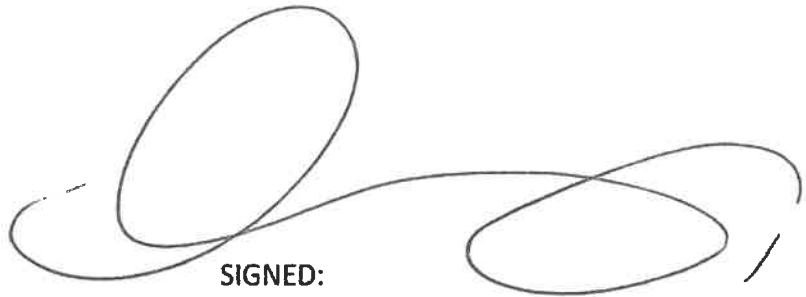
**COUNCIL MEMBERS:**

**AYES:** Marcia Jensen, Rob Rennie, Marico Sayoc, Barbara Spector, Mayor Steven Leonardis

**NAYS:** None.

**ABSENT:** None.

**ABSTAIN:** None.



**SIGNED:**

**MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA**

**DATE:** 3/10/19

**ATTEST:**



**TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA**

**DATE:** 3/11/19

## **RESOLUTION 2019-012**

### **RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS SUSPENDING TOWN CODE SECTION 29.20.750 (8), REGARDING THE ASSIGNMENT OF DUTIES TO ALLOW THE GROUP CLASSES IN THE C-2 ZONE TO BE HEARD BY THE DEVELOPMENT REVIEW COMMITTEE, AND SUSPENDING A PORTION OF 29.20.185, 4. (H) TO ALLOW GROUP CLASSES IN THE O, C-1, CH, AND LM ZONES TO OPERATE WITHOUT A CONDITIONAL USE PERMIT UNTIL DECEMBER 31, 2019.**

**WHEREAS**, the Town of Los Gatos Town Council has an adopted strategic priority to streamline Land Use and Economic Vitality policies; and

**WHEREAS**, the Town has recently experienced a high turnover in commercial spaces, and have additional commercial spaces that will increase the commercial space inventory through new developments in Los Gatos; and

**WHEREAS**, providing a 9-month period in which group classes may gain approval with a reduced process timeline and cost may create more opportunities to attract and retain businesses in Los Gatos; and

**WHEREAS**, group classes create an exposure, synergy, and in many cases a partnership with nearby retailers and restaurants strengthening the vitality of the shopping area.

#### **NOW, THEREFORE, BE IT RESOLVED:**

The Town Council of the Town of Los Gatos suspends a portion of Town Code Section 29.20.750 (8), regarding the assignment of duties to allow group classes in the C-2 zone to be heard by the Development Review Committee, and suspends a portion of 29.20.185 4.(h) to allow group classes in the O, C-1, CH and LM zones to operate without a Conditional Use Permit until December 31, 2019 pursuant to the following provisions:

1. Development Review Committee: New group class businesses locating in the C-2 Zone (Downtown) must complete a Development Review Application for a Conditional Use Permit, pay the associated application fees, and be approved by the Development Review Committee.

2. Certificate of Use and Occupancy and Business License

New group class businesses locating in the O, C-1, CH, or LM zones must file applications with the Town for a Certificate of Use and Occupancy and a Business License, and pay the associated fees prior to operating. No Conditional Use Permit is required.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, on the 19<sup>th</sup> day of March, 2019 by the following vote:

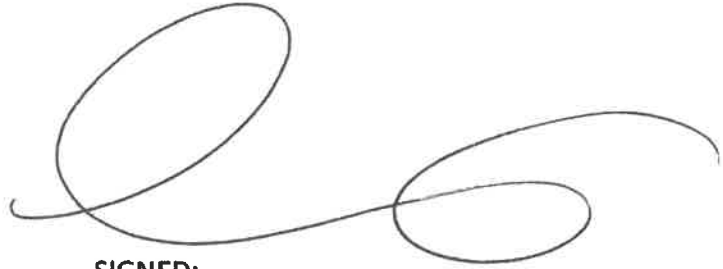
**COUNCIL MEMBERS:**

**AYES:** Marcia Jensen, Rob Rennie, Marico Sayoc, Barbara Spector, Mayor Steven Leonardis

**NAYS:** None

**ABSENT:** None.

**ABSTAIN:** None.



**SIGNED:**

**MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA**

**DATE:** 3/22/19

**ATTEST:**



**TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA**

**DATE:** 3/22/19

## **RESOLUTION 2019-**

### **RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS EXTENDING TEMPORARY RESOLUTIONS: 2018-032; 2018-039; 2019-008; 2019-009; AND 2019- 012 UNTIL THE ACTIONS OF THE RESOLUTIONS ARE CONSIDERED FOR TOWN CODE AMENDMENTS.**

**WHEREAS**, the Town Council has adopted a strategic priority to enhance community vitality through streamlining land use processes; and

**WHEREAS**, the Town Council adopted five temporary resolutions providing land use streamlining opportunities to the Los Gatos business and commercial community including:

- Resolution 2018-032 suspending Town Code Section 29.20.185 regarding the regulations for Formula Retail Businesses in the C-2 zone;
- Resolution 2018-039 regarding Town Code Section 29.20.754 and suspending a portion of 29.20.755(2) regarding the assignment of duties to allow the Development Review Committee to approve certain modifications to existing conditional use permits;
- Resolution 2019-008 regarding Town Code Section 29.20.745 and suspending a portion of 29.20.755(2) regarding the assignment of duties to allow the Development Review Committee to approve new Conditional Use Permits for restaurants;
- Resolution 2019-009 suspending Town Code Section 29.20.755 (8) regarding the assignment of duties to allow the Minor Exterior Modifications to commercial buildings be made at the building permit level; and,
- Resolution 2019-012 suspending Town Code Section 29.20.750(8) regarding the assignment of duties to allow group classes in the C-2 to be heard by the Development Review Committee, and suspending a portion of Town Code Section 29.20.185, (4)(H) to allow group classes in the O, C-1, CH, and LM zones to operate without a Conditional Use Permit. ; and,

**WHEREAS**, at their October 1, 2019 meeting, the Town Council voted to memorialize the actions of these resolutions with Town Code amendments, and extend the sunset date of the resolutions until such a time when the Town Code amendments may become effective.

#### **NOW, THEREFORE, BE IT RESOLVED:**

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 5th day of November 2019 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 6

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DATE: October 24, 2019  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Authorize the Town Manager to Enter into an Agreement to Participate in the CalPERS California Employers' Pension Prefunding Trust (CEPPT) Program and Delegate Authority to the Town Manager to Request Disbursements

**RECOMMENDATION:**

Authorize the Town Manager to enter into an agreement to participate in the CalPERS California Employers' Pension Prefunding Trust (CEPPT) Program and delegate authority to the Town Manager to request disbursements.

**BACKGROUND:**

On September 17, 2019, the Town Council directed staff to terminate the PARS agreement, consistent with the Town Pension and OPEB Trusts Oversight Committee recommendation, and to return to Council with an agreement to initiate a California Employers' Pension Prefunding Trust (CEPPT).

**DISCUSSION:**

To enroll in the CEPPT Program CalPERS requires that two documents be approved by our governing body in a public meeting. In addition, CalPERS requires that the Town Manager be authorized to enter into the CEPPT Program agreement and delegate authority to request disbursements. CalPERS recommends that separate votes be initiated for both the CEPPT Participation Agreement (Attachment 1) and the Authority to Request Disbursements (Attachment 2).

**PREPARED BY:** Arn Andrews  
Assistant Town Manager

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Reviewed by: Town Manager, Town Attorney, and Finance Director

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PAGE 2 OF 2

SUBJECT: Authorize the Town Manager to Enter into Agreements with CalPERS

DATE: October 24, 2019

CONCLUSION:

If the Town Council takes these actions, the Town will establish its participation in the CalPERS CEPPT Program.

COORDINATION:

This item was coordinated with the Town Manager, Town Attorney and Director of Finance.

FISCAL IMPACT:

No fiscal impact at this time. If the Council directs staff to place monies into either of the CEPPT asset allocations in the future, both products represent a cost savings compared to the previous PARS account.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:

1. CEPPT Participation Agreement
2. CEPPT Delegation of Authority to Request Disbursements

**CALIFORNIA EMPLOYERS' PENSION PREFUNDING TRUST PROGRAM**

**AGREEMENT AND ELECTION  
OF**

---

(NAME OF EMPLOYER)

**to Prefund Employer Contributions to a Defined Benefit  
Pension Plan**

WHEREAS (1) Government Code (GC) Section 21711(a) establishes in the State Treasury the California Employers' Pension Prefunding Trust Fund (CEPPT), a special trust fund for the purpose of allowing eligible employers to prefund their required pension contributions to a defined benefit pension plan (each an Employer Pension Plan) by receiving and holding in the CEPPT amounts that are intended to be contributed to an Employer Pension Plan at a later date; and

WHEREAS (2) GC Section 21711(b) provides that the California Public Employees' Retirement System (CalPERS) Board of Administration (Board) has sole and exclusive control of the administration and investment of the CEPPT, the purposes of which include, but are not limited to (i) receiving contributions from participating employers; (ii) investing contributed amounts and income thereon, if any, in order to receive yield on the funds; and (iii) disbursing contributed amounts and income thereon, if any, to pay for costs of administration of the CEPPT and to deposit employer contributions into Employer Pension Plans in accordance with their terms; and

WHEREAS (3) \_\_\_\_\_  
(NAME OF EMPLOYER)

(Employer) desires to participate in the CEPPT upon the terms and conditions set by the Board and as set forth herein; and

WHEREAS (4) Employer may participate in the CEPPT upon (i) approval by the Board and (ii) filing a duly adopted and executed Agreement and Election to Prefund Employer Contributions to a Defined Benefit Pension Plan (Agreement) as provided in the terms and conditions of the Agreement; and

WHEREAS (5) The CEPPT is a trust fund that is intended to perform an essential governmental function (that is, the investment of funds by a State, political subdivision or 115 entity) within the meaning of Internal Revenue Code (Code) Section 115 and Internal Revenue Service Revenue Ruling 77-261, and as an Investment Trust Fund, as defined in Governmental Accounting Standards Board (GASB) Statement No. 84, Paragraph 16, for accounting and financial reporting of fiduciary activities from the

external portion of investment pools and individual investment accounts that are held in a trust that meets the criteria in Paragraph 11c(1).

WHEREAS (6) The CEPPT is not a Code Section 401(a) qualified trust and the assets held in the CEPPT are not assets of any Employer Pension Plan or any plan qualified under Code Section 401(a).

NOW, THEREFORE, BE IT RESOLVED THAT EMPLOYER HEREBY MAKES THE FOLLOWING REPRESENTATION AND WARRANTY AND THAT THE BOARD AND EMPLOYER AGREE TO THE FOLLOWING TERMS AND CONDITIONS:

A. Employer Representation and Warranty

Employer hereby represents and warrants that it is the State of California or a political subdivision thereof, or an entity whose income is excluded from gross income under Code Section 115(1).

B. Adoption and Approval of the Agreement; Effective Date; Amendment

(1) Employer's governing body shall elect to participate in the CEPPT by adopting this Agreement and filing with the Board a true and correct original or certified copy of this Agreement as follows:

Filing by mail, send to: CalPERS  
CEPPT  
P.O. Box 1494  
Sacramento, CA 95812-1494

Filing in person, deliver to: CalPERS Mailroom  
CEPPT  
400 Q Street  
Sacramento, CA 95811

(2) Upon receipt of the executed Agreement, and after approval by the Board, the Board shall fix an effective date and shall promptly notify Employer of the effective date of the Agreement. Employer shall provide the Board such other documents as the Board may request, including, but not limited to a certified copy of the resolution(s) of the governing body of Employer authorizing the adoption of the Agreement and documentation naming Employer's successor entity in the event that Employer ceases to exist prior to termination of this Agreement.

(3) The terms of this Agreement may be amended only in writing upon the agreement of both the Board and Employer, except as otherwise provided herein. Any such amendment or modification to this Agreement shall be adopted and executed in the same manner as required for the Agreement. Upon receipt of the executed amendment or modification, the Board shall fix the effective date of the amendment or modification.

(4) The Board shall institute such procedures and processes as it deems necessary to administer the CEPPT, to carry out the purposes of this Agreement, and to maintain the tax-exempt status of the CEPPT. Employer agrees to follow such procedures and processes.

#### C. Employer Reports Provided for the Board's Use in Trust Administration and Financial Reporting and Employer Contributions

(1) Employer shall provide to the Board a defined benefit pension plan cost report on the basis of the actuarial assumptions and methods prescribed by Actuarial Standards of Practice (ASOP) or prescribed by GASB. Such report shall be for the Board's use in trust administration and financial reporting and shall be prepared at least as often as the minimum frequency required by applicable GASB Standards. This defined benefit pension plan cost report may be prepared as an actuarial valuation report or as a GASB compliant financial report. Such report shall be:

- 1) prepared and signed by a Fellow or Associate of the Society of Actuaries who is also a Member of the American Academy of Actuaries or a person with equivalent qualifications acceptable to the Board;
- 2) prepared in accordance with ASOP or with GASB; and
- 3) provided to the Board prior to the Board's acceptance of contributions for the reporting period or as otherwise required by the Board.

(2) In the event that the Board determines, in its sole discretion, that Employer's cost report is not suitable for the Board's purposes and use or if Employer fails to provide a required report, the Board may obtain, at Employer's expense, a report that meets the Board's trust administration and financial reporting needs. At the Board's option, the Board may recover the costs of obtaining the report either by billing and collecting such amount from Employer or through a deduction from Employer's Prefunding Account (as defined in Paragraph D(2) below).

(3) Employer shall notify the Board in writing of the amount and timing of contributions to the CEPPT, which contributions shall be made in the manner established by the Board and in accordance with the terms of this Agreement and any procedures adopted by the Board.

(4) The Board may limit Employer's contributions to the CEPPT to the amount necessary to fully fund the actuarial present value of total projected benefit payments not otherwise prefunded through the applicable Employer Pension Plan (Unfunded PVFB), as set forth in Employer's cost report for the applicable period. If Employer's contribution would cause the assets in Employer's Prefunding Account to exceed the Unfunded PVFB, the Board may refuse to accept the contribution. If Employer's cost report for the applicable period does not set forth the Unfunded PVFB, the Board may

refuse to accept a contribution from Employer if the contribution would cause the assets in Employer's Prefunding Account to exceed Employer's total pension liability, as set forth in Employer's cost report.

(5) No contributions are required. Contributions can be made at any time following the effective date of this Agreement if Employer has first complied with the requirements of this Agreement, including Paragraph C.

(6) Employer acknowledges and agrees that assets held in the CEPPT are not assets of any Employer Pension Plan or any plan qualified under Code Section 401(a), and will not become assets of such a plan unless and until such time as they are distributed from the CEPPT and deposited into an Employer Pension Plan.

#### D. Administration of Accounts; Investments; Allocation of Income

(1) The Board has established the CEPPT as a trust fund consisting of an aggregation of separate single-employer accounts, with pooled administrative and investment functions.

(2) All Employer contributions and assets attributable to Employer contributions shall be separately accounted for in the CEPPT (Employer's Prefunding Account). Assets in Employer's Prefunding Account will be held for the exclusive purpose of funding Employer's contributions to its Employer Pension Plan(s) and defraying the administrative expenses of the CEPPT.

(3) The assets in Employer's Prefunding Account may be aggregated with the assets of other participating employers and may be co-invested by the Board in any asset classes appropriate for a Code Section 115 trust, subject to any additional requirements set forth in applicable law, including, but not limited to, subdivision (d) of GC Section 21711. Employer shall select between available investment strategies in accordance with applicable Board procedures.

(4) The Board may deduct the costs of administration of the CEPPT from the investment income of the CEPPT or from Employer's Prefunding Account in a manner determined by the Board.

(5) Investment income earned shall be allocated among participating employers and posted to Employer's Prefunding Account daily Monday through Friday, except on holidays, when the allocation will be posted the following business day.

(6) If, at the Board's sole discretion and in compliance with accounting and legal requirements applicable to an Investment Trust Fund and to a Code Section 115 compliant trust, the Board determines to its satisfaction that all obligations to pay defined benefit pension plan benefits in accordance with the applicable Employer Pension Plan terms have been satisfied by payment or by defeasance with no remaining risk regarding the amounts to be paid or the value of assets held in the

CEPPT, then the residual Employer assets held in Employer's Prefunding Account may be returned to Employer.

#### E. Reports and Statements

(1) Employer shall submit with each contribution a contribution report in the form and containing the information prescribed by the Board.

(2) The Board, at its discretion but at least annually, shall prepare and provide a statement of Employer's Prefunding Account reflecting the balance in Employer's Prefunding Account, contributions made during the period covered by the statement, investment income allocated during such period, and such other information as the Board may determine.

#### F. Disbursements

(1) Employer may receive disbursements from the CEPPT not to exceed, on an annual basis, the amount of the total annual Employer contributions to Employer's Pension Plan for such year.

(2) Employer shall notify the Board in writing in the manner specified by the Board of the persons authorized to request disbursements from the CEPPT on behalf of Employer.

(3) Employer's request for disbursement shall be in writing signed by Employer's authorized representative, in accordance with procedures established by the Board, and the Board may rely conclusively upon such writing. The Board may, but is not required to, require that Employer certify or otherwise demonstrate that amounts disbursed from Employer's Prefunding Account will be used solely for the purposes of the CEPPT. However, in no event shall the Board have any responsibility regarding the application of distributions from Employer's Prefunding Account.

(4) No disbursement shall be made from the CEPPT which exceeds the balance in Employer's Prefunding Account.

(5) Requests for disbursements that satisfy the above requirements will be processed on at least a monthly basis.

(6) The Board shall not be liable for amounts disbursed in error if it has acted upon the written instruction of an individual authorized by Employer to request disbursements, and is under no duty to make any investigation or inquiry about the correctness of such instruction. In the event of any other erroneous disbursement, the extent of the Board's liability shall be the actual dollar amount of the disbursement, plus interest at the actual earnings rate but not less than zero.

#### G. Costs of Administration

Employer shall pay its share of the costs of administration of the CEPPT, as determined by the Board and in accordance with Paragraph D.

#### H. Termination of Employer's Participation in the CEPPT

(1) The Board may terminate Employer's participation in the CEPPT if:

- (a) Employer's governing body gives written notice to the Board of its election to terminate; or
- (b) The Board determines, in its sole discretion, that Employer has failed to satisfy the terms and conditions of applicable law, this Agreement or the Board's rules, regulations or procedures.

(2) If Employer's participation in the CEPPT terminates for either of the foregoing reasons, all assets in Employer's Prefunding Account shall remain in the CEPPT, except as otherwise provided below, and shall continue to be invested and accrue income as provided in Paragraph D, and Employer shall remain subject to the terms of this Agreement with respect to such assets.

(3) After Employer's participation in the CEPPT terminates, Employer may not make further contributions to the CEPPT.

(4) After Employer's participation in the CEPPT terminates, disbursements from Employer's Prefunding Account may continue upon Employer's instruction or otherwise in accordance with the terms of this Agreement.

(5) After Employer's participation in the CEPPT terminates, the governing body of Employer may request either:

- (a) A trustee to trustee transfer of the assets in Employer's Prefunding Account to a trust dedicated to prefunding Employer's required pension contributions; provided that the Board shall have no obligation to make such transfer unless the Board determines that the transfer will satisfy applicable requirements of the Code, other law and accounting standards, and the Board's fiduciary duties. If the Board determines that the transfer will satisfy these requirements, the Board shall then have one hundred fifty (150) days from the date of such determination to effect the transfer. The amount to be transferred shall be the amount in Employer's Prefunding Account as of the date of the transfer (the "transfer date") and shall include investment earnings up to an investment earnings allocation date preceding the transfer date. In no event shall the investment earnings allocation date precede the transfer date by more than 150 days.

- (b) A disbursement of the assets in Employer's Prefunding Account; provided that the Board shall have no obligation to make such disbursement unless the Board determines that, in compliance with the Code, other law and accounting standards, and the Board's fiduciary duties, all of Employer's obligations for payment of defined benefit pension plan benefits and reasonable administrative costs of the Board have been satisfied. If the Board determines that the disbursement will satisfy these requirements, the Board shall then have one hundred fifty (150) days from the date of such determination to effect the disbursement. The amount to be disbursed shall be the amount in Employer's Prefunding Account as of the date of the disbursement (the "disbursement date") and shall include investment earnings up to an investment earnings allocation date preceding the disbursement date. In no event shall the investment earnings allocation date precede the disbursement date by more than 150 days.

(6) After Employer's participation in the CEPPT terminates and at such time that no assets remain in Employer's Prefunding Account, this Agreement shall terminate. To the extent that assets remain in Employer's Prefunding Account, this Agreement shall remain in full force and effect.

(7) If, for any reason, the Board terminates the CEPPT, the assets in Employer's Prefunding Account shall be paid to Employer to the extent permitted by law and Code Section 115 after retention of (i) an amount sufficient to pay the Unfunded PVFB as set forth in a current defined benefit pension plan(s) cost report prepared in compliance with ASOP and the requirements of Paragraph C(1), and (ii) amounts sufficient to pay reasonable administrative costs of the Board. Amounts retained by the Board to pay the Unfunded PVFB shall be transferred to (i) another Code Section 115 trust dedicated to prefunding Employer's required pension contributions, subject to the Board's determination that such transfer will satisfy applicable requirements of the Code, other law and accounting standards, and the Board's fiduciary duties or (ii) Employer's Pension Plan, subject to acceptance by Employer's Pension Plan.

(8) If Employer ceases to exist but Employer's Prefunding Account continues to exist, and if no provision has been made to the Board's satisfaction by Employer with respect to Employer's Prefunding Account, the Board shall be permitted to identify and appoint a successor to Employer under this Agreement, provided that the Board first determines, in its sole discretion, that there is a reasonable basis upon which to identify and appoint such a successor and provided further that such successor agrees in writing to be bound by the terms of this Agreement. If the Board is unable to identify or appoint a successor as provided in the preceding sentence, then the Board is authorized to appoint a third-party administrator or other successor to act on behalf of Employer under this Agreement and to otherwise carry out the intent of this Agreement with respect to Employer's Prefunding Account. Any and all costs associated with such appointment shall be paid from the assets attributable to Employer's Prefunding Account. At the Board's option, and subject to acceptance by Employer's Pension Plan,



the Board may instead transfer the assets in Employer's Prefunding Account to Employer's Pension Plan and terminate this Agreement.

(9) If the Board determines, in its sole discretion, that Employer has breached the representation and warranty set forth in Paragraph A., the Board shall take whatever action it deems necessary to preserve the tax-exempt status of the CEPPT.

#### I. Indemnification

Employer shall indemnify, defend, and hold harmless CalPERS, the Board, the CEPPT, and all of the officers, trustees, agents and employees of the foregoing from and against any loss, liability, claims, causes of action, suits, or expense (including reasonable attorneys' fees and defense costs, lien fees, judgments, fines, penalties, expert witness fees, appeals, and claims for damages of any nature whatsoever) not charged to the CEPPT and imposed as a result of, arising out of, related to or in connection with (1) the performance of the Board's duties or responsibilities under this Agreement, except to the extent that such loss, liability, suit or expense results or arises from the Board's own gross negligence, willful misconduct or material breach of this Agreement, or (2) without limiting the scope of Paragraph F(6) of this Agreement, any acts taken or transactions effected in accordance with written directions from Employer or any of its authorized representatives or any failure of the Board to act in the absence of such written directions to the extent the Board is authorized to act only at the direction of Employer.

#### J. General Provisions

##### (1) Books and Records

Employer shall keep accurate books and records connected with the performance of this Agreement. Such books and records shall be kept in a secure location at Employer's office(s) and shall be available for inspection and copying by the Board and its representatives.

##### (2) Notice

(a) Any notice or other written communication pursuant to this Agreement will be deemed effective immediately upon personal delivery, or if mailed, three (3) days after the date of mailing, or if delivered by express mail or e-mail, immediately upon the date of confirmed delivery, to the following:

For the Board:

Filing by mail, send to:  
CalPERS  
CEPPT  
P.O. Box 1494  
Sacramento, CA 95812-1494

Filing in person, deliver to:  
CalPERS Mailroom  
CEPPT  
400 Q Street  
Sacramento, CA 95811

For Employer:

(b) Either party to this Agreement may, from time to time by notice in writing served upon the other, designate a different mailing address to which, or a different person to whom, all such notices thereafter are to be addressed.

### (3) Survival

All representations, warranties, and covenants contained in this Agreement, or in any instrument, certificate, exhibit, or other writing intended by the parties to be a part of this Agreement shall survive the termination of this Agreement.

### (4) Waiver

No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

### (5) Necessary Acts; Further Assurances

The parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Agreement.

### (6) Incorporation of Amendments to Applicable Laws and Accounting Standards

Any references to sections of federal or state statutes or regulations or accounting standards shall be deemed to include a reference to any amendments thereof and any successor provisions thereto.

### (7) Days

Wherever in this Agreement a set number of days is stated or allowed for a particular event to occur, the days are understood to include all calendar days, including weekends and holidays, unless otherwise stated.

### (8) No Third Party Beneficiaries

Except as expressly provided herein, this Agreement is for the sole benefit of the parties hereto and their permitted successors and assignees, and nothing herein, expressed or implied, will give or be construed to give any other person any legal or equitable rights hereunder. Notwithstanding the foregoing, CalPERS, the CEPPT, and all of the officers, trustees, agents and employees of CalPERS, the CEPPT and the Board shall be considered third party beneficiaries of this Agreement with respect to Paragraph I above.

### (9) Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

A majority vote of Employer's Governing Body at a public meeting held on the \_\_\_\_\_ day of the month of \_\_\_\_\_ in the year \_\_\_\_\_, authorized entering into this Agreement.

Signature of the Presiding Officer: \_\_\_\_\_

Printed Name of the Presiding Officer: \_\_\_\_\_

Name of Governing Body: \_\_\_\_\_

Name of Employer: \_\_\_\_\_

Date: \_\_\_\_\_

BOARD OF ADMINISTRATION  
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY \_\_\_\_\_  
ARNITA PAIGE  
DIVISION CHIEF, PENSION CONTRACT AND PREFUNDING PROGRAMS  
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

To be completed by CalPERS

The effective date of this Agreement is: \_\_\_\_\_



California Public Employees' Retirement System  
California Employers' Pension Prefunding Trust (CEPPT)  
400 Q Street, Sacramento, CA 95811  
www.calpers.ca.gov

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## Delegation of Authority to Request Disbursements California Employers' Pension Prefunding Trust (CEPPT)

### RESOLUTION OF THE

\_\_\_\_\_  
(GOVERNING BODY)

### OF THE

\_\_\_\_\_  
(NAME OF EMPLOYER)

The \_\_\_\_\_ delegates to the incumbents  
(GOVERNING BODY)

in the positions of \_\_\_\_\_ and  
(TITLE)

\_\_\_\_\_, and/or  
(TITLE)

\_\_\_\_\_ authority to request on behalf of the  
(TITLE)

Employer disbursements from the Pension Prefunding Trust and to certify as to the purpose  
for which the disbursed funds will be used.

By \_\_\_\_\_

Title \_\_\_\_\_

Witness \_\_\_\_\_

Date \_\_\_\_\_

ATTACHMENT 2



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 7

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DATE: October 25, 2019  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Adopt a Resolution Authorizing the Town Manager to Apply for a Proposition 68 Per Capita Program Grant for Park Improvements

**RECOMMENDATION:**

Adopt a resolution authorizing the Town Manager to apply for a Proposition 68 Per Capita Program grant for park improvements.

**BACKGROUND:**

On June 5, 2018, voters approved Proposition 68, the "Parks and Water Bond Act of 2018." One of the programs included is the Per Capita Program which allocates funds to jurisdictions by population, with a minimum award of \$200,000. The program funds are eligible for a number of purposes, including park land acquisition, capital projects, and park rehabilitation.

**DISCUSSION:**

The Proposition 68 Program is still in final stages of development by the State; however, one element that is clearly defined and under time constraints is the required Council approval of a resolution.

Once the State has detailed program guidelines, staff will identify potential eligible projects, obtain input from the Town's Parks Commission, and bring the project(s) forward for Town Council consideration.

**CONCLUSION:**

Staff is recommending the adoption of the Resolution to enable the Town to participate in the State's parks grant program.

**PREPARED BY:** MATT MORLEY  
Parks and Public Works Director

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Reviewed by: Town Manager, Assistant Town Manager, and Town Attorney

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PAGE 2 OF 2

SUBJECT: Adopt a Resolution Authorizing the Town Manager to Apply for a Proposition 68 Per Capita Program Grant for Park Improvements

DATE: October 25, 2019

COORDINATION:

Staff discussed the Proposition 68 program with the Parks Commission at its meeting on October 7, 2019 and will continue to coordinate with stakeholders throughout the process.

FISCAL IMPACT:

There is no fiscal impact as a result of the recommended action.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:

1. Resolution Approving an Application for Proposition 68 Per Capita Funding

## RESOLUTION 19-

### RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS APPROVING APPLICATION(S) FOR PER CAPITA GRANT FUNDS

**WHEREAS**, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Per Capita Grant Program, setting up necessary procedures governing application(s); and

**WHEREAS**, the Town of Los Gatos intends to apply for and anticipates receiving funds through the Per Capita Grant Program as a "grantee"; and

**WHEREAS**, said procedures established by the State Department of Parks and Recreation require the grantee's Governing Body to certify by resolution the approval of project application(s) before submission of said applications to the State; and

**WHEREAS**, the grantee will enter into a contract with the State of California to complete project(s);

**NOW, THEREFORE, BE IT RESOLVED:** that the Town Council of the Town of Los Gatos hereby:

1. Approves the filing of project application(s) for Per Capita program grant project(s); and
2. Certifies that said grantee has or will have available, prior to commencement of project work utilizing Per Capita funding, sufficient funds to complete the project(s); and
3. Certifies that the grantee has or will have sufficient funds to operate and maintain the project(s), and
4. Certifies that all projects proposed will be consistent with the park and recreation element of the Town of Los Gatos General Plan (PRC §80063(a)), and
5. Certifies that these funds will be used to supplement, not supplant, local revenues in existence as of June 5, 2018 (PRC §80062(d)), and
6. Certifies that it will comply with the provisions of §1771.5 of the State Labor Code, and
7. (PRC §80001(b)(8)(A-G)) To the extent practicable, as identified in the "Presidential Memorandum--Promoting Diversity and Inclusion in Our National Parks, National Forests, and Other Public Lands and Waters," dated January 12, 2017, the Town of Los Gatos will consider a range of actions that include, but are not limited to, the following:  
(A) Conducting active outreach to diverse populations, particularly minority, low-income, and disabled populations and tribal communities, to increase awareness



within those communities and the public generally about specific programs and opportunities.

(B) Mentoring new environmental, outdoor recreation, and conservation leaders to increase diverse representation across these areas.

(C) Creating new partnerships with state, local, tribal, private, and nonprofit organizations to expand access for diverse populations.

(D) Identifying and implementing improvements to existing programs to increase visitation and access by diverse populations, particularly minority, low-income, and disabled populations and tribal communities.

(E) Expanding the use of multilingual and culturally appropriate materials in public communications and educational strategies, including through social media strategies, as appropriate, that target diverse populations.

(F) Developing or expanding coordinated efforts to promote youth engagement and empowerment, including fostering new partnerships with diversity-serving and youth-serving organizations, urban areas, and programs.

(G) Identifying possible staff liaisons to diverse populations.

8. Agrees that to the extent practicable, the project(s) will provide workforce education and training, contractor and job opportunities for disadvantaged communities (PRC §80001(b)(5)).
9. Certifies that the grantee shall not reduce the amount of funding otherwise available to be spent on parks or other projects eligible for funds under this division in its jurisdiction. A one-time allocation of other funding that has been expended for parks or other projects, but which is not available on an ongoing basis, shall not be considered when calculating a recipient's annual expenditures. (PRC §80062(d)).
10. Certifies that the grantee has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Procedural Guide; and
11. Delegates the authority to the Town Manager, or designee to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the grant scope(s); and
12. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 5th day of November 2019 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:  
ABSTAIN:

SIGNED:

GATOS

MAYOR OF THE TOWN OF LOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 8

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DATE: October 22, 2019  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Adopt a Resolution to Authorize the Application for and Receipt of Planning Grants Program Funds

**RECOMMENDATION:**

Adopt a resolution (Attachment 3) to authorize application for and receipt of Planning Grants Program funds, including execution of an agreement with the California Department of Housing and Community Development by the Town Manager.

**BACKGROUND:**

In 2017, Governor Brown signed a [15-bill housing package](#) aimed at addressing the State's housing shortage and high housing costs. Specifically, it included the [Building Homes and Jobs Act](#) (SB 2) which established a \$75 recording fee on real estate documents to provide a permanent source of funding intended to increase the supply of affordable homes in California.

The legislation directs the Department of Housing and Community Development (HCD) to use 50 percent of the first year's revenue (January through December 2018) to establish a non-competitive Planning Grants Program (PGP) that provides financial and technical assistance to local governments to update planning documents and land-use ordinances. A maximum award amount of \$160,000 is available for localities with a population of less than 60,000 people.

Eligible local governments (cities and counties) must: have an HCD-compliant Housing Element, have submitted a recent Housing Element Annual Progress report, and demonstrate that the local government's actions are consistent with established State Planning Priorities. The Town is in compliance with these requirements.

**PREPARED BY:** Sally Zarnowitz, AIA, LEED AP  
Planning Manager

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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BACKGROUND (continued):

To qualify for funding, localities must also demonstrate a nexus of proposed activities to accelerating housing production. However, activities that fall into at least one of six Priority Policy Areas identified by HCD are automatically deemed to demonstrate a nexus to accelerating housing production, without requiring any further documentation by the local government.

On September 24, 2019, the Town Council Policy Committee discussed the merits of an application and potential planning activities which could fall into at least one Priority Policy Area. Attachment 1 contains the Policy Committee staff report with the HCD Notice of Funding Availability (NOFA) for the PGP.

The Committee noted that while the Town is considering goals, policies, and future action items through its General Plan update process, the PGP funds could be utilized for consultant services to assist in completing current action items in the adopted 2015-2023 Housing Element of the General Plan. Following further discussion, this was the Committee's recommendation (see Attachment 2 for the Policy Committee minutes).

DISCUSSION:

Housing Element Action item HOU-2.4 includes amending the Town Code to add by right development findings for affordable housing applications that meet objective standards, as follows:

Action HOU-2.4      **By Right Findings:** For multiple family residential development within the North 40 and the Southbay AHOZ site subject to by right development, the Town will amend the Town Code to add by right development findings that, among other items, state that if a project meets the objective review criteria contained in the AHOZ Design Guidelines or North 40 Specific Plan design guidelines the deciding body will approve the affordable housing proposal.

The Planning Grants application would request funds to hire a planning consultant to determine amendments to the Town Code to add by right development findings and developing objective standards for development applications. A consultant would be selected after a Request for Qualifications (RFQ) process and the Council would approve the award of the consultant contract at a future date.

CONCLUSION:

Approval of this item would allow Town staff to submit an application for the non-competitive PGP funds in the amount of \$160,000 by November 30, 2019, with the intent of receiving funds to be used to develop by right findings and objective standards.

COORDINATION:

The preparation of this report was coordinated with the Finance Department and the Town Manager's Office.

FISCAL IMPACT:

The receipt of PGP funds would facilitate the completion of an important Housing Element Action Item. Once received, the funds will be added to the Town's budget and acknowledged at the Mid-Year Budget Review.

ENVIRONMENTAL ASSESSMENT:

The project is Categorical Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that the proposed amendments to the Town Code will have a significant effect on the environment.

Attachments:

1. September 24, 2019 Town Council Policy Committee Staff Report with Attachment 1
2. September 24, 2019 Town Council Policy Committee Minutes
3. Draft Resolution



**TOWN OF LOS GATOS**  
**COUNCIL POLICY COMMITTEE REPORT**

MEETING DATE: 09/24/2019

ITEM NO: 5

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DATE: September 20, 2019  
TO: Council Policy Committee  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Discuss and Provide Direction on a Planning Grants Program Application

**RECOMMENDATION:**

Discuss and provide direction on a Planning Grants Program application.

**BACKGROUND:**

In 2017, Governor Brown signed a 15-bill housing package aimed at addressing the State's housing shortage and high housing costs. Specifically, it included the Building Homes and Jobs Act (SB 2), which establishes a \$75 recording fee on real estate documents to provide a permanent source of funding, intended to increase the supply of affordable homes in California.

The legislation directs the Department of Housing and Community Development (HCD) to use 50 percent of the first year's revenue (January through December 2018) to establish a Planning Grants Program (PGP) that provides financial and technical assistance to local governments to update planning documents and land-use ordinances. A maximum award amount of \$160,000 is available for localities with a population of less than 60,000 people. The application period is anticipated to end on November 30, 2019 (see Attachment 1).

The program provides grants through a noncompetitive, over-the-counter process to eligible local governments (cities and counties) who must: have an HCD-compliant housing element, have submitted a recent Annual Progress report, demonstrate a nexus to accelerating housing production, and demonstrate consistency with State Planning Priorities (Government Code Section 65041.1) or other planning priorities.

**PREPARED BY:** JOEL PAULSON  
Community Development Director

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Reviewed by: Town Manager and Town Attorney

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BACKGROUND (continued):

Applicants proposing activities in at least one of the Priority Policy Areas below are automatically deemed to demonstrate a nexus to accelerating housing production without any further documentation:

- **Rezone to Permit By-right:** Rezoning for significant additional housing capacity without or with lesser discretionary review or establishing zoning to permit residential development by-right, particularly multifamily, without discretionary action pursuant to Government Code Section 65583.2(h) and (i).
- **Objective Design and Development Standards:** Developing objective design standards or pre-approved site and architectural plans that facilitate non-discretionary permitting.
- **Specific Plans or Form based Codes Coupled with CEQA Streamlining:** Designating and rezoning for additional housing capacity or preparing specific plans or form codes that include zoning and development standards and plan-level environmental analysis that can be used to streamline future housing projects and facilitate affordability.
- **Accessory Dwelling Units or Other Innovative Building Strategies:** Encouraging ADUs and other innovative building types through actions above state law such as, outreach, fee waivers, pre-approved plans, website zoning clearance assistance, and other homeowner tools or finance tools. Also, establishing other approaches to intensify existing lower density residential areas and “missing model” typologies to encourage significantly more residential development (e.g., duplexes, triplexes) in lower density residential areas.
- **Expedited Processing:** Speeding up approvals and permit processing, including instituting programs that streamline or consolidate the review process or create a separate process for expedited review of housing projects.
- **Housing Related Infrastructure Financing and Fee Reduction Strategies:** Develop and implement approaches to local, regional or sub-regional housing related infrastructure financing. Create plans and programs to finance and increase infrastructure with accompanying enhanced housing capacity, such as enhanced infrastructure financing districts. Fee reduction and rationalization approaches, such as reassessing fees to adhere to best practices in reducing costs, deferrals, sliding scales or proportionate impacts fees (e.g., ADUs, transit oriented, and infill development, special needs housing), or fee transparency measures including publicly available fee calculators.

Staff looks forward to the Policy Committee discussion and direction regarding whether the Committee recommends the Town submit a Planning Grants Program application, and if so, in which Priority Policy Area activities should be proposed.

PAGE 3 OF 3

SUBJECT: State Planning Grant Application

DATE: September 20, 2019

COORDINATION:

The preparation of this report was coordinated with the Town Manager's and Town Attorney's Offices.

Attachment:

1. Notice of Funding Availability – SB 2 Planning Grants Program





**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF FINANCIAL ASSISTANCE**

2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833  
(916) 263-2771 / FAX (916) 263-2763  
[www.hcd.ca.gov](http://www.hcd.ca.gov)



March 28, 2019

**MEMORANDUM FOR:** All Potential Applicants

**FROM:** Zachary Olmstead, Deputy Director  
Division of Housing Policy Development

**SUBJECT:** NOTICE OF FUNDING AVAILABILITY -  
SB 2 PLANNING GRANTS PROGRAM

The Department of Housing and Community Development (Department) is pleased to announce the release of this Notice of Funding Availability (NOFA) for approximately \$123 million under the Senate Bill 2 (SB 2, 2017) Planning Grants Program (PGP). SB 2 established a permanent source of funding intended to increase the affordable housing stock in California. The legislation directs the Department to use 50 percent of the first year's revenue to establish a program that provides financial and technical assistance to local governments to update planning documents and land-use ordinances. The PGP is intended for the preparation, adoption, and implementation of plans that streamline housing approvals and accelerate housing production.

In order to be eligible for grant funding, an applicant must submit a complete, signed original application and an electronic copy on CD or USB flash drive. OTC applications will be accepted for an eight-month period ending on **November 30, 2019**. The Department will only accept applications through a postal carrier service that provides date stamp verification confirming delivery to the Department's office, such as the U.S. Postal Service, UPS, FedEx, or other carrier services. No facsimiles, late applications, incomplete applications, application revisions, electronic submittals, or walk-in application packages will be accepted. All applications must be submitted to the Department at the following address:

**Department of Housing and Community Development  
Division of Housing Policy Development  
2020 West El Camino Ave, Suite 500  
Sacramento, CA 95833**

PGP applications and forms are available on the Department's [website](#). Please refer to the [Planning Grants Program Guidelines](#) for detailed information on eligible activities, applicants, and awards. If you have questions regarding this NOFA, please email the Department at [sb2planninggrant@hcd.ca.gov](mailto:sb2planninggrant@hcd.ca.gov).

Attachment

# **PLANNING GRANTS PROGRAM (SB 2, 2017) 2019 NOTICE OF FUNDING AVAILABILITY**



**State of California  
Governor Gavin Newsom**

**Alexis Podesta, Secretary  
Business, Consumer Services and Housing Agency**

**Ben Metcalf, Director  
Department of Housing and Community Development**

**Zachary Olmstead, Deputy Director  
Department of Housing and Community Development  
Division of Housing Policy Development**

2020 West El Camino Avenue, Suite 500  
Sacramento, CA 95833  
Telephone: (916) 263-2771

Website: <http://www.hcd.ca.gov/grants-funding/active-funding/planning-grants.shtml>

Email: [sb2planninggrant@hcd.ca.gov](mailto:sb2planninggrant@hcd.ca.gov)

March 29, 2019

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# 2019 NOTICE OF FUNDING AVAILABILITY SB 2 PLANNING GRANTS PROGRAM

## I. Introduction

The Department is releasing this Notice of Funding Availability (NOFA) for approximately \$123 million to make funding available to all local governments in California under the Senate Bill 2 (SB 2) Planning Grants Program (PGP). The PGP program is intended for the preparation, adoption, and implementation of plans that streamline housing approvals and accelerate housing production.

The PGP is authorized by Health and Safety Code sections 50470 et seq. (Chapter 364, Statutes of 2017, (SB 2)). Funding is subject to the December 2018 Planning Grants Program Guidelines (hereinafter referred to as the “Guidelines”), which includes detailed information on eligibility requirements, conditions, and procedures for awarding funds.

## II. Program Summary

SB 2 (2017) is part of a 15 bill housing package aimed at addressing the state’s housing shortage and high housing costs. Specifically, SB 2 established a permanent source of revenue intended to increase the affordable housing stock in California.

PGP grants are funded through 50 percent of the revenues collected during the first calendar year (January through December, 2018). The PGP program is a one-time component of SB 2 that, among other provisions, provides financial and technical assistance to local governments to update planning documents in order to:

- Accelerate housing production;
- Streamline the approval of housing development affordable to owner and renter households at all income levels;
- Facilitate housing affordability, particularly for all income groups;
- Promote development consistent with the State Planning Priorities; and
- Ensure geographic equity in the distribution and expenditure of allocated funds

The Department, in conjunction with the Governor’s Office of Planning and Research, will provide technical assistance to localities pursuant to the provisions set forth in Article VII, Section 700(a) through (e) of the Guidelines. For further information, contact the Department at [sb2planninggrant@hcd.ca.gov](mailto:sb2planninggrant@hcd.ca.gov) for details regarding local technical assistance.

Please refer to the Guidelines for other administrative provisions not summarized in this NOFA.

### III. Program Timeline

Pursuant to Section 500(a) of the Guidelines, funds will be initially available to eligible applicants on a noncompetitive, over-the-counter (OTC) basis. Applications will be accepted over an eight-month period, commencing from the date of the release of this NOFA (Section 500(b) of the Guidelines). See Table 1 below for the projected timeline for awards for the initial OTC period.

Table 1: *Projected Timeline for Awards for OTC Applications*

Event	Date(s)
NOFA release	March 28, 2019
NOFA-Application Workshops / Webinar Period	April 1 - May 1, 2019
Final due date for OTC applications	November 30, 2019
Supplemental round	TBD
Anticipated end of grant term	June 30, 2022

The Department anticipates awards in 2-3 month intervals, depending on the volume of applications, and reserves the right to make adjustments to the projected timeline at any time. If OTC funds are not fully awarded at the end of the eight-month period, the Department may extend the final OTC application due date or consider a supplemental funding round (Section 500(g) of the Guidelines). During any supplemental round, top priority will be given to localities that have not submitted a previous request for funding. All other applicants may be subject to competitive scoring criteria during any supplemental round (Section 500(g)(2) of the Guidelines).

### IV. Funding Available

The Department determined maximum award amounts for large, medium, and small localities, based on population estimates from the Department of Finance (DOF). Table 2 below shows the minimum and maximum awards available pursuant to Article IV, Section 400 of the Guidelines. Applicants can view maximum award amounts for all jurisdictions [here](#).

Table 2: *Minimum and Maximum Award Amounts*

All Localities	Large Localities – Defined as ≥ 200,000 people	Medium Localities – Defined as 60,000 to 200,000 people	Small Localities – Defined as ≤ 60,000 people
Minimum award amount:	Maximum award amount:	Maximum award amount:	Maximum award amount:
<b>\$25,000</b>	<b>\$625,000</b>	<b>\$310,000</b>	<b>\$160,000</b>

For a link to the 2018 DOF Population Estimates, E-5, see:  
<http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/>

Applicants seeking partnerships with other local governments will be additive. For example, two large localities could submit a proposal for up to \$1.25 million; three small localities up to \$480,000, etc. Note: All applicants, including those who are forming partnerships, must submit separate, complete and signed application packages, pursuant to section X of this NOFA, to the Department in order to be awarded funds.

## **V. Eligible Applicants**

Pursuant to Article II, Section 200 of the Guidelines, eligible applicants are limited to local governments, i.e., cities and counties. However, local governments may partner through legally binding agreements with other forms of governments or entities where the proposal will have a direct effect on land-use or development within the locality. This includes, but is not limited to, partnerships with other localities, regional governments, housing authorities, school districts, special districts, community based organizations, or any duly constituted governing body of an Indian Reservation or Rancheria.

Multi-jurisdictional partnerships between local governments are encouraged in order to coordinate with regional governments, leverage regional and state investment, promote consistency with the sustainable communities strategy, and affirmatively further fair housing.

Note: All localities must pass the Threshold Criteria as stated in section VIII of this NOFA. To ensure compliance with section VIII, all applicants, including those who are forming partnerships, must submit separate, complete and signed application packages, including resolutions, to the Department in order to be awarded funds.

## **VI. Eligible Activities**

Applicants proposing Priority Policy Areas, as defined in section VIII of this NOFA, are automatically deemed to accelerate housing production without any documentation or demonstration to the Department.

Pursuant to Article III, Section 300 of the Guidelines, a variety of planning documents, planning activities and strategies, are considered eligible activities and must demonstrate a nexus to accelerating housing production, which may include:

- (1) Updates to general plans, community plans, specific plans, local planning related to implementation of sustainable communities strategies, or local coastal plans;
- (2) Updates to zoning ordinances;
- (3) Environmental analyses that eliminate the need for project-specific review;
- (4) Local process improvements that improve and expedite local planning;
- (5) A smaller geography with a significant impact on housing production including an overlay district, project level specific plan, or development standards modifications proposed for significant areas of a locality, such as corridors, downtown or priority growth areas;
- (6) The creation or enhancement of a housing sustainability district pursuant to AB 73 (Chapter 371, Statutes of 2017);
- (7) Workforce housing opportunity zone pursuant to SB 540 (Chapter 369, Statutes of 2017);

- (8) Zoning for by-right supportive housing, pursuant to Government Code section 65651 (Chapter 753, Statutes of 2018);
- (9) Zoning incentives for housing for persons with special needs, including persons with developmental disabilities;
- (10) Rezoning to meet requirements pursuant to Government Code Section 65583.2(c) and other rezoning efforts to facilitate supply and affordability;
- (11) Rezoning for multifamily housing in high resource areas (according to Tax Credit Allocation Committee/Housing Community Development Opportunity Area Maps);
- (12) Pre-approved architectural and site plans;
- (13) Regional housing trust fund plans;
- (14) SB 2 funding plans;
- (15) Infrastructure financing plans;
- (16) Environmental hazard assessments; data collection on permit tracking; feasibility studies, site analysis, or other background studies that are ancillary and part of a proposed activity with a nexus to accelerating housing production; and
- (17) Other planning activities demonstrating a nexus to accelerating housing production.

Eligible activities may be part of a larger planning effort (e.g., a comprehensive zoning code update) if proposed activities have not been completed prior to the NOFA date, are distinct, and demonstrate a nexus to accelerating housing production.

As part of the PGP program, HCD, in coordination with the Governor's Office of Planning and Research (OPR), will work with a team led by Placeworks to provide technical assistance (TA) to applicants throughout the application period. The TA team will work closely with regions, sub-regions, and counties to help jurisdictions identify activities and provide tools that will accelerate housing production. For further information, contact the Department at [sb2planninggrant@hcd.ca.gov](mailto:sb2planninggrant@hcd.ca.gov) for details regarding local technical assistance.

## **VII. Eligible Uses**

Pursuant to Article III, Section 302 of the Guidelines, grant funds shall be used for the costs of preparing and adopting the proposed activity. Subcontracting is allowable under conditions set forth in Section 302(c) of the Guidelines. Pursuant to Section 302(b) of the Guidelines, grant funds may not be used for administrative costs of persons employed by the grantee for activities not directly related to the proposed activity. No more than 5 percent of the grant amount may be used for administrative costs for any proposed use, to be approved by the Department upon disbursement.

Only approved and eligible costs incurred for work after the NOFA date, continued past the date of the Standard Agreement, and completed during the grant term, will be reimbursable. Approved and eligible costs incurred prior to the NOFA date are ineligible



(Section 601(c) of the Guidelines).

Refer to Section 301 of the Guidelines for a list of all ineligible activities.

### **VIII. Threshold Requirements**

In accordance with Article II, Section 201 of the Guidelines, all applicants must meet the following threshold requirements:

- (1) **Housing element compliance:** The applicant must have a housing element that has been adopted by the jurisdiction's governing body by the date the applicant submits the application package, and is subsequently determined to be in substantial compliance with state housing element law pursuant to Gov. Code Section 65585 by the time of award. A jurisdiction's current housing element compliance status can be obtained by referencing the Department's website at <http://www.hcd.ca.gov/community-development/housing-element/index.shtml> or emailing the Department at [sb2planninggrant@hcd.ca.gov](mailto:sb2planninggrant@hcd.ca.gov). For more information on housing element requirements, please contact Paul McDougall at [paul.mcdougall@hcd.ca.gov](mailto:paul.mcdougall@hcd.ca.gov).

Pursuant to Section 201(a)(2) of the Guidelines, applicants not meeting housing element requirements may be considered to meet this threshold requirement at the discretion of the Department on a case by case basis by applying factors such as significant progress in meeting housing element requirements (e.g., a draft found to meet statute, rezoning near completion), proposing activities to meet housing element requirements (e.g., rezoning to accommodate housing needs pursuant to Gov. Code Section 65583(c)(1)) and adoption of a compliant element prior to the award of funds.

- (2) **Annual Progress Report (APR) on the housing element:** The applicant must submit the APR to the Department, as required by Gov. Code section 65400, for the current or prior year by the date the applicant submits the application package.
- (3) **Nexus to accelerating housing production:** The applicant must propose and document plans or processes that accelerate housing production. The application must demonstrate a significant positive effect on accelerating housing production through timing, cost, approval certainty, entitlement streamlining, feasibility, infrastructure capacity, or impact on housing supply and affordability. An application not utilizing Priority Policy Areas must include an explanation and documentation of the nexus plans or processes impact on accelerating housing production based on a reasonable and verifiable methodology and must utilize the Department's form (see Attachment 2 in the Application). A verifiable methodology may include a statement of support from a non-profit or for-profit developer that is active in the locality.

Applicants proposing Priority Policy Areas do not require a nexus demonstration and are automatically deemed to accelerate housing production without any documentation. Pursuant to Section 102(q) of the Guidelines, Priority Policy Areas means any of the following:

- (a) Rezone to Permit By-right: Rezoning for significant additional housing capacity without, or lesser, discretionary review, or establishing zoning to permit residential development by-right, particularly multifamily, without discretionary action pursuant to Government Code Section 65583.2(h) and (i).
- (b) Objective Design and Development Standards: Developing objective design standards or pre-approved site and architectural plans that facilitate non-discretionary permitting.
- (c) Specific Plans or Form based Codes Coupled with CEQA Streamlining: Designating and rezoning for additional housing capacity or preparing specific plans or form codes that include zoning and development standards and plan-level environmental analysis that can be used to streamline future housing projects and facilitate affordability.
- (d) Accessory Dwelling Units (ADU) or Other Low-Cost Building Strategies: Encouraging ADUs and other low-cost building types through actions above state law such as, outreach, fee waivers, pre-approved plans, website zoning clearance assistance, and other homeowner tools or finance tools. Also, establishing other approaches to intensify existing lower density residential areas and “missing model” typologies to encourage significantly more residential development (e.g., duplexes, triplexes) in lower density residential areas.
- (e) Expedited Processing: Speeding up approvals and permit processing, including instituting programs that streamline or consolidate the review process or create a separate process for expedited review of housing projects.
- (f) Housing Related Infrastructure Financing and Fee Reduction Strategies: Develop and implement approaches to local, regional or sub-regional housing related infrastructure financing. Create plans and programs to finance and increase infrastructure with accompanying enhanced housing capacity, such as enhanced infrastructure financing districts. Fee reduction and rationalization approaches, such as reassessing fees to adhere to best practices in reducing costs, deferrals, sliding scales or proportionate impacts fees (e.g., ADUs, transit oriented, and infill development, special needs housing), or fee transparency measures including publically available fee calculators.

**Note:** HCD will be rolling out best practice toolkits and technical assistance in these topic areas over the course of 2019.

**Note:** If the applicant is proposing only Priority Policy Areas ((PPA), as defined in section VIII, subsection (3) of the NOFA), do not fill out Attachment 2. However, if the applicant is proposing to fund PPAs AND other activities that are not considered PPAs, the application must demonstrate how these other activities have a nexus to accelerating housing production by filling out Attachment 2 of the application.

- (4) **State Planning and Other Planning Priorities:** Applicants must demonstrate that the locality is consistent with State Planning or Other Planning Priorities.

Consistency may be demonstrated through activities (not necessarily proposed for SB 2 funding) that were completed within the last five years. Applicants must self-certify utilizing the Department's form (see Attachment 1 in the Application).

## **IX. NOFA Application Workshops**

The Department will hold workshops and a webinar to review the PGP NOFA and application, and will be conducting technical assistance to aid applicants throughout the OTC period. For a list of dates, times, and locations for the workshops as well as information on technical assistance, please visit the Department's SB 2 Planning Grants webpage, or register here.

## **X. Application Submission Requirements**

In order to be eligible for grant funding, an applicant must submit a complete, signed original application and an electronic copy on CD or USB flash drive. Applications will be accepted on an OTC basis for an eight-month period anticipated to end **November 30, 2019**. Note: All localities must pass the threshold criteria as stated in section VIII of this NOFA. To ensure compliance with section VIII, all applicants, including those who are forming or have formed partnerships, must submit separate, complete and signed application packages, including resolutions, to the Department in order to be awarded funds.

The Department will only accept applications through a postal carrier service that provides date stamp verification confirming delivery to the Department's office, such as the U.S. Postal Service, UPS, FedEx, or other carrier services. No facsimiles, late applications, incomplete applications, application revisions, electronically submitted, or walk-in application packages will be accepted. All applications must be submitted to the Department at the following address:

**Department of Housing and Community Development  
Division of Housing Policy Development / Land Use Planning Unit  
2020 West El Camino Ave, Suite 500  
Sacramento, CA 95833**

Applications must be on Department forms and cannot be altered or modified by the applicant. Program applications and forms are available on the Department's website located at <http://www.hcd.ca.gov/grants-funding/active-funding/planning-grants.shtml#forms>.

## **XI. Application Review Process**

Each application will first be reviewed for completeness, threshold eligibility requirements, and accuracy. In order to be considered complete, an application must contain all requested information and supporting documentation. All applications must also meet the eligibility and threshold requirements as specified in this NOFA and the

Guidelines. If the application is ineligible, it will not be considered for funding. Applicants may resubmit their applications prior to the November 30, 2019 deadline. All applicants not meeting the eligibility and threshold requirements will be informed within 60 days from the date the Department receives the application.

## **XII. Applicant Notification**

Applicants will be notified within 60 days of the Department's receipt of their application regarding the status of their application and/or if any additional information is required (Section 500(e)) of the Guidelines). Applicants will receive an official letter of award after the Department approves funding recommendations (Section 500(f) of the Guidelines).

## **XIII. Award Letter and Standard Agreement**

Successful applicants will receive an Award Letter from the Department and will be awarded funds through the Standard Agreement process that will specify, among other things, the amount of funds granted, timeline for expenditure of funds, and the approved use of funds. Expenditure report dates and other requirements will also be identified in the SB 2 Planning Grants Program Standard Agreement.

## **XIV. Appeals**

### **(1) Basis of Appeals:**

- (a) Upon receipt of the Department's notice deeming an application incomplete or ineligible, applicants under this NOFA may appeal such decision(s) to the Director pursuant to this Section.
- (b) No applicant shall have the right to appeal a decision of the Department relating to another applicant's eligibility, point score, award, denial of award, or any other related matter.

### **(2) Appeals Process and Deadlines:**

- (a) Process. In order to lodge an appeal, applicants must submit to the Director by the deadline set forth in subsection (b) below, a written appeal which states all relevant facts, arguments, and evidence upon which the appeal is based. No new or additional information will be accepted. Once the written appeal is submitted to the Director, no further information or materials will be accepted or considered thereafter. Appeals are to be submitted to the Director at following address:

Department of Housing and Community Development  
Division of Housing Policy Development  
2020 W. El Camino Avenue, Suite 500  
Sacramento, California 95833  
[sb2planninggrant@hcd.ca.gov](mailto:sb2planninggrant@hcd.ca.gov)

The Director will accept appeals delivered through a carrier service such as

the U.S. Postal Service, UPS, Fed Ex, or other carrier services that provide date stamp verification of delivery. Deliveries must be received during the Department's weekday (non-state holiday) business hours of 9:00 a.m. to 5:00 p.m. Pacific Standard Time. Additionally, emails to the email address listed above will be accepted if the email time stamp is prior to the appeal deadline.

- (b) **Filing Deadline.** Appeals must be received by the Director no later than (5) five business days from the date of the Department's determination.

(3) **Decision:**

Any request to amend the Department's decision shall be reviewed for compliance with the December 2018 Guidelines and the March 29, 2019 NOFA. The Director shall render his/her decision in writing within fifteen (15) business days of receipt of the applicant's written appeal. The decision of the Director shall be the Department's final decision, and shall not be appealable to any court or tribunal.

(4) **Effectiveness:**

In the event that the statute and/or guidelines governing the PGP program contain an existing process for appealing decisions of the Department with respect to NOFA awards made under such programs, this Section shall be inapplicable and all appeals shall be governed by such existing authority.

## **XV. Right to Modify or Suspend**

The Department reserves the right, at its sole discretion, to suspend, amend, or modify the provisions of this NOFA at any time, including, without limitation, the amount of funds available hereunder. If such an action occurs, the Department will notify all interested parties and will post the revisions to the Department's website. You may subscribe to the Department's email list here: [http://www.hcd.ca.gov/HCD\\_SSI/subscribe-form.html](http://www.hcd.ca.gov/HCD_SSI/subscribe-form.html).



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**Minutes of the Regular Town Council Policy Committee Meeting  
September 24, 2019**

The Town Council Policy Committee of the Town of Los Gatos conducted a regular meeting on Tuesday, September 24, 2019, at 5:00 p.m.

**MEETING CALLED TO ORDER AT 5:00 P.M.**

**ROLL CALL**

Members Present: Marcia Jensen, Barbara Spector.

Staff Present: Laurel Prevetti, Town Manager; Joel Paulson, Community Development Director; Sally Zarnowitz, Planning Manager; Lisa Petersen, Town Engineer; Holly Zappala, Management Analyst.

**VERBAL COMMUNICATIONS**

None.

**OTHER BUSINESS**

**1. Approval of the August 27, 2019 Council Policy Committee Minutes.**

Approved.

**2. Discuss and Provide Direction on the Land Use Appeal Process.**

After continuing the discussion from prior meetings, the Committee asked staff to send the Committee via email revised language reflecting the following two options for the land use appeal process:

- The Town Council may consider additional findings/information as part of the land use decision appeal; and
- The appeal is returned to the Planning Commission if the Town Council grants the appeal based on information not presented to the Planning Commission.

Upon approval of the emailed language, the Committee agreed to forward both options to the Town Council for discussion and decision.

**3. Provide Direction on Potential Amendments to the Town Code Regarding Right of Way Dedication, Installation of Curbs, Gutters and Sidewalks, and Undergrounding of Utilities.**

After discussion, the Committee agreed to forward a recommendation to adopt the proposed amendments to the Town Council with modifications to the language.

**4. Provide direction on potential amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding below market price regulations and options for the use of below market price in-lieu fees.**

After discussion, the Committee asked staff to send the Committee via email revised language reflecting a goal of below market price units seamlessly integrating into the rest of the development. Upon approval of the emailed language, the Committee agreed to forward a recommendation to adopt the proposed amendment to the Town Council.

**5. Discuss and Provide Direction on a Planning Grants Program Application.**

Sally Zarnowitz, Planning Manager, presented the staff report.

After discussion, the Committee agreed to forward a recommendation to the Town Council to apply for the Planning Grants Program for implementation of qualifying action items in the current Housing Element of the General Plan. The Committee asked staff to include those items as an attachment to the Town Council report.

**ADJOURNMENT**

The meeting adjourned at 6:18 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the September 24, 2019 meeting as approved by the Town Council Policy Committee.

  
/s/Holly Zappala, Management Analyst

## **RESOLUTION 2019-**

### **RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AUTHORIZING APPLICATION FOR, AND RECEIPT OF, SB 2 PLANNING GRANTS PROGRAM FUNDS**

**WHEREAS**, the State of California, Department of Housing and Community Development (Department) has issued a Notice of Funding Availability (NOFA) dated March 28, 2019, for its Planning Grants Program (PGP); and

**WHEREAS**, the Town Council of the Town of Los Gatos desires to submit a project application for the PGP program to accelerate the production of housing and will submit a 2019 PGP grant application as described in the Planning Grants Program NOFA and SB 2 Planning Grants Program Guidelines released by the Department for the PGP Program; and

**WHEREAS**, the Department is authorized to provide up to \$123 million under the SB 2 Planning Grants Program from the Building Homes and Jobs Trust Fund for assistance to Counties (as described in Health and Safety Code section 50470 et seq. (Chapter 364, Statutes of 2017 (SB 2)) related to the PGP Program.

#### **NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS RESOLVES AS FOLLOWS:**

SECTION 1. The Town Council hereby authorizes and directs the Town Manager to apply for and submit to the Department the 2019 Planning Grants Program application in the amount of \$160,000.

SECTION 2. In connection with the PGP grant, if the application is approved by the Department, the Town Manager is authorized to enter into, execute, and deliver a State of California Agreement (Standard Agreement) for the amount of \$ 160,000, and any and all other documents required or deemed necessary or appropriate to evidence and secure the PGP grant, the Town of Los Gatos's obligations related thereto, and all amendments thereto (collectively, the "PGP Grant Documents").

SECTION 3. The Town of Los Gatos shall be subject to the terms and conditions as specified in the Standard Agreement, the SB 2 Planning Grants Program Guidelines, and any applicable PGP guidelines published by the Department. Funds are to be used for allowable



expenditures as specifically identified in the Standard Agreement. The application in full is incorporated as part of the Standard Agreement. Any and all activities funded, information provided, and timelines represented in the application will be enforceable through the executed Standard Agreement. The Town Council hereby agrees to use the funds for eligible uses in the manner presented in the application as approved by the Department and in accordance with the Planning Grants NOFA, the Planning Grants Program Guidelines, and 2019 Planning Grants Program Application.

SECTION 4. The Town Manager is authorized to execute the Town of Los Gatos Planning Grants Program application, the PGP Grant Documents, and any amendments thereto, on behalf of the Town of Los Gatos, as required by the Department for receipt of the PGP Grant.

**ADOPTED** November 5, 2019, by the Town Council of the Town of Los Gatos by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 9

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DATE: October 15, 2019  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion for the Work of Interstate Grading and Paving and Authorize Recording by the Town Clerk for PPW Job No. 18-811-9901 Annual Street Repair and Resurfacing Project (Arterial/Collector Overlay)

**RECOMMENDATION:**

Authorize the Town Manager to execute a Certificate of Acceptance and Notice of Completion (Attachment 1) for the work of Interstate Grading and Paving and authorize recording by the Town Clerk for PPW Job No. 18-811-9901 Annual Street Repair and Resurfacing Project (Arterial/Collector Overlay).

**BACKGROUND:**

The Town's adopted FY 2018/19-2022/23 Capital Improvement Program (CIP) Budget designated funding for these projects.

At the January 15, 2019 Town Council meeting, Council approved the plans and specifications for the Annual Street Repair and Resurfacing Project (Arterial/Collector Overlay) and authorized the Town Manager to advertise the project for bid and to award the project in an amount not to exceed the available construction budget of \$2,190,000, including contingencies and any change orders, to the lowest responsible bidder.

The Town entered into an agreement with Interstate Grading and Paving for the work for the low bid of \$1,971,640.00.

**PREPARED BY:** Lisa Petersen  
Assistant Public Works Director/Town Engineer

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Finance Director, and Parks and Public Works Director

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PAGE 2 OF 3

SUBJECT: Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion for the Work of Interstate Grading and Paving and Authorize Recording by the Town Clerk

DATE: October 15, 2019

DISCUSSION:

Interstate Grading and Paving has satisfactorily completed all of the work for the project and staff recommends accepting the project.

Ten percent of the faithful performance bond will remain in effect for a period of two years as a guarantee for any needed repair or replacement caused by defective materials and workmanship for the project. The execution and recordation of the Certificate of Acceptance is now required to finalize the Town's acceptance of the project.

CONCLUSION:

Authorize the Town Manager to execute a Certificate of Acceptance and Notice of Completion for the work of Interstate Grading and Paving and authorize recording by the Town Clerk for PPW Job No. 18-811-9901 Annual Street Repair and Resurfacing Project (Arterial/Collector Overlay).

FISCAL IMPACT:

The final construction costs totaled \$1,836,447.86 for the work. Project delivery costs, including advertising, printing, materials testing, staff, and design, have totaled \$276,217.

The table also recognizes a reimbursement of \$130,000 to the City of Campbell for their overlay project on Winchester Boulevard. The overlay area includes Winchester Boulevard between Division Street and Knowles Drive. This section has dual jurisdiction between the City of Campbell and Town of Los Gatos with each jurisdiction owning half of the roadway. Campbell offered to include the Town half in their project if the Town will reimburse Campbell for the project costs associated with the Town's section.

Staff costs are tracked for all projects. Tracking of staff costs allows for accountability in the costs of projects, recovery of costs from grant funded projects, and identification of future staffing needs. This project utilizes full-time budgeted staff. The costs for full-time staff are accounted for in the Department's operating budget and will not be charged to this project.

In addition to the asphalt overlay project, the table below identifies expenditures for the 2018 rubber cape seal project and internal street repair, as these are both charged to the FY 2018/2019 allocation. The recommendation in this report addresses only the project closeout for the work associated with Interstate Grading and Paving.

This program is funded annually, any final savings will remain with the program for use on projects in future years.

SUBJECT: Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion for the Work of Interstate Grading and Paving and Authorize Recording by the Town Clerk

DATE: October 15, 2019

FISCAL IMPACT (continued):

<b>Annual Street Repair &amp; Resurfacing (Overlay) Project 811-9901</b>		
	<b>Budget</b>	<b>Costs</b>
GFAR	\$ 2,907,000	
Gax Tax	\$ 1,503,215	
<b>Total Project Budget</b>	<b>\$ 4,410,215</b>	
Interstate Grading & Paving		\$ 1,836,448
Staff Costs		\$ 88,756
Consultant Services		\$ 49,745
Advertising		\$ 1,136
Overlay Encumbrances YTD		\$ 6,579
<b>Total Project Commitments (Overlay)</b>		<b>\$ 1,982,665</b>
Rubber Cape Seal Construction Costs		\$ 1,053,771
Rubber Cape Seal Staff Costs		\$ 97,609
Rubber Cape Seal Project Delivery Costs		\$ 17,041
<b>Total Project Costs (Rubber Cape Seal)</b>		<b>\$ 1,168,421</b>
City of Campbell Reimbursement		\$ 130,000
Internal Street Repair & Resurfacing		\$ 47,980
Summer 2018 Project Expenditures		\$ 666,226
<b>Other Costs</b>		<b>\$ 844,207</b>
<b>Project Savings Not Including Staff Costs</b>		<b>\$ 731,288</b>
Total Staff Costs (summed from lines above)		\$ 186,365
<b>Project Savings Including Estimated Staff Costs</b>		<b>\$ 414,923</b>

ENVIRONMENTAL ASSESSMENT:

This is a project as defined under CEQA but is Categorical Exempt (Section 15301c). A Notice of Exemption was previously filed.

Attachment:

1. Certificate of Acceptance and Notice of Completion

**Recording Requested by:**

TOWN OF LOS GATOS

**WHEN RECORDED MAIL TO:**

CLERK ADMINISTRATOR  
TOWN OF LOS GATOS  
110 E MAIN ST  
LOS GATOS, CA 95030

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(SPACE ABOVE BAR FOR RECORDER'S USE)

(RECORD WITHOUT FEE UNDER GOVERNMENT CODE SECTIONS 27383 AND 6103)

**TYPE OF RECORDING**

**CERTIFICATE OF ACCEPTANCE AND NOTICE OF COMPLETION**

**PPW JOB NO. 18-811-9901 Annual Street Repair and Resurfacing Project (Arterial/Collector Overlay)**

**TO WHOM IT MAY CONCERN:**

I do hereby certify that **Interstate Grading and Paving** completed the work called for in the agreement with the Town of Los Gatos dated March 5, 2019. The work is outlined in the Town's bid process prepared by the Town of Los Gatos and generally consisted of furnishing all labor, materials, tools, equipment, and services required for completion of the PPW Job No. 18-811-9901 located in the TOWN OF LOS GATOS, County of Santa Clara, State of California and was completed, approved and accepted **November 5, 2019**.

Bond No.: xxx

Date: xxx, 2019

TOWN OF LOS GATOS

By: \_\_\_\_\_  
Laurel Prevetti, Town Manager

*Acknowledgement Required*

**AFFIDAVIT**  
**To Accompany Certificate of Acceptance and Notice of Completion**  
**PPW JOB NO. 18-811-9901 Annual Street Repair and Resurfacing Project (Arterial/Collector**  
**Overlay).**

I, **LAUREL PREVETTI**, the Town Manager of the Town of Los Gatos, have read the foregoing CERTIFICATE OF ACCEPTANCE AND NOTICE OF COMPLETION and know the contents thereof. The same is true of my own knowledge, except as to the matters which are therein alleged on information or belief, and as to those matters I believe it to be true.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on \_\_\_\_\_, 2019 at Los Gatos, California.

\_\_\_\_\_  
LAUREL PREVETTI, TOWN MANAGER  
Town of Los Gatos

**RECOMMENDED BY:**

\_\_\_\_\_  
Matt Morley  
Director of Parks and Public Works

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Robert Schultz, Town Attorney

Date: \_\_\_\_\_

*Notary Jurat Required*



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 10

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DATE: October 21, 2019

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Shannon Road Complete Streets Project (CIP Project #813-0218):

- a. Adopt a Resolution of Local Support Authorizing the Filing of an Application for One Bay Area Grant funding Assigned to the Metropolitan Transportation Commission, committing any Necessary Matching Funds, and Providing Assurance on Completion of the Shannon Road Complete Streets Project
- b. Authorize Revenue and Expenditure Budget Adjustments in the Amount of \$119,204 from Available Utility Undergrounding Fund Balance
- c. Authorize the Town Manager to Conduct a Request for Proposals and Negotiate and Execute a Consultant Agreement for the Shannon Road Complete Streets Project Design in an Amount not to Exceed \$200,000.

**RECOMMENDATION:**

Staff recommends the following actions for the Shannon Road Complete Streets Project (CIP Project #813-0218):

- a. Adopt a resolution of local support authorizing the filing of an application for One Bay Area Grant (OBAG) funding assigned to the Metropolitan Transportation Commission (MTC), committing any necessary matching funds, and providing assurance on completion of the Shannon Road Complete Streets project.
- b. Authorize revenue and expenditure budget adjustments in the amount of \$119,204 from available Utility Undergrounding Fund balance.
- c. Authorize the Town Manager to conduct a request for proposals and negotiate and execute a Consultant Agreement for the Shannon Road Complete Streets project design in an amount not to exceed \$200,000.

**PREPARED BY:** Ying Smith  
Transportation and Mobility Manager

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Finance Director, and Parks and Public Works Director

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BACKGROUND:

The MTC's OBAG program directs MTC's federal funds towards transportation solutions that align with regional priorities. Available grant money is distributed to cities and counties through the Valley Transportation Authority (VTA). The funds are separated into competitive funding programs, in which cities and counties must compete for the funds, and non-competitive funding programs, which is a formulaic funding process that provides money directly to cities and counties based on population. The Vehicle Emissions Reductions Based at Schools (VERBS) Program, one of the competitive programs, is focused on reducing greenhouse gases by promoting walking, biking, transit, and carpooling to school, targeting grades K-12.

DISCUSSION:

In 2018 the Town was awarded \$940,100 of federal funds in the VTA's FY2018-2022 VERBS Grant Program for the Shannon Road Complete Streets project. The project scope included a Class 1 multi-use path on the north side of Shannon Road between Los Gatos Boulevard and Cherry Blossom Lane. The project will greatly enhance safety for bicyclists and pedestrians, separating them from automobiles with a three-foot buffer between the path and the travel lane. In addition, the project will install new ADA curb ramps and bike sharrows on Shannon Road. The work scope will also include necessary items to upgrade the street, such as new curb and gutter and utility undergrounding work.

Originally staff had intended on moving the project forward in its entirety following the federal process, including the design and construction. In consultation with VTA and MTC, staff is now proposing shifting the currently budgeted funds as local funds, specifically from the Utility Undergrounding Fund and General Fund Reserve, to advance the design phase while using the federal funds to complete the construction. This will allow the design process to remain clear of federal requirements, yet still meet the local match requirements for federal funds. The recommended budget action moves the Utility Undergrounding Funds, previously committed in the Capital Improvement Program for next year, forward so they are available this year. Final project costs may be affected by the actual costs proposed by the contractors and associated staff costs.

The total project cost is estimated at \$1,190,000, including design and construction. In the grant application, the Town committed to \$249,900 in local match, or 21% of the total project cost. A resolution of local support (Attachment 1) is required for any project that receives regional discretionary funds.

The first step to start the project is to select an engineering consultant to proceed with project design and environmental clearance. Staff anticipates starting the design in early 2020 and returning to the Town Council in the summer to approve the final design. Once final design is approved, staff will seek authorization for construction, following the federal project delivery process. The federal funds are expected to be available in Fiscal Year 2021/2022, which aligns with the timing for completion of the design phase.



**CONCLUSION:**

Staff recommends the Town Council adopt the resolution to meet the federal grant requirements. Staff also recommends the approval of the contractor procurement and contract award in an amount not to exceed \$200,000 to begin the design for the Shannon Road Complete Streets project.

**COORDINATION:**

This item has been coordinated with staff of MTC and VTA and the Finance Department.

**FISCAL IMPACT:**

The OBAG/VERBS grant of \$940,100 is already included in the Fiscal Year 2019/20 Capital Improvement Program Budget under Project #813-0218, Sidewalk Improvements. The budget action associated with the Utility Undergrounding funds moves those funds from next year's CIP to the current year. There are sufficient funds for the project.

<b>Sidewalk Improvements Project 813-0218</b>		
	<b>Budget</b>	<b>Costs</b>
OBAG/VERBS Grant	\$ 940,100	
GFAR (Grant Match)	\$ 129,896	
Utility Undergrounding (requested with this action)	\$ 119,204	
<b>Total Budget</b>	<b>\$1,189,304</b>	
Design Contract (TBD)		\$ 200,000
<b>Total Expenditures</b>		<b>\$ 200,000</b>
<b>Remaining Balance</b>		<b>\$889,304</b>

**ENVIRONMENTAL ASSESSMENT:**

This is not a project defined under CEQA, and no further action is required. CEQA clearance will be completed in the design phase.

**Attachment:**

1. Resolution of Local Support

## **RESOLUTION 2019-**

### **RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AUTHORIZING THE FILING OF AN APPLICATION FOR FUNDING ASSIGNED TO METROPOLITAN TRANSPORTATION COMMISSION AND COMMITTING ANY NECESSARY MATCHING FUNDS AND STATING ASSURANCE TO COMPLETE THE PROJECT**

**WHEREAS**, Town of Los Gatos (herein referred to as APPLICANT) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$941,000 in funding assigned to MTC for programming discretion, which includes federal funding administered by the Federal Highway Administration (FHWA) and federal or state funding administered by the California Transportation Commission (CTC) such as Surface Transportation Block Grant Program (STP) funding, Congestion Mitigation and Air Quality Improvement Program (CMAQ) funding, Transportation Alternatives (TA) set-aside/Active Transportation Program (ATP) funding, and Regional Transportation Improvement Program (RTIP) funding (herein collectively referred to as REGIONAL DISCRETIONARY FUNDING) for the Shannon Road Complete Streets project (herein referred to as PROJECT) for the One Bay Area Grant Cycle II (herein referred to as PROGRAM); and

**WHEREAS**, the United States Congress from time to time enacts and amends legislation to provide funding for various transportation needs and programs, (collectively, the FEDERAL TRANSPORTATION ACT) including, but not limited to the Surface Transportation Block Grant Program (STP) (23 U.S.C. § 133), the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149) and the Transportation Alternatives (TA) set-aside (23 U.S.C. § 133); and

**WHEREAS**, state statutes, including California Streets and Highways Code §182.6, §182.7, and §2381(a)(1), and California Government Code §14527, provide various funding programs for the programming discretion of the Metropolitan Planning Organization (MPO) and the Regional Transportation Planning Agency (RTPA); and

ATTACHMENT 1

**WHEREAS**, pursuant to the FEDERAL TRANSPORTATION ACT, and any regulations promulgated thereunder, eligible project sponsors wishing to receive federal or state funds for a regionally-significant project shall submit an application first with the appropriate MPO, or RTPA, as applicable, for review and inclusion in the federal Transportation Improvement Program (TIP); and

**WHEREAS**, MTC is the MPO and RTPA for the nine counties of the San Francisco Bay region; and

**WHEREAS**, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) that sets out procedures governing the application and use of REGIONAL DISCRETIONARY FUNDING; and

**WHEREAS**, APPLICANT is an eligible sponsor for REGIONAL DISCRETIONARY FUNDING; and

**WHEREAS**, as part of the application for REGIONAL DISCRETIONARY FUNDING, MTC requires a resolution adopted by the responsible implementing agency stating the following:

- the commitment of any required matching funds; and
- that the sponsor understands that the REGIONAL DISCRETIONARY FUNDING is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional REGIONAL DISCRETIONARY FUNDING; and
- that the PROJECT will comply with the procedures, delivery milestones and funding deadlines specified in the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and
- the assurance of the sponsor to complete the PROJECT as described in the application, subject to environmental clearance, and if approved, as included in MTC's federal Transportation Improvement Program (TIP); and
- that the PROJECT will have adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and
- that the PROJECT will comply with all project-specific requirements as set forth in the PROGRAM; and
- that APPLICANT has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by APPLICANT; and

**WHEREAS**, that APPLICANT is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and

**WHEREAS**, there is no legal impediment to APPLICANT making applications for the funds; and

**WHEREAS**, there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and

**WHEREAS**, APPLICANT authorizes its Executive Director, General Manager, or designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and

**WHEREAS**, MTC requires that a copy of this resolution be transmitted to the MTC in conjunction with the filing of the application.

**NOW, THEREFORE, BE IT RESOLVED** that the APPLICANT is authorized to execute and file an application for funding for the PROJECT for REGIONAL DISCRETIONARY FUNDING under the FEDERAL TRANSPORTATION ACT or continued funding; and be it further

**RESOLVED** that APPLICANT will provide any required matching funds; and be it further

**RESOLVED** that APPLICANT understands that the REGIONAL DISCRETIONARY FUNDING for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional REGIONAL DISCRETIONARY FUNDING; and be it further

**RESOLVED** that APPLICANT understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) and APPLICANT has, and will retain the expertise, knowledge and resources necessary to deliver federally-funded transportation and transit projects, and has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by APPLICANT; and be

it further

**RESOLVED** that PROJECT will be implemented as described in the complete application and in this resolution, subject to environmental clearance, and, if approved, for the amount approved by MTC and programmed in the federal TIP; and be it further

**RESOLVED** that APPLICANT has reviewed the PROJECT and has adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and be it further

**RESOLVED** that PROJECT will comply with the requirements as set forth in MTC programming guidelines and project selection procedures for the PROGRAM; and be it further

**RESOLVED** that, in the case of a transit project, APPLICANT agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution No. 3866, revised; and be it further

**RESOLVED** that, in the case of a highway project, APPLICANT agrees to comply with the requirements of MTC's Traffic Operations System (TOS) Policy as set forth in MTC Resolution No. 4104; and be it further

**RESOLVED** that, in the case of an RTIP project, PROJECT is included in a local congestion management plan, or is consistent with the capital improvement program adopted pursuant to MTC's funding agreement with the countywide transportation agency; and be it further

**RESOLVED** that APPLICANT is an eligible sponsor of REGIONAL DISCRETIONARY FUNDING funded projects; and be it further

**RESOLVED** that APPLICANT is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and be it further

**RESOLVED** that there is no legal impediment to APPLICANT making applications for the funds; and be it further

**RESOLVED** that there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and be it further

**RESOLVED** that APPLICANT authorizes its Executive Director, General Manager, City Manager, or designee to execute and file an application with MTC for REGIONAL

DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and be it further

**RESOLVED** that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application; and be it further

**RESOLVED** that the MTC is requested to support the application for the PROJECT described in the resolution, and if approved, to include the PROJECT in MTC's federal TIP upon submittal by the project sponsor for TIP programming.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 5<sup>th</sup> day of November 2019 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 11

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DATE: October 30, 2019  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Town Code Application Amendment A-19-009. Project Location: **Town Wide**. Consider an ordinance repealing and replacing Chapter 6, Building Regulations, and Chapter 9, Fire Prevention and Protection, of the Town of Los Gatos Municipal Code with the New 2019 California Building and Fire Codes, as amended.

**RECOMMENDATION:**

Introduce an Ordinance (Attachment 1), by title only, effecting amendments repealing and replacing Chapter 6, Building Regulations, and Chapter 9, Fire Prevention and Protection, of the Town of Los Gatos Municipal Code with the New 2019 California Building and Fire Codes, as amended.

**BACKGROUND:**

Historically, the State of California adopts a set of International Model Codes including the International Building Code (IBC) with California specific amendments which form the basis of the regulatory environment for building. The California Building Standards Code, CCR Title 24, is published in its entirety every three years by order of the California legislature, with supplements published in intervening years. The California legislature delegated authority to various State agencies, boards, commissions, and departments to create building regulations to implement the State's statutes. These building regulations and standards have the force of law. California's current adopted version of the 2015 IBC is the 2016 California Building Code (CBC).

For 2019, the State of California Building Standards Commission adopted 12 new parts for the California Code of Regulations (CCR), commonly known as Title 24, and also referred to as the 2019 California Building Standards Code. Local jurisdictions are required to enforce these new codes as written by January 1, 2020 or adopt a local ordinance that enacts these Codes with local or regional amendments based on climatic, geological, and topographical conditions, with findings that support the local amendments.

**PREPARED BY:** Robert Gray  
Building Official

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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BACKGROUND (continued):

The Town must take action to incorporate this new set of Codes with any recommended amendments into the Town Code. In cooperation with Code Officials around the region, the Town has developed local amendments to the California Codes that are uniform across multiple jurisdictions throughout the Santa Clara Valley, Peninsula, East Bay, and Monterey Bay regions to enhance regional consistency.

DISCUSSION:

The new 2019 California Building Standards Code, CCR Title 24, will go into effect on January 1, 2020. The Town of Los Gatos must adopt these new State Codes by deleting and replacing Chapter 6, Building Regulations, and Chapter 9, Fire Prevention and Protection, of the Town Code. The new 2019 CBC and 2019 California Fire Code (CFC) are somewhat different from the current 2016 CBC and CFC so deleting and replacing the Town Code Chapters in their entirety and incorporating our local amendments is the cleanest process for adoption.

Fourteen State agencies review and propose amendments to the International Model Codes to reflect California fire and building requirements. California amendments to the International Model Codes enhance the public health and safety standards for all occupancies throughout the state. Energy efficiency standards, Wildland-Urban Interface standards, seismic standards, and accessibility standards are among the amendments which increase the building and fire standards for buildings within the State. The State has significantly amended the IBC and International Fire Code (IFC) to meet State building requirements. The Town will be adopting these new codes with amendments that will create clarity and increased safety due to our seismically sensitive area and other unique conditions.

The 2019 California Building Standards Code has 12 Parts which the Town needs to adopt:

- Part 1 California Administrative Code
- Part 2 California Building Code, Volumes 1 & 2
- Part 2.5 California Residential Code
- Part 3 California Electrical Code
- Part 4 California Mechanical Code
- Part 5 California Plumbing Code
- Part 6 California Energy Code
- Part 8 California Historical Building Code
- Part 9 California Fire Code
- Part 10 California Existing Building Code
- Part 11 California Green Building Standards Code – CALGreen
- Part 12 California Referenced Standards Code



DISCUSSION (continued):

In addition to adoption of the twelve (12) parts of the California Building Standards Code, the Town is proposing to adopt the 2018 International Property Maintenance Code and portions of the 2018 International Existing Building Code as published by the International Code Council. These Codes provide minimum construction requirements and standards for existing buildings and also contain provisions regarding unsafe structures, seismic strengthening of existing structures, and construction safeguards. They also provide procedures for the maintenance, repair, and demolition of existing buildings and will assist with the implementation of the Town's Neighborhood Preservation Ordinance.

The draft Ordinance adopting the revisions to Chapter 6 and Chapter 9 is included as Attachment 1. California Health and Safety Code Sections 17958 and 17958.5 allow the Town to make modifications or changes to the State Building Standards Codes based on findings that the changes are reasonably necessary because of local climatic, geological, geographical, or topographical conditions. The Resolution included as Attachment 2 has the required findings.

CONCLUSION:

Staff recommends that the Town Council:

1. Introduce the Ordinance repealing and replacing Chapter 6 and Chapter 9 of the Town Code (Attachment 1); and
2. Adopt a resolution making findings for modifying the 2019 California Building and Fire Codes (Attachment 2).

FISCAL IMPACT:

None.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:

1. Ordinance adopting new Building and Fire Codes
2. Resolution making Findings for modifying California Codes

## **DRAFT ORDINANCE**

### **AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS REPEALING AND REPLACING CHAPTER 6, BUILDING REGULATIONS AND CHAPTER 9, FIRE PREVENTION AND PROTECTION, AND ADOPTING NEW 2019 CALIFORNIA BUILDING AND FIRE CODES**

**WHEREAS**, every three years, 14 State of California agencies review, amend, and propose model codes to be adopted by the Building Standards Commission; and

**WHEREAS**, the California Building Standards Commission completed the adoption and approval of 12 new building codes, and local jurisdictions are required to adopt these codes by January 1, 2020; and

**WHEREAS**, the Town of Los Gatos is proposing to adopt and amend Part 1, the California Administrative Code to address administrative provisions; and

**WHEREAS**, the Town of Los Gatos is proposing to adopt the California Building Standards Codes as Chapter 6 and the California Fire Code as Chapter 9 of the Town Code and to make amendments to address climatic, topographic, and geological conditions; and

**WHEREAS**, the Town of Los Gatos is proposing to adopt the 2018 International Property Maintenance Code and portions of the 2018 International Existing Building Code to provide procedures for the maintenance, repair, and demolition of existing buildings; and

**WHEREAS**, the Town of Los Gatos, in adopting these codes will be consistent with the State of California and other local municipalities.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES  
HEREBY ORDAIN AS FOLLOWS:**

#### **SECTION I**

CHAPTER 6 is deleted in its entirety and replaced with the following:

**ARTICLE I. IN GENERAL (reserved)**

ATTACHMENT 1

## **ARTICLE II. ADMINISTRATION OF CODES**

### **Sec. 6.20.010. Conflicting Provisions.**

When any provisions of the administrative sections of the codes adopted in this Chapter 6 are in conflict with the administrative provisions found in the California Administrative or Building Codes, the California Administrative and Building Codes shall apply. If any code adopted in this Chapter does not include administrative provisions, the administrative provisions of the California Building Codes shall apply.

## **ARTICLE III. BUILDING CODE**

### **Sec. 6.30.010. Adopted.**

The 2018 International Building Code (IBC) as amended by the State of California Building Standards Commission and known as the 2019 California Building Code (CBC), CCR Title 24, Part 2, Volumes 1 and 2, with Appendix Chapters B, I, and J, with modifications provided in sections 6.30.020 through 6.30.180 of this article, is adopted by reference.

The 2019 California Administrative Code, California Code of Regulations, Title 24, Part 1, is also adopted by reference.

### **Sec. 6.30.020. Fire Protection Systems.**

Section 901.2 of the California Building Code adopted by this article is amended to read as follows:

*Fire Protection Systems.* Fire protection systems shall be installed, repaired, operated and maintained in accordance with this code and the California Fire Code as amended by the Town of Los Gatos.

### **Sec. 6.30.030. Roof Drainage.**

**1502 is amended to add Section 1502.5:**

*Over Public Property.*

Roof Drainage water from a building shall not be permitted to flow over public property.

Exception(s): 1) Group R3, and Group U Occupancies

2) Other occupancies where the drainage plan and method of drainage have been approved by the "Building Official".

**Sec. 6.30.040. Roof Covering Requirements in a Wildland-Urban Interface Fire Area and other areas.**

**Section 1505.1.2 Roof coverings within state responsibility areas is amended to read:**

**1505.1.2 Roof coverings within state responsibility areas.** The entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any one-year period, the entire roof covering of every new structure, and any roof covering applied in the alteration, repair or replacement of the roof of every existing structure, shall be fire-retardant roof covering that is at least ~~Class B~~ Class A.

**Section 1505.1.3 is amended to read: 1505.1.3 Roof coverings within all other areas.**

The entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any one-year period, the entire roof covering of every new structure, and any roof covering applied in the alteration, repair or replacement of the roof of every existing structure, shall be fire-retardant roof covering that is at least ~~Class C~~ Class A.

**Section 1505.1.4 is amended to read:**

**1505.1.4. Roofing requirements in a Wildland-Urban Interface Fire Area.** The entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any one-year period, the entire roof covering of every new structure, and any roof covering applied in the alteration, repair or replacement of the roof of every existing structure, shall be a fire-retardant roof covering that is at least Class A.

Roofing requirements for structures located in a Wildland-Urban Interface Fire Area shall also comply with Section 705A.

**701A.3 Application is amended to read:**

**701A.3 Application.** New buildings located in any Fire Hazard Severity Zone or any Wildland-Urban Interface Fire Area designated by the enforcing agency constructed after the application date shall comply with the provisions of this chapter.

**Exceptions:**

1. Buildings of an accessory character classified as a Group U occupancy and not exceeding 120 square feet in floor area, ~~when located at least 30 feet from an applicable building.~~
2. Buildings of an accessory character classified as Group U occupancy of any size ~~located at least 50 feet from an applicable building.~~
3. Buildings classified as a Group U Agricultural Building, as defined in Section 202 of this code (see also Appendix C – Group U Agricultural Buildings), ~~when located at least 50 feet from an applicable building.~~
4. Additions to and remodels of buildings originally constructed prior to the applicable application date.
5. Group C, special buildings conforming to the limitations specified in Section 450.4.1.

For the purpose of this section and Section 710A, applicable building includes all buildings that have residential, commercial, educational, institutional, or similar occupancy type use.

**707A.9 Underside of appendages is amended to read:**

**707A.9 Underside of appendages.** ~~When required by the enforcing agency~~ the underside of overhanging appendages shall be enclosed to grade in accordance with the requirements of this chapter or the underside of the exposed under-floor shall consist of one of the following:

1. Noncombustible material
2. Ignition-resistant material
3. One layer of 5/8-inch Type X gypsum sheathing applied behind an exterior covering on the underside of the floor projection
4. The exterior portion of a 1-hour fire resistive exterior wall assembly applied to the underside of the floor including assemblies using the gypsum panel and sheathing products listed in the Gypsum Association Fire Resistance Design Manual
5. The underside of a floor assembly that meets the performance criteria in accordance with test procedures set forth in either of the following:
  - 5.1 SFM Standard 12-7A3; or
  - 5.2 ASTM E2957

**Exception:** Structural column and beams do not require protection when constructed with sawn lumber or glue laminated wood with the smallest minimum nominal dimension of 4 inches (102 mm). Sawn or glue-laminated planks splined, tongue-and-groove, or set close together and well spiked.

**710A.3 Where required is amended to read:**

**710A.3 Where required.** ~~No requirements shall apply to accessory building or miscellaneous structures when located at least 50 feet from an applicable building. Applicable accessory buildings and attached miscellaneous structures, or detached miscellaneous structures that are installed at a distance of less than 3 feet from an applicable building, shall comply with this section. When required by the enforcing agency, detached miscellaneous structures that are installed at a distance of more than 3 feet but less than 50 feet from an applicable building shall comply with the requirements of this section.~~

~~———— **710A.3.1 Accessory building requirements.** Applicable accessory buildings that are less than 120 square feet in floor area and are located more than 30 feet but less than 50 feet from an applicable building shall be constructed of noncombustible materials or of ignition resistant materials as described in Section 704A.2.~~

~~———— **710A.3.2 Attached miscellaneous structure requirements.** Applicable miscellaneous structures that are attached to, or installed at a distance of less than 3 feet from, an applicable building shall be constructed of non-combustible materials or of ignition resistant materials as described in Section 704A.2.~~

~~———— **710A.3.3 Detached miscellaneous structure requirements.** When required by the enforcing agency, applicable detached miscellaneous structures that are installed at a distance of more than 3 feet but less than 50 feet from an applicable building shall be constructed of noncombustible materials or of ignition resistant materials as described in Section 704A.2.~~

Applicable accessory buildings and attached miscellaneous structures or detached miscellaneous structures shall comply with this section and shall be constructed of noncombustible materials or of ignition-resistant materials as described in section 704A.2.

**Sec. 6.30.060. Concrete Strength.**

**Section 1705.3, Exception 1 is amended to read as follows:**

**Exception:** Special inspections and tests shall not be required for:

1. Isolated spread concrete footings of buildings three stories or less above grade plane that are fully supported on earth or rock, where the structural design of the footing is based on a specified compressive strength,  $f'_c$ , no greater than 2,500 pounds per square inch (psi) (17.2 Mpa).

**Sec. 6.30.070. Modification to ACI 318.**

**Section 1905.1.7 ACI 318, Section 14.1.4 is deleted and amended to read as follows:**

**1905.1.7 ACI 318, Section 14.1.4.** Delete ACI 318, Section 14.1.4, and replace with the following:

~~14.1.4 — Plain concrete in structures assigned to Seismic Design Category C, D, E or F.~~

~~14.1.4.1 — Structures assigned to Seismic Design Category C, D, E or F shall not have elements of structural plain concrete, except as follows:~~

~~(a) Structural plain concrete basement, foundation or other walls below the base as defined in ASCE 7 are permitted in detached one and two family dwellings three stories or less in height constructed with stud bearings walls. In dwellings assigned to Seismic Design Category D or E, the height to the wall shall not exceed 8 feet (2438 mm), the thickness shall be not less than 7 ½ inches (190 mm), and the wall shall retain no more than 4 feet (1219 mm) of unbalanced fill. Walls shall have reinforcement in accordance with 14.6.1.~~

~~(b) Isolated footings of plain concrete supporting pedestals or columns are permitted, provided the projection of the footing beyond the face of the supported member does not exceed the footing thickness.~~

~~**Exception:** In detached one and two family dwellings, three stories or less in height, the projection of the footing beyond the face of the supported member is permitted to exceed the footing thickness.~~

~~(c) Plain concrete footings supporting walls are permitted, provided the footings have at least two continuous longitudinal reinforcing bars. Bars shall not be smaller than No. 4 and shall have a total area of not less than 0.002 times the gross cross-sectional area of the footing. For footings that exceed 8 inches (203 mm) in thickness, a minimum of one bar shall be provided at the top and bottom of the footing. Continuity of reinforcement shall be provided at corners and intersections.~~

**Exceptions:**

- ~~1. In Seismic Design Categories A, B, and C, detached one- and two-family dwellings three stories or less in height constructed with stud-bearing walls are permitted to have plain concrete footings without longitudinal reinforcement.~~
- ~~2. For foundation systems consisting of plain concrete footings and a plain concrete stemwall a minimum of one bar shall be provided at the top of the stemwall and at the bottom of the footing.~~
- ~~3. Where a slab on ground is cast monolithically with the footing, one No. 5 bar is permitted to be located at either the top of the slab or bottom of the footing.~~

14.1.4 - Plain concrete in structures assigned to Seismic Design Category C, D, E or F.

14.1.4.1- Structures assigned to Seismic Design Category C, D, E or F shall not have elements of structural plain concrete, except as follows:

(a) Left intentionally blank.

(b) Isolated footings of plain concrete supporting pedestals or columns are permitted, provided the projection of the footing beyond the face of the supported member does not exceed the footing thickness.

(c) Plain concrete footings supporting walls are permitted, provided the footings have at least two continuous longitudinal reinforcing bars not smaller than No. 4, with a total area of not less than 0.002 times the gross cross-sectional area of the footing. A minimum of one bar shall be provided at the top and bottom of the footing. Continuity of reinforcement shall be provided at corners and intersections.

**Sec. 6.30.085. Swimming Pools, Spas, and Hot Tubs:**

3109 Swimming Pools Spas and Hot Tubs is adopted in its entirety.

**Sec. 6.30.090. IBC Oversight.** The California adoption of the new 2018 International Building Code may have inadvertently eliminated some construction requirements by oversight or erroneous reference to another code. In cases where the code adoption has inadvertently deleted or missed referenced necessary construction requirements, the Town of Los Gatos Building Official may authorize use of construction requirements from the last previously adopted International Codes.

**Sec. 6.30.170. Schedule of permit fees.** Administration Chapter 1, Division II, Section 109.2 of the 2019 California Building Code adopted by this article states that "... a fee for each permit shall be paid as required, in accordance with the schedule as established by the applicable governing authority (Town of Los Gatos).

**109.7. Plan Review Fees. Add Section 109.7 as follows:**

When submittal documents are required by Section 107, a plan review fee shall be paid at the time of submitting the submittal documents for plan review. Said plan review fee shall be 65 percent of the building permit fee. The plan review fees specified in this section are separate fees from the permit fees and are in addition to the permit fees.

When submittal documents are incomplete or changed so as to require additional plan review or when the project involves deferred submittal items as defined in Section 107.3.4.1, an additional plan review fee shall be charged per the hour plan review rate as adopted by the Town of Los Gatos.

**Sec. 6.30.180. Refunds.** Administration Chapter 1, Section 109.6 of the 2019 California Building Code adopted by this article is amended to add Section 109.6.1:

**109.6.1. Refunds.** The building official may authorize refunds of Building Division fees which were erroneously paid or collected.

The building official may authorize refunding of not more than 80 percent of the permit fee paid when no work or inspections has been done under a permit issued.

The building official may authorize refunding of not more than 80 percent of the collected plan review fee when the plan check application is withdrawn or cancelled prior to any plan review work being done.

The building official shall not authorize refunding of any collected fee until written request for refund by the original permittee or applicant is received. Requests must be received no later than 180 days after the date of fee payment.

**ARTICLE IV. PLUMBING CODE**

**Sec. 6.40.010. Adopted.**

The Uniform Plumbing Code, 2018 Edition, as amended by the State of California Building Standards Commission, California Code of Regulations, Title 24, Part 5, as the 2019 California Plumbing Code is adopted with Appendix Chapters A, B, D, G, I, K, and L only.



**Sec. 6.40.020. Backflow protection.**

**The first sentence of 710.1 is amended to read as follows:**

**710.1. Backflow Protection.** ~~Fixtures installed on a floor level that is lower than the next upstream manhole cover of the public, or private sewer shall be protected from backflow of sewage by installing an approved type of backwater valve. Fixtures on such floor level that are not below the next upstream manhole cover shall not be required to be protected by a backwater valve. Fixtures on floor levels above such elevation shall not discharge through the backwater valve.~~ Drainage piping serving fixtures which have flood level rims less than twelve (12) inches (304.8 mm) above the elevation of the next upstream manhole and/or flushing inlet cover at the public or private sewer system serving such drainage piping shall be protected from backflow of sewage by installing an approved type backwater valve. Fixtures above such elevation shall not discharge through the backwater valve, unless first approved by the Administrative Authority. Cleanouts for drains that pass through a backwater valve shall be clearly identified with a permanent label stating, "backwater valve downstream."

**ARTICLE V. MECHANICAL CODE**

**Sec. 6.50.010. Adopted.**

The Uniform Mechanical Code (UMC), 2018 Edition, amended by the State of California Building Standards Commission, CCR Title 24, Part 4, as the 2016 California Mechanical Code is adopted by reference.

**ARTICLE VI. ELECTRICAL CODE**

**Sec. 6.60.010. Adopted.**

The National Electrical Code, 2017 Edition, as amended by the State of California Building Standards Commission, CCR Title 24, Part 3, as the 2016 California Electrical Code is adopted by reference.

**ARTICLE VII. ENERGY CODE**

**Sec. 6.70.010. Adopted.**

The 2019 California Energy Code, CCR Title 24, Part 6 is adopted by reference.

**ARTICLE VIII. REFERENCE STANDARDS CODE**

**Sec. 6.80.010. Adopted.**

The 2019 California Referenced Standards Code, CCR Title 24, Part 12, is adopted by reference.

**ARTICLE IX. HISTORICAL BUILDING CODE**

**Sec. 6.90.010. Adopted.**

The 2019 California Historical Building Code, CCR Title 24, Part 8 including Appendix A is adopted by reference.

**ARTICLE X. EXISTING BUILDING CODE**

**Sec. 6.100.010. Adopted.**

The 2018 International Existing Building Code (IEBC), specifically Appendix Chapter A1, as amended by the State of California Building Standards Commission and known as the 2019 California Existing Building Code CCR Title 24, Part 10, is adopted by reference.

**Sec. 6.100.020. Additional Chapters Adopted.**

The following Chapters of the 2018 International Existing Building Code, as published by the International Code Council (ICC) are also adopted:

Chapter 9  
Chapter 14  
Appendix A2  
Appendix A3  
Appendix A4  
Appendix A5

**ARTICLE XI. INTERNATIONAL PROPERTY MAINTENANCE CODE**

**Sec. 6.110.010. Adopted.**

The 2018 International Property Maintenance Code, as published by International Code Council (ICC), is adopted by reference.

**Sec. 6.110.020. Application of other codes.**

Subsection 102.3 of 2018 International Property Maintenance Code adopted by this Article is amended to read as follows:

Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the ~~IBC, IEBC, IECC, IFC, IFGC, IMC, IRC, IPC and NFPA 70.~~ Nothing in this code shall be construed to cancel, modify or set aside any provision of the International Zoning Code, California Building Code, California Plumbing Code, California Electrical Code and California Mechanical Code. Nothing in this code shall be construed to cancel, modify or set aside any provisions of the Town of Los Gatos Zoning Code.

**ARTICLE XII. CALIFORNIA GREEN BUILDING STANDARDS CODE**

## **Sec. 6.120.010. Adopted.**

Chapters 1 through 8 of the 2019 California Green Building Standards Code, are adopted by reference. These are the unmodified Mandatory Measures and Compliance Forms.

## **ARTICLE XIII.**

**Sec. 6.130.010. Additions and alterations. Clarification.** Section 301.1.1 Additions and alterations is clarified as follows:

**301.1.1. Additions and alterations. [HCD]** The mandatory provisions of Chapter 4 shall be applied to additions or alterations of existing residential buildings where the addition or alteration increases the building's conditioned area, volume, or size. The requirements shall apply only to and/or within the specific area of the addition or alteration.

**Note:** On and after January 1, 2014, residential buildings undergoing permitted alterations, additions or improvements shall replace noncompliant plumbing fixtures with water-conserving plumbing fixtures. Plumbing fixture replacement is required prior to issuance of a certificate of final completion, certificate of occupancy or final permit approval by the local building department. See Civil Code Section 1101.1, et seq., for the definition of a noncompliant plumbing fixture, types of residential buildings affected and other important enactment dates.

**Clarification:** Based on definitions found within the California Building Code and the California Green Building Standards Code, alteration and improvements are interpreted to mean any construction to an existing structure which enhance or improve the structure.

Construction related to repairs or maintenance of the structure is not considered to be an alteration or improvement. **Alteration**, as defined in the 2019 California Building Code, states in part; *“Normal maintenance, reroofing, painting or wallpapering, or changes to mechanical and electrical systems are not alterations unless they affect the usability of the building or facility.”* Therefore, permits can be issued for property maintenance and repair without the requirement to replace noncompliant plumbing fixtures. The following is a list of permits that are considered to be repair or maintenance:

- Electrical Service Change Out
- HVAC Change Out
- Re-Roof
- Sewer Line Replacement
- Siding or Stucco application
- Site Work: Retaining Walls, Fences, Walkways, etc.
- Water heater Replacement
- Window Replacement
- Other Repairs as determined by the Building Official

## **ARTICLE XIV. BUILDING RELOCATION CODE OF THE TOWN**

### **DIVISION 1. GENERALLY**

**Sec. 6.140.010. Title.**

This article is the Building Relocation Code of the Town of Los Gatos.

**Sec. 6.140.020. Interference with demolition or removal of building.**

It shall be unlawful for any person to interfere with or obstruct the Building Official, any person engaged by the Town, or any representative of any surety, engaged in inspection or in the work of completing, demolishing, or removing any building or structure for which a building relocation permit has been issued under Division 2 of this article, after a default has occurred in timely completion of the work or in the performance of the other terms or conditions of the permit.

**DIVISION 2. PERMIT**

**Sec. 6.140.030. Required, exceptions.**

It shall be unlawful for any person to move any building or structure on any parcel of land in the Town (except a contractor's tool house, construction building or similar structure which is moved as construction work requires) without first obtaining a permit and posting a bond as provided in this article.

**Sec. 6.140.040. Application.**

An application for a permit required by the provisions of this division shall be made in writing on the form provided by the Town. The application shall:

- (1) Be signed by the permittee or the permittee's authorized agent (who may be required to submit evidence proving authority);
- (2) Be accompanied by plans, photographs or other substantiating data as reasonably may be required by the Building Official; and
- (3) Contain such information as reasonably may be required by the Building Official in order to carry out the purposes of this chapter.

**Sec. 6.140.050. Review of application, duty of applicant.**

The application for a permit required by the provisions of this division, including the plans and other data filed with it, shall be checked by the Building Official, who is authorized to conduct any investigation in connection therewith may be deemed reasonably necessary. If, when the Building Official has completed such investigation and has notified the applicant that a permit will issue, the applicant fails for a period of sixty (60) days to post the bond and any other instrument required by this division, the application shall become void.

**Sec. 6.140.060. Issuance, fees.**

- (a) Subject to the requirements contained in this article, if in the judgment of the Building Official the conditions of the building or structure can be effectively and practically repaired or restored to comply with this Code, the Building Official shall issue a permit to the owner of the property where the building or structure is to be located.
- (b) A permit fee shall be paid at the time of issuance of the permit. The amount of the fee shall be fixed by resolution of the Town Council.

**Sec. 6.140.070. When issuance prohibited.**

The Building Official shall not issue a permit under this division for any building or structure:

- (1) Which does not or cannot be repaired or modified to comply with this code, as it presently exists or hereafter may be amended;
- (2) Which is so constructed or in such condition as to be a substandard building;
- (3) Which is infested with pests or is unsanitary;
- (4) Which is so dilapidated, defective, unsightly, or in such a condition of deterioration or disrepair that its relocation at the proposed site would cause appreciable harm to or be materially detrimental to the existing improvements on nearby property;
- (5) If the proposed use is prohibited by the zoning ordinance;
- (6) If the structure is of a type prohibited at the site of the proposed relocation by this code, or any other statute or ordinance; or
- (7) If the structure or site has not received approval as prescribed in sections 29.20.140 through 29.20.155 of the Town Code. The body granting such approval shall first consider and determine that the proposed site and building are compatible in use, size and architecture with other buildings and structures in the area of the proposed relocation.

**Sec. 6.140.080. Conditions of issuance.**

In connection with the issuance of any permit under this division, the Building Official or the body granting architecture and site approval or both may attach to the permit such conditions which are necessary to assure compliance with the purposes of this article and the zoning ordinance, and to assure that the building or structure when relocated will be compatible with and not detrimental or injurious to the buildings or structures in the area of the proposed relocation. Such conditions may include, but are not limited to:

- (1) A limitation of the period of time required to complete the work of relocation;
- (2) Requirements for changes, alterations, additions or repairs;
- (3) The providing of all utility services by the time the building relocation is finished;
- (4) Provision for any improvement work or dedication provided for by the zoning ordinance;
- (5) The applicant's written agreement to indemnify the Town for any and all damages or injury to Town property incurred in the course of the moving, including but not limited to damage or injury to streets, thoroughfares, pavements, curbs, gutters, sidewalks, sewers, public lighting equipment and plants.

**Sec. 6.140.090. Bond required.**

- (a) As a condition precedent to the issuance of any building relocation permit, the applicant shall post a surety bond, the form of which is subject to approval by the Town Attorney, issued by a surety company conducting business in the State. The penal sum of the bond shall be an amount equal to the estimated cost, plus ten (10) percent, of all the work required to perform the relocation to comply with all of the conditions of the permit. The cost estimate is made by the Building Official.
- (b) The applicant, in lieu of posting a surety bond, may deposit with the town an amount equal to the required bond amount, in cash.

#### **Sec. 6.140.100. Conditions of bond.**

A surety bond shall contain, and any deposit shall be subject to, the following conditions:

- (1) All work, including performance of conditions of the permit (except for performance of conditions such as street improvements when provision is made in a contract with the Town to do the work at a later time) shall be performed and completed within one hundred twenty (120) days after the date of issuance of the permit. After that time, the permit expires.
- (2) The time limit and expiration date of the permit may be extended for good cause after written request of both the principal and the surety. The request may be made either during or after the one-hundred-twenty-day period. If the Building Official decides to grant the request the Building Official shall notify the principal and surety in writing stating the new deadline. The Building Official need not grant the request if the work is not being done continuously and diligently, or if reasonable progress has not been made.
- (3) The term of each bond shall begin on the date the bond instrument is delivered to the town and shall end upon the acceptance by the Building Official of performance of all the terms and conditions of the permit as satisfactory and complete.
- (4) The Building Official, the surety and their representatives shall have access to the premises to inspect the progress of the work.
- (5) Upon default by the principal, the surety shall be required to complete the work and to perform all conditions of the permit. The principal shall give the surety right-of-entry onto the site for those purposes.
- (6) In the event of any default in the performance of any term or condition of the permit, or failure to complete the work before the permit expires, the surety or any person employed or engaged on its behalf, or the building official, or any person employed or engaged on behalf of the Town may go on the premises to complete the required work or to remove or demolish the building or structure, and clear, clean and restore the site.

#### **Sec. 6.140.110. Default on bond.**

- (a) If the permittee as principal on the bond defaults in the performance of the conditions required by the permit, or fails to complete the work before the permit expires, the Building Official shall give notice in writing to the principal and the surety, stating the conditions which have not been complied with and the period of time deemed by the Building Official to be reasonably necessary for the completion of the work.
- (b) After receipt of the notice, the surety, within the time therein specified, shall finish the work. When the principal has defaulted in any way, the surety, at its option, in lieu of completing the work required, may remove or demolish the building or structure and clear, clean and restore the site.

**Sec. 6.140.120. Bond other than surety bond--Default.**

If a deposit has been made as provided in Section 6.140.090, the Building Official shall give notice of default, as provided in section 6.140.110, to the permittee. If the permittee does not perform within the time specified in the notice, the Building Official shall proceed without delay and without further notice or proceeding whatever to use the deposit, or any portion of the deposit necessary to cause the required work to be done by contract or otherwise at the Building Official's discretion, upon the completion of the work. The balance, if any, of the deposit, shall be returned to the depositor or to the depositor's successors or assigns after deducting the cost of the work plus ten (10) percent of the cost, which is an amount to defray the Town's cost in enforcement and administration.

**Sec. 6.140.130. Same--Release.** When a deposit has been made as provided in Section 6.140.090 and all requirements of the permit have been completed, the Building Official shall return the deposit to the depositor or to the depositor's successors or assigns, except any portion thereof that may have been used or deducted as provided in this section.

**ARTICLE XV. CALIFORNIA RESIDENTIAL BUILDING CODE**

**Sec. 6.150.010. Adopted.**

The 2019 California Residential Code, California Code of Regulations, Title 24, Part 2.5 is adopted by reference including Appendices H, K, O, Q, S, V, and X and as locally modified by the following Sections of this Article.

**Sec. 6.150.020. Fire Protection Amendments.**

**R310.1 Emergency escape and rescue opening required is amended as follows:**

R310.1 Exception 2 is deleted in its entirety.

~~2. Where the dwelling or townhouse is equipped with an automatic sprinkler system installed in accordance with Section P2904, sleeping rooms in basements shall not be required to have emergency escape and rescue opening provided that the basement has one of the following:~~

~~2.1 One means of egress complying with Section R311 and one emergency escape and rescue opening.~~

~~2.2 Two means of egress complying with Section R311.~~

**R313.1 Townhouse automatic fire sprinkler systems is amended as follows:**

~~R313.1 Townhouse automatic fire sprinkler systems. An automatic residential fire sprinkler system shall be installed in townhouses.~~

~~Exception: An automatic residential fire sprinkler system shall not be required where additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed.~~ An automatic residential fire sprinkler system shall be installed in all new townhouses and in existing townhouses when additions are made that increase the building area to more than 3,600 square feet.

**Exception:** One or more additions made to an existing building after January 1, 2011 that do not total more than 1000 square feet of building area.

**R313.2 One- and two-family dwellings automatic fire sprinkler systems is amended as follows:**

**R313.2 One- and two-family dwellings automatic fire sprinkler systems.** An automatic residential fire sprinkler system shall be installed in one- and two-family dwellings as follows:

- ~~1. An automatic residential fire sprinkler system shall not be required for additions or alterations to existing buildings that are not already provided with an automatic residential sprinkler system.~~
- ~~2. Accessory dwelling Unit provided that all of the following are met:
  - ~~2.1 The unit meets the definition of an Accessory Dwelling Unit as defined in the Government Code Section 65852.2.~~
  - ~~2.2 The existing primary residence does not have automatic fire sprinklers.~~
  - ~~2.3 The accessory detached dwelling unit does not exceed 1,200 square feet in size.~~
  - ~~2.4 The unit is on the same lot as the primary residence.~~~~

1. In all new one- and two-family dwellings and in existing one- and two-family dwellings when additions are made that increase the building area to more than 3,600 square feet, whether by increasing the area of the primary residence or by creation of an attached Accessory Dwelling Unit.

2. In all attached Accessory Dwelling Units, additions or alterations to an existing one- and two-family dwelling that have an existing fire sprinkler system.

**Exceptions:**

1. One or more additions made to a building after January 1, 2011 that does not total more than 1,000 square feet of building area and meets all access and water supply requirements of Chapter 5 and Appendix B and C of the 2019 California Fire Code.
2. Detached Accessory Dwelling Units, provided that all of the following are met:
  - 2.1 The unit meets the definition of an Accessory Dwelling Unit as defined in the Government Code Section 65852.2.
  - 2.2 The existing primary residence does not have automatic fire sprinklers.
  - 2.3 The accessory detached dwelling unit does not exceed 1,200 square feet in size.
  - 2.4 The unit is on the same lot as the primary residence.
  - 2.5 The unit meets all access and water supply requirements of Chapter 5 and Appendix B and C of the 2019 California Fire Code.
3. In all new basements and in existing basements that are expanded by more than 50%.

**R337.1.3 Application is amended to read:**



**R337.1.3 Application.** New buildings located in any Fire Hazard Severity Zone or any Wildland-Urban Interface Fire Area designated by the enforcing agency constructed after the application date shall comply with the provisions of this chapter.

**Exceptions:**

1. Buildings of an accessory character classified as a Group U occupancy and not exceeding 120 square feet in floor area, ~~when located at least 30 feet from an applicable building.~~
2. Buildings of an accessory character classified as Group U occupancy of any size ~~located at least 50 feet from an applicable building.~~
3. Buildings classified as a Group U Agricultural Building, as defined in Section 202 of this code (see also Appendix C – Group U Agricultural Buildings), ~~when located at least 50 feet from an applicable building.~~
4. Additions to and remodels of buildings originally constructed prior to the applicable application date.
5. Group C, special buildings conforming to the limitations specified in Section 450.4.1.

For the purpose of this section and Section R337.10, applicable building includes all buildings that have residential, commercial, educational, institutional, or similar occupancy type use.

**R337.7.9 Underside of appendages is amended to read:**

**R337.7.9 Underside of appendages.** ~~When required by the enforcing agency~~ the underside of overhanging appendages shall be enclosed to grade in accordance with the requirements of this chapter or the underside of the exposed under-floor shall consist of one of the following:

1. Noncombustible material
2. Ignition-resistant material
3. One layer of 5/8-inch Type X gypsum sheathing applied behind an exterior covering on the underside of the floor projection
4. The exterior portion of a 1-hour fire resistive exterior wall assembly applied to the underside of the floor including assemblies using the gypsum panel and sheathing products listed in the Gypsum Association Fire Resistance Design Manual
5. The underside of a floor assembly that meets the performance criteria in accordance with test procedures set forth in either of the following:
  - 5.1 SFM Standard 12-7A3; or
  - 5.2 ASTM E2957

**Exception:** Structural column and beams do not require protection when constructed with sawn lumber or glue laminated wood with the smallest minimum nominal dimension of 4 inches (102 mm). Sawn or glue-laminated planks splined, tongue-and-groove, or set close together and well spiked.

**R337.10.3 Where required is amended to read:**

**R337.10.3 Where required.** ~~No requirements shall apply to accessory building or miscellaneous structures when located at least 50 feet from an applicable building. Applicable accessory buildings and attached miscellaneous structures, or detached miscellaneous structures that are installed at a~~

distance of less than 3 feet from an applicable building, shall comply with this section. When required by the enforcing agency, detached miscellaneous structures that are installed at a distance of more than 3 feet but less than 50 feet from an applicable building shall comply with the requirements of this section.

~~———— **R337.10.3.1 Accessory building requirements.** Applicable accessory buildings that are less than 120 square feet in floor area and are located more than 30 feet but less than 50 feet from an applicable building shall be constructed of noncombustible materials or of ignition-resistant materials as described in Section R337.4.2.~~

~~———— **R337.10.3.2 Attached miscellaneous structure requirements.** Applicable miscellaneous structures that are attached to, or installed at a distance of less than 3 feet from, an applicable building shall be constructed of non-combustible materials or of ignition-resistant materials as described in Section R337.4.2.~~

~~———— **R337.10.3.3 Detached miscellaneous structure requirements.** When required by the enforcing agency, applicable detached miscellaneous structures that are installed at a distance of more than 3 feet but less than 50 feet from an applicable building shall be constructed of noncombustible materials or of ignition-resistant materials as described in Section R337.4.2. Applicable accessory buildings and attached miscellaneous structures or detached miscellaneous structures shall comply with this section and shall be constructed of noncombustible materials or of ignition-resistant materials as described in section R337.4.2.~~

#### **R902.1.2 Roof coverings within state responsibility areas is amended to read:**

**R902.1.2 Roof coverings within state responsibility areas.** The entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any one-year period, the entire roof covering of every new structure, and any roof covering applied in the alteration, repair or replacement of the roof of every existing structure, shall be fire-retardant roof covering that is at least ~~Class B~~ Class A.

#### **R902.1.3 Roof coverings in all other areas is amended to read:**

**R902.1.3 Roof coverings in all other areas.** The entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any one-year period, the entire roof covering of every new structure, and any roof covering applied in the alteration, repair or replacement of the roof of every existing structure, shall be fire-retardant roof covering that is at least ~~Class C~~ Class A.

#### **R902.1.4 Roofing requirements in a wildland-urban interface fire area is amended to read:**

**R902.1.4 Roofing requirements in a wildland urban interface fire area.** The entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any one-year period, the entire roof covering of every new structure, and any roof covering applied in the alteration, repair or replacement of the roof of every existing structure, shall be a fire-retardant roof covering that is at least Class A.

Roofing requirements for structures located in a Wildland-Urban Interface Fire Area shall also comply with Section R337.5.

**Sec. 6.150.040. Limits on methods using Gypsum Board and Cement Plaster.**

**Table R602.10.3(3) is amended as follows:**

**The title of Table R602.10.3(3) is amended to read:**

TABLE R602.10.3(3)g

**Footnote “g” is added Table R602.10.3(3), to read:**

g. In Seismic Design Categories D0, D1, and D2, Method GB is not permitted, and the use of Method PCP is limited to one-story dwellings and accessory structures.

**R602.10.4 Construction methods for braced wall panels is amended to add Section R602.10.4.5 Limits on methods GB and PCP.**

**R602.10.4.5 Limits on methods GB and PCP.** In Seismic Design Categories D0, D1, and D2, Method GB is not permitted, but gypsum board is permitted to be placed on the opposite side of the studs from other types of braced wall panel sheathing. In Seismic Design Categories D0, D1, and D2, the use of Method PCP is limited to one-story dwellings and accessory structures.

## **SECTION II**

**CHAPTER 9, Article III, IS DELETED IN ITS ENTIRETY AND REPLACED WITH THE FOLLOWING:**

**Sec. 9.30.005. Adoption of 2019 CFC and 2018 IFC**

Adoption of the 2019 California Fire Code and 2018 International Fire Code.

There is hereby adopted by the Town for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain Code known as the 2019 California Fire Code and also the International Fire Code 2018 Edition, including Appendix Chapters B, C, and O and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended by this ordinance, of which one copy has been filed for use and examination by the public in the office of the Town Building Official and the Town Fire Chief and the same adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provision thereof shall be controlling within the limits of the Town of Los Gatos.

## **CHAPTER 1, DIVISION II**

### **ADMINISTRATION**

Chapter 1 of the 2019 California Fire Code and 2018 International Fire Code is adopted with the following amendments:

## **SECTION 105 PERMITS**

Section 105.6.8 is amended to read as follows:

**105.6.8 Compressed gases.** An operational permit is required for the storage, use or handling at normal temperature and pressure (NTP) of compressed gases in excess of the amounts listed in Table 105.6.8.

### **Exceptions:**

1. Vehicles equipped for and using compressed gas as a fuel for propelling the vehicle.

Amend Table 105.6.20 of the 2019 California Fire Code to read as follows:

**TABLE 105.6.20**  
**PERMIT AMOUNTS FOR HAZARDOUS MATERIALS**

<b><u>TYPE OF MATERIAL</u></b>	<b><u>AMOUNT</u></b>
<u>Combustible liquids</u>	<u>See Section 105.6.16</u>
<u>Corrosive materials:</u>	
<u>Gases</u>	<u>See Section 105.6.8</u>
<u>Liquids</u>	<u>55 gallons</u>
<u>Solids</u>	<u>500 pounds</u>
<u>Explosive materials</u>	<u>See Section 105.6.14</u>
<u>Flammable materials:</u>	
<u>Gases</u>	<u>See Section 105.6.8</u>
<u>Liquids</u>	<u>See Section 105.6.16</u>
<u>Solids</u>	<u>100 pounds</u>
<u>Highly toxic materials:</u>	
<u>Gases</u>	<u>See Section 105.6.8</u>
<u>Liquids</u>	<u>Any Amount</u>
<u>Solids</u>	<u>Any Amount</u>
<u>Moderately toxic materials:</u>	
<u>Gases</u>	<u>See Section 105.6.8</u>
<u>Other health hazard materials:</u>	
<u>Gases</u>	<u>See Section 105.6.8</u>
<u>Liquids</u>	<u>55 gallons</u>
<u>Solids</u>	<u>500 pounds</u>
<u>Oxidizing materials:</u>	
<u>Gases</u>	<u>See Section 105.6.8</u>
<u>Liquids:</u>	
<u>Class 4</u>	<u>Any Amount</u>

<u>Class 3</u> <u>Class 2</u> <u>Class 1</u> <u>Solids:</u> <u>Class 4</u> <u>Class 3</u> <u>Class 2</u> <u>Class 1</u>	<u>1 gallon<sup>a</sup></u> <u>10 gallons</u> <u>55 gallons</u>  <u>Any Amount</u> <u>10 pounds<sup>b</sup></u> <u>100 pounds</u> <u>500 pounds</u>
<u>Organic peroxides:</u> <u>Liquids</u> <u>Class I</u> <u>Class II</u> <u>Class III</u> <u>Class IV</u> <u>Class V</u>  <u>Solids</u> <u>Class I</u> <u>Class II</u> <u>Class III</u> <u>Class IV</u> <u>Class V</u>	 <u>Any Amount</u> <u>Any Amount</u> <u>1 gallon</u> <u>2 gallons</u> <u>No Permit Required</u>   <u>Any Amount</u> <u>Any Amount</u> <u>10 pounds</u> <u>20 pounds</u> <u>No Permit Required</u>
<u>Pyrophoric materials:</u> <u>Gases</u> <u>Liquids</u> <u>Solids</u>	<u>Any amount</u> <u>Any amount</u> <u>Any amount</u>
<u>Toxic materials:</u> <u>Gases</u> <u>Liquids</u> <u>Solids</u>	<u>See Section 105.6.8</u> <u>10 gallons</u> <u>100 pounds</u>
<u>Unstable (reactive) materials:</u> <u>Liquids</u> <u>Class 4</u> <u>Class 3</u> <u>Class 2</u> <u>Class 1</u>  <u>Solids</u> <u>Class 4</u> <u>Class 3</u> <u>Class 2</u> <u>Class 1</u>	 <u>Any Amount</u> <u>Any Amount</u> <u>5 gallons</u> <u>10 gallons</u>   <u>Any Amount</u> <u>Any Amount</u> <u>50 pounds</u> <u>100 pounds</u>
<u>Water-reactive materials:</u> <u>Liquids</u> <u>Class 3</u> <u>Class 2</u> <u>Class 1</u>	 <u>Any Amount</u> <u>5 gallons</u> <u>55 gallons</u>

<u>Solids</u>	
<u>Class 3</u>	<u>Any Amount</u>
<u>Class 2</u>	<u>50 pounds</u>
<u>Class 1</u>	<u>500 pounds</u>

For SI: 1 gallon = 3.785 L, 1 pound = 0.454 kg.

- a. 20 gallons for Class 3 oxidizers when Table 5003.1.1(1) Note k applies and hazard identification signs in accordance with Section 5003.5 are provided for quantities of 20 gallons or less.
- b. 200 pounds for Class 3 oxidizers when Table 5003.1.1(1) Note k applies and hazard identification signs in accordance with Section 5003.5 are provided for quantities of 200 pounds or less.

Section 105.6.30 is deleted:

**Section. 9.30 .770. Day care facility permit.**

Section 105.6.52 is added to read as follows:

**105.6.52 Day care facility.** An operational permit is required to operate a business as a day care facility for more than 6 people.

**Section. 9.30.775. Institutional permits.**

Section 105.6.53 is added to read as follows:

**105.6.53 Institutional.** A permit is required to operate, maintain, or use any institutional type occupancy. For the purpose of this Section, an institution shall be, but is not limited to:  
hospitals, children's home, home or institution for insane or mentally retarded persons, home or institution for the care of aged or senile persons, sanitarium , nursing or convalescent home,  
certified family care homes, residential care homes for the elderly, out of home placement facilities,  
halfway house, and day care nurseries or similar facility of any capacity.

Section 105.6.54 is added to read as follows[1]:

**105.6.54: Lithium Batteries.** An operational permit is required to collect or store more than 1,000 pounds (454 kg) of lithium batteries.

Section 105.6.55 is added to read as follows:

**105.6.55: Additive Manufacturing.** An operational permit is required to conduct additive manufacturing operations as covered in Section 321.3.

Section 105.7.4 is amended to read as follows:

**105.7.4 Compressed gases.** A construction permit is required to install any piped distribution system for compressed gases, or to install a non-flammable medical gas manifold system. A construction permit is required to install, repair damage to, abandon, remove, place temporarily out of service, close or substantially modify a compressed gas system.

**Exceptions:**

1. Routine maintenance.
2. For emergency repair work performed on an emergency basis, application for permit shall be made within two working days of commencement of work.

The permit applicant shall apply for approval to close storage, use or handling facilities at least 30 days prior to the termination of the storage, use or handling of compressed or liquefied gases. Such application shall include any change or alteration of the facility closure plan. This 30-day period may be waived by the chief if there are special circumstances requiring such waiver.

Section 105.7.5 is amended to read as follows:

**105.7.5 Cryogenic fluids.** A construction permit is required for installation of or alteration to cryogenic fluid storage systems where the system capacity exceeds the amounts listed in Table 105.6.10. Maintenance performed in accordance with this code is not considered an alteration and does not require a construction permit.

**Sec. 9.30.745. Construction permit fees.**

Section 106.2.1 is added to read as follows:

**106.2.1 Construction permit fees.** Construction permit fees and plan review fees for fire hydrant systems, fire extinguishing systems and fire alarm systems shall be paid to the Santa Clara County Fire Department in accordance with the following table based on valuation. The evaluation shall be limited to the value of the system installation for which the permit is being issued. Plan review fees are 65% of the Permit Fee amount. For the purposes of determining the total fee amount for each permit, the plan review fee shall be added to the Permit Fee.

<b><u>TOTAL VALUATIONS</u></b>	<b><u>PERMIT</u></b>
<u>\$1.00 TO \$500.00</u>	<u>\$23.50</u>
<u>\$501.00 TO \$2,000.00</u>	<u>\$23.50 for the first \$500.00 plus \$3.05 for each additional \$100.00, or fraction thereof, to and including \$2,000.00</u>
<u>\$2001.00 TO \$25,000.00</u>	<u>\$69.25 for the first \$2,000.00 plus \$14.00 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00</u>
<u>\$25,001.00 TO \$50,000.00</u>	<u>\$391.25 for the first \$25,000.00 plus \$4.00 for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00</u>
<u>\$50,001.00 TO \$100,000.00</u>	<u>\$630.15 for the first \$50,000.00 plus \$13.60 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00</u>
<u>\$100,001.00 to \$500,000.00</u>	<u>\$986.75 for the first \$100,000.00 plus \$7.00 for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00</u>
<u>\$500,001 to \$1,000,000.00</u>	<u>\$3,228.15 for the first \$500,000.00 plus \$5.35 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00</u>
<u>\$1,000,001 and up</u>	<u>\$5,604.00 for the first \$1,000,000.00 plus \$4.75 for each additional \$1,000.00, or fraction thereof</u>
<u>Additional re-inspections, in connection with the permits above, are to be paid at \$120.00 for each occurrence at the discretion of the fire code official.</u>	
<u>Cancelled inspections without advance notice are to be paid at \$120.00 for each occurrence.</u>	



**Sec. 9.30.750. Operational permit fees.**

Section 106.2.2 is added to read as follows :

**106.2.2 Operational permit fees.** Operational permit fees shall be paid to the Santa Clara County Fire Department as follows:

<b><u>FACILITY TYPE</u></b>		<b><u>PERMIT FEE</u></b>
<b><u>1.</u></b>	<b><u>Institutional</u></b>	
	<b><u>A. More than 6 persons</u></b>	<b><u>\$75.00 - Annually</u></b>
	<b><u>B. Over 50 persons</u></b>	<b><u>\$100.00 - Annually</u></b>
<b><u>2.</u></b>	<b><u>Day Care Facilities</u></b>	
	<b><u>More than 6 clients</u></b>	<b><u>\$35.00 - Annually</u></b>
<b><u>3.</u></b>	<b><u>Places of Assembly</u></b>	
	<b><u>A. 50-300 persons</u></b>	<b><u>\$50.00 - Annually</u></b>
	<b><u>B. Over 300 persons</u></b>	<b><u>\$85.00 - Annually</u></b>
<b><u>4.</u></b>	<b><u>Temporary Membrane Structures, Tents and Canopies</u></b> <b><u>(Only those requiring permits in accordance with Section 105.6.47).</u></b>	<b><u>\$85.00 – Each occurrence</u></b>

**Sec. 9.30.780. Final inspection.**

Section 107.5 is added to read as follows:

**107.5 Final inspection.** No final inspection as to all or any portion of a development shall be deemed completed until the installation of the required fire protection facilities and access ways have been completed and approved. No final certificate of occupancy may be granted until the Fire Department issues notice of final clearance of such fire protection facilities and access ways to the Building Department.

**Sec. 9.30.785. Violations.**

Section 110.4 is deleted.

**Chapter 2**

**DEFINITIONS**

Chapter 2 of the 2019 California Fire Code and 2018 International Fire Code is adopted with the following amendments:

**SECTION 202 GENERAL DEFINITIONS**

The following definitions are added/amended:

Add the following definitions to read[j2]:

**3D PRINTER.** A machine used in the additive manufacturing process for fabricating objects through the deposition of a material using a print head, nozzle, or another printer technology.

**ADDITIVE MANUFACTURING.** A process of joining materials to make objects from 3D model data, usually layer upon layer, sometimes referred to as 3D printing. The Code recognizes two types of additive manufacturing:

1. Industrial additive manufacturing. 3D printing operations that typically utilize combustible powders or metals, an inert gas supply, a combustible dust collection system, or that create a hazardous (classified) location area or zone outside of the equipment.
2. Non-industrial additive manufacturing. 3D printing operations that do create a hazardous (classified) location area outside of the equipment, and do not utilize an inert gas supply or a combustible dust collection system.

Add the following definition to read:

**CORROSIVE LIQUID.** Corrosive liquid is

1. any liquid which, when in contact with living tissue, will cause destruction or irreversible alteration of such tissue by chemical action;
2. any liquid having a pH of 2 or less or 12.5 or more;
3. any liquid classified as corrosive by the U.S. Department of Transportation; and
4. any material exhibiting the characteristics of corrosivity in accordance with Title 22, California Code of Regulations §66261.22.

Add the following definition to read:

**MINIMUM THRESHOLD QUANTITY.** Minimum threshold quantity is the aggregate of highly toxic, toxic or moderately toxic gases in a control area which, due to the minimum aggregate quantities, need only comply with the requirements set forth in Section 6004.1

Add the following definition to read:

**MODERATELY TOXIC GAS.** A chemical or substance that has a median lethal concentration (LC50) in air more than 2000 parts per million but not more than 5000 parts per million by volume of gas or vapor, when administered by continuous inhalation for an hour, or less if death occurs within one hour, to albino rats weighing between 200 and 300 grams each.

Add the following definition to read:

**OTHER HEALTH HAZARD MATERIAL** is a hazardous material which affects target organs of the body, including but not limited to, those materials which produce liver damage, kidney damage, damage to the nervous system, act on the blood to decrease hemoglobin function, deprive the body tissue of oxygen or affect reproductive capabilities, including mutations (chromosomal damage) or teratogens (effect on fetuses).

Amend the following definition to read:

**SECONDARY CONTAINMENT.** Secondary containment is that level of containment that is external to and separate from primary containment and is capable of safely and securely containing the material, without discharge, for a period of time reasonably to ensure detection and remedy of the primary containment failure.

Add the following definition to read:

**SPILL CONTROL.** That level of containment that is external to and separate from the primary containment and is capable of safely and securely containing the contents of the largest container and prevents the materials from spreading to other parts of the room.

Amend the following definition to read:

**WORKSTATION** is a defined space or an independent principal piece of equipment using hazardous materials with a hazard rating of 3 or 4 in accordance with NFPA 704 where a specific function, laboratory procedure or research activity occurs. Approved or listed hazardous materials storage cabinets, flammable liquid storage cabinets or gas cabinets serving a workstation are included as part of the workstation. A workstation is allowed to contain ventilation equipment, fire protection devices, detection devices, electrical devices, and other processing and scientific equipment.

### **Chapter 3**

#### **GENERAL REQUIREMENTS**

Chapter 3 of the 2019 California Fire Code and 2018 International Fire Code is adopted with the following amendments:

Add Section 315.8 to read:

#### **315.8 LITHIUM BATTERY STORAGE AND HANDLING**

**315.8 Lithium Battery Storage and Handling.** The storage and handling of lithium ion and lithium metal batteries or cells in quantities exceeding 1,000 pounds (4086 kg) shall comply with Section 315.8.1 through 315.8.10, and Chapter 32 where applicable.

**315.8.1 Permits.** Permits shall be required as set forth in Section 105.6.54.

**315.8.2 Maximum quantity in a fire area.** The aggregate amount of lithium batteries stored and handled in a single fire area shall not exceed 9,000 pounds (4086 kg).

**315.8.3 Construction requirements.** Fire areas shall be separated from each other by fire barriers having not less than 2-hour fire resistance rating constructed in accordance with Section 707 of the Building Code and horizontal assemblies constructed in accordance with Section 711 of the Building Code.

**315.8.4 Number of fire areas.** The maximum number of fire areas within a building shall be four.

**315.8.5 Group H, Division 2 occupancy.** Storage and handling of more than 9,000 pounds of lithium batteries per fire area shall be in an approved Group H, Division 2 occupancy constructed

in accordance with the Building Code and provided throughout with approved automatic smoke detection and radiant-energy detection systems.

**315.8.6 Automatic sprinkler system.** Buildings containing fire areas used for lithium battery storage or handling shall be equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1. The design of the sprinkler system within each fire area shall not be less than that required for Extra Hazard Group 2 with a minimum design area of 2,500 square feet. Where the storage arrangement is required by other provisions of this code to be provided with a higher level of sprinkler system protection, the higher level of sprinkler system protection shall be provided.

**315.8.7 Automatic smoke detection system.** An approved automatic smoke detection system that activates an approved occupant notification system shall be provided throughout each fire area in accordance with Section 907.

**315.8.8 Radiant energy detection.** An approved radiant-energy detection system that activates an approved occupant notification system shall be installed throughout each fire area in accordance with Section 907.

**315.8.9 Collection containers.** Containers used to collect, or store lithium batteries shall be noncombustible and shall not have an individual capacity exceeding 30 gallons (113.6 L), or be approved for transportation in accordance with the Department of Transportation (DOT).

**315.8.10 Storage configuration.** Lithium batteries shall be considered a high-hazard commodity in accordance with Chapter 32 and where applicable, lithium battery storage shall comply with Chapter 32 in addition to Section 315.8.

## **SECTION 316 HAZARDS TO FIREFIGHTERS**

Add Section 316.7 to read:

**316.7 Roof guardrails at interior courts.** Roof openings into interior courts that are bounded on all sides by building walls shall be protected with guardrails. The top of the guardrail shall not be less than 42 inches in height above the adjacent roof surface that can be walked on. Intermediate rails shall be designed and spaced such that a 12-inch diameter sphere cannot pass through.

### **Exception:**

Where the roof opening is greater than 600 square feet in area.

## **SECTION 321 ADDITIVE MANUFACTURING**<sup>[i4]</sup>

Add Section 321 to read:

**321.1 General.** Additive manufacturing equipment and operations shall comply with Section 321.

**321.1.1 Scope.** Additive manufacturing shall comply with one of the following:

1. Non-industrial additive manufacturing shall comply with Section 321.2.
2. Industrial additive manufacturing shall comply with Section 321.3.

**321.1.2 Installation, operation and maintenance.** 3D printers and associated additive manufacturing equipment shall be installed, operated and maintained in accordance with this Code, the listing and the manufacturer's instructions.

**321.1.3 Production materials.** Only the production materials listed for use with the equipment and included in the manufacturer's instructions shall be used.

**321.2 Non-industrial additive manufacturing.** Non-industrial additive manufacturing equipment and operations shall comply with Section 321.2.1 through 321.2.4. Additive manufacturing equipment and operations that do not comply with Section 321.2 shall comply with Section 321.3.

**321.2.1 Listing.** 3D printers used in non-industrial additive manufacturing shall be listed and labeled in accordance with UL 60950-1, UL 62368-1 or UL 2011. The listing shall also verify:

1. The 3D printers are self-contained and utilize maximum 30-liter pre-packaged production materials.
2. The operation of the 3D printers shall not create a hazardous (classified) electrical area or outside of the unit.
3. If any hazardous (classified) electrical area or zone exists inside of the unit's outer enclosure, the area shall be protected by intrinsically safe electrical construction or other acceptable protection methods.
4. The 3D printers shall not utilize inert gas or an external combustible dust collection.

**321.2.2 Occupancies.** Non-industrial additive manufacturing shall be permitted in all occupancy groups.

**321.3 Industrial additive manufacturing.** Industrial additive manufacturing equipment and operations shall comply with Section 321.3.1 through 321.3.13.

**321.3.1 Permits required.** Permits shall be obtained from the fire code official in accordance with Section 105.6.55 prior to engaging in industrial additive manufacturing operations.

**321.3.2 Listing.** 3D printers used in industrial additive manufacturing shall be listed and labeled in accordance with UL 2011 or approved for the application based on a field evaluation conducted by an approved agency.

**321.3.3 Combustible dusts and metals.** Industrial additive manufacturing operations that store, use or produce combustible dust, combustible particulate solids or combustible metals shall comply with Chapter 22 and this section.

**321.3.4 Powder evaluation.** Printing powders used in industrial additive manufacturing operations shall be tested for combustibility in accordance with NFPA 484 or NFPA 652 as applicable. A copy of test reports shall be provided to the fire code official upon request.

**321.3.5 Combustible (non-metallic) dusts.** Industrial additive manufacturing that uses operations that store, use or produce combustible (non-metallic) dusts shall comply with NFPA 654.

**321.3.6 Combustible metals.** Industrial additive manufacturing operations that store or use combustible metals shall also comply with NFPA 484.

**321.3.7 Ancillary equipment.** Ancillary equipment provided for recycling, sieving, vacuuming or handling combustible powders shall be designed and approved for such use.

**321.3.8 Hazardous materials.** Industrial additive manufacturing operations that store or use hazardous materials exceeding the maximum allowable quantity limits shall comply with Chapter 50.

**321.3.9 Inert Gas.** Additive manufacturing processes that utilize inert gases shall comply with Chapter 53. Ventilation or gas detection shall be provided in accordance with Section 5307.

**321.3.10 Technical assistance.** Where required by the fire code official, a report evaluating the acceptability of technologies, processes, products, facilities, materials and uses associated with the operation shall be provided in accordance with 104.7.2 and approved.

**321.3.11 Performance based design alternative.** Where approved by the fire code official, buildings and facilities where industrial additive manufacturing is performed shall be permitted to comply with the performance-based design options in Section 5001.3 as an alternative to compliance with the other requirements set forth in this Section.

**321.3.12 Occupancies.** Industrial additive manufacturing shall only be conducted in the occupancy groups associated with manufacturing operations. The occupancy may be required by the fire code official to comply with Chapter 50 maximum allowable quantity tables. Where approved, the requirements in Sections 321.2.5 and 321.3.6 shall be permitted to provide the technical basis for determining compliance with Table 5003.1.1(1), footnote q.

**321.3.13 Safety Certification.** The equipment, process, training procedures and occupancy associated with industrial additive manufacturing may be required by the fire code official to receive a safety certification from Underwriter's Laboratory or equivalent.

**Chapter 5**  
**FIRE SERVICE FEATURES**

Chapter 5 of the 2019 California Fire Code and 2018 International Fire Code is adopted with the following amendments:

**SECTION 503 FIRE APPARATUS ACCESS ROADS**

Amend Section 503.1 as follows:

**503.1 Where required.** Fire apparatus access roads shall be provided and maintained in accordance with Sections 503.1.1 through 503.1.3 and as per fire department access road standards.

**Amend Section 503.1.1 as follows**<sup>[i5]</sup>:

**503.1.1 Buildings and facilities.** Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements for this section and shall extend to within 150 feet (45 720 mm) of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.

**Exceptions:**

1. In other than R-3 or U occupancies, when the building is equipped throughout with an approved automatic sprinkler system, installed in accordance with Section 903.3.1.1 the dimension may be increased to a maximum of 300 feet when approved by the fire code official.
2. When there are not more than two Group R-3 or accessory Group U occupancies, the dimension may be increased to a maximum of 200 feet.
3. When apparatus roads cannot be installed because of topography, waterways, nonnegotiable grades or other similar conditions, an approved alternative means of fire protection shall be provided.

Amend Section 503.2.1 as follows:

**503.2.1 Dimensions.** Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm), exclusive of shoulders, or as required by fire department access road standards, except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of 13 feet 6 inches (4115 mm).



**Exception:**

When there are not more than two Group R, Division 3, or Group U occupancies, the access road width may be modified by the fire code official.

Amend Section 503.2.2 as follows:

**503.2.2 Authority.** The fire code official shall have the authority to require or permit modifications to the required access widths and/or vertical clearance where they are inadequate for fire or rescue operations or where necessary to meet the public safety objectives of the jurisdiction.

**SECTION 504 ACCESS TO BUILDING OPENINGS AND ROOFS**

Add Section 504.5 to read:

**504.5 Access control devices.** When access control devices including bars, grates, gates, electric or magnetic locks or similar devices, which would inhibit rapid fire department emergency access to or within the building are installed, such devices shall be approved by the fire code official. All electrically powered access control devices shall be provided with an approved means for deactivation or unlocking from a single location or otherwise approved by the fire code official.

Access control devices shall also comply with Chapter 10 Means of Egress.

**SECTION 510 EMERGENCY RESPONDER RADIO COVERAGE**

Amend Section 510.1 as follows:<sup>[i6]</sup>

**510.1 Emergency responder radio coverage in new buildings.** Approved radio coverage for emergency responders shall be provided within all buildings meeting any one of the following conditions:

1. There are more than 3 stories above grade plane (as defined by the Building Code Section 202);
2. The total building area is 30,000 square feet or more;
3. The total basement area is 5,000 square feet or more;
4. Where required by the fire code official and radio coverage signal strength levels are not consistent with the minimum levels set forth in Section 510.4.1

**Exceptions:**

1. Where approved by the fire code official, a wired communication system in accordance with Section 907.2.12.2 shall be permitted to be installed or maintained in lieu of an approved radio coverage system.
2. Where it is determined by the fire code official that the radio coverage system is not needed.
3. In facilities where emergency responder radio coverage is required and such systems, components or equipment required could have a negative impact on the normal operations of that facility, the fire code official shall have the authority to accept an automatically activated emergency responder radio coverage system.
4. Buildings and areas of buildings that have minimum radio coverage signal strength levels of the Silicon Valley Regional Interoperability Authority (SVRIA) P25 Phase 2 700 MHz Digital Trunked Radio System within the building in accordance with Section 510.4.1 without the use of an indoor radio coverage system.

The radio coverage system shall be installed and maintained in accordance with Sections 510.4 through 510.6.4 of this code and with the applicable provisions of NFPA 1221, Standard for the Installation, Maintenance and Use of Emergency Services Communications Systems.

The coverage shall be based upon the existing coverage levels of the public safety communication systems of the jurisdiction at the exterior of the building. This section shall not require improvement of the existing public safety communication systems.

Add Section 510.1.1 of the 2019 California Fire Code to read as follows:

**510.1.1 Obstruction by new buildings.** No obstruction of the public safety system backhaul shall be allowed without an approved mitigating plan.

Delete Section 510.2 of the 2019 California Fire Code.

Amend Section 510.3 of the 2019 California Fire Code to read as follows:

**510.3 Permit required.** A construction permit, for the installation of, or modification of, emergency responder radio coverage systems and related equipment is required as specified in Section 105.7.6. Maintenance performed in accordance with this code is not considered a modification and does not require a permit. A frequency change made to an existing system is considered to be new construction and will require a construction permit.

Amend Section 510.4 of the 2019 California Fire Code to read as follows:

**510.4 Technical requirements.** Systems, components and equipment required to provide the emergency responder radio coverage system shall comply with the current Emergency Responders Radio Coverage Systems Standard Details & Specification enforced by the Santa Clara County Fire Department.

Amend Section 510.4.1.1 of the 2019 California Fire Code to read as follows:

**510.4.1.1 Minimum signal strength into the building.** The minimum inbound signal strength shall be sufficient to provide usable voice communications throughout the coverage area as specified by the fire code official. The inbound signal level shall be sufficient to provide not less than a Delivered Audio Quality (DAQ) of 3.0 for analog communications and DAQ of 3.4 for digital communications systems or an equivalent Signal-to-Interference-Plus-Noise Ratio (SINR) applicable to the technology.

Amend Section 510.4.1.2 of the 2019 California Fire Code to read as follows:

**510.4.1.2 Minimum signal strength out of the building.** The minimum outbound signal strength shall be sufficient to provide usable voice communications throughout the coverage area as specified by the fire code official. The outbound signal level shall be sufficient to provide not less than a DAQ of 3.0 for analog communications and DAQ of 3.4 for digital communications systems or an equivalent SINR applicable to the technology.

Amend Section 510.5 of the 2019 California Fire Code to read as follows:

**510.5 Installation requirement.** The installation of the emergency responder radio coverage system shall be in accordance with NFPA 1221 and the current Emergency Responder Radio Coverage Systems Standard Details & Specification enforced by the Santa Clara County Fire Department.

Amend Section 510.5.1 of the 2019 California Fire Code to read as follows:

**510.5.1 Approval prior to installation.** Amplification systems capable of operating on frequencies licensed to any public safety agency by the FCC or other radio licensing authority shall not be installed without prior coordination and approval of the fire code official and the agency FCC license holder or systems administrator.

Amend the First Paragraph of Section 510.5.3 of the 2019 California Fire Code to read as follows:

**510.5.3 Acceptance test procedure.** Where an emergency responder radio coverage system is required, and upon completion of installation, the building owner shall have the radio system tested to verify that two-way coverage on each floor of the building is not less than 95 percent. Final system acceptance will require ERRCS power level and DAQ testing with agency FCC license holder, systems administrators, or designee.

## **Chapter 6**

### **BUILDING SERVICES AND SYSTEMS**

Chapter 6 of the 2019 California Fire Code and 2018 International Fire Code is adopted with the following amendments:

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#### **SECTION 603 FUEL-FIRED APPLIANCES**<sup>[j7]</sup>

Amend Section 603.4.2.1.1 to read as follows and delete the exception:

**603.4.2.1.1 Prohibited locations.** The storage or use of portable outdoor gas-fired heating appliances is prohibited in any of the following locations:

1. Inside of any occupancy where connected to the fuel gas container.
2. Inside of tents, canopies and membrane structures.
3. On exterior balconies and rooftops in other than R-3 occupancies.

## **SECTION 604 ELECTRICAL EQUIPMENT, WIRING AND HAZARDS**

Add Section 604.12 to read:

**604.12 Immersion heaters.** All electrical immersion heaters used in dip tanks, sinks, vats and similar operations shall be provided with approved over-temperature controls and low liquid level electrical disconnects. Manual reset of required protection devices shall be provided.

## **Chapter 8**

### **INTERIOR FINISH, DECORATIVE MATERIALS AND FURNISHINGS**

Chapter 8 of the 2019 California Fire Code and 2018 International Fire Code is adopted with the following amendments:

## **SECTION 806 NATURAL DECORATIVE VEGETATION IN NEW AND EXISTING BUILDINGS**

Amend Section 806.1.1 as follows:

**806.1.1 Restricted occupancies.** The display of natural cut trees and other decorative vegetation shall be in accordance with the California Code of Regulations, Title 19, Division 1, §3.08 and Sections 806.1 through 806.4.

## **Chapter 9**

### **FIRE PROTECTION AND LIFE SAFETY SYSTEMS**

Chapter 9 of the 2019 California Fire Code and 2018 International Fire Code is adopted with the following amendments:

**SECTION 901 GENERAL**<sup>[j8]</sup>

Amend Section 901.6.3 to read:

**901.6.3 Records.** Records of all system inspections, tests and maintenance required by the referenced standard shall be maintained on the premises for a minimum of five years. Inspections and tests performed on fire alarm systems shall be documented on NFPA 72 forms.

**SECTION 903 AUTOMATIC SPRINKLER SYSTEMS**

Amend Section 903.2 to read:

**903.2 Where required.** An approved automatic sprinkler systems in new and existing buildings and structures shall be provided in the locations described in this Section or in Sections 903.2.1 through 903.2.18 whichever is the more restrictive.

For the purposes of this section, firewalls and fire barriers used to separate building areas shall be constructed in accordance with the California Building Code and shall not be utilized as a means of area reduction for the purposes of circumventing automatic fire sprinkler system installation requirements.

1. An approved automatic sprinkler system shall be provided throughout all new buildings and structures.

**Exceptions:**

- a. Buildings and structures that do not exceed 1,000 square feet of building area and that are not located in the Wildland-Urban Interface Fire Area.
- b. Buildings and structures that are located in the Wildland-Urban Interface Fire Area and do not exceed 500 square feet of building area.
- c. Group S-2 or U occupancies that are not located in the Wildland-Urban Interface and used exclusively for vehicle parking and meeting all of the following conditions:
  - i. Noncombustible construction
  - ii. Maximum building area not to exceed 5,000 square feet
  - iii. Structure is open on three (3) or more sides
  - iv. Minimum of 10 feet separation from existing buildings unless area is separated by fire walls complying with CBC 706.
2. An automatic sprinkler system shall be provided throughout existing buildings and structures when alterations or additions are made that create conditions described in

Sections 903.2.1 through 903.2.18.

3. An automatic sprinkler system shall be provided throughout existing buildings and structures, when additions are made that increase the building area to more than 3,600 square feet.

**Exception:** One or more additions made to a building after January 1, 2011 that does not total more than 1,000 square feet of building area.

4. An automatic sprinkler system shall be provided throughout all new basements regardless of size and throughout existing basements that are expanded by more than 50%.
5. Any change in the character of occupancy or in use of any building with a building area equal to or greater than 3,600 square feet which, in the opinion of the fire code official or building official, would place the building into a more hazardous division of the same occupancy group or into a different group of occupancies and constitutes a greater degree of life safety or increased fire risk shall require the installation of an approved fire automatic fire sprinkler system.
  1. Life Safety - Increased occupant load, public assembly areas, public meeting areas, churches, indoor amusement attractions, buildings with complex exiting systems due to increased occupant loads, large schools/day-care facilities, large residential care facilities with non-ambulatory.
  2. Fire Risks - High-piled combustible storage, woodworking operations, hazardous operations using hazardous materials, increased fuel loads (storage of moderate to highly combustible materials), increased sources of ignition (welding, automotive repair with the use of flammable liquids and open flames).

Amend Section 903.2.18 to delete the Exception:[j9]

## **SECTION 909 SMOKE CONTROL SYSTEMS[j10]**

Amend Section 909.20.1 to read:

**909.20.1 Schedule.** A routine maintenance and operational testing program shall be initiated immediately after the smoke control system has passed the acceptance tests. A written schedule for routine maintenance and operational testing shall be established and both shall occur at least annually.

## Chapter 11

### CONSTRUCTION REQUIREMENTS FOR EXISTING BUILDINGS.

Delete Chapter 11 of the 2018 International Fire Code in its entirety.

## Chapter 33

### FIRE SAFETY DURING CONSTRUCTION AND DEMOLITION

Chapter 33 of the 2019 California Fire Code and 2018 International Fire Code is adopted with the following amendments:

#### SECTION 3304 PRECAUTIONS AGAINST FIRE

Add Section 3304.9 to read:

**3304.9 Fire walls.** When firewalls are required in combustible construction, the wall construction shall be completed (with all openings protected) immediately after the building is sufficiently weather protected at the location of the wall(s).

#### SECTION 3311 MEANS OF EGRESS

Amend Section 3311.1 as follows:

**3311.1 Stairways required.** Each level above the first story in multi-story buildings that require two exit stairways shall be provided with at least two usable exit stairways after the floor decking is installed. Exit stairs in new and in existing, occupied buildings shall be lighted and maintained clear of debris and construction materials at all times.

##### **Exception:**

For multi-story buildings, one of the required exit stairs may be obstructed on not more than two contiguous floor levels for the purposes of stairway construction (i.e., installation of gypsum board, painting, flooring, etc.).

Add Section 3311.1.1 to read:

**Section 3311.1.1 Required means of egress.** All buildings under construction shall have at least one unobstructed means of egress. All means of egress shall be identified in the pre-fire plan see Section 3308.3.

**CHAPTER 49**  
**REQUIREMENTS FOR WILDLAND-URBAN INTERFACE FIRE AREAS**

Chapter 49 of the 2019 California Fire Code is adopted with the following: amendments:

Amend Section 4902 as follows:

**SECTION 4902 DEFINITIONS**

Amend definition of Wildland-Urban Interface Fire Area as follows:

**Wildland-Urban Interface Fire Area** A geographical area identified by the state as a " Fire Hazard Severity Zone" in accordance with the Public Resources Code Sections 4201 through 4204 and Government Code Sections 51175 through 51189, or other areas designated by the enforcing agency to be at a significant risk from wildfires. The Wildland-Urban Interface Fire Area shall be defined as all areas within the Town of Los Gatos as set forth and delineated on the map entitled "Wildland-Urban Interface Fire Area" which map and all notations, references, data and other information shown thereon are hereby adopted and made a part of this chapter. The map properly attested, shall be on file in the Office of the Town Clerk of the Town of Los Gatos.

**SECTION 4906 HAZARDOUS VEGETATION AND FUEL MANAGEMENT**

Amend Section 4906.2 to read:

**4906.2 Application.** Buildings and structures located in the following areas shall maintain the required hazardous vegetation and fuel management:

1. All unincorporated lands designated by the State Board of Forestry and Fire Protection as State Responsibility Areas (SRA) including:
  - 1.1. Moderate Fire Hazard Severity Zones
  - 1.2. High Fire Hazard Severity Zones
  - 1.3. Very-high Fire Hazard Severity Zones
2. Land designated as a Very-high Fire Hazard Severity Zone or as a Wildland Urban Interface Fire Area the Town of Los Gatos.

**SECTION 4907 DEFENSIBLE SPACE**

Amend Section 4907.1 to read:



**4907.1 General.** Defensible space will be maintained around all buildings and structures in Sate Responsibility Area (SRA) as required in Public Resources Code 4290 and "SRA Fire Safe Regulations" California Code of Regulations, Title 14, Division 1.5, Chapter 7, Subchapter 2, Section 1270.

Buildings and structures within the Very-High Fire Hazard Severity Zones of a Local Responsibility Area (LRA) shall maintain defensible space as outlined in Government Code 51175 - 51189 and any local ordinance of the authority having jurisdiction .

Persons owning, leasing, controlling, operating or maintaining buildings or structures in the locally adopted Wildland-Urban Interface Fire Area but that are not within the Very-High Fire Hazard Severity Zone and persons owning, leasing or controlling land adjacent to such buildings or structures, shall at all times:

1. Maintain an effective defensible space by removing and clearing away flammable vegetation and combustible growth from areas within 30 feet (9144 mm) of such buildings or structures.

**Exception:** Single specimens of trees, ornamental shrubbery or similar plants used as ground covers, provided that they do not form a means of rapidly transmitting fire from the native growth to any structure.

2. Maintain additional effective defensible space by removing brush, flammable vegetation and combustible growth located 30 feet to 100 feet (9144 mm to 30480 mm) when required by the fire code official due to steepness of terrain or other conditions that would cause a defensible space of only 30 feet (9144 mm) to be insufficient.

**Exception:** Grass and other vegetation located more than 30 feet (9144 mm) from buildings or structures and less than 18 inches (457 mm) in height above the ground need not be removed where necessary to stabilize the soil and prevent erosion.

3. Remove portions of trees, which extend within 10 feet (3048 mm) of the outlet of a chimney.
4. Maintain trees adjacent to or overhanging a building free of deadwood; and
5. Maintain the roof of a structure free of leaves, needles or other dead vegetative growth.
6. Defensible space shall also be provided around water tank structures, water supply pumps and pump houses.
7. Remove flammable vegetation a minimum of 10 feet around liquefied petroleum gas tanks/containers.
8. Firewood and combustible materials shall not be stored in unenclosed spaces beneath buildings or structures, or on decks or under eaves, canopies or other

projections or overhangs. The storage of firewood and combustible material within the defensible space shall be located a minimum of 30 feet (6096 mm) from structures and separated from the crown of trees by a minimum horizontal distance of 15 feet (4572 mm).

**Exception:** Firewood and combustible materials not for consumption on the premises shall be stored as approved by the fire code official.

9. Clear areas within 10 feet (3048 mm) of fire apparatus access roads and driveways of non- fire-resistive vegetation growth.

**Exception:** Single specimens of trees, ornamental vegetative fuels or cultivated ground cover, such as green grass, ivy, succulents or similar plants used as ground cover, provided they do not form a means of readily transmitting fire.

Add Section 4907.2 to read:

**4907.2 Corrective actions.** The executive body is authorized to instruct the fire code official to give notice to the owner of the property upon which conditions regulated by Section 4907.1 exist to correct such conditions. If the owner fails to correct such conditions the executive body is authorized to cause the same to be done and make the expense of such correction a lien upon the property where such conditions exist.

Add section 4908 to read:

#### **SECTION 4908 FIRE PROTECTION PLAN**

**4908.1 General.** When required by the code official, a fire protection plan shall be prepared.

**4908.2 Content.** The plan shall be based upon a site-specific wildfire risk assessment that includes considerations of location, topography, aspect, flammable vegetation, climatic conditions and fire history. The plan shall address water supply, access, building ignition and fire-resistance factors, fire protection systems and equipment, defensible space and vegetation management.

**4908.3 Cost.** The cost of fire protection plan preparation and review shall be the responsibility of the applicant.

**4908.4 Plan retention.** The fire protection plan shall be retained by the fire code official.

Add Section 4909 to read:

#### **SECTION 4909 WATER SUPPLY**

**4909.1 General.** Buildings and structures, or portions thereof, hereafter constructed or relocated into or within the Wildland-Urban Interface Fire Area shall be provided with fire protection water supplies in accordance with Chapter 5 and Section 4909.2.

**Exception:**

Buildings containing only private garages, carports, sheds and agricultural buildings with a building area of not more than 500 square feet (56 m2).

**4909.2 Standby power.** Standby power shall be provided to pumps, controllers and related electrical equipment so that stationary water supply facilities within the wildland-urban interface area that are dependent on electrical power can provide the required water supply. The standby power system shall be in accordance with the Electrical Code. The standby power source shall be capable of providing power for a minimum of two hours.

**Exceptions:**

1. When approved by the code official, a standby power supply is not required where the primary power service to the stationary water supply facility is underground.
2. A standby power supply is not required where the stationary water supply facility serves no more than one single-family dwelling.

Add Section 4910 to read:

#### **SECTION 4910 IGNITION SOURCE CONTROL**

**4910.1 Fireworks.** Fireworks shall not be used or possessed in the Wildland-Urban Interface Fire Area.

### **Chapter 50**

### **HAZARDOUS MATERIALS-GENERAL PROVISIONS**

Chapter 50 of the 2019 California Fire Code and 2018 International Fire Code is adopted with the following amendments:

### **SECTION 5001 GENERAL**

Amend Section 5001.2.2.2 to read:

**5001. 2.2.2 Health hazards** The material categories listed in this section are classified as health hazard s. A material with a primary classification as a health hazard can also pose a physical hazard.

1. Highly toxic and toxic materials.
2. Corrosive materials.
3. Moderately toxic gas.
4. Other health hazards.

Add Section 5001.5.3 to read:

**5001.5.3 Hazardous Materials Business Plan (HMBP)** Where required by the fire[j11] code official, facilities shall submit a Hazardous Materials Business Plan (HMBP) as required by California Health & Safety Code (HSC), Chapter 6.95, Sections 25500 through 25545, and Title 19, Division 2, Chapter 4. The HMBP shall be electronically submitted in accordance with the fire code official's requested timeframe and no less frequently than is required by the HSC.

### **SECTION 5003 GENERAL REQUIREMENTS**

Add Section 5003.1.3.1 to read:

**5003.1.3.1 Highly toxic, toxic, moderately toxic gases and similarly used or handled materials.** The storage use and handling of highly toxic, toxic and moderately toxic gases in amounts exceeding Table 6004.2.1.4 shall be in accordance with this chapter and Chapter 60. Any highly toxic, toxic or moderately toxic material that is used or handled as a gas or vapor shall be in accordance with the requirements for highly toxic, toxic or moderately toxic gases.

Add Section 5003.1.5 to read:

**5003.1.5 Other health hazards.** The storage use and handling of materials classified as other health hazards including carcinogens, irritants and sensitizers in amounts exceeding 810 cubic feet for gases, 55 gallons for liquids and 5,000 pounds for solids shall be in accordance with Section 5003.

Add Section 5003.1.6 to read:

**5003.1.6 Additional spill control and secondary containment requirements.** In addition to the requirements set forth in Section 5004.2, an approved containment system is required for any quantity of hazardous materials, that are liquids or solids at normal temperature, and pressure (NTP) where a spill is determined to be a plausible event and where such an event would endanger people, property or the environment. The approved containment system may be required to include a combination of spill control and secondary containment meeting the design and construction requirements set forth in Section 5004.2.

Amend Sec. 5003.2.2.1 to read:

**5003.2.2.1 Design and construction.** Piping, tubing, valves, fittings and related components used for hazardous materials shall be in accordance with the following:

1. Piping, tubing, valves, fittings and related components shall be designed and fabricated from materials that are compatible with the material to be contained and shall be of adequate strength and durability to withstand the pressure, structural and seismic stress, and exposure to which they are subject.
2. Piping and tubing shall be identified in accordance with ASME A13.1 and the Santa Clara County Fire Chiefs Marking Requirements and Guidelines for Hazardous Materials and Hazardous Waste to indicate the material conveyed.
3. Readily accessible manual valves or automatic remotely activated fail-safe emergency shutoff valves shall be installed on supply piping and tubing at the following locations:
  1. The point of use.
  2. The tank, cylinder or bulk use.
4. Manual emergency shutoff valves and controls for remotely activated emergency shutoff valves shall be identified and the location shall be clearly visible, accessible and indicated by means of a sign.
5. Backflow prevention or check valves shall be provided where the backflow of hazardous materials could create a hazardous condition or cause the unauthorized discharge of hazardous materials.
6. Where gases or liquids having a hazard ranking of:
  - Health Hazard Class 3 or 4
  - Flammability Class 4
  - Reactivity Class 4

In accordance with NFPA 704 are carried in pressurized piping above 15 pounds per square inch gauge (psig) (103 Kpa), an approved means of leak detection and emergency shutoff or excess flow control shall be provided. Where the piping originates from within a hazardous material storage room or area, the excess flow control shall be located within the storage room or area. Where the piping originates from a bulk source, the excess flow control shall be located as close to the bulk source as practical.

**Exceptions:**

1. Piping for inlet connections designed to prevent backflow.
2. Piping for pressure relief devices.
7. Secondary containment or equivalent protection from spills or leaks shall be provided for piping for liquid hazardous materials and for highly toxic and toxic corrosive gases above threshold quantities listed in Table 6004.2.1.4. Secondary containment includes but is not limited to double walled piping.

**Exceptions:**

1. Secondary containment is not required for toxic corrosive gases if the piping is constructed of inert materials.
2. Piping under sub-atmospheric conditions if the piping is equipped with an alarm and fail-safe-to-close valve activated by a loss of vacuum.

8. Expansion chambers shall be provided between valves whenever the regulated gas may be subjected to thermal expansion. Chambers shall be sized to provide protection for piping and instrumentation and to accommodate the expansion of regulated materials.

Amend Section 5003.2.2.2 to read:

**5003.2.2.2 Additional regulation for supply piping for health-hazard materials.**

Supply piping and tubing for gases and liquids having a health hazard ranking of 3 or 4 shall be in accordance with ASME B31.3 and the following:

1. Piping and tubing utilized for the transmission of highly toxic, toxic, or highly volatile corrosive liquids and gases shall have welded or brazed connections throughout except for connections within an exhausted enclosure if the material is a gas, or an approved method of drainage or containment is provided for connections if the material is a liquid.
2. Piping and tubing shall not be located within corridors, within any portion of a means of egress required to be enclosed in fire-resistance-rated construction or in concealed spaces in areas not classified as Group H occupancies.

**EXCEPTION:** Piping and tubing within the space defined by the walls of corridors and the floor or roof above or in concealed space above other occupancies when installed in accordance with Section 415.11 of the California Building Code for Group H-5 occupancies.

3. All primary piping for highly toxic, toxic and moderately toxic gases shall pass a helium leak test of  $1 \times 10^{-9}$  cubic centimeters/second where practical, or shall pass testing in accordance with an approved, nationally recognized standard. Tests shall be conducted by a qualified third party not involved with the construction of the piping and control systems.

Amend Section 5003.3.1 as follows:

**5003.3.1 Unauthorized discharges.** Where hazardous materials are released in quantities reportable under state, federal or local regulations or when there is release or a threatened release that presents a threat to health, property or the environment, the fire code official shall be notified immediately in an approved

manner and the following procedures required in accordance with Sections 5003.3.1.1 through 5003.3.1.4.

Add Sec. 5003.5.2 to read:

**5003.5.2 Ventilation ducting.** Ducts venting hazardous materials operations shall be labeled with the hazard class of the material being vented and the direction of flow.

Add Sec. 5003.5.3 to read:

**5003.5.3 "H" occupancies.** In "H" occupancies, all piping and tubing may be required to be identified when there is any possibility of confusion with hazardous materials transport tubing or piping. Flow direction indicators are required.

Add Sec. 5003.9.11 to read:

**5003.9.11 Fire extinguishing systems for workstations dispensing, handling or using hazardous materials.** Combustible and non-combustible workstations, which dispense, handle or use hazardous materials, shall be protected by an approved automatic fire extinguishing system in accordance with Section 2703.10.

**Exception:** Internal fire protection is not required for Biological Safety Cabinets that carry NSF/ANSI certification where quantities of flammable liquids in use or storage within the cabinet do not exceed 500ml.

Amend California amendment Section 5003.10.4 to read:

**5003.10.4 Elevators utilized to transport hazardous materials.**

**5003.10.4.1** When transporting hazardous materials, elevators shall have no other passengers other than in the individual(s) handling the chemical transport cart.

**5003.10.4.2** Hazardous materials liquid containers shall have a maximum capacity of 20 liters {5.28 gal}.



**5003.10.4.3** Highly toxic, toxic and moderately toxic gases shall be limited to a container of a maximum water capacity of 1 lb.

**5003.10.4.4** Means shall be provided to prevent the elevator from being summoned to other floors.

#### **SECTION 5004 STORAGE**

Amend Section 5004.2.1 as follows:

**5004.2.1 Spill control for hazardous material liquids.** Rooms, buildings or areas used for storage of hazardous material liquids in individual vessels having a capacity of more than 55 gallons (208 L), or in which the aggregate capacity of multiple vessels exceeds 1,000 gallons (3785 L), shall be provided with spill control to prevent the flow of liquids to adjoining areas. Floors in indoor locations and similar surfaces in outdoor locations shall be constructed to contain a spill from the largest single vessel by one of the following methods:

1. Liquid-tight sloped or recessed floors in indoor locations or similar areas in outdoor locations.
2. Liquid-tight floors in indoor and outdoor locations or similar areas provided with liquid-tight raised or recessed sills or dikes.
3. Sumps and collection systems, including containment pallets in accordance with Section 5004.2.3.
4. Other approved engineered systems.

Except for surfacing, the floors, sills, dikes, sumps and collection systems shall be constructed of noncombustible material, and the liquid-tight seal shall be compatible with the material stored. When liquid-tight sills or dikes are provided, they are not required at perimeter openings having an open-grate trench across the opening that connects to an approved collection system.

Amend Section 5004.2.2.2 as follows:

**5004.2.2.2 Incompatible materials.** Incompatible materials shall be separated from each other in independent secondary containment systems.

Amend Section 5004.2.3 as follows:

**5004.2.3 Containment pallets.** Combustible containment pallets shall not be used inside buildings to comply with Section 5004.2 where the individual container capacity exceeds 55 gallons (208 L) or an aggregate capacity of multiple containers exceeds 1,000 gallons (3785 L) for liquids or where the individual container capacity exceeds 550 pounds (250 kg) or an aggregate of multiple containers exceeds 10,000 pounds (4540 kg) for solids.

Where used as an alternative to spill control and secondary containment for outdoor storage in accordance with the exception in Section 5004.2, containment pallets shall comply with all of the following:

1. A liquid-tight sump accessible for visual inspection shall be provided;
2. The sump shall be designed to contain not less than 66 gallons (250L);
3. Exposed surfaces shall be compatible with material stored;
4. Containment pallets shall be protected to prevent collection of rainwater within the sump of the containment pallet.

## **Chapter 56**

### **EXPLOSIVES AND FIREWORKS**

Chapter 56 of the 2019 California Fire Code and 2018 International Fire Code is adopted with the following amendments:

Amend Section 5601.1.3 to read:

**5601.1.3 Fireworks.** The possession, manufacture, storage, sale, handling, and use of fireworks, including those fireworks classified as Safe and Sane by the California State Fire Marshal, are prohibited.

Exceptions: The use of fireworks for firework displays as allowed in Section 5608

**Chapter 57**  
**FLAMMABLE AND COMBUSTIBLE LIQUIDS**

Chapter 57 of the 2019 California Fire Code and 2018 International Fire Code is adopted with the following amendments:

**SECTION 5704 STORAGE**

Amend section 5704.2.7.5.8 to read:

**5704.2.7.5.8 Overfill prevention.** An approved means or method in accordance with Section 5704.2.9.7.5 shall be provided to prevent the overfill of all Class I, II and IIIA liquid storage tanks. Storage tanks in refineries, bulk plants or terminals regulated by Sections 5706.4 or 5706.7 shall have overfill protection in accordance with API 2350.

Exception: Deleted

An approved means or method in accordance with Section 5704.2.9.7.5 shall be provided to prevent the overfilling of Class IIIB liquid storage tanks connected to fuel-burning equipment inside buildings.

Add section 5704.2.7.5.9 to read:

**5704.2.7.5.9 Automatic filling of tanks.** Systems that automatically fill flammable or combustible liquid tanks shall be equipped with overfill protection, approved by the fire code official, that sends an alarm signal to a constantly attended location and immediately stops the filling of the tank. The alarm signal and automatic shut off shall be tested on an annual basis and records of such testing shall be maintained on-site for a period of five (5) years.

Amend Section 5704.2.9.6.1 of the 2019 California Fire Code as follows:

**5704.2.9.6.1 Locations where above-ground tanks are prohibited.** The storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited in all locations of the Town of Los Gatos, which are residential or congested commercial areas as determined by the fire code official.

Amend Section 5706.2.4.4 of the 2019 California Fire Code as follows:

**5706.2.4.4 Locations where above-ground tanks are prohibited.** The storage of Class I and II liquids in above-ground tanks is prohibited in all locations of the Town of Los Gatos, which are residential or congested commercial areas as determined by the fire code official.

Amend section 5707.3.3 to read:

**5707.3.3 Site plan.** A site plan shall be developed for each location at which mobile fueling occurs. The site plan shall be in sufficient detail to indicate: all buildings, structures, lot lines, property lines, and appurtenances on site and their use and function; all uses adjacent to the lot lines of the site; fueling locations, the locations of all storm drain openings and adjacent waterways or wetlands; information regarding slope, natural drainage, curbing, impounding and how a spill will be kept on the site property; and the scale of the site plan.

## **Chapter 58**

### **FLAMMABLE GASES AND FLAMMABLE CRYOGENIC FLUIDS**

Chapter 58 of the 2019 California Fire Code and 2018 International Fire Code is adopted with the following amendment:

Amend Section 5806.2 of the 2019 California Fire Code as follows:

**5806.2 Limitations.** The storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited in all locations of the Town of Los Gatos, which are residential or congested commercial areas as determined by the fire code official.

Amend Section 5809.3.4 as follows:

**5809.3.4 Site plan.** For other than emergency roadside service, a site plan shall be developed for each location at which mobile gaseous hydrogen fueling occurs. The site plan shall be in sufficient detail to indicate; all buildings, structures, lot lines, property lines and appurtenances on site and their use and function, and the scale of the site plan.

## Chapter 60

### HIGHLY TOXIC, TOXIC AND MODERATELY TOXIC MATERIALS

Chapter 60 of the 2019 California Fire Code and 2018 International Fire Code is adopted with the following amendments:

#### SECTION 6001 GENERAL

**Amend Section 6001.1 to read:**

**6001.1 Scope.** The storage and use of highly toxic, toxic and moderately toxic materials shall comply with this chapter. Compressed gases shall also comply with Chapter 53.

#### Exceptions:

1. Display and storage in Group M and storage in Group S occupancies complying with Section 5003.1 1.
2. Conditions involving pesticides or agricultural products as follows:
  - 2.1. Application and release of pesticide, agricultural products and materials intended for use in weed abatement, erosion control, soil amendment or similar applications when applied in accordance with the manufacturer's instruction and label directions.
  - 2.2. Transportation of pesticides in compliance with the Federal Hazardous Materials Transportation Act and regulations there under.

- 2.3. Storage in dwellings or private garages of pesticides registered by the U.S. Environmental Protection Agency to be utilized in and around the home, garden, pool, spa and patio.

**SECTION 6004 HIGHLY TOXIC, TOXIC AND MODERATELY TOXIC COMPRESSED GASES**

Amend Section 6004.1 to read:

**6004.1 General.** The storage and use of highly toxic, toxic and moderately toxic compressed gases shall comply with this section.

Amend Section 6004.1.1 to read:

**6004.1.1 Special limitations for indoor storage and use by occupancy.** The indoor storage and use of highly toxic, toxic and moderately toxic compressed gases in certain occupancies shall be subject to the limitations contained in Sections 6004.1.1.1 through 6004.1.1.3

Amend Section 6004.1.1.1 to read:

**6004.1.1.1 Group A, E, I or U occupancies.** Highly toxic, toxic and moderately toxic compressed gases shall not be stored or used within Group A, E, I or U occupancies.

**Exception:** Cylinders not exceeding 20 cubic feet (0.556m<sup>3</sup>) at normal temperature and pressure (NTP) are allowed within gas cabinets or fume hoods.

Amend Section 6004.1.1.2 to read:

**6004.1.1.2 Group R occupancies.** Highly toxic, toxic and moderately toxic compressed gases shall not be stored or used in Group R occupancies.

Amend Section 6004.1.1.3 to read:

**6004.1.1.3 Offices, retail sales and classrooms.** Highly toxic, toxic and moderately toxic compressed gases shall not be stored or used in offices, retail sales or classroom portions of Group B, F, M or S occupancies.

**Exception:** In classrooms of Group B occupancies, cylinders with a capacity not exceeding 20 cubic feet (0.566 m<sup>3</sup>) at NTP are allowed in gas cabinets or fume hoods.

Amend Section 6004.2 to read:

**6004.2 Indoor storage and use.** The indoor storage or use of highly toxic, toxic or moderately toxic compressed gases shall be in accordance with Sections 6004.2.1 through 6004.2.4.

Amend Section 6004.2.1 to read:

**6004.2.1 Applicability.** The applicability of regulations governing the indoor storage and use of highly toxic, toxic, and moderately toxic compressed gases shall be as set forth in Sections 6004.2.1.1 through 6004.2.1.4.

Add Sec. 6004.2.1.4 to read:

**6004.2.1.4 Quantities exceeding the minimum threshold quantities, but not exceeding the maximum allowable per control area.** The indoor storage or use of highly toxic, toxic and moderately toxic gases in amounts not exceeding the minimum threshold quantities per control area set forth in Table 6004.2.1.4, but not exceeding maximum allowable quantity per control area set forth in Table 5003.1.1(2) shall be in accordance with Sections 5001, 5003, 6001, and 6004.1 and 6004.4.

Add Table 6004.2.1.4 to read:

<b><u>Minimum Threshold Quantities for Highly Toxic, Toxic and Moderately Toxic Gases for Indoor Storage and Use</u></b>	
<u>Highly Toxic</u>	<u>20</u>
<u>Toxic</u>	<u>405 cubic feet</u>
<u>Moderately Toxic</u>	<u>405 cubic feet</u>

Add Sec. 6004.4 to read<sup>[j12]</sup>:

**6004.4 General indoor requirements.** The general requirements applicable to the indoor storage and use of highly toxic, toxic and moderately toxic compressed gases shall be in accordance with Sections 6004.4 through 6004.4.8.2.

Add Sec 6004.4.1 to read

**6004.4.1 Cylinder and tank location.** Cylinders shall be located within gas cabinets, exhausted enclosures or gas rooms. Portable and stationary tanks shall be located within gas rooms or exhausted enclosures.

**Exceptions:**

1. Where a gas detection system is provided in accordance with 6004.4.8

Add Sec 6004.4.2 to read

**6004.4.2. Ventilated areas.** The room or area in which gas cabinets or exhausted enclosures are located shall be provided with exhaust ventilation. Gas cabinets or exhausted enclosures shall not be used as the sole means of exhaust for any room or area.

Add Sec 6004.4.3 to read:

**6004.4.3. Piping and controls.** In addition to the requirements of Section 5003.2.2, piping and controls on stationary tanks, portable tanks, and cylinders shall comply with the following requirements:

1. Stationary tanks, portable tanks, and cylinders in use shall be provided with a means of excess flow control on all tank and cylinder inlet or outlet connections.

**Exceptions:**

1. Inlet connections designed to prevent backflow.
2. Pressure relief devices.

Add Sec 6004.4.4 to read:

**6004.4.4 Gas rooms.** Gas rooms shall comply with Section 5003.8.4 and both of the following requirements:

1. The exhaust ventilation from gas rooms shall be directed to an exhaust system.
2. Gas rooms shall be equipped with an approved automatic sprinkler system. Alternative fire- extinguishing systems shall not be used.



Add Sec 6004.4.5 to read:

**6004.4.5 Treatment systems.** The exhaust ventilation from gas cabinets, exhausted enclosures and gas rooms, required in Section 6004.4.1 shall be directed to a treatment system. The treatment system shall be utilized to handle the accidental release of gas and to process exhaust ventilation. The treatment system shall be designed in accordance with Sections 6004.2.2.7.1 through 6004.2.2.7.5 and Chapter 5 of the California Mechanical Code.

**Exceptions:**

1. Highly toxic, toxic, and moderately toxic gases—storage. A treatment system is not required for cylinders, containers and tanks in storage where all of the following controls are provided:
  - 1.1 Valve outlets are equipped with gas- tight outlet plugs or caps.
  - 1.2 Hand wheel-operated valves have handles secured to prevent movement.
  - 1.3 Approved containment vessels or containment systems are provided in accordance with Section 6004.2.2.3.
2. Highly toxic, toxic, and moderately toxic gases —use. Treatment systems are not required for highly toxic, toxic, and moderately toxic gases supplied by stationary tanks, portable tanks, or cylinders where a gas detection system complying with Section 6004.4.8 and listed or approved automatic-closing fail- safe valves are provided. The gas detection system shall have a sensing interval not exceeding 5 minutes. Automatic-closing fail- safe valves shall be located immediately adjacent to cylinder valves and shall close when gas is detected at the permissible exposure limit (PEL) by a gas sensor monitoring the exhaust system at the point of discharge from the gas cabinet, exhausted enclosure, ventilated enclosure or gas room.

Add Sec 6004.4.5.1 to read:

**6004.4.5.1. Design.** Treatment systems shall be capable of diluting, absorbing, containing, neutralizing, burning or otherwise processing the contents of the largest single vessel of compressed gas. Where a total containment system is used, the system shall be designed to handle the maximum anticipated pressure of release to the system when it reaches equilibrium.

Add Sec 6004.4.5.2 to read:

**6004.4.5.2. Performance.** Treatment systems shall be designed to reduce the maximum allowable dis-charge concentrations of the gas to one-half immediate by dangerous to life and health (IDLH) at the point of discharge to the atmosphere. Where more than one gas is emitted to the treatment system, the treatment system shall be designed to handle the worst-case release based on the release rate, the quantity and the IDLH for all compressed gases stored or used.

Add Sec 6004.4.5.3 to read:

**6004.4.5.3. Sizing.** Treatment systems shall be sized to process the maximum worst-case release of gas based on the maximum flow rate of release from the largest vessel utilized. The entire contents of the largest compressed gas vessel shall be considered.

Add Sec 6004.4.5.4 to read:

**6004.4.5.4 Stationary tanks.** Stationary tanks shall be labeled with the maximum rate of release for the compressed gas contained based on valves or fittings that are inserted directly into the tank. Where multiple valves or fittings are provided, the maximum flow rate of release for valves or fittings with the highest flow rate shall be indicated. Where liquefied compressed gases are in contact with valves or fittings, the liquid flow rate shall be utilized for computation purposes. Flow rates indicated on the label shall be converted to cubic feet per minute (cfm/min) (m<sup>3</sup>/s) of gas at normal temperature and pressure (NTP).

Add Sec 6004.4.5.5 to read:

**6004.4.5.5 Portable tanks and cylinders.** The maximum flow rate of release for portable tanks and cylinders shall be calculated based on the total release from the cylinder or tank within the time specified in Table 6004.2.2.7.5. Where portable tanks or cylinders are equipped with approved excess flow or reduced flow valves, the worst-case release shall be determined by the maximum achievable flow from the valve as determined by the valve manufacturer or compressed gas supplier. Reduced flow and excess flow valves shall be permanently marked by the valve manufacturer to indicate the maximum design flow rate. Such markings shall indicate the flow rate for air under normal temperature and pressure.

Add Sec 6004.4.6 to read:

**6004.4.6. Emergency power.** Emergency power shall be provided for the following systems in accordance with Section 604:

1. Exhaust ventilation system.
2. Treatment system.
3. Gas detection system.
4. Smoke detection system.

Add Sec 6004.4.6.1 to read:

**6004.4.6.1. Fail-safe systems.** Emergency power shall not be required for mechanical exhaust ventilation and treatment systems where approved fail-safe systems are installed and designed to stop gas flow.

Add Sec 6004.4.7 to read:

**6004.4.7. Automatic fire detection system.** An approved automatic fire detection system shall be installed in rooms or areas where highly toxic, toxic, and moderately toxic compressed gases are stored or used. Activation of the detection system shall sound a local alarm. The fire detection system shall comply with Section 907.

Add Sec 6004.4.8 to read

**6004.4.8. Gas detection system.** A gas detection system complying with Section 916 shall be provided to detect the presence of gas at or below the PEL or ceiling limit of the gas for which detection is provided.

**Exceptions:**

1. A gas detection system is not required for toxic and moderately toxic gases when the physiological warning threshold level for the gas is at a level below the accepted PEL for the gas.
2. A gas detection system is not required for highly toxic, toxic, and moderately toxic gases where cylinders, portable tanks, and all non-continuously welded connects are within a gas cabinet or exhausted enclosures.

Add Sec 6004.4.8.1 to read:

**6004.4.8.1. Alarms.** The gas detection system shall initiate a local alarm and transmit a signal to an approved location.

Add Sec 6004.4.8.2 to read:

**6004.4.8.2. Shut off of gas supply.** The gas detection system shall automatically close the shut off valve at the source on gas supply piping and tubing related to the system being monitored for whichever gas is detected.

**Exception:** Automatic shutdown is not required for highly toxic, toxic, and moderately toxic compressed gas systems where all of the following controls are provided:

1. Constantly attended / supervised.
2. Provided with emergency shutoff valves that have ready access.

## **CHAPTER 61**

### **LIQUEFIED PETROLEUM GASES**

Chapter 61 of the 2019 California Fire Code and 2018 International Fire Code is adopted with the following amendments:

Amend Section 6104.2 of the 2019 California Fire Code as follows:

**6104.2 Maximum capacity within established limits.** The storage of liquefied petroleum gas (LPG) is restricted in all locations within the Town of Los Gatos that are residential or congested commercial areas as determined by the fire code official.

Exceptions: LPG may be used for industrial operations or when natural gas would not provide a viable substitute for LPG. Portable containers for temporary heating and/or cooking uses may be permitted if stored and handled in accordance with this code. Facilities in commercial areas for refueling portable or mobile LPG containers may be approved by the fire code official on a case-by-case basis.

## **Chapter 64**

### **PYROPHORIC MATERIALS**

Chapter 64 of the 2019 California Fire Code and 2018 International Fire Code is adopted with the following amendments:

Add Section 6405.3.1 to read

**6405.3.1 Silane distribution systems automatic shutdown.** Silane distribution systems shall automatically shut down at the source upon activation of the gas detection system at levels above the alarm level and/or failure of the ventilation system for the distribution system.

### SECTION III

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 5<sup>th</sup> day of November 2019, and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the 19<sup>th</sup> day of November 2019. This ordinance takes effect 30 days after it is adopted. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

**RESOLUTION 2019-**  
**RESOLUTION OF THE TOWN COUNCIL**  
**OF THE TOWN OF LOS GATOS**  
**MAKING FINDINGS FOR MODIFYING THE 2019 CALIFORNIA**  
**BUILDING AND FIRE CODES**

**WHEREAS,** Section 17958 of the Health and Safety Code requires that cities and towns choose between adopting ordinances and regulations imposing uniform codes setting rules and regulations for building, fire, mechanical, plumbing, electrical, and housing, or submitting to the regulations adopted by the State Building Standards Commission; and

**WHEREAS,** The Town of Los Gatos, in Chapter 6 and Chapter 9 of the Town Code, had previously adopted the uniform codes; and

**WHEREAS,** The State of California Building Standards Commission adopted 12 new Parts FOR the California Code of Regulations, CCR Title 24, which the Town will be required to enforce as written or as adopted with local amendments; and

**WHEREAS,** Sections 17958.5 and 17958.7 of the Health and Safety Code permits cities and towns to modify the California code requirements if it makes express findings that such modifications are reasonably necessary because of local climatic, geological, geographical, or topographical conditions; and

**WHEREAS,** The Town of Los Gatos experiences low humidity, high wind, and warm temperatures during the summer months creating conditions which are particularly conducive to the ignition and spread of grass, brush, and structure fires; and

**WHEREAS,** The Town of Los Gatos is situated adjacent to active earthquake faults capable of producing substantial seismic events; and

**WHEREAS,** The Town of Los Gatos is partially located in rugged, steep, and heavily vegetated hillsides accessible over limited roadways that are steep, narrow, and circuitous; and

**WHEREAS,** The Town of Los Gatos is divided by a creek, freeways and other traffic corridors, and is partially located in hillside areas with limited access, the occurrence of a major earthquake would significantly impact the ability of fire crews to respond to emergencies should one or more bridges collapse or be substantially damaged. Additionally, fire suppression

ATTACHMENT 2

capabilities will be severely limited should the water system be extensively damaged during a seismic event; and

**WHEREAS,** Due to these climatic, geological, geographical, and topographical conditions, mitigation measures are necessary such as automatic fire suppression systems, communications systems, access to buildings, seismic protection, safety controls for hazardous materials, and other safeguards are necessary in order to minimize the risks to citizens, firefighters, and property resulting from the severity of a fire threat and potential delays in responding to such threats.

**NOW, THEREFORE, BE IT RESOLVED:**

That the modifications to the California Codes contained in an Ordinance introduced by the Town Council on November 5, 2019, are reasonably necessary to address the climatic, geological, geographical, and topographical conditions described herein above.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 5<sup>th</sup> day of November 2019, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 11

ADDENDUM

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DATE: November 4, 2019  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Town Code Application Amendment A-19-009. Project Location: **Town Wide**. Consider an ordinance repealing and replacing Chapter 6, Building Regulations, and Chapter 9, Fire Prevention and Protection, of the Town of Los Gatos Municipal Code with the New 2019 California Building and Fire Codes, as amended.

REMARKS:

Attachment 3 includes public comment received between 11:01 a.m., Thursday, October 31, 2019 to 11:00 a.m., Monday, November 4, 2019.

Attachments previously received with the November 5, 2019 Staff Report:

1. Ordinance adopting new Building and Fire Codes
2. Resolution making Findings for modifying California Codes

Attachment received with this Addendum:

3. Public comment received between 11:01 a.m., Thursday, October 31, 2019 to 11:00 a.m., Monday, November 4, 2019.

PREPARED BY: Robert Gray  
Building Official

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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From: Phil Koen <[pkoen@monteropartners.com](mailto:pkoen@monteropartners.com)>  
Sent: Monday, November 04, 2019 9:32 AM  
To: Laurel Prevetti <[LPrevetti@losgatosca.gov](mailto:LPrevetti@losgatosca.gov)>  
Cc: Robert Schultz <[RSchultz@losgatosca.gov](mailto:RSchultz@losgatosca.gov)>; Rob Stump <[rstamp@ani-psg.com](mailto:rstamp@ani-psg.com)>; jak vannada <[jvannada@gmail.com](mailto:jvannada@gmail.com)>  
Subject: Agenda Item 11 - November 5 Council Meeting - Section 4907 Defensible Space

Dear Laurel,

As you know the vast majority of lots in the Los Gatos Wildland-Urban Interface Fire Area are also in a VHFHSZ (LRA). On page 151 of the Council package there is a markup of proposed changes to article 4907.1 of the Town Code.

In reading the markup, it isn't clear to me that adjacent lots, whether improved or not improved located in the VHFHSZ (LRA), will be subject to the proposed changes which will require an additional 30 to 100 foot clearance so as to fully implement a 100 foot defensible zone from any structures.

From reading the markup, it appears that lots in the VHFHSZ (LRA) are governed by Government Code 51175 - 51189. This code does not require adjacent lots to maintain an additional defensible space located 30 to 100 feet from any structure on an adjacent lot. Furthermore there doesn't appear to be a local ordinance requiring this.

Can you please clarify the requirements for adjacent lots in the VHFHSZ (LRA) to fully comply with an additional 30 - 100 foot clearance from any structures.

Thank you.

Phil Koen

ATTACHMENT 3

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**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 11

DESK ITEM

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DATE: November 5, 2019  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Town Code Application Amendment A-19-009. Project Location: **Town Wide**. Consider an ordinance repealing and replacing Chapter 6, Building Regulations, and Chapter 9, Fire Prevention and Protection, of the Town of Los Gatos Municipal Code with the New 2019 California Building and Fire Codes, as amended.

REMARKS:

Attachment 4 includes public comments received between 11:01 a.m., Monday, November 4, 2019 to 11:00 a.m., Tuesday, November 5, 2019.

Attachments previously received with the November 5, 2019 Staff Report:

1. Ordinance adopting new Building and Fire Codes
2. Resolution making Findings for modifying California Codes

Previously received with the November 4, 2019 Addendum Report:

3. Public comment received between 11:01 a.m., Thursday, October 31, 2019 to 11:00 a.m., Monday, November 4, 2019.

Received with this Desk Item Report:

4. Public comments received between 11:01 a.m., Monday, November 4, 2019 to 11:00 a.m., Tuesday, November 5, 2019.

PREPARED BY: Robert Gray  
Building Official

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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## Robert Gray

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**Subject:** Agenda Item 11 - November 5 Council Meeting - Section 4907 Defensible Space

From: Phil Koen <pkoen@monteropartners.com>  
Sent: Monday, November 04, 2019 9:32 AM  
To: Laurel Prevetti <LPrevetti@losgatosca.gov>  
Cc: Robert Schultz <RSchultz@losgatosca.gov>

Subject: Agenda Item 11 - November 5 Council Meeting - Section 4907 Defensible Space

Dear Laurel,

As you know the vast majority of lots in the Los Gatos Wildland-Urban Interface Fire Area are also in a VHFHSZ (LRA). On page 151 of the Council package there is a markup of proposed changes to article 4907.1 of the Town Code.

In reading the markup, it isn't clear to me that adjacent lots, whether improved or not improved located in the VHFHSZ (LRA), will be subject to the proposed changes which will require an additional 30 to 100 foot clearance so as to fully implement a 100 foot defensible zone from any structures.

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Can you please clarify the requirements for adjacent lots in the VHFHSZ (LRA) to fully comply with an additional 30 - 100 foot clearance from any structures.

Thank you.

Phil Koen

### **The Campaign for Fossil Free Buildings in Silicon Valley**



350 Silicon Valley, Acterra, Carbon Free Silicon Valley, Carbon Free Palo Alto, Carbon Free Mountain View, Citizens' Climate Lobby San Mateo County, Citizens Environmental Council of Burlingame, Clean Coalition, Climate Reality Santa Clara County, Coltura, Fossil Free Mid-Peninsula, Menlo Spark, Menlo Together, Mothers Out Front South Bay, Pacifica Climate Committee, Peninsula Interfaith Climate Action, Project Green Home, SIDCO Homes, San Carlos Green, Sierra Club Loma Prieta Chapter, Sustainable San Mateo County, Sustainable Silicon Valley, Sunnyvale Cool, Silicon Valley Youth Climate Action, and Silicon Valley Youth Climate Strike.

November 4th, 2019

Mayor Steve Leonardis  
Vice Mayor Marcia Jensen  
Council Member Barbara Spector  
Council Member Rob Rennie  
Council Member Marico Sayoc

Los Gatos Town Council  
110 E. Main Street  
Los Gatos, CA 95030

Via email: [sleonardis@losgatosca.gov](mailto:sleonardis@losgatosca.gov), [mjensen@losgatosca.gov](mailto:mjensen@losgatosca.gov), [bspector@losgatosca.gov](mailto:bspector@losgatosca.gov),  
[rrennie@losgatosca.gov](mailto:rrennie@losgatosca.gov), [msayoc@losgatosca.gov](mailto:msayoc@losgatosca.gov)

### **RE: Please put Reach Codes on the Town Council Agenda**

Dear Mayor Leonardis and Los Gatos Town Council:

On behalf of the Fossil Free Buildings Campaign of Silicon Valley, we are writing to ask you to put Reach Codes on the Town Council agenda this year to improve the resilience, health, and safety of Los Gatos.

The Campaign for Fossil Free Buildings in Silicon Valley is comprised of the organizations listed above, working together to support an accelerated phase out of fossil fuels in buildings. A swift transition away from fossil fuel use is necessary to avoid the very worst and irreversible impacts of climate change. Preventing the use of fossil fuels, including natural gas, in new construction will create more affordable, cleaner, healthier, and more resilient housing and buildings for communities throughout Milpitas.

We are living in a climate crisis. 2018 was the deadliest wildfire season ever recorded in California. Conditions will continue to worsen unless we take decisive and rapid action to reduce greenhouse gas emissions.

Many local cities are taking swift action to prevent new uses of natural gas, a fossil fuel. Menlo Park adopted a nearly all-electric Reach Code in September, and Mountain View adopted an all-electric Reach Code two weeks ago to prohibit gas in all but a few specific building types (such as laboratories), while Morgan Hill recently passed a prohibition on gas in all new buildings. On October 29, the City of San José, the tenth largest in the nation, banned gas in new ADUs, single family home construction, low-rise residential construction, and municipal buildings. Cities are recognizing how important a fossil-free future is to our community's health, safety, climate, and future. Momentum is on your side to act now.

Reach Codes are a significant local action that we can take to fight climate change. **All-electric buildings improve public health and safety, reduce greenhouse gas emissions, and reduce construction costs.** Natural gas in buildings is a significant contributor to climate change: According to the California Air Resources Board (CARB), the building sector is the second largest source of greenhouse gas (GHG) emissions in California. (source: <https://ww2.arb.ca.gov/research/research-green-buildings>)

There are a variety of benefits to building all-electric:

**All-Electric Buildings Improve Air Quality:** We deserve to live in healthy homes! The combustion of gas in our homes produces harmful indoor air pollution: (Nitrogen Dioxide, Carbon Monoxide, Nitric Oxide, Formaldehyde, Acetaldehyde, and Ultrafine Particles). This indoor pollution can cause serious respiratory diseases as well as serious long term conditions.

**All-Electric Buildings Reduce Building Costs:** All electric buildings will reduce construction costs and allow for California to address its serious housing crisis. All-electric buildings eliminate the need to install costly gas hookups. Cost analyses of all-electric vs mixed fuel consistently show all-electric as being cheaper to build. (Sources: [https://rmi.org/wp-content/uploads/2018/06/RMI\\_Economics\\_of\\_Electrifying\\_Buildings\\_2018.pdf](https://rmi.org/wp-content/uploads/2018/06/RMI_Economics_of_Electrifying_Buildings_2018.pdf) and [https://www.ethree.com/wp-content/uploads/2019/04/E3\\_Residential\\_Building\\_Electrification\\_in\\_California\\_April\\_2019.pdf](https://www.ethree.com/wp-content/uploads/2019/04/E3_Residential_Building_Electrification_in_California_April_2019.pdf))

**All-Electric Buildings Are More Resilient Than Gas:** Gas pipelines are vulnerable to methane leakage, over-pressurization, and earthquakes. Some recent major pipeline explosions: Aliso Canyon (2015 and 2016), Carmel (2014), San Bruno (2010), and Rancho Cordova (2008). This does not even mention the extremely common leaks in natural gas pipes that often go completely undetected.

Reach Codes are an important first step we can take to promote all-electric development in Los Gatos. Every new gas line that we build is a huge financial liability to our community, as gas rates continue to rise as the cost of gas maintenance increases for the declining number of gas users. The constant methane leaks from gas lines are devastating to our climate while indoor gas use pollutes our homes, causing serious health impacts. The unfortunate reality about gas lines is that once they are installed, it will be difficult and expensive to retrofit them out.



It is time for Los Gatos to join the over 50 cities that have committed to pursuing Reach Codes for the benefit of their citizens.

Sincerely,

IdaRose Sylvester, Fossil Free Buildings Silicon Valley Campaign

Hoi Poon, co-chair, environmental committee, Silicon Valley Democratic club, co-founder,  
Silicon Valley Youth Climate Action

Lauren Weston, Acterra

Janet Walworth, Peninsula Interfaith Climate Action

Diane Bailey, Menlo Spark

Terry Nagel, Sustainable San Mateo County and former Mayor, Burlingame

Hoai-An Truong, Mothers Out Front South Bay and Silicon Valley Youth Climate Action

Bruce Naegel, Carbon Free Mountain View and Carbon Free Silicon Valley

Bruce Hodge, Carbon Free Palo Alto

Dashiell Leeds, Conservation Assistant, Sierra Club Loma Prieta Chapter

Cc: Clerk@LosGatosCA.gov

**Robert Gray**

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**Subject:** The planet needs you!

**From:** Jessica Williams <[jessica.williams2007@gmail.com](mailto:jessica.williams2007@gmail.com)>

**Sent:** Monday, November 04, 2019 11:22 PM

**To:** Council <[Council@losgatosca.gov](mailto:Council@losgatosca.gov)>

**Subject:** The planet needs you!

*Dear Los Gatos Town Council Members,*

*I am writing you to ask that the Town of Los Gatos take a leadership role in the fight against climate change. Buildings are a significant source of greenhouse gas emissions in the Bay Area, and we have the opportunity to significantly reduce these emissions through adopting as strong a Reach Code as possible.*

*We absolutely cannot afford to put new gas infrastructure into our homes and into the ground. Any new gas lines that we build are an expensive mistake that we will pay for down the road.*

*We should be building all-electric new construction. All-electric buildings are cheaper to build, healthier and safer to live in, and will greatly reduce greenhouse gas emissions. 100% clean electricity is already available to Los Gatos homes and businesses through Silicon Valley Clean Energy.*

*The science is clear and the engineering is ready. All we need now is political willpower. I hope you act now to protect our future generations.*

*Sincerely,*

*Jessica Williams*

Sent from my iPhone

## Robert Gray

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**Subject:** Agenda item 11 - Please watch this short video

From: Phil Koen <pkoen@monteropartners.com>  
Sent: Tuesday, November 05, 2019 8:46 AM  
To: Steven Leonardis <SLeonardis@losgatosca.gov>; Marico Sayoc <maricosayoc@gmail.com>; Marcia Jensen <MJensen@losgatosca.gov>; BSpector <BSpector@losgatosca.gov>; Rob Rennie <RRennie@losgatosca.gov>  
Cc: Laurel Prevetti <LPrevetti@losgatosca.gov>; <RSchultz@losgatosca.gov>  
Subject: Agenda item 11 - Please watch this short video

Dear Honorable Mayor and Council Members,

I strongly recommend that you watch this documentary on the Paradise Fire. As you know Los Gatos has a higher fire risk score than Paradise. The threat from fire is real.

We need 100 foot defensible zone ordinance across property lines for all structures in Los Gatos.

Thank you,

Phil Koen

Check out "Fire in Paradise" on Netflix

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.netflix.com%2Ftitle%2F81050375%3Fs%3Di%26trkid%3D13752289&data=01%7C01%7Clprevetti%40losgatosca.gov%7C355e94c893be4f257cd408d7620faaba%7C6d38cb6747eb4d139e7c523cd7cceed5%7C1&sdata=WB3N9enLaKGoHU5ZDuNirAseolmYdzOTOPyhtmlm%2B6ik%3D&reserved=0>

**Robert Gray**

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**Subject:** adopt strong Reach Codes for Los Gatos

From: Cynthia Fan <[cynthiafan247@gmail.com](mailto:cynthiafan247@gmail.com)>

Sent: Tuesday, November 05, 2019 10:55 AM

To: Steven Leonardis <[SLeonardis@losgatosca.gov](mailto:SLeonardis@losgatosca.gov)>; Marcia Jensen <[MJensen@losgatosca.gov](mailto:MJensen@losgatosca.gov)>; Rob Rennie <[RRennie@losgatosca.gov](mailto:RRennie@losgatosca.gov)>; Marico Sayoc <[MSayoc@losgatosca.gov](mailto:MSayoc@losgatosca.gov)>; BSpector <[BSpector@losgatosca.gov](mailto:BSpector@losgatosca.gov)>; Council <[Council@losgatosca.gov](mailto:Council@losgatosca.gov)>; Town Manager <[Manager@losgatosca.gov](mailto:Manager@losgatosca.gov)>

Subject: adopt strong Reach Codes for Los Gatos

Dear Los Gatos Town Council Members,

I am writing you to ask that the Town of Los Gatos take a leadership role in the fight against climate change. Buildings are a significant source of greenhouse gas emissions in the Bay Area, and we have the opportunity to significantly reduce these emissions through adopting as strong a Reach Code as possible.

We absolutely cannot afford to put new gas infrastructure into our homes and into the ground. Any new gas lines that we build are an expensive mistake that we will pay for down the road.

We should be building all-electric new construction. All-electric buildings are cheaper to build, healthier and safer to live in, and will greatly reduce greenhouse gas emissions. 100% clean electricity is already available to Los Gatos homes and businesses through Silicon Valley Clean Energy.

The science is clear and the engineering is ready. All we need now is political willpower. I hope you act now to protect our future generations.

Sincerely,  
Cynthia Fan  
116 Ohlone Court  
Los Gatos, CA 95032

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**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 12

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DATE: October 31, 2019  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: General Plan Amendment Application GP-19-001. Project Location: **Town Wide**. Applicant: Town of Los Gatos.  
Approve proposed General Plan Amendments by Resolution to Language Specific to Highway 17 in Goal TRA-4 and Supporting Policies

RECOMMENDATION:

Approve proposed General Plan amendments by Resolution to language specific to Highway 17 in Goal TRA-4 and supporting policies.

BACKGROUND:

Changing dynamics in job and population growth in the greater Bay Area have led to increased pressure on local streets and roads as freeways exceed capacity. This is especially evident in Los Gatos during commute hours and with summer weekend beach traffic. The configuration of Highway 17 approaching Los Gatos from the north and through the Town may exacerbate the impacts on the Town as drivers search for alternate routes that lead them to local streets.

In 2016, Measure B was passed by voters to allow for transportation improvements throughout the County funded through a sales tax increase. This measure included broad language specific to Los Gatos and Highway 17. The specific Measure B language reads:

*Highway 17 Corridor Congestion Relief: Upgrade Highway 17/9 interchange to improve pedestrian and bicycle safety, mobility, and roadway operations; deploy advanced transportation technology to reduce freeway cut thru traffic in Los Gatos, including traffic signal control system upgrades in Los Gatos, Traveler Information System, advanced ramp metering systems; support Multi-Modal Congestion Relief Solutions, including enhanced Highway 17*

PREPARED BY: Matt Morley  
Parks and Public Works Director

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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SUBJECT: Approve proposed General Plan Amendments to Language Specific to Highway 17 in Goal TRA-4 and Supporting Policies

DATE: October 31, 2019

BACKGROUND (continued):

*Express Bus service, implementing local bus system improvements that reduce auto trips to schools, work, and commercial areas in Los Gatos; and develop park and ride lots to serve as transit hubs for express bus, shuttles, local bus system connections.*

Through preliminary discussions with the Valley Transportation Agency (VTA), and Caltrans an opportunity exists to extend the scope of the Highway 9 interchange project to include efficiencies from Highway 85 through the Highway 9 onramp to southbound Highway 17.

In the interest of ensuring the potential for funding for the maximum scope of the project, on March 19, 2019 the Town Council, on a 3-2 vote, supported the design for a project at Highway 9 and Highway 17, including design options for efficiencies on Highway 17 and for additional travel lanes on Highway 17, and directed staff to process a 2020 General Plan amendment to facilitate the project.

The early work associated with the project includes identifying the scope of work and preliminary design associated with the project, which may include stacking lanes, merge lanes, auxiliary lanes, exit lanes, and improved traffic flow through lane realignment and roadway widening. The Town will be engaged through a public outreach process and provide Town Council reports throughout the design and construction. Town staff has been working with VTA on preliminary stages of this effort, with a Request for Proposals to study early design options due for release by VTA during the week of October 28, 2019.

DISCUSSION:

The Town Council directed staff to process amendments to the existing 2020 General Plan in alignment with the potential project. Attachment 1 provides the text of 2020 General Plan Goal TRA-4 and supporting policies and Attachment 2 provides the recommended amendments. Staff recommends retaining the full language of the existing Goal TRA-4 in the interest of continuing to emphasize the importance of Highway 17 to the community. Modifications to the supporting policies would facilitate the project design.

Town procedure requires the General Plan Committee (GPC) to make a recommendation on all proposed General Plan amendments. Because the entire GPC sits on the General Plan Advisory Committee (GPAC) and it is important for the entire GPAC to be involved with any changes to the existing General Plan to inform its work on the update, this item was presented to the GPAC on September 19, 2019.

SUBJECT: Approve proposed General Plan Amendments to Language Specific to Highway 17 in Goal TRA-4 and Supporting Policies

DATE: October 31, 2019

DISCUSSION (continued):

During the GPAC discussion on this item, three recommendations were provided. The recommendations from the GPAC refer to the text in Attachment 2 and the recommendation for added text is reflected as underlined and italicized. The final recommended version can be found as Exhibit A to Attachment 3.

1. Modify the recommended changes to Policy TRA-4.1 to read: Improvements to Highway 17 should consider and if appropriate support efficiency improvements prior to adding capacity through increased travel lanes.
2. With respect to Policy TRA-4.3, the GPAC recommended removal of this policy in its entirety and renumbering subsequent policies to reflect the removal.
3. With respect to Policy TRA-4.5, the GPAC recommended not making the staff recommendation that would change the word “do” to “does,” while accepting the removal of the words “lanes or.”

Subsequently, this item was presented to the Planning Commission for a public hearing at its October 9, 2019 meeting. The Planning Commission unanimously supported the recommendations of the GPAC.

CONCLUSION:

Staff recommends that the Town Council approve by Resolution the recommended amendments to the General Plan.

ALTERNATIVES:

The Town Council could further modify the General Plan Policy and/or goals or choose not to amend the General Plan.

COORDINATION:

This report has been coordinated with the Community Development Department.

FISCAL IMPACT:

There is no fiscal impact as a result of the recommended action.



PAGE 4 OF 4

SUBJECT: Approve proposed General Plan Amendments to Language Specific to Highway  
17 in Goal TRA-4 and Supporting Policies

DATE: October 31, 2019

ENVIRONMENTAL ASSESSMENT:

The project is Categorically Exempt pursuant to the adopted Guidelines for Implementation of California Environmental Quality Act, Section 15061(b)(3).

Attachments:

1. Current General Plan TRA-4 Goal and Policies
2. Proposed General Plan Amendments to Goal TRA-4 and Supporting Policies
3. Resolution to Adopt the Amendments

**Goal TRA-4 To ensure that future changes to Highway 17 do not negatively impact the quality of life or small-town character of Los Gatos.**

**Policies**

Policy TRA-4.1 Highway 17 should not be widened to provide additional travel lanes south of Lark Avenue.

Policy TRA-4.2 There should not be an interchange at Blossom Hill Road.

Policy TRA-4.3 Highway 17 between Los Gatos and Santa Cruz should not be widened to provide additional travel lanes or be converted to a freeway.

Policy TRA-4.4 The Planning Commission and Town Council shall review all new or modified connections with Highway 17 within the Town.

Policy TRA-4.5 Work with other local jurisdictions and the State to develop effective ways to reduce regionally generated Highway 17 congestion and cross-town traffic that do not involve adding freeway lanes or interchanges.

**Goal TRA-4 To ensure that future changes to Highway 17 do not negatively impact the quality of life or small-town character of Los Gatos.**

**Policies**

Policy TRA-4.1 ~~Highway 17 should not be widened to provide additional travel lanes south of Lark Avenue.~~ Improvements to Highway 17 should consider efficiency improvements prior to adding capacity through increased travel lanes.

Policy TRA-4.2 There should not be an interchange at Blossom Hill Road.

Policy TRA-4.3 Highway 17 between Los Gatos and Santa Cruz should not be widened to provide additional travel lanes or be converted to a freeway.

Policy TRA-4.4 The Planning Commission and Town Council shall review all new or modified connections with Highway 17 within the Town.

Policy TRA-4.5 Work with other local jurisdictions and the State to develop effective ways to reduce regionally generated Highway 17 congestion and cross-town traffic that does not involve adding freeway ~~lanes or interchanges.~~

**RESOLUTION 2019-\_\_**

**RESOLUTION OF THE TOWN COUNCIL  
OF THE TOWN OF LOS GATOS  
AMENDING LANGUAGE WITHIN THE GENERAL PLAN TRANSPORTATION  
ELEMENT TRA-4 POLICY AND GOALS.**

**WHEREAS**, on March 19, 2019, the Town Council supported the design for a project at Highway 9 and Highway 17, including design options for efficiencies on Highway 17 and for additional travel lanes on Highway 17, and directed staff to process a 2020 General Plan amendment to facilitate the project; and

**WHEREAS**, on August 19, 2019, staff presented staff's recommended changes to the General Plan Advisory Committee for recommendation to the Council; and

**WHEREAS**, on October 9, 2019, the Town staff presented staff's recommended changes and the General Plan Advisory Committee recommendations to the Planning Commission; and

**WHEREAS**, the Planning Commission unanimously supported the recommendations of the General Plan Advisory Committee; and

**WHEREAS**, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on October 9, 2019; and

**WHEREAS**, the Town Council accepted the recommendation of the General Plan Advisory Commission and the Planning Commission of approval for the proposed General Plan amendment; and

**WHEREAS**, the Town Council finds as follows:

A. The project is Categorically Exempt pursuant to the adopted Guidelines for Implementation of California Environmental Quality Act, Section 15061(b)(3); and

B. The General Plan amendment is internally consistent with the existing goals and policies of the General Plan and its corresponding elements; and

C. That all proceedings have been conducted in compliance with the provisions of Government Code Section 65350 et seq.; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Council hereby amends pages TRA-4 of the General Plan as recommended by the General Plan Advisory Committee and the Planning Commission as shown on Exhibit A;

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 5<sup>th</sup> day of November 2019, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

**Goal TRA-4 To ensure that future changes to Highway 17 do not negatively impact the quality of life or small-town character of Los Gatos.**

**Policies**

Policy TRA-4.1 Improvements to Highway 17 should consider and if appropriate support efficiency improvements prior to adding capacity through increased travel lanes.

Policy TRA-4.2 There should not be an interchange at Blossom Hill Road.

Policy TRA-4.4 The Planning Commission and Town Council shall review all new or modified connections with Highway 17 within the Town.

Policy TRA-4.5 Work with other local jurisdictions and the State to develop effective ways to reduce regionally generated Highway 17 congestion and cross-town traffic that do not involve adding freeway interchanges.



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 13

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DATE: October 24, 2019  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Project Location: **Town Wide**. Applicant: Town of Los Gatos.  
Consider Modifications to Chapter III (Site Planning), Chapter IV (Development Intensity), Chapter V (Architectural Design), Chapter VI (Site Elements), Chapter VIII (Subdivision and Planned Development Projects), Chapter IX (Project Review and Approval Process), and Chapter X (Glossary) of the Hillside Development Standards and Guidelines

**RECOMMENDATION:**

Adopt a resolution (Attachment 4), to amend Chapter III (Site Planning), Chapter IV (Development Intensity), Chapter V (Architectural Design), Chapter VI (Site Elements), Chapter VIII (Subdivision and Planned Development Projects), Chapter IX (Project Review and Approval Process), and Chapter X (Glossary) of the Hillside Development Standards and Guidelines.

**BACKGROUND:**

On February 26, 2019, the Policy Committee reviewed possible streamlining opportunities that relate to the land use process and costs for businesses and residents. Potential modifications to the Hillside Development Standards and Guidelines (HDS&G) were identified by staff as one opportunity to streamline the land use process and costs. Following a brief discussion, the Policy Committee provided direction to bring back modifications to the HDS&G for further discussion.

On May 28, 2019, the Policy Committee reviewed potential modifications to Chapter IV (Development Intensity) and Chapter IX (Project Review and Approval Process) of the HDS&G regarding certain project review processes. After discussion, the Committee recommended approval of the modifications to Chapter IV (Development Intensity) and Chapter IX (Project Review and Approval Process) of the HDS&G and provided direction to staff to modify language

**PREPARED BY:** Jocelyn Shoopman  
Associate Planner

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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BACKGROUND (continued):

in all chapters of the HDS&G to be consistent with previous HDS&G amendments and recent amendments to the Zoning Ordinance.

DISCUSSION:

A. Planning Commission

On August 14, 2019, the Planning Commission reviewed the proposed modifications to the HDS&G from the Policy Committee (Attachment 1, Exhibits 2 through 5) that would:

- Modify the deciding body for single-story additions over 800 square feet or greater than 20 percent of the existing floor area from the Development Review Committee (DRC) to the Community Development Director, to be processed as Building Permits;
- Modify the deciding body for new homes over 5,000 square feet that do not exceed the maximum allowable floor area and are not visible, from the Planning Commission to the DRC;
- Remove the requirement that subsequent Architecture and Site Applications not be applied for, for the same property for a period of three years following issuance of an occupancy permit; and
- Modify language regarding accessory dwelling units, viewing areas, below grade square footage, fences, and entry gates to be consistent with previous HDS&G amendments and recent amendments to the Zoning Ordinance.

The Planning Commission recommended modifications to the Policy Committee's draft language based on the discussion at the hearing. The modifications as recommended by the Planning Commission are included in the draft resolution (Attachment 4, Exhibits A through G), and would maintain the existing language in Chapter IX (Project Review and Approval Process), which requires that the Planning Commission is the deciding body for any residential project greater than 5,000 square feet in gross floor area.

The potential modifications shown in ~~strike-through~~ and underline font as recommended by the Planning Commission are contained in Attachment 4, Exhibits A through G.

The Planning Commission also recommended a modification to Chapter IV (Development Intensity) to remove a significant below grade square footage element as a condition to approve a residential project in excess of the maximum floor area (Attachment 4, Exhibit B, Page 30).

The Planning Commission discussed adding language to Chapter V (Architectural Design) to encourage applicants to place additional square footage below grade to reduce the visual appearance of above grade bulk and mass. Should the Council determine it is appropriate,



DISCUSSION (continued):

the following language shown in underline font could be added to Section F. Minimize building bulk and mass, Guideline 1., k. (Attachment 4, Exhibit C, Page 38):

- k. Excavate or use below-grade rooms to reduce effective bulk. The visual area of the building can be minimized through a combined use of grading and landscaping techniques. Utilize below-grade rooms for additional floor area to reduce the appearance of above grade bulk and mass.

Attachment 2 contains the verbatim minutes for the Planning Commission meeting.

B. Public Outreach

Public input has been requested through the following media and social media resources:

- An eighth-page public notice in the newspaper;
- A poster at the Planning counter at Town Hall;
- The Town's website home page, What's New;
- The Town's Facebook page;
- The Town's Twitter account;
- The Town's Instagram account; and
- The Town's Nextdoor page.

In addition, interested architects and the following organizations have been contacted regarding the amendments:

- American Institute of Architects (AIA) Silicon Valley;
- Santa Clara County Association of Realtors (SCCAR); and
- Silicon Valley Association of Realtors (SILVAR).

CONCLUSION:

Staff recommends that the Town Council:

1. Make the finding that there is no possibility that this project will have a significant impact on the environment; therefore, the project is not subject to the California Environmental Quality Act [Section 15061 (b) (3)] (Attachment 3);
2. Make the required finding that the modifications to the HDS&G are consistent with the General Plan (Attachment 3); and
3. Adopt a resolution to modify Chapters III, IV, V, VI, VIII, IX, and X of the HDS&G (Attachment 4), with any specific changes identified and agreed upon by the majority of the Town Council.

ALTERNATIVES:

Alternatively, the Council may:

1. Continue this item to a date certain with specific direction to staff;
2. Refer the item back to the Planning Commission with specific direction; or
3. Take no action, leaving the HDS&G unchanged.

COORDINATION:

The evaluation of the application was coordinated with the Town Attorney.

ENVIRONMENTAL ASSESSMENT:

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that the proposed amendments to the Town Code will have a significant effect on the environment.

PUBLIC COMMENTS:

Written comments received before 11:00 A.M. on, Thursday, October 31, 2019, are included as Attachment 5.

Attachments:

1. August 14, 2019 Planning Commission Staff Report with Exhibits 1 - 12
2. August 14, 2019 Planning Commission Verbatim Minutes
3. Required Findings
4. Draft Resolution with Exhibits A through G
5. Public comments received by 11:00 a.m., Thursday, October 31, 2019



**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 08/14/2019

ITEM NO: 2

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DATE: August 6, 2019  
TO: Planning Commission  
FROM: Joel Paulson, Community Development Director  
SUBJECT: Project Location: **Town Wide**. Applicant: Town of Los Gatos.  
Consider Modifications to Chapter III (Site Planning), Chapter IV (Development Intensity), Chapter V (Architectural Design), Chapter VI (Site Elements), Chapter VIII (Subdivision and Planned Development Projects), Chapter IX (Project Review and Approval Process), and Chapter X (Glossary) of the Hillside Development Standards and Guidelines

RECOMMENDATION:

Forward a recommendation to the Town Council for approval of the modifications to Chapter III (Site Planning), Chapter IV (Development Intensity), Chapter V (Architectural Design), Chapter VI (Site Elements), Chapter VIII (Subdivision and Planned Development Projects), and Chapter IX (Project Review and Approval Process) of the Hillside Development Standards and Guidelines.

CEQA:

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that the proposed modifications will have a significant effect on the environment.

FINDINGS:

- As required, pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, this project is Exempt, Section 15061(b)(3); and
- That the modifications to the Hillside Development Standards and Guidelines are consistent with the General Plan.

PREPARED BY: Jocelyn Shoopman  
Associate Planner

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Reviewed by: Planning Manager and Community Development Director

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BACKGROUND:

On February 26, 2019, the Policy Committee reviewed possible streamlining opportunities that relate to the land use process and costs for businesses and residences. Potential modifications to the Hillside Development Standards and Guidelines (HDS&G) regulations was one of the topics identified by staff as an opportunity to streamline the land use process and costs. Following a brief discussion, the Policy Committee provided direction to bring back HDS&G regulations for further discussion.

On May 28, 2019, the Policy Committee reviewed potential modifications to Chapter IV (Development Intensity) and Chapter IX (Project Review and Approval Process) of the HDS&G regarding certain project review processes. After discussion, the Committee recommended approval of the modifications to Chapter IV (Development Intensity) and Chapter IX (Project Review and Approval Process) of the HDS&G and provided direction to staff to modify language in all chapters of the HDS&G to be consistent with previous HDS&G amendments and recent amendments to the Zoning Ordinance.

DISCUSSION:

Chapter IV (Development Intensity) of the HDS&G contains information regarding the maximum allowed gross floor area. The maximum allowed gross floor area for a house includes floor area for the house and accessory buildings, including garages that are larger than 400 square feet. This limits the development intensity for houses on hillside lots where property owners choose to have garages and/or other accessory buildings that are larger than 400 square feet.

Chapter IX (Project Review and Approval Process) of the HDS&G uses the proposed gross floor area of a home as a factor to determine the deciding body that can approve various applications. Depending on the type of structure and proposed square footage, remodels and smaller additions are either processed as Minor Residential Applications or Building Permits, approved by the Community Development Director; while larger additions and new homes are processed as Architecture and Site Applications, approved by the Development Review Committee (DRC) or Planning Commission.

A. Proposed Modifications

Based on the direction provided by the Policy Committee, staff has prepared modifications to the HDS&G, (Exhibits 6 through 12) for the Planning Commission's consideration. These modifications would allow for more remodels and single-story additions to be processed as Building Permits, modify the deciding body for new homes over 5,000 square feet, and modify language within the HDS&G to be consistent with the Zoning Ordinance. The potential modifications shown in ~~strike through~~ and underline font in Exhibits 6 through 12, would make the following changes:

DISCUSSION (continued):

- Modify the deciding body for single-story additions over 800 square feet or greater than 20 percent of the existing floor area from the DRC to the Community Development Director, to be processed as Building Permits;
- Modify the deciding body for new homes over 5,000 square feet that do not exceed the maximum allowable floor area and are not visible, from the Planning Commission to the DRC;
- Remove the requirement that subsequent Architecture and Site Applications may not be applied for, for the same property for a period of three years following issuance of an occupancy permit; and
- Modify language regarding accessory dwelling units, viewing areas, below grade square footage, fences, and entry gates to be consistent with previous HDS&G amendments and recent amendments to the Zoning Ordinance.

B. Public Outreach

Public input has been requested through the following media and social media resources:

- A poster at the Planning counter at Town Hall;
- The Town's website home page, What's New;
- The Town's Facebook page;
- The Town's Twitter account;
- The Town's Instagram account; and
- The Town's NextDoor page.

In addition, the following organizations have been contacted regarding the modifications:

- American Institute of Architects (AIA) Silicon Valley;
- Santa Clara County Association of Realtors (SCCAR); and
- Silicon Valley Association of Realtors (SILVAR).

PUBLIC COMMENTS:

At this time, the Town has not received any public comment.

CONCLUSION:

A. Recommendation

Based on the direction of the Town Council Policy Committee, staff recommends that the Planning Commission review the information included in the staff report and forward a

CONCLUSION (continued):

recommendation to the Town Council for approval of the proposed modifications. The Commission should also include any comments or recommended changes in taking the following actions:

1. Make the finding that there is no possibility that this project will have a significant impact on the environment; therefore, the project is not subject to the California Environmental Quality Act [Section 15061 (b) (3)] (Exhibit 1);
2. Make the required finding that the modifications to the Hillside Development Standards and Guidelines are consistent with the General Plan (Exhibit 1); and
3. Forward a recommendation to the Town Council for approval of the proposed modifications to Chapters III, IV, V, VI, VIII, IX, and X of the Hillside Development Standards and Guidelines (Exhibits 6 through 12).

B. Alternatives

Alternatively, the Commission can:

1. Forward a recommendation to the Town Council for approval of the modifications to Chapters III, IV, V, VI, VIII, IX, and X of the Hillside Development Standards and Guidelines with modifications; or
2. Forward a recommendation to the Town Council for denial of the proposed modifications to Chapters III, IV, V, VI, VIII, IX, and X of the Hillside Development Standards and Guidelines; or
3. Continue the matter to a date certain with specific direction.

EXHIBITS:

1. Required Findings (one page)
2. Town Council Policy Committee Minutes, February 26, 2019 (three pages)
3. Town Council Policy Committee Report without attachments, February 26, 2019 (two pages)
4. Town Council Policy Committee Minutes, May 28, 2019 (two pages)
5. Town Council Policy Committee Report without attachments, May 28, 2019 (two pages)
6. Draft Modifications to Chapter III (Site Planning) of the HDS&G (10 pages)
7. Draft Modifications to Chapter IV (Development Intensity) of the HDS&G (four pages)
8. Draft Modifications to Chapter V (Architectural Design) of the HDS&G (11 pages)
9. Draft Modifications to Chapter VI (Site Elements) of the HDS&G (eight pages)
10. Draft Modifications to Chapter VIII (Subdivision and Planned Development Projects) of the HDS&G (seven pages)
11. Draft Modifications to Chapter IX (Project Review and Approval Process) of the HDS&G (five pages)
12. Draft Modifications to Chapter X (Glossary) of the HDS&G (five pages)

**PLANNING COMMISSION – August 14, 2019**  
**REQUIRED FINDINGS FOR:**

Consider Modifications to Chapter III (Site Planning), Chapter IV (Development Intensity), Chapter V (Architectural Design), Chapter VI (Site Elements), Chapter VIII (Subdivision and Planned Development Projects), Chapter IX (Project Review and Approval Process), and Chapter X (Glossary) of the Hillside Development Standards and Guidelines

**FINDINGS**

**Required Findings for CEQA:**

- It has been determined that there is no possibility that this project will have a significant impact on the environment; therefore, the project is not subject to the California Environmental Quality Act, Section 15061 (b)(3).

**Required Findings for General Plan:**

- The proposed modifications to Chapter III (Site Planning), Chapter IV (Development Intensity), Chapter V (Architectural Design), Chapter VI (Site Elements), Chapter VIII (Subdivision and Planned Development Projects), and Chapter IX (Project Review and Approval Process) of the Hillside Development Standards and Guidelines are consistent with the General Plan.

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**TOWN OF LOS GATOS  
TOWN COUNCIL  
POLICY COMMITTEE**

MEETING DATE: 04/09/2019

ITEM NO: 1

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**MINUTES OF THE SPECIAL TOWN COUNCIL POLICY COMMITTEE MEETING  
FEBRUARY 26, 2019**

The Town Council Policy Committee of the Town of Los Gatos conducted a special meeting on Thursday, February 26, at 5:00 p.m.

**MEETING CALLED TO ORDER**

**ROLL CALL**

Members Present: Marcia Jensen, Barbara Spector.

Staff Present: Rob Schultz, Town Attorney; Joel Paulson, Community Development Director; Matt Morley, Parks and Public Works Director; Shelley Neis, Town Clerk.

**VERBAL COMMUNICATIONS**

None.

**OTHER BUSINESS**

1. Approval of the January 24, 2019 Council Policy Committee Minutes.

Approved.

2. Provide direction on Commission Appointment Policy 2-11 in relation to Commissioner interviews, and the Town Agenda Format and Rules Policy 2-01 regarding remote meeting participation.

Shelley Neis, Town Clerk, presented the staff report.

Maria Ristow

- Commented on remote participation and requested the Council consider requiring that applicants must attend a Commission meeting before applying.

After discussion the Committee directed staff to forward the two Policies to Council with the following recommendation:

- Allow a submission letter and remote participation for interview purposes only for incumbents.
- Suggested language from the Town Attorney regarding special meeting times.
- Suggested number of allowed remote meeting participation that is less than half as there was not consensus on the number.

Chair Jensen moved Items #4 and #5 before Item #3.

3. Provide direction on potential land use streamlining modifications.

Joel Paulson, Community Development Director, presented the staff report.

Bess Weirsema, Studio 3

- Requested the design professional community have a seat at the table to discuss potential modifications to land use processes and permitting and commented on the demolition regulations.

Jennifer Crutchmer

- Commented on the demolition regulations.

Tony Jeans

- Requested the design professional community have a seat at the table to discuss potential modifications to the demolition regulations and streamlining land use processes.

Jay Plett

- Commented on the demolition requirements and requested the demolition policy be streamlined.

Dave Zicovich

- Commented on the demolition policy and requested the demolition policy be streamlined.

Catherine Somers

- Commented on streamlining processes to allow business to open within three months and consider a deciding body policy.

After discussion the Committee directed staff to look at how the accessory dwelling unit (ADU) ordinance interacts with other regulations, how the hillside and historical regulations interact with other regulations, and to bring the demolition regulations and policy to the next meeting.

4. Provide direction on potential modifications or updates to the Traffic Impact Mitigation Ordinance, Policy, and Fees.

Matt Morley, Parks and Public Works Director, presented the staff report.

Maria Ristow

- Suggested an alternative to exceptions, a traffic demand mitigation (TDM) or some way to waive the fees if the traffic is mitigated.

Item #4 – continued

After discussion, the Committee identified that Town Code Section 15.70.030(c)(5) enables the Town Council to consider unusual circumstances and approve a deviation from the Traffic Policy. The Committee directed staff to bring the requested fee modification to the Town Council for its consideration consistent with this provision.

5. Receive information on the development of Arborist Report Standards.

Joel Paulson, Community Development Director, presented the staff report.

Dave Weismann

- Commented on the prolonged timeline for the development of arborist standards.

Refer the item to the Town Manager to discuss with the Mayor to determine if the item will be placed on a future Council agenda for discussion.

6. Determine meeting schedule for 2019 (verbal discussion only).

The Committee chose the second Tuesday of each month at 5:00 p.m. The next meeting will be March 12, 2019.

## **ADJOURNMENT**

The meeting adjourned at 6:08 p.m.

Attest:

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/s/ Shelley Neis, Town Clerk

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**TOWN OF LOS GATOS  
POLICY COMMITTEE REPORT**

MEETING DATE: 2/26/2019

ITEM NO: 9

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DATE: FEBRUARY 21, 2019

TO: POLICY COMMITTEE

FROM: LAUREL PREVETTI, TOWN MANAGER

SUBJECT: DISCUSS AND PROVIDE DIRECTION ON POTENTIAL LAND USE  
STREAMLINING MODIFICATIONS.

**RECOMMENDATION:**

Discuss and provide direction on potential land use streamlining modifications.

**BACKGROUND:**

Over the last couple years, the Town has considered and approved a number of modifications and/or pilot programs that have streamlined the process and costs for businesses. Additional opportunities for streamlining opportunities for businesses will be considered by the Town Council on March 5, 2019.

**DISCUSSION:**

Staff has identified some additional opportunities to streamline land use processes for the Policy Committee's consideration. Staff has prepared an outline that contains possible streamlining opportunities that relate to the land use process and costs for businesses and residences (Attachment 1). Attachment 1 contains general comments and questions regarding potential streamlining opportunities as outlined below by category:

- Demolition Regulations (see Attachments 2 and 3);
- Hillside Development Standards and Guidelines Project Review and Approval Process (see Attachment 4);
- Deciding Body Modifications (see Attachments 5 through 10); and

**PREPARED BY:** JOEL PAULSON  
Community Development Director

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Reviewed by: Town Manager

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DISCUSSION (continued):

- Architecture and Site Applications (see Attachment 10).

This meeting will allow for an initial conversation between staff and the Policy Committee. Staff will be prepared to walk through these topics and answer questions.

Staff is interested in the Policy Committee's discussion and direction on these general topics to help prioritize next steps. Given staff resource constraints, staff will bring individual topics back to the Policy Committee for a more thorough discussion.

COORDINATION:

The preparation of this report was coordinated with the Town Manager's Office.

Attachments:

1. Possible Streamlining Opportunities
2. Demolition Affidavit
3. Demolition Diagram
4. Chapter IX of the Hillside Development Standards and Guidelines
5. Excerpt from the Town Code relating to Deciding Bodies
6. Excerpt from the Town Code relating to loss of Parking in the Parking Assessment District
7. Excerpt from the Town Code relating to Parking Lot Modifications
8. Excerpt from the Town Code relating to Valet Parking
9. Policy relating to Minor Exterior Modifications to Commercial Buildings
10. Excerpt from the Town Code relating to Minor Exterior Alterations to Commercial Building and the requirement for an Architecture and Site application for a change in architectural style



**TOWN OF LOS GATOS  
TOWN COUNCIL  
POLICY COMMITTEE**

MEETING DATE: 06/25/2019

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**MINUTES OF THE SPECIAL TOWN COUNCIL POLICY COMMITTEE MEETING  
MAY 28, 2019**

The Town Council Policy Committee of the Town of Los Gatos conducted a special meeting on Tuesday, May 28, 2019, at 5:00 p.m.

**MEETING CALLED TO ORDER AT 5:01 P.M.**

**ROLL CALL**

Members Present: Marcia Jensen, Barbara Spector.

Staff Present: Laurel Prevetti, Town Manager; Joel Paulson, Community Development Director; Holly Zappala, Management Analyst.

**VERBAL COMMUNICATIONS**

None.

**OTHER BUSINESS**

**1. Approval of the May 9, 2019 Council Policy Committee Minutes.**

Approved.

Joel Paulson, Community Development Director, presented the staff reports for Items 2 through 5.

**2. Provide direction on potential amendments to the Hillside Development Standards and Guidelines approval processes.**

After discussion, the Committee asked staff to email the Committee a revised draft for review and, upon review and approval of the draft, forward a recommendation to the Planning Commission to approve the amendments to the Hillside Development Standards and Guidelines.

**3. Provide direction on potential amendments to the parking lot improvement approval process.**

After discussion, the Committee decided to forward a recommendation to the Planning Commission to approve the amendments to the parking lot improvement approval process.

**4. Provide direction on potential amendments to the valet parking regulations.**

After discussion, the Committee agreed to forward a recommendation to the Planning Commission to approve the amendments to the valet parking regulations and to expand the valet parking regulations beyond the parking assessment district to apply Town-wide.

**5. Provide direction on potential amendments to parking assessment district regulations.**

After discussion, the Committee forwarded a recommendation to the Planning Commission to approve the amendments to parking district regulations with minor changes to the wording to make it clear that they apply to on-site parking spaces.

The Committee also agreed to amend the regular meeting schedule of the Town Council Policy Committee to meet on the fourth Tuesday of each month at 5:00 p.m. in Town Council Chambers.

**ADJOURNMENT**

The meeting adjourned at 5:26 p.m.

This is to certify that the foregoing is a true  
and correct copy of the minutes of the  
May 28, 2019 meeting as approved by the  
Town Council Policy Committee.

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/s/ Holly Zappala, Management Analyst





**TOWN OF LOS GATOS  
POLICY COMMITTEE REPORT**

MEETING DATE: 5/28/2019

ITEM NO: 2

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DATE: MAY 23, 2019

TO: POLICY COMMITTEE

FROM: LAUREL PREVETTI, TOWN MANAGER

SUBJECT: PROVIDE DIRECTION ON POTENTIAL AMENDMENTS TO THE HILLSIDE  
DEVELOPMENT STANDARDS AND GUIDELINES APPROVAL PROCESSES.

**RECOMMENDATION:**

Provide direction on potential amendments to the Hillside Development Standards and Guidelines approval processes.

**BACKGROUND:**

On February 26, 2019, the Policy Committee reviewed an outline of possible streamlining opportunities that relate to the land use process and costs for businesses and residences. Following a brief discussion, the Policy Committee provided direction to bring back Hillside Development Standards and Guidelines (HDS&G) regulations for further discussion.

Potential amendments to the HDS&G regulations was one of the topics identified by staff as an opportunity to streamline the land use process and costs. The general questions and comments regarding potential amendments to HDS&G regulations presented in the February 26, 2019 Policy Committee report were:

- Should new homes or additions to existing homes that result in square footage over 5,000 square feet (**including** garage over 400 square feet), but meet the allowed FAR, be reviewed and approved by the Development Review Committee (DRC) rather than having to go to the Planning Commission?

**PREPARED BY:** JOEL PAULSON  
Community Development Director

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Reviewed by: Town Manager

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BACKGROUND (continued):

- Should new homes or additions to existing homes that result in square footage over 5,000 square feet (**not including** garage over 400 square feet), but meet the allowed FAR, be reviewed and approved by the DRC rather than having to go to the Planning Commission?
- Should single-story additions over 800 square feet or greater than 20 percent of the existing square footage be handled at the building permit level rather than having to go to the DRC?
- This would save time and money for applicant's, if the application isn't appealed.

DISCUSSION:

The HDS&G contains information regarding the maximum allowed gross floor area (Attachment 1). The maximum allowed gross floor area for a house includes the house and accessory structures, including garages, that are larger than 400 square feet. This helps limit the development intensity, for the house, on hillside lots for property owners who choose to have a garage that is larger than 400 square feet and/or other accessory structures larger than 400 square feet.

The HDS&G uses the maximum allowed gross floor area as a factor to determine the deciding body that can approve various applications (Attachment 2). Depending on the type of structure and proposed square footage, the deciding body is the Community Development Director, DRC, or Planning Commission. Attachment 3 contains information regarding application processes pursuant to the current HDS&G.

This meeting will allow for a conversation between staff and the Policy Committee. Staff will be prepared to walk through this matter and answer questions.

Staff is interested in the Policy Committee's discussion and direction on the potential streamlining opportunities outlined above which would reduce the time and cost to property owners for these types of applications.

COORDINATION:

The preparation of this report was coordinated with the Town Manager's Office.

Attachments:

1. Excerpt from the HDS&G regarding Maximum Allowed Gross Floor Area
2. Excerpt from the HDS&G regarding Deciding Bodies
3. Application Table



### III. SITE PLANNING

The intent of this section is to insure that new development fits into the topography with minimum impacts to the site physically and visually.

Refer to the  
Town's  
Grading  
Ordinance

#### A. Grading.

A grading permit shall be obtained as required by the Town's Grading Ordinance. Vegetation removal may qualify as grading.

#### Standards:

1. The following cut and fill criteria are intended to ensure that new construction retains the existing landform of the site and follows the natural contours.

Cuts and fills in excess of the following levels are considered excessive and contrary to the objectives of the Hillside Design Standards and Guidelines. Grade to the minimum amount necessary to accommodate buildings and to site structures consistent with slope contours. These are maximum numbers and may be reduced by the deciding body if the project does not meet other grading standards or is not consistent with the goals and objectives of the Hillside Development Standards and Guidelines.

**Table 1**  
**Maximum Graded Cuts and Fills**

Site Element	Cut*	Fill*
House and attached garage	8'***	3'
Accessory Building*	4'	3'
Tennis Court*	4'	3'
Pool*	4'***	3'
Driveways*	4'	3'
Other (decks, yards) *	4'	3'

\* Combined depths of cut plus fill for development other than the main residence shall be limited to 6 feet.

\*\* Excludes ~~cellars below grade square footage~~ pursuant to Section 29.40.072 of the Town Code.

\*\*\* Excludes excavation for pool.

2. Earthwork quantities (grading) shall be categorized as follows:
  - a. access: driveway, parking and fire turnaround, if applicable
  - b. house footprint
  - c. ~~cellars below grade square footage~~ pursuant to Section 29.40.072 of the Town Code

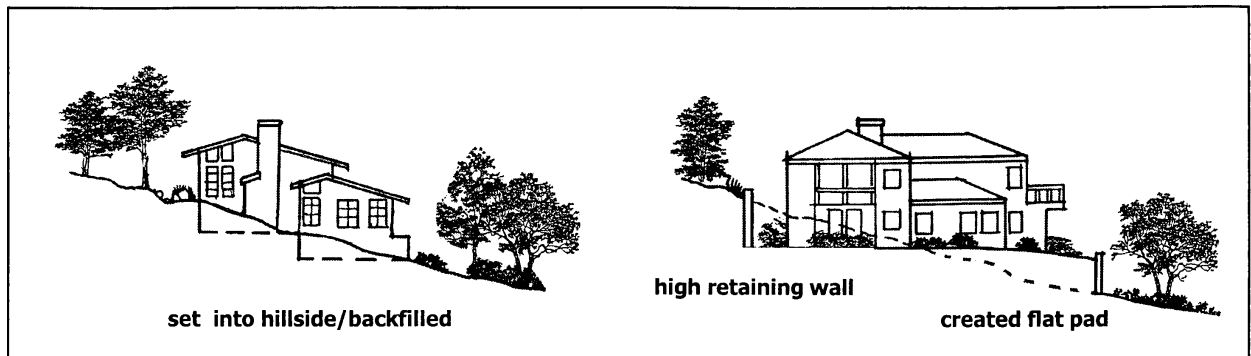


## TOWN OF LOS GATOS

### HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES

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- d. other areas including landscaping, hardscape and outdoor spaces
  - e. total
3. Buildings shall be located in a manner that minimizes the need for grading and preserves natural features such as prominent knolls, ridgelines, ravines, natural drainage courses, vegetation, and wildlife habitats and corridors to the maximum extent possible.
  4. Unless specifically approved by the Town, strip grading for the purpose of clearing land of native vegetation is prohibited except for small areas adjacent to buildings, access drives, and parking areas.
  5. Graded areas shall not be larger than the area of the footprint of the house, plus that area necessary to accommodate access, guest parking, and turnaround areas.
  6. After placing development the site shall be restored as closely as possible to its original topography.



**Do this**

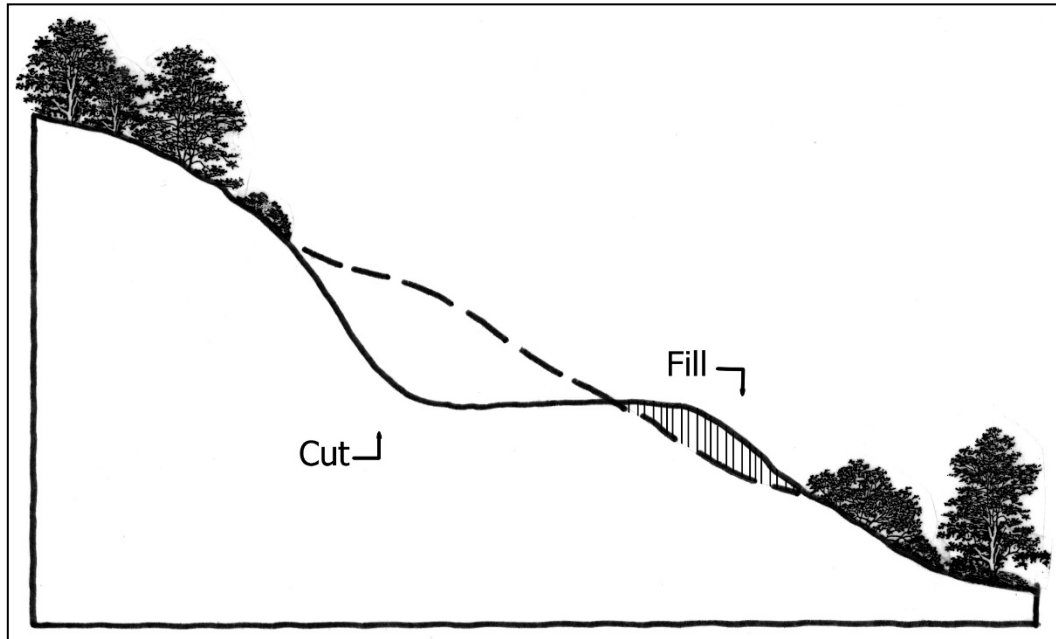
**Don't do this**

7. Contour grading techniques shall be used to provide a variety of both slope percentage and slope direction in a three-dimensional undulating pattern similar to existing, adjacent terrain. The following concepts shall be utilized:
  - a. Hard edges left by cut and fill operations shall be given a rounded appearance that closely resembles the natural contours of the land.



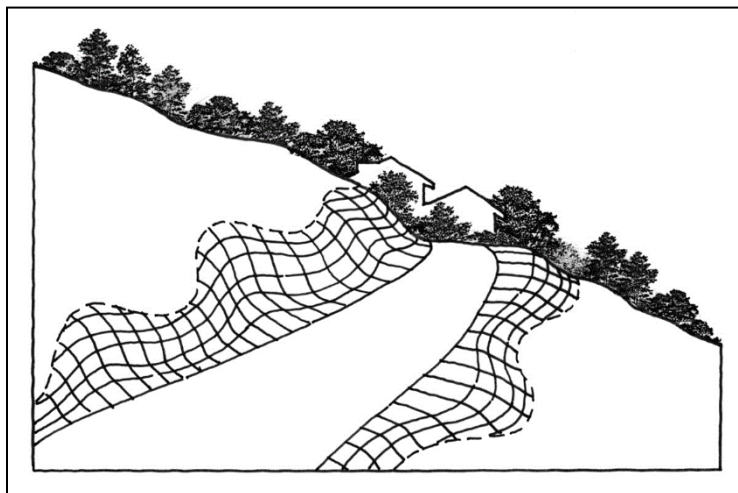
**TOWN OF LOS GATOS**  
**HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES**

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**Rounded edges resemble natural slope**

- b. Manufactured slopes adjacent to driveways and roadways shall be modulated by berming, regrading, and landscaping to create visually interesting and natural appearing streetscapes. However, preservation of trees and elimination of retaining walls is a priority.



**Modulate manufactured slopes to appear natural**

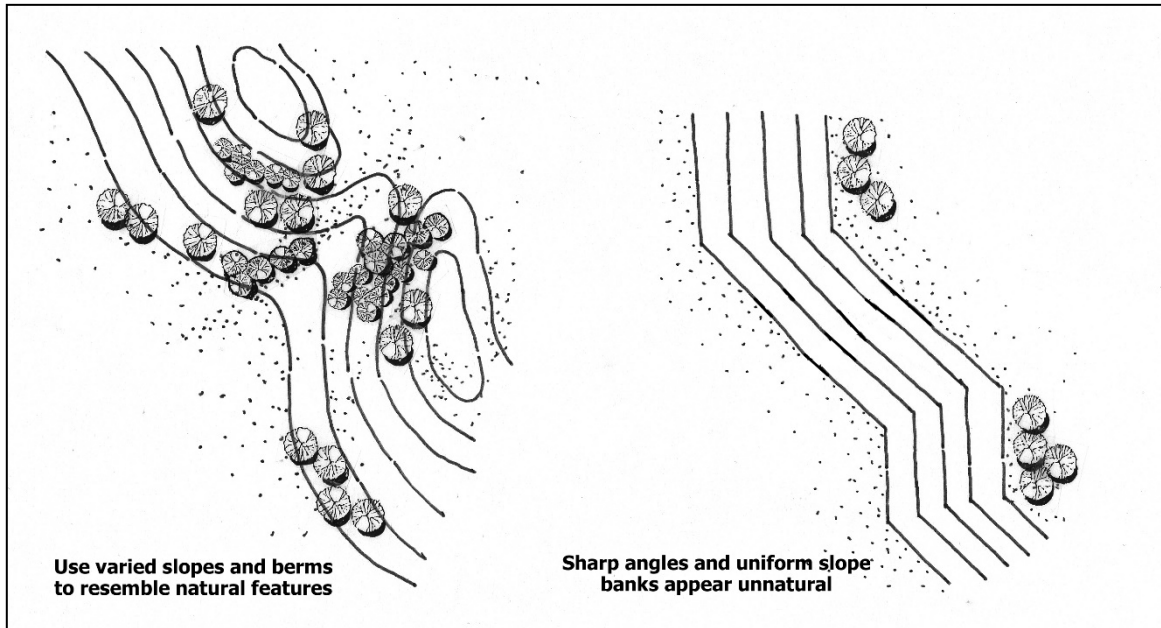


## TOWN OF LOS GATOS

### HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES

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- c. Where cut and fill conditions are created, slopes shall be varied rather than left at a constant angle, which creates an unnatural, engineered appearance.



**Do this**

**Don't do this**

- d. The angle of any graded slope shall be gradually transitioned to the angle of the natural terrain. Creation of new grades slopes, significantly steeper than local natural slopes should be minimized.
8. Grading plans shall include provisions for restoration of vegetation on cuts and fills. All manufactured slopes shall be planted with native, fire-resistant, low water using plantings to control erosion.
9. An erosion/sedimentation control plan shall be included with all site plans and/or grading plans. The erosion/sedimentation control plan shall provide interim (during construction) and ultimate plans for control of erosion and sedimentation or describe in detail why this is not necessary.
10. Grading shall not occur during the rainy season (October 1 to April 1) unless approved by the Town Engineer. If grading is planned to occur between October 1 and April 1, interim provisions for erosion and sedimentation control shall be in place before grading begins.



## TOWN OF LOS GATOS

### HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES

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#### Guidelines:

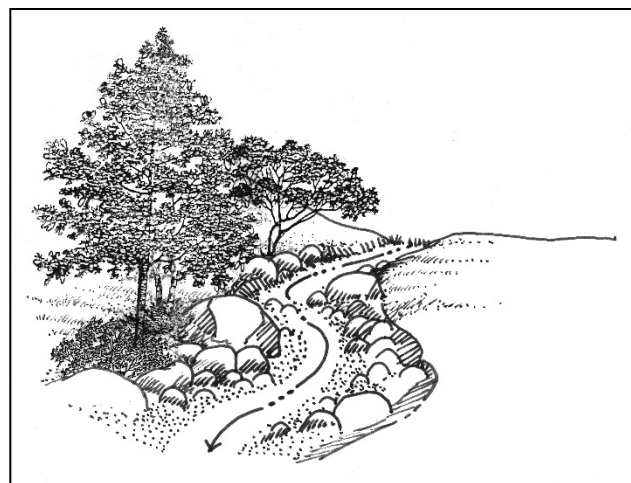
1. The creation of permanent flat pads, except for the house footprint and area needed for access, parking and turnaround, should be avoided

#### B. Drainage.

#### Standards:

1. Runoff shall be dispersed within the subject property to the greatest extent feasible. Runoff concentration that requires larger drainage facilities shall be avoided.
2. Upslope drainage shall not negatively impact downslope development.
3. Natural drainage courses shall be preserved with any native vegetation intact and shall be enhanced to the extent possible, and shall be incorporated as an integral part of the site design in order to preserve the natural character of the area.
4. Manmade drainage channels shall receive a naturalizing treatment such as rock and landscaping so that the structure appears as a natural part of the environment.

**Manufactured  
drainage courses  
shall simulate  
natural drainage  
courses**



#### Guidelines:

1. Manmade drainage channels should be placed in the least visible locations possible.
2. Lining of natural drainage courses is discouraged.



## TOWN OF LOS GATOS

### HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES

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3. Dry Stream effects (manufactured drainage courses designed to simulate natural drainage courses) that move water over the property are preferred over channeling or underground methods.

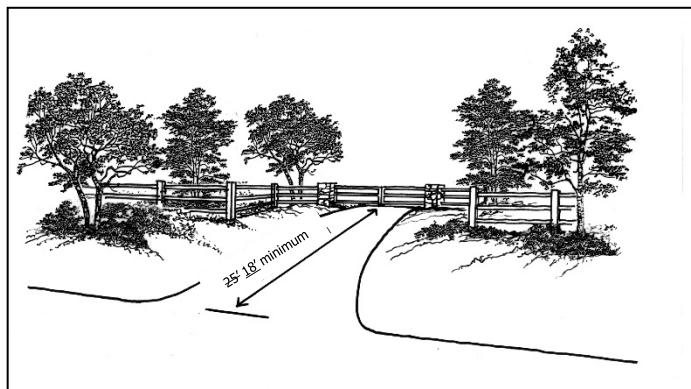
## C. Driveways and parking.

It is recommended that the Fire Department be consulted early in the design process about water supply, accessibility and the need for emergency vehicle turnarounds, turnouts, etc.

### Standards:

See  
Chapter  
VII.B.  
Standard 2

1. Driveways shall be located so as to minimize the need for grading.
2. Driveways shall be paved in compliance with Town standards, and shall be installed prior to occupancy.
3. When a gated entrance is provided, the gates shall be set back a minimum of **25 18** feet from the right-of-way to allow vehicles to pull completely off the roadway while waiting for the gates to open. Gated entrances serving more than one house may be required to have a greater setback. Gates should open away from or parallel to the street.



**Entrance gates shall  
be set back at least  
25 18 feet from the  
street**

4. Driveways shall have an all-weather surface in compliance with Fire Department weight loading requirements (40,000 pounds).
5. The maximum slope of a driveway shall not exceed 15 percent unless it can be demonstrated that a flatter driveway cannot be constructed without excessive grading (more than 4 feet of cut or 3 feet of fill). Driveway slopes in excess of 15 percent require approval by the Town Engineer and Santa Clara County Fire Department.





## **TOWN OF LOS GATOS**

### **HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES**

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#### **Guidelines:**

1. Driveways serving one residence should have a 12-foot minimum width.
2. The maximum length of a driveway should be 300 feet unless the deciding body makes specific findings for deviation and places additional conditions such as turnouts and secondary accesses to reduce hazards. A turnaround area shall not have a grade that exceeds five (5) percent.
3. Driveway approaches should be located a safe distance from intersections. On adjoining properties, driveways should be spaced a minimum of 20 feet apart or located immediately adjacent to each other.
4. Shared driveways serving more than one lot are encouraged as a means of reducing grading and impervious surfaces.
5. Driveways should be located and maintained so as to ensure an adequate line of sight.

#### **D. Safety.**

##### **Geologic hazards.**

Potential geologic hazards, if not avoided or mitigated, can result in damage to the environment and structures and can place public safety at risk.

#### **Standards:**

1. Site specific geologic engineering investigations and reports are required of qualifying projects in State of California Seismic Hazard Zones (Liquifaction and Earthquake Induced Landslide Areas) and in areas believed to be geologically hazardous as determined by the Director of Community Development and /or Town Engineer. Refer to California Geological Survey Seismic Hazard Zones Map, Los Gatos Quadrangle, dated September 23, 2002.
2. Construction shall be avoided in areas with geologic hazards (e.g., slope instability, seismic hazards, etc.) as identified in the site specific geologic investigations and reports, unless adequate mitigation design measures are proposed to achieve a low level of risk.

**Guidelines:** None.



## **TOWN OF LOS GATOS**

### **HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES**

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#### **Fire hazards.**

The hillsides above Los Gatos are areas of high fire hazard. House fires in the hillsides have the potential to become wildfires if not controlled quickly. A dependable, adequate water supply, automatic fire sprinklers, access for fire fighting equipment and fast response times are critical factors in gaining quick control over a structural fire. Factors that affect the speed at which a wildfire spreads include topography, available fuel, weather (wind, humidity) and availability of fire fighting resources. Lack of adequate circulation or evacuation routes can also impact public safety.

Development in the hillsides presents inherent conflicts between creating and maintaining a fire safe environment, preserving existing vegetation, and minimizing the visual impacts of new development. These conflicts can be minimized by incorporating the concept of fire defensible space into site planning and landscape design. The concept of defensible space involves reducing fuel load, designing structures and landscaping with fire safety in mind, and locating structures to minimize their exposure to wildfires.

#### **Standards:**

1. Building locations shall be selected and structures designed to minimize exposure to wildfires (also see Chapter V. Section I.).
2. A landscape plan shall be provided and will be reviewed by the Town's Landscape Consultant with input from the Fire Department. The landscape plan shall create defensible space around the home, and if there is a fire ladder on the property it shall be eliminated in an environmentally sensitive manner.
3. Development shall have adequate fire access (also see Chapter III section C. and Chapter VII section b.2.).
4. A dependable and adequate water supply for fire protection and suppression purposes, as required by the Santa Clara County Fire Department, shall be provided for all properties. If no public hydrant is available, there shall be an on-site water supply in a storage facility with an appropriate outlet valve in close proximity to an accessible hard road surface.
5. Water for fire suppression shall be available and labeled before any framing may begin.
6. Above ground water tanks shall not be located in required setback areas.



## TOWN OF LOS GATOS

### HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES

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#### Guidelines:

1. Development should avoid areas subject to severe fire danger. In order to achieve this, development should:
  - a. Be set back from the crest of a hill
  - b. Not be located at the top of a canyon
  - c. Not be located on or adjacent to slopes greater than 30%
  - d. Not be located within densely wooded areas

If this is not possible, measures designed to assure the highest degree of fire prevention, and fast effective means of evacuation and fire suppression shall be provided.

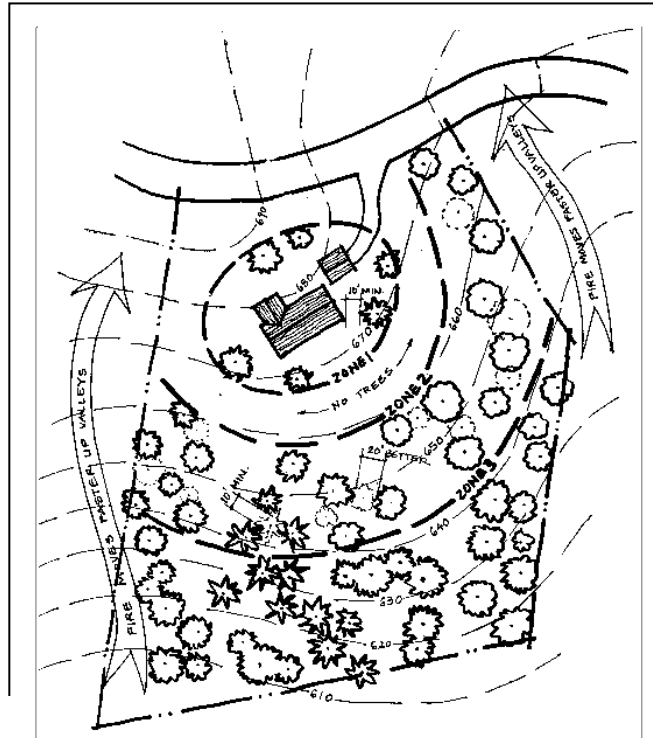
2. The fuel load within a defensible space should be minimized by use of selective pruning, thinning and clearing as follows:
  - Removal of flammable species and debris
  - Removal of dead, dying or hazardous trees
  - Mow dead grasses
  - Removal of dead wood from trees and shrubs
  - Thin tree crowns (maximum of 25%)
3. Discontinuous fuel sources should be created and maintained within a defensible space through use of the following techniques (see illustrations on page 27):
  - Thin vegetation to form discontinuous groupings of trees or shrubs
  - Limb trees up from the ground
  - Establish a separation between the lowest branches of a tree and any understory shrubs.
4. Landscaping within a defensible space should be designed with fire safety in mind. Landscaping in defensible space should be:
  - Fire resistant and drought tolerant
  - Predominantly low growing shrubs and groundcovers (limit shrubs to 30% coverage)
  - Limited near foundations (height and density)
5. Above ground tanks should not be located in areas of high visibility unless it can be demonstrated to the satisfaction of the decision making body that no other feasible locations are available.

Refer to  
Appendix  
A

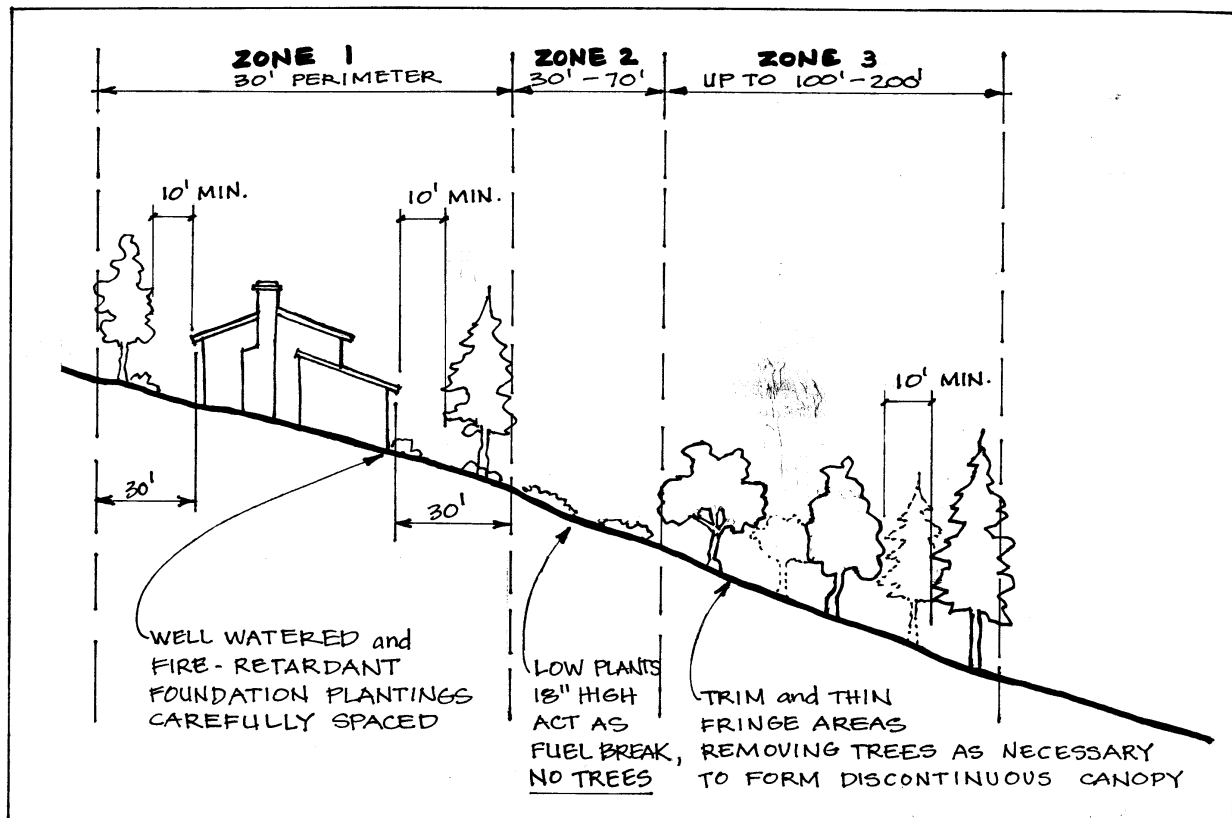


# TOWN OF LOS GATOS

## HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES



Defensible space  
should be  
maintained  
around the home





## IV. DEVELOPMENT INTENSITY

### A. Maximum Allowable Development

The Town of Los Gatos controls the amount of development that is allowed by limiting density and intensity of development - the minimum land area required for each house - and by limiting the maximum floor area of each house.

In Los Gatos, limiting the floor area or size of a house is important for several reasons:

- Large houses are more visible and therefore create greater adverse visual impacts.
- Large houses cover more land area, therefore requiring more disruption of the natural landscape and ecosystems.
- Large houses create more impervious surface area, which can increase runoff and cause drainage, landslide, and flooding problems.
- Large houses consume a greater amount of resources, both to construct and to maintain.

**Maximum allowed gross floor area.** The maximum allowable gross floor area for homes subject to the Hillside Development Standards and Guidelines is determined using a floor area ratio (FAR) adjusted for slope as provided in Table 1, below. However, achieving the maximum floor area allowed is not guaranteed due to individual site constraints. The priority is to comply with the standards and guidelines rather than designing to the FAR. The FAR is a numerical guide and achieving the allowable square footage is not a goal. Greater weight shall be given to issues, including but not limited to, height, building mass and scale, visual impacts, grading and compatibility.

Refer to the  
Town's  
Zoning  
Regulations

**TABLE 1**  
**REDUCTION OF NET SITE AREA ON SLOPING LOTS**

Average lot slope	Percent of net lot area to be deducted
10.01 - 20%	10% plus 2% for each 1% of slope over 10%
20.01 - 30%	30% plus 3% for each 1% of slope over 20%
Over 30%	60%



**TOWN OF LOS GATOS**  
**HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES**

**TABLE 2**  
**MAXIMUM ALLOWED GROSS FLOOR AREA**

<b>Net Lot Area<sup>1</sup></b>	<b>Floor Area Ratio (%)</b>	<b>Allowable Floor Area<sup>3</sup></b>
11,000 sq. ft. and less	34.5	3800
up to 12,000 sq. ft.	32.5	3900
up to 13,000 sq. ft.	30.7	4000
up to 14,000 sq. ft.	29.3	4100
up to 15,000 sq. ft.	28.0	4200
up to 16,000 sq. ft.	26.9	4300
up to 17,000 sq. ft.	25.9	4400
up to 18,000 sq. ft.	25.0	4500
up to 19,000 sq. ft.	24.2	4600
up to 20,000 sq. ft.	23.5	4700
up to 21,000 sq. ft.	22.8	4800
up to 22,000 sq. ft.	22.3	4900
up to 23,000 sq. ft.	21.7	5000
up to 24,000 sq. ft.	21.3	5100
up to 25,000 sq. ft.	20.8	5200
up to 26,000 sq. ft.	20.4	5300
up to 27,000 sq. ft.	20.0	5400
up to 28,000 sq. ft.	19.6	5500
up to 29,000 sq. ft.	19.3	5600
up to 30,000 sq. ft.	19.0	5700
up to 31,000 sq. ft.	18.7	5800
up to 32,000 sq. ft.	18.5	5900
32,001 sq. ft. and above <sup>2</sup>		6000

<sup>1</sup>Net lot area as adjusted for slope – see Table 1

<sup>2</sup>For lots containing a net lot area of more than 32,000 square feet, the maximum gross floor area shall be 6,000 square feet unless an exception is granted by the Planning Commission in compliance with subsection c. (Exceptions to maximum floor area)

<sup>3</sup>Accessory structures including garages larger than 400 sq. ft. are included in the maximum floor area.



**TOWN OF LOS GATOS**  
**HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES**

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**B. Exclusions from allowed floor area.**

The following items are not included in the calculation of a structure's allowed gross floor area.

1. ~~Ce~~~~llars~~ Below grade square footage pursuant to Section 29.40.072 of the Town Code.
2. Garages up to 400 square feet in area.
3. Stables that are not fully enclosed.
4. Barns that do not exceed the applicable size shown in Table 3 below.
5. Additional floor area allowed pursuant to Section 29.10.320 of the Town Code for accessory dwelling units.

**TABLE 3**  
**MAXIMUM FLOOR AREA FOR BARNs AND STABLES\***

<b>Parcel Size (gross)</b>	<b>Maximum floor area of <del>accessory structure</del> <u>barns and stables</u></b>
Up to one acre	500 sq. ft.
Up to 2.5 acres	1,000 sq. ft.
Up to 5 acres	2,000 sq. ft.
Over 5 acres	2,500 sq. ft.

\*All other enclosed accessory buildings are included in FAR.

Note: Accessory buildings that do not contain floor area because they are not fully enclosed (e.g. gazebos, arbors, carports) will be carefully reviewed for potential impacts such as grading, trees, impervious coverage, visibility, etc.

**C. Exceptions to maximum floor area.**

The Town Council or Planning Commission *may* approve residential projects greater than the maximum allowed floor area (but it is not guaranteed) when all of the following conditions apply:

1. The development will not be visible from any of the established viewing ~~platforms~~ areas (see glossary for definition of visible home).
2. There will be no significant impacts on protected trees, wildlife habitat or movement corridors.



## TOWN OF LOS GATOS

### HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES

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3. Any grading necessary to accommodate the building area that exceeds the allowed FAR or an accessory building will be minimized.
4. All standards and applicable guidelines are being met.
5. Compliance to Title 24 Energy Efficiency Standards are shown using computer methods. The compliance margin must be at least 10.0.
6. The house will be pre-wired for future photovoltaic (PV) installation.
7. A minimum of 25% of hardscape material is permeable (certain types of interlocking pavers, grasscrete, pervious concrete, etc.).
8. A significant ~~cellar~~ below grade square footage element is included in the design, unless it conflicts with other standards.
9. There will not be a significant visual impact to neighboring properties.



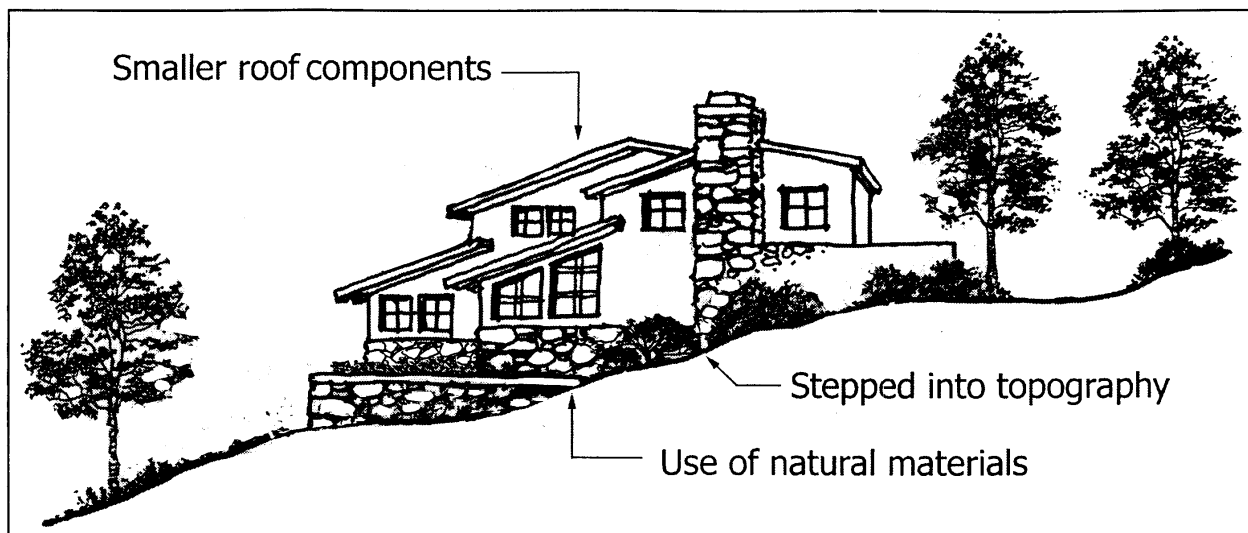


## V. ARCHITECTURAL DESIGN

### A. Design objectives.

The standards and guidelines in this section are intended to encourage architectural design that is:

1. in harmony and visually blends with the natural environment,
2. responsive to site constraints and opportunities,
3. compatible with the surrounding neighborhood and respectful of neighbors, and
4. respectful of the rural character of the hillsides.



Building form reflects hillside form/setting



## **B. Design to be neighbor friendly.**

Protecting the privacy of neighboring homes is a high priority in the siting and design of a new house or addition. The following design standards shall be followed to the greatest extent feasible to ensure privacy to surrounding neighbors.

### **Standards:**

1. Privacy impacts shall be addressed and resolved during the constraints analysis phase and initial design stage, not with mitigation measures imposed as an afterthought. Sight lines shall be studied so that windows and outdoor areas are placed to maintain privacy.

### **Guidelines:**

1. The following design guidelines should be implemented to the greatest degree feasible where privacy impacts are of concern;
  - a. Minimize second-story windows facing close neighboring properties.
  - b. Orient upper floor windows, decks, and balconies to avoid impacting the privacy of neighbors.
  - c. Incorporate screening measures (e.g., solid railing walls, lattice work, or planters) to obscure lines of sight to neighboring properties.
  - d. Limit the size of decks and balconies to six feet in depth in areas where privacy is a concern. This will limit their use to passive activities.
  - e. Use landscaping to screen views to your neighbor's living areas most sensitive to privacy. Use evergreen trees and shrubs to provide year-round privacy.
  - f. Existing vegetation that protects privacy should not be removed.
  - g. Screen and control noise sources such as parking, outdoor activities, and mechanical equipment (e.g., air conditioning and pool equipment).
  - h. Locate outdoor activity areas adjacent to neighbor's outdoor activity areas rather than in close proximity to their quiet areas (bedrooms).



## **C. Design for sustainability.**

Sustainability and the conservation of natural resources are important issues to Los Gatos residents. Sustainability refers to the use of natural resources in a manner that insures their continued availability to future generations.

The term "green building" is often used to relate sustainability to development. Green building addresses a broad range of techniques to reduce the consumption of natural resources during construction and over the lifetime of a home. These include designing structures to be energy water efficient, utilizing building materials that reduce resource consumption and improve indoor air quality, and taking maximum advantage of renewable energy resources. Refer to Appendix B for additional information on green building.

Appendix B, Green Building Strategies and Materials, contains design strategies that maximize the use of renewable energy resources for heating, cooling and lighting, additional strategies that conserve energy and water, a list of building materials that reduce the consumption of nonrenewable resources and improve air quality, and a list of various sources for "green building" information and their web sites.

The following design guidelines are aimed at maximizing energy efficiency and reducing consumption of resources.

**Standards:** None.

### **Guidelines:**

1. The design of each house should show evidence to the satisfaction of the deciding body that a significant effort has been made towards incorporating energy-conservation and water saving techniques above and beyond the minimum requirements of Title 24.
2. All homes over 3,500 square feet should incorporate a variety of green building strategies and materials (see Appendix B). Homes less than 3,500 square feet are also encouraged to incorporate additional energy and resource saving features.
3. Homes should be designed and located to take maximum advantage of passive solar heating (space and water), natural cooling and lighting. Houses should be designed to maximize the benefits of sun and wind as follows:
  - a. Orient the house and arrange doors and windows to take advantage of prevailing summer winds for natural ventilation and cooling (also see Appendix B).
  - b. Orient the house and the most used living areas to take advantage of passive solar heating. Orient the house on an east-west access and locate the most used living areas and the majority of windows on the south side (also see appendix B).



- c. Landscaping should be used to control exposure to sun and wind (Refer to Chapter VI, Section B, Landscape Design Concepts for ways to meet this guideline.). Shading and solar access should be balanced when both heating and cooling is needed.
  - Where protection from summer sun is needed, tall spreading deciduous trees should be planted to the south, east and west sides of pavement and buildings. Trees should be placed so they do not block winter sun.
  - Where protection from winter wind is needed, plant dense evergreen trees and/or shrubs in random discontinuous groups. A distance of four to five times the ultimate height of the plants is recommended to allow light to penetrate into the home.
4. Selection of building materials that reduce the consumption of natural resources and are non-toxic is strongly encouraged. This includes, but is not limited to, salvaged or reused materials and products made from recycled materials (also see Appendix B).

## **D. Design for fire safety.**

A home that is located, designed and maintained for fire safety will not only protect the individual homeowner, but will reduce the chance for a home fire to become a wildfire. Conversely, in the case of a wildfire, the home will have a better chance of surviving and may help limit a fires spread. See Chapter III, section D for guidance in choosing a building site to minimize exposure to potential wildfires. See Chapter VII, section A for guidance on how to landscape and maintain a site with fire safety in mind.

The following standards are intended to maximize protection from wildfires:

Refer to  
Chapter II  
section C

### **Standards:**

1. Structures shall be designed to maximize protection from wildfires.
2. Roofs shall have a Class A covering or a Class A roof assembly.
3. Eaves and soffits shall be protected on the exposed underside with noncombustible material or by materials approved for a minimum one-hour rated fire resistive construction.
4. Gutters and downspouts shall be constructed of noncombustible material.
5. Exterior walls shall be constructed with noncombustible materials on the exterior side or materials approved for a minimum one-hour rated fire resistive construction.



6. Under floor areas and areas below decks shall be enclosed to the ground with noncombustible materials or with materials approved for a minimum one-hour rated fire resistive construction.
7. Attic and under floor vents shall be covered with corrosion-resistant mesh not to exceed ¼-inch.
8. Automatic fire sprinklers shall be installed in accordance with National and Fire Department Standards.
9. Roof skylights shall be tempered or have multi-layered glazing.

### Guidelines:

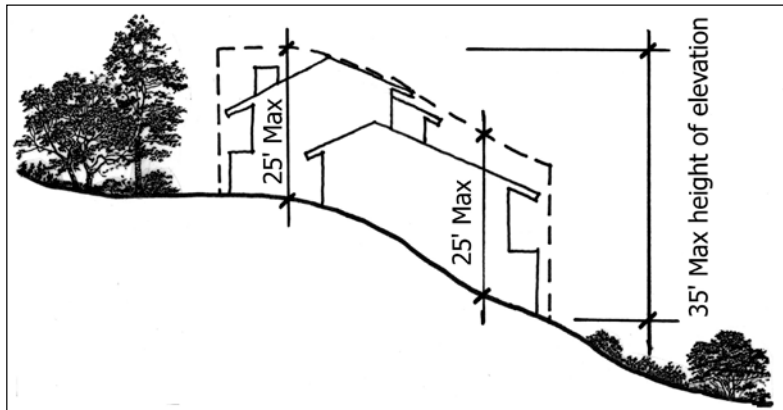
1. Exterior windows should be tempered glass.
2. The size and number of windows on the side of the house that would likely be exposed to a fire approaching from the downhill side should be minimized.
3. Roof eaves should be designed with minimal overhang to prevent entrapment of heat and flames.

## E. Building height.

### Standards:

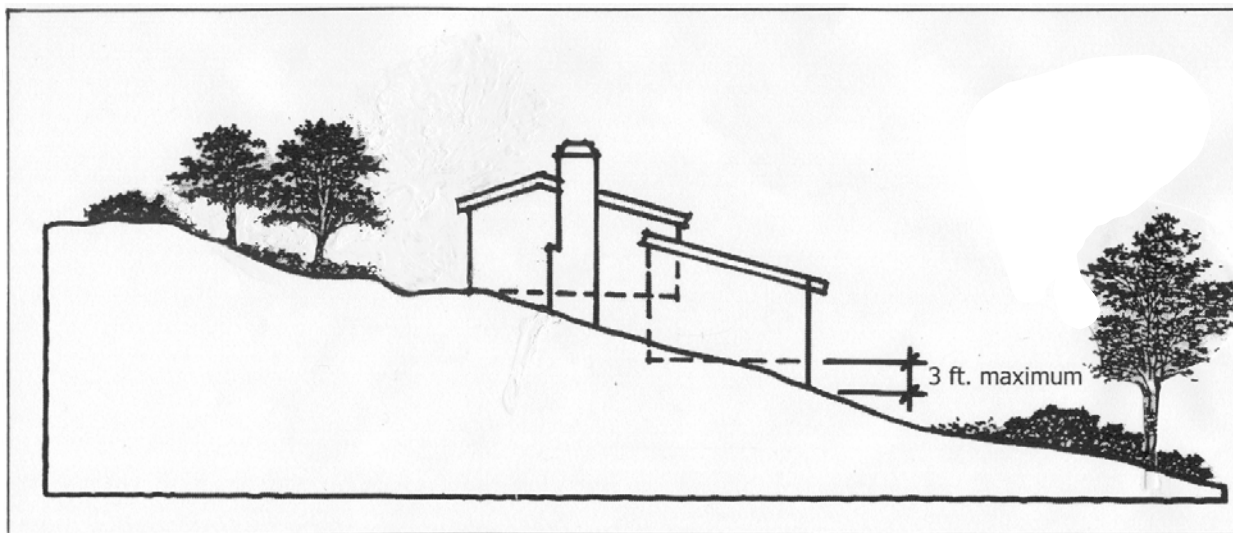
Refer to  
Chapter II  
section C

1. The maximum allowed height for homes in hillside areas shall be 25 feet. Building height shall be measured in compliance with provisions of the Town's Zoning Ordinance.
2. The maximum height of a building's tallest elevation shall not exceed 35 feet measured from the lowest part of the building to the highest part, except buildings extending above a ridgeline or that are visible from a viewing platform area where the maximum height from the lowest to highest points shall not exceed 28 feet.





3. Ridgeline and visible homes shall not extend more than 18 feet above the existing grade.
4. The height of the lowest finished floor(s) of a structure, excluding cellars below grade square footage pursuant to Section 29.40.072 of the Town Code, shall not be more than ~~four~~ three feet above the existing grade to ensure that buildings follow slopes.



5. Three-story elevations are prohibited.

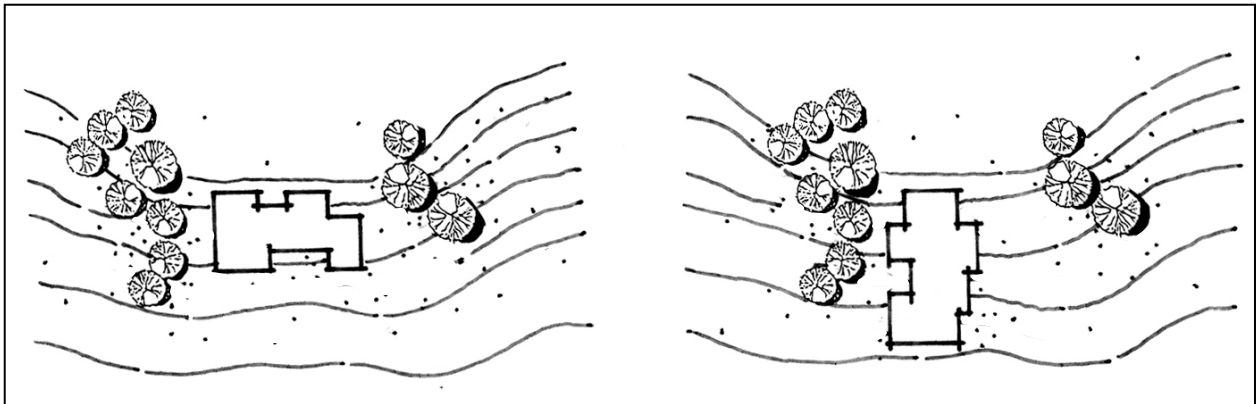
**Guidelines:** None.

## **F. Minimize building bulk and mass**

One of the primary concerns of Los Gatos residents is that some new houses in the hillsides appear overly large and bulky, resulting in high visibility from surrounding properties and the valley floor. The design standards and guidelines in this section address this issue.

### **Standards:**

1. Buildings shall be designed to minimize bulk, mass and volume so as not to be prominently visible from a distance or from surrounding properties.
2. Buildings shall be designed to conform to the natural topography of the site and run with the contours. Blending with the existing terrain reduces the appearance of bulk.



**Do this**

Building is parallel with the contours.

**Don't do this**

Building is perpendicular to the contours

**Guidelines:**

1. The building design should incorporate but not be limited to, the following techniques to effectively reduce the appearance of mass, bulk and volume:
  - a. Keep building forms simple.
  - b. Avoid architectural styles that are inherently viewed as massive and bulky.



**Don't do this**

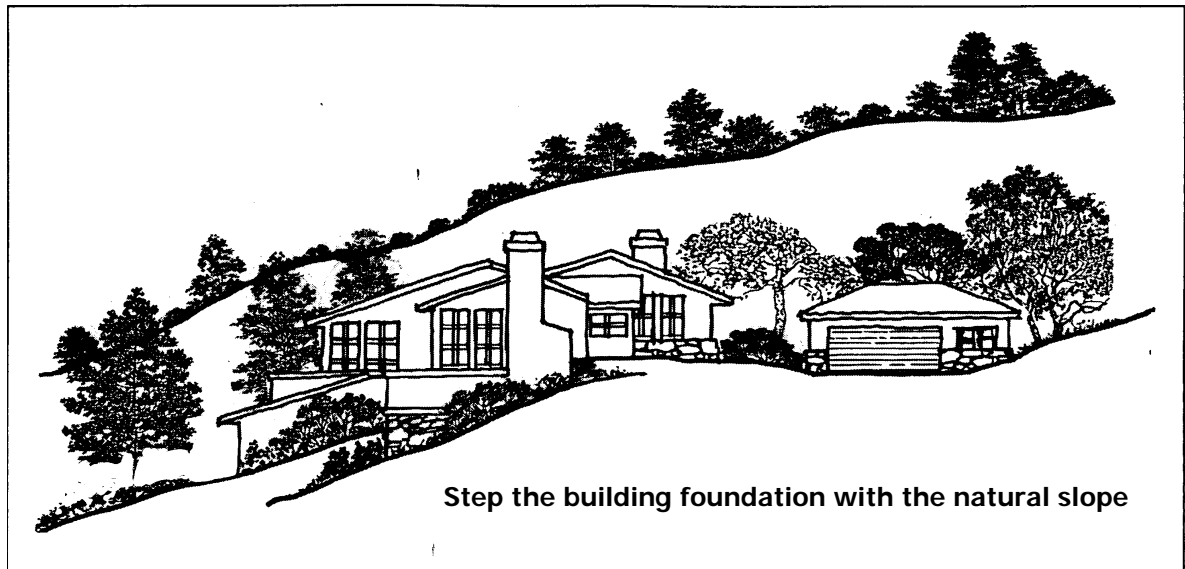


**Don't do this**

- c. Minimize square footage.
- d. Minimize volume; avoid large volume buildings.
- e. Avoid overhanging decks, large staircases and patios formed by retaining walls that make buildings appear more massive. Avoid use of balustrades and solid wall



railings that add to the mass of the design. *(Revised 2/22/05 by Council Resolution 2005-11)*



- f. Step the building foundation and roofs with the natural slope.
- g. Use horizontal and vertical building components to reduce bulk. Avoid two story wall planes.
- h. Create light and shadow by providing modest overhangs, projections, alcoves, and plane offsets, and varying elevations such as stepping second stories.
- i. Vary elevations, such as stepping back second stories, to conform with topography.
- k. Excavate or use below-grade rooms to reduce effective bulk. The visual area of the building can be minimized through a combined use of grading and landscaping techniques.
- l. Use vaulted ceilings rather than high walls and ceilings with attics above to achieve a feeling of volume.
- m. Second stories should be stepped back so the difference in wall planes is visible from a distance. *(Revised 2/22/05 by Council Resolution 2005-11)*

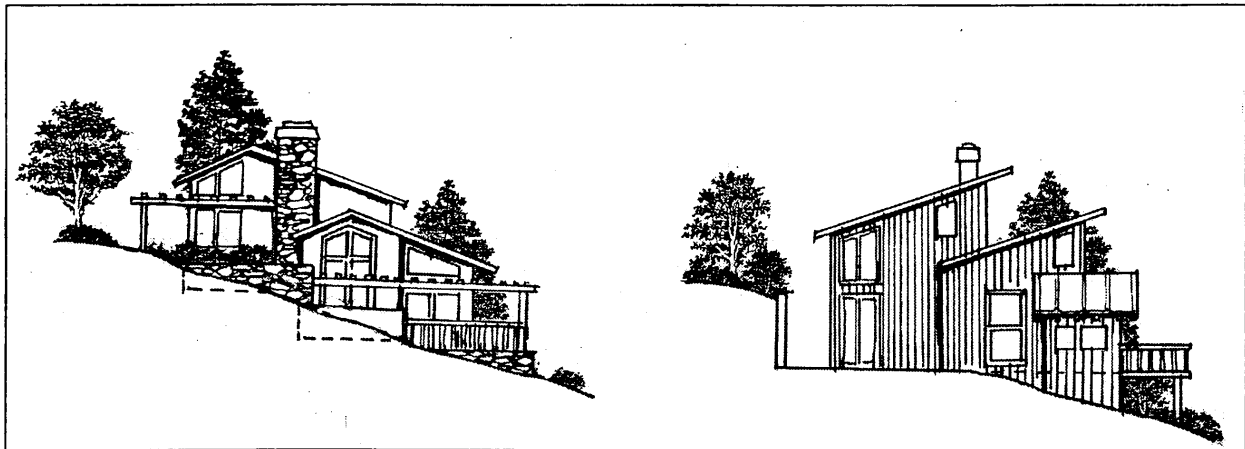




## G. Roofs.

### Standards:

1. Roof forms and rooflines shall be broken into smaller building components to reflect the irregular forms of surrounding natural features.
2. The slope of the main roof shall generally be oriented in the same direction as the natural slope of the terrain.

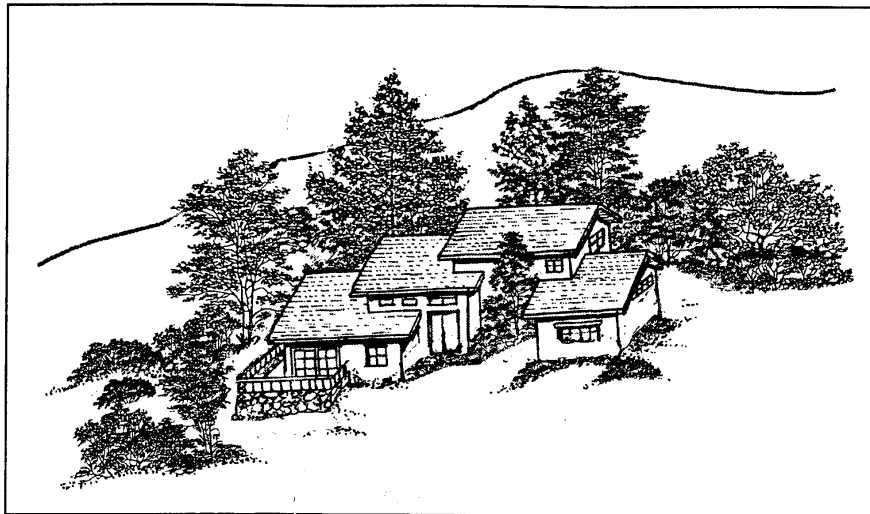


Do this

Don't do this

### Guidelines:

1. Large gable ends on downhill elevations should be avoided.



Roof forms are kept small and reflect the surrounding topography



## H. Architectural elements.

### Standards:

1. Exterior structural supports and undersides of floors and decks not enclosed by walls are prohibited unless it is proven that no alternative type of construction is feasible and that fire safety and aesthetic considerations have been adequately addressed (also see Chapter III section D.2).

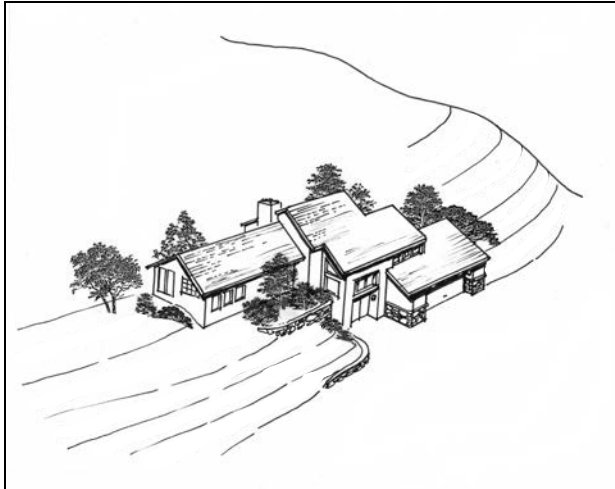


**Don't do this**

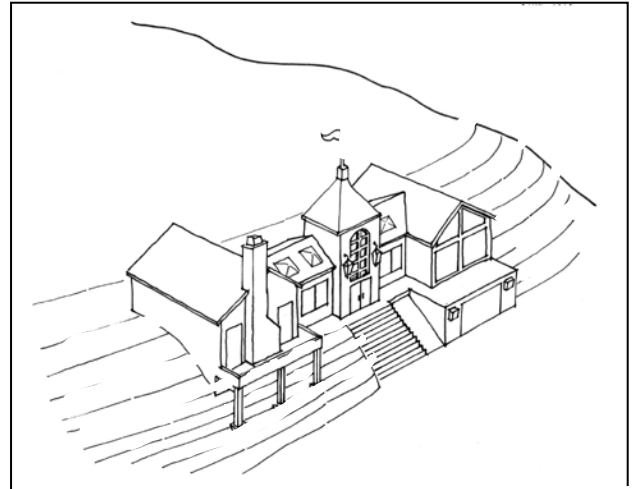
2. Skylight glazing material shall be selected to reduce glare at night. Large skylights with dome-style glazing should be avoided.
3. Architectural detailing shall be provided on all sides of the building. Elements of the architectural treatment used on the front facade shall be repeated on all sides of the building.

### Guidelines:

1. The use of large windows and glass doors should be kept to the minimum to reduce the daytime glare and nighttime lighting emanating from large glazed areas, and to increase heating and cooling efficiency. Of particular concern is glare that impacts neighboring properties and is visible from the valley floor (also see Chapter V section I.).
2. The use of architectural features that increase visual prominence should be avoided. Massive, tall elements, such as two-story entries, turrets, and large chimneys should be avoided. Such elements on the downhill facade of the house is of particular concern.



**Do this**



**Don't do this**

## **I. Materials and colors.**

### **Standards:**

1. The contrast between manmade buildings and the environment shall be minimized. A buildings color and materials shall complement and blend with the predominant colors and values of the surrounding natural environment.
2. Exterior material colors for homes, with the exception of homes with any elevation that is more than 24.5% percent visible from the viewing ~~platforms~~ area, may use color averaging of all exterior materials to meet the maximum light reflectivity value of 30 and shall blend with the natural vegetation. Roof materials shall be calculated separately and shall not exceed a light reflectivity value of 30
3. Roofs shall be a dark earth tone color with a variety of shades of that color that blend with the environment.
4. Exposed metal surfaces shall be painted to compliment adjacent materials, be anodized a dark color, or have the ability to develop a patina (e.g., copper).
5. Mirror-like window tinting is prohibited.
6. Contrasting color accents shall be kept to a minimum.



## **Guidelines:**

1. A variety of materials, textures, and architectural details compatible with the design theme of the house should be used to add interest and to mitigate the visual impact of large wall areas. Natural materials such as wood and stone will help soften the appearance of stucco and blend it with the natural setting. *(Revised 2/22/05 by Council Resolution 2005-11)*



## VI. SITE ELEMENTS

### A. Fences and walls.

The following standards and guidelines are intended to accompany the Town Code regulations for fences and walls in the hillside area. The objective of the following standards and guidelines is to limit six-foot high fences and walls and deer fencing to those areas where they are absolutely necessary. It is recognized that fencing around limited landscaped areas is sometimes necessary for security and to provide yard areas for and to protect children and pets. However, ~~the cumulative impact of six-foot high~~ chain link fences and solid fences and walls surrounding hillside properties ~~has~~ have a significant impact on the movement pattern of wildlife and on the open rural character of the hillsides.



Rural character allows wildlife to pass through.  
**Do this**



Urban character  
**Don't do this**

### Standards:

1. The use of fences and walls shall be minimized and located so that natural landforms appear to flow together and are not disconnected. The primary emphasis shall be on maintaining open views, protecting wildlife corridors, and maintaining the rural, open, and natural character of the hillsides.
2. Fences and walls shall not exceed a height of six feet measured from the highest side of the fence or wall and should be limited to those areas where fences and walls of this height are necessary for protection of ornamental landscaping, security, or play areas.
3. Solid fencing materials shall not be used unless needed for privacy and an exception is granted pursuant to Section 29.40.0315 of the Town Code.



4. Only open fencing shall be located within 20 feet of a property line adjacent to a street pursuant to Section 29.40.0315 of the Town Code.
5. Deer fencing up to a maximum height of eight feet shall be limited to areas around ornamental landscaping. Larger areas shall not be enclosed unless specific reasons for keeping deer out have been demonstrated to the satisfaction of the decision making body.
6. Fences shall not be allowed in areas that would impede the movement of wildlife as determined by the decision making body.
7. Temporary construction fencing shall be limited to the building envelope or shall be elevated to allow for movement of small animals.

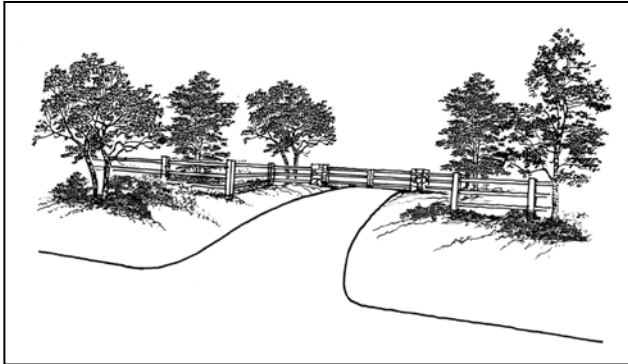
### **Guidelines:**

1. Wood rail-type fences and gates are preferred.
2. Chain link fences are strongly discouraged.
3. Chain link fencing should be coated with green, brown, or black vinyl or finish and shall be supported by a wood frame. Dark, painted metal poles may be required if deemed appropriate by the decision making body.
4. ~~Only open fencing should be located within 20 feet of a property line adjacent to a street.~~
5. Fences should follow the topography.

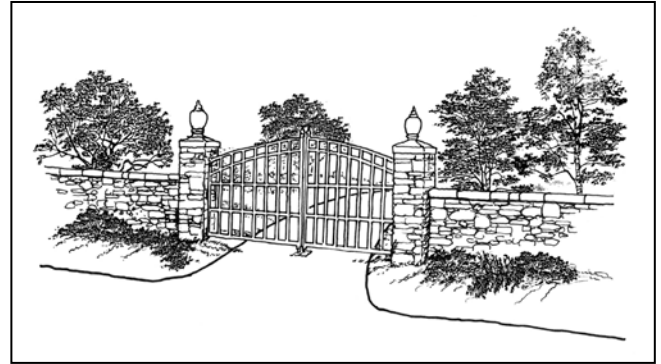
## **B. Driveway entries.**

### **Standards:**

1. Entryways shall be designed to blend with the natural environment and to maintain the rural character of the hillsides.
2. Entry gates shall be set back from the edge of the adjacent street a minimum of ~~25~~ 18 feet ~~and shall not exceed the height limitations as specified in Section 29.40.030 of the Town Code.~~ A greater setback may be required when a gated entrance serves more than one house.
3. Lighting fixtures at entryways shall direct light downwards and shall be designed so that no part of the light source is visible from the street.



Wood fences and gates are encouraged  
**Do this**



Monumental entry gates are strongly discouraged  
**Don't do this**

4. The property address shall be clearly displayed so that it is visible from the street at each driveway.



5. Entry gates equipped with locking devices or electronic control switches shall be approved by the Santa Clara County Fire Department.

## Guidelines:

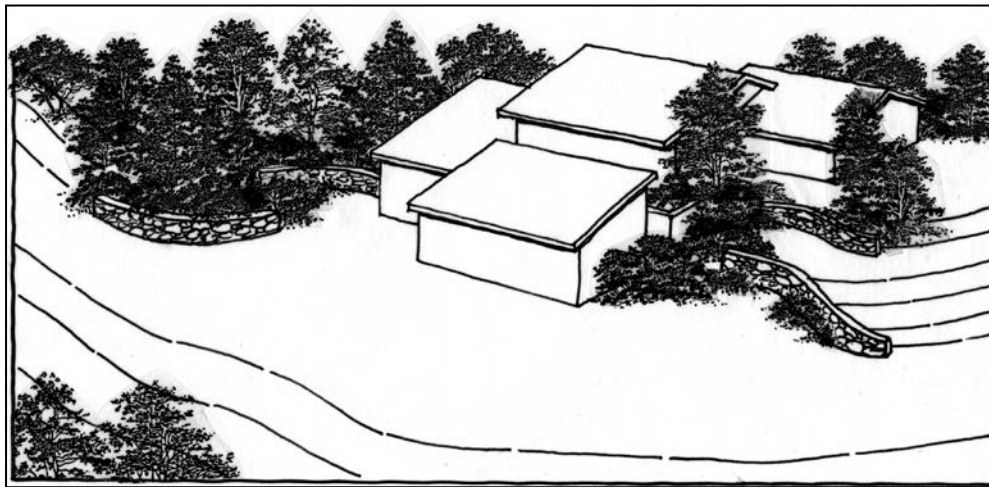
1. Entryway gates and fencing should be of an open design.
2. Entry gates that are monumental are strongly discouraged.



## **C. Retaining walls.**

### **Standards:**

1. Retaining walls shall not be used to create large, flat yard areas. The limited use of retaining walls may be allowed when it can be demonstrated that their use will substantially reduce the amount of grading.
2. Retaining walls that are visible from a public street shall have a veneer of natural stone, stained concrete, or textured surface to help blend the wall with the natural hillside environment and to promote a rural character.

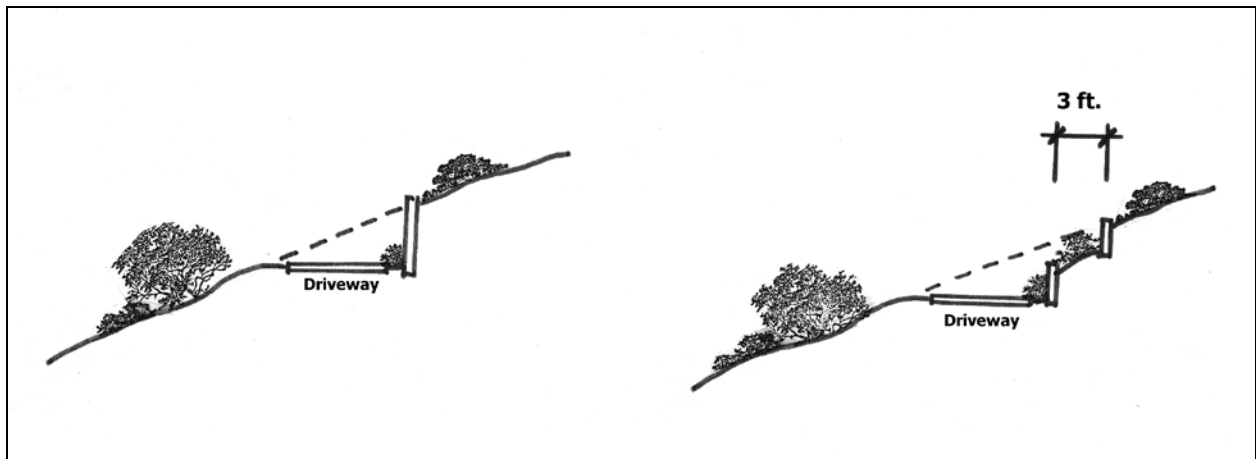


**Retaining walls blend with the natural topography**

### **Guidelines:**

1. Retaining walls should not be higher than five feet. Where an additional retained portion is necessary due to unusual or extreme conditions (e.g., lot configuration, steep slope, or road design), the use of multiple-terraced, lower retaining structures is preferred.
2. Terraced retaining walls should be separated by at least three feet and include appropriate landscaping.
3. Retaining and planter walls should be provided with a landscaped setback or buffer of at least five feet adjacent to the street.





**Don't do this**

**Do this**

4. Retaining walls should blend with the natural topography, follow existing contours, and be curvilinear to the greatest extent possible. Retaining walls should not run in a straight continuous direction for more than 50 feet without a break, offset, or planting pocket to break up the long flat horizontal surface.
5. Landscaping should be provided adjacent to retaining walls and should include a combination of native trees and shrubs to screen the wall.



**Landscaping used to screen and soften tall retaining wall**



4. Retaining walls should be constructed of permanent materials (stone, concrete, masonry block/brick) rather than wood.



**Retaining walls maintain rural character**



**Retaining walls maintain rural character**

## **D. Outdoor lighting.**

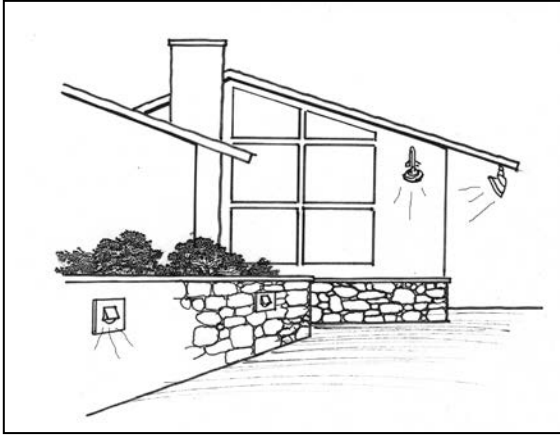
### **Standards:**

1. Outdoor lighting shall comply with the Town of Los Gatos Zoning Ordinance.
2. Lighting shall be the minimum needed for pedestrian safety, and shall be low level, directed downward, and shielded so that no bulb is visible and no light or glare encroaches onto neighboring properties.
4. Unshaded or nonrecessed spotlights are prohibited.
5. Lighting for purely decorative purposes is prohibited. Up-lighting of trees, lighting of facades and architectural features is prohibited.
6. Lighting for night use of outdoor game courts (e.g., tennis, paddle tennis, basketball, etc.) is prohibited.

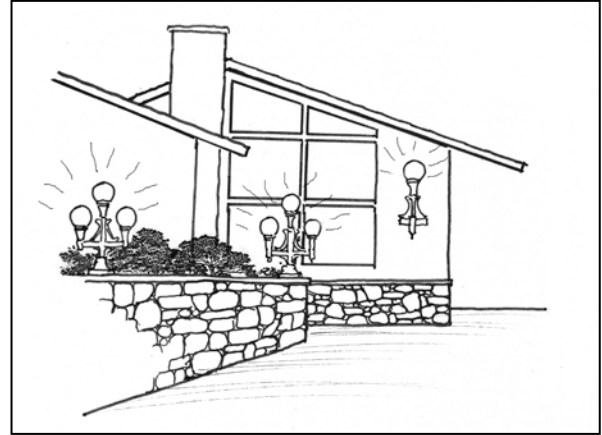
Refer to the  
Town's  
Zoning  
Ordinance



**Inappropriate  
lighting fixture**



Do this



Don't do this

## Guidelines:

1. The use of energy-efficient lighting is strongly encouraged.
2. Outdoor light fixtures at a height of four feet or greater should use full cutoff fixtures. A "full cutoff fixture" is one that directs light downwards so that no direct light rays are emitted at more than 90 degrees from the vertical.

## E. **Accessory buildings, accessory dwelling units, pools, and sport courts.**

### Standards:

1. Accessory buildings and accessory dwelling units (ADUs) are permitted in compliance with the Town of Los Gatos Zoning Ordinance ~~for accessory buildings, except that, a~~ Accessory buildings and ADUs shall have the same setback requirements as the main building in the hillside area.
2. Accessory buildings and ADUs shall be integrated with the natural topography of the site and shall be compatible with other buildings by use of similar forms, colors, and materials.



3. Due to topographic constraints, not every lot will be able to accommodate a pool or sport court. Swimming pools and sport courts are prohibited on slopes greater than 30 percent.
4. ~~New caretaker units may be allowed when in compliance with the following:~~
  - a. ~~It is deemed necessary or desirable to provide maintenance or other services to the property and/or facilities.~~
  - b. ~~The deciding body determines that the lot is large enough to support a second living structure.~~
  - c. ~~The maximum floor area for a caretaker unit shall be 900 square feet.~~
  - d. ~~Caretaker units shall be architecturally compatible with the main structure and shall meet all standards and guidelines applicable to the main structure.~~
  - e. ~~The lot is not part of a Planned Development or the Planned Development permits caretakers units.~~

**Guidelines:** None.

## **F. Impervious surfaces.**

**Standards:** None.

**Guidelines:**

1. Impervious surfaces should be minimized. Parking areas, walkways, patios, and similar areas should be constructed with pervious surfaces, such as pavers set in sand, natural stone, decomposed granite, gravel, and similar materials. At-grade decks constructed of sustainable decking materials can also be used in place of impervious patio materials.
2. Run off from impervious surfaces should not be directed toward areas of native trees and shrubs.



## VIII. SUBDIVISION AND PLANNED DEVELOPMENT PROJECTS

### A. Purpose and intent.

Subdivisions may be processed under the provisions of the Town of Los Gatos Zoning Ordinance as a standard subdivision or in conjunction with a Planned Development overlay zone. The maximum density of new subdivisions in hillside areas is determined by the use of a slope density formula that diminishes residential densities as the slope of the natural terrain increases.

The purpose of the PD overlay zone, as it relates to hillside areas, is to encourage the appropriate location of residential units in the least restrictive development areas of the site. The intent is to significantly reduce the amount of grading, roads, and other alterations to the existing environment, to minimize the visual impact of the development, and to retain the maximum amount of continuous open space in its natural state.

Refer to the  
Town's  
Zoning  
Ordinance

Site constraints and the implementation of the Hillside Development Standards and Guidelines may not allow a specific site to be developed to the maximum density allowed by the Zoning Ordinance.

### B. Applicability of standards.

In addition to all applicable standards and guidelines of the previous chapters, the following development standards and guidelines apply to all Planned Development applications in hillside areas.

### C. Least restrictive development areas (LRDA)

1. Hillside residential development shall preserve open space and protect significant natural features in the layout and design of streets, lots, and grading patterns in subdivisions and planned developments. Development shall be limited to the least restrictive development areas as defined below.



2. The least restrictive development areas within sub-areas 2 through 9 of the Los Gatos Hillside Specific Plan shall be defined as those areas:
  - a. Below the ridge view protection line as defined in Chapter III, Section D.3.
  - b. Outside riparian corridors,
  - c. With a 30 percent slope or less, and
  - d. Where the impact on the natural hillside environment including vegetation, wildlife corridors, cut and fill slopes, and natural watersheds is minimized.
3. Within Sub-areas 2 through 9 of the Hillside Specific Plan, development is prohibited outside the least restrictive development areas unless there is no feasible alternative.
4. The Blossom Hill Open Space Study contains a map identifying the least restrictive development area for Sub-area 1, of the Hillside Specific Plan. Development applications for property located outside sub-area 1 shall be required to map the least restrictive development areas for their individual sites

#### **D. Exceptions to development within LRDA.**

Within Sub-area 1 of the Hillside Specific Plan, development outside of the least restrictive development areas, as identified by the Blossom Hill Open Space Study, shall be prohibited except when all of the following conditions exist:

1. The development is clearly in compliance with the provisions of the Hillside Development Standards and Guidelines, Hillside Specific Plan, and General Plan.
2. Development outside of the least restrictive development areas results in minimal grading, tree removal and/or changes to the natural landscape and is more advantageous as determined by the decision making body.
3. Access to a development within a least restrictive development area can only be attained by developing a road or driveway outside a least restrictive development area.
4. Project visibility from any valley floor viewing ~~platform~~ area shall not exist or shall be significantly less than development within the LRDA.



## E. Development standards and guidelines.

Refer to the  
Town's  
Grading  
Ordinance

### 1. Site preparation.

#### Standards:

- a. Grading shall be kept to a minimum and shall be performed in a way that respects all significant natural features and visually blends with adjacent natural areas.
- b. The existing natural grade as well as the proposed final grade shall be shown on all elevations submitted with plans.
- c. Graded areas shall appear as smooth flowing contours of varying gradients, preferably with slopes of 2:1 to 5:1. Sharp cuts and fills and long linear slopes that have uniform grade should be avoided.

#### Guidelines:

- a. Grading should be avoided in areas where the slope is greater than 25 percent.
- b. Pad and terrace grading should be avoided to the maximum extent possible. However, if these techniques are used, the pad configuration should be softened with variable, undulating slopes created to give a more natural appearance (i.e. contour grading techniques – see Chapter III section A).

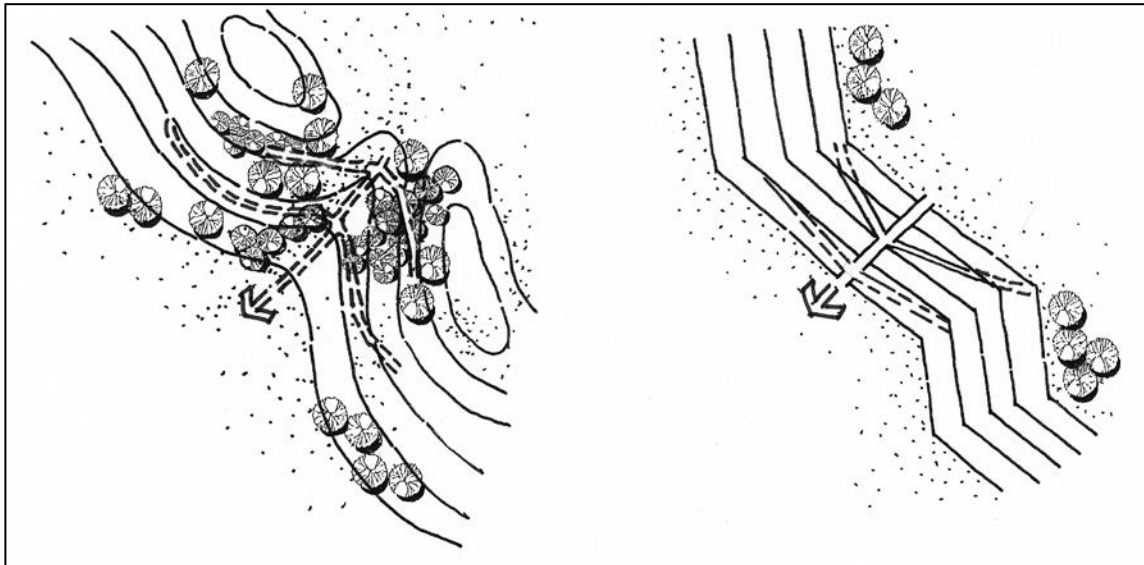
### 2. Drainage.

#### Standards:

- a. Upslope development shall not negatively impact downslope drainage.
- b. Natural drainage courses shall be preserved. Drainage features should be incorporated as an integral part of the project design in order to enhance the overall aesthetic and natural quality of the development.

#### Guidelines:

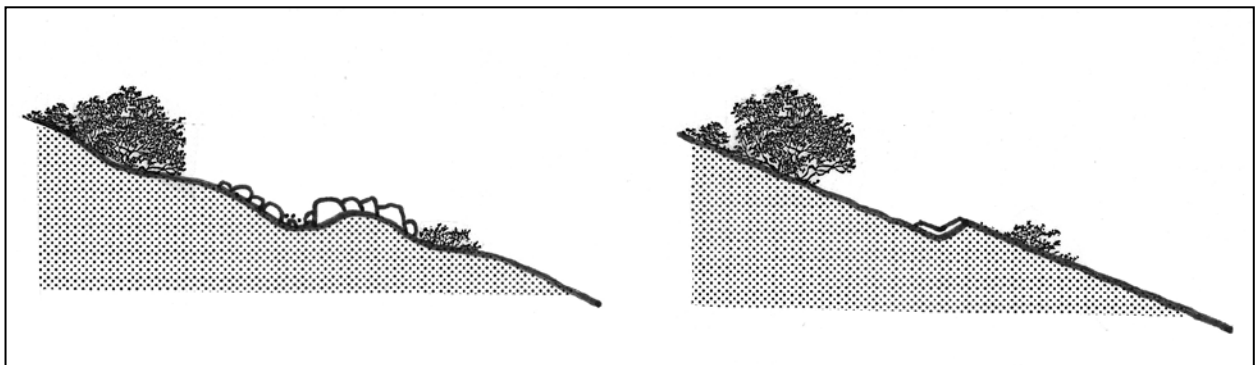
- a. Where terrace drains are required, they should follow a landform slope configuration. Down drains should be placed in the least conspicuous locations.



**Do this**

**Don't do this**

- b. Drainage channels and brow ditches should receive a naturalizing treatment including native rock and landscaping so that the structure appears as an integral part of the environment and should be placed in the least visible locations.



**Do this**

**Don't do this**

### **3. Lot configuration and building locations.**

#### **Standards:**

- a. The layout of lots shall be derived from the form of the land. The development plan shall adapt to existing topography and natural features, avoiding unnecessary alteration of landforms.





- b. Lot patterns shall offer a variety of lot shapes and sizes influenced by topography and natural features.
- c. Projects shall incorporate varied setbacks, multiple orientations, side-entry garages, and other site planning techniques to preserve open spaces, protect natural features, and reduce the monotony of repetitive designs.
- d. Building footprints shall be indicated on grading plans and shall be staked on site in order to assist in the review of proposed building locations.
- e. Graded areas shall be designed with manufactured slopes located on the uphill side of buildings, thereby hiding the slope behind the building.

### **Guidelines:**

- a. Location of development is encouraged in order to preserve environmentally sensitive areas, existing natural features and open space, and to reduce the potential for fire hazard, erosion, and excess runoff.

## **4. Street layout and driveways.**

### **Standards:**

- a. Hillside street and drainage standards shall reflect a rural rather than urban character and shall allow for special designs where natural features such as rocks, slopes, and trees require special treatment.

Refer to the  
Hillside  
Specific Plan

### **Guidelines:**

- a. Streets, driveways, parking, and emergency vehicular access should be aligned to conform, as closely as possible, to existing grades, minimizing the need for the grading of slopes. They should not greatly alter the physical and visual character of the hillside by creating large notches in ridgelines or by defining wide straight alignments.
- b. Driveways that serve more than one parcel are encouraged as a method of reducing unnecessary grading, paving, and site disturbance. Joint driveway entrances shall have street addresses for all residences using the driveway.
- c. Driveway approaches should be located to maximize on-street parking, especially on curves or cul-de-sac bulbs.
- d. Road lighting should be limited to intersections, dangerous curves, dead ends, and multi-use parking areas, and shall be installed to "cut-off" standards.



- e. Roadway and driveway graded banks should be provided with planting of grasses and native trees and shrubs, and include irrigation devices to ensure maintenance of landscaping until it is permanently established.

## **5. Trails.**

The development of a hillside trail network is an important goal of the Town of Los Gatos to increase public recreational opportunities as well as maximize access to regional parks and open space preserves.

### **Standards:**

- a. All new subdivision applications shall be reviewed for compliance with the Trails section of the Los Gatos and Santa Clara County General Plans.

Refer to the Los  
Gatos and Santa  
Clara County  
General Plans

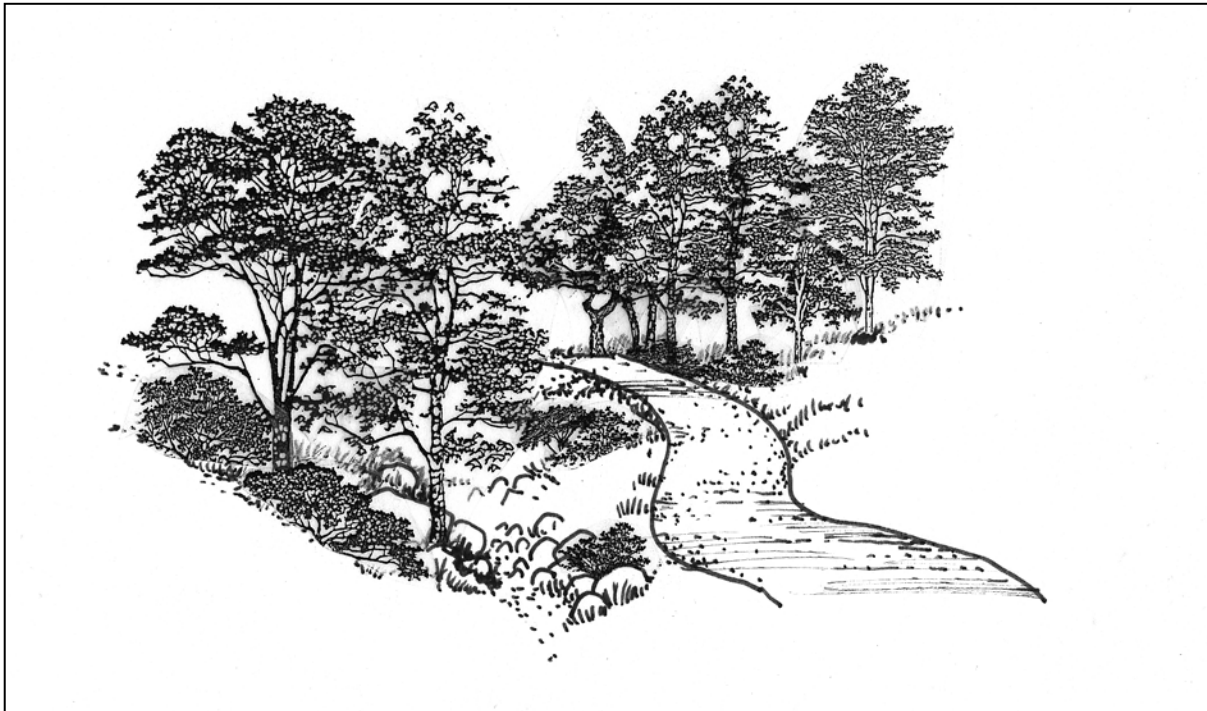
### **Guidelines:**

- a. Where possible, trail easement dedication to the Town and construction of trails shall be a condition of subdivision approval.
- b. Trails should be designed for multiple use.
- c. CC&Rs or maintenance districts should be formed so that trail maintenance expenses will be borne by property owners in the subdivision.
- d. Trails should be located away from existing residential areas wherever possible.
- e. "Cross-country" type trails should be developed, as opposed to trails bordering roads.
- f. Trails should be located through areas containing scenic natural resources as well as those dedicated for open space wherever possible.





- f. Trail design standards should be developed and included in planned development documents or subdivision plans that:
- limit trail use to pedestrian, bicycle, and equestrian use only
  - prevent use by all motorized vehicles
  - protect the natural environment
  - promote safe recreational use
  - determine appropriate width
  - establish policies regarding fencing location and type
  - incorporate erosion control measures



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## IX. PROJECT REVIEW AND APPROVAL PROCESS

### A. Architecture and Site Approval

Architecture and site approval is required for all new construction including major additions and remodels in all areas of the Town shown on the Hillside Area Map on page 8. A subdivision or Planned Development application is required for any proposed land division.

The flow chart on page 66 outlines the steps an application for architecture and site approval will go through. The process begins with a ~~preapplication~~ meeting with the Community Development Department. It is highly recommended that applicants considering the design of a new home or remodel of an existing home ~~take advantage of the preapplication meeting to~~ discuss their ideas with Town staff **before** any plans are actually drawn and money and time are expended on a project that may not be entirely feasible.

An application for architecture and site approval or subdivision shall be accompanied by a written letter of justification that describes how the proposed project complies with the General Plan, Hillside Specific Plan and the Hillside Development Standards and Guidelines.

### B. Project Approval Authority

Projects may be approved by the Planning Commission, Development Review Committee (DRC), or Director of Community Development (Director) depending on a project's potential impact on surrounding properties and the overall community.

The Planning Commission is the decision making body for projects that have the greatest potential impact, while the DRC and Director make decisions on projects with less impact, as described in Subsections ~~D, E, and F~~ 1, 2, and 3 below. ~~For projects that fall within the Planning Commission's decision making authority, the DRC shall first review the project and provide its recommendation to the Commission.~~



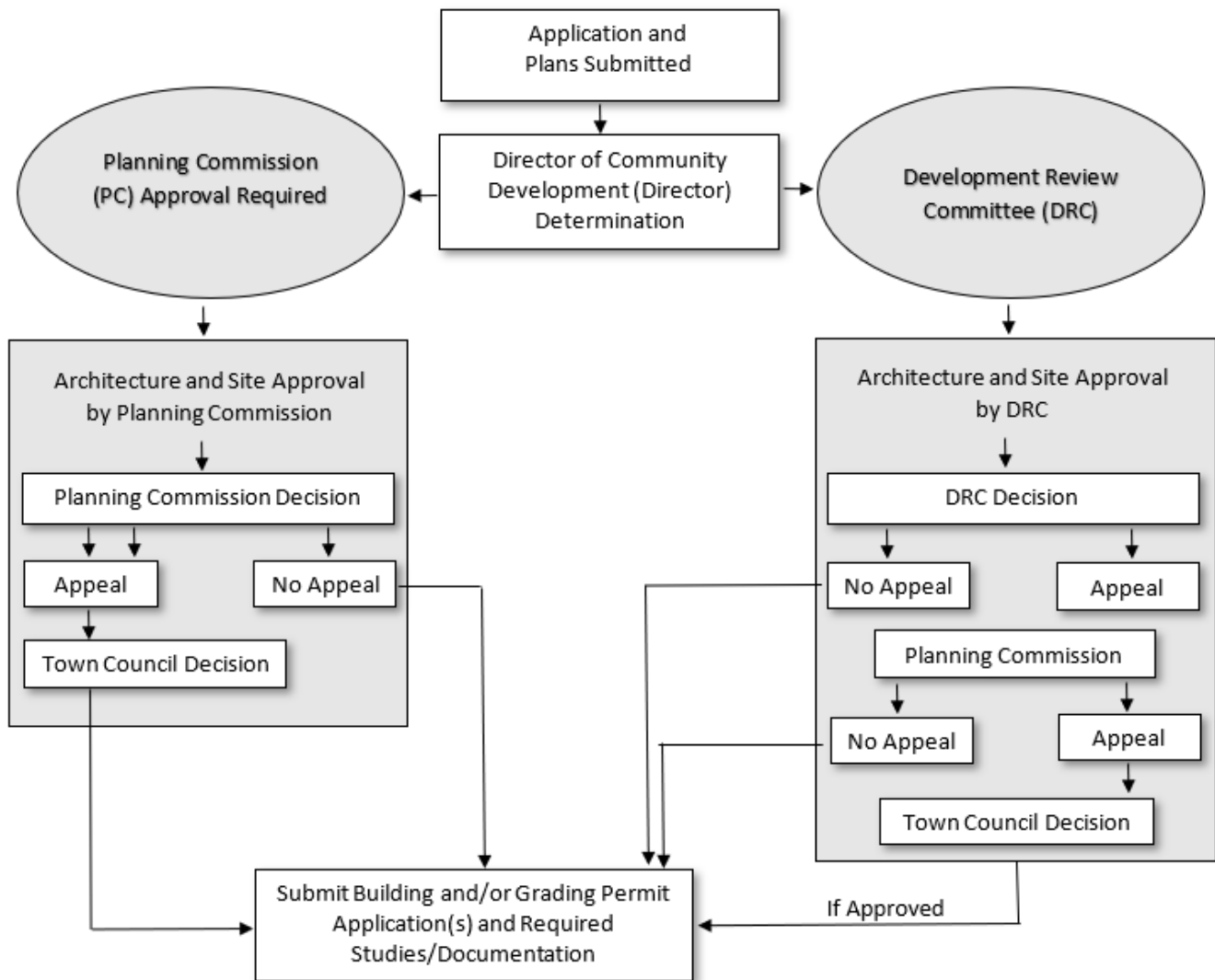
The subdivision and architecture and site approval processes are discretionary actions on the part of all decision making bodies. When reviewing projects, the decision making body may:

- (1) approve a project without imposing extra or special conditions;
- (2) approve a project and add special conditions to reduce the impact(s) of the project to an acceptable level and/or achieve compliance with these standards and guidelines; or
- (3) deny the project by stating specific reasons for its action.

The Director of Community Development may refer an application to the Planning Commission. The decisions of the Planning Commission, DRC, and Director are final unless appealed. Decisions of the Director and DRC may be appealed to the Planning Commission and decisions of the Planning Commission may be appealed to the Town Council. Appeal procedures are outlined in the Town's Zoning Regulations.



## Architecture and Site Review Process





## 1. Projects That May be Approved by the Director of Community Development

The Director has the authority to review and approve the following types of projects provided they comply with all development standards and guidelines:

- a. Accessory dwelling units pursuant to Section 29.10.320 of the Town Code.
- b. Accessory structures buildings not requiring a conditional use permit that have a combined gross floor area greater than 450, but less than 600 square feet may be approved with a Minor Residential Application pursuant to Section 29.20.480 of the Town Code.
- c. Swimming pools that do not require a grading permit.

## 2. Projects That May be Approved by the Development Review Committee

~~The Development Review Committee (DRC)~~ has the authority to review and approve the following types of projects provided they comply with all development standards and guidelines:

- a. New houses that do not exceed 5,000 square feet in gross floor area meet the allowable floor area ratio and that are not visible from any established viewing platform area.
- b. Additions over 800 square feet or greater than 20% of existing floor area provided that the house size will not exceed 5,000 square feet with the addition(s).
- c. Accessory structures buildings, except those requiring a conditional use permit that have a combined gross floor area of 600 square feet or more but do not exceed 1,000 square feet in combined gross floor area.
- d. Swimming pools and game courts requiring a grading permit and/or retaining walls.
- e. Grading permits.





### 3. Projects That Require Planning Commission Approval

The Planning Commission has the authority to approve all architecture and site projects that do not fall within the authority of the DRC or Director and any projects referred to it by the DRC or Director. ~~The Planning Commission shall be the review authority for any residential project greater than 5,000 square feet in gross floor area.~~ The Planning Commission approves standard subdivisions and makes recommendations to the Town Council on Planned Development applications.

#### C. Application Period of Validity

An approved architecture and site application shall be valid for a the period of time specified in the Town's Zoning Regulations.

#### ~~D. Subsequent Applications~~

~~Following approval of the original architecture and site review application, no subsequent applications for architecture and site approval shall be filed for the same property for a period of three years following final inspection and issuance of an occupancy permit.~~

#### E. Required findings

In addition to the considerations for architecture and site approval provided in the Town's Zoning Regulations, the decision making body shall also find that the proposed project meets or exceeds the objectives and requirements of the Hillside Development Standards and Guidelines and shall provide supportive evidence to justify making such findings.

#### F. Exceptions

Exceptions from the standards in this document may only be granted after carefully considering the constraints of the site. Any deviation from the standards contained in this document shall include the rationale and evidence to support the deviation. The burden of proof shall be on the applicant to show that there are compelling reasons for granting the requested deviation.

**Major exceptions** may only be granted by the Town Council or Planning Commission. Major exceptions include the following:

- a. building height
- b. maximum floor area

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## X. GLOSSARY

For the purposes of these Hillside Development Standards and Guidelines, the following words and phrases defined in this section shall apply.

**Access road.** A vehicular access roadway greater than or equal to 20 feet in width and serving more than two single family dwellings.

**Accessory ~~structure~~ building.** A detached ~~structure~~ building, the use of which is incidental to an allowed use of the property but which is not designed, constructed, or used for living quarters. Accessory ~~structures~~ buildings include garages, equipment sheds, barns, decks, fences, and similar nonhabitable ~~structures~~ buildings.

**Accessory dwelling unit.** A detached or attached dwelling unit. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation and is generally smaller and located on the same parcel as the primary dwelling unit. An accessory dwelling unit also includes efficiency units and manufactured homes.

(1) A detached accessory dwelling unit is physically separate from the primary dwelling unit.

(2) An attached accessory dwelling unit is physically attached to the primary dwelling unit.

**Attic.** Use definition in Attic Policy adopted under Council Resolution 2002-167, or as may be amended.

**Average slope.** The rate of vertical change of ground surface averaged over the site and expressed in percentage or degrees. Average slope is calculated as follows:

$$S = \frac{.00229 IL}{A}$$

Where:

.00229 is the conversion factor for square feet;

I = contour interval in feet;

L = combined length of all contour lines within the parcel;

A = area of parcel in gross acres.

**Balance.** The cutting and filling of a site which does not require the export or import of earth material.

**Barn.** A building designed for the storage of farm products or feed and/or for the housing of farm animals or farm equipment. To qualify for an exclusion from FAR a barn may not be habitable floor area.



**Basement.** ~~Partially below grade floor area that does not qualify as a cellar.~~

**Cellar.** ~~Use definition in Cellar Policy adopted under Council Resolution 2002-167, or as may be amended.~~

**Contour.** A line drawn on a plan which connects all points of equal elevation.

**Contour grading.** A grading concept designed to result in earth forms which resemble natural terrain characteristics. Horizontal and vertical curve variations are often used for slope banks. Contour grading does not necessarily minimize the amount of cut and fill occurring.

**Cut.** The mechanical removal of earth material.

**Cut and fill.** The excavating of earth material in one place and depositing of it as fill in an adjacent place.

**Cut-off standards.** A standard of light emission wherein light rays emanating from a source are shielded, reflected, or refracted at angles that direct and cut off the light at an angle less than 90 degrees.

**Defensible space.** Established areas where vegetation is planned and/or maintained to reduce fuel load to minimize a structure's exposure to wildfire.

**Density.** Applying to residential developments, density refers to the number of people living in a certain area, generally expressed in terms of the number of housing units per acre.

**Driveway.** A vehicular access road less than 20 feet wide and serving not more than two single family dwellings.

**DRC.** Development Review Committee (DRC).

**Effective bulk.** The effective visual bulk of a building when seen from a distance either from above or below.

**Emergency Accessway.** An approved secondary access roadway for the exclusive use of fire department apparatus.

**Erosion.** The process by which the soil and rock components of the earth's crust are worn away and removed from one place to another by natural forces such as wind and water.

**Export.** Excess earth material that is removed from a grading project and deposited off-site.

**Fill.** A deposit of earth material placed by artificial means.

**Finish grade.** The final elevation of the ground surface after development, which is in conformance with the approved plan.



**Floor area, gross.** ~~The sum of all enclosed or covered areas of a building measured to the exterior faces of the enclosing walls, columns or posts~~ The entire enclosed area of all floors that are more than four (4) feet above the proposed grade, measured from the outer face of exterior walls or in the case of party walls from the centerline, but excluding the following:

- A. Areas permanently open to the sky.
- B. Exterior areas under roof eaves, trellises, porches or cantilevered overhangs.
- C. Attics.
- D. ~~Cellars~~ Below grade square footage pursuant to Section 29.40.072 of the Town Code.
- E. Garages up to 400 square feet.
- F. Elevators and stairwells above the first floor.
- G. Barns and stables.

**Floor area ratio (FAR).** The gross floor area of a building or buildings on a lot divided by the area of the lot. The allowed floor area ratio is a numerical guide, not a goal, and may not be able to be achieved on every lot.

**Grading.** To bring an existing surface to a designed form by excavating, filling, or smoothing operations (Refer to the Town's Grading Ordinance).

**Hardscape.** All artificially produced impervious surfaces such as concrete, asphalt, pools, sport courts, and wooden decks.

**Hillside lot.** A parcel of land that is shown on the Hillside Area map (page 8) regardless of zoning district.

**Intensity of development.** The amount of development that may be placed on a site as governed by building square footage and envelope criteria, such as floor area ratio, setbacks, height, lot coverage, etc. Also see slope density formula.

**LRDA (Least Restricted Development Area).** Least restricted areas on a property where development would have a minimal impact on the natural landscape and environment.

**Manmade slope.** A manufactured slope consisting wholly or partially of either cut or filled material.

**Minimal grading.** A grading concept designed to minimize excavation and filling. Allows the movement of earth for projects such as individual building foundations, driveways, local roads, and utility excavation. The concept is associated with roads conforming closely to natural contours and with buildings being built on natural terrain.



**Natural slope.** A slope that is not manmade.

**Net lot area.** The area of a lot exclusive of rights-of-way or ingress-egress easements for public or private use.

**Ornamental landscaping.** Exotic, non-indigenous, non-naturalized plant materials.

**Pad.** A level area created by grading to accommodate development.

**Remodel.** An improvement or alteration to the exterior or interior of a building that requires a building permit.

**Ridgeline.** A line connecting the highest points along a ridge and separating drainage basins or small-scale drainage systems from one another.

**Riparian corridor.** An area comprised of habitat strongly influenced and delineated by the presence of perennial or intermittent streams.

**Scar.** A visible cut in a hillside with a slope greater than 1 1/2:1 in which all topsoil has been removed and vegetation will be unable to establish itself after a significant period of time (five years).

**Site Analysis.** A process where a homeowner meets with staff before development plans have progressed substantially to discuss potential site constraints, conceptual plans, design considerations, neighborhood compatibility, and general standards and guidelines in designing a home.

**Slope.** An inclined ground surface, the inclination of which is expressed as a ratio of the vertical distance (rise), or change in elevation, to the horizontal distance run. The percent of any given slope is determined by dividing the rise by the run, multiplied by one hundred.

**Slope density formula.** The size of lots allowed in a new subdivision based on a formula that increases the minimum lot size allowed as the slope of the site increases. See Chapter IV. Development Intensity.

**Slope transition.** The area where a slope bank meets the natural terrain or a level graded area either vertically or horizontally.

**Stable.** A building with stalls or compartments in which domestic animals are sheltered and fed.

**Viewing platforms areas.** Specific locations on the valley floor or surrounding hillsides selected as vantage points from which field observations are made to assess the visual impact of development within the Town's hillside areas.



**Visible home.** A single family residence where 25% or more of an elevation can be seen from any of the Town's established viewing ~~platforms~~ areas (see Chapter II, section B).

**West Valley Hillsides Preservation Strategies.** A document developed through a joint planning review by the Cities of Cupertino, Saratoga and Monte Sereno, the Town of Los Gatos, and the County of Santa Clara that establishes strategies to protect the scenic appearance of the west valley hillsides (available for review at the Los Gatos Community Development Department).

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A P P E A R A N C E S:

Los Gatos Planning Commissioners:	Matthew Hudes, Chair Mary Badame Kendra Burch Kathryn Janoff Tom O'Donnell Reza Tavana
Town Manager:	Laurel Prevetti
Community Development Director:	Joel Paulson
Town Attorney:	Robert Schultz
Transcribed by:	Vicki L. Blandin (619) 541-3405

1  
2 P R O C E E D I N G S:  
3

4 CHAIR HUDES: We now move to the Public Hearings  
5 portion of our agenda and we will consider Item 2, which is  
6 a Town Wide application. The applicant is the Town of Los  
7 Gatos and it's considering modifications to Chapter... This  
8 is all of the Hillside Design Standards and Guidelines, and  
9 so it's modifications to Chapter III, Chapter IV, Chapter  
10 V, Chapter VI, Chapter VIII, Chapter IX, and Chapter X.

11 I understand, Ms. Shoopman, that you'll be giving  
12 the Staff Report tonight.

13 JOCELYN SHOOPMAN: Good evening, Chair and  
14 Commissioners. The item in front of you is consideration of  
15 modifications to Chapters III through VI and VIII through X  
16 of the Hillside Design Standards and Guidelines as  
17 recommended by the Town Council Policy Committee and  
18 forwarded to you for your recommendation to the Council.  
19

20 The recommendation from the Policy Committee  
21 proposes to modify the deciding body for single-story  
22 additions over 800 square feet or greater than 20-percent  
23 of the existing floor area from the Development Review  
24 Committee to the Community Development Director.  
25

1           In addition, to modify the deciding body for  
2 homes over 5,000 square feet that do not exceed the maximum  
3 allowable floor area and are not visible from the Planning  
4 Commission to the Development Review Committee, remove the  
5 requirement that subsequent Architecture and Site  
6 Applications may not be applied for for the same property  
7 for a period of three years following the issuance of an  
8 Occupancy Permit, and to modify language regarding  
9 accessory dwelling units, viewing areas, below-grade square  
10 footage, fences, and entry gates to be consistent with  
11 previous amendments to the Hillside Design Standards and  
12 Guidelines and amendments to the Zoning Ordinance.  
13

14           This concludes Staff's presentation and we'd be  
15 happy to answer any questions.

16           CHAIR HUDES: Great. Thank you. Are there  
17 questions? I had a question. This is about process. My  
18 understanding is that by moving the approval from the  
19 Planning Commission to the DRC the approval body is  
20 changing, is that correct?

21           JOCELYN SHOOPMAN: That's correct.

22           CHAIR HUDES: So, in terms of streamlining, are  
23 any steps being taken out of the process?  
24

25           JOCELYN SHOOPMAN: No, no steps are being taken  
out of the process. The same departments, which include

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1 Building, Planning, Fire, and Engineering are all still  
2 reviewing the application and it's still being publicly  
3 noticed.

4 CHAIR HUDES: Okay. In the interest of  
5 understanding the benefits of streamlining, how often have  
6 we had appeals of this this type of a hillside development  
7 in the last five years or so?

8 JOCELYN SHOOPMAN: Are you asking if we had any  
9 appeals or how many applications we've processed?

10 CHAIR HUDES: I guess it's applications.

11 JOCELYN SHOOPMAN: Okay, so we were able to pull  
12 data from the last three years and we were able to  
13 determine that 13 new hillside homes have been applied for,  
14 seven have been greater than 5,000 square feet, five of  
15 those did go to the Planning Commission and were approved  
16 at greater than 5,000 square feet, and six applications  
17 were approved by the Development Review Committee because  
18 they were less than 5,000 square feet.

19 CHAIR HUDES: Okay. The other question I had was  
20 about on page 30, the criteria for the Planning Commission  
21 approving a residential project greater than the maximum  
22 that's allowed. Basically it states that, "The Town Council  
23 or Planning Commission may approve a project greater than  
24 the maximum when all of the following criteria apply," and  
25

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1 I'm focusing in on #8, which says, "A significant below-  
2 grade square footage element is included in the design  
3 unless it conflicts with other standards." I'm a little bit  
4 confused about this one and what this achieves, so could  
5 you explain #8 and can you explain what's achieved by it?

6 SALLY ZARNOWITZ: I'll take a stab at that, and  
7 then if the Director wants to join in he can, but the one  
8 issue would be how that is written and whether you wanted  
9 to change just the wordsmithing of it a little bit. I guess  
10 the other would be whether that would be required in order  
11 to approve that larger amount or whether that would be  
12 something that would be considered in approving the larger  
13 amount of square footage.  
14

15 CHAIR HUDES: I was just trying to understand the  
16 intention of it, because the way it's worded it appears  
17 that it would encourage or compel people to add below-grade  
18 square footage when in fact I think from some of the  
19 hearings I've been in the intention is to do a tradeoff  
20 where additional square footage is put underground rather  
21 than outside, and I'm wondering if the way this is worded  
22 it actually doesn't achieve that but encourages additional  
23 square footage to be put below-grade.  
24

25 SALLY ZARNOWITZ: Yeah, and I think that we can  
take that recommendation and look at that language before

1 taking this on to Council if that's what the Commission  
2 would like.

3 JOEL PAULSON: Through the Chair, it's difficult  
4 to know—it was 2004 I think when these were originally  
5 adopted—what the intent was. In looking at it it does seem  
6 a little bit counterintuitive in that you're asking to  
7 exceed the FAR, we want you to put a whole bunch of square  
8 footage underground, which gives you more square footage,  
9 and then we want you to increase it above from a visible  
10 mass perspective.  
11

12 Now, the one thing that could come into play is  
13 you may have an existing house that has an existing cellar  
14 and you want to add 100 square feet, 500 square feet, so  
15 you already have that cellar element and so you're looking  
16 to request that.

17 The opposite would be if someone came in and they  
18 had no cellar but they wanted to exceed the FAR. That's  
19 where we would be looking to try to get them to put that  
20 underground, which theoretically then would hopefully bring  
21 them down below the square footage, but if you want any  
22 specific language or ideas on how that should be worded the  
23 other option is that that could be removed if that's of  
24 interest from the Commission.  
25

1 CHAIR HUDES: Well, when we get to deliberating  
2 I'll think about maybe some different language, because I  
3 don't know that it's accomplishing what the intention is as  
4 it's worded. Just it strikes me that the wording may not  
5 achieve that.

6 Are there any questions further of Staff? Okay,  
7 then I will close the applicant's portion, and I have no  
8 cards from the public, so the public portion of the hearing  
9 is closed as well and we'll move into discussion,  
10 deliberations, and perhaps a motion. Any comments from  
11 fellow commissioners on this? Commissioner Badame.  
12

13 COMMISSIONER BADAME: I would agree with the  
14 Chair's recommendation. I would go along with some type of  
15 change to what he's suggesting. I wouldn't know what that  
16 might be but it seems to me it is counterintuitive there.

17 CHAIR HUDES: The thought that I had was that if  
18 we're really trying to encourage a tradeoff so that  
19 additional square footage is put underground then maybe we  
20 just state that so that it's encouraged to put any square  
21 footage that would be beyond the FAR to be located  
22 underground if possible. That just seems a little more  
23 straightforward. Commissioner O'Donnell.  
24

25 COMMISSIONER O'DONNELL: That's not what it says  
though. It's not even close, I think, to what it says, so

1 if you want to add some new concept I guess that would be  
2 fine but I think your original comment that this really  
3 doesn't make a lot of sense is true, and if I understand  
4 the rejoinder was yeah, it happened a long time ago and  
5 we're just trying to clean it up a little bit, but if you  
6 don't like it you can take it out.

7           It's never been our attitude that if you put a  
8 basement in that's great because now you put more above. I  
9 remember many discussions where we said you've got this  
10 huge basement, but you haven't reduced the size of the  
11 house at all, and that was the original intent, so this  
12 language, I think, is better gone than there, and your  
13 comment may be a good comment but I don't think it has  
14 anything to do with #8.

16           CHAIR HUDES: Well, actually, I didn't finish my  
17 thought, but my thought would be that the language that's  
18 in there would be removed and the language that I suggested  
19 would be added to encourage people if they do need to go  
20 beyond the FAR to put it underground.

21           COMMISSIONER O'DONNELL: So, it would be...

22           CHAIR HUDES: I wouldn't make it a requirement as  
23 it is today, one of the eight that has to be (inaudible).

24           COMMISSIONER O'DONNELL: But there's no  
25 inhibition at the moment preventing them from putting in a



1 bigger basement. The thought again here is two things are  
2 happening. One, we're talking about the basement or cellar  
3 area, and two, we're talking about the above ground area.  
4 Your comment, if I understand it correctly, deals only with  
5 the underground comment. In other words, you don't get any  
6 bonus points for putting in a bigger basement, which I  
7 agree with you on, although originally the concept was we  
8 could say to people, "Why are you building such a big house  
9 when you've got a 2,000 square foot subterranean portion of  
10 the house?" and then we'd argue about that, but what you're  
11 suggesting we put in, I'm just not sure why we need that.

12  
13 COMMISSIONER JANOFF: Could we just get a reread?  
14 Because I'm not sure I heard what...

15 CHAIR HUDES: Okay, so what I'm saying is that I  
16 think #8 may encourage development that we don't want, so  
17 my suggestion, as Commissioner O'Donnell said, would be to  
18 strike #8.

19 Additionally, my thought was that since the  
20 concept isn't addressed elsewhere that if an applicant  
21 requires more than the allowable floor area ratio, to  
22 consider putting it below grade instead of asking for an  
23 exception to the requirement.

24  
25 COMMISSIONER O'DONNELL: And I guess all I'm  
saying is wouldn't that... We would hope that would occur to

1 somebody, because if you stand pat on what you're going to  
2 grant above ground and they have an architect or somebody  
3 who knows what's going on they would tell them, "You can  
4 have a bigger basement."

5 CHAIR HUDES: Right. So, basically you're saying  
6 it's not necessary to make that a statement?

7 COMMISSIONER O'DONNELL: That's what I think,  
8 yeah.

9 CHAIR HUDES: Right, okay. Commissioner Janoff.

10 COMMISSIONER JANOFF: I agree that it could be  
11 struck from the list of... Because you don't really want to  
12 encourage that as a requirement for approval, but I do  
13 think it makes sense to cover it elsewhere, and what I was  
14 thinking might be... Because what we're talking about is  
15 offsetting above-ground square footage but varying it, not  
16 adding to, so I would just simply say, "A significant  
17 below-grade square footage element is included in  
18 (inaudible) to offset above-ground square footage," and put  
19 that as a separate statement somewhere—I'm not sure where  
20 it would be appropriate—but make it a separate objective  
21 for hillside structures.

22 CHAIR HUDES: And you're suggesting that it be  
23 removed as one of the criteria for allowing the Commission  
24 to decide whether to go over the FAR?

25  
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1 COMMISSIONER JANOFF: Yes.

2 JOEL PAULSON: Through the Chair?

3 CHAIR HUDES: Yes.

4 JOEL PAULSON: I guess the only thing that comes  
5 to mind for that is if someone does decide to put that  
6 square footage underground they no long will be exceeding  
7 the FAR. So, we can look at where that language should go  
8 to kind of encourage that rather than going through this  
9 process of exceeding the FAR.  
10

11 SALLY ZARNOWITZ: And also through the Chair,  
12 there is some language under Bulk and Mass that talks about  
13 excavate or use below-grade rooms to reduce effective bulk,  
14 so it looks like there are some recommendations there.

15 CHAIR HUDES: What page is that?

16 SALLY ZARNOWITZ: That is on page 38 of the  
17 Design Guidelines.

18 CHAIR HUDES: And which one is that? Oh, that's  
19 K? Yeah. Is that sufficient do you think, Commissioner  
20 Janoff?

21 COMMISSIONER JANOFF: I would say not because it  
22 doesn't specifically address square footage and so this  
23 could be the place where that language is inserted, but I  
24 would say as it reads now we're still missing that concept  
25 of the offset, go below to get the square footage.

1 CHAIR HUDES: Commissioner O'Donnell.

2 COMMISSIONER O'DONNELL: I'm not sure it's our  
3 job to tell (inaudible) so what we're saying is you can't  
4 do it that way but you could do it this way. I just don't  
5 know why. If you read it you know that's the case. Do we  
6 have to say come look at this, you can make a bigger house,  
7 here's how you do it? Why do we want to do that?

8 CHAIR HUDES: Commissioner Janoff.

9  
10 COMMISSIONER JANOFF: I'm relatively new on the  
11 Planning Commission but I have yet to see an application  
12 where we've seen a hillside design that doesn't try to  
13 exceed in every possible square or otherwise corner of the  
14 structure to maximize well beyond what is proposed, so I  
15 think it's reasonable. If the intent of the guideline or  
16 the intent of the Planning Commission or the Town at this  
17 time is to try to minimize the above-ground square footage  
18 it is reasonable to include language that says that.

19 COMMISSIONER O'DONNELL: I don't think your  
20 proposal says that, but I don't see harm in it. To me we're  
21 telling people what the limits are and if we did that, what  
22 we've done each time is somebody comes in with a big  
23 basement and they still want to get, typically, every  
24 square foot they could possibly get, and then somebody-of  
25 us-gets up and says gee whiz, the idea of the basement was

1 to take away from the bulk and mass. Nobody pays any  
2 attention to that and typically we approve it.

3 Now, adding this little thought you have is fine,  
4 nothing wrong with it, but I'm not exactly sure why we want  
5 to do that because we haven't...in my recollection we've said  
6 that every time: If you've got a big basement you don't  
7 need that in the house. I can't tell you statistically how  
8 many we've approved but I think a lot, so if you put it in  
9 we're saying gee whiz, would you please think again about  
10 the basement, and I'm just saying that's nice but anybody  
11 who has appeared before us or read our rules kind of knows  
12 that, but if you want to highlight it there's nothing wrong  
13 with it if you highlight it.  
14

15 CHAIR HUDES: We're at a point where maybe we  
16 should either entertain a motion with specific language or  
17 a motion to drop #8. I wonder if people have thoughts about  
18 whether we should continue and try to work the language  
19 now. Commissioner O'Donnell.

20 COMMISSIONER O'DONNELL: I think we could divide  
21 that into two parts. I think probably we're all in  
22 agreement that #8 should just be deleted, because the  
23 discussion now is not about that sequence but to put it  
24 someplace else, so I'd like to make a motion just on that  
25 one point, and that motion would be that we strike the

1 proposed section or paragraph #8 and then simply change the  
2 numbering and #9 of course would become #8, so that's the  
3 motion.

4 CHAIR HUDES: Okay. Do we have a second?  
5 Commissioner Badame.

6 COMMISSIONER BADAME: Second.

7 CHAIR HUDES: Discussion? Okay, all in favor? It  
8 passes unanimously 6-0. The second thing is is there  
9 specific language? I didn't come prepared with specific  
10 language as you can see, and I don't know whether anyone  
11 else would like to take a try at specific language talking  
12 about the tradeoff. Okay, I think we may have other  
13 opportunities to deal with this in the future, so I think  
14 we can move to further discussion of this item. Are there  
15 other points that people would like to bring up?

16 Commissioner Badame.

17 COMMISSIONER BADAME: I would just like to say  
18 that we're just forwarding a recommendation to Town  
19 Council, so it could be that along the way Staff or Council  
20 also has an opportunity to refine some wording on this  
21 particular issue.

22 CHAIR HUDES: Okay. The other point that I wanted  
23 to raise as part of the recommendation is my concern about  
24 removing the Planning Commission review of applications. As  
25

1 I asked the question earlier, I don't think it achieves an  
2 objective of streamlining because there is still the  
3 hearing, there is still a notice, it's just the hearing  
4 shifts from Planning Commission to DRC, and there are  
5 compelling reasons to have certain items heard by a  
6 Planning Commission as compared to Staff, and in my mind  
7 one of the primary objectives that's achieved when you  
8 bring it to a hearing such as a Planning Commission is  
9 visibility and transparency.  
10

11 It isn't about the power of the Planning  
12 Commission, it's about the visibility that residents have  
13 to what's going on, and yes, they can attend a DRC meeting.  
14 A DRC meeting is typically at 10:00 o'clock on a weekday  
15 and given the number that we've heard of applications that  
16 met the criteria of going to Planning Commission—I believe  
17 it was 13 or so—that to me is limiting visibility to these  
18 things, and frankly, limiting some of the debate and  
19 discussion that goes on.  
20

21 It's doesn't achieve streamlining really, because  
22 it's still the same step. It's a hearing that's noticed,  
23 it's just a hearing before the Planning Commission that is  
24 being moved to a hearing before the DRC. Commissioner  
25 O'Donnell.

1                   COMMISSIONER O'DONNELL: I think that same  
2 comment can be made about every document we're going to  
3 look at tonight. It's clear that somebody would like to  
4 remove the Planning Commission from as much as possible  
5 with the theory being it will be faster if those guys  
6 aren't involved. That may be true, but your comment, I  
7 think, to a Planning Commissioner is persuasive.

8                   I like the concept that the public can  
9 participate, and I do think it's very difficult to show up  
10 at 10:00 or 10:30 in the morning, and when I read the  
11 minutes of what goes on at 10:00 or 10:30 in the morning  
12 almost nobody ever says anything and nobody ever shows up  
13 except the people who are directly involved.

14                   To me it's a fundamental issue. We serve at the  
15 pleasure of the Council and the Council gets to draft the  
16 rules, and if the Council says we'd like you guys to do  
17 very little, they can say that, but this is sort of like  
18 death by a thousand cuts and this whole thing tonight is  
19 about how can we get the Planning Commission out? We're  
20 going to really speed it up because we're going to have in  
21 many cases one person make the designation and no hearing  
22 is required but it can be appealed.

23                   It doesn't bother me that much. Maybe that's  
24 because I'm almost finished here, but that's the whole  
25



1 point of tonight, and as I said, I happen to believe the  
2 Planning Commission allows people to get their comments in.  
3 It could be slower, but it isn't slower in the one instance  
4 you're talking about. But some of these we'll look at it  
5 doesn't go to a committee, in fact it takes away from that  
6 committee too and gives to Joel is what it really does. I'm  
7 not sure he's looking for that but he'll be stuck with it,  
8 and I don't know how that helps the public, the theory  
9 being that somehow things are so slow around here that they  
10 have to be speeded up, and I'm sure the Staff can tell me  
11 why things are so slow around here. I haven't observed that  
12 but I'm sure there must be a lot of war stories, and if  
13 those war stories suggest if only the Planning Commission  
14 wasn't involved we wouldn't have these problems, I've never  
15 heard that argument, but it sure would be nice if we did  
16 hear that argument, because that's what this is all about.

18 CHAIR HUDES: I maybe want to just add one other  
19 point. Having now been involved in the Planning Commission  
20 for almost four years and having been involved in other  
21 Town committees and commissions I realize that we're at a  
22 point in time of a heritage and legacy of people caring  
23 about this town, and yes, things can get changed by the  
24 current council. A policy committee of two people, yes, can  
25 have a big impact, but there are many people over years who

1 put a great deal of effort and thought into our Hillside  
2 Design Guidelines and Standards, and the public remembers  
3 that and the public shows up for these hearings often  
4 because they care about what is going on in the hillsides,  
5 and so I am reluctant to make a change easily to the  
6 process that has served the Town well.

7 I think the Town is really exemplary in the way  
8 we treat the hillsides. We treat things differently than  
9 many other towns, having looked at many ordinances where  
10 they don't distinguish; we do, and there's been a lot of  
11 care and thought put into the process, so for that reason,  
12 again, I would be reluctant to make a change to a process  
13 that served the Town well and doesn't seem to really add  
14 very much to streamlining.

16 JOCELYN SHOOPMAN: Pardon me. Just to aid in your  
17 discussion of this, there are some differences too in the  
18 Architecture and Site Application either reviewed by the  
19 Planning Commission or the Development Review Committee,  
20 and that's the cost of the application and the length of  
21 time. So, applications that are reviewed by the Development  
22 Review Committee are typically approximately \$3,700 less  
23 than being reviewed by the Planning Commission and can take  
24 about two months less time to process when they're reviewed  
25 by the Development Review Committee.

1 CHAIR HUDES: Thank you, and just as a follow up,  
2 what is \$3,700 less? What is the total that we're talking  
3 about?

4 JOCELYN SHOOPMAN: The total for an Architecture  
5 and Site Application to be reviewed by our Development  
6 Review Committee is \$10,071.03, and by the Planning  
7 Commission it's \$13,713.99.

8 CHAIR HUDES: Thank you. Yes, Commissioner  
9 Badame.

10 COMMISSIONER BADAME: Okay, so devil's advocate  
11 on the flip side here, if the Town likes revenue why do we  
12 want to reduce our revenue by reducing these associated  
13 costs? Just throwing that out there.

14 CHAIR HUDES: Okay. Let me go to Commissioner  
15 Janoff.

16 COMMISSIONER JANOFF: Just a clarification from  
17 Staff, please. As I read the modification it's fairly  
18 narrow, it's over 5,000 square feet but still within the  
19 maximum allowable floor area and it's not visible. When you  
20 mentioned that there were, I believe, 13 applications that  
21 came before the Planning Commission, did they meet that  
22 criteria or were they just hillsides over 5,000 square  
23 feet? I mean, I can't think of one that wasn't visible, so  
24 I'm just not sure what that number was.  
25

1           SALLY ZARNOWITZ: The 13 applications, this was  
2 just a snapshot in time, that's all of the Architecture and  
3 Site Applications for a new hillside home, so that's just  
4 to say within these three years 13 of those types of  
5 applications came in. Not all of those were over 5,000  
6 square feet; seven of the 13 were actually over 5,000  
7 square feet.

8           And then in that same period of time we looked at  
9 how many applications for new homes in hillside over 5,000  
10 that the Planning Commission saw, and that was five, and  
11 then how many under did DRC see, and that was six, so  
12 roughly half as they come in are either over or below 5,000  
13 square feet, the 30,000 foot level.

14           COMMISSIONER JANOFF: Okay, and just to clarify,  
15 the Planning Commission would still see applications that  
16 are visible?  
17

18           JOCELYN SHOOPMAN: Yes, if it was determined to  
19 be a visible home the way the guidelines define it, it  
20 would be reviewed by the Planning Commission.

21           COMMISSIONER JANOFF: And, forgive me, there's no  
22 change to that? There's a change from viewing platform to  
23 viewing area in the associated papers that we have, but no  
24 change to the notion that there's an area from which you  
25 can view these properties?

1 JOCELYN SHOOPMAN: No change to that.

2 CHAIR HUDES: Commissioner O'Donnell.

3 COMMISSIONER O'DONNELL: Okay, so what I've heard  
4 now is in one way it will be more efficient, is it will  
5 save the applicant roughly \$3,000, and the other way is it  
6 takes two months longer, sort of minimum it takes two  
7 months longer, so the applicant will benefit by an amount  
8 of money and the time, so I can see how that would be...I  
9 accept that as the case.  
10

11 I guess the only issue is when you use those  
12 objective standards on a fairly subjective thing, which is  
13 the approval of Architecture and Site and that kind of  
14 thing, it isn't a calculation of numbers that you add up  
15 and there it is, it's when you look at it and you listen to  
16 the public and you decide whether that's what you really  
17 want, so I would argue with the fact that you'll save  
18 \$3,000 on some of these applications, and it will shorter.

19 I guess the real question is are the  
20 distinguishing factors where you're going to save that  
21 enough to make sure that the public gets enough input?  
22 Because as I said before, maybe you have different  
23 experience with the I think it's 10:30 in the morning—it  
24 might be 10:00—whenever I read the minutes there's almost  
25 nobody there and it takes about four minutes before a

1 unanimous motion is made and it's approved. So, that's  
2 fine, that's very efficient, but if you weigh that against  
3 the consideration by seven people who have different jobs  
4 to do, is there a tradeoff? Because that's what we're  
5 dealing with, and personally when I went through all of  
6 these things the overarching message I got was the best way  
7 to solve this stuff is to have fewer people involved, and  
8 that kind of makes sense, because they said if we don't  
9 have the Planning Commission involved that ought to speed  
10 things up and save money, and then your other committee if  
11 we get rid of those guys and we have it all decided by  
12 Joel, that's going to save time and save money. That's kind  
13 of where we are, and if that's the case we can have a  
14 fairly short night.

16 CHAIR HUDES: Well, we are just considering the  
17 first item.

18 COMMISSIONER O'DONNELL: I know, but it's all the  
19 same.

20 CHAIR HUDES: Personally, I do see some  
21 differences and I in fact don't have issues with some of  
22 the other ones, but this one in particular came really to  
23 my attention and it was just me recalling the hearings that  
24 we've had, the input from the neighbors and from the Town,  
25 and often we have people who come and speak about these who

1 are not noticed, because the hillsides are a treasure of  
2 the whole town and so people look at the Planning  
3 Commission agenda and they say, "I think I need to come and  
4 talk about this one," and I think we've had quite a bit of  
5 that. Now, they could do that at the DRC, they could, but  
6 the hearing is a different kind of a hearing, and I am  
7 reluctant to make that change given the investment that the  
8 Town has in the hillsides and the process that I think  
9 served us well.

10  
11 So, I'm prepared to make a motion on this, unless  
12 folks have other points.

13 COMMISSIONER O'DONNELL: It's clear that all  
14 we're doing is making a recommendation, right? So, your  
15 comment would go to whether or not we recommend that  
16 approval?

17 CHAIR HUDES: Yes.

18 COMMISSIONER O'DONNELL: Okay, that's fine.

19 CHAIR HUDES: Commissioner Janoff.

20 COMMISSIONER JANOFF: I would just ask that the  
21 motion... In making a motion I know the concerns that the  
22 Planning Commission has voiced will be heard by the Town  
23 Council, but I think it's useful to summarize the salient  
24 concerns in a motion.  
25

1 CHAIR HUDES: Okay, I'll try, and then if someone  
2 would like to second and help me out, I'd appreciate that  
3 as well.

4 I move that we forward a recommendation to  
5 approve the changes in Item 2, modifications to Chapters  
6 III, IV, V, VI, VIII, IX, and X as written with two  
7 exceptions: One is to strike on page 30 Item 8, and the  
8 second change is to leave in place the current language  
9 about the approval process for hillside development  
10 applications.

11  
12 So, that's the heart of the motion and I would  
13 add to that that I have difficulty in finding compelling  
14 evidence that this would make very much of a streamlining  
15 difference, but that it would in fact result in a loss of  
16 visibility and transparency on hillside developments. So,  
17 that's where I'm going to stop. Would anyone like to  
18 comment or second?

19 COMMISSIONER O'DONNELL: I'll second.

20 CHAIR HUDES: Okay, Commissioner O'Donnell  
21 seconds. Any further comments? Commissioner Badame.

22 COMMISSIONER BADAME: I'm in agreement, so I will  
23 be supporting the motion.

24 CHAIR HUDES: Any other comments?

25 JOEL PAULSON: Through the Chair?

LOS GATOS PLANNING COMMISSION 8/14/2019  
Item #2, Modifications to the  
Hillside Design Standards and Guidelines



1 CHAIR HUDES: Yes?

2 JOEL PAULSON: You stated that the changes that  
3 were proposed in Chapter 9 related to Development Review  
4 Committee. There's more than just the 5,000 square foot.  
5 Did you intend to mean all of the changes you don't agree  
6 with or just the homes over 5,000?

7 CHAIR HUDES: What page are you talking about?

8 JOEL PAULSON: Pages 66 and 67 have a number of  
9 changes to deciding bodies. The one that you've been  
10 talking about is the homes over 5,000 square feet going to  
11 the Planning Commission, but there a number of other  
12 changes moving from DRC to Building Permit, for instance,  
13 which is the Director of Community Development, so I wanted  
14 to make sure we have the distinction of are you talking  
15 about all of those or just specifically the 5,000 square  
16 foot homes?

17 CHAIR HUDES: Just specifically the 5,000 square  
18 foot homes.

19 JOEL PAULSON: Thank you. Commissioner Tavana.

20 COMMISSIONER TAVANA: I was just going to say I  
21 think you summed it up very nicely and I'll be supporting  
22 the motion.  
23  
24  
25

1 CHAIR HUDES: Okay, I'll call the question. All  
2 in favor? Opposed? Passes unanimously 6-0. There's no  
3 appeal, because this is a recommendation, correct?

4 SALLY ZARNOWITZ: That is correct.  
5  
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**TOWN COUNCIL – November 5, 2019**  
**REQUIRED FINDINGS FOR:**

**Town Code Amendment Application A-19-007**

Consider amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding demolition regulations.

**FINDINGS**

**Required Findings for CEQA:**

- It has been determined that there is no possibility that this project will have a significant impact on the environment; therefore, the project is not subject to the California Environmental Quality Act, Section 15061 (b)(3).

**Required Findings for General Plan:**

- The proposed amendments to Chapter 29 of the Town Code regarding demolition regulations are consistent with the General Plan.

ATTACHMENT 3

**RESOLUTION 2019-**

**RESOLUTION OF THE TOWN COUNCIL  
OF THE TOWN OF LOS GATOS APPROVING AMENDMENTS  
TO CHAPTER III (SITE PLANNING), CHAPTER IV (DEVELOPMENT INTENSITY),  
CHAPTER V (ARCHITECTURAL DESIGN), CHAPTER VI (SITE ELEMENTS),  
CHAPTER VIII (SUBDIVISION AND PLANNED DEVELOPMENT PROJECTS),  
CHAPTER IX (PROJECT REVIEW AND APPROVAL PROCESS),  
AND CHAPTER X (GLOSSARY) OF THE HILLSIDE DEVELOPMENT  
STANDARDS AND GUIDELINES**

**WHEREAS**, the Hillside Development Standards and Guidelines (HDS&G) were adopted by the Town Council in January 2004; and

**WHEREAS**, on February 26, 2019, the Town Council Policy Committee held a public hearing to consider possible streamlining opportunities that relate to the land use process and costs for businesses and residences. The Committee continued the matter to March 28, 2019 and directed staff to bring back HDS&G regulations for further discussion; and

**WHEREAS**, staff prepared draft modifications for the Town Council Policy Committee's consideration; and

**WHEREAS**, on March 28, 2019, the Town Council Policy Committee held a public hearing to consider modifications to Chapter IV (Development Intensity) and Chapter IX (Project Review and Approval Process) of the HDS&G and provided direction to staff to modify language in all chapters of the HDS&G to be consistent with previous HDS&G amendments and recent amendments to the Zoning Ordinance; and

**WHEREAS**, this matter was regularly noticed in conformance with State and Town law and came before the Planning Commission for public hearing on August 14, 2019; and

**WHEREAS**, on August 14, 2019, the Planning Commission held a public hearing to consider modifications to Chapter III (Site Planning), Chapter IV (Development Intensity), Chapter V (Architectural Design), Chapter VI (Site Elements), Chapter VIII (Subdivision and Planned Development Projects), Chapter IX (Project Review and Approval Process), and Chapter X (Glossary) of the HDS&G. The Planning Commission recommended that the Town Council

ATTACHMENT 4

approve the modifications with changes to Chapter V (Architectural Design), Chapter IV (Development Intensity), and Chapter IX (Project Review and Approval Process); and

**WHEREAS**, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on November 5, 2019; and

**WHEREAS**, the Town Council finds that the modifications are consistent with the General Plan and its Elements and that the modifications are exempt from the California Environmental Quality Act, Section 15061 (b)(3).

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Town Council of the Town of Los Gatos adopts the modifications to Chapter III (Site Planning), Chapter IV (Development Intensity), Chapter V (Architectural Design), Chapter VI (Site Elements), Chapter VIII (Subdivision and Planned Development Projects), Chapter IX (Project Review and Approval Process), and Chapter X (Glossary) of the HDS&G, attached hereto as Exhibits A through G.

2. The decision constitutes a final administrative decision pursuant to Code of Civil Procedure section 1094.6 as adopted by section 1.10.085 of the Town Code of the Town of Los Gatos. Any application for judicial relief from this decision must be sought within the time limits and pursuant to the procedures established by Code of Civil Procedure section 1094.6, or such shorter time as required by state and federal Law.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 5<sup>th</sup> day of November, 2019, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_



### III. SITE PLANNING

The intent of this section is to insure that new development fits into the topography with minimum impacts to the site physically and visually.

Refer to the  
Town's  
Grading  
Ordinance

#### A. Grading.

A grading permit shall be obtained as required by the Town's Grading Ordinance. Vegetation removal may qualify as grading.

#### Standards:

1. The following cut and fill criteria are intended to ensure that new construction retains the existing landform of the site and follows the natural contours.

Cuts and fills in excess of the following levels are considered excessive and contrary to the objectives of the Hillside Design Standards and Guidelines. Grade to the minimum amount necessary to accommodate buildings and to site structures consistent with slope contours. These are maximum numbers and may be reduced by the deciding body if the project does not meet other grading standards or is not consistent with the goals and objectives of the Hillside Development Standards and Guidelines.

**Table 1**  
**Maximum Graded Cuts and Fills**

Site Element	Cut*	Fill*
House and attached garage	8'**	3'
Accessory Building*	4'	3'
Tennis Court*	4'	3'
Pool*	4'***	3'
Driveways*	4'	3'
Other (decks, yards) *	4'	3'

\* Combined depths of cut plus fill for development other than the main residence shall be limited to 6 feet.

\*\* Excludes cellars below grade square footage pursuant to Section 29.40.072 of the Town Code.

\*\*\* Excludes excavation for pool.

2. Earthwork quantities (grading) shall be categorized as follows:
  - a. access: driveway, parking and fire turnaround, if applicable
  - b. house footprint
  - c. cellars below grade square footage pursuant to Section 29.40.072 of the Town Code

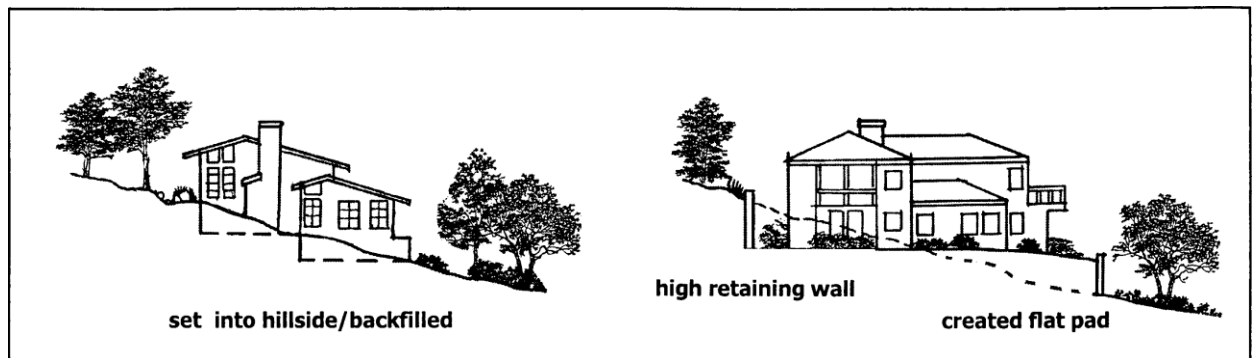


## TOWN OF LOS GATOS

### HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES

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- d. other areas including landscaping, hardscape and outdoor spaces
  - e. total
3. Buildings shall be located in a manner that minimizes the need for grading and preserves natural features such as prominent knolls, ridgelines, ravines, natural drainage courses, vegetation, and wildlife habitats and corridors to the maximum extent possible.
  4. Unless specifically approved by the Town, strip grading for the purpose of clearing land of native vegetation is prohibited except for small areas adjacent to buildings, access drives, and parking areas.
  5. Graded areas shall not be larger than the area of the footprint of the house, plus that area necessary to accommodate access, guest parking, and turnaround areas.
  6. After placing development the site shall be restored as closely as possible to its original topography.



**Do this**

**Don't do this**

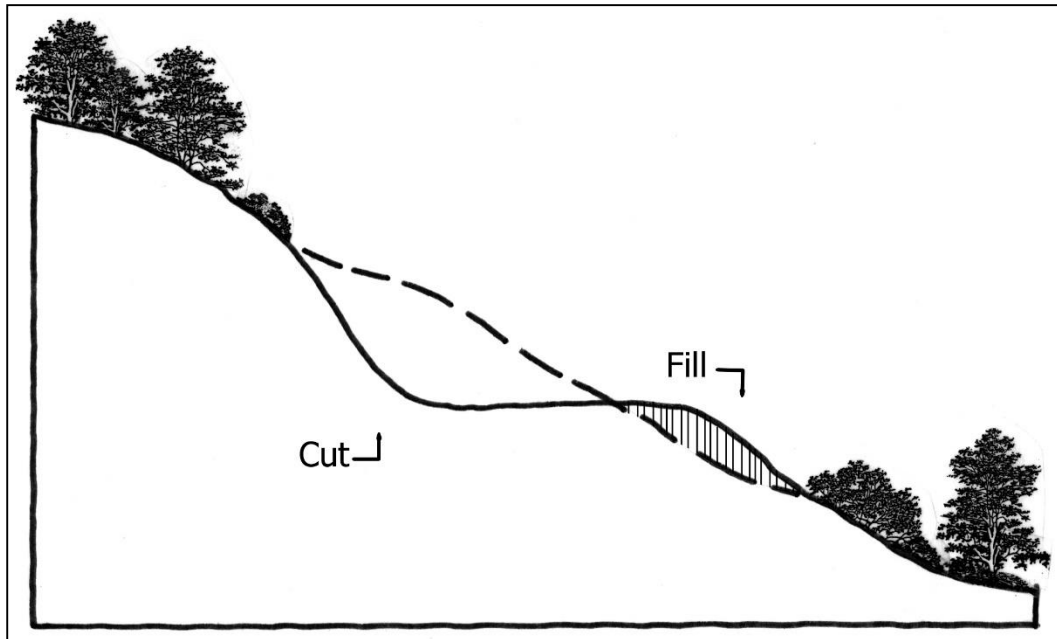
7. Contour grading techniques shall be used to provide a variety of both slope percentage and slope direction in a three-dimensional undulating pattern similar to existing, adjacent terrain. The following concepts shall be utilized:
  - a. Hard edges left by cut and fill operations shall be given a rounded appearance that closely resembles the natural contours of the land.





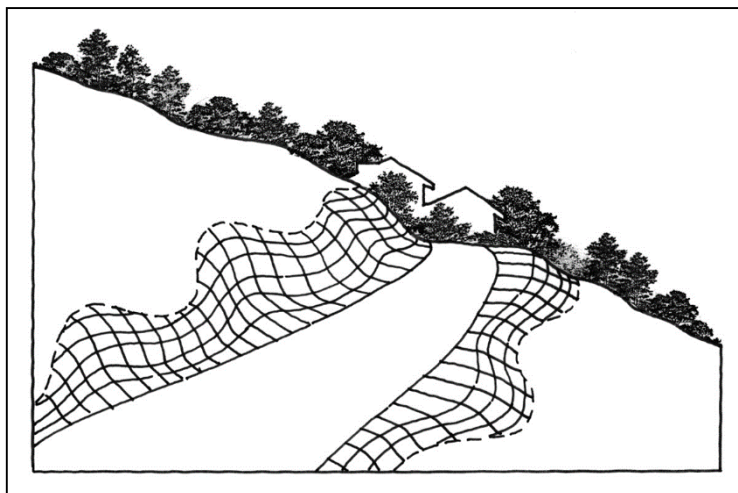
**TOWN OF LOS GATOS**  
**HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES**

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**Rounded edges resemble natural slope**

- b. Manufactured slopes adjacent to driveways and roadways shall be modulated by berming, regrading, and landscaping to create visually interesting and natural appearing streetscapes. However, preservation of trees and elimination of retaining walls is a priority.



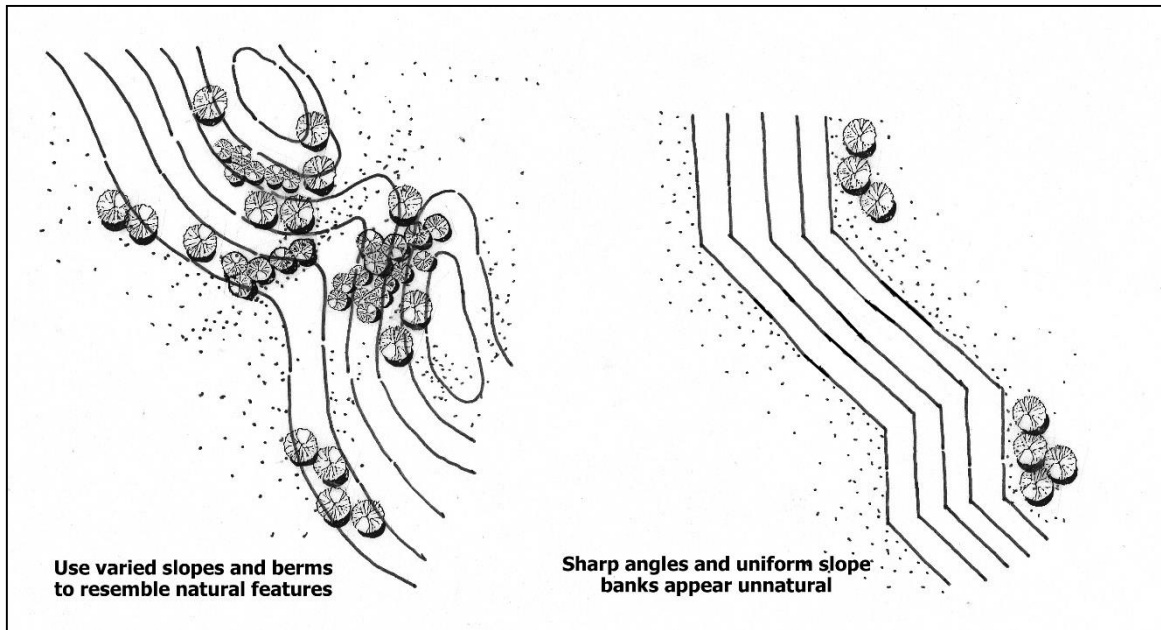
**Modulate manufactured slopes to appear natural**



**TOWN OF LOS GATOS**  
**HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES**

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- c. Where cut and fill conditions are created, slopes shall be varied rather than left at a constant angle, which creates an unnatural, engineered appearance.



**Do this**

**Don't do this**

- d. The angle of any graded slope shall be gradually transitioned to the angle of the natural terrain. Creation of new grades slopes, significantly steeper than local natural slopes should be minimized.
8. Grading plans shall include provisions for restoration of vegetation on cuts and fills. All manufactured slopes shall be planted with native, fire-resistant, low water using plantings to control erosion.
9. An erosion/sedimentation control plan shall be included with all site plans and/or grading plans. The erosion/sedimentation control plan shall provide interim (during construction) and ultimate plans for control of erosion and sedimentation or describe in detail why this is not necessary.
10. Grading shall not occur during the rainy season (October 1 to April 1) unless approved by the Town Engineer. If grading is planned to occur between October 1 and April 1, interim provisions for erosion and sedimentation control shall be in place before grading begins.



## TOWN OF LOS GATOS

### HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES

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#### Guidelines:

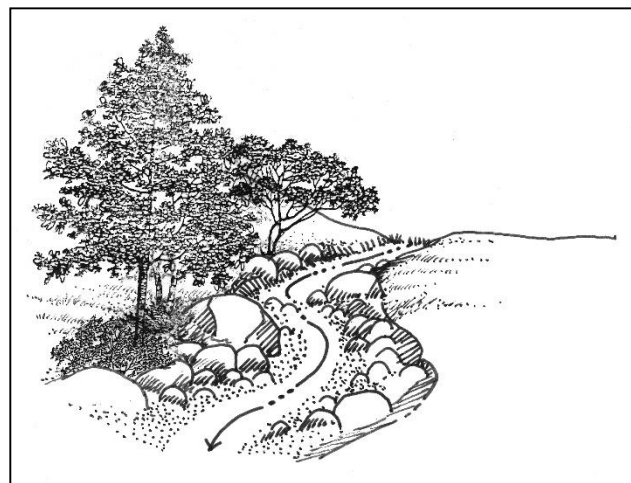
1. The creation of permanent flat pads, except for the house footprint and area needed for access, parking and turnaround, should be avoided

#### B. Drainage.

##### Standards:

1. Runoff shall be dispersed within the subject property to the greatest extent feasible. Runoff concentration that requires larger drainage facilities shall be avoided.
2. Upslope drainage shall not negatively impact downslope development.
3. Natural drainage courses shall be preserved with any native vegetation intact and shall be enhanced to the extent possible, and shall be incorporated as an integral part of the site design in order to preserve the natural character of the area.
4. Manmade drainage channels shall receive a naturalizing treatment such as rock and landscaping so that the structure appears as a natural part of the environment.

**Manufactured  
drainage courses  
shall simulate  
natural drainage  
courses**



#### Guidelines:

1. Manmade drainage channels should be placed in the least visible locations possible.
2. Lining of natural drainage courses is discouraged.



## TOWN OF LOS GATOS

### HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES

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3. Dry Stream effects (manufactured drainage courses designed to simulate natural drainage courses) that move water over the property are preferred over channeling or underground methods.

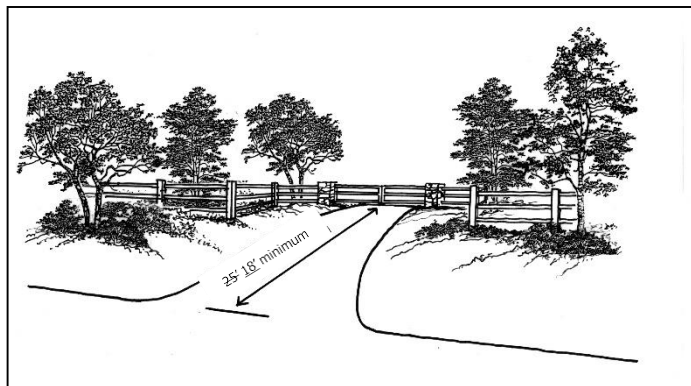
## C. Driveways and parking.

It is recommended that the Fire Department be consulted early in the design process about water supply, accessibility and the need for emergency vehicle turnarounds, turnouts, etc.

### Standards:

See  
Chapter  
VII.B.  
Standard 2

1. Driveways shall be located so as to minimize the need for grading.
2. Driveways shall be paved in compliance with Town standards, and shall be installed prior to occupancy.
3. When a gated entrance is provided, the gates shall be set back a minimum of **25 18** feet from the right-of-way to allow vehicles to pull completely off the roadway while waiting for the gates to open. Gated entrances serving more than one house may be required to have a greater setback. Gates should open away from or parallel to the street.



**Entrance gates shall  
be set back at least  
**25 18** feet from the  
street**

4. Driveways shall have an all-weather surface in compliance with Fire Department weight loading requirements (40,000 pounds).
5. The maximum slope of a driveway shall not exceed 15 percent unless it can be demonstrated that a flatter driveway cannot be constructed without excessive grading (more than 4 feet of cut or 3 feet of fill). Driveway slopes in excess of 15 percent require approval by the Town Engineer and Santa Clara County Fire Department.



## **TOWN OF LOS GATOS**

### **HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES**

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#### **Guidelines:**

1. Driveways serving one residence should have a 12-foot minimum width.
2. The maximum length of a driveway should be 300 feet unless the deciding body makes specific findings for deviation and places additional conditions such as turnouts and secondary accesses to reduce hazards. A turnaround area shall not have a grade that exceeds five (5) percent.
3. Driveway approaches should be located a safe distance from intersections. On adjoining properties, driveways should be spaced a minimum of 20 feet apart or located immediately adjacent to each other.
4. Shared driveways serving more than one lot are encouraged as a means of reducing grading and impervious surfaces.
5. Driveways should be located and maintained so as to ensure an adequate line of sight.

#### **D. Safety.**

##### **Geologic hazards.**

Potential geologic hazards, if not avoided or mitigated, can result in damage to the environment and structures and can place public safety at risk.

#### **Standards:**

1. Site specific geologic engineering investigations and reports are required of qualifying projects in State of California Seismic Hazard Zones (Liquifaction and Earthquake Induced Landslide Areas) and in areas believed to be geologically hazardous as determined by the Director of Community Development and /or Town Engineer. Refer to California Geological Survey Seismic Hazard Zones Map, Los Gatos Quadrangle, dated September 23, 2002.
2. Construction shall be avoided in areas with geologic hazards (e.g., slope instability, seismic hazards, etc.) as identified in the site specific geologic investigations and reports, unless adequate mitigation design measures are proposed to achieve a low level of risk.

**Guidelines:** None.



## **TOWN OF LOS GATOS**

### **HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES**

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#### **Fire hazards.**

The hillsides above Los Gatos are areas of high fire hazard. House fires in the hillsides have the potential to become wildfires if not controlled quickly. A dependable, adequate water supply, automatic fire sprinklers, access for fire fighting equipment and fast response times are critical factors in gaining quick control over a structural fire. Factors that affect the speed at which a wildfire spreads include topography, available fuel, weather (wind, humidity) and availability of fire fighting resources. Lack of adequate circulation or evacuation routes can also impact public safety.

Development in the hillsides presents inherent conflicts between creating and maintaining a fire safe environment, preserving existing vegetation, and minimizing the visual impacts of new development. These conflicts can be minimized by incorporating the concept of fire defensible space into site planning and landscape design. The concept of defensible space involves reducing fuel load, designing structures and landscaping with fire safety in mind, and locating structures to minimize their exposure to wildfires.

#### **Standards:**

1. Building locations shall be selected and structures designed to minimize exposure to wildfires (also see Chapter V. Section I.).
2. A landscape plan shall be provided and will be reviewed by the Town's Landscape Consultant with input from the Fire Department. The landscape plan shall create defensible space around the home, and if there is a fire ladder on the property it shall be eliminated in an environmentally sensitive manner.
3. Development shall have adequate fire access (also see Chapter III section C. and Chapter VII section b.2.).
4. A dependable and adequate water supply for fire protection and suppression purposes, as required by the Santa Clara County Fire Department, shall be provided for all properties. If no public hydrant is available, there shall be an on-site water supply in a storage facility with an appropriate outlet valve in close proximity to an accessible hard road surface.
5. Water for fire suppression shall be available and labeled before any framing may begin.
6. Above ground water tanks shall not be located in required setback areas.



## TOWN OF LOS GATOS

### HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES

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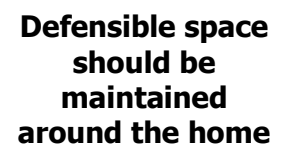
#### Guidelines:

1. Development should avoid areas subject to severe fire danger. In order to achieve this, development should:
  - a. Be set back from the crest of a hill
  - b. Not be located at the top of a canyon
  - c. Not be located on or adjacent to slopes greater than 30%
  - d. Not be located within densely wooded areas

If this is not possible, measures designed to assure the highest degree of fire prevention, and fast effective means of evacuation and fire suppression shall be provided.

2. The fuel load within a defensible space should be minimized by use of selective pruning, thinning and clearing as follows:
  - Removal of flammable species and debris
  - Removal of dead, dying or hazardous trees
  - Mow dead grasses
  - Removal of dead wood from trees and shrubs
  - Thin tree crowns (maximum of 25%)
3. Discontinuous fuel sources should be created and maintained within a defensible space through use of the following techniques (see illustrations on page 27):
  - Thin vegetation to form discontinuous groupings of trees or shrubs
  - Limb trees up from the ground
  - Establish a separation between the lowest branches of a tree and any understory shrubs.
4. Landscaping within a defensible space should be designed with fire safety in mind. Landscaping in defensible space should be:
  - Fire resistant and drought tolerant
  - Predominantly low growing shrubs and groundcovers (limit shrubs to 30% coverage)
  - Limited near foundations (height and density)
5. Above ground tanks should not be located in areas of high visibility unless it can be demonstrated to the satisfaction of the decision making body that no other feasible locations are available.

Refer to  
Appendix  
A







## IV. DEVELOPMENT INTENSITY

### A. Maximum Allowable Development

The Town of Los Gatos controls the amount of development that is allowed by limiting density and intensity of development - the minimum land area required for each house - and by limiting the maximum floor area of each house.

In Los Gatos, limiting the floor area or size of a house is important for several reasons:

- Large houses are more visible and therefore create greater adverse visual impacts.
- Large houses cover more land area, therefore requiring more disruption of the natural landscape and ecosystems.
- Large houses create more impervious surface area, which can increase runoff and cause drainage, landslide, and flooding problems.
- Large houses consume a greater amount of resources, both to construct and to maintain.

**Maximum allowed gross floor area.** The maximum allowable gross floor area for homes subject to the Hillside Development Standards and Guidelines is determined using a floor area ratio (FAR) adjusted for slope as provided in Table 1, below. However, achieving the maximum floor area allowed is not guaranteed due to individual site constraints. The priority is to comply with the standards and guidelines rather than designing to the FAR. The FAR is a numerical guide and achieving the allowable square footage is not a goal. Greater weight shall be given to issues, including but not limited to, height, building mass and scale, visual impacts, grading and compatibility.

Refer to the  
Town's  
Zoning  
Regulations

**TABLE 1**  
**REDUCTION OF NET SITE AREA ON SLOPING LOTS**

Average lot slope	Percent of net lot area to be deducted
10.01 - 20%	10% plus 2% for each 1% of slope over 10%
20.01 - 30%	30% plus 3% for each 1% of slope over 20%
Over 30%	60%



**TOWN OF LOS GATOS**  
**HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES**

**TABLE 2**  
**MAXIMUM ALLOWED GROSS FLOOR AREA**

<b>Net Lot Area<sup>1</sup></b>	<b>Floor Area Ratio (%)</b>	<b>Allowable Floor Area<sup>3</sup></b>
11,000 sq. ft. and less	34.5	3800
up to 12,000 sq. ft.	32.5	3900
up to 13,000 sq. ft.	30.7	4000
up to 14,000 sq. ft.	29.3	4100
up to 15,000 sq. ft.	28.0	4200
up to 16,000 sq. ft.	26.9	4300
up to 17,000 sq. ft.	25.9	4400
up to 18,000 sq. ft.	25.0	4500
up to 19,000 sq. ft.	24.2	4600
up to 20,000 sq. ft.	23.5	4700
up to 21,000 sq. ft.	22.8	4800
up to 22,000 sq. ft.	22.3	4900
up to 23,000 sq. ft.	21.7	5000
up to 24,000 sq. ft.	21.3	5100
up to 25,000 sq. ft.	20.8	5200
up to 26,000 sq. ft.	20.4	5300
up to 27,000 sq. ft.	20.0	5400
up to 28,000 sq. ft.	19.6	5500
up to 29,000 sq. ft.	19.3	5600
up to 30,000 sq. ft.	19.0	5700
up to 31,000 sq. ft.	18.7	5800
up to 32,000 sq. ft.	18.5	5900
32,001 sq. ft. and above <sup>2</sup>		6000

<sup>1</sup>Net lot area as adjusted for slope – see Table 1

<sup>2</sup>For lots containing a net lot area of more than 32,000 square feet, the maximum gross floor area shall be 6,000 square feet unless an exception is granted by the Planning Commission in compliance with subsection c. (Exceptions to maximum floor area)

<sup>3</sup>Accessory structures buildings including garages larger than 400 sq. ft. are included in the maximum floor area.



**TOWN OF LOS GATOS**  
**HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES**

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**B. Exclusions from allowed floor area.**

The following items are not included in the calculation of a structure's allowed gross floor area.

1. Cellars Below grade square footage pursuant to Section 29.40.072 of the Town Code.
2. Garages up to 400 square feet in area.
3. Stables that are not fully enclosed.
4. Barns that do not exceed the applicable size shown in Table 3 below.
5. Additional floor area allowed pursuant to Section 29.10.320 of the Town Code for accessory dwelling units.

**TABLE 3**  
**MAXIMUM FLOOR AREA FOR BARNs AND STABLES\***

<b>Parcel Size (gross)</b>	<b>Maximum floor area of <del>accessory structure</del> barns and stables</b>
Up to one acre	500 sq. ft.
Up to 2.5 acres	1,000 sq. ft.
Up to 5 acres	2,000 sq. ft.
Over 5 acres	2,500 sq. ft.

\*All other enclosed accessory buildings are included in FAR.

Note: Accessory buildings that do not contain floor area because they are not fully enclosed (e.g. gazebos, arbors, carports) will be carefully reviewed for potential impacts such as grading, trees, impervious coverage, visibility, etc.

**C. Exceptions to maximum floor area.**

The Town Council or Planning Commission *may* approve residential projects greater than the maximum allowed floor area (but it is not guaranteed) when all of the following conditions apply:

1. The development will not be visible from any of the established viewing ~~platforms~~ areas (see glossary for definition of visible home).
2. There will be no significant impacts on protected trees, wildlife habitat or movement corridors.



## TOWN OF LOS GATOS

### HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES

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3. Any grading necessary to accommodate the building area that exceeds the allowed FAR or an accessory building will be minimized.
4. All standards and applicable guidelines are being met.
5. Compliance to Title 24 Energy Efficiency Standards are shown using computer methods. The compliance margin must be at least 10.0.
6. The house will be pre-wired for future photovoltaic (PV) installation.
7. A minimum of 25% of hardscape material is permeable (certain types of interlocking pavers, grasscrete, pervious concrete, etc.).
- ~~8. A significant cellar below grade square footage element is included in the design, unless it conflicts with other standards.~~
8. 9. There will not be a significant visual impact to neighboring properties.

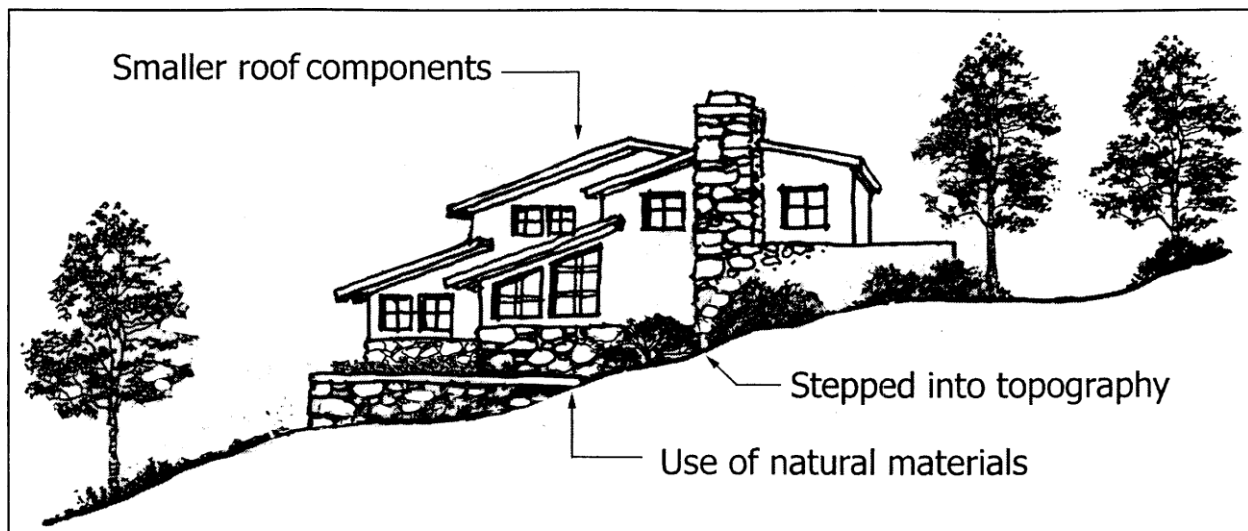


## V. ARCHITECTURAL DESIGN

### A. Design objectives.

The standards and guidelines in this section are intended to encourage architectural design that is:

1. in harmony and visually blends with the natural environment,
2. responsive to site constraints and opportunities,
3. compatible with the surrounding neighborhood and respectful of neighbors, and
4. respectful of the rural character of the hillsides.



**Building form reflects hillside form/setting**



## **B. Design to be neighbor friendly.**

Protecting the privacy of neighboring homes is a high priority in the siting and design of a new house or addition. The following design standards shall be followed to the greatest extent feasible to ensure privacy to surrounding neighbors.

### **Standards:**

1. Privacy impacts shall be addressed and resolved during the constraints analysis phase and initial design stage, not with mitigation measures imposed as an afterthought. Sight lines shall be studied so that windows and outdoor areas are placed to maintain privacy.

### **Guidelines:**

1. The following design guidelines should be implemented to the greatest degree feasible where privacy impacts are of concern;
  - a. Minimize second-story windows facing close neighboring properties.
  - b. Orient upper floor windows, decks, and balconies to avoid impacting the privacy of neighbors.
  - c. Incorporate screening measures (e.g., solid railing walls, lattice work, or planters) to obscure lines of sight to neighboring properties.
  - d. Limit the size of decks and balconies to six feet in depth in areas where privacy is a concern. This will limit their use to passive activities.
  - e. Use landscaping to screen views to your neighbor's living areas most sensitive to privacy. Use evergreen trees and shrubs to provide year-round privacy.
  - f. Existing vegetation that protects privacy should not be removed.
  - g. Screen and control noise sources such as parking, outdoor activities, and mechanical equipment (e.g., air conditioning and pool equipment).
  - h. Locate outdoor activity areas adjacent to neighbor's outdoor activity areas rather than in close proximity to their quiet areas (bedrooms).



## **C. Design for sustainability.**

Sustainability and the conservation of natural resources are important issues to Los Gatos residents. Sustainability refers to the use of natural resources in a manner that insures their continued availability to future generations.

The term "green building" is often used to relate sustainability to development. Green building addresses a broad range of techniques to reduce the consumption of natural resources during construction and over the lifetime of a home. These include designing structures to be energy water efficient, utilizing building materials that reduce resource consumption and improve indoor air quality, and taking maximum advantage of renewable energy resources. Refer to Appendix B for additional information on green building.

Appendix B, Green Building Strategies and Materials, contains design strategies that maximize the use of renewable energy resources for heating, cooling and lighting, additional strategies that conserve energy and water, a list of building materials that reduce the consumption of nonrenewable resources and improve air quality, and a list of various sources for "green building" information and their web sites.

The following design guidelines are aimed at maximizing energy efficiency and reducing consumption of resources.

**Standards:** None.

### **Guidelines:**

1. The design of each house should show evidence to the satisfaction of the deciding body that a significant effort has been made towards incorporating energy-conservation and water saving techniques above and beyond the minimum requirements of Title 24.
2. All homes over 3,500 square feet should incorporate a variety of green building strategies and materials (see Appendix B). Homes less than 3,500 square feet are also encouraged to incorporate additional energy and resource saving features.
3. Homes should be designed and located to take maximum advantage of passive solar heating (space and water), natural cooling and lighting. Houses should be designed to maximize the benefits of sun and wind as follows:
  - a. Orient the house and arrange doors and windows to take advantage of prevailing summer winds for natural ventilation and cooling (also see Appendix B).
  - b. Orient the house and the most used living areas to take advantage of passive solar heating. Orient the house on an east-west access and locate the most used living areas and the majority of windows on the south side (also see appendix B).



- c. Landscaping should be used to control exposure to sun and wind (Refer to Chapter VI, Section B, Landscape Design Concepts for ways to meet this guideline.). Shading and solar access should be balanced when both heating and cooling is needed.
  - Where protection from summer sun is needed, tall spreading deciduous trees should be planted to the south, east and west sides of pavement and buildings. Trees should be placed so they do not block winter sun.
  - Where protection from winter wind is needed, plant dense evergreen trees and/or shrubs in random discontinuous groups. A distance of four to five times the ultimate height of the plants is recommended to allow light to penetrate into the home.
4. Selection of building materials that reduce the consumption of natural resources and are non-toxic is strongly encouraged. This includes, but is not limited to, salvaged or reused materials and products made from recycled materials (also see Appendix B).

## D. Design for fire safety.

A home that is located, designed and maintained for fire safety will not only protect the individual homeowner, but will reduce the chance for a home fire to become a wildfire. Conversely, in the case of a wildfire, the home will have a better chance of surviving and may help limit a fires spread. See Chapter III, section D for guidance in choosing a building site to minimize exposure to potential wildfires. See Chapter VII, section A for guidance on how to landscape and maintain a site with fire safety in mind.

The following standards are intended to maximize protection from wildfires:

Refer to  
Chapter II  
section C

### Standards:

1. Structures shall be designed to maximize protection from wildfires.
2. Roofs shall have a Class A covering or a Class A roof assembly.
3. Eaves and soffits shall be protected on the exposed underside with noncombustible material or by materials approved for a minimum one-hour rated fire resistive construction.
4. Gutters and downspouts shall be constructed of noncombustible material.
5. Exterior walls shall be constructed with noncombustible materials on the exterior side or materials approved for a minimum one-hour rated fire resistive construction.





6. Under floor areas and areas below decks shall be enclosed to the ground with noncombustible materials or with materials approved for a minimum one-hour rated fire resistive construction.
7. Attic and under floor vents shall be covered with corrosion-resistant mesh not to exceed 1/4-inch.
8. Automatic fire sprinklers shall be installed in accordance with National and Fire Department Standards.
9. Roof skylights shall be tempered or have multi-layered glazing.

### **Guidelines:**

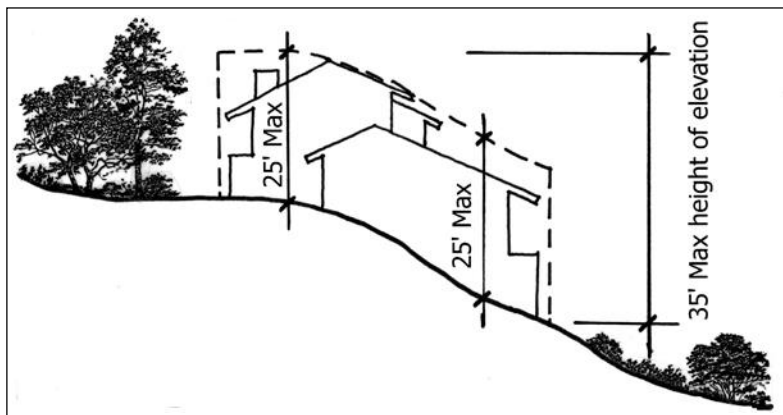
1. Exterior windows should be tempered glass.
2. The size and number of windows on the side of the house that would likely be exposed to a fire approaching from the downhill side should be minimized.
3. Roof eaves should be designed with minimal overhang to prevent entrapment of heat and flames.

## **E. Building height.**

### **Standards:**

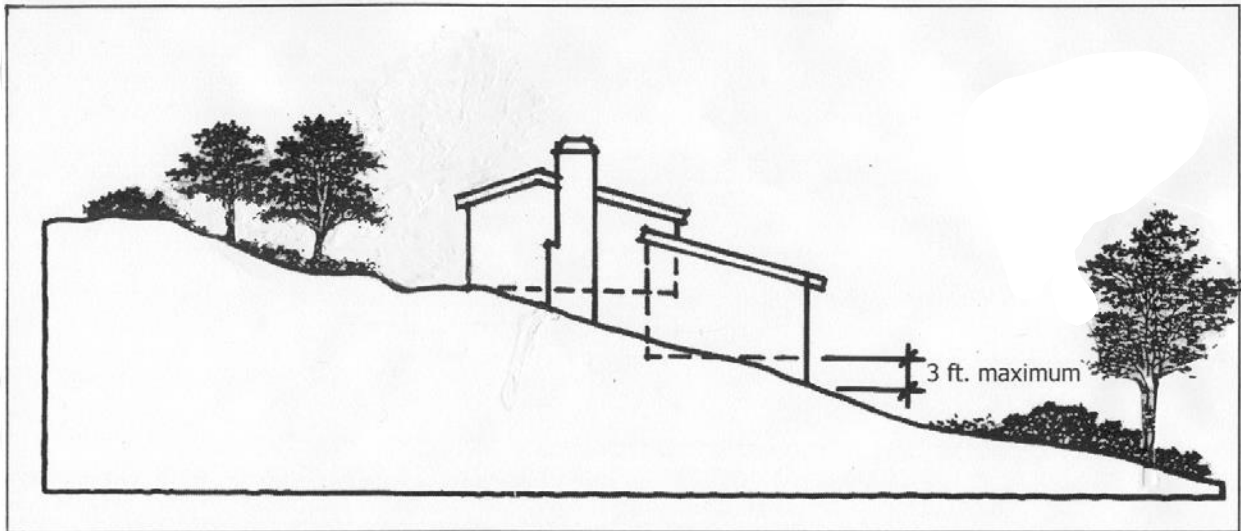
Refer to  
Chapter II  
section C

1. The maximum allowed height for homes in hillside areas shall be 25 feet. Building height shall be measured in compliance with provisions of the Town's Zoning Ordinance.
2. The maximum height of a building's tallest elevation shall not exceed 35 feet measured from the lowest part of the building to the highest part, except buildings extending above a ridgeline or that are visible from a viewing platform area where the maximum height from the lowest to highest points shall not exceed 28 feet.





3. Ridgeline and visible homes shall not extend more than 18 feet above the existing grade.
4. The height of the lowest finished floor(s) of a structure, excluding ~~cellars below grade~~ square footage pursuant to Section 29.40.072 of the Town Code, shall not be more than ~~four~~ three feet above the existing grade to ensure that buildings follow slopes.



5. Three-story elevations are prohibited.

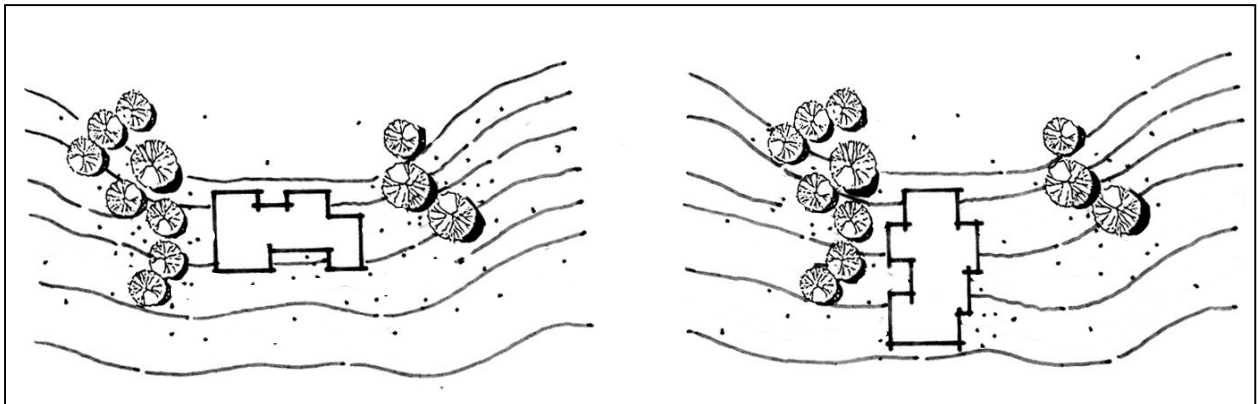
**Guidelines:** None.

## **F. Minimize building bulk and mass**

One of the primary concerns of Los Gatos residents is that some new houses in the hillsides appear overly large and bulky, resulting in high visibility from surrounding properties and the valley floor. The design standards and guidelines in this section address this issue.

### **Standards:**

1. Buildings shall be designed to minimize bulk, mass and volume so as not to be prominently visible from a distance or from surrounding properties.
2. Buildings shall be designed to conform to the natural topography of the site and run with the contours. Blending with the existing terrain reduces the appearance of bulk.



**Do this**

Building is parallel with the contours.

**Don't do this**

Building is perpendicular to the contours

**Guidelines:**

1. The building design should incorporate but not be limited to, the following techniques to effectively reduce the appearance of mass, bulk and volume:
  - a. Keep building forms simple.
  - b. Avoid architectural styles that are inherently viewed as massive and bulky.



**Don't do this**

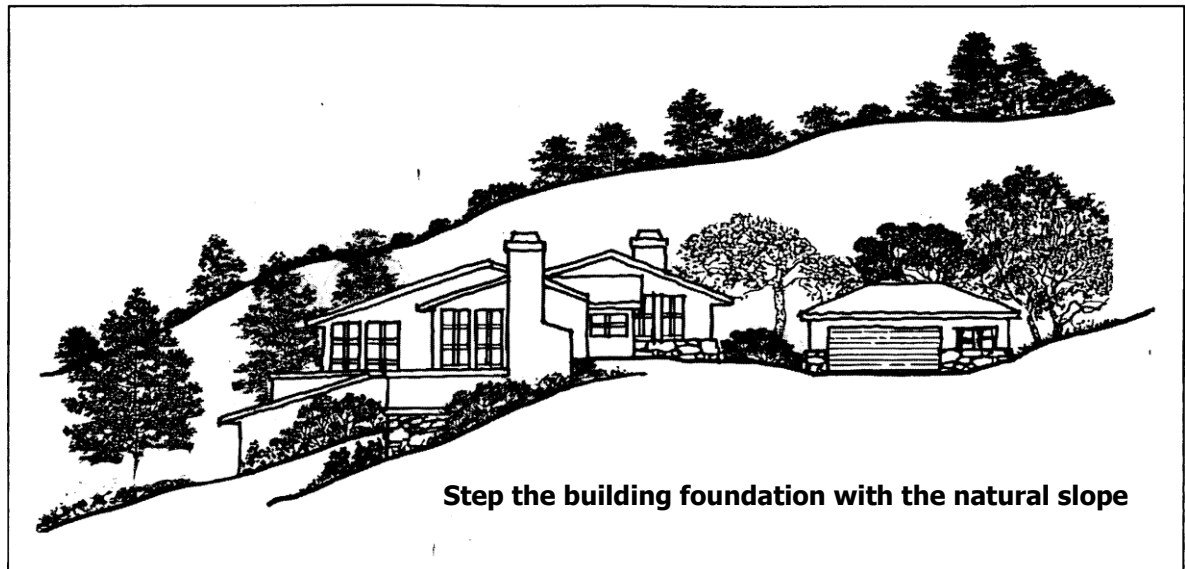


**Don't do this**

- c. Minimize square footage.
- d. Minimize volume; avoid large volume buildings.
- e. Avoid overhanging decks, large staircases and patios formed by retaining walls that make buildings appear more massive. Avoid use of balustrades and solid wall



railings that add to the mass of the design. *(Revised 2/22/05 by Council Resolution 2005-11)*



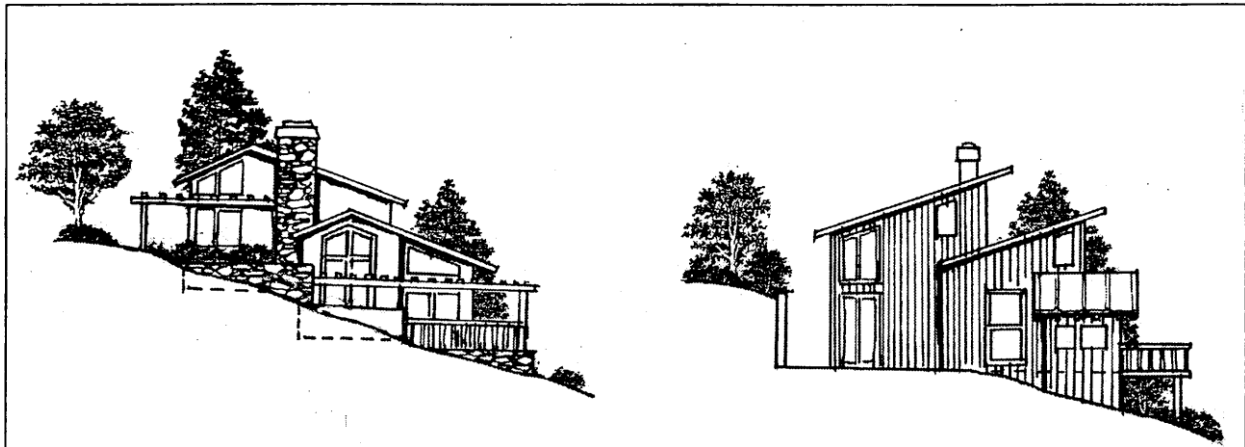
- f. Step the building foundation and roofs with the natural slope.
- g. Use horizontal and vertical building components to reduce bulk. Avoid two story wall planes.
- h. Create light and shadow by providing modest overhangs, projections, alcoves, and plane offsets, and varying elevations such as stepping second stories.
- i. Vary elevations, such as stepping back second stories, to conform with topography.
- k. Excavate or use below-grade rooms to reduce effective bulk. The visual area of the building can be minimized through a combined use of grading and landscaping techniques.
- l. Use vaulted ceilings rather than high walls and ceilings with attics above to achieve a feeling of volume.
- m. Second stories should be stepped back so the difference in wall planes is visible from a distance. *(Revised 2/22/05 by Council Resolution 2005-11)*



## G. Roofs.

### Standards:

1. Roof forms and rooflines shall be broken into smaller building components to reflect the irregular forms of surrounding natural features.
2. The slope of the main roof shall generally be oriented in the same direction as the natural slope of the terrain.

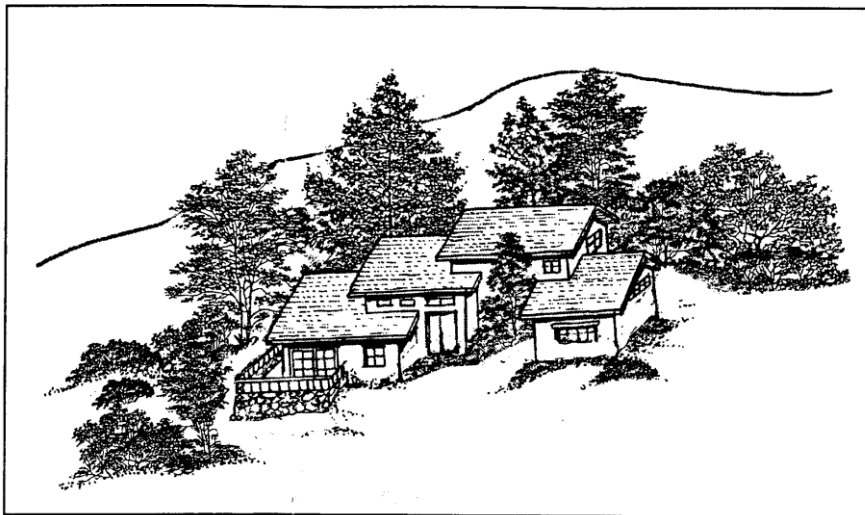


Do this

Don't do this

### Guidelines:

1. Large gable ends on downhill elevations should be avoided.



Roof forms are kept small and reflect the surrounding topography





## H. Architectural elements.

### Standards:

1. Exterior structural supports and undersides of floors and decks not enclosed by walls are prohibited unless it is proven that no alternative type of construction is feasible and that fire safety and aesthetic considerations have been adequately addressed (also see Chapter III section D.2).

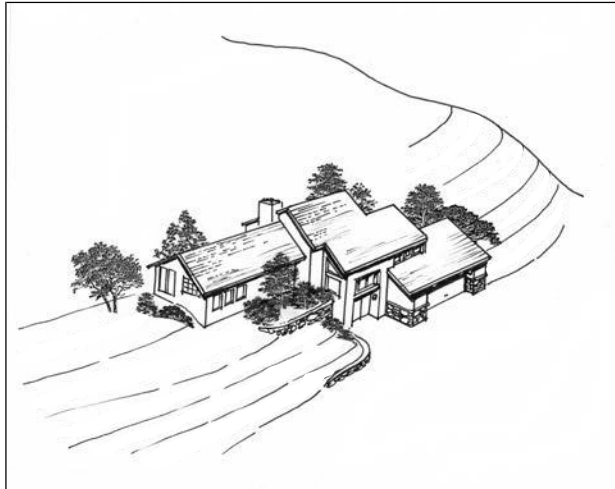


**Don't do this**

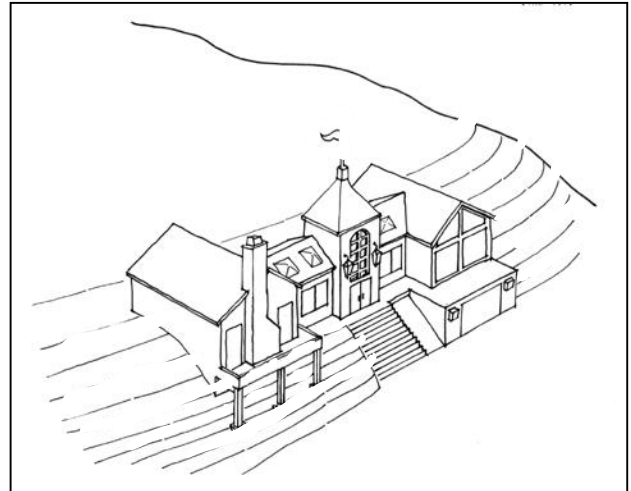
2. Skylight glazing material shall be selected to reduce glare at night. Large skylights with dome-style glazing should be avoided.
3. Architectural detailing shall be provided on all sides of the building. Elements of the architectural treatment used on the front facade shall be repeated on all sides of the building.

### Guidelines:

1. The use of large windows and glass doors should be kept to the minimum to reduce the daytime glare and nighttime lighting emanating from large glazed areas, and to increase heating and cooling efficiency. Of particular concern is glare that impacts neighboring properties and is visible from the valley floor (also see Chapter V section I.).
2. The use of architectural features that increase visual prominence should be avoided. Massive, tall elements, such as two-story entries, turrets, and large chimneys should be avoided. Such elements on the downhill facade of the house is of particular concern.



**Do this**



**Don't do this**

## I. Materials and colors.

### Standards:

1. The contrast between manmade buildings and the environment shall be minimized. A buildings color and materials shall complement and blend with the predominant colors and values of the surrounding natural environment.
2. Exterior material colors for homes, with the exception of homes with any elevation that is more than 24.5% percent visible from the viewing platforms area, may use color averaging of all exterior materials to meet the maximum light reflectivity value of 30 and shall blend with the natural vegetation. Roof materials shall be calculated separately and shall not exceed a light reflectivity value of 30
3. Roofs shall be a dark earth tone color with a variety of shades of that color that blend with the environment.
4. Exposed metal surfaces shall be painted to compliment adjacent materials, be anodized a dark color, or have the ability to develop a patina (e.g., copper).
5. Mirror-like window tinting is prohibited.
6. Contrasting color accents shall be kept to a minimum.



## **Guidelines:**

1. A variety of materials, textures, and architectural details compatible with the design theme of the house should be used to add interest and to mitigate the visual impact of large wall areas. Natural materials such as wood and stone will help soften the appearance of stucco and blend it with the natural setting. *(Revised 2/22/05 by Council Resolution 2005-11)*





## VI. SITE ELEMENTS

### A. Fences and walls.

The following standards and guidelines are intended to accompany the Town Code regulations for fences and walls in the hillside area. The objective of the following standards and guidelines is to limit six-foot high fences and walls and deer fencing to those areas where they are absolutely necessary. It is recognized that fencing around limited landscaped areas is sometimes necessary for security and to provide yard areas for and to protect children and pets. However, ~~the cumulative impact of six-foot high chain link fences and solid fences and walls surrounding hillside properties has~~ have a significant impact on the movement pattern of wildlife and on the open rural character of the hillsides.



Rural character allows wildlife to pass through.  
**Do this**



Urban character  
**Don't do this**

### Standards:

1. The use of fences and walls shall be minimized and located so that natural landforms appear to flow together and are not disconnected. The primary emphasis shall be on maintaining open views, protecting wildlife corridors, and maintaining the rural, open, and natural character of the hillsides.
2. Fences and walls shall not exceed a height of six feet measured from the highest side of the fence or wall and should be limited to those areas where fences and walls of this height are necessary for protection of ornamental landscaping, security, or play areas.
3. Solid fencing materials shall not be used unless needed for privacy and an exception is granted pursuant to Section 29.40.0315 of the Town Code.



4. Only open fencing shall be located within 20 feet of a property line adjacent to a street pursuant to Section 29.40.0315 of the Town Code.
5. Deer fencing up to a maximum height of eight feet shall be limited to areas around ornamental landscaping. Larger areas shall not be enclosed unless specific reasons for keeping deer out have been demonstrated to the satisfaction of the decision making body.
6. Fences shall not be allowed in areas that would impede the movement of wildlife as determined by the decision making body.
7. Temporary construction fencing shall be limited to the building envelope or shall be elevated to allow for movement of small animals.

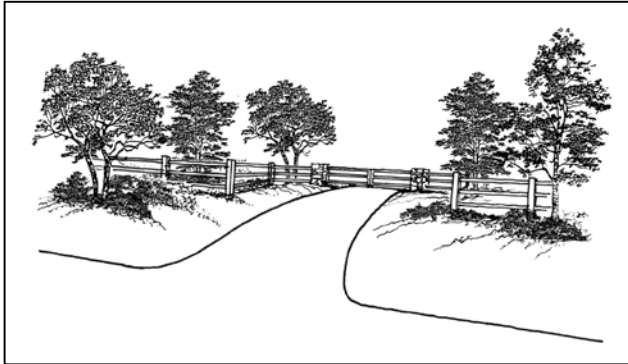
### **Guidelines:**

1. Wood rail-type fences and gates are preferred.
2. Chain link fences are strongly discouraged.
3. Chain link fencing should be coated with green, brown, or black vinyl or finish and shall be supported by a wood frame. Dark, painted metal poles may be required if deemed appropriate by the decision making body.
4. ~~Only open fencing should be located within 20 feet of a property line adjacent to a street.~~
5. Fences should follow the topography.

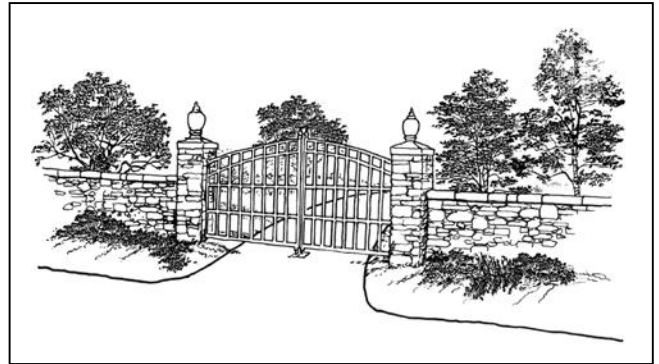
## **B. Driveway entries.**

### **Standards:**

1. Entryways shall be designed to blend with the natural environment and to maintain the rural character of the hillsides.
2. Entry gates shall be set back from the edge of the adjacent street a minimum of 25 18 feet and shall not exceed the height limitations as specified in Section 29.40.030 of the Town Code. A greater setback may be required when a gated entrance serves more than one house.
3. Lighting fixtures at entryways shall direct light downwards and shall be designed so that no part of the light source is visible from the street.



Wood fences and gates are encouraged  
**Do this**



Monumental entry gates are strongly discouraged  
**Don't do this**

4. The property address shall be clearly displayed so that it is visible from the street at each driveway.



5. Entry gates equipped with locking devices or electronic control switches shall be approved by the Santa Clara County Fire Department.

## Guidelines:

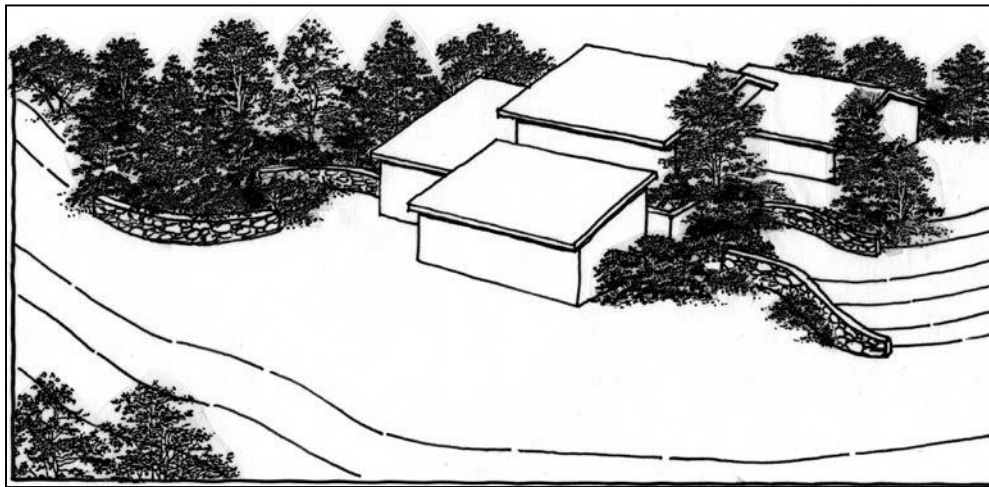
1. Entryway gates and fencing should be of an open design.
2. Entry gates that are monumental are strongly discouraged.



## C. Retaining walls.

### Standards:

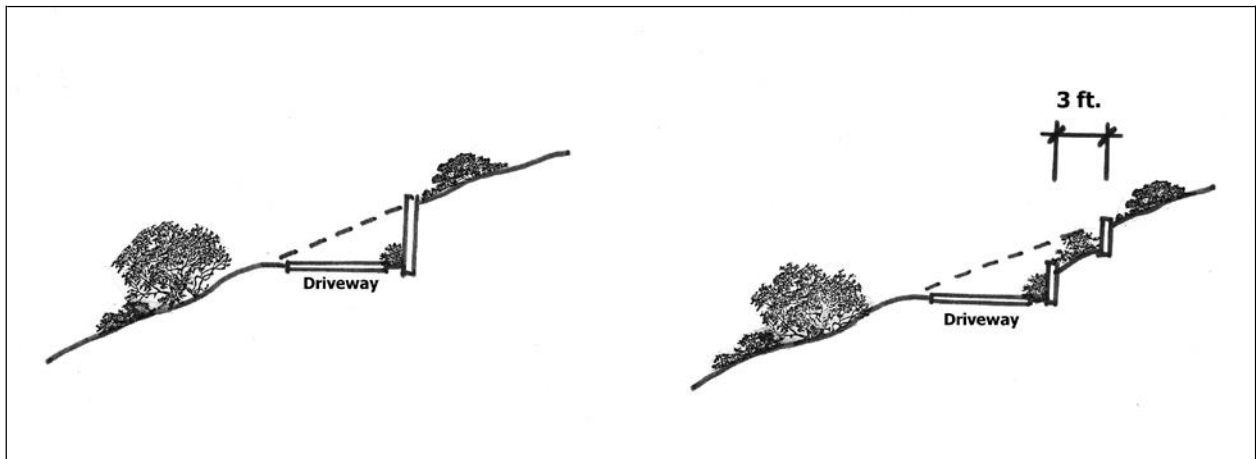
1. Retaining walls shall not be used to create large, flat yard areas. The limited use of retaining walls may be allowed when it can be demonstrated that their use will substantially reduce the amount of grading.
2. Retaining walls that are visible from a public street shall have a veneer of natural stone, stained concrete, or textured surface to help blend the wall with the natural hillside environment and to promote a rural character.



**Retaining walls blend with the natural topography**

### Guidelines:

1. Retaining walls should not be higher than five feet. Where an additional retained portion is necessary due to unusual or extreme conditions (e.g., lot configuration, steep slope, or road design), the use of multiple-terraced, lower retaining structures is preferred.
2. Terraced retaining walls should be separated by at least three feet and include appropriate landscaping.
3. Retaining and planter walls should be provided with a landscaped setback or buffer of at least five feet adjacent to the street.



**Don't do this**

**Do this**

4. Retaining walls should blend with the natural topography, follow existing contours, and be curvilinear to the greatest extent possible. Retaining walls should not run in a straight continuous direction for more than 50 feet without a break, offset, or planting pocket to break up the long flat horizontal surface.
5. Landscaping should be provided adjacent to retaining walls and should include a combination of native trees and shrubs to screen the wall.



**Landscaping used to screen and soften tall retaining wall**





4. Retaining walls should be constructed of permanent materials (stone, concrete, masonry block/brick) rather than wood.



**Retaining walls maintain rural character**



**Retaining walls maintain rural character**

## D. Outdoor lighting.

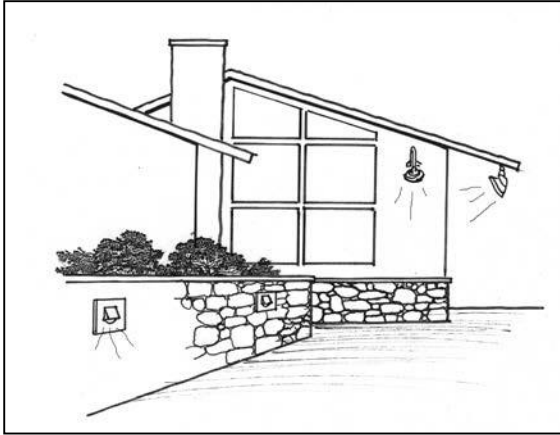
### Standards:

1. Outdoor lighting shall comply with the Town of Los Gatos Zoning Ordinance.
2. Lighting shall be the minimum needed for pedestrian safety, and shall be low level, directed downward, and shielded so that no bulb is visible and no light or glare encroaches onto neighboring properties.
4. Unshaded or nonrecessed spotlights are prohibited.
5. Lighting for purely decorative purposes is prohibited. Up-lighting of trees, lighting of facades and architectural features is prohibited.
6. Lighting for night use of outdoor game courts (e.g., tennis, paddle tennis, basketball, etc.) is prohibited.

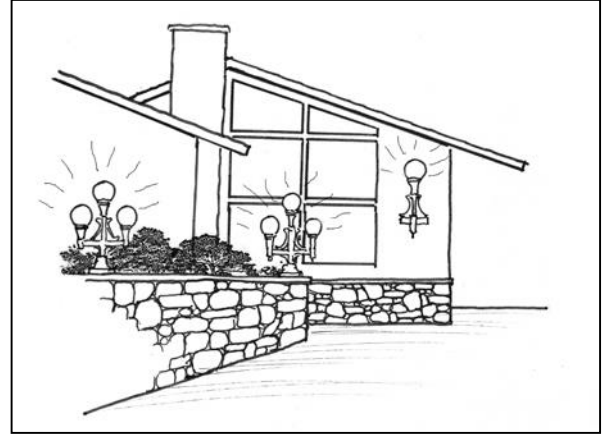
Refer to the  
Town's  
Zoning  
Ordinance



**Inappropriate  
lighting fixture**



**Do this**



**Don't do this**

## Guidelines:

1. The use of energy-efficient lighting is strongly encouraged.
2. Outdoor light fixtures at a height of four feet or greater should use full cutoff fixtures. A "full cutoff fixture" is one that directs light downwards so that no direct light rays are emitted at more than 90 degrees from the vertical.

## E. Accessory buildings, accessory dwelling units, pools, and sport courts.

### Standards:

1. Accessory buildings and accessory dwelling units (ADUs) are permitted in compliance with the Town of Los Gatos Zoning Ordinance ~~for accessory buildings, except that, a~~ Accessory buildings and ADUs shall have the same setback requirements as the main building in the hillside area.
2. Accessory buildings and ADUs shall be integrated with the natural topography of the site and shall be compatible with other buildings by use of similar forms, colors, and materials.



3. Due to topographic constraints, not every lot will be able to accommodate a pool or sport court. Swimming pools and sport courts are prohibited on slopes greater than 30 percent.
4. ~~New caretaker units may be allowed when in compliance with the following:~~
  - ~~a. It is deemed necessary or desirable to provide maintenance or other services to the property and/or facilities.~~
  - ~~b. The deciding body determines that the lot is large enough to support a second living structure.~~
  - ~~c. The maximum floor area for a caretaker unit shall be 900 square feet.~~
  - ~~d. Caretaker units shall be architecturally compatible with the main structure and shall meet all standards and guidelines applicable to the main structure.~~
  - ~~e. The lot is not part of a Planned Development or the Planned Development permits caretakers units.~~

**Guidelines:** None.

## **F. Impervious surfaces.**

**Standards:** None.

**Guidelines:**

1. Impervious surfaces should be minimized. Parking areas, walkways, patios, and similar areas should be constructed with pervious surfaces, such as pavers set in sand, natural stone, decomposed granite, gravel, and similar materials. At-grade decks constructed of sustainable decking materials can also be used in place of impervious patio materials.
2. Run off from impervious surfaces should not be directed toward areas of native trees and shrubs.





## VIII. SUBDIVISION AND PLANNED DEVELOPMENT PROJECTS

### A. Purpose and intent.

Subdivisions may be processed under the provisions of the Town of Los Gatos Zoning Ordinance as a standard subdivision or in conjunction with a Planned Development overlay zone. The maximum density of new subdivisions in hillside areas is determined by the use of a slope density formula that diminishes residential densities as the slope of the natural terrain increases.

The purpose of the PD overlay zone, as it relates to hillside areas, is to encourage the appropriate location of residential units in the least restrictive development areas of the site. The intent is to significantly reduce the amount of grading, roads, and other alterations to the existing environment, to minimize the visual impact of the development, and to retain the maximum amount of continuous open space in its natural state.

Refer to the  
Town's  
Zoning  
Ordinance

Site constraints and the implementation of the Hillside Development Standards and Guidelines may not allow a specific site to be developed to the maximum density allowed by the Zoning Ordinance.

### B. Applicability of standards.

In addition to all applicable standards and guidelines of the previous chapters, the following development standards and guidelines apply to all Planned Development applications in hillside areas.

### C. Least restrictive development areas (LRDA)

1. Hillside residential development shall preserve open space and protect significant natural features in the layout and design of streets, lots, and grading patterns in subdivisions and planned developments. Development shall be limited to the least restrictive development areas as defined below.



2. The least restrictive development areas within sub-areas 2 through 9 of the Los Gatos Hillside Specific Plan shall be defined as those areas:
  - a. Below the ridge view protection line as defined in Chapter III, Section D.3.
  - b. Outside riparian corridors,
  - c. With a 30 percent slope or less, and
  - d. Where the impact on the natural hillside environment including vegetation, wildlife corridors, cut and fill slopes, and natural watersheds is minimized.
3. Within Sub-areas 2 through 9 of the Hillside Specific Plan, development is prohibited outside the least restrictive development areas unless there is no feasible alternative.
4. The Blossom Hill Open Space Study contains a map identifying the least restrictive development area for Sub-area 1, of the Hillside Specific Plan. Development applications for property located outside sub-area 1 shall be required to map the least restrictive development areas for their individual sites

#### **D. Exceptions to development within LRDA.**

Within Sub-area 1 of the Hillside Specific Plan, development outside of the least restrictive development areas, as identified by the Blossom Hill Open Space Study, shall be prohibited except when all of the following conditions exist:

1. The development is clearly in compliance with the provisions of the Hillside Development Standards and Guidelines, Hillside Specific Plan, and General Plan.
2. Development outside of the least restrictive development areas results in minimal grading, tree removal and/or changes to the natural landscape and is more advantageous as determined by the decision making body.
3. Access to a development within a least restrictive development area can only be attained by developing a road or driveway outside a least restrictive development area.
4. Project visibility from any valley floor viewing ~~platform~~ area shall not exist or shall be significantly less than development within the LRDA.



## **E. Development standards and guidelines.**

Refer to the  
Town's  
Grading  
Ordinance

### **1. Site preparation.**

#### **Standards:**

- a. Grading shall be kept to a minimum and shall be performed in a way that respects all significant natural features and visually blends with adjacent natural areas.
- b. The existing natural grade as well as the proposed final grade shall be shown on all elevations submitted with plans.
- c. Graded areas shall appear as smooth flowing contours of varying gradients, preferably with slopes of 2:1 to 5:1. Sharp cuts and fills and long linear slopes that have uniform grade should be avoided.

#### **Guidelines:**

- a. Grading should be avoided in areas where the slope is greater than 25 percent.
- b. Pad and terrace grading should be avoided to the maximum extent possible. However, if these techniques are used, the pad configuration should be softened with variable, undulating slopes created to give a more natural appearance (i.e. contour grading techniques – see Chapter III section A).

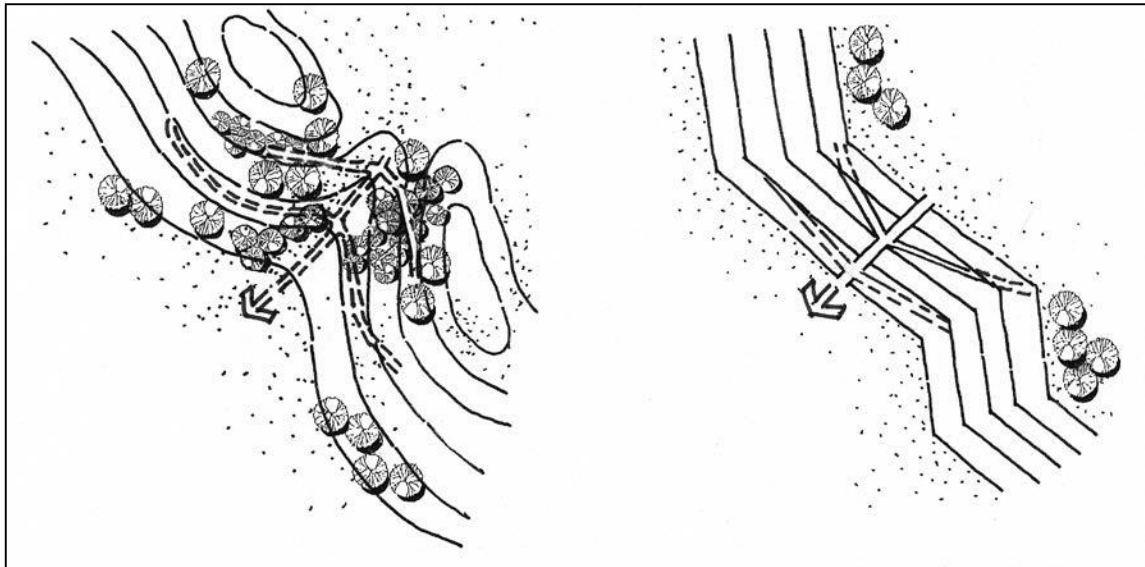
### **2. Drainage.**

#### **Standards:**

- a. Upslope development shall not negatively impact downslope drainage.
- b. Natural drainage courses shall be preserved. Drainage features should be incorporated as an integral part of the project design in order to enhance the overall aesthetic and natural quality of the development.

#### **Guidelines:**

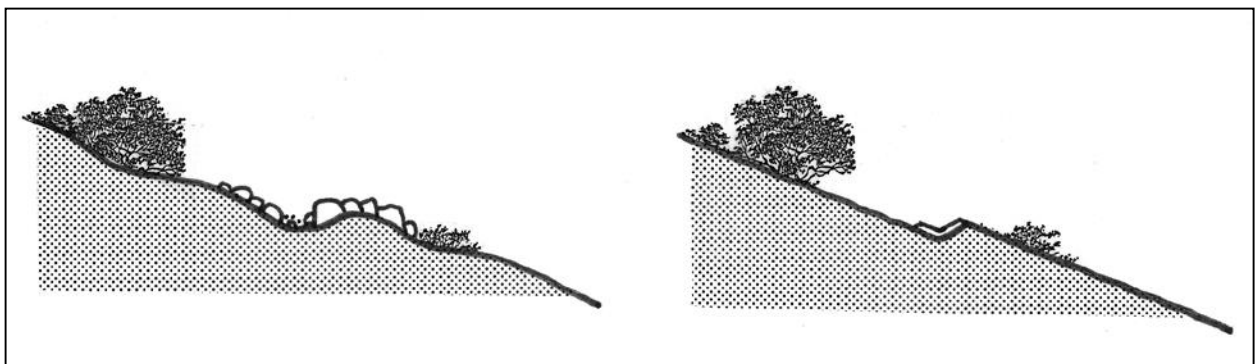
- a. Where terrace drains are required, they should follow a landform slope configuration. Down drains should be placed in the least conspicuous locations.



**Do this**

**Don't do this**

- b. Drainage channels and brow ditches should receive a naturalizing treatment including native rock and landscaping so that the structure appears as an integral part of the environment and should be placed in the least visible locations.



**Do this**

**Don't do this**

### 3. Lot configuration and building locations.

#### Standards:

- a. The layout of lots shall be derived from the form of the land. The development plan shall adapt to existing topography and natural features, avoiding unnecessary alteration of landforms.



- b. Lot patterns shall offer a variety of lot shapes and sizes influenced by topography and natural features.
- c. Projects shall incorporate varied setbacks, multiple orientations, side-entry garages, and other site planning techniques to preserve open spaces, protect natural features, and reduce the monotony of repetitive designs.
- d. Building footprints shall be indicated on grading plans and shall be staked on site in order to assist in the review of proposed building locations.
- e. Graded areas shall be designed with manufactured slopes located on the uphill side of buildings, thereby hiding the slope behind the building.

### **Guidelines:**

- a. Location of development is encouraged in order to preserve environmentally sensitive areas, existing natural features and open space, and to reduce the potential for fire hazard, erosion, and excess runoff.

## **4. Street layout and driveways.**

### **Standards:**

- a. Hillside street and drainage standards shall reflect a rural rather than urban character and shall allow for special designs where natural features such as rocks, slopes, and trees require special treatment.

Refer to the  
Hillside  
Specific Plan

### **Guidelines:**

- a. Streets, driveways, parking, and emergency vehicular access should be aligned to conform, as closely as possible, to existing grades, minimizing the need for the grading of slopes. They should not greatly alter the physical and visual character of the hillside by creating large notches in ridgelines or by defining wide straight alignments.
- b. Driveways that serve more than one parcel are encouraged as a method of reducing unnecessary grading, paving, and site disturbance. Joint driveway entrances shall have street addresses for all residences using the driveway.
- c. Driveway approaches should be located to maximize on-street parking, especially on curves or cul-de-sac bulbs.
- d. Road lighting should be limited to intersections, dangerous curves, dead ends, and multi-use parking areas, and shall be installed to "cut-off" standards.



- e. Roadway and driveway graded banks should be provided with planting of grasses and native trees and shrubs, and include irrigation devices to ensure maintenance of landscaping until it is permanently established.

## **5. Trails.**

The development of a hillside trail network is an important goal of the Town of Los Gatos to increase public recreational opportunities as well as maximize access to regional parks and open space preserves.

### **Standards:**

- a. All new subdivision applications shall be reviewed for compliance with the Trails section of the Los Gatos and Santa Clara County General Plans.

Refer to the Los  
Gatos and Santa  
Clara County  
General Plans

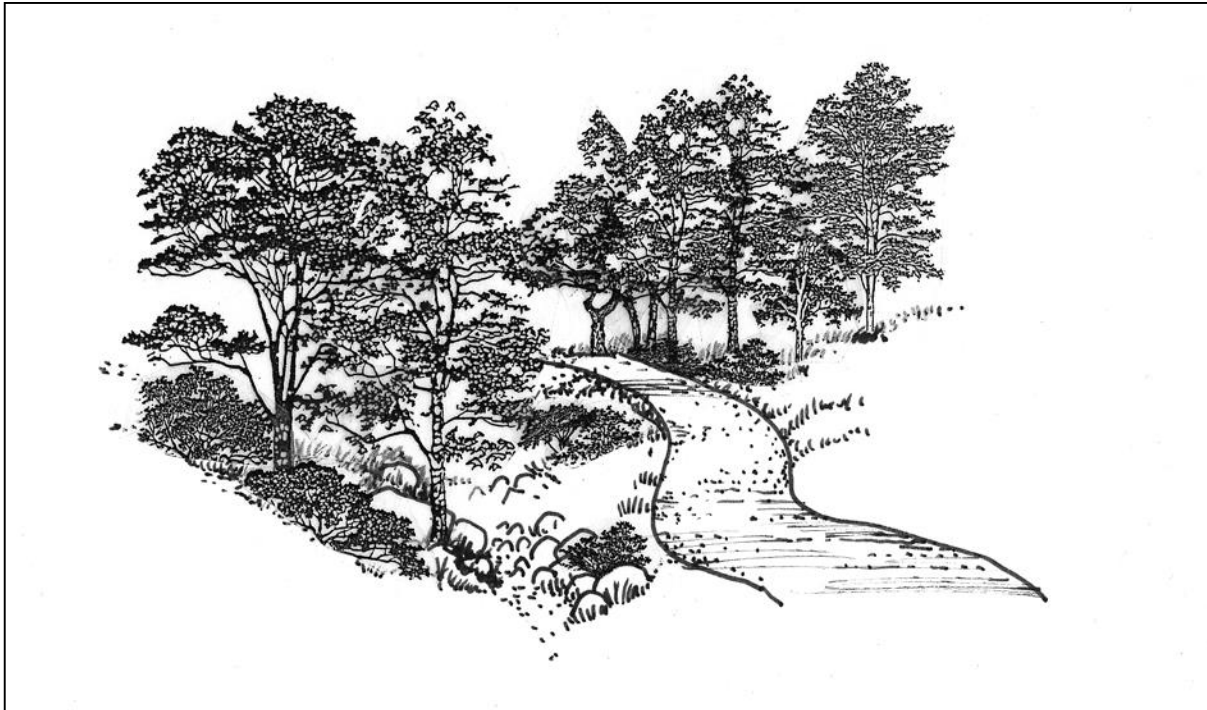
### **Guidelines:**

- a. Where possible, trail easement dedication to the Town and construction of trails shall be a condition of subdivision approval.
- b. Trails should be designed for multiple use.
- c. CC&Rs or maintenance districts should be formed so that trail maintenance expenses will be borne by property owners in the subdivision.
- d. Trails should be located away from existing residential areas wherever possible.
- e. "Cross-country" type trails should be developed, as opposed to trails bordering roads.
- f. Trails should be located through areas containing scenic natural resources as well as those dedicated for open space wherever possible.





- f. Trail design standards should be developed and included in planned development documents or subdivision plans that:
- limit trail use to pedestrian, bicycle, and equestrian use only
  - prevent use by all motorized vehicles
  - protect the natural environment
  - promote safe recreational use
  - determine appropriate width
  - establish policies regarding fencing location and type
  - incorporate erosion control measures



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## IX. PROJECT REVIEW AND APPROVAL PROCESS

### A. Architecture and Site Approval

Architecture and site approval is required for all new construction including major additions and remodels in all areas of the Town shown on the Hillside Area Map on page 8. A subdivision or Planned Development application is required for any proposed land division.

The flow chart on page 66 outlines the steps an application for architecture and site approval will go through. The process begins with a ~~preapplication~~ meeting with the Community Development Department. It is highly recommended that applicants considering the design of a new home or remodel of an existing home ~~take advantage of the preapplication meeting to~~ discuss their ideas with Town staff **before** any plans are actually drawn and money and time are expended on a project that may not be entirely feasible.

An application for architecture and site approval or subdivision shall be accompanied by a written letter of justification that describes how the proposed project complies with the General Plan, Hillside Specific Plan and the Hillside Development Standards and Guidelines.

### B. Project Approval Authority

Projects may be approved by the Planning Commission, Development Review Committee (DRC), or Director of Community Development (Director) depending on a project's potential impact on surrounding properties and the overall community.

The Planning Commission is the decision making body for projects that have the greatest potential impact, while the DRC and Director make decisions on projects with less impact, as described in Subsections D, E, and F 1, 2, and 3 below. ~~For projects that fall within the Planning Commission's decision-making authority, the DRC shall first review the project and provide its recommendation to the Commission.~~



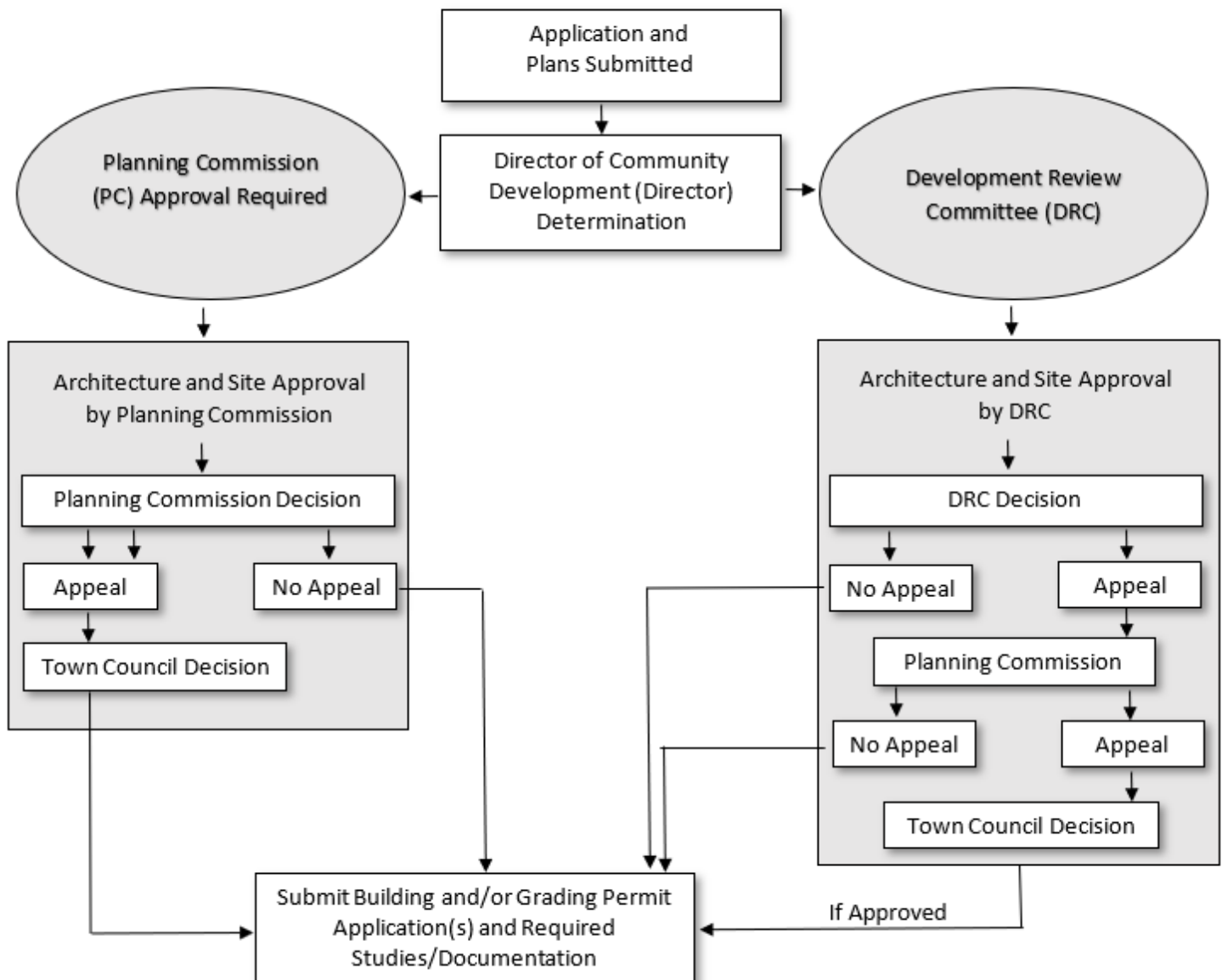
The subdivision and architecture and site approval processes are discretionary actions on the part of all decision making bodies. When reviewing projects, the decision making body may:

- (1) approve a project without imposing extra or special conditions;
- (2) approve a project and add special conditions to reduce the impact(s) of the project to an acceptable level and/or achieve compliance with these standards and guidelines; or
- (3) deny the project by stating specific reasons for its action.

The Director of Community Development may refer an application to the Planning Commission. The decisions of the Planning Commission, DRC, and Director are final unless appealed. Decisions of the Director and DRC may be appealed to the Planning Commission and decisions of the Planning Commission may be appealed to the Town Council. Appeal procedures are outlined in the Town's Zoning Regulations.



## Architecture and Site Review Process





## 1. Projects That May be Approved by the Director of Community Development

The Director has the authority to review and approve the following types of projects provided they comply with all development standards and guidelines:

- a. Accessory dwelling units pursuant to Section 29.10.320 of the Town Code.
- b. Accessory structures buildings not requiring a conditional use permit that have a combined gross floor area greater than 450, but less than 600 square feet may be approved with a Minor Residential Application pursuant to Section 29.20.480 of the Town Code.
- c. Swimming pools that do not require a grading permit.

## 2. Projects That May be Approved by the Development Review Committee

The ~~Development Review Committee~~ (DRC) has the authority to review and approve the following types of projects provided they comply with all development standards and guidelines:

- a. New houses that do not exceed 5,000 square feet in gross floor area and that are not visible from any established viewing ~~platform area~~.
- b. ~~Additions over 800 square feet or greater than 20% of existing floor area provided that the house size will not exceed 5,000 square feet with the addition(s).~~
- c. ~~Accessory structures buildings, except those requiring a conditional use permit~~ that have a combined gross floor area of 600 square feet or more but do not exceed 1,000 square feet in combined gross floor area.
- d. Swimming pools and game courts requiring a grading permit and/or retaining walls.
- e. Grading permits.



### 3. Projects That Require Planning Commission Approval

The Planning Commission has the authority to approve all architecture and site projects that do not fall within the authority of the DRC ~~or Director~~ and any projects referred to it by the DRC ~~or~~ Director. The Planning Commission shall be the review authority for any residential project greater than 5,000 square feet in gross floor area. The Planning Commission approves standard subdivisions and makes recommendations to the Town Council on Planned Development applications.

#### C. Application Period of Validity

An approved architecture and site application shall be valid for a the period of time specified in the Town's Zoning Regulations.

#### D. ~~Subsequent Applications~~

~~Following approval of the original architecture and site review application, no subsequent applications for architecture and site approval shall be filed for the same property for a period of three years following final inspection and issuance of an occupancy permit.~~

#### E. Required findings

In addition to the considerations for architecture and site approval provided in the Town's Zoning Regulations, the decision making body shall also find that the proposed project meets or exceeds the objectives and requirements of the Hillside Development Standards and Guidelines and shall provide supportive evidence to justify making such findings.

#### F. Exceptions

Exceptions from the standards in this document may only be granted after carefully considering the constraints of the site. Any deviation from the standards contained in this document shall include the rationale and evidence to support the deviation. The burden of proof shall be on the applicant to show that there are compelling reasons for granting the requested deviation.

**Major exceptions** may only be granted by the Town Council or Planning Commission. Major exceptions include the following:

- a. building height
- b. maximum floor area

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## X. GLOSSARY

For the purposes of these Hillside Development Standards and Guidelines, the following words and phrases defined in this section shall apply.

**Access road.** A vehicular access roadway greater than or equal to 20 feet in width and serving more than two single family dwellings.

**Accessory ~~structure~~ building.** A detached ~~structure~~ building, the use of which is incidental to an allowed use of the property but which is not designed, constructed, or used for living quarters. Accessory ~~structures~~ buildings include garages, equipment sheds, barns, decks, fences, and similar nonhabitable ~~structures~~ buildings.

**Accessory dwelling unit.** A detached or attached dwelling unit. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation and is generally smaller and located on the same parcel as the primary dwelling unit. An accessory dwelling unit also includes efficiency units and manufactured homes.

(1) A detached accessory dwelling unit is physically separate from the primary dwelling unit.

(2) An attached accessory dwelling unit is physically attached to the primary dwelling unit.

**Attic.** Use definition in Attic Policy adopted under Council Resolution 2002-167, or as may be amended.

**Average slope.** The rate of vertical change of ground surface averaged over the site and expressed in percentage or degrees. Average slope is calculated as follows:

$$S = \frac{.00229 IL}{A}$$

Where:

.00229 is the conversion factor for square feet;

I = contour interval in feet;

L = combined length of all contour lines within the parcel;

A = area of parcel in gross acres.

**Balance.** The cutting and filling of a site which does not require the export or import of earth material.

**Barn.** A building designed for the storage of farm products or feed and/or for the housing of farm animals or farm equipment. To qualify for an exclusion from FAR a barn may not be habitable floor area.



**Basement.** ~~Partially below grade floor area that does not qualify as a cellar.~~

**Cellar.** ~~Use definition in Cellar Policy adopted under Council Resolution 2002-167, or as may be amended.~~

**Contour.** A line drawn on a plan which connects all points of equal elevation.

**Contour grading.** A grading concept designed to result in earth forms which resemble natural terrain characteristics. Horizontal and vertical curve variations are often used for slope banks. Contour grading does not necessarily minimize the amount of cut and fill occurring.

**Cut.** The mechanical removal of earth material.

**Cut and fill.** The excavating of earth material in one place and depositing of it as fill in an adjacent place.

**Cut-off standards.** A standard of light emission wherein light rays emanating from a source are shielded, reflected, or refracted at angles that direct and cut off the light at an angle less than 90 degrees.

**Defensible space.** Established areas where vegetation is planned and/or maintained to reduce fuel load to minimize a structure's exposure to wildfire.

**Density.** Applying to residential developments, density refers to the number of people living in a certain area, generally expressed in terms of the number of housing units per acre.

**Driveway.** A vehicular access road less than 20 feet wide and serving not more than two single family dwellings.

**DRC.** Development Review Committee (DRC).

**Effective bulk.** The effective visual bulk of a building when seen from a distance either from above or below.

**Emergency Accessway.** An approved secondary access roadway for the exclusive use of fire department apparatus.

**Erosion.** The process by which the soil and rock components of the earth's crust are worn away and removed from one place to another by natural forces such as wind and water.

**Export.** Excess earth material that is removed from a grading project and deposited off-site.

**Fill.** A deposit of earth material placed by artificial means.

**Finish grade.** The final elevation of the ground surface after development, which is in conformance with the approved plan.





**Floor area, gross.** ~~The sum of all enclosed or covered areas of a building measured to the exterior faces of the enclosing walls, columns or posts~~ The entire enclosed area of all floors that are more than four (4) feet above the proposed grade, measured from the outer face of exterior walls or in the case of party walls from the centerline, but excluding the following:

- A. Areas permanently open to the sky.
- B. Exterior areas under roof eaves, trellises, porches or cantilevered overhangs.
- C. Attics.
- D. Cellars Below grade square footage pursuant to Section 29.40.072 of the Town Code.
- E. Garages up to 400 square feet.
- F. Elevators and stairwells above the first floor.
- G. Barns and stables.

**Floor area ratio (FAR).** The gross floor area of a building or buildings on a lot divided by the area of the lot. The allowed floor area ratio is a numerical guide, not a goal, and may not be able to be achieved on every lot.

**Grading.** To bring an existing surface to a designed form by excavating, filling, or smoothing operations (Refer to the Town's Grading Ordinance).

**Hardscape.** All artificially produced impervious surfaces such as concrete, asphalt, pools, sport courts, and wooden decks.

**Hillside lot.** A parcel of land that is shown on the Hillside Area map (page 8) regardless of zoning district.

**Intensity of development.** The amount of development that may be placed on a site as governed by building square footage and envelope criteria, such as floor area ratio, setbacks, height, lot coverage, etc. Also see slope density formula.

**LRDA (Least Restricted Development Area).** Least restricted areas on a property where development would have a minimal impact on the natural landscape and environment.

**Manmade slope.** A manufactured slope consisting wholly or partially of either cut or filled material.

**Minimal grading.** A grading concept designed to minimize excavation and filling. Allows the movement of earth for projects such as individual building foundations, driveways, local roads, and utility excavation. The concept is associated with roads conforming closely to natural contours and with buildings being built on natural terrain.



**Natural slope.** A slope that is not manmade.

**Net lot area.** The area of a lot exclusive of rights-of-way or ingress-egress easements for public or private use.

**Ornamental landscaping.** Exotic, non-indigenous, non-naturalized plant materials.

**Pad.** A level area created by grading to accommodate development.

**Remodel.** An improvement or alteration to the exterior or interior of a building that requires a building permit.

**Ridgeline.** A line connecting the highest points along a ridge and separating drainage basins or small-scale drainage systems from one another.

**Riparian corridor.** An area comprised of habitat strongly influenced and delineated by the presence of perennial or intermittent streams.

**Scar.** A visible cut in a hillside with a slope greater than 1 1/2:1 in which all topsoil has been removed and vegetation will be unable to establish itself after a significant period of time (five years).

**Site Analysis.** A process where a homeowner meets with staff before development plans have progressed substantially to discuss potential site constraints, conceptual plans, design considerations, neighborhood compatibility, and general standards and guidelines in designing a home.

**Slope.** An inclined ground surface, the inclination of which is expressed as a ratio of the vertical distance (rise), or change in elevation, to the horizontal distance run. The percent of any given slope is determined by dividing the rise by the run, multiplied by one hundred.

**Slope density formula.** The size of lots allowed in a new subdivision based on a formula that increases the minimum lot size allowed as the slope of the site increases. See Chapter IV. Development Intensity.

**Slope transition.** The area where a slope bank meets the natural terrain or a level graded area either vertically or horizontally.

**Stable.** A building with stalls or compartments in which domestic animals are sheltered and fed.

**Viewing platforms areas.** Specific locations on the valley floor or surrounding hillsides selected as vantage points from which field observations are made to assess the visual impact of development within the Town's hillside areas.



**Visible home.** A single family residence where 25% or more of an elevation can be seen from any of the Town's established viewing ~~platforms~~ areas (see Chapter II, section B).

**West Valley Hillsides Preservation Strategies.** A document developed through a joint planning review by the Cities of Cupertino, Saratoga and Monte Sereno, the Town of Los Gatos, and the County of Santa Clara that establishes strategies to protect the scenic appearance of the west valley hillsides (available for review at the Los Gatos Community Development Department).

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RECEIVED  
OCT 30 2019  
TOWN OF LOS GATOS  
PLANNING DIVISION

October 30, 2019

Town Council  
Town of Los Gatos  
110 E. Main Street  
Los Gatos, CA 95030

**RE: Modifications to the Hillside Development Standards and Guidelines (HDSG)**

Members of the Town Council,

The Planning Commission (PC) at its August 14, 2019 meeting made two recommendations regarding modifications to the HDSG.

I agree with the first recommendation of the PC which strikes the following:

~~"A significant cellar below grade square footage element is included in the design, unless it conflicts with other standards"~~ (Chapter 4 Development Intensity, C. Exceptions to maximum floor area #8, pg. 30)

No alternative language is necessary since the intent is sufficiently described elsewhere in the HDSG as shown below:

*"Excavate or use below-grade rooms to reduce effective bulk. The visual area of the building can be minimized through a combined use of grading and landscaping techniques."* (Chapter 5. Architectural Design, F. Minimizing building bulk and mass, Guidelines 1.k, pg. 38)

I strongly disagree with the second recommendation of the PC which rejects the following modification to the HDSG:

~~"New houses that do not exceed 5,000 square feet in gross floor area meet the allowable floor area ratio and that are not visible from any established viewing platform area."~~ (Chapter 9, B. Project Approval Authority, 2. Projects That May Be Approved By The Development Review Committee, pg. 66)

Instead, the PC made the following recommendation:

*“Leave in place current language in Chapter IX with respect to the approval process for Hillside Development applications over 5,000 square feet in floor area”*

The Planning Commission based its argument for this second recommendation on two points:

1. Streamlining is not significantly improved when DRC replaces PC as the deciding body.
2. Visibility and transparency of the approval process is better with PC involvement.

#### Streamlining

Any reduction in administrative burden and cost is welcome. In this case, contrary to the argument made by the PC, the reduction is significant as enumerated below:

1. Hearing delay: The difference between a hearing date for DRC as compared to PC is measured many times in months. As a result, construction could be delayed several months or more depending upon construction schedules and time of year.
2. Continuance: Continuance of an application to a later date is not infrequent. Individual PC agenda items can take longer than expected hence postponing following items several weeks or sometimes months.
3. Burdening the commissioners: Involving the planning commissioners solely for the purpose of the current 5,000sf mandatory PC review increases the workload of the commissioners whose valuable time can be spent on other projects.
4. Burdening the applicant: Preparation for a PC meeting takes a great deal of time and adds stress to an already stressful and lengthy process. If absolutely necessary, then the imposition is warranted, but for this specific concern, the imposition appears excessive.
5. Cost: The application fee for a PC hearing is nearly \$4,000 more than that of a DRC hearing. In addition, professional representation which occurs commonly at the PC meeting can add thousands of dollars to the total cost in order to address just the 5000sf review.
6. End result unchanged: Staff presented data at the PC meeting on August 14, 2019 showing that the majority of applications that triggered the 5000sf review were approved by the PC. All for naught is the money, time, and effort spent for a result that would have been achieved otherwise through the expert scrutiny of the planning department and DRC.

#### Visibility and Transparency

Visibility and transparency (V&T) to the public is essential in the approval of an application. The notion that a PC meeting offers more V&T than a DRC meeting is debatable. Further, the notion that a PC meeting offers more V&T than a DRC meeting specifically for the 5000sf review is hard to justify at all.

1. Application Review: If the PC is correct in its assumption that V&T is effectively superior at a PC meeting than at a DRC meeting, then theoretically all applications should be reviewed by the PC. This is not practical and most assuredly defeats any attempt at streamlining. It is important that exceptions and other notable guideline violations warrant critical review by the PC; the 5000sf review is not an exception nor is it even a guideline.
2. Public Noticing: Both DRC and PC meetings are noticed thus offering concerned residents V&T of each process and the opportunity to voice one's opinion regardless of the meeting venue. Neither is superior to the other in this regard.

3. Meeting Times: DRC meetings are at a defined time albeit in the morning. PC meeting agenda items are not at a defined time but ostensibly more accessible to those who work during the day. However, waiting until an item is called at a PC meeting can be lengthy and result in a late night hearing which dramatically negates the initiative to attend and be heard. People need to go back to work the next morning. Consequently, each has its deficiencies with no meeting venue demonstrating patently superior V&T.
4. Oral Presentations: Up to 75% of the population suffers from some form of public speaking fear. As a result, V&T for those inclined to speak at a PC meeting is limited to a minority percentage. Planning commissioners base their decisions in part on this vocal minority which is not necessarily the voice of the community at large. While DRC meetings are subject to the same bias, they can offer a less intimidating setting for those fearful of the microphone. Even though V&T is inherently compromised because of this glossophobia, the impact is usually worse at the PC level.
5. Letters: In contrast to oral presentations, letters are a more conducive means for eliciting broad community participation. They eliminate the fear of public speaking and can provide a more thorough argument not possible with the 3 minute restriction placed on oral presentations. Further, V&T of letters is the same for DRC and PC therefore diminishing any perceived benefit of V&T for PC involvement.
6. Attendance: Meeting attendance is a reasonable barometer of V&T. At the August 14, 2019 PC meeting when modifications to the HDSG were discussed, public attendance by my observation was zero. Such a poorly attended meeting with no community participation is a direct reflection of the success, or in this case, failure of V&T and objectively shows that V&T is not superior at the PC level.

In summary, the recommendation to relieve the PC of reviewing applications that are less than 6000sf and have no other issues is a prudent one. It shows a practicality and a sensitivity to the applicant. As explained above, the proposed streamlining unquestionably reduces administrative burden and cost while visibility and transparency of the process is maintained throughout. Notwithstanding, it is appropriate for applications that exceed 6000sf to be reviewed by the PC given that an exception is triggered. The commissioners' input at this level is invaluable. However, applications that are below 6000sf do not trigger an exception and do not violate any guidelines with regard to square footage alone. These applications are more efficiently handled at the DRC level without burdening the commissioners. It is important to note that the opportunity for PC review is always available if bulk, mass, and scale are inappropriate regardless of square footage.

Critically reviewing the HDSG is helpful in ferreting out any unclear language, improving the purpose, and keeping standards and guidelines up-to-date. The modification regarding applications below 6000sf is a pristine example of appropriate critical review and one to embrace.

Sincerely,

*Anthony Badame*  
Anthony D. Badame, MD





## Jocelyn Shoopman

---

**To:** Jon Witkin  
**Subject:** RE: Hillside development

-----Original Message-----

From: Jon Witkin <[jon.witkin@gmail.com](mailto:jon.witkin@gmail.com)>  
Sent: Saturday, October 19, 2019 10:02 AM  
To: Jocelyn Shoopman <[jshoopman@losgatosca.gov](mailto:jshoopman@losgatosca.gov)>  
Subject: Hillside development

Jocelyn

Is there any chance that like Woodside we could consider 5 acre lots per hillside home development minimum ?

It seems just too much stress on existing resources to develop on less. These hillsides are fragile and there are many slides.

They are eyesores locating these hillside homes next to each. While looking up at the hills for a beautiful natural landscape it mars the view.

They are a health and safety menace. The proper engineered retaining walls are never enough.

Thank you for your considerations.

Jon Witkin





**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 13

ADDENDUM

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DATE: November 4, 2019  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Project Location: **Town Wide**. Applicant: Town of Los Gatos.  
Consider Modifications to Chapter III (Site Planning), Chapter IV (Development Intensity), Chapter V (Architectural Design), Chapter VI (Site Elements), Chapter VIII (Subdivision and Planned Development Projects), Chapter IX (Project Review and Approval Process), and Chapter X (Glossary) of the Hillside Development Standards and Guidelines

REMARKS:

Attachment 6 includes an additional public comment received between 11:01 a.m., Thursday, October 31, 2019 to 11:00 a.m., Monday, November 4, 2019.

Attachments previously received with the November 5, 2019 Staff Report:

1. August 14, 2019 Planning Commission Staff Report with Exhibits 1 - 12
2. August 14, 2019 Planning Commission Verbatim Minutes
3. Required Findings
4. Draft Resolution with Exhibits A through G
5. Public comments received by 11:00 a.m., Thursday, October 31, 2019

Attachment received with this Addendum:

6. Public comment received 11:01 a.m., Thursday, October 31, 2019 to 11:00 a.m., Monday, November 4, 2019

PREPARED BY: Jocelyn Shoopman  
Associate Planner

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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To: the Mayor and Town Council  
From: Lee Quintana  
Re: Proposed Amendments to the Hillside Development Standards and Guidelines

The following are my comments to the Town Council on the following::  
Proposed Amendments to the HDS&G for Deciding Bodies  
Proposed Fence Amendments to the HD&G  
Below Grade Square Footage

RECEIVED

NOV 04 2019

TOWN OF LOS GATOS  
PLANNING DIVISION

Amendments to Deciding Bodies:

I Support the Planning Commission's recommendation to retain the Planning Commission as the deciding body for hillside projects less than 5,000 square feet for the following reasons:

- 1) The proposed change would result in a less open and transparent process and would limit the opportunity for public participation in the decision making process.
- 2) DRC hearing noticing is limited. Hearing notices are mailed to adjacent and nearby property owners and the notice contains limited information regarding the proposed application. In addition there is no written staff report available to the public.
- 3) Planning Commission hearings are more broadly noticed. In addition to mailed notices a notice is published in the local paper and a staff report is attached to the PC agenda.
- 4) I reviewed 28 +/- projects that came before the DRC since January 2019. The DRC's actions on all projects were **unanimous, no project were denied**. Public comments were heard during 5 of the 28 hearings. All were for residential projects.
  - a) Public comments were heard during the hearing on 5 applications, all were residential projects. All were approved unanimously. Four of the five were appealed to the Planning Commission
  - b) Three of four appealed projects were modified as a result of the appeal process. The fourth project was continued and has yet to come back to the Planning Commission. At least two of the four appeals were for projects subject to the HDS&G.

Does the original text for item 2.b, page 67 of Chapter IX need to be retained if the Town Council retains the current language for the deciding body for hillside development applications proposing over 5,000 square feet.?

Fence Amendments

I know that the Town Council would like to put to rest the discussion of the fence ordinance with respect to the hillside so I have narrowed my comments to two issues, wildlife friendly fences, and vehicular gate setbacks.

1) Wildlife friendly fencing:

Sec. 29.40.0315(a)(2)b. States: On properties one (1) acre or greater, perimeter fencing shall be a wildlife friendly fence.....” However, the proposed text amendments to the HDS&G do not reflect this section of the fence ordinance. (A. Fences and walls of Chapter VI pages 42 to 43.) . Without inclusion of such a standard I do not see have a finding canbe made that the proposed amendments to the HDS&G are consistent with either the Zoning Ordinance, the Town Code or the General Plan.

2) Vehicular gate setbacks.Street, edge of pavement and edge of right of way.

There is a conflict between the illustration on page 22 item below item 3. Driveway and Parking Standards and Standard item 3 which states: “Entrance gates shall be set back at least 18 feet *from the street*” while Standard item 3 states: “When a gated entrance is provided, the gates shall be set back a minimum of 18 feet from *the right of way* ....(emphasis added).”

It is also not clear whether “18 feet from the street “ means from the edge of the street as stated in B. Driveway entries item 2 under Standards on page 43 or it means from the edge of the right of way.

Standard item 3 on page 22 is also in conflict with B. Driveway entries item 2 under Standards on page 43, which states: Entry gates shall be set back *from the edge of the adjacent street* a minimum of 18 feet.... ”

:

The above quotes are inconsistent with each other and with Sec. 29.40.00315. Height, materials and design and, and location. (2)(c) which states: “ Vehicle gates shall be set back from *the edge of the adjacent street* a minimum of eighteen (18) feet..... (emphasis added). “

Below Grade Square Footage (item 8, page 30 in Chapter IV)

I support the Planning Commission’s recommendation to delete the language of Item 8, page 30 of Chapter IV of the HDS&G.

The Planning Commission constantly grapples with the issues presented when walkout below grade areas are created on sloping land, but recognized that the currently proposed amendments to the HDS&G were not the right forum to address them.

Walk out below grade areas on sloping land effectively create three story elevations, which are prohibited by the HDS&G. In addition, the current tend is for proposed below grade space that goes beyond the intent of the HSD&G to use below grade spaces in lieu of visible mass above

ground and that does not steps the foundation with the existing topography to achieve minimal grading as defined in the HDS&G Glossary.

I request that the Council consider referring these issues back to the Planning Commission for discussion as an agenda item under Other Business for an in depth discussion and recommendations for potential amendments to the HDS&G that provide greater clarity to applicants, staff, Planning Commission and Town Council, that will enable staff and the various deciding bodies to make consistent, predictable decisions. Alternatively this could be referred to the Policy Committee.

Thank you for your consideration.

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**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 14

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DATE: October 7, 2016  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Town Code Amendment Application A-19-007. Project Location: **Town Wide.**  
Applicant: Town of Los Gatos.  
Consider Amendments to Chapter 29 (Zoning Regulations) of the Town Code  
Regarding Demolition Regulations

**RECOMMENDATION:**

Introduce an Ordinance (Attachment 4), by title only, effecting amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding demolition regulations.

**BACKGROUND:**

On February 26, 2019, the Policy Committee reviewed an outline of possible streamlining opportunities that relate to the land use process and costs for businesses and residents. The Policy Committee provided direction to include demolition regulations as a future discussion topic.

In April and May 2019, the Policy Committee, the Historic Preservation Committee, and the Planning Commission reviewed and made recommendations to Town Council for changes to demolition regulations. These changes included removing the contiguity requirement from the demolition definition, and allowing an exception to the demolition requirements for repair of non-historic homes.

In addition to these specific recommended changes, on May 22, 2019, the Planning Commission also considered public comment and expressed support for a reconsideration of larger concepts within the demolition definition. Specifically, whether structural elements (framing) alone should be considered, in place of a combination of framing and wall covering, when determining the retention of existing exterior walls for non-historic structures.

**PREPARED BY:** Jennifer Armer, AICP  
Senior Planner

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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BACKGROUND (continued):

On June 4, 2019, Town Council introduced an Ordinance effecting amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding demolition regulations. These amendments included removing the contiguity requirement from the demolition definition, and allowing an exception to the demolition requirements for repair of non-historic homes. The Town Council referred the issue of whether framing alone should be considered to the Policy Committee for further discussion.

On June 24, 2019, the Policy Committee reviewed and recommended approval of amendments to the Town Code (Attachment 1, Exhibit 4) that would:

- Delete “The remaining exterior walls must retain either the existing interior or existing exterior wall covering”;
- Revise the repair exception to remove the reference to wall coverings; and
- Revise the definition of wall to delete the reference to wall covering.

DISCUSSION:

A. Planning Commission

On September 11, 2019, the Planning Commission reviewed the proposed Town Code amendments from the Policy Committee.

The public comment received at the Planning Commission hearing included:

- Support for the proposed changes;
- Descriptions of difficulties with maintaining wall coverings; and
- Statements that support considering wall framing/structural elements as wall area.

Attachment 2 contains the verbatim minutes for the Planning Commission meeting.

The Planning Commission recommended approval of the Policy Committee’s draft ordinance language based on public comments and discussion at the hearing (see draft Ordinance, Attachment 4).

B. Public Outreach

Public input has been requested through the following media and social media resources:

- An eighth-page public notice in the newspaper;
- A poster at the Planning counter at Town Hall;

SUBJECT: Consider Amendments to Chapter 29 (Zoning Regulations) of the Town Code  
Regarding Demolition Regulations

DATE: October 7, 2019

DISCUSSION (continued):

- The Town's website home page, What's New;
- The Town's Facebook page;
- The Town's Twitter account;
- The Town's Instagram account; and
- The Town's Nextdoor page.

In addition, interested architects and the following organizations have been contacted regarding the amendments:

- American Institute of Architects (AIA) Silicon Valley;
- Santa Clara County Association of Realtors (SCCAR); and
- Silicon Valley Association of Realtors (SILVAR).

CONCLUSION:

Staff recommends that the Town Council:

1. Make the finding that there is no possibility that this project will have a significant impact on the environment; therefore, the project is not subject to the California Environmental Quality Act [Section 15061 (b) (3)] (Attachment 3);
2. Make the required finding that the amendments to Chapter 29 of the Town Code regarding demolition regulations are consistent with the General Plan (Attachment 3); and
3. Introduce the Ordinance of the Town of Los Gatos effecting the amendments of the Town Code regarding demolition regulations A-19-007 (Attachment 4), by title only, with any specific changes identified and agreed upon by the majority of the Town Council.

ALTERNATIVES:

Alternatively, the Council may:

1. Continue this item to a date certain with specific direction to staff;
2. Refer the item back to the Planning Commission with specific direction; or
3. Take no action, leaving the Town Code unchanged.

COORDINATION:

The evaluation of the application was coordinated with the Town Attorney.

PAGE 4 OF 4

SUBJECT: Consider Amendments to Chapter 29 (Zoning Regulations) of the Town Code  
Regarding Demolition Regulations

DATE: October 7, 2019

ENVIRONMENTAL ASSESSMENT:

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that the proposed amendments to the Town Code will have a significant effect on the environment.

PUBLIC COMMENTS:

No written public comments have been received.

Attachments:

1. September 11, 2019 Planning Commission Staff Report with Exhibits 1 - 4
2. September 11, 2019 Planning Commission Verbatim Minutes
3. Required Findings
4. Draft Ordinance



**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 09/11/2019

ITEM NO: 2

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DATE: September 6, 2019  
TO: Planning Commission  
FROM: Joel Paulson, Community Development Director  
SUBJECT: Town Code Amendment Application A-19-007. Project Location: **Town Wide**.  
Applicant: Town of Los Gatos.  
Consider Amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding demolition regulations.

**RECOMMENDATION:**

Forward a recommendation to the Town Council for approval of the amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding demolition regulations.

**CEQA:**

The project is Categorical Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that this project will have a significant effect on the environment.

**FINDINGS:**

- As required, pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, this project is Exempt, Section 15061(b)(3); and
- The amendments to Chapter 29 of the Town Code are consistent with the General Plan.

**BACKGROUND:**

On February 26, 2019, the Policy Committee reviewed an outline of possible streamlining opportunities that relate to the land use process and costs for businesses and residences. Following a brief discussion, the Policy Committee provided direction to bring back demolition regulations for further discussion.

**PREPARED BY:** Jennifer Armer, AICP  
Senior Planner

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Reviewed by: Planning Manager and Community Development Director

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BACKGROUND (continued):

On June 4, 2019, Town Council considered recommendation from the Policy Committee, the Historic Preservation Committee, and the Planning Commission and introduced an Ordinance effecting amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding demolition regulations. These changes included removing the contiguity requirement from the demolition definition, and allowing an exception to the demolition requirements for repair of nonhistoric homes. These changes went into effect on July 18, 2019.

In addition to these specific recommended changes, the Planning Commission also expressed support for a reconsideration of larger concepts within the demolition definition, specifically whether structural elements (framing) alone might be considered in place of framing and wall covering when determining the retention of existing exterior walls for nonhistoric structures, as was mentioned during the public comment period of the hearing. On June 4, 2019, Town Council referred this topic to the Policy Committee for further discussion.

DISCUSSION:

On June 25, 2019, the Policy Committee discussed and agreed to forward a recommendation to the Planning Commission that structural elements (framing) alone should be considered in place of framing and wall covering when determining the retention of existing exterior walls for nonhistoric structures.

A. Public Outreach

Public input has been requested through the following media and social media resources:

- An eighth-page public notice in the newspaper;
- A poster at the Planning counter at Town Hall;
- The Town's website home page, What's New;
- The Town's Facebook page;
- The Town's Twitter account;
- The Town's Instagram account; and
- The Town's NextDoor page.

In addition, the following organizations have been contacted regarding the amendments:

- American Institute of Architects (AIA) Silicon Valley;
- Santa Clara County Association of Realtors (SCCAR); and
- Silicon Valley Association of Realtors (SILVAR).

DISCUSSION (continued):

B. Existing Town Code

Existing Town Code Section 29.10.020 defines demolition for nonhistoric structures as:

*Demolition (nonhistoric structures)* means removal of more than fifty (50) percent of the exterior walls. The remaining exterior walls must retain either the existing interior or existing exterior wall covering. The following is exempt from this definition:

- a. Repair. The removal and replacement of in kind non-repairable exterior and/or interior wall covering resulting in no change to its exterior appearance or character if approved by the Community Development Director.

C. Proposed Town Code Amendments

Based on the concerns raised at the meetings mentioned above, as recommended by the Policy Committee, staff has a prepared potential Town Code amendments, (Exhibit 4) for Planning Commission's consideration. The potential amendments, shown in strike through, would make the following changes:

- Delete "The remaining exterior walls must retain either the existing interior or existing exterior wall covering"; and
- Revise the repair exception to remove reference to wall coverings.

It should be noted that these changes are not applicable to historic structures.

PUBLIC COMMENTS:

No written public comments have been received.

CONCLUSION:

A. Recommendation

Based on the direction of the Town Council Policy Committee, staff recommends that the Planning Commission review the information included in the staff report and forward a recommendation to the Town Council for approval. The Commission should also include any comments or recommended changes to the draft Ordinance in taking the following actions:

CONCLUSION (continued):

1. Make the finding that there is no possibility that this project will have a significant impact on the environment; therefore, the project is not subject to the California Environmental Quality Act [Section 15061 (b) (3)] (Exhibit 1);
2. Make the required finding that the amendments to the Town Code (Zoning Regulations) are consistent with the General Plan (Exhibit 1); and
3. Forward a recommendation to the Town Council for approval of the proposed amendments to Chapter 29 of the Town Code (Exhibit 4).

B. Alternatives

Alternatively, the Commission can:

1. Forward a recommendation to the Town Council for approval of the amendments to Chapter 29 of the Town Code with modifications; or
2. Forward a recommendation to the Town Council for denial of the proposed amendments to Chapter 29 of the Town Code; or
3. Continue the matter to a date certain with specific direction.

EXHIBITS:

1. Required Findings (one page)
2. Town Council Policy Committee Minutes, June 25, 2019 (three pages)
3. Town Council Policy Committee Report, June 25, 2019 (two pages)
4. Draft Amendments to Chapter 29 of the Town Code (one page)



**PLANNING COMMISSION – September 11, 2019**  
**REQUIRED FINDINGS FOR:**

**Town Code Amendment Application A-19-007**

Consider amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding demolition regulations.

**FINDINGS**

**Required Findings for CEQA:**

- It has been determined that there is no possibility that this project will have a significant impact on the environment; therefore, the project is not subject to the California Environmental Quality Act, Section 15061 (b)(3).

**Required Findings for General Plan:**

- The proposed amendments to Chapter 29 of the Town Code regarding demolition regulations are consistent with the General Plan.

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**TOWN OF LOS GATOS  
TOWN COUNCIL  
POLICY COMMITTEE**

MEETING DATE: 07/23/2019

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**MINUTES OF THE TOWN COUNCIL REGULAR POLICY COMMITTEE MEETING  
JUNE 25, 2019**

The Town Council Policy Committee of the Town of Los Gatos conducted a regular meeting on Tuesday, June 25, 2019, at 5:00 p.m.

**MEETING CALLED TO ORDER AT 5:01 P.M.**

**ROLL CALL**

Members Present: Marcia Jensen, Barbara Spector.

Staff Present: Robert Schultz, Town Attorney; Joel Paulson, Community Development Director; Sally Zarnowitz, Planning Manager; Holly Zappala, Management Analyst.

**VERBAL COMMUNICATIONS**

None.

**OTHER BUSINESS**

**1. Approval of the May 28, 2019 Council Policy Committee Minutes.**

Approved.

Vice Mayor Jensen requested Item 3 be reviewed next, as it was the only item that had public comment.

**3. Discuss and provide direction on demolition regulations.**

Joel Paulson, Community Development Director, presented the staff report.

Tom Sloan, Architect

-Commented in favor of changing the existing demolition regulations. He said that the integrity of a building still exists without outside and inside wall coverings as long as the studs remain. He said that putting a new "skin" on the studs allows the building to be more structurally sound and last longer.

Jennifer Kretschmer, Architect

-Commented that the existing demolition policy creates a health and life safety issue because there may be cases when people allow mold to remain on their sheetrock in order to save the substantial cost and time delay of the Architecture and Site process required for a technical demolition. She also said that a time delay of a couple months with an open structure can lead to materials being destroyed by inclement weather and stated that removing interior/exterior finishes should not be considered a demolition.

Gary Kohlsaas, Architect

-Commented that it is difficult to match the siding on all sides of a house or cover up existing siding material without it being considered a technical demolition under the current regulations. He mentioned that technical demolitions require large additional expenses for homeowners, including putting in curbs and gutters and undergrounding utilities. He said that the building process is meant to go in a certain order for safety reasons and trying to avoid a technical demolition requires builders to go out of sequence.

Bess Wiersema, Architect

-Commented that the demolition policy should protect the mass of an existing house and the framing is what holds a house together as opposed to the inside and outside coverings. She said that removing the interior/exterior coverings allows construction to be done properly, better materials to be used, and the building to look better and last longer.

After discussion, the Committee agreed to forward a recommendation to the Planning Commission that interior wall structure (framing) should be considered in place of wall surface material when retaining existing walls. The Committee also requested that staff return to the Policy Committee with a review of the requirements for installing sidewalks/gutters and undergrounding utilities with the goal that both items should be considered together as a package by Town Council.

## **2. Discuss and provide direction on the land use appeal process.**

Joel Paulson, Community Development Director, presented the staff report.

After discussion, the Committee agreed that the duty to make a finding should fall on the land use appellant and not the Town Council. The Policy Committee asked staff to return to the Committee with language reflecting two options for the land use appeal process:

- The Town Council may consider additional findings/information as part of the land use decision appeal; and
- Any new information would go back to the Planning Commission and the Town Council would not consider it as part of the land use decision appeal.

**4. Review proposed amendments and legal analysis to the Town Agenda Format and Rules Policy regarding time limits for applicant and appellant presentations and rebuttals.**

Robert Schultz, Town Attorney, presented the staff report.

After discussion, the Committee agreed to forward a recommendation to the Town Council to modify the time limits in the Town Agenda Format and Rules Policy regarding time limits for applicant and appellant presentations and rebuttals to five minutes for each of the presentations and three minutes for each of the rebuttals.

**ADJOURNMENT**

The meeting adjourned at 6:15 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the June 25, 2019 meeting as approved by the Town Council Policy Committee.

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/s/ Holly Zappala, Management Analyst

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**TOWN OF LOS GATOS  
POLICY COMMITTEE REPORT**

MEETING DATE: 6/25/2019

ITEM NO: 3

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DATE: JUNE 17, 2019

TO: POLICY COMMITTEE

FROM: LAUREL PREVETTI, TOWN MANAGER

SUBJECT: DISCUSS AND PROVIDE DIRECTION ON DEMOLITION REGULATIONS.

RECOMMENDATION:

Discuss and provide direction on demolition regulations.

BACKGROUND:

The Policy Committee last considered this matter on April 9, 2019. After discussion, the Committee's direction was to forward a recommendation to the Planning Commission to approve the following proposed modifications to the demolition regulations:

- Removal of the contiguity requirement; and
- To allow the repair exception for non-historic homes.

Their discussion also included support for one of the additional topics for consideration, which was to add existing chimneys as an exclusion from the existing wall area. Additionally, the Committee requested that the Historic Preservation Committee (HPC) be provided an opportunity to review the proposed modifications relating to historic structures.

On April 24, 2019, the HPC considered the potential changes as they would apply to historic structures. After discussing the matter, the HPC recommended approval of the changes as recommended by the Policy Committee.

PREPARED BY: JOEL PAULSON  
Community Development Director

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Reviewed by: Town Manager

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BACKGROUND (continued):

On May 22, 2019, the Planning Commission reviewed the proposed Town Code amendments from the Policy Committee. The Planning Commission recommended approval of the amendments with modifications to the Policy Committee's draft ordinance language based on public comments and discussion at the hearing.

In addition to these specific recommended changes, the Planning Commission also expressed support for a reconsideration of larger concepts within the demolition definition, specifically whether interior wall structure (framing) might be considered in place of wall surface material when retaining existing walls, as was mentioned during the public comment period of the hearing.

DISCUSSION:

On June 4, 2019, the Town Council considered the Planning Commission recommendation and introduced an Ordinance effecting amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding demolition regulations. At that meeting, the Town Council also referred discussion of additional amendments to the Policy Committee for further discussion. The specific larger concept for the Policy Committee's consideration is:

- Whether interior wall structure (framing) might be considered in place of wall surface material when retaining existing walls.

Staff looks forward to the discussion and direction of the Policy Committee for next steps.

COORDINATION:

The preparation of this report was coordinated with the Town Manager's and Town Attorney's Offices.



Excerpts from Los Gatos Town Code  
Chapter 29  
Section 29.10.020

---

...

**Demolition (non historic structures)** means removal of more than fifty (50) percent of the exterior walls. ~~The remaining exterior walls must retain either the existing interior or existing exterior wall covering.~~ The following is exempt from this definition:

- a. Repair. The removal and replacement of in kind non-repairable ~~exterior and/or interior wall covering~~ resulting in no change to its exterior appearance or character if approved by the Community Development Director.

...

**Wall, exterior** means one of the sides of a building connecting foundation and roof. An exterior wall encompasses the total height and width of the side of the building, ~~the exterior or interior wall covering~~ and the studs/structural elements used in the framing of the wall.

**Wall covering, exterior** means the finished surface of an exterior or interior wall.

**Wall covering, interior** ~~means the finished surface of an interior wall.~~

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A P P E A R A N C E S:

Los Gatos Planning Commissioners:	Matthew Hudes, Chair Melanie Hanssen, Vice Chair Mary Badame Kendra Burch Kathryn Janoff Reza Tavana
Town Manager:	Laurel Prevetti
Community Development Director:	Joel Paulson
Town Attorney:	Robert Schultz
Transcribed by:	Vicki L. Blandin (619) 541-3405

1  
2 P R O C E E D I N G S:  
3

4 CHAIR HUDES: We'll now move on to Item 2, which  
5 is Town Code Amendment Application A-19-007. The project is  
6 Town Wide, the Applicant is the Town of Los Gatos, and it's  
7 to consider amendments to Chapter 29, which are the Zoning  
8 Regulations of the Town Code regarding demolition  
9 regulations.

10 Ms. Armer, I understand you'll be giving the  
11 Staff Report.

12 JENNIFER ARMER: Yes, good evening. Good evening,  
13 Chair, Vice Chair, Commissioners.

14 The item in front of you is consideration of  
15 changes to the definition of "demolition" and "wall" as  
16 recommended by the Town Council Policy Committee and  
17 forwarded to you for your recommendation to Town Council.,  
18 The recommendation from Policy Committee impacts the  
19 current definition of demolition and the definition of wall  
20 in the following ways:  
21

22 For demolition it's deleting the text, "The  
23 remaining exterior walls must retain either existing  
24 interior or existing exterior wall covering," so that we  
25 would be considering the framing of the wall as

1 constituting the wall without having to retain those  
2 exterior wall coverings.

3           It would also include revising the repair  
4 exception that was recently approved to remove reference to  
5 wall coverings since that would no longer be necessary.

6           In addition to that, these changes included in  
7 Exhibit 4 also include changes to the definition of wall to  
8 remove any reference to wall covering and combine the wall  
9 covering for exterior and interior walls into one  
10 definition for simplification.

11           These changes are intended to streamline the land  
12 use process and reduce costs for remodels of existing  
13 homes.

14           This concludes Staff's presentation but I'd be  
15 happy to answer any questions.

16           CHAIR HUDES: Thank you. Are there any questions?  
17  
18 Vice Chair Hanssen.

19           COMMISSIONER HANSSEN: I just had one question.  
20 We had heard previously from several architects that there  
21 were issues of mold in the walls, so my only question is  
22 that the Policy Committee has reviewed this but do we know  
23 if other jurisdictions are using framing as a definition  
24 for the means to determine whether it's a technical  
25 demolition or not?

1 JENNIFER ARMER: Each municipality does have  
2 different ways of defining demolition in terms of what the  
3 percentage is, whether it's linear feet or the area of the  
4 wall, whether the roof is considered, and how they define  
5 wall. It's something that we've done a little bit of  
6 looking into but it is not always clear what their  
7 interpretation is just on a quick research.

8 JOEL PAULSON: I would just add that for  
9 reference the City of Saratoga does not include wall  
10 coverings. They've made an interpretation and they just  
11 look at the framing, just for your reference.

12 CHAIR HUDES: Great, thank you. Any other  
13 questions? Commissioner Janoff.

14 COMMISSIONER JANOFF: Thank you. This demolition  
15 definition refers parenthetically to non-historic  
16 structures. How would historic structures be affected or  
17 unaffected by this change in definition?

18 JENNIFER ARMER: Policy Committee's  
19 recommendation specifically was not recommending changes to  
20 the historic side of this, so the requirement that the  
21 exterior wall surface be retained, that only 25-percent of  
22 those side face the street, all of that would be maintained  
23 as is currently defined.  
24  
25

1 COMMISSIONER JANOFF: As I recall, some of the  
2 discussion from the architects had to do with historic  
3 structures and not knowing whether you'd have integrity of  
4 wall until you got to the framing.

5 JENNIFER ARMER: And they will still have the  
6 ability to request the repair and replace those exceptions  
7 that are currently in the code.

8 COMMISSIONER JANOFF: Okay, so repair would allow  
9 for that interpretation. Okay, thank you.  
10

11 CHAIR HUDES: Okay, thank you. Other questions?  
12 So, at this point we'll now invite comments from members of  
13 the public on Item 2. I have one card here but if anyone  
14 else wishes to speak, please submit a card. Gary Kohlsaas.

15 GARY KOHLSAAS: Good evening, Commissioners.  
16 Thank you for being here on the 9/11 anniversary.

17 I am extremely encouraged by this movement that  
18 I'm seeing in Los Gatos to listen to the professionals and  
19 be willing to change and modify and tweak the rules.

20 This has been one rule that personally I've gone  
21 up against many, many times and really kind of frustrated,  
22 very frustrated. I'm used to it, but none of my clients  
23 are, so I have to explain it every time.  
24

25 As Mr. Paulson said, Saratoga defines a wall by  
the framing. I have a large project in Saratoga right now.

1 We couldn't demo the house but we could strip all the walls  
2 off, all the materials on both sides, which makes it much  
3 easier to do several things.

4         The first time the Planning Commission looked at  
5 the demolition rules to be changed several months ago I  
6 spoke on behalf of that and I listed four examples. I'm not  
7 going to do those today but I really want to kind of get  
8 into the logistics of how homes are built and inspected and  
9 the sequence of it.

10         It's very important because when you're building  
11 a house you'll frame a house, you'll frame the walls, and  
12 then you'll put your plywood on there, and then we get an  
13 inspection, and almost every wall is going to have shear  
14 plywood on that. You get that inspected, you get it nailed  
15 off, and then you put building paper on there, known as a  
16 vapor barrier.

17         You can't do any electrical, insulation, anything  
18 like that until you have your house watertight. There are  
19 some exceptions, and the building officials now have to  
20 grant exceptions if we're in the case that we're saving the  
21 interior surface of the wall and in a situation where we  
22 want to remove the outside surfaces, leaving drywall or  
23 plaster.  
24  
25



1           So now you're doing everything from the outside.  
2 You're installing wiring, plumbing, insulation, and those  
3 are all supposed to be done when you're watertight, so it  
4 really puts a bind on the contractor and his subcontractors  
5 and the building officials to be able to switch back and  
6 forth between inspecting rough inspections on your  
7 electrical, all your utilities, and then coming back from  
8 insulation inspection and then getting your shear ply  
9 nailing on that, so it just really is awkward.

10  
11           But more importantly, what we're trying to do is  
12 build homes that are watertight, airtight to a certain  
13 degree, and it's very difficult if we have to maintain  
14 these surfaces, especially next to your surface, and not  
15 only historic homes but homes built... We've encountered  
16 homes built in the fifties, sixties, seventies that had  
17 little or no vapor barriers, and when a contractor wants to  
18 put his warranty on this project they always complain that  
19 they can't waterproof, they can't flash a window, so here  
20 they have a product that's brand new almost, remodeled, but  
21 it's not warrantied.

22           So, I just really applaud you guys and I  
23 encourage you guys to consider what the Policy Committee is  
24 recommending and Staff is recommending, and I speak for  
25

1 several architects. A lot of them couldn't come tonight,  
2 but hopefully I can carry the flag.

3 CHAIR HUDES: Okay, thank you. Are there  
4 questions?

5 First of all, I wanted to thank you for engaging  
6 in this process back at the Historic Preservation Committee  
7 and then at the Policy Committee, because I think that  
8 having the practical input from people who are actually  
9 involved in the work is very important to getting things  
10 right. I know it took us a couple of tries to get this  
11 finished, so we'll see where we go with it tonight.

12 But just so that I understand and maybe the  
13 public can understand, when something goes to technical  
14 demo is it the case then once that happens then the project  
15 has to comply with current codes, including things like  
16 curbs and gutters and bike lanes and things like that?

17 GARY KOHLSAAT: That's correct.

18 CHAIR HUDES: So, that's where the expense... It  
19 triggers an expense above and beyond just doing the work if  
20 it's called to have a technical demo?

21 GARY KOHLSAAT: Yes, it does trigger that. Many  
22 times it would also trigger a DRC or Planning Commission  
23 approval, so those extra steps that clients have to  
24 consider.  
25

1 I don't think anybody is against undergrounding  
2 utilities and putting in sidewalks and things like that,  
3 but if you have a house, maybe it's an old ranch house that  
4 had wood siding on the front for curbside appeal and for  
5 economy reasons they did stucco on the other three sides  
6 and you just want to put siding on all four sides so your  
7 house actually complies with the Los Gatos Design Standards  
8 that all the elevations should kind of match and work with  
9 each other. You're trying to comply with what the Town is  
10 proposing or supporting but in order to just put siding  
11 over stucco or take the stucco off and put siding on, both  
12 would be considered demolition, by the way, if you didn't  
13 have the inside up. Many times we're remodeling the inside,  
14 stripping all the asbestos laden drywall; you have to get  
15 all the drywall out these days. So, now this client has to  
16 go, "Well, how badly do I want my house to look good on the  
17 side of the house if I have to pay for other expenses that  
18 were not necessarily in the budget?"

20 So, yes, it certainly does complicate things to  
21 go to technical demo and especially for reasons like this  
22 that are I'm not really tearing any walls down, so again,  
23 show me the demo.

24 CHAIR HUDES: Okay. Thank you very much,  
25 appreciate it.

1 GARY KOHLSAAT: Thank you.

2 CHAIR HUDES: I don't see any other cards on this  
3 topic, is that correct? Okay, so we'll now close the public  
4 portion of the public hearing, and another opportunity for  
5 questions for Staff. Any questions or discussion? Okay.  
6 Discussion or a motion? Commissioner Badame.

7 COMMISSIONER BADAME: I'll try a motion. It seems  
8 pretty cut and dried and this makes sense. Appreciate the  
9 input from the architects, from the Staff, and the Policy  
10 Committee.  
11

12 I move to forward a recommendation of approval to  
13 Town Council for Town Code Amendment Application A-19-007,  
14 consideration of amendments to Chapter 29 (Zoning  
15 Regulations) of the Town Code regarding demolition  
16 regulations. I can make the findings for CEQA and the  
17 required findings for the General Plan per Exhibit 1.

18 CHAIR HUDES: Okay, thank you. Vice Chair  
19 Hanssen.

20 COMMISSIONER HANSSEN: I second the motion.

21 CHAIR HUDES: Okay, we have a motion and a  
22 second. Any discussion? Then I will call the question. All  
23 in favor? Opposed? Passes unanimously 6-0. Thank you.

24 I guess there are no appeal rights, is that  
25 correct? This is a recommendation.

1                   SALLY ZARNOWITZ: That's correct, this is a  
2 recommendation to Council.

3                   CHAIR HUDES: Okay, thank you.  
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**TOWN COUNCIL – November 5, 2019**  
**REQUIRED FINDINGS FOR:**

**Town Code Amendment Application A-19-007**

Consider amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding demolition regulations.

**FINDINGS**

**Required Findings for CEQA:**

- It has been determined that there is no possibility that this project will have a significant impact on the environment; therefore, the project is not subject to the California Environmental Quality Act, Section 15061 (b)(3).

**Required Findings for General Plan:**

- The proposed amendments to Chapter 29 of the Town Code regarding demolition regulations are consistent with the General Plan.

ATTACHMENT 3

## **DRAFT ORDINANCE**

### **AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING CHAPTER 29 (ZONING REGULATIONS) OF THE TOWN CODE REGARDING DEMOLITION REGULATIONS**

**WHEREAS**, the Town Council would like to streamline the land use process to reduce the time and cost impacts for businesses and residences;

**WHEREAS**, the current definition of demolition within Town Code includes a requirement that remaining exterior walls must retain either the existing interior or existing exterior wall covering, a requirement which design professionals and property owners often find difficult to implement;

**WHEREAS**, the proposed modifications will allow greater flexibility for good design and repair without triggering technical demolition;

**WHEREAS**, this matter was regularly noticed in conformance with State and Town law and came before the Planning Commission for public hearing on September 11, 2019;

**WHEREAS**, on September 11, 2019, the Planning Commission reviewed and commented on the proposed amendments regarding the demolition regulations and forwarded a recommendation to the Town Council for approval of the proposed amendments;

**WHEREAS**, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on November 5, 2019; and

**WHEREAS**, on November 5, 2019, the Town Council reviewed and commented on the proposed amendments regarding land use appeals and the Town Council voted to introduce an Ordinance.

ATTACHMENT 4



**NOW, THEREFORE, THE PEOPLE OF THE TOWN OF LOS GATOS AND THE TOWN COUNCIL DO HEREBY ORDAIN AS FOLLOWS:**

**SECTION I**

Section 29.10.020 of Town Code Chapter 29 are hereby amended to read as follows:

**Sec. 29.10.020. - Definitions.**

...

*Demolition (nonhistoric structures)* means removal of more than fifty (50) percent of the exterior walls. ~~The remaining exterior walls must retain either the existing interior or existing exterior wall covering.~~ The following is exempt from this definition:

- a. Repair. The removal and replacement of in kind non-repairable ~~exterior and/or interior wall covering~~ resulting in no change to its exterior appearance or character if approved by the Community Development Director.

...

*Wall, exterior* means one of the sides of a building connecting foundation and roof. An exterior wall encompasses the total height and width of the side of the building, ~~the exterior or interior wall covering~~ and the studs/structural elements used in the framing of the wall.

*Wall covering, ~~exterior~~* means the finished surface of an exterior or interior wall.

~~*Wall covering, interior* means the finished surface of an interior wall.~~

...

**SECTION II**

With respect to compliance with the California Environmental Quality Act (CEQA), the Town Council finds as follows:

A. These Town Code amendments are not subject to review under CEQA pursuant to sections and 15061(b)(3), in that it can be seen with certainty that there is no possibility that the proposed amendment to the Town Code would have significant impact on the environment; and

B. The proposed Town Code amendments are consistent with the General Plan and its Elements.

### **SECTION III**

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This Town Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

### **SECTION IV**

Except as expressly modified in this Ordinance, all other sections set forth in the Los Gatos Town Code shall remain unchanged and shall be in full force and effect.

### **SECTION V**

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on November 5, 2019, and adopted by the following vote as an ordinance of the Town of Los Gatos at a meeting of the Town Council of the Town of Los Gatos on November 19, 2019 and becomes effective 30 days after it is adopted.

In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

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**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 15

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DATE: October 23, 2019  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Introduce an Ordinance by Title Only, Effecting Amendments to Chapter 23 (Streets and Sidewalks) of the Town Code Regarding Right of Way Dedication, Installation of Curbs, Gutters and Sidewalks and Undergrounding of Utilities

**RECOMMENDATION:**

Introduce an Ordinance (Attachment 3), by title only, effecting amendments to Chapter 23 (Streets and Sidewalks) of the Town Code regarding right of way dedication, installation of curbs, gutters and sidewalks and undergrounding of utilities.

**BACKGROUND:**

On June 4, 2019, Town Council introduced an Ordinance effecting amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding demolition regulations. The amendments allow buildings that maintain more than 50% of their exterior walls, without being contiguous, to go through a standard building permit application process as opposed to the Architectural and Site application process. Due to this change, these projects would not be reviewed by the Town's Parks and Public Works Department for right of way dedication, inclusion of curbs, gutters and sidewalks, and undergrounding of utilities. The Town of Los Gatos Code specifies these elements for subdivisions but remains silent on other types of development projects.

As part of the development process, jurisdictions typically require public right of way dedications, new or upgraded curbs, gutters and sidewalks, and/or utility undergrounding for new construction or projects with significant modifications to existing buildings. Historically, the Town's Parks and Public Works Department has reviewed development plans for conditioning of right of way dedication, curbs, gutters and sidewalks, and utility undergrounding under the following permits:

**PREPARED BY:** Lisa Petersen  
Assistant Parks and Public Works Director/Town Engineer

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Finance Director, and Parks and Public Works Director

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SUBJECT: Introduce an Ordinance by Title Only, Effecting Amendments to Chapter 23 (Streets and Sidewalks) of the Town Code Regarding Right of Way Dedication, Installation of Curbs, Gutters and Sidewalks and Undergrounding of Utilities

DATE: October 23, 2019

BACKGROUND (continued):

- New subdivisions;
- New commercial and single-family home developments; and
- Remodels of commercial and single-family home developments where the building permits go through the discretionary Architectural and Site application process

On July 23, 2019 and September 24, 2019, the Policy Committee reviewed and provided direction on changes to regulations for dedications of public right of way, installation of curbs, gutters, and sidewalk, and undergrounding of utilities. Staff reports for these two meetings are contained in Attachments 1 and 2. The changes would allow the Town's Parks and Public Works Department to continue to review substantial remodel projects that previously went through the Town's Architectural and Site application process. With edits provided by the Committee, it forwarded a recommendation to the Town Council to adopt an Ordinance with these changes.

DISCUSSION:

The proposed amendments would:

- Add language addressing right of way and improvement requirements with issuance of a building permit proposing a substantial remodel and
- Add a definition for "substantial remodel"

The Policy Committee recommended a clear definition of "substantial remodel" based on a percentage of the total value of improvements as opposed to a set dollar valuation. Upon further staff review, using a percentage would allow more expensive homes a higher dollar value for their remodel work before being considered part of the "substantial remodel" definition than less expensive homes. To address this issue, staff is recommending using both a percentage value of the work and a set dollar value to ensure fairness in the application of the definition. Development of the definition was informed through a review of neighboring cities criteria for conditioning of public works elements during the building permit process.

To determine if a building permit meets the conditions of a substantial remodel, a licensed professional who is preparing the project or application plans would be required to complete a form requesting this information about the project. Should the project meet the "substantial remodel" definition, the Building Department would then route the plans to Parks and Public Works for review and possible conditioning of dedication or public improvements, as determined by the Town Engineer.

SUBJECT: Introduce an Ordinance by Title Only, Effecting Amendments to Chapter 23 (Streets and Sidewalks) of the Town Code Regarding Right of Way Dedication, Installation of Curbs, Gutters and Sidewalks and Undergrounding of Utilities

DATE: October 23, 2019

DISCUSSION (continued):

*Public Outreach*

In addition to the Policy Committee, public input has been requested through the following media and social media resources:

- An eighth-page public notice in the newspaper;
- The Town's website home page, What's New;
- The Town's Facebook page;
- The Town's Twitter account;
- The Town's Instagram account; and
- The Town's Nextdoor page.

In addition, interested architects and the following organizations have been contacted regarding the amendments:

- American Institute of Architects (AIA) Silicon Valley;
- Santa Clara County Association of Realtors (SCCAR); and
- Silicon Valley Association of Realtors (SILVAR).

CONCLUSION:

Staff recommends that the Town Council:

1. Make the finding that there is no possibility that this project will have a significant impact on the environment; therefore, the project is not subject to the California Environmental Quality Act [Section 15061 (b) (3)];
2. Make the required finding that the amendments to Chapter 23 of the Town Code regarding demolition regulations are consistent with the General Plan; and
3. Introduce an Ordinance (Attachment 3), by title only, effecting amendments to Chapter 23 (Streets and Sidewalks) of the Town Code regarding right of way dedication, installation of curbs, gutters and sidewalks and undergrounding of utilities.

PAGE 4 OF 4

SUBJECT: Introduce an Ordinance by Title Only, Effecting Amendments to Chapter 23  
(Streets and Sidewalks) of the Town Code Regarding Right of Way Dedication,  
Installation of Curbs, Gutters and Sidewalks and Undergrounding of Utilities

DATE: October 23, 2019

ALTERNATIVES:

Alternatively, the Council may:

1. Continue this item to a date certain with specific direction to staff;
2. Refer the item back to the Policy Committee with specific direction; or
3. Take no action, leaving the Town Code unchanged.

COORDINATION:

The evaluation of the application was coordinated with the Town Attorney.

ENVIRONMENTAL ASSESSMENT:

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that the proposed amendments to the Town Code will have a significant effect on the environment.

Attachments:

1. July 23, 2019 Policy Committee Staff Report with Exhibits 1 and 2
2. September 24, 2019 Policy Committee Staff Report
3. Draft Ordinance
4. Public Comment Received



**TOWN OF LOS GATOS  
COUNCIL POLICY COMMITTEE**

MEETING DATE: 07/23/2019

ITEM NO: 2

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DATE: July 17, 2016  
TO: Council Policy Committee  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Review and Provide Direction on Regulations for Dedications of Public Right-of-Way, Installation of Curbs, Gutters, and Sidewalk, and Undergrounding of Utilities

**RECOMMENDATION:**

Review and provide direction on regulations for dedications of public right of way, installation of curbs, gutters, and sidewalks, and undergrounding of utilities.

**BACKGROUND:**

As part of the development process, jurisdictions typically require public right of way dedications, new or upgraded curbs, gutters, and sidewalks, and/or utility undergrounding for new construction or projects with significant modifications to existing buildings. Historically, Parks and Public Works (PPW) reviews the proposed development and identifies appropriate conditions regarding these items for the following applications:

- New subdivisions;
- New commercial and single-family home developments; and
- Remodels of commercial and single-family home developments where the building permits go through the discretionary Architectural and Site application process.

On June 18, 2019, the Town Council approved modifications to the demolition policy to allow for streamlining of the building permit process. The modifications will allow buildings to go through a standard building permit application process as opposed to the previously required Architectural and Site application process. Due to this change, these projects will not be

**PREPARED BY:** Matt Morley  
Director of Parks and Public Works

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Reviewed by: Town Manager, Town Attorney, and CDD Director

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JULY 19, 2019

BACKGROUND (continued):

reviewed by PPW for right-of-way dedication, inclusion of curbs, gutters, and sidewalks, and undergrounding of utilities.

The requirements for right-of-way dedication, curbs, gutters and sidewalk and undergrounding of utilities are often stipulated under a jurisdiction's municipal code. The Town of Los Gatos code specifies these elements for subdivisions (see Attachment 1) and is silent on other types of development projects.

DISCUSSION:

Requiring improvements to curbs, gutters, and sidewalks with development projects is an important way for safe and accessible passage for pedestrians on Town roadways. To obtain these improvements, it is often necessary for the development to provide a right-of-way dedication. Dedications can also provide the needed width for inclusion of important bicycle improvements as outlined in the Town Council adopted Bicycle and Pedestrian Master Plan. Undergrounding of utilities allows for removal of unsightly lines and poles, adding to the beautification of the Town.

To provide clarity on these issues to developers and property owners, staff recommends development of an ordinance to fully cover property dedications, installation of curbs, gutters, and sidewalks, and undergrounding of utilities. It is recommended that along with new commercial and residential developments, the ordinance cover substantial remodels of commercial and residential developments. Attachment 2 contains examples from the cities of Campbell and Cupertino.

RECOMMENDATIONS:

Staff recommends that the Council Policy Committee provide direction on regulations for dedications of public right-of-way, installation of curbs, gutters, and sidewalks, and undergrounding of utilities. Based on the Committee's direction, staff can return to the Committee with a proposed ordinance for any additional review and direction.

COORDINATION:

This report has been coordinated with the Town Attorney's Office and the Community Development Department.

PAGE 3 OF 3

SUBJECT: Regulations for Dedications, Curb, Gutter, Sidewalk, and Undergrounding of  
Utilities

JULY 19, 2019

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA and no further action is required.

Attachments:

1. Subdivision Ordinance
2. Sample Ordinance language from Campbell and Cupertino

# Town of Los Gatos Subdivision Ordinance

## Chapter 24 Subdivision Regulations

### Sec. 24.20.080. – Dedication Requirements

As a condition of approval of a map, the subdivider shall dedicate or make an irrevocable offer of dedication of all parcels of land within the subdivision that are needed for streets, alleys, including access rights and abutters' rights, drainage, public utility easements, and open space land or easement, park lands, trail rights-of-way or easements, and other public easements. In addition, the subdivider shall improve or agree to improve all streets, alleys, including access rights and abutters' rights, drainage, public utility easements, and other public easements.

**City of Cupertino: Chapter 14 Streets, Sidewalks and Landscaping**

**14.04.040 Requirements – General**

A. Any person who proposes to erect, construct, add to, alter or repair any building or structure for which a building permit is required by the City on or upon any land adjacent to an unimproved street, or who seeks a planned development permit, use permit or architectural and site approval from the City for land adjacent to an unimproved street must improve, or agree to improve by installation agreement, said street as herein required by the installation of such of the following improvements as the City Engineer, under the provisions of this chapter, deems necessary: underground utilities, curbs and gutters, driveways, sidewalk, street paving and overlay, street lights, storm sewers, sanitary sewers, street trees, street signs, water lines, fire hydrants, and retaining walls, and, where necessary, the dedications and improvements of service roads, facilities for off-street parking, alleys, easements for public utilities, drainage, sewers, walkways, watercourses, planting strips and nonaccess facilities, and the payment of park and recreation facilities acquisition and maintenance fees in accordance with Chapter 14.05 of the City's Ordinance Code. Said improvements or installation agreements shall be a condition precedent to the issuance of any required building permit, planned development, use permit, or architectural approval.

**City of Campbell: Chapter 11 Streets and Sidewalks**

**11.24.040 - Requirements—General.**

Except as provided for in Section 11.24.180 of this chapter or other adopted council policy, any person who proposes to erect, construct, add to, alter or repair any building or structure for which a building permit is required by the city on or upon any land adjacent to an unimproved street, or who seeks a use permit, planned development permit, or architectural and site approval, or a tentative map approval from the city for land adjacent to or containing an unimproved street must improve, or agree to improve by street improvement agreement or deferred street improvement agreement such street as herein required. The permittee shall install such improvements that the city engineer deems necessary, in accordance with the general purpose and intent of this chapter as specified in Section 11.24.030 of this chapter, which may include the following; curbs and gutters, driveways, sidewalks, overlay, pavement structural section, pavement striping, street lights, storm sewers, sanitary sewers, street trees, street signs, water lines, fire hydrants, monumentation, retaining walls and, where necessary, the dedications and improvement of service roads, facilities for off-street parking, alleys, easements for public utilities, drainage, sewers, walkways, watercourses, planting strips and nonaccess facilities. Such improvements or agreement to install such improvements shall be a condition precedent to the issuance of any required building permit, use permit, planned development permit, or site and architectural approval. The public works director and the city engineer or their designees shall have the authority to execute such agreements on behalf of the city in accordance with this chapter.



**TOWN OF LOS GATOS  
POLICY COMMITTEE REPORT**

MEETING DATE: 9/24/2019

ITEM NO: 3

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DATE: September 20, 2019

TO: Council Policy Committee

FROM: Laurel Prevetti, Town Manager

SUBJECT: Provide Direction on Potential Amendments to the Town Code Regarding Right of Way Dedication, Installation of Curbs, Gutters, and Sidewalks, and Undergrounding of Utilities

**RECOMMENDATION:**

Provide direction on potential amendments to the Town Code regarding right of way dedication, installation of curbs, gutters, and sidewalks, and undergrounding of utilities.

**BACKGROUND:**

On June 18, 2019, the Town Council approved modifications to the demolition policy to allow for streamlining of the building permit process. The modifications will allow buildings that maintain more than 50 percent of their exterior walls, without being contiguous, to go through a standard building permit application process as opposed to the Architectural and Site application process. Due to this change, these projects will not be reviewed by the Town's Parks and Public Works Department for right of way dedication, inclusion of curbs, gutters, and sidewalks, and undergrounding of utilities. The Town Code specifies these elements for subdivisions, but remains silent on other types of development projects.

Historically, Parks and Public Works has reviewed development plans for conditioning of right of way dedication, curbs, gutters, and sidewalks, and undergrounding of utilities under the following permits:

- New subdivisions;
- New commercial and single-family home developments;
- Remodels of commercial and single-family home developments when the applications go through the discretionary Architectural and Site application process.

**PREPARED BY:** Lisa Petersen  
Assistant Director of Parks and Public Works/Town Engineer

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Reviewed by: Town Manager, Town Attorney, and PPW Director

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SUBJECT: Provide Direction on Potential Amendments to the Town Code Regarding Right of Way Dedication, Installation of Curbs, Gutters and Sidewalks, and Undergrounding of Utilities

DATE: September 20, 2019

BACKGROUND (continued):

On July 23, 2019, the Policy Committee reviewed and provided direction on potential regulations for these items. After the discussion, the Committee asked staff to return to the Policy Committee with proposed amendments to the Town Code applicable to building permits. The Committee also requested that staff review the current practice regarding when and how “in lieu” sidewalk fee money is used.

DISCUSSION:

*Proposed Code Amendments*

As provided to the Policy Committee in the July 23, 2019 report, both the City of Cupertino and the City of Campbell have broad code requirements for dedication of right of way and/or the installation of improvements such as curbs, gutters, and sidewalk, and undergrounding of utilities when a building permit is required. Both cities further define when the building permits will be routed to their Public Works Departments for conditioning of right of way or improvements based on Building Department procedural documents. Staff is recommending Code changes in alignment with these cities.

Potential changes to Town Code Chapter 23 Streets and Sidewalks would address the dedication of right of way and/or the installation of improvements when a building permit is required:

**Sec. 23.10.005 – Requirements – General**

Any person who proposes a substantial upgrade to erect, construct, add to, alter or repair any building or structure for which a building permit is required by the Town adjacent to an unimproved street, or who seeks a use permit, planned development permit, or architectural and site approval from the Town for land adjacent to an unimproved street must agree to improve, or agree to improve by installation agreement, said street by the installation of improvements, under the provisions of this chapter. This may include dedication or an irrevocable offer of dedication of land that is needed for streets, alleys including access rights and abutters’ rights, drainage, public utility easements and open space land or easement, park lands, trail rights of way or easements, and other public easements. In addition, the owner/developer shall improve or agree to improve all streets, alleys, including access right and abutters’ rights, drainage, public utility easements, and other public easements as determined by the Town Engineer. These improvements may include, but are not limited to, installation of curbs, gutters, and sidewalk, pavement, bicycle improvements, and undergrounding of utilities.

SUBJECT: Provide Direction on Potential Amendments to the Town Code Regarding Right of Way Dedication, Installation of Curbs, Gutters and Sidewalks, and Undergrounding of Utilities

DATE: September 20, 2019

DISCUSSION (continued):

Staff is recommending that building permit plans be routed to Public Works for conditioning of necessary right of way and/or public improvements should the permit be deemed a “substantial remodel.” In general alignment with neighboring cities, a substantial remodel would meet three or more of the following criteria:

- The valuation of the work exceeds \$180,000;
- Seventy-five percent (75%) or more of the existing roof framing (square footage area) will be removed;
- Fifty percent (50%) or more of the existing exterior wall [Square Foot (SF)] will be removed; or
- Fifty percent (50%) or more of the existing interior wall [Lineal Foot (LF)] will be removed.

To determine if a building permit meets these conditions, a form requesting this information would be required from the licensed professional preparing the architectural plans. Should this form show the work meeting the “substantial remodel” definition, the Building Department would then route the plans to Parks and Public Work for review and possible conditioning of dedication or public improvements, as determined by the Town Engineer.

*Sidewalk In-Lieu Fee*

Currently, sidewalk installation is required for new developments that do not have sidewalk and are adjacent to a property that has installed sidewalk. In cases (outside of the hillside area) where no adjacent sidewalk exists, developments are required to pay a sidewalk in-lieu fee.

The Town has collected \$182,633 in sidewalk in-lieu fees since FY 2016/17. In the past, the Town has not increased the Annual Curb, Gutter, and Sidewalk Maintenance project budget by the actual receipts. In FY 2018/19, the ongoing budget for the annual project was increased by \$50,000 to a \$300,000 per year allocation and in FY 2019/20, the budget was increased by \$600,000 (one-time) to address a backlog in needed concrete repairs and ramp installations. In the future, staff would recommend to the Town Council a Mid-Year budget adjustment for the Annual Curb, Gutter, and Sidewalk Maintenance project based on the prior year receipts of sidewalk in-lieu fees to ensure that these fees are used as intended. The yearly budget allocation would remain \$300,000 per year, with receipts reducing the general fund allocation by an equivalent amount.

PAGE 4 OF 4

SUBJECT: Provide Direction on Potential Amendments to the Town Code Regarding Right of Way Dedication, Installation of Curbs, Gutters and Sidewalks, and Undergrounding of Utilities

DATE: September 20, 2019

COORDINATION:

This report has been coordinated with the Town Attorney's Office and the Community Development Department.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA and no further action is required.

Attachments:

Previously received with the July 23, 2019 Staff Report:

1. Subdivision Ordinance
2. Sample Ordinance language from Campbell and Cupertino



## **DRAFT ORDINANCE**

### **AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING CHAPTER 23 (STREETS AND SIDEWALKS) OF THE TOWN CODE REGARDING DEMOLITION REGULATIONS RIGHT OF WAY DEDICATION, INSTALLATION OF CURBS, GUTTERS, AND SIDEWALKS, AND UNDERGROUNDING OF UTILITY REGULATIONS**

**WHEREAS**, the Town Code provides guidance of installation of curbs, gutters and sidewalks and undergrounding of utilities for subdivisions but remains silent on building permit projects;

**WHEREAS**, recent changes to the Town code will prevent certain building permits from going through the Architectural and Site application process where they previously were reviewed for dedication of needed right of way and installation of Town improvements in the right of way;

**WHEREAS**, as part of the development process, jurisdictions typically require public right of way dedications and installation of improvements in the right of way for new construction or projects with significant modifications to existing buildings;

**WHEREAS**, this matter was regularly noticed in conformance with State and Town law and came before the Policy Committee on July 23, 2019 and September 24, 2019;

**WHEREAS**, on September 24, 2019, the Policy Committee recommended bringing the amendments to the Town Council;

**WHEREAS**, it has been determined that there is no possibility that this project will have a significant impact on the environment; therefore, the project is not subject to the California Environmental Quality Act, Section 15061 (b)(3);

**WHEREAS**, the proposed amendments to Chapter 23 of the Town Code regarding right of way dedication, installation of curbs, gutters, and sidewalks, and undergrounding of utilities regulations are consistent with the General Plan;

**WHEREAS**, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on November 5, 2019; and

ATTACHMENT 3

**WHEREAS**, on November 5, 2019, the Town Council reviewed and commented on the proposed amendments regarding land use appeals and the Town Council voted to introduce an Ordinance.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES ORDAIN AS FOLLOWS:**

## **SECTION I**

Los Gatos Town Code Article I – Streets and Regulations Section 23.10.005 is hereby added to read as follows:

### **Sec. 23.10.005 – Requirements – General**

Any person who proposes a substantial remodel to erect, construct, add to, alter or repair any building or structure for which a building permit is required by the Town adjacent to an unimproved street, or who seeks a use permit, planned development permit, or architectural and site approval from the Town for land adjacent to an unimproved street must agree to improve, or agree to improve in an agreement with the Town, said street by the installation of improvements, under the provisions of this chapter. This may include dedication or an irrevocable offer of dedication of land that is needed for streets, alleys including access rights and abutters' rights, drainage, public utility easements and open space land or easement, park lands, trail rights of way or easements, and other public easements. In addition, the owner/developer shall improve or agree to improve all streets, alleys, including access right and abutters' rights, drainage, public utility easements, and other public easements as determined by the Town Engineer. These improvements may include, but are not limited to, installation of curbs, gutters, and sidewalk, pavement, bicycle improvements, and undergrounding of utilities.

Los Gatos Town Code Article I – Streets and Regulations Section 23.10.010 is hereby amended to read as follows:

### **Sec. 23.10.010. - Definition.**

1. For purposes of this chapter, the following words and phrases shall have the following meanings:

2. *Median strip.* A paved or planted strip of ground dividing a roadway into lanes according to the direction of travel.
3. *Parked vehicle.* Shall mean a legally parked vehicle.
4. *Roadway.* That portion of a public street normally or ordinarily used for motor vehicle travel. It shall not include driveways, sidewalks, curbs, other areas adjacent to public streets, or other areas out of or off of the public streets. It shall include any median strip and any concrete island separated from a sidewalk used as a staging area for pedestrians crossing an intersection.
5. *Solicit or solicitation.* Any transaction or attempted transaction involving an offer, whether oral or written, of goods, property or services, or a request for money, property or services. This term shall not include the mere advertisement of goods and/or services by a motorist, where no immediate transaction is attempted.
6. *Substantial remodel.* Defined as meeting three or more of the following criteria:
  - The valuation of the work exceeds either \$200,000 or 20% of the total value of the improvements;
  - Seventy-five percent (75%) or more of the existing roof framing (square footage area) will be removed;
  - Fifty percent (50%) or more of the existing exterior wall [Square Foot (SF)] will be removed; or
  - Fifty percent (50%) or more of the existing interior wall [Lineal Foot (LF)] will be removed.

(Code 1968, § 26-1; Ord. No. 2185, § I, 2-1-10)

### SECTION III

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 5<sup>th</sup> day of November 2019 and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the 19<sup>th</sup> day of November 2019. This ordinance takes effect 30 days after it is adopted. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

From: laure chicoine <blissful@nirvanasalon.com>  
Sent: Wednesday, October 23, 2019 6:45 PM  
To: <SHockemeyer@LosGatosCA.gov>  
Subject: Sidewalks and alleys

> Hi,  
> I'd like to share my ideas about the town's sidewalks and also alleys. I think it would be great to utilize the sidewalks for more pop up sales and events. I'd also like to propose that the alley way in between the Rugani and Eureka (224 n Santa Cruz) building be turned into a usable parklet for events, seating and pop ups. I am working with the owners of the two buildings to allow bistro lights and outdoor seating. I'd like to see more of this throughout the town. Like Paris...  
>  
> Laure Chicoine  
> Owner/Master Stylist  
> Nirvana Aveda Concept Salon



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 15

DESK ITEM

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DATE: November 5, 2019  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Introduce an Ordinance by Title Only, Effecting Amendments to Chapter 23 (Streets and Sidewalks) of the Town Code Regarding Right of Way Dedication, Installation of Curbs, Gutters and Sidewalks and Undergrounding of Utilities

Attachment 5 includes public comments received between 11:01 a.m., Thursday, October 31, 2019 to 11:00 a.m., Tuesday, November 5, 2019.

Attachments previously received with the November 5, 2019 Staff Report:

1. July 23, 2019 Policy Committee Staff Report with Exhibits 1 and 2
2. September 24, 2019 Policy Committee Staff Report
3. Draft Ordinance
4. Public Comment Received

Received with this Desk Item Report:

5. Public comments received between 11:01 a.m., Thursday, October 31, 2019 to 11:00 a.m., Tuesday, November 5, 2019.

PREPARED BY: Lisa Petersen  
Assistant Parks and Public Works Director/Town Engineer

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Finance Director, and Parks and Public Works Director

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**JOHN DI BENE**  
Assistant Vice President-  
Senior Legal Counsel  
Legal Department

AT&T Services, Inc.  
2600 Camino Ramon  
Room 2W901  
San Ramon, CA 94583

925.543.1548 Phone  
jdb@att.com

November 5, 2019

***VIA E-MAIL***

Town of Los Gatos Town Council  
110 E. Main St.  
Los Gatos, CA 95030

Re: AT&T's Comments on the Town of Los Gatos' Amendments to Chapter 23  
(Streets and Sidewalks) of the Town Code Regarding Right of Way Dedication,  
Installation of Curbs, Gutters and Sidewalks and Undergrounding of Utilities

Dear Mayor Leonardis, Vice Mayor Jensen and Councilmembers Rennie, Sayoc and Spector:

I write on behalf of New Cingular Wireless PCS, LLC d/b/a AT&T Mobility (AT&T) to provide comments on the Town of Los Gatos' amendments to Chapter 23 (Streets and Sidewalks) of the Town Code regarding right of way dedication, installation of curbs, gutters and sidewalks and undergrounding of utilities ("Draft Amendments"). AT&T respectfully requests that activities by telephone corporations be excepted from the Draft Amendments. While it is unclear whether the Town intends the Draft Amendments would apply to utility deployments in the public rights-of-way, it needs to significantly revise its Draft Amendments to avoid unlawful impacts to deployments by telephone corporations, including small wireless facilities. Specifically, the Draft Amendments need to be revised to avoid interfering with AT&T's state law franchise right to install communications equipment and to avoid running afoul of federal law's preemption of city regulations that effectively prohibit wireless services.

### ***Key Legal Concepts***

AT&T has a statewide franchise right to access and construct communications facilities in the public rights-of-way. Under Public Utilities Code Section 7901, AT&T, as a telephone corporation, has the right to access and construct facilities in public rights-of-way in order to furnish wireline and wireless services, so long as it does not "incommode" the public use of the public right-of-way.<sup>1</sup> And under Section 7901.1, AT&T's right is subject only to the Town's reasonable and equivalent time, place, and manner regulations.

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<sup>1</sup> See *T-Mobile West, LLC v. Town and County of San Francisco*, 3 Cal. App. 5th 334, 358 (1st Dist. 2016) ("[T]he section 7901 franchise 'provide[s] the telephone corporations with the right to construct and maintain their facilities. Local government has limited authority to manage or control that construction.'" (emphasis removed)), quoting Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Sen. Bill No. 621 (1995–1996 Reg. Sess.) as amended May 3, 1995, pp. 1, 3, aff'd 6 Cal. 5th 1107 (2019).

In addition, the Federal Telecommunications Act of 1996 (“Act”) establishes key limitations on local regulations. The Act defines the scope and parameters of the City’s review of AT&T’s applications. Importantly, the Act prohibits a local government from denying an application for a wireless telecommunications facility where doing so would “prohibit or have the effect of prohibiting” AT&T from providing wireless telecommunications services.<sup>2</sup> The FCC has ruled that an effective prohibition occurs when the decision of a local government materially inhibits wireless services.<sup>3</sup>

Under the *Small Cell Infrastructure Order*, the FCC established a standard for local aesthetic regulations regarding small cells, and these apply to installations in public rights-of-way. Such regulations must be (1) reasonable, (2) no more burdensome than those applied to other infrastructure deployments, and (3) objective and published in advance.<sup>4</sup> Regulations that do not meet these criteria are preempted as they are presumed to effectively prohibit wireless service in violation of the Act.<sup>5</sup>

### ***The Town Cannot Require AT&T to Provide New Amenities***

Section 23.10.005 of the Draft Amendments being considered by the Town Council requires “Any person who proposes a substantial remodel . . . or who seeks a use permit, planned development permit, or architectural and site approval from the Town for land adjacent to an unimproved street” must make significant improvements to the rights-of-way, including installing curbs, gutters, sidewalk, pavement, making bicycle improvements, or undergrounding utilities. The Town, however, cannot require AT&T to make significant improvements to the rights-of-way unrelated to and out of proportion with installing telecommunications facilities, especially small wireless facilities.

If AT&T disturbs or damages the right-of-way during its construction of communications facilities in the Town, AT&T will certainly make the appropriate repairs. But requiring significant improvements is unreasonable and overly burdensome, it is not related to operating a communications facility and is likely to violate both federal and state law. Further, AT&T cannot be required to underground utilities in ways that would effectively prohibit and materially inhibit wireless services, or that are inconsistent with its Section 7901 rights. This is particularly true for small cells, as wireless telecommunications facilities cannot operate with all equipment underground. Antennas must be above ground to broadcast and receive and radio units must be placed above ground near antennas to function properly.

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<sup>2</sup> 47 U.S.C. § 332(c)(7)(B)(i)(II).

<sup>3</sup> See *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, Declaratory Ruling and Third Report and Order, FCC 18-133* (September 27, 2018) at ¶¶ 35-42; see also, *In the Matter of California Payphone Assoc. Petition for Preemption, Etc.*, Opinion and Order, FCC 97-251, 12 FCC Rcd 14191 (July 17, 1997).

<sup>4</sup> See *id.* at ¶ 86.

<sup>5</sup> See *id.*



Town of Los Gatos

November 5, 2019

Page 3 of 3

For these reasons, AT&T respectfully requests that the Town exempt activities by telephone corporations from the scope of the Draft Amendments or revise them to accommodate all communications facilities as required by federal and state law.

Very truly yours,

*/s/ John di Bene*

John di Bene



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 16

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DATE: October 31, 2019  
TO: Mayor and Town Council  
FROM: Robert Schultz, Town Attorney  
SUBJECT: First Reading and Introduction of An Ordinance of the Town of Los Gatos Amending Chapter 18, Article VI, Section 18.60.020 of the Los Gatos Town Entitled Permits for Retailers of Tobacco Products to Prohibit the Sale of Electronic Cigarettes

**RECOMMENDATION:**

Staff recommends that Town Council accept public comment and then move for introduction and first reading of an Ordinance, by title only, amending Chapter 18, Article VI, Section 18.60.020 of the Town Code to prohibit the sale of electronic cigarettes and all flavored tobacco products, and modify other provisions of the prior Ordinance relating to permits for retailers of tobacco products (Attachment 2).

**BACKGROUND:**

In 2016, the Town Council recognized the dangers of smoking and secondary smoke and adopted amendments to the Town's Smoking Regulations to prohibit smoking in the Town's public spaces, including outdoor dining areas, entryways, public events, recreation areas, and service areas and multi-family residential units. In addition, in 2017, the Town Council adopted an ordinance (Attachment 1) to address regulating the sales of tobacco by businesses in Los Gatos. After the Tobacco Retailers Ordinance was adopted by the Town Council, the Town entered into an Agreement with the County of Santa Clara that allowed the County of Santa Clara to administer the ordinance and collect the annual permit fees.

On October 1, 2019, the Town Council discussed potential amendments to the Tobacco Retailers Ordinance due to the concerns associated with the growth in sales of e-cigarettes, electronic smoking devices and electronic smoking device paraphernalia, such as vaping

**PREPARED BY:** Robert Schultz  
Town Attorney

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Reviewed by: Town Manager, Assistant Town Manager, and Finance Director

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BACKGROUND (Continued):

devices. While the Town's efforts to reduce underage tobacco use have proven successful, the growing availability of e-cigarettes has reversed those positive trends. In addition to the problems associated with underage use, according to many studies, the sale of electronic cigarettes poses a broad risk to public health in general.

Based on the Council's direction on October 1, 2019, staff in coordination with the County of Santa Clara recommends the following set of updates to our Ordinance (Attachment 2) in order to better prevent and reduce the use of tobacco products and electronic smoking products, especially by youth under the age of 21:

1. Repeal and reenact The Town's Tobacco Retail Licensee (TRL) Ordinance to conform with the County's TRL Ordinance since the County is the Town's designee to implement and enforce the Town's TRL Ordinance;
2. Amend the TRL Ordinance to prohibit the sale and distribution of all electronic cigarette products;
3. Amend the TRL Ordinance to eliminate the exemption allowing certain retailers (i.e. Cigar Shops) to sell flavored tobacco products and add "mint, menthol" to the list of flavors; and
4. Modify other provisions of the prior Ordinance relating to permits for retailers of tobacco products and to conform with the County's TRL Ordinance.

DISCUSSION:

*Youth at Risk*

The Surgeon General has declared e-cigarette use among youth an epidemic. While youth use of combustible cigarettes has decreased dramatically, e-cigarette use—or "vaping"—among middle and high school students nationally increased by 78 percent between 2017 and 2018, with over 3.6 million youth currently using e-cigarettes in 2018.<sup>1</sup> The proportion of current e-cigarette users in high school who reported use on 20 days or more in the past 30-day period increased from 20 percent in 2017 to 27.7 percent in 2018. In 2019, the national prevalence of

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<sup>1</sup> Cullen KA, Ambrose BK, Gentzke AS, Apelberg BJ, Jamal A, King BA. Use of Electronic Cigarettes and Any Tobacco Product Among Middle and High School Students — United States, 2011–2018. MMWR Morb Mortal Wkly Rep. 2018;67(45):1276-1277.

DISCUSSION (continued):

e-cigarette use during the previous 30 days was more than 1 in 4 students in the 12th grade, more than 1 in 5 in the 10th grade, and more than 1 in 11 in the 8th grade.<sup>2</sup> Use of e-cigarettes among undergraduate college students increased from 4.9 percent to 10.2 percent between 2017 and 2018.<sup>3</sup>

In addition, nearly 1 in 3 Santa Clara County teens – 31.6 percent – report that they have used an e-cigarette at least once. E-cigarettes were the most popular tobacco product, with approximately one out of seven high school students (13.2%) currently using them in Santa Clara County. Susceptibility of future e-cigarette use among Santa Clara County teens is high: 2 in 5 students (40.1%) who had never used a tobacco product said they would use one if offered by a best friend and more than 1 in 4 high school students (28.0%) had been offered a tobacco product in the past month.

Much of the growth in youth usage is attributable to e-cigarette companies' marketing directly to youth. In 2014, 18 million (7 out of 10) middle and high school students were exposed to e-cigarette ads. E-cigarettes are also marketed in a variety of flavors, more than 15,000, that appeal to youth, including gummy bear, birthday cake, cotton candy, and fruit punch. Most current tobacco users in Santa Clara County reported using a flavored tobacco product (82.3%), with use of flavored e-cigarettes among County teens at 82.6%. Flavored tobacco product use was high across all genders, races/ethnicities, and grades.

Youth report purchasing e-cigarettes in stores, online, and obtaining products from friends. More than 2 in 5 teens in Santa Clara County (45.4%) reported purchasing their own e-cigarettes, with over a quarter of this group saying they buy them directly from a local store. Among those who purchased e-cigarettes in a local store, 62.5% purchased them at a vape shop. In 2019, the number of violations for sales to minors at tobacco retailers in the unincorporated area increased to 12 violations (out of 43 undercover enforcement checks), up from only 1 violation (out of 34 undercover enforcement checks) in 2018. This included one violation at an adult-only tobacco store in the unincorporated area.<sup>4</sup>

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<sup>2</sup> Miech R, Johnston L, O'Malley PM, Bachman JG, Patrick ME. Trends in Adolescent Vaping, 2017–2019. N Engl J Med. September 2019;NEJMc1910739.

<sup>3</sup> American College Health Association. American College Health Association-National College Health Assessment II: Undergraduate Student Reference Group Executive Summary. Silver Spring, MD; 2017-2018.

<sup>4</sup> Zhu S-H, Lee J, Zhuang YL, Branden K, Cole A, Wolfson T, Gamst A (2019). Tobacco use among high school students in Santa Clara County: Findings from the 2017-18 California Student Tobacco Survey. San Diego, California: Center for Research and Intervention in Tobacco Control (CRITC), University of California, San Diego; and Centers for Disease Control and Prevention. E-cigarette Ads and Youth (2017). <https://www.cdc.gov/vitalsigns/ecigarette-ads/index.html>.

DISCUSSION (continued):

*General Health Risks*

Also, according to the Surgeon General, “most e-cigarettes contain nicotine – the addictive drug in regular cigarettes, cigars, and other tobacco products. Nicotine exposure during adolescence can harm the developing brain – which continues to develop until about age 25. Nicotine exposure during adolescence can impact learning, memory, and attention. Using nicotine in adolescence can also increase risk for future addiction to other drugs. In addition to nicotine, the aerosol that users inhale and exhale from e-cigarettes can potentially expose both themselves and bystanders to other harmful substances, including heavy metals, volatile organic compounds, and ultrafine particles that can be inhaled deeply into the lungs.”<sup>5</sup>

E-cigarette use can also play a role in adolescent social maladjustment, including poor learning and academic performance, increased aggressive and impulsive behavior, poor sleep quality, attention deficits, impaired memory, cognition, and increased depression and suicidal ideation.<sup>6</sup> Daily e-cigarette use is associated with increased risk of irreversible cardiovascular and lung disease through the inhalation of harmful chemicals.<sup>7</sup> Secondhand emissions from e-cigarettes are also dangerous because they contain nicotine; ultrafine particles; flavorings such as diacetyl, a chemical linked to serious lung disease; volatile organic compounds such as benzene, which is found in car exhaust; and heavy metals, such as nickel, tin, and lead.

In addition to these negative long-term health effects, e-cigarette use is now associated with a wave of dangerous, life-threatening illnesses. As of October 15, 2019, 1,479 cases of lung injury associated with the use of e-cigarette or vaping products in 49 states and one U.S. territory have been reported to the Center for Disease Control (CDC). Thirty-three deaths have been confirmed in 24 states. The California Department of Public Health issued a health advisory urging everyone to refrain from vaping due to public health risks posed by vaping any product, including the use of electronic cigarettes, as vaping has recently been linked to severe breathing problems, lung damage, and even death. Since the CDC’s August 30, 2019 Health Advisory, there have been two reported cases of lung injury associated with e-cigarette use in Santa Clara County. One of these cases was in an adolescent, and both individuals required hospitalization.

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<sup>5</sup> Surgeon General’s Advisory on E-cigarette Use Among Youth (2008). <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>.

<sup>6</sup> Tobore TO. On the potential harmful effects of E-Cigarettes (EC) on the developing brain: The relationship between vaping-induced oxidative stress and adolescent/young adults social maladjustment. *J Adolesc.* 2019;76:202-209.

<sup>7</sup> American Lung Association. The Impact of E-Cigarettes on the Lung (2011). <https://www.lung.org/stop-smoking/smoking-facts/impact-of-e-cigarettes-on-lung.html>; Bein K, Leikauf GD. Acrolein - a pulmonary hazard. *Mol Nutr Food Res* 55(9):1342-60.

DISCUSSION (continued):

*Regulatory Recommendations*

Based upon Council direction on October 1, 2019, staff in coordination with the County discussed banning the sale and distribution of e-cigarettes in the Town of Los Gatos. The proposed additions to the Tobacco Permitting Ordinance respond to Council's request by: (1) a ban on the sale of electronic cigarette products; and (2) the elimination of the exemption that allows qualifying adult stores to sell flavored tobacco products. These additional provisions will be phased in as retailers' permits expire. Retailers with existing permits will be allowed to sell tobacco products pursuant to the current version of the ordinance until either the end of their permit term or July 1, 2020, whichever occurs earlier. All new permits and permit renewals will be issued subject to the proposed ordinance.

The proposed ordinance also increases the "look-back" period for permit suspension from 24 months to 60 months. Under the current ordinance, a retailer's permit is suspended for 30 calendar days after a first violation. If a second violation occurs within a 24-month period after the first violation, the retailer's permit is suspended for 90 days. For subsequent violations within a 24-month period, the retailer's permit is suspended for up to one year. Consistent with look-back provisions in several other tobacco ordinances adopted by cities within Santa Clara County, the amended ordinance increases these 24-month look-back periods to 60-month periods.

Finally, the proposed ordinance includes several additional modifications to improve the clarity of the Tobacco Permitting Ordinance and its consistency with the County's Ordinance Code. Notable additions include:

- New definitions of key terms and incorporation of definitions applicable throughout the Ordinance Code;
- Clarification that the Tobacco Permitting Ordinance applies to both sale and distribution of tobacco products;
- Clarification that flavored tobacco products include mint and menthol products;
- Clarification of the enforcement and appeals process to standardize with current practice in enforcement matters.

CONCLUSION:

Council should move for introduction and first reading of an Ordinance, by title only, amending Chapter 18, Article VI, Section 18.60.020 of the Town Code to prohibit the sale of electronic cigarettes and all flavored tobacco products, and modify other provisions of the prior Ordinance relating to permits for retailers of tobacco products.

PAGE 6 OF 6

SUBJECT: Amendments to the Tobacco Retailers Ordinance

DATE: October 29, 2019

Attachments:

1. Ordinance No. 2259
2. Draft Ordinance

## ORDINANCE 2259

### **AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS REQUIRING THE LICENSURE OF TOBACCO RETAILERS AND ADDING SECTION 18.60.020 TO THE TOWN CODE OF LOS GATOS ENTITLED PERMITS FOR RETAILERS OF TOBACCO PRODUCTS AND/OR ELECTRONIC SMOKING DEVICES**

**WHEREAS**, tobacco use causes death and disease and continues to be an urgent public health challenge; and

**WHEREAS**, the Town Council recently adopted Ordinance 2254 to regulate smoking within the Town of Los Gatos and protect the public and environment from secondhand smoke; and

**WHEREAS**, nationally, the failure of tobacco retailers to comply with all tobacco control laws, particularly laws prohibiting the sale of tobacco products to minors, presents an imminent threat to the public health, safety, and welfare and therefore is a threat to the public health, safety, and welfare of the residents of the Town of Los Gatos; and

**WHEREAS**, a local licensing system for tobacco retailers is appropriate to ensure that retailers comply with tobacco control laws and business standards of the Town of Los Gatos, to protect the health, safety, and welfare of the Town's residents; and

**WHEREAS**, the California Legislature has recognized the danger of tobacco use and has made reducing youth access to tobacco products a high priority, as evidenced by the fact that:

1. The Legislature has declared that smoking is the single most important source of preventable disease and premature death in California (Cal. Health & Safety Code § 118950); and
2. State law prohibits the sale or furnishing of cigarettes, tobacco products, and smoking paraphernalia to anyone under the age of 21 (Cal. Pen. Code § 308); and
3. State law requires that tobacco retailers check the identification of tobacco purchasers who reasonably appear to be under 21 years of age (Cal. Bus. & Prof. Code § 22956) and provides procedures for using minors to conduct onsite compliance checks of tobacco retailers (Cal. Bus. & Prof. Code § 22952); and
4. State law prohibits the sale or furnishing of electronic cigarettes to minors (Cal. Health & Safety Code § 119405).

**WHEREAS**, state law requires all tobacco retailers to be licensed by the Board of Equalization primarily to curb the illegal sale and distribution of cigarettes due to tax evasion and counterfeiting (Cal. Bus. & Prof. Code §§ 22970.1, 22972); and



**WHEREAS**, state law explicitly permits cities and counties to enact local tobacco retail licensing ordinances, and allows for the suspension or revocation of a local license for a violation of any state tobacco control law (Cal. Bus. & Prof. Code § 22971.3); and

**WHEREAS**, over 148 towns, cities and counties in California have passed tobacco retailer licensing ordinances in an effort to stop minors from using tobacco; and

**WHEREAS**, the Town of Los Gatos has a substantial interest in promoting compliance with federal, state, and local laws intended to regulate tobacco sales and use; in discouraging the illegal purchase of tobacco products by minors; in promoting compliance with laws prohibiting sales of cigarettes and tobacco products to minors; and finally, and most importantly, in protecting children from being lured into illegal activity through the misconduct of adults; and

**WHEREAS**, the 2011 Tobacco Products Scientific Advisory Committee (TPSAC) Report made findings that the availability of menthol cigarettes has an adverse impact on public health in the U.S. and recommended removal of menthol cigarettes from the marketplace and that the Menthol's anesthetizing effect makes the smoke "smooth" and easier to inhale while masking the harshness of tobacco, making menthol cigarettes more appealing to youth and beginner smokers; and

**WHEREAS**, a policy statement published by the American Academy of Pediatrics in November 2015, recommended a complete ban on all flavors used in electronic smoking devices, including menthol flavoring; and

**WHEREAS**, in 2016, California Medical Association (CMA) issued a white paper titled Flavored and Mentholated Tobacco Products: Enticing a New Generation of Users states, "Research supports the finding that flavors and menthol tobacco products are "starter" products that establish daily habits and increase addiction to tobacco products, make it harder to quit, and increase use of multiple tobacco products concurrently." although the use of cigarettes is declining in the United States (U.S.), sales of menthol cigarettes have steadily increased in recent years, especially among young people and new smokers; and

**WHEREAS**, the Town Council finds that the regulations imposed by this Section provide a reasonable opportunity for tobacco retailers to operate within the Town of Los Gatos. In the establishment of these regulations, the Town Council considered their effects on the number and suitability of locations for tobacco retailers.

**NOW THEREFORE**, it is the intent of the Town Council, in enacting this ordinance, to ensure compliance with the business standards and practices of the Town and to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, especially those which prohibit or discourage the sale or distribution of tobacco and nicotine products to minors, but not to expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or to alter the penalties provided therein.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES ORDAIN  
AS FOLLOWS:**

**SECTION I.**

Los Gatos Town Code Article VI – Smoking Regulations Section 18.60.020 is hereby added to read as follows:

Sec. 18.60.020 – Permits for retailers of tobacco products and/or electronic smoking devices.

(a) *Intent.* This Section is adopted to:

1. Ensure compliance with the business standards and practices of the Town;
2. Encourage responsible retailing of tobacco products and electronic smoking devices;
3. Discourage violations of laws related to tobacco products and electronic smoking devices, especially those that prohibit or discourage the sale or distribution of tobacco products and electronic smoking devices to persons under 21; and
4. Protect the public health and welfare.

This Section does not expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or alter the penalties provided by such laws.

(b) *Definitions.*

For the purposes of this Section, the following definitions shall apply:

1. *Arm's length transaction* means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two or more informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of this Section is not an arm's length transaction.
2. *Designee* means the agency selected or designated by the Town to enforce or administer the provisions of this Section.
3. *Electronic smoking device* means (1) an electronic and/or battery-operated device that can deliver an inhalable dose of nicotine to the user or (2) any product intended or sold for use with such a device. "Electronic smoking device" includes any product meeting this definition, regardless of whether it is manufactured, distributed, marketed or sold as an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, electronic vape, vaporizer or any other product name or descriptor.
4. *Ownership* means possession of a ten percent or greater interest in the stock, assets, or income of a business, other than a security interest for the repayment of debt.
5. *School* means a public or private elementary, middle, junior high or high school.

6. *Tobacco product* means (unless specifically noted elsewhere):
  - a. Any product subject to Subchapter IX [21 U.S.C. § 387 et seq. ("Subchapter IX")) of the Federal Food, Drug, and Cosmetic Act (See 21 U.S.C. § 387a(b) (products subject to Subchapter IX); 21 C.F.R. §§ 1100.1- 1100.3 (tobacco products subject to Subchapter IX)). Products subject to Subchapter IX include, but are not limited to, cigarettes, cigarette tobacco, roll-your-own tobacco, smokeless tobacco, cigars, pipe tobacco, waterpipe tobacco, and electronic nicotine delivery systems (such as; but not limited to, electronic cigarettes, electronic cigars, electronic hookahs, vape pens, personal vaporizers, and electronic pipes). Products subject to Subchapter IX also include components or parts of tobacco products, such as, but not limited to, liquids that are for use in an electronic nicotine delivery system and that contain tobacco or nicotine or are derived from tobacco or nicotine ("e-liquids"), vials that contain e-liquids, and atomizers. Products that are not subject to Subchapter IX include accessories of tobacco products, such as, but not limited to, ashtrays, spittoons, and conventional matches and lighters that solely provide an external heat source to initiate but not maintain combustion of a tobacco product
  - b. Any product for use in an electronic nicotine delivery system, whether or not it contains tobacco or nicotine or is derived from tobacco or nicotine.
7. *Retailer* means any person who sells, exchanges, or offers to sell or exchange, for any form of consideration, tobacco products and/or electronic smoking devices. "Retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco products or electronic smoking devices sold, exchanged, or offered for sale or exchange.

(c) *Requirements and prohibitions.*

1. *Permit required.* It shall be unlawful for any person to act as a retailer of tobacco products and/or electronic smoking devices in the Town of Los Gatos without first obtaining and maintaining a valid retailer permit pursuant to this Section for each location at which that activity is to occur. Tobacco product retailing without a valid tobacco retailer permit is a nuisance as a matter of law.
2. *Lawful business operation.* It shall be a violation of this Section for any retailer to violate any local, state, or federal law applicable to tobacco products, electronic smoking devices, or the retailing of such products.
3. *Display of permit.* Each current retailer permit shall be prominently displayed in a publicly visible place at the permitted location.
4. *Notice of minimum age for purchase of electronic smoking devices.* Retailers shall post conspicuously, at each point of purchase, a notice stating that selling tobacco products and electronic smoking devices to anyone under 21 years of age is illegal and subject to penalties. Such notice shall be subject to the approval of the Town or its Designee.
5. *Positive identification required.* No retailer shall sell or transfer a tobacco product or electronic smoking device to another person who appears to be under 30 years of age without first examining the customer's identification to confirm that the customer is at

least the minimum age required under state law to purchase and possess the tobacco product.

6. *False and misleading advertising prohibited.* A retailer either without a valid retailer permit or with a suspended retailer permit:
  - a. Shall keep all tobacco products and electronic smoking devices out of public view.
  - b. Shall not display any advertisement relating to tobacco products or electronic smoking devices that promotes the sale or distribution of such products from the retailer's location or that could lead a reasonable consumer to believe that tobacco products or electronic smoking devices can be obtained at that location.
7. *Limitation on storefront advertising.* No more than 15 percent of the square footage of the windows and clear doors of an establishment used for retailing shall bear advertising or signs of any sort, and all advertising and signage shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the premises, including the area in which the cash registers are maintained, from the exterior public sidewalk or entrance to the premises. However, this latter requirement shall not apply to an establishment where there are no windows, or where existing windows are located at a height that precludes a view of the interior of the premises by a person standing outside the premises.
8. *Flavored tobacco products.*
  - a. Except as permitted in paragraph (c) of this subsection (8), no retailer shall sell a tobacco product containing, as a constituent or additive, an artificial or natural flavor or aroma (other than tobacco) or an herb or spice, including strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, or coffee, that is a characterizing flavor or aroma of the tobacco product, smoke or vapor produced by the tobacco product.
  - b. A tobacco product shall be subject to a rebuttable presumption that the product is prohibited by paragraph (a) of this subsection if:
    - (i) The product's manufacturer or any other person associated with the manufacture or sale of tobacco products makes or disseminates public statements or claims to the effect that the product has or produces a characterizing flavor or aroma, other than tobacco; or
    - (ii) The product's label, labeling, or packaging includes a statement or claim including any text and/or images used to communicate information that the product has or produces a characterizing flavor or aroma other than tobacco.
  - c. Paragraph (a) of this subsection (8) shall not apply to any retailer that meets all of the following criteria:
    - (i) Primarily sells tobacco products;
    - (ii) Generates more than 60 percent of its gross revenues annually from the sale of tobacco products;
    - (iii) Does not permit any person under 21 years of age to be present or enter the premises at any time, unless accompanied by the person's parent or legal guardian, as defined in Section 6903 of the Family Code;
    - (iv) Does not sell alcoholic beverages or food for consumption on the premises; and

- (v) Posts a sign outside the retail location that clearly, sufficiently, and conspicuously informs the public that persons under 21 years of age are prohibited from entering the premises.
- 9. Vending machines prohibited. No tobacco product or electronic smoking device shall be sold, offered for sale, or distributed to the public from a vending machine or appliance, or any other coin or token operated mechanical device designed or used for vending purposes, including, but not limited to, machines or devices that use remote control locking mechanisms.
- 10. Prohibition on sale or distribution of tobacco products or electronic smoking devices to persons under 21 years. No retailer shall sell, offer for sale, or distribute any tobacco product or electronic smoking device to any individual who is under 21 years of age.

*(d) Eligibility requirements for a permit.*

- 1. No retailer permit may be issued to authorize retailing at other than a fixed location. For example, retailing by persons on foot or from vehicles is prohibited.
- 2. No retailer permit may be issued to authorize retailing at a temporary or recurring temporary event. For example, retailing at flea markets and farmers' markets is prohibited.
- 3. No retailer permit may be issued to authorize retailing at any location where the profession of pharmacy is practiced by a pharmacist licensed by the State of California in accordance with the Business and Professions Code and where prescription drugs are offered for sale.
- 4. No retailer permit may be issued to authorize retailing at any location within 1,000 feet of a school, as measured by a straight line between any point along the property line of any parcel on which a school is located and any point along the perimeter of the applicant's proposed business location; provided, however, that the prohibition contained in this subsection (d)(4) shall not apply to the following:
  - a. Any retailer of tobacco products operating lawfully on the date immediately prior to this Section becoming effective; and
  - b. Any retailer of electronic smoking devices operating lawfully on the date immediately prior to this Section becoming effective; and
  - c. Any lawfully operating retailer of tobacco products that would otherwise become ineligible to receive or renew a retailer permit due to the creation or relocation of a school.
- 5. No retailer permit may be issued to authorize retailing at a location which is within 500 feet of a location occupied by another retailer, as measured by a straight line between any point along the property line of any parcel on which a retailer is located and any point along the perimeter of the applicant's proposed business location, provided, however, that the prohibition contained in this subsection (d)(5) shall not apply to:
  - a. Existing retailers of tobacco products operating lawfully on the date immediately prior to this Section becoming effective; and

- b. Existing retailers of electronic smoking devices operating lawfully on the date immediately prior to amendment of this Section to regulate the retailing of electronic smoking devices.
- 6. Any exemption granted to a retailer pursuant to this Section shall cease to apply upon the earlier of the following to occur:
  - a. The retailer fails to timely renew the retailer permit pursuant to this Section.
  - b. A new person obtains ownership in the business.

(e) *Application procedure.*

- 1. It is the responsibility of each retailer to be informed of all laws applicable to retailing, including those laws affecting the issuance of a retailer permit. No retailer may rely on the issuance of a retailer permit as a determination by the Town that the retailer has complied with all laws applicable to retailing. A retailer permit issued contrary to this Section, contrary to any other law, or on the basis of false or misleading information supplied by a retailer shall be revoked pursuant to this Section.
- 2. All retailer permit applications shall be submitted on a form supplied by the Town or its Designee to implement this Section.
- 3. A permitted retailer shall inform the Town or its Designee in writing of any change in the information submitted on an application for a retailer permit within 14 calendar days of a change.
- 4. All information specified in an application pursuant to this Section shall be subject to disclosure under the California Public Records Act (Government Code Section 6250 et seq.) or any other applicable law, subject to any exemptions.

(f) *Issuance of permit.*

- 1. Upon the receipt of a complete application for a retailer permit, the application fee, and the annual permit fee, the Town or its Designee shall issue a retailer permit unless substantial evidence demonstrates that one or more of the following bases for denial exists:
  - a. The information presented in the application is inaccurate or false.
  - b. The application seeks authorization for retailing at a location for which this Section prohibits issuance of a retailer permit.
  - c. The application seeks authorization for retailing by a person to whom this Section prohibits issuance of a retailer permit.
  - d. The application seeks authorization for retailing that is prohibited pursuant to this Section (e.g., mobile vending) or that is unlawful pursuant to any other law.
- 2. A retailer permit shall be revoked if the Town finds that one or more of the bases for denial of a retailer permit under this Section existed at the time application was made or at any time before the retailer permit issued. Such a revocation shall be without prejudice to the filing of a new permit application.
- 3. A decision to deny issuance of a retailer permit or to revoke a retailer permit that has been wrongly issued may be appealed pursuant to this Section.



(g) *Permit term, renewal, and expiration.*

1. Term of permit. The term of a retailer permit is one year. A retailer permit is invalid upon expiration.
2. Renewal of permit. The Town or its Designee shall renew a valid retailer permit upon timely payment of the annual permit fee. The Town or its Designee may, in its discretion, agree to renew any expired retailer permit within the three-month period following expiration if the retailer pays the annual permit fee and applicable late charges. For every calendar month, or fraction thereof, that a retailer fails to renew an expired retailer permit, a late charge equal to 20 percent of the annual permit fee shall be assessed. A retailer permit renewed within three calendar months of expiration shall be treated as if timely renewed.
3. Issuance of permit after revocation or expiration of permit. To apply for a new retailer permit more than three calendar months after expiration of a retailer permit or following revocation of a retailer permit that was wrongly issued, a retailer must submit a complete application for a retailer permit, along with the application fee and annual permit fee. The Town or its Designee shall issue a retailer permit pursuant to the requirements of this Section.

(h) *Permits nontransferable.*

1. A retailer permit may not be transferred from one person to another or from one location to another. Whenever a new person obtains ownership in a business for which a retailer permit has been issued, a new retailer permit shall be required, but any exemption granted pursuant to Section (d) shall cease to apply.
2. Notwithstanding any other provision of this Section, prior violations of this Section at a location shall continue to be counted against a location and permit ineligibility and suspension periods shall continue to apply to a location unless:
  - a. One hundred percent of the interest in the stock, assets, or income of the business, other than a security interest for the repayment of debt, has been transferred to one or more new owners; and
  - b. The Town or its Designee is provided with clear and convincing evidence, including an affidavit, that the business has been acquired in an arm's length transaction.

(i) *Permit conveys a limited, conditional privilege.*

Nothing in this Section shall be construed to grant any person obtaining and maintaining a retailer permit any status or right other than the limited, conditional privilege to act as a retailer at the location in the Town identified on the face of the permit.

(j) *Fees.*

The Town or its Designee shall not issue or renew a retailer permit prior to full payment of any applicable fees. The Town shall, from time to time, establish by resolution the fees to issue or to renew a retailer permit. The fees shall be calculated so as to recover the cost of administration and enforcement of this Section, including, for example, issuing a permit, administering the permit program, conducting retailer education, performing retailer inspection and compliance checks, documenting violations, and prosecuting violators, but shall not exceed the cost of the regulatory program authorized by this Section. All fees and interest earned from such fees shall be used exclusively to fund administration and enforcement of this Section.

(k) *Compliance monitoring.*

1. Compliance with this Section shall be monitored by the Town or its Designee. In addition, any peace officer may enforce the penal provisions of this Section. The Town Manager may designate any number of additional persons to monitor and facilitate compliance with this Section.
2. The Town or its Designee shall check each retailer at least once per 12-month period to determine if the retailer is complying with all laws applicable to retailing, other than those laws regulating underage access to tobacco products or electronic smoking devices. Nothing in this paragraph shall create a right of action in any retailer or other person against the Town or its agents.

(l) *Prevention of underage sales.*

1. The Town or its Designee shall check each retailer to determine whether the retailer is conducting business in a manner that complies with laws regulating youth access to tobacco products or electronic smoking devices. Nothing in this paragraph shall create a right of action in any retailer or other person against the Town or its agents.
2. The Town or its Designee shall not enforce any law establishing a minimum age for tobacco product or electronic smoking device purchases or possession against a person who otherwise might be in violation of such law because of the person's age ("Youth Decoy") if the potential violation occurs when:
  - a. The Youth Decoy is participating in a compliance check supervised by a peace officer or a code enforcement official of the Town;
  - b. The Youth Decoy is acting as an agent of a person designated by the Town to monitor compliance with this Section; or
  - c. The Youth Decoy is participating in a compliance check funded in part, either directly or indirectly through subcontracting, by the Town, or the California Department of Public Health.



(m) *Penalties for a violation by a retailer with a permit.*

1. In addition to any other penalty authorized by law, an administrative fine shall be imposed and a retailer permit shall be suspended if any court of competent jurisdiction determines, or the Town or its Designee finds based on a preponderance of the evidence, after the retailer is afforded notice and an opportunity to be heard, that the retailer, or any of the retailer's agents or employees, has violated any of the requirements, conditions, or prohibitions of this Section, has pled guilty, "no contest" or its equivalent to such a violation, or has admitted to such a violation.
2. Amount of fine. Each such violation shall be subject to an administrative fine as follows:
  - a. A fine not to exceed \$100.00 for a first violation within a 12-month period;
  - b. A fine not to exceed \$200.00 for a second violation within a 12-month period; and
  - c. A fine not to exceed \$500.00 for each additional violation within a 12-month period.
3. Time period for permit suspension.
  - a. For a first violation of this Section at a location within any 24-month period, the retailer permit shall be suspended for up to 30 calendar days.
  - b. For a second violation of this Section at a location within any 24-month period, the retailer permit shall be suspended for up to 90 calendar days.
  - c. For each additional violation of this Section at a location within any 24-month period, the retailer permit shall be suspended for up to one year.
4. Waiver of penalties for first violation. The Town or its Designee may waive any penalties for a retailer's first violation of any requirement, condition or prohibition of this Section, other than a violation of a law regulating youth access to tobacco products or electronic smoking devices, if the retailer admits the violation in writing and agrees to forego a hearing on the allegations. Regardless of the Town's or its Designee's waiver of penalties for a first violation, the violation will be considered in determining the penalties for any future violation.
5. Corrections period. The Town or its Designee shall have discretion to allow a retailer a period of time to correct any violation of any requirement, condition or prohibition of this Section, other than a violation of a law regulating youth access to tobacco products or electronic smoking devices. If a retailer's violation is corrected within the time allowed for correction, no penalty shall be imposed under this Section.
6. Appeals. Any penalties imposed under this Section may be appealed pursuant to Section A18-381 of this Section.

(n) *Penalties for retailing without a permit.*

1. *Administrative fine.* In addition to any other penalty authorized by law, an administrative fine and an ineligibility period for application or issuance of a retailer permit shall be imposed if a court of competent jurisdiction determines, or the Town or its Designee finds based on a preponderance of evidence, after notice and an opportunity to be heard, that any person has engaged in retailing at a location without a valid retailer permit, either directly or through the person's agents or employees, has

- pled guilty, "no contest" or its equivalent to such a violation, or has admitted to such a violation.
2. *Amount of fine.* Each such violation shall be subject to an administrative fine as follows:
    - a. A fine not to exceed \$100.00 for a first violation within a 12-month period;
    - b. A fine not to exceed \$200.00 for a second violation within a 12-month period; and
    - c. A fine not to exceed \$500.00 for each additional violation within a 12-month period.
  3. *Time period for permit ineligibility.*
    - a. For a first violation of this Section at a location within any 24-month period, no new retailer permit may be issued for the person or the location (unless ownership of the business at the location has been transferred in an arm's length transaction) until 30 calendar days have passed from the date of the violation.
    - b. For a second violation of this Section at a location within any 24-month period, no new retailer permit may be issued for the person or the location (unless ownership of the business at the location has been transferred in an arm's length transaction) until 90 calendar days have passed from the date of the violation.
    - c. For each additional violation of this Section at a location within any 24-month period, no new retailer permit may be issued for the person or the location (unless ownership of the business at the location has been transferred in an arm's length transaction) until one year has passed from the date of the violation.
  4. *Waiver of penalties for first violation.* The Town or its Designee may waive any penalties for a retailer's first violation of this Section, unless the violation also involves a violation of a law regulating youth access to tobacco products or electronic smoking devices, if the retailer admits the violation in writing and agrees to forego a hearing on the allegations. Regardless of the Town's or its Designee's waiver of penalties for a first violation, the violation will be considered in determining the penalties for any future violation.
  5. *Appeals.* Any penalties imposed under this Section may be appealed pursuant to this Section.

(o) *Appeals.*

1. A decision to deny issuance of a retailer permit, to revoke a retailer permit that has been wrongly issued, or to impose penalties for a violation of this Section can be appealed to a hearing officer, subject to the following requirements and procedures. The hearing officer shall be the Town Manager or its Designee.
2. All appeals must be in writing, state the grounds asserted for relief and the relief sought, and be filed with the Town or its Designee within ten calendar days of receipt of notice of the appealed action. If such an appeal is made, it shall stay enforcement of the appealed action.
3. No later than 15 calendar days after receipt of the appeal, the hearing officer shall set an appeal hearing at the earliest practicable time and shall give notice of the hearing to the parties at least ten calendar days before the date of the hearing.

4. Neither the provisions of the Administration Procedure Act (Government Code Section 11500 et seq.) nor the formal rules of evidence in civil or criminal judicial proceedings shall apply to such hearing. At the hearing, the hearing officer may admit any evidence, including witnesses, relevant to the determination of the matter, except as otherwise provided in Section A18-382(c) of this Section. A record of the hearing shall be made by any means, including electronic recording, so long as a reasonably accurate and complete written transcription of the proceedings can be made.
5. The hearing officer may continue the hearing from time to time, in his or her sole discretion, to allow for orderly completion of the hearing.
6. After the conclusion of the hearing, the hearing officer shall issue a written decision, which shall be supported by substantial evidence. Notice of the written decision, including findings of facts, conclusions of law, and notification of the time period in which judicial review may be sought pursuant to Code of Civil Procedure Section 1094.6, shall be served upon all parties no later than 20 calendar days following the date on which the hearing closed. Any decision rendered by the hearing officer shall be a final administrative decision.

(p) *Enforcement.*

1. Any violation of this Section is hereby declared to be a public nuisance.
2. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Section shall also constitute a violation of this Section.
3. Whenever evidence of a violation of this Section is obtained in any part through the participation of a person under the age of 18 years old, such a person shall not be required over his or her objection to appear or give testimony in any civil or administrative process brought to enforce this Section and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.
4. Violations of this Section may be remedied by a civil action brought by the Town, including, but not limited to, administrative or judicial nuisance abatement proceedings, civil code enforcement proceedings, and suits for injunctive relief. For the purposes of the civil remedies provided in this Section, each day on which a tobacco product or electronic smoking device is offered for sale in violation of this Section, and each individual retail tobacco product or electronic smoking device that is distributed, sold, or offered for sale in violation of this Section, shall constitute a separate violation of this Section.
5. Any person found guilty of violating any provision of this Section shall be deemed guilty of an infraction, punishable as provided by California Government Code § 25132.
6. The remedies provided by this Section are cumulative and in addition to any other remedies available at law or in equity.

## SECTION II

The Town Council finds and determines that the adoption of this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines under the General Rule (Section 15061(b)(3)), which sets forth that the CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that the proposed Town Code text amendments will have no significant negative effect on the environment.

## SECTION III

If any provision of this ordinance or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The Town Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

## SECTION IV

Except as expressly modified in this Ordinance, all other Sections set forth in the Los Gatos Town Code shall remain unchanged and shall be in full force and effect.

## SECTION V

This Ordinance shall take effect on January 1, 2018. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

SECTION VI

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 2<sup>nd</sup> day of May, 2017, and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the 16<sup>th</sup> day of May, 2017.

COUNCIL MEMBERS:

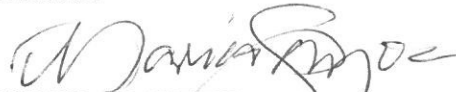
AYES: Marcia Jensen, Steve Leonardis, Rob Rennie, Barbara Spector, Mayor Marico Sayoc

NAYS: None.

ABSENT: None.

ABSTAIN: None.

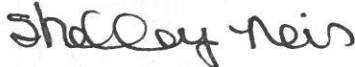
SIGNED:



MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: 5-17-17

ATTEST:



CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: 5/17/17

# DRAFT

## ORDINANCE NO.

### **AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING CHAPTER 18, ARTICLE VI SECTION 18.60.020 OF THE LOS GATOS TOWN CODE ENTITLED PERMITS FOR RETAILERS OF TOBACCO PRODUCTS TO PROHIBIT THE SALE AND DISTRIBUTION OF ELECTRONIC CIGARETTES PRODUCTS AND OTHER TOBACCO PRODUCTS**

**WHEREAS**, tobacco use causes death and disease and continues to be an urgent public health challenge; and

**WHEREAS**, on May 19, 2016 the Town Council adopted Ordinance 2254 to regulate smoking within the Town of Los Gatos to protect the public and environment from secondhand smoke; and

**WHEREAS**, on May 16, 2017 the Town Council adopted Ordinance 2259 adding Section 18.60.020 to the Town Code to require permits for retailers of tobacco products; and

**WHEREAS**, electronic cigarettes, also known as e-cigarettes, e-vaporizers, or electronic nicotine delivery systems are battery-operated devices that people use to inhale an aerosol that typically contains nicotine. In addition to nicotine, the aerosol from e-cigarettes may include up to 31 other components, including formaldehyde, acetaldehyde, glycidol, acrolein, acetol, and diacetyl. Several of these compounds are likely carcinogens, and acrolein is a powerful irritant; and

**WHEREAS**, electronic cigarettes often mimic conventional tobacco products in shape, size, and color, with the user exhaling a smoke-like vapor similar in appearance to the exhaled smoke from cigarettes and other conventional tobacco products; and

**WHEREAS**, The Surgeon General has declared the use of electronic cigarettes among youth an "epidemic" and nationwide, electronic cigarette use has increased at alarming rates since the first products became available about 10 years ago, and while there have been many successful efforts to reduce underage tobacco use, the growing availability of e-cigarettes has reversed those positive trends; and

**WHEREAS**, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on November 5, 2019; and

**WHEREAS**, on November 5, 2019, the Town Council held a duly noticed public hearing and took testimony regarding this Ordinance to extend Interim Ordinance No. 2260 ("Extension Ordinance"); and

# DRAFT

**WHEREAS**, the Town Council has considered, and by adopting this Ordinance ratifies and adopts Staff Report dated October 31, 2019, describing the effects of tobacco products and electronic cigarettes.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES ORDAIN AS FOLLOWS:**

## SECTION I.

Los Gatos Town Code Article VI – Smoking Regulations Section 18.60.020 is hereby repealed and reenacted to read as follows:

### **Sec. 18.60.020 – Permits for retailers of tobacco products.**

(a) *Intent.* This Section is adopted to:

- (1) Ensure compliance with the business standards and practices of the Town;
- (2) Encourage responsible retailing of Tobacco Products;
- (3) Discourage violations of laws related to Tobacco Products, especially those that prohibit or discourage the Sale or Distribution of Tobacco Products and electronic smoking devices to persons under 21;
- (4) Respond to a new wave of addiction to Electronic Cigarette Products;
- (5) Reduce vulnerability to unexplained illnesses associated with Electronic Cigarette Products; and
- (6) Protect the public health and welfare.

This Section does not expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or alter the penalties provided by such laws.

(b) *Definitions.*

For the purposes of this Section, the following definitions shall apply:

1. *Arm's Length Transaction* means a Sale in good faith and for valuable consideration that reflects the fair market value in the open market between two or more informed and willing parties, neither of which is under any compulsion to participate in the transaction. A Sale between relatives, related companies or partners, or a Sale for which a significant purpose is avoiding the effect of the violations of this Section is not an Arm's Length Transaction.
2. *Designee* means the agency selected or designated by the Town to enforce or administer the provisions of this Section.
3. *Distribute or Distribution* means the transfer, by any Person other than a common carrier, of a Tobacco Product to another Person for Sale or personal consumption.

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4. *Electronic smoking device* means any of the following products:
  - (1) Any device or delivery system that can be used to deliver nicotine in aerosolized or vaporized form, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.
  - (2) Any component, part, or accessory of such a device or delivery system that is used during its operation.
  - (3) Any flavored or unflavored liquid or substance containing nicotine, whether Sold separately or Sold in combination with any device or delivery system that could be used to deliver nicotine in aerosolized or vaporized form.
  - (4) Any product for use in an electronic nicotine device or delivery system whether or not it contains nicotine or tobacco or is derived from nicotine or tobacco.
  - (5) Electronic Cigarette Products shall not include any battery, battery charger, carrying case, or other accessory not used in the operation of the device if Sold separately. Electronic Cigarette Products shall not include any product that has been approved by the United States Food and Drug Administration for Sale as a tobacco cessation product or for other therapeutic purposes where that product is marketed and Sold solely for such approved use. *See* 21 U.S.C. § 387(a). As used in this subsection, nicotine does not include any food products as that term is defined pursuant to Section 6359 of the California Revenue and Taxation Code.
5. *Ownership* means possession of a ten percent or greater interest in the stock, assets, or income of a business, other than a security interest for the repayment of debt. Notwithstanding any other definition in this Code, an Owner means a Person who possesses Ownership.
6. *Permit* means a valid permit issued by the Town or its Designee to a Person to act as a Retailer.
7. *Retailer* means any Person who Sells or Distributes Tobacco Products for any form of consideration. Retailing shall mean the doing of any of these actions. This definition is without regard to the quantity of Tobacco Products Sold or Distributed.
8. *School* means a public or private elementary, middle, junior high or high school.
9. *Tobacco product* means (unless specifically noted elsewhere):
  - a. Any product subject to Subchapter IX [21 U.S.C. § 387 et seq. ("Subchapter IX")) of the Federal Food, Drug, and Cosmetic Act (See 21 U.S.C. § 387a(b) (products subject to Subchapter IX); 21 C.F.R. §§ 1100.1- 1100.3 (tobacco products subject to Subchapter IX)]. Products subject to Subchapter IX include, but are not limited to, cigarettes, cigarette tobacco, roll-your-own tobacco, smokeless tobacco, cigars, pipe tobacco, waterpipe tobacco, and Electronic Cigarette Products. Products that are not subject to Subchapter IX include accessories of Tobacco Products, such as, but not limited to, ashtrays, spittoons, and conventional matches and lighters that solely provide an external heat source to initiate but not maintain combustion of a Tobacco Product.



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(c) *Requirements and prohibitions.*

1. *Permit required.* It shall be unlawful for any Person to act as a Retailer in the Town of Los Gatos without first obtaining and maintaining a Permit pursuant to this Section for each location at which Retailing occurs.
2. *Lawful business operation.* It shall be a violation of this Section for any Retailer to violate any local, state, or federal law applicable to Tobacco Products, or the Retailing of such Tobacco Products.
3. *Display of Permit.* Each Permit shall be prominently displayed in a publicly visible place at the location identified in the Permit.
4. *Notice of minimum age for purchase of Tobacco Products.* Retailers shall post conspicuously, at each point of purchase, a notice stating that selling Tobacco Products to anyone under 21 years of age is illegal and subject to penalties. Such notice shall be subject to the approval of the Town or its Designee.
5. *Positive identification required.* No Retailer shall Sell or Distribute a Tobacco Product to another individual who appears to be under 30 years of age without first examining the individual's identification to confirm that the individual is at least the minimum age required under state law to purchase and possess the Tobacco Product.
6. *Minimum age for individuals selling Tobacco Products.* No individual who is younger than the minimum age established by State law for the purchase or possession of Tobacco Products shall engage in Retailing.
7. *False and misleading advertising prohibited.* A Retailer without a Permit:
  - a. Shall keep all Tobacco Products out of public view.
  - b. Shall not display any advertisement relating to Tobacco Products that promotes the Sale or Distribution of such products from the Retailer's location or that could lead a reasonable consumer to believe that Tobacco Products can be obtained at that location.
8. *Limitation on storefront advertising.* No more than 15 percent of the square footage of the windows and clear doors of physical storefront used for Retailing Tobacco Products shall bear advertising or signs of any sort, and all advertising and signage shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the premises, including the area in which the cash registers are maintained, from the exterior public sidewalk or entrance to the premises. However, this latter requirement of this subsection 8. shall not apply to an establishment where there are no windows or clear doors, or where existing windows are located at a height that precludes a view of the interior of the premises by an individual standing outside the premises.
9. *Flavored Tobacco Products.*
  - a. No retailer shall sell a Tobacco Product containing, as a constituent or additive, an artificial or natural flavor or aroma (other than tobacco) or an herb or spice, including strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa,

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chocolate, cherry, mint, menthol, or coffee, that is a characterizing flavor or aroma of the Tobacco Product, smoke or vapor produced by the Tobacco Product.

b. A Tobacco Product shall be subject to a rebuttable presumption that the product is prohibited by paragraph (a) of this subsection if:

(i) The product's manufacturer or any other Person associated with the manufacture or Sale of Tobacco Products makes or disseminates public statements or claims to the effect that the product has or produces a characterizing flavor or aroma, other than tobacco; or

(ii) The product's label, labeling, or packaging includes a statement or claim including any text and/or images used to communicate information that the product has or produces a characterizing flavor or aroma other than tobacco.

10. *Vending machines prohibited.* No Tobacco Product shall be Sold or Distributed to the public from a vending machine or appliance, or any other coin or token operated mechanical device designed or used for vending purposes, including, but not limited to, machines or devices that use remote control locking mechanisms.
11. *Prohibition on Sale or Distribution of Tobacco Products to persons under 21 years.* No Retailer shall Sell or Distribute any Tobacco Product to any individual who is under 21 years of age.
12. *Prohibition on Sale or Distribution of Electronic Cigarette Products.* No Retailer that is issued a new Permit after December 19, 2019 shall Sell or Distribute Electronic Cigarette Products after Permit issuance. No Retailer that receives a Permit renewal after December 19, 2019 shall Sell or Distribute Electronic Cigarette Products after Permit renewal. Regardless of the date of Permit issuance or renewal, no Retailer shall Sell or Distribute Electronic Cigarette Products after June 30, 2020.

(d) *Eligibility requirements for a permit.*

1. No Permit may be issued to authorize Retailing at or from other than a fixed location. For example, Retailing by Persons on foot or from vehicles is prohibited.
2. No Permit may be issued to authorize Retailing at a temporary or recurring temporary event. For example, Retailing at flea markets and farmers' markets is prohibited.
3. No Permit may be issued to authorize Retailing at any location where the profession of pharmacy is practiced by a pharmacist licensed by the State in accordance with the Business and Professions Code and where prescription drugs are offered for Sale.
4. No Permit may be issued to authorize Retailing at any location within 1,000 feet of a School, as measured by a straight line between any point along the property line of any parcel on which a School is located and any point along the perimeter of the applicant's proposed business location; provided, however, that the prohibition contained in this subsection (d)(4) shall not apply to the following:
  - a. Any Retailer of Tobacco Products operating lawfully on January 1, 2018 (the effective date of the predecessor Ordinance Code); and

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- b. Any Retailer of electronic smoking devices operating lawfully on January 1, 2018 (effective date of predecessor Ordinance Code), however, any such Retailer is subject to the prohibition on the Sale and Distribution of Electronic Cigarette Products established in Section (c) (12) of this Ordinance; and
  - c. Any lawfully operating Retailer of Tobacco Products that would otherwise become ineligible to receive or renew a Permit due to the creation or relocation of a School.
5. No Permit may be issued to authorize Retailing at a location which is within 500 feet of a location occupied by another Retailer, as measured by a straight line between any point along the property line of any parcel on which a Retailer is located and any point along the perimeter of the Permit applicant's proposed business location, provided, however, that the prohibition contained in this subsection (d)(5) shall not apply to:
- a. Any Retailer of Tobacco Products operating lawfully on January 1, 2018 (effective date of predecessor Ordinance Code); and
  - b. Any Retailers of electronic smoking devices operating lawfully on January 1, 2018 (effective date of predecessor Ordinance Code); however, any such Retailer is subject to the prohibition on the Sale and Distribution of Electronic Cigarette Products established in in Section (c) (12) of this Ordinance.
6. Any exemption granted to a Retailer pursuant to subsection 4 and 5 shall cease to apply upon the earlier of the following to occur:
- a. The Retailer fails to timely renew the Permit pursuant to this Section.
  - b. A new Person obtains Ownership in the business.

(e) *Application procedure.*

- 1. It is the responsibility of each Retailer to be informed of all laws applicable to Retailing, including those laws affecting the issuance of a Permit. No Retailer may rely on the issuance of a Permit as a determination by the Town that the Retailer has complied with all laws applicable to Retailing. A Permit issued contrary to this Section, contrary to any other law, or on the basis of false or misleading information supplied by a Retailer shall be revoked pursuant to this Section.
- 2. All Permit applications shall be submitted on a form supplied by the Town or its Designee to implement this Section.
- 3. A permitted Retailer shall inform the Town or its Designee in writing of any change in the information submitted on an application for a Permit within 14 calendar days of a change.
- 4. All information specified in an application pursuant to this Section shall be subject to disclosure under the California Public Records Act (Government Code Section 6250 et seq.) or any other applicable law, subject to any exemptions.

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## (f) *Issuance of permit.*

1. Upon the receipt of a complete application for a Permit, the application fee, and the annual Permit fee, the Town or its Designee shall issue a Permit unless substantial evidence demonstrates that one or more of the following bases for denial exists:
  - a. The information presented in the application is inaccurate or false.
  - b. The application seeks authorization for Retailing at a location for which this Section prohibits issuance of a Permit.
  - c. The application seeks authorization for Retailing by a Person to whom this Section prohibits issuance of a Permit.
  - d. The application seeks authorization for Retailing that is prohibited pursuant to this Section (e.g., mobile vending, Electronic Cigarette Products) or that is unlawful pursuant to any other law.
2. A Permit shall be revoked if the Town finds that one or more of the bases for denial of a Permit under this Section existed at the time application was made or at any time before the Permit was issued. Such a revocation shall be without prejudice to the filing of a new Permit application.

## (g) *Permit term, renewal, and expiration.*

1. *Term of Permit.* The term of a Permit is one year. A Permit is invalid upon expiration.
2. *Renewal of Permit.* The Town or its Designee shall renew a valid Permit upon timely payment of the annual Permit fee. The Town or its Designee may, in its discretion, agree to renew any expired Permit within the three-month period following expiration if the Retailer pays the annual Permit fee and applicable late charges. For every calendar month, or fraction thereof, that a Retailer fails to renew an expired Permit, a late charge equal to 20 percent of the annual Permit fee shall be assessed. A Permit renewed within three calendar months of expiration shall be treated as if timely renewed.
3. *Issuance of Permit after revocation or expiration of Permit.* To apply for a new Permit more than three calendar months after expiration of a Permit or following revocation of a Permit that was wrongly issued, a Retailer must submit a complete application for a Permit, along with the application fee and annual Permit fee. The Town or its Designee shall issue a retailer permit pursuant to the requirements of this Section.

## (h) *Permits nontransferable.*

1. A Permit may not be transferred from one Person to another or from one location to another. Whenever a new Person obtains ownership in a business for which a Permit has been issued, a new Permit shall be required, but any exemption granted pursuant to Section (d) shall cease to apply.
2. Notwithstanding any other provision of this Section, prior violations of this Section at a location shall continue to be counted against a location and Permit ineligibility and suspension periods shall continue to apply to a location unless:

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- a. One hundred percent of the interest in the stock, assets, or income of the business, other than a security interest for the repayment of debt, has been transferred to one or more new owners; and
- b. The Town or its Designee is provided with clear and convincing evidence, including an affidavit, that the business has been acquired in an Arm's Length Transaction.

(i) *Permit conveys a limited, conditional privilege.*

Nothing in this Section shall be construed to grant any Person obtaining and maintaining a Permit any status or right other than the limited, conditional privilege to act as a Retailer at the location in the Town identified on the face of the permit. All Permits are issued subject to the Town's right to amend this Section, and Retailers shall comply with all provisions of this Section, as amended.

(j) *Fees.*

The Town or its Designee shall not issue or renew a Permit prior to full payment of any applicable fees. The Town shall, from time to time, establish by resolution the fees to issue or to renew a Permit. The fees shall be calculated so as to recover the cost of administration and enforcement of this Section, including, for example, issuing a Permit, administering the Permit program, Retailer education, Retailer inspection and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the regulatory program authorized by this Section. All fees and interest earned from such fees shall be used exclusively to fund administration and enforcement of this Section.

(k) *Compliance monitoring.*

1. Compliance with this Section shall be monitored by the Town or its Designee. In addition, any peace officer may enforce the penal provisions of this Section. The Town Manager may designate any number of additional individuals to monitor and facilitate compliance with this Section.
2. The Town or its Designee or other individuals designated to enforce the provisions of this Section shall check each Retailer at least once per 12-month period to determine if the Retailer is complying with all laws applicable to Retailing, other than those laws regulating underage access to Tobacco Products. Nothing in this paragraph shall create a right of action in any Retailer or other Person against the Town, its Designee or its agents.

(l) *Prevention of underage Sales.*

1. The Town or its Designee shall check each Retailer to determine whether the Retailer is conducting business in a manner that complies with laws regulating youth access to Tobacco Products. Nothing in this paragraph shall create a right of action in any Retailer or other Person against the Town, its Designee, or its agents.
2. The Town or its Designee shall not enforce any law establishing a minimum age for Tobacco Product purchases against an individual who otherwise might be in violation of

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such law because of the individual's age ("Youth Decoy") if the potential violation occurs when:

- a. The Youth Decoy is participating in a compliance check supervised by a peace officer or a code enforcement official of the Town;
- b. The Youth Decoy is acting as an agent of the Town to monitor compliance with this Section; or
- c. The Youth Decoy is participating in a compliance check funded in part, either directly or indirectly through subcontracting, by the Town, or the California Department of Public Health.

(m) *Penalties for a violation by a Retailer with a Permit.*

1. *Administrative fine.* In addition to any other penalty authorized by law, an administrative fine shall be imposed and a Permit shall be suspended if any court of competent jurisdiction determines, or the Town or its Designee finds based on a preponderance of the evidence, that the Retailer, or any of the Retailer's agents or employees, has violated any of the requirements, conditions, or prohibitions of this Section, has pled guilty, "no contest" or its equivalent to such a violation, or has admitted to such a violation.
2. *Amount of fine.* The amount of the administrative fine for each such violation shall be as follows:
  - a. A fine not to exceed \$100.00 for a first violation within a 12-month period;
  - b. A fine not to exceed \$200.00 for a second violation within a 12-month period; and
  - c. A fine not to exceed \$500.00 for each additional violation within a 12-month period.
3. *Time period for Permit suspension.* The period of the suspension shall be as follows:
  - a. For a first violation of this Section at a location within any 60-month period, the Permit shall be suspended for up to 30 calendar days.
  - b. For a second violation of this Section at a location within any 60-month period, the Permit shall be suspended for up to 90 calendar days.
  - c. For each additional violation of this Section at a location within any 60-month period, the retailer Permit shall be suspended for up to one year.
4. *Waiver of penalties for first violation.* The Town or its Designee may waive any penalties for a Retailer's first violation of any requirement, condition or prohibition of this Section, other than a violation of a law regulating youth access to Tobacco Products, if the Retailer admits the violation in writing and agrees to forego a hearing on the allegations. Regardless of the Town's or its Designee's waiver of penalties for a first violation, the violation will be considered in determining the penalties for any future violation.
5. *Corrections period.* The Town or its Designee shall have discretion to allow a Retailer a period of time to correct any violation of any requirement, condition or prohibition of this Section, other than a violation of a law regulating youth access to Tobacco Products. If

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the Town or its Designee exercises its discretion to provide a Retailer's corrections period, and a Retailer's a retailer's violation is corrected within the time allowed for correction, no penalty shall be imposed under this Section.

6. *Written notice of penalties.* Whenever a fine is issued and/or a Permit is suspended based on a violation of this Section, the Town or its Designee shall provide the Retailer written notice of the violation and the fine and suspension, including when the suspension shall take effect.

(n) *Penalties for Retailing without a Permit.*

1. *Administrative fine.* In addition to any other penalty authorized by law, an administrative fine and an ineligibility period for application or issuance of a Permit shall be imposed if a court of competent jurisdiction determines, or the Town or its Designee finds based on a preponderance of evidence, that any Person has engaged in Retailing at a location without a valid Permit, either directly or through the Person's agents or employees, has pled guilty, "no contest" or its equivalent to such a violation, or has admitted to such a violation.
2. *Amount of fine.* The amount of the administrative fine for each such violation shall be as follows:
  - (a) A fine not to exceed \$100.00 for a first violation within a 12-month period;
  - (b) A fine not to exceed \$200.00 for a second violation within a 12-month period; and
  - (c) A fine not to exceed \$500.00 for each additional violation within a 12-month period.
3. *Time period for Permit ineligibility.*
  - (a) For a first violation of this Section at a location within any 60-month period, no new Permit may be issued for the Person or the location (unless Ownership of the business at the location has been transferred in an Arm's Length Transaction) until 30 calendar days have passed from the date of the violation.
  - (b) For a second violation of this Section at a location within any 60-month period, no new Permit may be issued for the Person or the location (unless Ownership of the business at the location has been transferred in an Arm's Length Transaction) until 90 calendar days have passed from the date of the violation.
  - (c) For each additional violation of this Section at a location within any 60-month period, no new Permit may be issued for the Person or the location (unless Ownership of the business at the location has been transferred in an Arm's Length Transaction) until one year has passed from the date of the violation.
4. *Waiver of penalties for first violation.* The Town or its Designee may waive any penalties for a Retailer's first violation of this Section, unless the violation also involves a violation of a law regulating youth access to Tobacco Products, if the Retailer admits the violation

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in writing and agrees to forego a hearing on the allegations. Regardless of the Town's or its Designee's waiver of penalties for a first violation, the violation will be considered in determining the penalties for any future violation.

5. *Written notice of penalties.* Whenever a fine is issued and/or a Permit is suspended pursuant to this section, the Department shall provide the Retailer written notice of the fine and suspension, including when the suspension shall take effect.
6. *Appeals.* Any penalties imposed under this Section may be appealed pursuant to this Section. A timely appeal shall stay enforcement of the appealed penalties while the appeal is ongoing.

## (o) *Appeals.*

1. Any Retailer served with a written notice of penalties may request an administrative hearing to appeal the existence of the violation, the amount of the fine, and/or the length of the suspension by returning a completed hearing request form to the Town or its Designee within 10 days from the date of the written notice of penalties.
2. The Retailer shall include the following in or with the hearing request form:
  - (a) A statement indicating the reason the Retailer contests the written notice of penalties;
  - (b) Any evidence the Retailer wants the Hearing Officer to consider;
  - (c) An advance deposit of the amount of any fine challenged; and
  - (d) The address of the Retailer and, if available, an email address that can be used for contact and correspondence by the Town or its Designee. The Retailer may request service of notice by mail.
3. The hearing request form shall be deemed filed on the date received by the Town or its Designee. A timely appeal shall stay enforcement of the appealed penalties while the appeal is ongoing.
4. After receiving a timely hearing request form, the Town or its Designee shall schedule an administrative hearing. The Town or Designee shall provide the Retailer at least ten calendar days' written notice of the date, time, and place of the administrative hearing and the name of the Hearing Officer who will conduct the hearing. The notice shall be given to the Retailer either by email, if requested, or by first class mail, postage prepaid.
5. Between the time the Retailer requests the administrative hearing and the time of the Hearing Officer's decision, the Retailer, the Town and its Designee, and each of their representatives shall not engage in ex parte communications with the Hearing Officer regarding the matters at issue in the hearing.
6. The hearing shall be conducted by the Hearing Officer on the date, time, and place specified in the notice to the Retailer. A Retailer's failure to appear at the hearing shall



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constitute an abandonment of the hearing request and a failure to exhaust administrative remedies as a precedent to judicially challenge the existence of the violation and the imposition of the fine and suspension.

7. At the hearing, the Retailer and the Town or its Designee shall have the opportunity to present evidence, including witnesses, relevant to the Hearing Officer's determination of the matter. Neither the provisions of the Administrative Procedure Act (Government Code Section 11500 et seq.) nor the formal rules of evidence in civil or criminal judicial proceedings shall apply to such hearing. The Hearing Officer may admit any evidence, including witnesses, relevant to the determination of the matter.
  8. The written notice of penalties and any other reports prepared by or for the Town or its Designee concerning the violation shall be admissible and accepted by the Hearing Officer as prima facie evidence of the violation and the facts stated in those documents. The Hearing Officer may continue the hearing from time to time, in his or her sole discretion, to allow for its orderly completion of the hearing.
  9. After receiving the evidence submitted at the hearing, the Hearing Officer may further continue the hearing and request additional information from either the Town, its Designee or the Retailer.
  10. After considering the evidence and testimony submitted, the Hearing Officer shall issue a written decision regarding the matters properly raised in the request for administrative hearing. The Hearing Officer's decision, shall:
    - (a) Be based on a preponderance of the evidence.
    - (b) Include a statement of the reasons for the decision.
    - (c) Be issued within 20 calendar days of the close of the hearing.
    - (d) Be served on both the Retailer and the Town and its Designee. The decision shall be given to the Retailer either by email, if requested, or by first class mail, postage prepaid.
  11. Based on the Hearing Officer's decision, the Town or its Designee shall promptly refund to the Retailer any amount of the advance fine deposit the Town or its Designee is not entitled to.
  12. The Hearing Officer's written decision shall constitute the final administrative decision. of the Town.
- (p) *Enforcement.*
1. Any violation of this Section is hereby declared to be a public nuisance.
  2. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Section shall also constitute a violation of this Section.
  3. Whenever evidence of a violation of this Section is obtained in any part through the participation of an individual under the age of 21 years old, such individual shall not be

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required over his or her objection to appear or give testimony in any civil or administrative process brought to enforce this Section and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.

4. Violations of this Section may be remedied by a civil action brought by the Town or its Designee, including, but not limited to, administrative or judicial nuisance abatement proceedings, civil code enforcement proceedings, and suits for injunctive relief. For the purposes of the civil remedies provided in this Section, each day on which a Tobacco Product is offered for sale in violation of this Section, and each individual retail Tobacco Product that is distributed, Sold, or Distributed in violation of this Section, shall constitute a separate violation of this Section.
5. Any Person found guilty of violating any provision of this Section shall be deemed guilty of an infraction, punishable as provided by California Government Code § 25132.
6. The remedies provided by this Section are cumulative and in addition to any other remedies available at law or in equity.

(q) *No conflict with federal or state law.*

Nothing in this Chapter shall be interpreted or applied so as to create any requirement, power, or duty that is preempted by, or in conflict with, federal or state law, rules, or regulations.

## SECTION II

The Town Council finds and determines that the adoption of this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines under the General Rule (Section 15061(b)(3)), which sets forth that the CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that the proposed Town Code text amendments will have no significant negative effect on the environment.

## SECTION III

If any provision of this ordinance or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The Town Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

## SECTION IV

Except as expressly modified in this Ordinance, all other Sections set forth in the Los Gatos Town Code shall remain unchanged and shall be in full force and effect.

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## SECTION V

This Ordinance shall take effect on January 1, 2020. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

## SECTION VI

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on November 5, 2019 and adopted by the following vote as an ordinance of the Town of Los Gatos at a meeting of the Town Council of the Town of Los Gatos on November 16, 2019.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS  
GATOS  
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 17

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DATE: October 23, 2019  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Acting as the Property Owner Representative for the Town's Parcels Included in the Proposed Property Business Improvement District (PBID), Discuss the Draft Service Plan for a PBID in Downtown Los Gatos, Provide Input on the Structure and Parameters of the Draft Plan, and Direct Staff on the Next Steps for Working with the PBID Steering Committee on Behalf of the Town.

**RECOMMENDATION:**

Acting as the property owner representative for the Town's parcels included in the proposed Property Business Improvement District (PBID), discuss the draft Service Plan for a PBID in downtown Los Gatos, provide input on the structure and parameters of the draft Plan, and direct staff on the next steps for working with the PBID Steering Committee on behalf of the Town.

**BACKGROUND:**

A Property Business Improvement District (PBID) is a special district in which properties are assessed a tax to fund services or improvements that benefit the assessed properties. These benefits are those activities above and beyond what is traditionally provided by the Town, referred to as baseline services. It is important to note that any benefit received by a parcel must be equal to the assessment paid, except in the case of benefits identified as general benefits. A general benefit is considered a spill over benefit to other properties not directly assessed through the District. Thus, when considering the formation of a PBID, the assessment map and Service Plan are largely driven by the direct special benefit for assessed properties that exceed any baseline services provided. If a PBID is formed, the Town and the PBID would enter into a contract that highlights the Town's baseline services so that the PBID may illustrate benefits above and beyond the baseline services.

**PREPARED BY:** Monica Renn  
Economic Vitality Manager

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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SUBJECT: Discuss and provide direction on the draft Service Plan from the proposed PBID.

DATE: October 23, 2019

BACKGROUND (continued):

The Los Gatos Chamber of Commerce and a group of commercial property and business stakeholders have been working together since early 2019 to form a PBID in and around downtown Los Gatos. This group is functioning as the PBID Steering Committee. At its March 5, 2019 meeting, the Town Council provided the Chamber of Commerce with funding in the amount of \$22,000 as “seed money” to explore a PBID and cover the first phase of the project. This phase is nearing its end and included development of a feasibility study to gauge whether a PBID could be successful in Los Gatos.

This first phase and feasibility study examined several scenarios for a PBID, including varying geographic areas and assessment formulas. The PBID Steering Committee has hosted a series of public open houses and one-to-one meetings with property owners to discuss the draft Service Plan (Attachment 1) and the proposed assessment of a subject property, and to collect feedback from the property owners.

In order for a PBID to be established, at least 51% of property owners must vote in support of the District during the petition drive. This vote is weighted by the percentage of property each owner has in the District. This is not the final vote; however, it is understood that if support is gained through the petition drive, it is most likely the PBID will be successful in the final ballot stage. For the purposes of this report, the phases include:

- Phase One - outreach, feasibility study, and draft Service Plan
- Phase Two - formation of the draft Management District Plan and petition drive

The Town plays two distinct roles in the formation and adoption of a PBID: 1) Property Owner/stakeholder, and 2) Governing body whom adopts the resolution for the PBID to be enacted after a successful vote of the property owners and collects the assessment for distribution to the district.

This report and discussion is specifically focused on the Town as a property owner, thus it is necessary to bring this item forward to the Town Council during a public meeting to provide the opportunity for dialog on the proposal. This is the first opportunity for the Town Council as a collective body to receive and discuss the draft Service Plan including the proposed map and assessment amount.

DISCUSSION:

The attached draft Service Plan provides background information and an outline for the what the Steering Committee is currently proposing for the Los Gatos Property Business Improvement District (LGPBID). Throughout Phase One, the Steering Committee and representatives from the consultant, Civitas, met with individual stakeholders to collect

SUBJECT: Discuss and provide direction on the draft Service Plan from the proposed PBID.

DATE: October 23, 2019

DISCUSSION (continued):

feedback on the proposed property map, assessment formula, and special benefits anticipated with the District.

Below is a high-level summary of items to assist the Council with its discussion, input, and direction to staff.

**Assessment Overview**

- The total proposed PBID assessment to be collected annually is \$424,267.20.
- There are 145 parcels with 117 property owners included within the proposed boundaries.
- Of the total, the Town is the largest property owner, owning 638,056 square feet, equal to 20.99% of the included parcels.
- The current assessment total for the Town is \$89,073.80.
- Town property includes the Civic Center, Pageant and Plaza Parks, downtown parking lots, and other properties, such as the Adult and Youth Recreation Centers and Forbes Mill.

**Proposed Services**

The Service Plan identifies three primary categories of services/benefits: Destination Development, Destination Marketing, and Infrastructure (see Attachment 1). Each category is proposed to receive 30% of the District funds with the remaining 10% supporting the administration of the District.

For each category, below is an overview of the baseline services currently provided by the Town to provide context for the proposed PBID.

- Destination Development  
The proposal includes a variety of examples that reflect potential projects that could be a benefit. These options are dynamic and may change as the downtown continues to evolve. Example of baseline services currently provided by the Town include:
  - Annual contract with the Chamber of Commerce to provide the Town's Visitors' Information Center
  - Regular maintenance of the planter boxes, including weeding, planting, and sprinkler maintenance
  - Regular sidewalk pressure washing
  - Regular parking lot maintenance

SUBJECT: Discuss and provide direction on the draft Service Plan from the proposed PBID.

DATE: October 23, 2019

DISCUSSION (continued):

- Regular maintenance of parks, including watering, mowing/pruning, turf renovation, furniture upkeep, and fountain maintenance (Plaza Park)
  - Garbage and recycling contract for regular collections, and additional weekend and peak hour collection by Town staff
  - Regular litter and debris removal throughout downtown
  - Downtown street sweeping
- Destination Marketing

The Town is limited in its financial capacity to provide marketing services for specific areas or shopping districts in Los Gatos. During the time when Redevelopment Agency funds were available, the Town marketed Los Gatos as a destination at the San Jose International Airport and participated in other regional marketing campaigns including printed collateral. The Town's current contract with the Chamber of Commerce for the Town's Visitors' Information Center does include some of the items listed within the Destination Marketing section of the draft Service Plan. Downtown businesses could benefit from increased targeted marketing. The Town Council may wish to weigh in on some of the specific examples and discuss the potential outcomes associated with these activities.
- Infrastructure

The Town is dedicated to maintaining its infrastructure and providing regular maintenance and upkeep of public spaces. Many of the baseline services have been highlighted in the Destination Development section of this report. The Town also has regularly scheduled and special capital projects that provide new and refreshed infrastructure projects.

While there are some high-level examples provided in the draft Service Plan, it should be noted that the LGPBID could use funds to support potential infrastructure projects initiated by the Town Council as well. For example, if there was a streetscape project in Downtown, the LGPBID Board of Directors could vote to dedicate the infrastructure portion of the funds to support these projects or enhance them through additional services/projects.

**Initial Assessment Rate**

The draft Service Plan provides two rates in which properties may be assessed, \$0.20 or \$0.10 per square foot. Some Town properties are assessed at the non-profit rate of \$0.10 per square foot, while all of the Town's public parking lots are assessed at \$0.20 per square foot, the same rate as privately-owned commercial properties.

SUBJECT: Discuss and provide direction on the draft Service Plan from the proposed PBID.

DATE: October 23, 2019

DISCUSSION (continued):

**LGPBID Management**

The LGPBID would create a new non-profit to oversee the day-to-day operations of the District as described in the draft Service Plan. There would be a Board of Directors made up primarily of property owners paying into the District and their representatives. The draft Plan proposes one seat each for the Chamber of Commerce and Town of Los Gatos. Staff understands that in addition to holding a seat on the Board, the Chamber of Commerce would provide the day-to-day oversight of the District separate from their duties as a Chamber of Commerce.

CONCLUSION:

This agenda item provides the Town Council as property owner an opportunity to discuss the proposed Plan, including the proposed structure and benefits, assessment amount, management, and District map. The Council may then provide direction to staff on next steps for working with the LGPBID Steering Committee on behalf of the Town.

COORDINATION:

This report was prepared in coordination between the Town Manager's and Town Attorney's Offices.

FISCAL IMPACT:

If the PBID is established, the Town would be responsible for remitting the assessment amount that is determined by the Management District Plan. Should the draft Service Plan be adopted as it is currently structured, the assessment amount for the Town would be \$89,073.80 annually for a minimum of five years.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:

1. LGPBID Draft Service Plan



## Los Gatos Property and Business Improvement District Formation

Service Plan  
October 22, 2019

### BACKGROUND

Civitas was hired to help determine if a Property Business Improvement District (PBID) in Los Gatos was feasible. The first step in the PBID feasibility process was to examine potential boundaries and the need for services in the proposed areas. Based on stakeholder feedback, the Steering Committee determined what services the PBID would like to include and what budget would be needed for the PBID to provide these services.

Over the past five months, the Los Gatos Chamber of Commerce, the Town of Los Gatos and key stakeholders have been in discussions about forming a PBID to finance additional services in the area above and beyond the baseline services the Town currently provides. Funds were allocated by Town Council to hire Civitas to examine the needs of the area and subsequently draft a Feasibility Study gauging property and business owner support. Should the Los Gatos Chamber of Commerce and the PBID Steering Committee decide to move forward with PBID formation, Civitas will provide a proposal and assist with the formation process.

Several methods were used to gather information:

- The Town of Los Gatos gave funds to hire Civitas as their consultant, to assist in the PBID feasibility process;
- The project Steering Committee was formed. The committee is comprised of property owners, prominent business leaders in the community, and representatives from the Los Gatos Chamber of Commerce;
- Between April and September 2019, the Los Gatos Chamber of Commerce, Steering Committee and stakeholders conducted face-to-face meetings with property and business owners in the proposed boundaries to obtain their interest level in forming a PBID;
- Three open houses were hosted by the Steering Committee within the proposed boundaries, in which dozens of property owners, stakeholders, and Town Council members and Staff attended to show support or provide feedback;
- Analysis of the proposed boundaries and services were discussed with the Steering Committee; and
- Based on feedback from the stakeholders and Steering Committee discussions, a detailed Service Plan was created to illustrate the proposed district parameters including budget, services and boundaries.

### PROPOSED BUDGET

The budgets below are examples of how funds could be allocated in the initial year. Budget categories may require adjustments up or down to continue the intended level of services. The budget is formulated based on services and benefit to the assessed parcels within the proposed boundaries, as described later in this plan.

The Los Gatos PBID Owners' Association, a to be formed non-profit corporation, will have the authority to re-allocate up to fifteen percent (15%) of total service budget between categories. Over the initial five (5) year term of the district, the assessment rate may be subject to annual increases that will not exceed three percent (3%) per year. Increases will be determined by the Owners' Association Board of Directors and can vary each year.

Service	FY 2021 Budget	%
Destination Development	\$127,280.16	30%
Destination Marketing	\$127,280.16	30%
Infrastructure	\$127,280.16	30%
Administration & Continency	\$42,426.72	10%
<b>TOTAL</b>	<b>\$424,267.20</b>	<b>100%</b>

ATTACHMENT 1

## PROPOSED SERVICES

The Los Gatos Property and Business Improvement District (LGPBID) will provide activities and services that will create special benefits to assessed parcels and will not replace existing baseline Town Services.

### Destination Development

The purpose of Destination Development is to create and maintain a clean, inviting, usable district for the benefit of the assessed parcels. Some of these benefits may include but are not limited to:

- Special events to attract new visitors and further engage locals;
- District Ambassadors advocating Los Gatos as a destination within the proposed boundaries, provide directions and assistance to pedestrians in need throughout Downtown to assist them in accessing the assessed parcels;
- Signage including, but not limited to, gateways and pole banners;
- Park beautification and development;
- Pressure washing sidewalks and parking lots adjacent to assessed properties on a regular basis;
- Regular litter removal services, including garbage, debris, and leaves; and
- Planter box beautification and revival.

### Destination Marketing

Marketing efforts will highlight Los Gatos as a unique destination in an effort to increase visitor activity and sales that directly benefit the assessed parcels. Marketing may include: promotions and marketing of the LGPBID as a destination area, the maintenance of a district brand package and website, promotional materials, visitor guides, maps, press releases and newsletters. It is the intent of this program to allow the public to view the area as a single destination with a rich collection of attractions, events and services. Some of these benefits may include but are not limited to:

- Kiosks within San Jose International Airport showcasing Los Gatos as a nearby destination, providing useful information and upcoming special events;
- Increase social media traffic through strategic and targeted posts;
- Partnerships with Team San Jose and Visit California; and
- A Town-wide app to be used on mobile devices, promoting current events, nearby assessed businesses, directions, etc.

### Infrastructure

The infrastructure program will use a multi-faceted approach to planning, design and management of public spaces in the LGPBID. District funds will be leveraged to create a unique sense of place, which may include wayfinding signage/banners, seasonal banners and lighting, and other public space improvements. The PBID Owners' Association Board of Directors can hold a reserve account to fund for larger improvements, which will be noted in the Annual Report that is presented to the Town Council. Some of these benefits may include but are not limited to:

- Street furnishings and sidewalk improvements; and
- Parking and traffic programs which may include a parking structure.

### Administration & Contingency

The administration portion of the budget will be utilized for administrative costs associated with providing the activities and improvements for the LGPBID. These costs may include rent, telephone charges, legal fees, accounting fees, postage, administrative staff, insurance, and other general office expenses.

The budget also includes a prudent fiscal reserve. Changes in data, lower than anticipated collections, higher than expected program costs, and other issues may change the revenue and expenses. In order to buffer the organization for unexpected changes in revenue, and/or allow the PBID Owners' Association Board of Directors to fund other overhead or renewal costs, the reserve is included as a budget item. Should contingency funds remain at the expiration of the district, and property owners wish to renew the LGPBID, the remaining funds may be used for the costs of renewal. This category also includes the necessary funds to pay the Town of Los Gatos' fees associated with collection of assessments. The Town's fee is anticipated to be 2% of the assessments collected.

#### INITIAL ASSESSMENT RATE

Parcels are assessed based on services provided, benefit and parcel size. To determine a parcel's assessment, the applicable lot size rates in the tables below are applied to the parcel's actual lot size within the LGPBID zones. Residential condominiums, apartments and churches are not assessed. These parcels are not commercial, public, non-profit or parking lots and will not specifically benefit from or directly receive the LGPBID's improvements, maintenance, and activities. Based on services and benefits that commercial, public, non-profit and parking lots would receive, the proposed assessment methodology was established.

The assessment rates are:

Parcel type	Assessment rate (per sq. ft.)
Commercial / Public & Private Parking Lots	\$0.20
Public	\$0.10
Non-profit	\$0.10

*Assessment rates may be subject to an increase of no more than three percent (3%) per year.*

Based off the proposed assessment methodology, the Town's assessment will be \$89,073.80, which is approximately twenty (20) percent of the LGPBID's overall budget.

#### MANAGEMENT

The LGPBID shall create a new non-profit corporation which will serve as the Owners' Association described in Streets and Highways code § 36651. The Owners' Association is charged with the day-to-day operations of the LGPBID, including but not limited to, management of assessment funds and full decision-making authority regarding the LGPBID programs. The majority of the LGPBID Board of Directors shall be made up of property owners, or representatives of property owners, who are paying the PBID assessment. The Board of Directors will also have representation from the Los Gatos Chamber of Commerce and the Town.

Currently, the Steering Committee is comprised of:

- Catherine Somers, Los Gatos Chamber of Commerce, Executive Director
- Sue Farwell, Property Owner
- Jim Foley, Property Owner

There are different options being explored regarding the governing body of the LGPBID, prior the finalization of the Management District Plan. However, the aforementioned governance option has been prioritized.

#### COLLECTION OF ASSESSMENTS

As provided by State Law, the LGPBID assessment will appear as a separate line item on annual property tax bills prepared by the Town of Los Gatos. Property tax bills are generally distributed in the fall and spring, so annual assessments are divided into two equal payments for each year of the assessment. The Town of Los Gatos shall distribute funds collected to the LGPBID Owners' Association. Existing laws for enforcement and appeal of property taxes, including penalties and interest, apply to the LGPBID assessments.

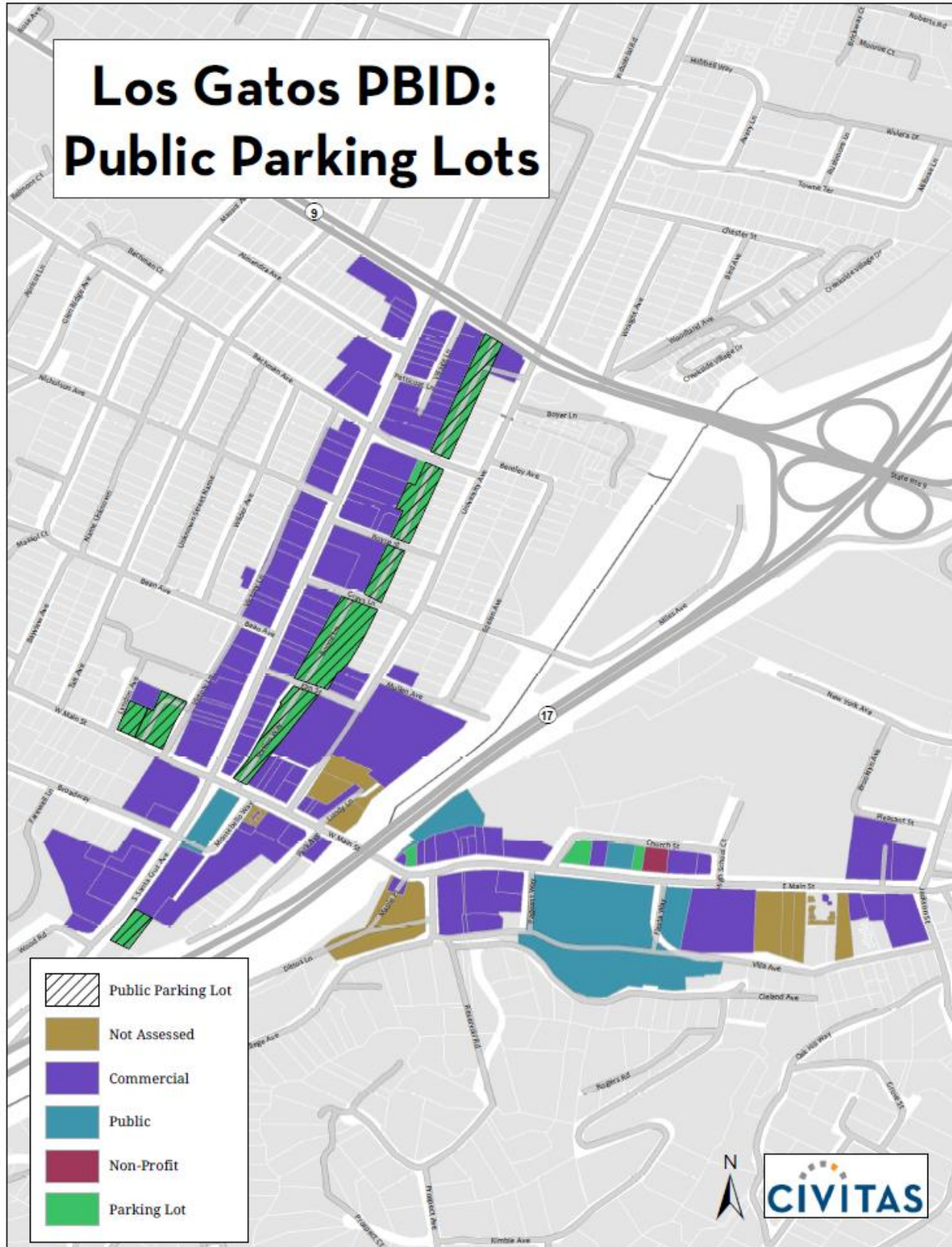
#### TERM

The LGPBID will be formed for a five (5) year period, with services commencing January 1, 2021 through December 31, 2025. After the initial five (5) year term, the PBID may be renewed again for up to ten (10) years if property owners support continuing the programs.



## BOUNDARIES

The map below illustrates the proposed LGPBID boundaries.





**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 17

ADDENDUM

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DATE: November 4, 2019  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Acting as the Property Owner Representative for the Town's Parcels Included in the Proposed Property Business Improvement District (PBID), Discuss the Draft Service Plan for a PBID in Downtown Los Gatos, Provide Input on the Structure and Parameters of the Draft Plan, and Direct Staff on the Next Steps for Working with the PBID Steering Committee on Behalf of the Town.

DISCUSSION:

Staff received public comment (Attachment 2) after the distribution of the staff report, and before 11:00 a.m. on Tuesday, November 4, 2019.

Attachment Received with Staff Report:

1. LGPBID Draft Service Plan

Attachment Received with this Addendum:

2. Public Comment received after distribution of the staff report and before 11 a.m. on November 4, 2019

PREPARED BY: Monica Renn  
Economic Vitality Manager

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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**From:** Phil Koen

**Date:** November 3, 2019 at 11:09:32 AM PST

**To:** Steven Leonardis <[SLeonardis@losgatosca.gov](mailto:SLeonardis@losgatosca.gov)>, Marico Sayoc <[maricosayoc@gmail.com](mailto:maricosayoc@gmail.com)>, Marcia Jensen <[MJensen@losgatosca.gov](mailto:MJensen@losgatosca.gov)>, BSpector <[BSpector@losgatosca.gov](mailto:BSpector@losgatosca.gov)>, Rob Rennie <[RRennie@losgatosca.gov](mailto:RRennie@losgatosca.gov)>

**Cc:** Catherine Somers <[catherine@losgatoschamber.com](mailto:catherine@losgatoschamber.com)>, Laurel Prevetti <[LPrevetti@losgatosca.gov](mailto:LPrevetti@losgatosca.gov)>

**Subject:** Agenda Item 17, November 5 Council Meeting

Dear Honorable Mayor and Council Members,

Many possible conflicts stem from a misunderstanding about the basic nature of BID's. Let me summarize my understanding of a BID.

As the name indicates, a Business Improvement District, is a Town program under which the Town establishes a geographic area wherein business owners or commercial property owners are assessed a "fee" to fund special services or improvements that are not being provided by the Town and that directly benefit them. For example commercial property owners might be interested in paying for a higher level of maintenance than is currently being provided for flowers, plantings and sidewalk cleanliness in the downtown area. As the name Los Gatos Property Business Improvement District indicates, the properties within the BID are owned and used for commercial purposes.

What makes no sense is for the Town to contribute all of the Town's downtown parking lots, the civic center, the adult and youth recreation centers and other public property, none of which are commercial and all of which are used exclusively for the benefit of the general public, to the BID. The Staff has provided no rational for including these properties in the proposed BID, which would result in the Town being the single largest property contributor (21%) to the BID. This raises the following questions which need to be addressed.

1. Why is this BID being structured as a "property" business improvement district as opposed to a "business" improvement district? What protection is being put in place to insure the "fee" assessed the property owners will not be passed on to the tenants who will have no vote on approving the BID? If the Town wants broad based business support for the BID, it would make more sense to make the BID a "business" improvement district since there are more business owners than property owners in the Town.
2. As stated above, what is the business rational for including the identified Town properties in this special assessment district which will result in an annual assessment on the Town of approximately \$90k? If the Town did not have the funds available to pay for these "special services", does the Town have funds to pay for the assessment?
3. State law states that public property shall be exempt from any assessment unless the Town can demonstrate by clear and convincing evidence that these publicly owned parcels in fact receive a "special" benefit. For example how would the public parking lots or civic center benefit from destination marketing or destination development as outlined in the draft Service Plan.? What clear and convincing evidence exists?

Lastly, I was surprised to see that the current steering committee has only three people, two of the three being property owners. Why doesn't this committee include a number of business owners who are not property owners? After all, the goal of the BID is to improve the Town's downtown business environment.

In closing, I am supportive of the concept of the BID, but the assessment map should only include businesses not properties. Every BID that I have reviewed, including the Palo Alto BID, only includes businesses not property.

Additionally, there is no reason for the Town to include public property and incur an unnecessary assessment totaling \$450k over the initial 5 year period. This assessment appears to be nothing more than a transfer payment which will benefit the 117 commercial property owners with no special benefit conferred upon the publicly owned parcels.

I look forward to hearing an answer to these questions.

Thank you.

Respectively,

Phil Koen



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 17

DESK ITEM

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DATE: November 4, 2019  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Acting as the Property Owner Representative for the Town's Parcels Included in the Proposed Property Business Improvement District (PBID), Discuss the Draft Service Plan for a PBID in Downtown Los Gatos, Provide Input on the Structure and Parameters of the Draft Plan, and Direct Staff on the Next Steps for Working with the PBID Steering Committee on Behalf of the Town.

**REMARKS:**

Staff received questions from a Town Council member, below, and additional public comment (Attachment 3) following the distribution of the addendum dated November 4, 2019.

Questions from a Council Member with staff responses below

- **Responses to Koen's questions/issues from email dated November 3, 2019**  
Mr. Koen raises several questions and issues. It is important to clarify that commercial property owners and the Chamber (hereafter referred to as the stakeholder group) are leading the proposed PBID effort, not the Town of Los Gatos. The Town did not establish nor propose any of the geography, fee structure, or other proposed parameters. The stakeholder group, together with other downtown businesses and property owners, met with the consultant early on and they purposely decided on a Property-based Business Improvement District, not a BID. The PBID proposal and the proposed geography that includes Town properties is coming from the stakeholder group. Town staff is not suggesting or recommending any of the PBID elements. The item is on the agenda to allow the Council, as a property owner, the opportunity to discuss the proposal and provide input, including the issue of which Town properties the Council is comfortable including in the PBID. The staff report on this matter is informational to assist the TC have a transparent/public discussion on the proposal.

**PREPARED BY:** Monica Renn  
Economic Vitality Manager

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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SUBJECT: Discuss and provide direction on the draft Service Plan from the proposed PBID.

DATE: November 5, 2019

DISCUSSION (Continued):

In the next phase of the PBID, the stakeholder group and its consultant will need to identify special benefits and specifically provide the determination of benefit for each participating property. Generally, if a shopping area is more lively and successful, the vitality and desirability may increase, including a rise in sales tax. Additionally, services that the Town does not provide with the loss of RDA funds, such as marketing, could be added through the PBID.

- **How much has the Town paid to the Chamber 2018-19? Projected for 19/20?**  
2018/19: \$77,166.67 (\$50k annual contract, \$22k for PBID phase one consultant work, \$3,500 road closures for summer 2018 events, and \$1,666.67 for summer 2018 events)  
2019/20: \$60,000 (\$60K annual contract and \$10k for summer 2019 events)
- **How much has the Town paid/budgeted for downtown improvements/upkeep in those same time frames?**

Work Task	Annual Estimated Cost			
	2018-19	Frequency	2019-20	Frequency
Power Wash Sidewalks	\$ 29,400	7x annually	\$ 50,400	Monthly
Parking Lot Cleaning	\$ 12,500	Monthly	\$ 12,500	Monthly
Downtown Street Sweeping	\$ 9,000	Fridays	\$ 9,000	Fridays
Frequency and cost of supplemental downtown trash collection	\$ 45,000	3x week	\$ 47,810	3x week
Estimated cost of regular planter box upkeep	\$ 25,000	as needed	\$ 35,000	as needed
Estimated cost & tasks for park maintenance @ Plaza Park	\$ 55,000	weekly	\$ 55,000	weekly
Estimated cost & tasks for park maintenance @ Civic	\$ 62,000	weekly	\$ 62,000	weekly
<b>TOTALS</b>	<b>\$ 237,900</b>		<b>\$ 271,710</b>	

SUBJECT: Discuss and provide direction on the draft Service Plan from the proposed PBID.

DATE: November 5, 2019

DISCUSSION (Continued):

- **How was the Board representation determined?**  
The stakeholder group, consisting of the Chamber and commercial property owners, determined this proposed Board representation. We understand that the stakeholder group is open to add committed steering committee members that included businesses; however, given the time commitment, there were not businesses interested in committing.
- **Has anyone other than the Town contributed to the PBID process so far?**  
The Town paid for the first phase and we understand that the Chamber will pay for subsequent phases.
- **Why is the Town proposed to be included?**  
The stakeholder group included Town properties due to their geographic locations.
- **Why were other properties excluded?**  
The stakeholder group excluded the High School and residential properties.
- **How is the money "collected" each year (i.e., can a property refuse to pay)?**  
All property owners will pay through their annual property taxes because once the PBID is established, the District goes onto the property tax rolls. There is not a mechanism not to pay a portion of the property taxes.
- **Can PBID money be used for town infrastructure projects such as widening sidewalks?**  
If the governing PBID Board decides to fund a Town infrastructure project, those funds can be added to the Town's capital project and the Town would oversee the project, such as sidewalk widening.

Attachment Received with Staff Report:

1. LGPBID Draft Service Plan

Attachment Received Addendum dated November 4, 2019:

2. Public Comment received after distribution of the staff report and before 11 a.m. on November 4, 2019

Attachment Received with this Desk Item:

3. Public Comment received between 11:01 a.m. on November 4, 2019 and 11:00 a.m. on November 5, 2019.

**From:** Phil Koen

**Date:** November 5, 2019 at 8:07:11 AM PST

**To:** Steven Leonardis <[SLeonardis@losgatosca.gov](mailto:SLeonardis@losgatosca.gov)>, Marico Sayoc <[maricosayoc@gmail.com](mailto:maricosayoc@gmail.com)>, Marcia Jensen <[MJensen@losgatosca.gov](mailto:MJensen@losgatosca.gov)>, BSpector <[BSpector@losgatosca.gov](mailto:BSpector@losgatosca.gov)>, Rob Rennie <[RRennie@losgatosca.gov](mailto:RRennie@losgatosca.gov)>

**Cc:** Laurel Prevetti <[LPrevetti@losgatosca.gov](mailto:LPrevetti@losgatosca.gov)>, Robert Schultz <[RSchultz@losgatosca.gov](mailto:RSchultz@losgatosca.gov)>, Catherine Somers <[catherine@losgatoschamber.com](mailto:catherine@losgatoschamber.com)>

**Subject:** Agenda Item 17 - discussion of the PBID

Dear Honorable Mayor and Council Members,

Subsequent to sending you my email of a few days ago, I have learned that in fact there are a number of cities that have formed PBIDs which included public parking lots. What I have not found is any PBID which included a city's civic center.

There are two specific issues that need to be thoroughly discussed as you review the merit of the proposed PBID that is in front of you this evening.

1. The Staff report states that the Town is "dedicated to maintaining its infrastructure and providing regular maintenance and upkeep of public spaces". If this is correct, why do the property owners feel compelled to form a PBID which would include all of the Town's downtown parking lots, the Town's civic center and recreation centers as well as the Pageant and Plaza Parks "to create and maintain a clean, inviting, usable district for the benefit of the assessed parcels".

This strongly suggests that property owners believe that the Town's parcels ARE NOT being properly maintained and DO NOT meet an acceptable level of cleanliness. If the current baseline of services provided to the Town's properties are inadequate, this Council should direct Staff to address this inadequacy. The Town does not need a PBID to do this.

Rather, the Town should budget an appropriate service level that meets the residents and property owners standards for cleanliness and maintenance. If the Town has the money to pay an annual \$90k assessment fee for 5 years, the Town also has the same funds available to properly maintain these properties. We don't need a a PBID to insure the Town's properties are properly maintained and are clean. We need a Council that directs Staff to discuss these service levels with key stakeholders and agree to providing these service levels to the Town's properties.

2. The current assessment plan calls for commercial property fronting Santa Cruz and Main Street to be assessed the same \$.20 per sq. ft. rate as the public parking lots behind these parcels. It is highly probable that this assessment plan violates State law since parcels utilized solely for parking purposes will not fully benefit from the special services provided by the district to the same extent as commercial property fronting these main streets. One has to wonder why the Staff would put forth this recommendation and who is acting as an independent voice for the Town residents to ensure this process is fair to all stakeholders, including the Town residents.

If the Council continues down the path of wanting to contribute Town property to the PBID, it must insure the assessment methodology complies with State law or risk the chance of the PBID being legally challenged.

Thank you.

Respectively,

Phil Koen

**From:** Shari Flick  
**Sent:** Monday, November 04, 2019 10:48 PM  
**To:** Council <[Council@losgatosca.gov](mailto:Council@losgatosca.gov)>  
**Cc:** Clerk <[Clerk@losgatosca.gov](mailto:Clerk@losgatosca.gov)>  
**Subject:** Support for the PBID Proposal

To: Los Gatos Town Council

I am writing to ask that you support Town of Los Gatos PBID participation at the assessment level for Town-owned parcels, as drafted by the PBID steering committee.

I am the owner of 3 parcels within the PBID Boundary, which include 9 commercial tenants. As you well know, many retail stores, restaurants, and salons are struggling to remain viable with the quickly-changing retail environment and have difficulty retaining employees in the Silicon Valley. I believe we are at a critical turning point to remain successful and competitive with nearby communities and to hold on to the unique charm and quaint atmosphere of the Los Gatos that we all love.

The Town has done a tremendous job with the recent policy changes to enable businesses to expand, evolve, and experiment with ways to grow. The PBID is the next step to harness the funding, energy, and support of the property owners and businesses to build on that momentum and to expand the Town's vibrancy.

The PBID will be critical for:

- Marketing to a broader audience for entertainment, dining, shopping, services, and physical fitness
- Organizing special events around Town
- Adding beautification
- Presenting, organizing and implementing ideas from the business community
- Providing additional capital improvement funding

All Los Gatos residents, businesses, and services will benefit from an improved and more vibrant commercial core through PBID projects.

Thank you,  
Shari Flick  
Foster Road, Los Gatos, CA 95030