



**TOWN OF LOS GATOS
COUNCIL MEETING AGENDA
OCTOBER 06, 2020
110 EAST MAIN STREET
LOS GATOS, CA**

*Marcia Jensen, Mayor
Barbara Spector, Vice Mayor
Rob Rennie, Council Member
Marico Sayoc, Council Member
Vacant, 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 Town Council. 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 2nd and 4th Mondays at 7:00 p.m.
Live & Archived Council Meetings can be viewed by going to:
www.LosGatosCA.gov/TownYouTube***

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
OCTOBER 06, 2020
7:00 PM**

IMPORTANT NOTICE REGARDING THE OCTOBER 6, 2020 COUNCIL MEETING

This meeting is being conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29- 20 dated March 17, 2020, regarding the COVID- 19 pandemic. The live stream of the meeting may be viewed on television and/or online at www.losgatosca.gov/AgendasAndVideos. **In accordance with Executive Order N-29- 20, the public may only view the meeting on television and/or online and not in the Council Chamber.**

PARTICIPATION

If you are not interested in providing oral comments real-time during the meeting, you can view the live stream of the meeting on television (Comcast Channel 15) and/or online at www.LosGatosCA.gov/TownYouTube.

If you are interested in providing oral comments real-time during the meeting, you must join the Zoom webinar:

- Join from a PC, Mac, iPad, iPhone or Android device: click this link <https://zoom.us/j/93842247125>. **Password: 151211**. You can also type in 93842247125 in the “Join a Meeting” page on the Zoom website at <https://zoom.us/join>.
- Join by telephone: Dial: USA 636 651 0008 US Toll or USA 877 336 1839 US Toll-free. Conference code: 969184

During the meeting:

- When the Chair announces the item for which you wish to speak, click the “raise hand” feature in Zoom. If you are participating by phone on the Zoom app, press *9 on your telephone keypad to raise your hand. If you are participating by calling in, press #2 on your telephone keypad to raise your hand.
- When called to speak, please limit your comments to three (3) minutes, or such other time as the Chair may decide, consistent with the time limit for speakers at a Council meeting.

If you are unable to participate in real-time, you may email to PublicComment@losgatosca.gov with the subject line “Public Comment Item #__” (insert the item number relevant to your comment) or “Verbal Communications – Non Agenda Item.” Comments will be reviewed and distributed before the meeting if received by 5:00 p.m. on the day of the meeting. All comments received will become part of the record. The Mayor has the option to modify this action on items based on comments received.

**TOWN OF LOS GATOS
COUNCIL MEETING AGENDA
OCTOBER 06, 2020
7:00 PM**

REMOTE LOCATION PARTICIPANTS

The following Council Members are listed to permit them to appear electronically at the Town Council meeting: MAYOR MARCIA JENSEN, VICE MAYOR BARBARA SPECTOR, COUNCIL MEMBER ROB RENNIE, COUNCIL MEMBER MARICO SAYOC. All votes during the teleconferencing session will be conducted by roll call vote.

MEETING CALLED TO ORDER

ROLL CALL

COUNCIL / MANAGER MATTERS

CLOSED SESSION REPORT

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. A member of the public may request to pull an item from Consent by following the Participation instructions contained on page 2 of this agenda. 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.)*

1. Approve Minutes of the September 15, 2020 Town Council Meeting.
2. Adopt Public Safety Power Shutoff (PSPS) Annex to the Town Emergency Operation Plan (EOP).
3. Approve the Mayor's Recommendation to Create and Appoint a Town Council Ad Hoc Committee to Study Wildfire Mitigation in the Wildland Urban Interface (WUI).
4. Authorize the Following Actions for the Local Roadway Safety Plan (PPW Project Number 812-0132):
 - a. Review and Approve the Scope of Services for a Request for Proposals (Attachment 1) to Prepare a Local Roadway Safety Plan.
 - b. Authorize the Town Manager to Negotiate and Execute a Consultant Agreement for Preparing the Local Roadway Safety Plan with the Highest Scored Proposer in an Amount Not to Exceed \$80,000.
5. Accept the Completion of Work Performed by Syserco Energy Solutions, Inc. for PPW Job No. 411-821-2008 Energy Efficiency Upgrades.

VERBAL COMMUNICATIONS *(Members of the public are welcome to address the Town Council on any matter that is not listed on the agenda consistent with the Participation instructions contained on page 2 of this 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 comment. In the event additional comments 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, their representatives, and members of the public wishing to address the Council on any Public Hearing item should register in advance to obtain the Zoom link for this meeting by following the Participation instructions contained on page 2 of this agenda. Applicants/Appellants and their representatives may be allotted up to a total of five 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 three minutes maximum for closing statements. Items requested/recommended for continuance are subject to Council's consent at the meeting.*)

- [6.](#) Consider Approval of Amendments and Introduce the Draft Ordinance by Title Only to Amend Chapter 29 (Zoning Regulations) of the Town Code Regarding Outdoor Lighting and Modifications to the Residential Design Guidelines, Town-Wide. Town Code Amendment Application A-20-005. Applicant: Town of Los Gatos.
- [7.](#) Consider Approval of Amendments and Introduce the Draft Ordinance by Title Only to Amend Chapter 29 (Zoning Regulations) of the Town Code Regarding the Below Market Price Program and Adopt a Resolution to Modify the Below Market Price Housing Program Guidelines. Town Code Amendment Application A-20-004. Applicant: Town of Los Gatos.

OTHER BUSINESS (*Up to three minutes may be allotted for each comment on any of the following items consistent with the Participation Instructions contained on page 2 of this agenda.*)

- [8.](#) Provide Specific Direction to Modify the Town's Pilot Parklet Program and Economic Recovery Initiatives:
 - a. Discuss Town's Pilot Parklet Program (established pre-COVID), and Consider Extending the Parklet Duration for a Minimum of Five to Seven Years; and
 - b. Determine the Duration of the Temporary Economic Recovery (Krail) Parklets Located on Public Property in Downtown and Consider Phasing Options to Facilitate Outdoor Seating and Business Activities; and
 - c. Discuss Options for Businesses to Implement Platforms, Ramps, Overhead Coverage, and Other Modifications Within the Economic Recovery Parklets to Continue to Support Outdoor Business Services Through the Winter; and
 - d. Discuss Other Elements of the Economic Recovery Initiatives and Provide Further Direction as Appropriate.

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 on the official Town of Los Gatos website.

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.



**DRAFT
Minutes of the Town Council Meeting
September 15, 2020**

The Town Council of the Town of Los Gatos conducted a regular meeting via Teleconference via COVID-19 Shelter in Place Guidelines on September 15, 2020, at 7:00 p.m.

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

ROLL CALL

Present: Mayor Marcia Jensen, Vice Mayor Barbara Spector, Council Member Rob Rennie, Council Member Marico Sayoc. (All participating remotely).

Absent: None

COUNCIL/TOWN MANAGER REPORTS

Council Matters

- Council Member Rennie stated he attended Valley Transportation Authority (VTA) Board, Valley Transportation Authority (VTA) Governance and Audit Committee, Conceptual Advisory Committee, and Santa Clara Valley Clean Energy Board meetings.
- Council Member Sayoc stated she attended the League of California Cities (LOCC) Board meeting and the Saturday calls with Santa Clara County Supervisors regarding the pandemic.
- Vice Mayor Spector stated she attended the West Valley Solid Waste Management Authority Board meeting, West Valley Clean Water Authority Board meeting, General Plan Advisory Committee (GPAC) meeting, Police Reform Community Workshop, and Santa Clara County Health Department COVID-19 phone conferences.
- Mayor Jensen stated she attended the Police Reform Community Workshop, General Plan Advisory Committee (GPAC) meeting, and Valley Transportation Authority (VTA) Policy Advisory Committee Meeting.

Manager Matters

- Announced the community conversation workshop series will continue with a discussion on affordable housing on Tuesday, September 29 and another meeting is planned for late October regarding community culture. All community conversation workshops will take place via Zoom and details can be found on the Town website.
- Announced the Town's Boards and Commissions recruitment is open and applications are due November 6.
- Announced Library Curbside Pickup is taking place Monday through Saturday. The library may close early due to poor air quality and encouraged community members that have request a curbside library pick-up call prior to picking up their orders.

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

1. Approve Draft Minutes of the September 1, 2020 Town Council Meeting.
2. Adopt a Resolution Rescinding Resolution 2018-045 and Amending the Appendices to the Town Conflict of Interest Code, Chapter 2, Article III, Division 4. **RESOLUTION 2020-038**
3. Authorize the Town Manager to Execute a Five-Year Agreement for Services with St. Francis Electric, Inc. to Provide Traffic Signal and Streetlight Maintenance, and Underground Service Alert (USA) Marking Services in an Amount Not to Exceed \$135,000 Annually, for a Total Agreement Amount Not to Exceed \$675,000.
4. Continue Local Emergency Proclamation.

MOTION: Motion by Council Member Sayoc to approve Consent Items 1-4. Seconded by Vice Mayor Spector.

VOTE: Motion passed unanimously.

VERBAL COMMUNICATIONS

Rob Stump

- Requested the Council establish an ad hoc wildfire prevention committee, expedite the roadside fire fuel reduction, conduct defensible space inspections of structures and homes in high-fire danger areas, and conduct emergency evacuation drills of the hillside neighborhoods.

OTHER BUSINESS

5. Consider the Los Gatos Chamber of Commerce Proposal to Install Light Displays in Various Locations at an Estimated Cost to the Town of Approximately \$150,000.

Laurel Prevetti, Town Manager, presented the item.

Mayor Jensen opened public comment.

Catherine Somers, Los Gatos Chamber of Commerce

- Commented in support of the item and presented slides of the proposed light displays and their locations.

Susan Testa, Romanitques

- Commented in support of the item.

Niki Jaimes, Vagabond Marketing and Experience LG

- Commented in support of the item.

Other Business Item #5 – continued

Randi Chen, Los Gatos Chamber of Commerce

- Commented in support of the item and presented a cost comparison of rent, rent to own, and purchase of the light displays.

David MacGregor-Scholes, Redemption and Los Gatos Chamber of Commerce

- Commented in support of the item.

Judy Peterson

- Commented in support of the item.

Ginger Rowe

- Commented in support of the item.

Maria Ristow

- Commented in support of the item.

Dustin David, Dustin David Salon

- Commented in support of the item.

Julie Micallef

- Commented in support of the item.

Mayor Jensen closed public comment.

Council discussed the item.

MOTION: Motion by Vice Mayor Spector to install light displays in various locations throughout Los Gatos at an estimated cost to the Town of approximately \$150,000 and direct staff to provide an update to the Council regarding costs and other project issues at the next Council meeting on October 6th. **Seconded by Council Member Rennie.**

VOTE: Motion passed unanimously.

6. Discuss the Police Department Budget and Provide Direction for Potential Reforms to Practices, Service Delivery, Oversight, and Related Matters.

Laurel Prevetti, Town Manager, presented the item.

Mayor Jensen opened public comment.

Other Business Item #6 – continued

Terry Duryea

- Commented in support of some form of police oversight and requested the Council consider less militaristic uniforms.

David-MacGregor Scholes, Redemption

- Commented in support of providing non-armed first responders for homeless and mental health calls for service.

Jeffrey Suzuki

- Commented in support of providing non-armed, health professionals as first responders for homeless and mental health calls for service.

Mayor Jensen closed public comment.

Council discussed the item.

MOTION: Motion by Mayor Jensen to direct staff to pursue a model of police oversight and authorize the Town Manager to work with Judge Cordell to develop ideas to be reported to Council. **Seconded by Council Member Rennie.**

VOTE: Motion passed unanimously.

MOTION: Motion by Mayor Jensen to direct staff to pursue increased transparency and data accessibility by the public, including reporting stop statistics and apples-to-apples data comparisons with other jurisdictions, and to report findings to Council. **Seconded by Vice Mayor Spector.**

VOTE: Motion passed unanimously.

MOTION: Motion by Mayor Jensen to Jensen to direct staff to investigate the use of non-sworn personnel including ramifications for staffing and budgeting and to report findings to Council. **Seconded by Vice Mayor Spector.**

VOTE: Motion passed unanimously.

MOTION: Motion by Mayor Jensen to direct staff to explore mental health and social services options and to report findings to Council. **Seconded by Council Member Sayoc.**

VOTE: Motion passed unanimously.

PAGE 5 OF 5

SUBJECT: Draft Minutes of the Town Council Meeting of September 15, 2020

DATE: September 15, 2020

7. Approve an Addendum to the Police Officers' Association Memorandum of Understanding and Revisions to the Police Classifications within the Temporary Classification Plan.

Lisa Velasco, Human Resources Director, presented the item.

Mayor Jensen opened public comment.

No one spoke.

Mayor Jensen closed public comment.

Council discussed the item.

MOTION: Motion by Council Member Sayoc to approve an addendum to the Police Officers' Association Memorandum of Understanding and revisions to the police classifications within the temporary classification plan contained in attachments 1 and 3. **Seconded by Council Member Rennie.**

VOTE: Motion passed unanimously.

ADJOURNMENT

The meeting adjourned at 9:33 p.m.

Submitted by:

Jenna De Long, Deputy Clerk



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/06/2020

ITEM NO: 2

DATE: September 10, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt Public Safety Power Shutoff (PSPS) Annex to the Town Emergency Operation Plan (EOP)

RECOMMENDATION:

Adopt Public Safety Power Shutoff (PSPS) Annex to the Town Emergency Operation Plan (EOP).

BACKGROUND:

Over the past decade, wildfires in California have grown more numerous, destructive, and deadly, and the threat of wildfires extends for a longer period during the year. In response, the California Public Utilities Code gives electric utilities such as Pacific Gas and Electric Company (PG&E) authority to de-energize or shut off electric facilities proactively during dangerous conditions to prevent wildfires and to protect lives and property. The purpose of proactive de-energization or Public Safety Power Shutoffs (PSPS) is to promote public safety by decreasing the risk of utility-infrastructure as a source of wildfire ignitions.

Following the deadly wildfire seasons experienced by the state in 2017 and 2018, the California Public Utilities Commission (CPUC) issued a resolution and rulemaking governing the steps PG&E and other electrical investor-owned utilities must follow in implementing a PSPS. Last year the Town experienced its first PSPS event on October 9, 2020, followed by a second PSPS event on October 26, 2020. In addition, the Town was under a PSPS threat warning on October 29, 2020, and November 20, 2020.

Based on those experiences, the Town of Los Gatos has prepared this Public Safety Power Shutoff (PSPS) Annex. As a supplement to the Town of Los Gatos Emergency Operations Plan (EOP), this Annex assigns tasks, specifies policies and general procedures, and provides for coordination of response and recovery activities in a PSPS event. The Annex will be reviewed

PREPARED BY: Arn Andrews Assistant Town Manager Hannah Tarling Emergency Services Coordinator

Reviewed by: Town Manager and Town Attorney

and exercised periodically and will be revised as necessary to satisfy changing conditions and needs.

DISCUSSION:

The proposed PSPS Annex is intended to provide guidance to the Town of Los Gatos in preparing for and responding to a PSPS by PG&E. The draft Annex was developed using the Santa Clara County Office of Emergency Management PSPS Annex as a template which follows the Standardized Emergency Management System (SEMS), the National Incident Management System (NIMS), and the Incident Command System (ICS). The template was designed to create consistency in emergency response among the operational area jurisdictions.

At the County level, its Annex was developed in collaboration with partners and stakeholders throughout the Operational Area (OA). This collaborative effort included participating in and holding workshops with representatives of County Departments, agencies, and special districts; local government jurisdictions; and external partners.

Through the preparation of the Town's PSPS Annex, relevant partners, Departments, and specific Town employees were consulted, including Los Gatos-Monte Sereno Police and Parks and Public Works Departments, and the Town Manager's Office. Specific staff involvement included the Town's Emergency Operations Center (EOC) Public Information Officer (PIO), Assistant Town Manager, and Emergency Services Coordinator.

The PSPS Annex is, first and foremost, an operational plan intended for use by Town personnel who are coordinating or managing a PSPS event. Accordingly, the Annex is organized in a manner that allows Town and EOC personnel to quickly find the information they need to successfully handle a PSPS event. The Annex is divided into four primary sections with additional sections devoted to public information and addressing the needs of individuals with disabilities, access, and functional needs. Following is a brief description of the four primary sections:

- **The Introduction** in Section 1 includes discussion of the Annex's purpose and scope, the situation requiring creation of the Annex, overarching Annex objectives, and the assumptions used in developing the plan.
- **PG&E Power Shutoff Process** is described in Section 2. This section includes information available at this time regarding the California Public Utilities Commission's Guidelines governing PSPS, PG&E's shutoff determination factors, and information regarding PG&E's PSPS notification and community outreach efforts.

- The **Concept of Operations** (ConOps) in Section 3 of the Annex guides users through incident coordination and the operational activity phases.
- **The Critical Action Guide** in Section 4 summarizes the Annex and acts as a finding tool for information in other parts of the Annex that assists personnel in event coordination and management.

CONCLUSION:

Adoption of the Public Safety Power Shutoff (PSPS) Annex to the Town Emergency Operation Plan (EOP) is consistent with emergency management best practices and ensures consistency among operational area jurisdictions.

COORDINATION:

This staff report has been coordinated with the Town Manager/Director of Emergency Services, Chief of Police/Assistant Director of Emergency Services, and Town Attorney.

FISCAL IMPACT:

No fiscal impact.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. PSPS Annex

SEPTEMBER 2020



PUBLIC SAFETY POWER SHUTOFF ANNEX

HAZARD-SPECIFIC ANNEX TO THE
TOWN OF LOS GATOS EMERGENCY OPERATIONS PLAN

TOWN MANAGER'S OFFICE
TOWN OF LOS GATOS
110 E MAIN ST, LOS GATOS, CA



Suggested citation for this planning document:

Town Manager's Office. *Public Safety Power Shutoff – Hazard Specific Annex to the Town of Los Gatos* (Los Gatos: Town of Los Gatos, 2020).



RECORD OF CHANGES

	Date	Section	Description	Organization
01.				
02.				
03.				
04.				
05.				
06.				
07.				
08.				
09.				
10.				
11.				
12.				
13.				
14.				
15.				
16.				
17.				
18.				
19.				
20.				



PROMULGATION

The preservation of life, property, and the environment is an inherent responsibility of local, state, and federal government. While no plan can completely prevent casualties or destruction, realistic, actionable plans carried out by knowledgeable, well-trained personnel can minimize losses.

The Town of Los Gatos has prepared this Public Safety Power Shutoff (PSPS) Annex in compliance with the Standardized Emergency Management System, the National Incident Management System, and the Incident Command System. The Annex is intended to ensure the effective and efficient allocation of resources to protect the people of the Town of Los Gatos during a PSPS event.

As a supplement to the Town of Los Gatos Emergency Operations Plan, this Annex assigns tasks, specifies policies and general procedures, and provides for coordination of response and recovery activities in a PSPS event. The Annex will be reviewed and exercised periodically and will be revised as necessary to satisfy changing conditions and needs.

The Town Manager's Office fully supports this Annex and the Town Council considered it as a new Annex to the Town's Emergency Operations Plan on October 6, 2020. The Town urges all officials, employees, and residents—individually and collectively—to familiarize themselves with this Annex and to do their share in the total emergency effort of the Town of Los Gatos.

Laurel Prevetti
Town Manager

Date



(Page Intentionally Left Blank)



HOW TO USE THIS ANNEX

The Public Safety Power Shutoff (PSPS) Annex is, first and foremost, an operational plan intended for use by Town personnel who are coordinating or managing a PSPS event. Accordingly, the Annex is organized in a manner that allows Town and Emergency Operation Center (EOC) personnel to quickly find the information they need to successfully handle a PSPS event. Personnel assigned to respond should become familiar with the following elements:

- The **Introduction** in Section 1 includes a discussion of the Annex’s purpose and scope, the situation requiring creation of the Annex, overarching Annex objectives, and the assumptions used in developing the plan.
- **PG&E Power Shutoff Process** is described in Section 2. This section includes information available at this time regarding the California Public Utilities Commission’s Guidelines governing PSPS, PG&E’s shutoff determination factors, and information regarding PG&E’s PSPS notification and community outreach efforts.
- The **Concept of Operations** (ConOps) in Section 3 of the Annex guides users through incident coordination and the operational activity phases.
- The **Critical Action Guide** in Section 4 acts as a tear away guide for incident response. Additionally, it summarizes the Annex and acts as a finding tool for information in other parts of the Annex that assists personnel in event coordination and management. The Critical Action Guide includes:
 - An overview of operational activity phases;
 - A timeline of PG&E PSPS notifications;
 - Incident coordination task lists for each operational phase;
 - A table of anticipated responsibilities for organizations playing lead and supporting roles during a PSPS event.
- Section 5 provides guidance regarding **public information** management.
- Section 6 provides information on addressing the needs of people with **disabilities and access and functional needs**.
- Section 7 discusses annex development, implementation, and maintenance.
- Section 8 includes the authorities and references relied on in developing the Annex.
- The **Appendix** includes maps, essential elements of information for use in developing situational awareness and a common operating picture, a table of non-Stafford Act recovery resources, and sample public information messaging.

Those using the Annex in their role as plan developers or reviewers will find the more traditional elements of emergency plans, as outlined by the Federal Emergency Management Agency’s Comprehensive Preparedness Guide 101, located in Sections 1, 7, and 8.



(Page Intentionally Left Blank)



TABLE OF CONTENTS

RECORD OF CHANGES.....	iii
PROMULGATION.....	iv
HOW TO USE THIS ANNEX.....	v
TABLE OF CONTENTS.....	vii
SECTION 1: INTRODUCTION.....	1
1.1 Purpose.....	1
1.2 Scope.....	1
1.3 Situation.....	1
1.3.1 Overview.....	1
1.3.2 Potentially Impacted Areas.....	2
1.3.3 Potential Effects of PSPS.....	3
1.4 Objectives.....	4
1.5 Planning Assumptions.....	5
SECTION 2: PG&E POWER SHUTOFF PROCESS.....	8
2.1 Public Safety Power Shutoff Overview.....	8
2.2 PG&E Shutoff Determination Factors.....	9
2.3 PSPS Notification and Communication.....	10
2.3.1 CPUC Guidelines on PSPS.....	10
2.3.2 Advance Notification of PSPS Shutoff.....	11
2.3.3 PG&E PSPS Potential Levels.....	12
2.3.4 Timeline for PG&E PSPS Notifications.....	13
2.3.5 Priority Notification of Public Safety Partners.....	13
2.3.6 Content of Public Safety Partner Advance Notification.....	14
2.3.7 PG&E PSPS Agency Resources Portal.....	14
2.3.8 Advance Notification to Other Customers.....	14
2.3.10 Requests to Delay De-Energization or to Re-Energize.....	15
2.4 Community Resource Centers.....	16
2.5 Re-Energization.....	16
2.5.1 PG&E Re-Energization Strategy.....	17
2.5.2 Re-Energization Notification Requirements.....	17
SECTION 3: CONCEPT OF OPERATIONS.....	19
3.1 Overview.....	19



3.2	Incident Coordination	19
3.2.1	Operational Activity Phases	19
3.2.1	Management Priorities	19
3.2.2	Santa Clara County Activities	21
3.2.3	Town of Los Gatos Activities	20
3.2.4	Town Department Activities.....	20
3.3	Notification Phase	21
3.3.1	PG&E PSPS Advance Notifications	22
3.3.2	Town Action Following PG&E Priority Notification	22
3.4	Response Phase.....	26
3.4.1	Overview of EOC Activities	26
3.5	Re-Energization and Short-Term Recovery Phase.....	31
3.5.1	Overview of Re-energization and Short-Term Recovery	31
3.5.2	Notice of Re-Energization	31
3.5.3	Supporting PG&E’s Re-Energization Process	32
3.5.4	Short-Term Recovery Considerations	32
3.5.5	Non-Stafford Act Recovery Resources.....	32
SECTION 4: CRITICAL ACTION GUIDE		34
4.1	Overview of Operational Activity Phases	35
4.2	Timeline for PG&E PSPS Notifications.....	36
4.3	Critical Decision Matrix: Seeking Delayed De-Energization, Re-Energization, or Prioritized Re-energization for Town	36
4.4	Anticipated Roles and Responsibilities.....	37
4.4.1	PG&E Responsibilities Based on CPUC Guidelines.....	37
	Town Agencies and Responsibilities.....	37
4.4.2	Town Lead and Supporting Organizations	37
4.4.3	Town Departments Responsibilities	38
4.4.4	Supporting Organizations—Regional, State, and Federal	40
4.4.5	Operational Area Supporting Organizations	40
4.5	PSPS Event Coordination Task Lists	14
4.5.1	Notification Phase	14
4.5.2	Response Phase.....	17
4.5.3	Re-Energization and Short-Term Recovery Phase.....	20
SECTION 5: PUBLIC INFORMATION		25
5.1	Overview.....	25



5.2	Initial Public Alerting Actions	25
5.2.1	Public Information Officer Actions	25
5.3	Accessibility of Public Messages.....	25
SECTION 6: NEEDS OF PEOPLE WITH DISABILITIES OR ACCESS AND FUNCTIONAL NEEDS.....		27
6.1	Overview.....	27
6.2	Town of Los Gatos Demographics	27
6.3	Legal Requirements	28
6.4	Areas of Concern During Response and Recovery	28
6.5	Recommended EOC Actions	29
SECTION 7: ANNEX DEVELOPMENT AND IMPLEMENTATION		30
7.1	Annex Development.....	30
7.2	Maintenance	30
7.2	After-Action Review and Corrective Action.....	31
SECTION 8: AUTHORITIES AND REFERENCES.....		32
8.1	Authorities.....	32
8.1.1	Town.....	32
8.1.2	County	32
8.1.3	State	32
8.1.4	Federal.....	33
8.2	References.....	33
ABBREVIATIONS AND ACRONYMS		36
GLOSSARY		38
APPENDIX.....		41
Appendix A: Maps.....		42
A-1	CPUC High Fire Threat Map – Town of Los Gatos	43
A-2	PG&E Geographic Zones	44
Appendix B: PSPS Essential Elements of Information		45
Appendix C: Non-Stafford Act Recovery Resources		49
C-1	Federal Programs	49
C-2	State Programs	54



Appendix D: Sample PSPS Public Information Messaging.....55

- D-1 Sample Public Information Talking Points55
- D-2 Sample Media Release57
- D-3 Sample Social Media Messaging.....59

Appendix E: Town Emergency Proclamation Documents.....60

- E-1 Proclamation by the Director or Assistant Director of Emergency Services of the Existence of a Local Emergency61
- E-2 Proclamation by the Town Council of the Existence of a Local Emergency62



(Page Intentionally Left Blank)



SECTION 1: INTRODUCTION

1.1 Purpose

This Public Safety Power Shutoff Annex to the Town of Los Gatos Emergency Operations Plan (EOP) is intended to provide guidance to the Town of Los Gatos in preparing for and responding to a Public Safety Power Shutoff (PSPS) by the Pacific Gas and Electric Company (PG&E). A PSPS is the proactive de-energization of power lines to reduce the chances that utility infrastructure will cause or contribute to a wildfire in certain weather conditions.¹ De-energization of electrical systems in affected areas may pose life safety issues for residents of the Town of Los Gatos and may also adversely impact businesses and infrastructure in the area. In addition, de-energization may affect the capabilities of the Town and local agencies to provide supplemental public notice and to respond to wildfires and other incidents. Accordingly, this Annex is necessary to provide guidance for the Town of Los Gatos in coordinating a power shutoff and their impacts on Town services, people, and infrastructure.

1.2 Scope

This Annex is a hazard-specific supplement to the Town's EOP. This Annex does not alter or replace procedures or policies set forth in the EOP. Rather, the PSPS Annex provides additional guidance to Town agencies, organizations, leaders, and partners specific to PSPS-related preparedness, response, and recovery efforts at the Town level. This Annex complies with the National Response Framework, the National Incident Management System (NIMS), the Standardized Emergency Management System (SEMS), and the California State Emergency Plan.

The Annex does not provide specific response actions for field responders. Town Departments with field response roles in a PSPS event are urged to develop plans and standard operating procedures (SOPs) outlining tactical responsibilities of their field personnel in a PSPS event.

1.3 Situation

1.3.1 Overview

Over the past decade, wildfires in California have grown more numerous, destructive, and deadly, and the threat of wildfires extends for a longer period during the year. The California Public Utilities Code gives electric utilities such as PG&E authority to de-energize or shut off electric facilities pro-actively during dangerous conditions to prevent wildfires and to protect lives and property.² The purpose of proactive de-energization or PSPS is to promote public safety by decreasing the risk of utility-infrastructure as a source of wildfire ignitions. Following the deadly wildfire seasons experienced by the state in 2017 and 2018, the California Public Utilities Commission (CPUC) issued a resolution and rulemaking governing the steps PG&E and other electrical investor-owned utilities must follow in implementing a PSPS.³ For further discussion of CPUC guidelines for instituting a PSPS, see Section 2.3.

The risk of wildfire depends on the interaction of several factors, including warm temperatures, low soil moisture, high wind speeds, low relative humidity, and the presence of fuel such as vegetation. When

¹ California Public Utilities Commission (CPUC), Rulemaking 18-12-005, Decision Adopting De-Energization (Public Safety Power Shut-Off) Guidelines (Phase 1 Guidelines) (2019), 116.

² Cal. Pub. Util. Code §§ 451, 399.2(a).

³ CPUC, Resolution ESRB-8, Extending De-Energization Reasonableness, Notification, Mitigation and Reporting Requirements in Decision 12-04-024 to All Electric Investor Owned Utilities (2018); CPUC, Rulemaking 18-12-005.



these factors combine, electrical transmission and distribution lines may ignite fires if impacted by high wind or downed trees. To reduce the chances of accidental fire ignition during periods of heightened risk conditions, PG&E has adopted a PSPS program under which it may de-energize distribution and transmission lines that cross High Fire Threat District areas⁴ as mapped by the state.⁵

1.3.2 Potentially Impacted Areas

PG&E has indicated that the most likely electric lines to be considered for shutoff will be those passing through areas designated by the CPUC as at elevated risk (Tier 2) or extreme risk (Tier 3) for wildfire. The CPUC has designated much of the southern and eastern portions of the Town as a Tier 2, and small portions of the western and southern part of Town as Tier 3 (see Figure 1.1 below or Annex A). For a PSPS event, the specific area and number of affected customers will depend on forecasted weather conditions and which circuits PG&E needs to turn off for public safety purposes.⁶ Preceding a PSPS event, PG&E is required to share with public safety partners maps showing the areas to be impacted (see Section 2.3.6).

Customers who do not live or work in a high fire-threat area may still experience a power shutoff if their community relies on a line that runs through an area experiencing extreme fire danger conditions. The Town of Los Gatos has many residents and businesses located outside of Tier 2 and 3 who may experience a PSPS as they rely on a line that travels through a high risk area, including the busy downtown district and surrounding residential area (see Figure 1.1 or Annex A). In 2020, PG&E worked within the Town to sectionalize specific circuits to lessen the impact to areas of Town that are not within CPUC’s Tier 2 or 3 zones. The Town experienced two PSPS events in 2019, that significantly impacted Los Gatos residents. On October 9 – 10, 2,728 PG&E customers in Los Gatos had their power deenergized. During the second event, October 26 – 28, 8,918 PG&E customers in Los Gatos were impacted.

Table 1.1 Number of Los Gatos PG&E customers impacted in past PSPS events.

Event Date	Peak Number of Impacted PG&E Customers in Los Gatos
October 9 - 10, 2019	2,728
October 26 - 28, 2019	8,918

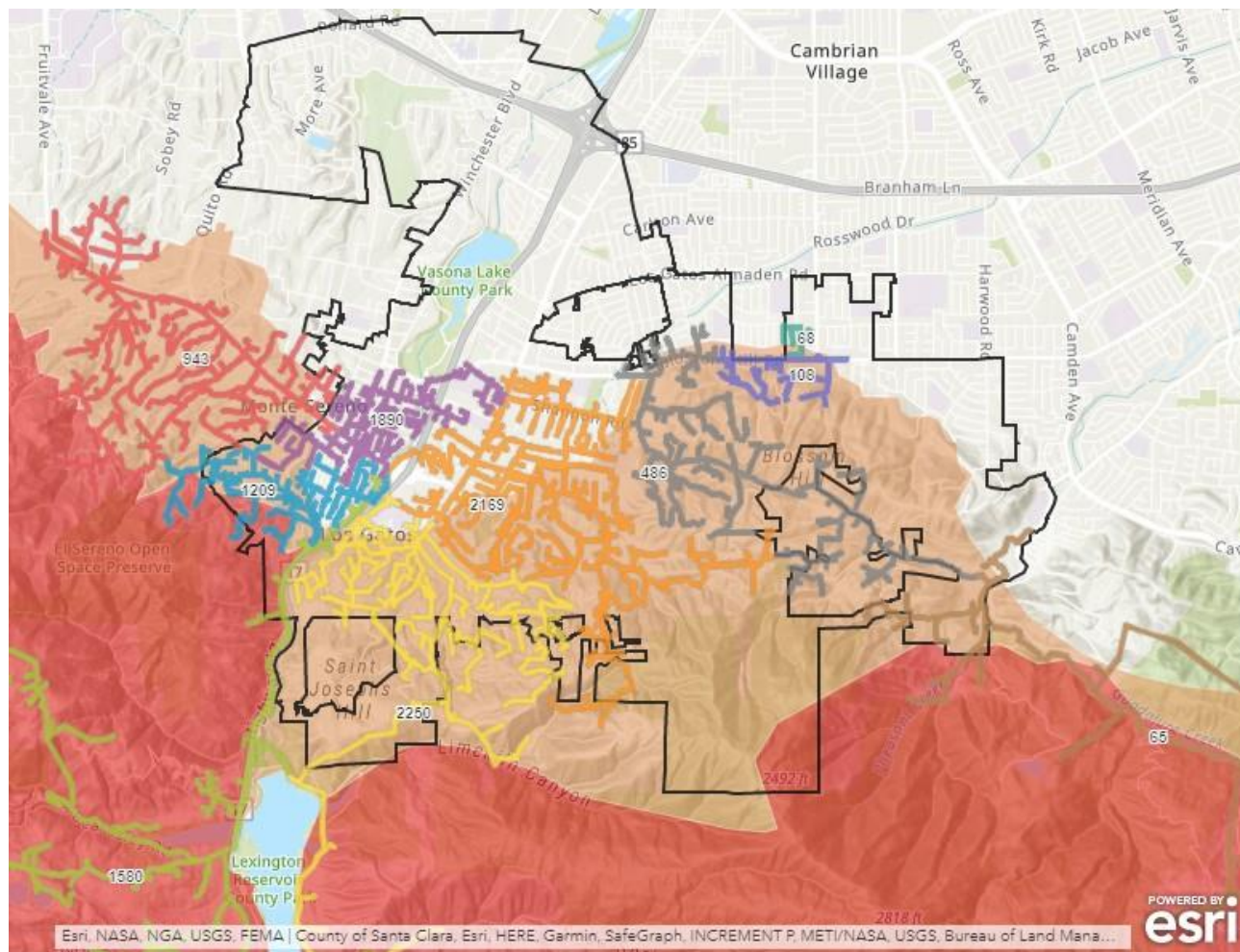
⁴ Pacific Gas and Electric Company (PG&E), Amended 2019 Wildfire Safety Plan (2019), 96. https://www.pge.com/pge_global/common/pdfs/safety/emergency-preparedness/natural-disaster/wildfires/Wildfire-Safety-Plan.pdf.

⁵ CPUC, “Fire-Threat Maps and Fire-Safety Regulations Proceedings.” Accessed August 4, 2019. <https://www.cpuc.ca.gov/firethreatmaps/>.

⁶ PG&E, PG&E Public Safety Power Shutoff Policies and Procedures (2019), 4. https://www.pge.com/en_US/safety/emergency-preparedness/natural-disaster/wildfires/public-safety-power-shutoff-faq.page.



Figure 1.1 Number of PG&E customers by circuit in CPUC high risk wildfire hazard tiers in/around the Town of Los Gatos. Orange: Tier 2. Red: Tier 3.



1.3.3 Potential Effects of PSPS

A loss of electrical service for an extended period may result in disruption of the orderly functioning of government and may significantly impact public health and safety. A prolonged power shutoff may also have significant impacts on businesses in the Town. In addition, some populations within the Town, such as people with disabilities or access and functional needs, may be disproportionately impacted by a power shutoff. Potential impacts of a PSPS event include the following:

Public Safety Impacts:

- Loss of traffic monitoring systems and traffic signals, leading to loss of reliable traffic control, and obstruction of roadways.
- Impediments to normal traffic flow may in turn make it difficult for first responders to perform life safety and property protection tasks.
- Loss or degradation of public safety voice and data communications systems including Land Mobile Radio systems and fire watch cameras.
- Loss or degradation of community alert and warning systems relying on internet and wireless



data or cellular access.

- Loss or degradation of public water and wastewater systems including monitoring, pumping, and treatment facilities.
- Loss or degradation of fire suppression water supply systems.
- Chemical or hazardous materials facilities without power may discharge contaminants into the environment.
- Increase in the volume of calls to Town and/or County 9-1-1 Communications.
- Potential emergency medical system and medical facility patient surge from loss of power to medical equipment, heat-related illness, or dehydration.
- Unsafe use of generators as an alternate power supply, which may lead to an increase in structure fires and carbon monoxide poisoning.
- Food safety impacts due to degraded refrigeration systems or unsafe food preparation.
- During extreme weather, such as a high heat incident, a PSPS may increase risks to public health and safety.

Impacts to People with Disabilities or Access and Functional Needs:

- Inability to use durable medical equipment, communication devices, or wheelchairs that rely on electricity in order to function.
- Child and adult residential care facilities may lack back-up generators, or the fuel needed to power generators.
- Disruption of public services provided through schools, libraries, reception centers, emergency shelters, cooling centers, and filtered air centers.

Business Impacts:

- Loss of commercial communications systems including wireless voice and data, cable television, and internet.
- Loss or degradation of electronic points of sale, gas station pumps, security systems, and refrigeration.
- Loss of inventory due to spoilage.
- Lost customers and revenue due to a lack of power.
- Decreased employee productivity as employees may be unable to complete tasks when key equipment is not functioning.
- Damaged equipment from electrical surges that can occur when power is restored.

1.4 Objectives

The objectives of this plan include the following:

1. Protect lives, health, safety, and welfare of the public and of field responders.
2. Address the needs of people with disabilities or access and functional needs.
3. Maintain situational awareness of potential de-energization-related impacts to the area and provide regular status updates to OA.
4. Establish and maintain communications between PG&E, the Santa Clara County Emergency Operations Center (EOC), field-level responders, local agencies and other partners.



5. Assist PG&E in providing supplementary alerts, warnings, and other communications to increase public awareness of PSPS-related activities and impacts.
6. Facilitate efforts of Town Departments and agencies and OA partners to obtain needed resources to address PSPS impacts, as necessary.
7. Facilitate the safe and timely resumption of public services within the Town following a PSPS event.

1.5 Planning Assumptions

This Annex relies on the following assumptions as part of planning for a PSPS event impacting Santa Clara County:

- A PSPS is a potentially high consequence event that may result in widespread power outages for two to four days or longer within the Town, as well as other cascading impacts.
- A PSPS event may coincide with other types of incidents, such as extreme heat, wildfire, and unhealthy air quality, which may require activation of annexes for those incidents in conjunction with the PSPS Annex.
- PG&E will use PSPS as a safety measure only after exhausting all other means to protect against the risk of wildfire ignitions as a result of utility infrastructure.
- PG&E will adhere to the PSPS requirements and constraints provided by the CPUC.
- If ordered by PG&E, a PSPS may impact the general public, businesses, and infrastructure in the Town, as well as the capabilities of Town Departments and agencies to provide life safety and other services to the public.
- Loss of electrical service may significantly affect critical facilities that are integral to safeguarding public health and safety. Such facilities include police and fire stations, hospitals and health clinics, schools, adult and child residential care facilities, and water treatment and pumping stations.
- Public and private utilities and infrastructure—including power, water, wastewater, communications, and transportation systems—may be impacted or may become inoperable during a PSPS event.
- People residing, visiting, or operating businesses in the Town may be without easy access to electrical power, air conditioning, potable water, sanitary facilities, or public transportation during or immediately following a PSPS event.
- Approximately 763 people within the Town may seek congregant shelter in a PSPS event.
- The American Red Cross will not be available to establish shelters needed solely because of a PSPS event (see Section 3.4.1.5).
- Town of Los Gatos healthcare facilities may need to operate in a limited capacity on backup generator power during a PSPS event.
- Town agencies and Departments may not have enough fuel to maintain backup generators used to power critical facilities during a PSPS event.
- In a PSPS event affecting a large portion of the county or region, the Town may not be able to quickly obtain assistance from the County to provide additional fuel needed to maintain backup generators or other supplies.
- Areas of the Town of Los Gatos that are not directly impacted by a PSPS may see an influx of



persons in need of shelter, cooling, medical, filtered air, or other services because of PSPS impacts.

- Town Departments and agencies responding to a PSPS event will utilize the Incident Command System (ICS), the Standardized Emergency Management System (SEMS), and the National Incident Management System (NIMS) as appropriate or necessary.
- Activate public information systems to provide supplemental information regarding the event to agencies, organizations, businesses, and members of the public in their jurisdictions;
- Participate in Operational Area conference calls throughout PSPS events to share situational status and impact information as necessary.
- Observe and participate in preparedness actions as resources allow, which may include activating local plans and EOCs; preparing to open shelters, cooling sites, or other mass care facilities; and pre-staging personnel and equipment such as generators.



(Page Intentionally Left Blank)



SECTION 2: PG&E POWER SHUTOFF PROCESS

2.1 Public Safety Power Shutoff Overview

Though Pacific Gas and Electric (PG&E) indicates that it is impossible to predict with certainty when, where, or how often it may determine a Public Safety Power Shutoff (PSPS) is necessary, the company anticipates that a PSPS may occur several times each year within its service area. Beginning with the 2019 wildfire season, as an additional precautionary measure, PG&E adopted a PSPS program under which it de-energized distribution and transmission lines at all voltages—500 kilovolts (kV) and less—that cross High Fire Threat Districts⁷ as mapped by the State.⁸

Distribution lines deliver electricity to neighborhoods and communities. They are the final stage of electricity delivery to homes and businesses. Though these lines carry lower-voltage electricity, they are still powerful enough to cause injury or death. Typically, these lines are supported by wooden poles and are not as high as transmission lines. In contrast, transmission lines transport bulk electricity across the state at high voltages, ranging from 60 to 500 kV. These lines are usually supported on tall metal towers and have more stringent vegetation standards than distribution lines due to the high voltages they carry.⁹

To date, de-energization has focused primarily on California electric utility's distribution systems. The CPUC has recognized that there may be times when it is necessary for an electric utility to consider de-energizing a transmission line. However, de-energization of transmission lines will likely have more far-reaching and cascading impacts than distribution-level de-energization. Figure 2.1, diagrams the basic structure of an electrical system, showing both transmission and distribution lines.

PG&E expects that its PSPS program will primarily affect customers in high fire threat areas. However, the company acknowledges that expanding its PSPS program means that any of its over five million electric customers could have their power shut off if their community relies on a line that passes through a high fire-threat area.¹⁰ For a map showing high fire threat areas in the Town of Los Gatos as determined by the state, see Appendix A.

PG&E acknowledges that it has a role to play in supporting customers by providing services and programs to help alleviate the safety, financial, and disruptive impacts of loss of power. The company has stated that its primary focus will be on (1) customers who require a continuous electric supply for life support; and (2) critical services, which it defines as telecommunications, water agencies, hospitals, and first responders that provide life support services to communities PG&E serves. In this regard, PG&E has committed to:¹¹

- Work closely with County offices of emergency management to share information related to vulnerable customers “to support local first responders in providing important local services to these customers during a PSPS” event.
- Provide notice to government agencies and providers of critical services when extreme fire danger

⁷ PG&E Amended 2019 Wildfire Safety Plan, 96.

⁸ CPUC, Fire Threat Maps.

⁹ PG&E, “Manage trees and plants near power lines.” Accessed September 13, 2019. https://www.pge.com/en_US/safety/yard-safety/powerlines-and-trees/transmission-vs-distribution-power-lines.page.

¹⁰ PG&E Public Safety Power Shutoff Policies and Procedures, 3–4.

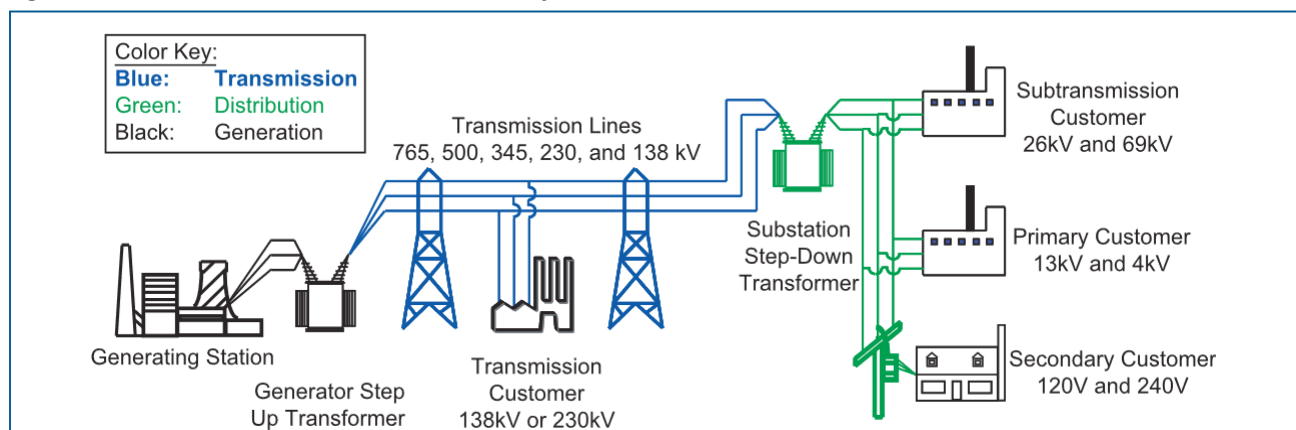
¹¹ PG&E Amended 2019 Wildfire Safety Plan, 100, 103, 105; PG&E Public Safety Power Shutoff Policies and Procedures, 5–6.



is forecasted.

- Attempt to advise public safety authorities, first responders, local municipalities, and critical service providers of a planned PSPS event in advance of notifying customers.
- Attempt to notify PG&E Medical Baseline customers of a shutoff before it occurs. The Medical Baseline program provides energy at a lower price for customers who are dependent on life support. In the event PG&E cannot reach medical baseline customers, local law enforcement and emergency personnel will help with contact.
- Attempt to notify all other customers through calls, texts, and emails using contact information PG&E has on file for them.
- Provide live customer support to critical service providers to offer real time updates and information regarding PSPS event impacts, duration, and restoration status.

Figure 2.1 Basic Structure of an Electrical System



Source: US-Canada Power System Outage Task Force. (2004). Final Report on August 14, 2003 Blackout in the United States and Canada: Causes and Recommendations, 5.

2.2 PG&E Shutoff Determination Factors

PG&E PSPS policies indicate that the company will only order a PSPS “when the most extreme fire danger conditions are forecasted,” to help reduce the likelihood of an ignition and keep customers and communities safe.¹² In determining whether to order a PSPS, PG&E considers a number of factors, including:¹³

- Issuance of a Red Flag Warning by the National Weather Service (NWS), meaning that fire conditions are ongoing or expected to occur shortly;
- Low humidity levels: PG&E considers 20 percent and below as low humidity;
- Forecasted sustained winds above 25 miles per hour (mph) and wind gusts exceeding 45 mph;
- Site-specific conditions such as temperature, terrain, and local climate;
- Computer-simulated ignition spread, and consequence modeling based on the current conditions;
- Condition of dry fuel on the ground and moisture content of live vegetation; and
- On-the-ground, real-time wildfire related information from PG&E’s Wildfire Safety Operations

¹² PG&E Public Safety Power Shutoff Policies and Procedures, 3.

¹³ PG&E Amended 2019 Wildfire Safety Plan, 97–98.



Center and field observations from PG&E field crews.

Generally, the first trigger for a potential PSPS event is a forecast of fire danger and high wind conditions by PG&E's internal Meteorology team. The PG&E Meteorology team relies on situational awareness from company weather stations and modelling to predict conditions specific to local geographic areas. Once the Meteorology team issues fire danger and high wind condition forecasts, PG&E activates its Emergency Operations Center (PG&E EOC), led by an "Officer in Charge," and continues to monitor weather forecasts and local conditions in areas forecasted for "Extreme-Plus" conditions. Based on these inputs, the PG&E EOC Officer in Charge evaluates whether to call for a PSPS.¹⁴ It should be noted that for Los Gatos PSPS wind conditions tend to be most prevalent later in the summer (September - November).

2.3 PSPS Notification and Communication

In May 2019, the California Public Utilities Commission (CPUC) adopted Phase 1 "De-energization (Public Safety Power Shut-Off) Guidelines" for electric investor-owned utilities, including PG&E. The Phase 1 Guidelines primarily address notification and communication before a de-energization event. The Phase 1 Guidelines remain in effect unless and until superseded by a subsequent CPUC decision.¹⁵ The CPUC plans to issue Phase 2 Guidelines that will include de-energization practices, additional coordination across agencies, re-energization practices,¹⁶ and refinements to findings in Phase 1.¹⁶ Currently, there is no timeline for issuance of Phase 2 Guidelines.

2.3.1 CPUC Guidelines on PSPS

The CPUC Guidelines require PG&E to do the following before, during, and after a Public Safety Power Shutoff (PSPS) event:¹⁷

- Deploy PSPS as a measure of last resort and be ready to justify it was used over other possible measures or actions.
- Coordinate with the California Governor's Office of Emergency Services (Cal OES) and the California Department of Forestry and Fire Protection (Cal FIRE) to engage in a statewide public education and outreach campaign in preparation for PSPS.
- Identify and maintain accurate 24-hour points of contact for public safety partners and critical facilities or infrastructure. Points of contact must be updated annually.
- Coordinate with emergency responders and local governments to identify critical facilities within its service territories to provide adequate notice to those facilities prior to de-energization and to assist them in maximizing resiliency during de-energization and re-energization.
- Provide advance priority notification of PSPS to public safety partners and to adjacent local jurisdictions that may lose power as a result of de-energization. Notice to all other affected populations, including access and functional needs populations, may occur after the utility has given priority notice.
- Provide primary or initial notification to the public, while local governments provide supplemental or secondary public notifications. Utilities retain ultimate responsibility for notification and communication throughout a de-energization event.

¹⁴ PG&E Amended 2019 Wildfire Safety Plan, 98.

¹⁵ CPUC, Decision Adopting De-Energization Guidelines, 130.

¹⁶ CPUC, Decision Adopting De-Energization Guidelines, 14.

¹⁷ CPUC, Decision Adopting De-Energization Guidelines, Appendix A, De-Energization (Public Safety Power Shut-Off) Guidelines (Phase 1 Guidelines).



- Provide advance notification to all populations potentially affected by a PSPS event, including public safety partners, critical facilities and infrastructure, access and functional needs populations, and jurisdictions that are not at threat of a utility-caused wildfire but may lose power as a result of de-energization elsewhere in the system.
- In partnership with local and state public safety partners, develop notification strategies for access and functional needs populations, including in-person notification.
- Whenever possible, adhere to the minimum PSPS notification timeline provided in the CPUC's Phase 1 Guidelines. For further discussion of the recommended timeline, see Section 2.3.4.
- Align public messaging and outreach with Cal OES's Alert and Warning Guidelines.
- Integrate de-energization communications with those of emergency responders and local governments.
- Avoid developing duplicative or contradictory messaging and notification systems to those already deployed by first responders.
- Develop notification and communication protocols and systems that reach customers wherever located and deliver messaging in an understandable manner, including:
 - Communicating to customers in different languages
 - Addressing different access and functional needs using multiple modes and channels of communication.
- Report on lessons learned from each de-energization event.

2.3.2 Advance Notification of PSPS Shutoff

CPUC's Phase 1 Guidelines provide that, as the entity with the most knowledge of and the authority to call for a de-energization event and subsequent re-energization, PG&E has ultimate responsibility for notification in advance of, during, and after a de-energization event.¹⁸ The Guidelines recognize that there may be times when advance notice of a PSPS is not possible due to emergency conditions beyond PG&E's control. However, the Guidelines require PG&E, whenever possible, to provide advance notification to all populations potentially affected by a PSPS event. Groups that must be notified include, but are not limited to:¹⁹

- Public safety partners;
- Critical facilities and infrastructure;
- Access and functional needs populations; and
- Jurisdictions that are not threatened by a utility-caused wildfire but may lose power as a result of de-energization elsewhere in the electrical system.

The Phase 1 Guidelines also require PG&E, whenever possible, to provide priority notification to public safety partners and adjacent local jurisdictions that may lose power as a result of de-energization, at a minimum. Notice to other affected populations, including access and functional needs populations, may occur after the utility has given priority notice. However, utilities may provide priority notification to a broader subset of customers, such as certain critical facilities.²⁰ For further discussion of public safety

¹⁸ Phase 1 Guidelines, A9.

¹⁹ Phase 1 Guidelines, A7.

²⁰ Phase 1 Guidelines, A7.



partner notification, see Section 2.3.6.

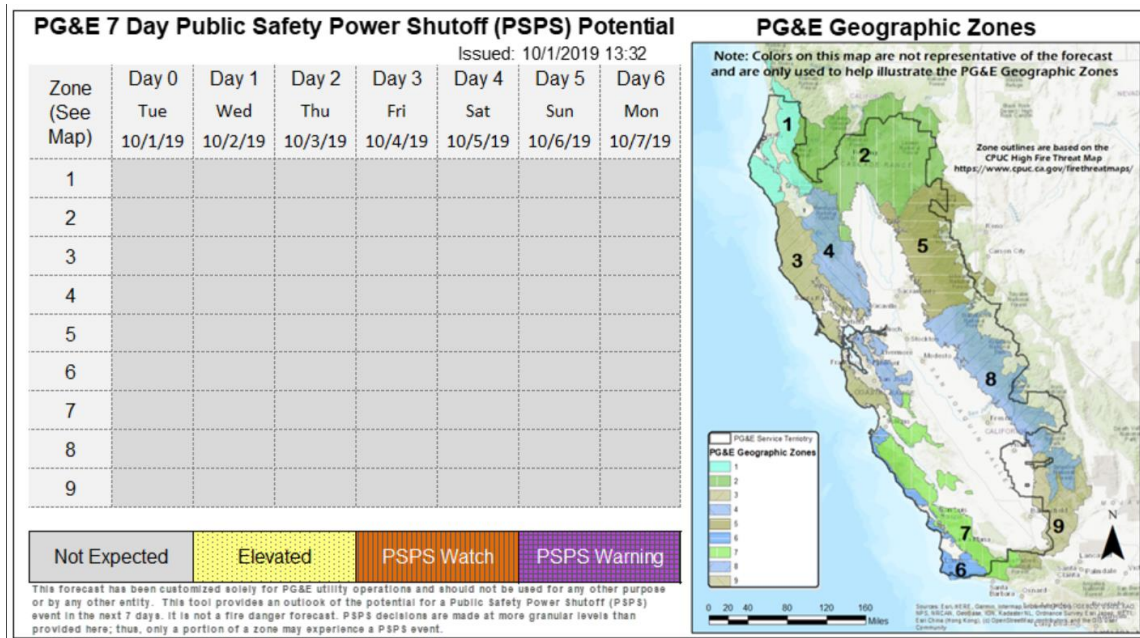
2.3.3 PG&E PSPS Potential Levels

To prepare customers and communities for a PSPS, PG&E has launched a series of webpages on pge.com providing public-facing information on PSPS events, fire-related weather forecasts from PG&E’s meteorologists, and maps showing where PSPS-related outages may occur or are occurring. The PG&E weather page provides a seven-day PSPS Potential forecast for the nine geographic regions in PG&E’s service area. To communicate levels of PSPS potential, PG&E uses the following rubric:²¹

- Not Expected – Conditions that generally warrant a PSPS event are not expected at this time.
- Elevated – PG&E is monitoring an upcoming event, typically a period of adverse weather combined with dry fuels, for increased potential as a PSPS event.
- PSPS Watch – PG&E’s EOC is activated based on a reasonable chance of executing a PSPS to reduce public safety risk in a given geographic zone due to a combination of adverse weather and dry fuel conditions. PG&E typically issues a PSPS watch within 72 hours before the anticipated start of an event.
- PSPS Warning – This level indicates execution of a PSPS is probable given the latest forecast of weather and fuels or observed conditions. Customers in areas being considered for a PSPS have been or are being notified. PSPS is typically executed in smaller and more targeted areas than the PG&E Geographic Zones. This level does not guarantee a PSPS execution as conditions and forecasts might change.

A sample snapshot of the potential level and geographic zones is included in Figure 3.2, below. The PG&E geographic zone’s map is included in Appendix A.

Figure 2.2 PG&E Sample 7-Day Potential Level and Geographic Zones



²¹ PG&E, Public Safety Power Shutoff, Weather Awareness, accessed September 30, 2019, https://www.pge.com/en_US/safety/emergency-preparedness/natural-disaster/wildfires/pssp-weather-map.page.



Source: PG&E, Public Safety Power Shutoff, Weather Awareness, accessed September 30, 2019, https://www.pge.com/en_US/safety/emergency-preparedness/natural-disaster/wildfires/psps-weather-map.page.

2.3.4 Timeline for PG&E PSPS Notifications

In general, PG&E is required to make every effort to provide notice of potential de-energization as soon as it reasonably believes de-energization is likely. At a minimum, PG&E must notify public safety partners when it activates the PG&E EOC in anticipation of a PSPS event, or when it determines that de-energization is likely to occur, whichever happens first. In addition, PG&E must provide notice when it decides to de-energize, at the beginning of a de-energization event, when re-energization begins, and when re-energization is complete.²²

The CPUC Phase 1 Guidelines require PG&E, whenever possible, to adhere to the following *minimum* PSPS notification timeline:²³

- 48 to 72 hours before an anticipated PSPS: Provide advance priority notification to public safety partners and to other priority notification entities.
- 24 to 48 hours before an anticipated PSPS: Notify all other affected customers or populations.
- One to four hours before an anticipated PSPS: Notify all affected customers or populations.
- When initiating PSPS: Notify all affected customers or populations.
- Immediately before re-energization begins: Notify all affected customers or populations.
- When re-energization is complete: Notify all affected customers or populations.

For a visual representation of the timeline, see Section 4.2.

2.3.5 Priority Notification of Public Safety Partners

The Phase 1 Guidelines require PG&E to provide public safety partners with priority notification of a PSPS event. For purposes of the CPUC Phase 1 Guidelines, “public safety partners” includes:²⁴

- First responders or emergency responders at the local, state, and federal level;
- Water, wastewater, and communication service providers;
- Affected community choice aggregation electrical providers; and
- Publicly owned utilities or electrical cooperatives.

“First responder” or “emergency responder” means individuals responsible for protecting and preserving life, property, the environment, or evidence in the early stages of an event. The terms include “emergency response providers,” which the CPUC defines to include federal, state, and local governmental and nongovernmental public safety, fire, law enforcement, emergency response, emergency medical services, and hospital emergency services providers; and related personnel, agencies, and authorities.²⁵

Community choice aggregation (CCA) is a program created under California law that allows cities and counties to buy or generate electricity for residents and businesses in their areas. For example, in Santa Clara County, Silicon Valley Clean Energy (SVCE) is one of several CCAs that provides clean electricity to County residents. PG&E partners with CCAs in the County to deliver electricity through PG&E’s

²² Phase 1 Guidelines, A8.

²³ Phase 1 Guidelines, A6–A8.

²⁴ Phase 1 Guidelines, A4.

²⁵ Phase 1 Guidelines, A3–A4.



transmission and distribution system. PG&E also provides CCAs with maintenance and outage response services.

2.3.6 Content of Public Safety Partner Advance Notification

When providing an initial notification to public safety partners before a PSPS event, the CPUC Phase 1 Guidelines require PG&E to include the following information:²⁶

- The boundaries of the de-energization event;
- The circuits to be de-energized;
- Information regarding customers within the de-energization boundaries, including the number of Medical Baseline customers in the impacted area;
- The estimated start date and time of the de-energization event;
- The estimated length of the de-energization event; and
- Estimated restoration times, including the re-energization start date and time and re-energization completion timeframe.

This data is provided to public safety partners through access to PG&E's PSPS Portal. For discussion of the PG&E secure PSPS data portal, see Section 2.3.7.

2.3.7 PG&E PSPS Agency Resources Portal

At the time of its initial notification preceding a PSPS event, PG&E also must provide public safety partners with a geographic information system (GIS) shapefile showing the boundaries of the area subject to de-energization as accurately as possible. PG&E must provide a secure data transfer of the de-energization boundary in a format that can be rapidly incorporated into public safety partners' existing situational awareness tools. The data shared must show affected circuits and any other information requested by the Operational Area (OA) that PG&E can reasonably provide.²⁷

To meet this CPUC requirement, PG&E has created a PSPS Agency Resources Portal where it will make information regarding specific PSPS events available to public safety partners. In addition to the GIS shapefiles showing expected outage areas, PG&E has indicated it will share information regarding critical facilities and vulnerable populations within the outage area. Non-sensitive information on the portal is currently available to public safety partners who register with PG&E. Public safety partners may email PSPSPortal@pge.com to obtain access to the portal. However, to access sensitive information on the portal, public safety partners must sign a nondisclosure agreement (NDA) committing not to disclose that information. As of the writing of this Annex, the Town and PG&E have an executed PG&E NDA. Only identified staff receive password information for accessing the portal. Staff identified for portal access should practice accessing the portal prior to the start of the PSPS season (Sept – Nov).

2.3.8 Advance Notification to Other Customers

Under CPUC Guidelines, PG&E has responsibility for communicating with PG&E's customers that a PSPS event is possible, including by utilizing its relationships with local public safety partners. PG&E's communication to customers must include:²⁸

- The estimated start date and time of the PSPS event;

²⁶ Phase 1 Guidelines, A16.

²⁷ Phase 1 Guidelines, A16–17.

²⁸ Phase 1 Guidelines, A17.



- The estimated length of the PSPS event, which may be communicated as a range;
- The estimated time to power restoration, which may be communicated as a range.

In addition, the communications should state when customers can next expect communication about the de-energization event.²⁹

PG&E PSPS communications must be consistent with the Cal OES California Alert and Warning Guidelines, including:³⁰

- Delivery in multiple formats across several media channels.
- Considering the geographic and cultural demographics of affected areas (e.g., rural areas may lack access to broadband services).
- Delivery of communications in English; Spanish; Chinese, including Cantonese, Mandarin, and other Chinese languages; Tagalog; Vietnamese; and Korean.³¹
- Developing notification strategies for reaching access and functional needs populations up to and including in-person notification, in partnership with local public safety partners.

2.3.9 Notifications to People with Access and Functional Needs

The CPUC Phase 1 Guidelines require PG&E to make a diligent effort to identify access and functional needs populations within its customer base, and to provide those persons with PSPS notifications as required. The CPUC Guidelines state that PG&E, “as the entity with the most knowledge of and jurisdiction to call a de-energization event and subsequent re-energization, retain[s] ultimate responsibility for development of the communication strategy and notification in advance of, during and after a de-energization event.” To best carry out this obligation, the CPUC directed PG&E to work with Cal OES and local jurisdictions to ensure that PG&E notifications can be integrated into existing local SEMS and messaging frameworks. The CPUC envisioned local jurisdictions providing “supplemental or secondary notification,” which “does not supplant the utilities’ responsibility to provide notification to all customers.”³⁴

Recognizing privacy concerns, the Phase 1 Guidelines do not require PG&E to develop a comprehensive contact list of access and functional needs customers or to share individual customer information with local jurisdictions. Instead, the CPUC encouraged PG&E to partner with local jurisdictions to work together to provide education and outreach before a PSPS event, and to provide communication during a PSPS event in formats appropriate to individual access and functional needs populations³⁵. During October 2019, PSPS events impacting Santa Clara County, PG&E shared contact information for customers enrolled in PG&E’s Medical Baseline program pursuant to the County’s signed NDA. Working with local jurisdiction partners within the OA, the County then used that information to do supplemental outreach to individuals in the Medical Baseline program that PG&E had been unable to contact. For further discussion of supplemental outreach to Medical Baseline and other vulnerable Town residents, see Section 3.3.2.7.

2.3.10 Requests to Delay De-Energization or to Re-Energize

Public safety partners may request that PG&E delay de-energization or that PG&E re-energize lines following de-energization. The CPUC Phase 1 Guidelines require PG&E to respond to requests to delay de-

²⁹ Phase 1 Guidelines, A17.

³⁰ Phase 1 Guidelines, A20.

³¹ Phase 1 Guidelines, A17–A19.



energization from public safety partners as defined in the Guidelines. As defined by the Guidelines, public safety partners that may request PG&E delay de-energization include:³²

- First responders or emergency responders at the local, state, and federal level;
- Water, wastewater, and communication service providers;
- Affected community choice electricity aggregators;
- Publicly owned utilities and electrical cooperatives;
- The California Public Utilities Commission,
- The California Governor’s Office of Emergency Services (Cal OES); and
- The California Department of Forestry and Fire Protection (Cal Fire).

However, PG&E currently has ultimate authority to grant a delay and to determine how a delay in de-energization impacts public safety.³³ For further discussion of requests to delay de-energization, see Section 3.3.2.5.

The CPUC also requires PG&E to consider requests for re-energization of lines after de-energization for exigent circumstances. An example of such a circumstance is a non-utility caused wildfire in a de-energized area that requires water for firefighting purposes. In this scenario, CPUC suggests that public safety may be better served by re-energizing utility lines.³⁴ For further discussion of requests for re-energization, see Section 3.4.1.6.

2.4 Community Resource Centers

At the start of the PSPS season PG&E will seek to establish community resource centers (CRCs) in areas that are potentially impacted by a PSPS to provide customers and residents with:³⁵

- A safe location to meet basic power needs such as charging cell phones and laptops and accessing Wi-Fi where possible.
- Additional, up-to-date information about the PSPS event.

PG&E’s goal is to set up and open at least one CRC in an impacted community within 24 hours of de-energization. PG&E has indicated that it would fully fund the CRCs. Local jurisdictions would not be responsible for any staffing or funding obligations in connection with the operation of CRCs. PG&E would likely contract with a vendor to set up, manage, and demobilize each center. If conditions permit, PG&E would have dedicated staff onsite who can update customer contact information and answer PSPS-related questions.³⁶ The Town has identified the Town Library as a potential CRC in the event of a PSPS. The Town opted not to enter into a legal agreement with PG&E for the Library CRC but rather establish the CRC in an ad hoc fashion on a as needed basis.

2.5 Re-Energization

³² Phase 1 Guidelines, A4.

³⁴ Phase 1 Guidelines, A9.

³³ Phase 1 Guidelines, A25.

³⁴ Phase 1 Guidelines, A25.

³⁵ PG&E, “Public Safety Power Shut-Off Community Resource Centers” [flyer] (2019).

³⁶ PG&E, “Public Safety Power Shut-Off Community Resource Centers” [flyer] (2019).



2.5.1 PG&E Re-Energization Strategy

Once it has de-energized a line as part of a PSPS event, PG&E has indicated that it will restore power only after confirming that it is safe to do so. To ensure that it is safe to re-energize a line, PG&E has indicated it will:³⁷

- Send crews to visually inspect its electric system to look for potential weather-related damage to the lines, poles, and towers. Inspections may be done by vehicle, on foot, and by air during daylight hours.
- Identify damage that needs to be repaired before re-energizing and make the repairs.
- The PG&E Control Center completes the re-energization process and restores power to customers.

In describing its re-energization inspection process, PG&E indicates that it assigns a task force of supervisors, crews, troublemen, and inspectors to each circuit or portions of a circuit. Using a process PG&E calls “step restoration,” the task force re-energizes substations and circuits in segments as it continues patrols and makes necessary repairs. This allows restoration to proceed in a safe, efficient manner.³⁸ PG&E expects to visually inspect de-energized portions of its system for damage and restore power to most customers within 24 to 48 hours after the weather event prompting the PSPS has passed.³⁹

2.5.2 Re-Energization Notification Requirements

As with notification of de-energization, PG&E has ultimate responsibility for notification of re-energization after a PSPS event. The CPUC Phase 1 Guidelines require PG&E to notify all affected customers or populations immediately before re-energization begins. In addition, the Guidelines require PG&E to notify all affected customers or populations when re-energization is complete.⁴⁰

³⁷ PG&E Amended 2019 Wildfire Safety Plan, 109; PG&E Public Safety Power Shutoff Policies and Procedures, 11.

³⁸ PG&E Amended 2019 Wildfire Safety Plan, 109; PG&E, PG&E Public Safety Power Shutoff (PSPS) Report to the CPUC; Event from: 06/07/2019 to 06/09/2019 (2019), 24 n.8

³⁹ PG&E Public Safety Power Shutoff Policies and Procedures, 7.

⁴⁰ Phase 1 Guidelines, A8–A9.



(Page Intentionally Left Blank)



SECTION 3: CONCEPT OF OPERATIONS

3.1 Overview

The Concept of Operations (ConOps) section provides guidance to Town of Los Gatos personnel and decision-makers regarding the sequence and scope of actions that may be necessary in a Town-wide response to a Public Safety Power Shutoff (PSPS). This section describes in general terms the operational activities, procedures, and functions of the Town of Los Gatos Emergency Operations Center (EOC) and Department Operations Centers (DOCs) during a PSPS event.

3.2 Incident Coordination

In a PSPS event, the Town's emergency management and response system is organized as described in the Town of Los Gatos Emergency Operations Plan (EOP). Response to a PSPS event is managed at the lowest level possible, in accordance with the National Incident Management System (NIMS), the Standardized Emergency Management System (SEMS), and the Incident Command System (ICS).

3.2.1 Operational Activity Phases

In a PSPS event, there are three distinct phases of operational activity:

- The Notification Phase, 72 to 24 hours preceding a PSPS event: Includes Pacific Gas and Electric (PG&E) notification to public safety partners of a possible PSPS event; establishing contact with SCC OEM; dissemination of information gleaned from SCC OEM to Town Departments and agencies and to partners; activating the Town EOC (physical or virtual), if needed; monitoring the situation and sharing situational awareness with stakeholders; and providing support to SCC OEM and PG&E in sharing PSPS information with the public and with the media (see Section 3.3).
- The Response Phase, 24 hours preceding a PSPS event to immediately preceding re-energization: Includes continued operation of the Town EOC as needed; proclaiming a local emergency when de-energization occurs, if appropriate; performing status and damage assessment; setting priorities for critical resources; facilitating response to life and public safety threats; sharing status information with Town Departments and agencies, and county partners; requesting resources from SCC OEM as needed; assisting SCC OEM and PG&E in keeping the public apprised of event status, the timeframe for re-energization, and available public resources (see Section 3.4).
- The Re-Energization and Short-Term Recovery Phase, from re-energization to one week following re-energization: Includes PG&E re-energization of de-energized power lines and facilities, assisting SCC OEM and PG&E in keeping the public apprised of re-energization status and available public resources, providing access and other support to PG&E crews repairing equipment on public or private property, restoration of Town services, declaring an end to the event, and deactivating the Town EOC (see Section 3.5).

Note that the time frames listed above for each phase are approximations. The time frames may vary in an actual event. Phases may also overlap. For a visual depiction of the PSPS Operational Phases, see Section 5.2. For task lists containing important steps that should be considered during each phase to successfully coordinate a PSPS event, see Section 5.5.

3.2.2 Management Priorities

As suggested by the National Response Framework, the Town's priorities in all phases of PSPS event



management are to:⁴¹

1. Protect and save lives.
2. Protect property and the environment.
3. Stabilize the event.
4. Assist partners in providing for basic human needs.
5. Return the Town to normal operations as quickly and as safely as possible.

3.2.3 Town of Los Gatos Activities

The Town Manager's Office serves as the central point for coordinating a PSPS event impacting the Town of Los Gatos. If the Town Manager's Office decides there is a need to open the EOC, it will provide coordination, support, and assistance with policy-level decisions needed to successfully manage the event. The EOC would serve as a principal location for collecting and sharing situational information and a common operating picture of the Town's status and response activities. Responsibilities of the Town Manager's Office during a PSPS event may include the following:

- Establishing and maintaining contact with OA EOC.
- Determining the need for activation of the Town EOC, based on the criteria set forth in the EOP and on the circumstances presented by the PSPS event.
- Determining the need for issuance of a local emergency proclamation under the California Emergency Services Act.
- Activating and staffing the Public Information Officer role to support OA EOC and PG&E, as the lead agency responsible for providing public information regarding the PSPS event.
- Collecting, analyzing, and disseminating situational information as part of maintaining a Town-wide common operating picture during response and re-energization and recovery activities.
- Request that Town Departments issue staff notifications, assess staffing needs, and take additional actions to maintain continuity of operations.
- Maintaining communication with Town Departments to ensure partners are aware of event objectives, and to incorporate field-level information into a Town-wide common operating picture.
- Establishing resource priorities, allocating critical resources based on established resource priorities, and acquiring additional resources through mutual aid or other sources as needed.
- Coordinating with local and County entities to share information and to obtain needed resources and assistance.
- Facilitating short-term recovery activities.
- Planning and coordination of EOC deactivation activities.

3.2.4 Town Department Activities

Town Departments, such as the Los Gatos-Monte Sereno Police Department and Parks and Public Works, provide operations and logistics coordination and support to meet incident objectives with personnel and resources in the field during a PSPS event. In general, Town Departments need to serve two primary

⁴¹ Federal Emergency Management Agency (FEMA), *National Response Framework* (3d ed.), i (2016). https://www.fema.gov/media-library-data/1466014682982-9bcf8245ba4c60c120aa915abe74e15d/National_Response_Framework3rd.pdf.



functions: They maintain departmental continuity of operations during emergencies and assist with Town-wide response by communicating and coordinating with the Town Manager's Office or EOC and with their field-level personnel. Primary responsibilities of Town Departments during a PSPS event may include the following:

- Activating and adequately staffing Departments.
- Issuing departmental staff notifications and recalling personnel with response roles.
- Maintaining continuity of critical departmental functions during the event and resuming normal department functions as quickly as possible following re-energization.
- Coordinating and supporting departmental field response and recovery activities.
- Activating relevant SOPs
- Maintaining communications and coordination between the department's director or field responders and the Town Manager's Office or Town EOC.
- Collecting, validating, and sharing situational information with the Town Manager's Office as part of maintaining a common operating picture.
- Receiving resource requests from field personnel and, whenever possible, filling them from departmental resources or through discipline-specific mutual aid.
- Forwarding resource requests that cannot be filled by department resources or by discipline-specific mutual aid to the Town Manager's Office.
- Coordinating the set-up and operation of shelters, cooling facilities, filtered air facilities, or other mass care support facilities as needed.
- Ensuring that appropriate traffic-control and security measures are established to safeguard people and property.
- Notifying their field responders when de-energization and re-energization occur.
- Ensuring appropriate safety and damage assessment before allowing the public to enter impacted areas.
- Coordinating departmental deactivation activities.

For general discussion of department activities in an event or incident, see the Town EOP (pg. 11).

3.2.5 Santa Clara County Activities

The County acts as lead agency for the Operational Area (OA), serving as a link in the system of communications and coordination between the regional EOC (REOC) and political subdivisions, like the Town of Los Gatos, within the OA and their EOCs. Additionally, Santa Clara County Office of Emergency Management (SCC OEM) has direct communication with PG&E through a single-point of contact. The OA EOC gathers information directly from PG&E and shares it with political subdivisions through direct communication and County-wide conference calls. As lead for the OA, the County advises jurisdictions on operations, manages critical resources based on established priorities and acquires and coordinates mutual aid.

3.3 Notification Phase

Providing timely, consistent, effective information through multiple communication methods to persons in areas that may be affected is essential to minimize PSPS impacts to people and infrastructure. PG&E retains ultimate responsibility for notification of and communication with public safety partners, critical



facilities, and the public throughout a de-energization event.⁴²

As part of the Notification Phase in a PG&E power shutoff, based on its important responsibilities to the community and to its public and private agency partners, the Town will support the County and PG&E in disseminating notification of a potential or imminent shutoff to Town Departments and agencies and to the public. The Town will also support the County and PG&E in alerting the public regarding the shutoff and sharing information about resources available to them.

3.3.1 PG&E PSPS Advance Notifications

3.3.1.1 Priority Notification to Public Safety Partners

CPUC Phase 1 Guidelines require PG&E to provide priority notification of a possible or impending PSPS to public safety partners, including offices of emergency management. Whenever possible, the Guidelines require PG&E to give notice to public safety partners a minimum of 72 to 48 hours in advance.⁴³ PG&E has indicated it will provide approximately 48 hours' priority notice of a PSPS event to public safety partner contacts. Notice will be provided by phone, email, texts, and automated calls. However, at the 72- to 48-hour mark, the notice may state that PG&E is monitoring extreme fire danger conditions that *could* cause it to shut off power for safety purposes.⁴⁴

To assist PG&E, the Town Manager's Office has submitted to PG&E lists of County-specific public safety partners and critical facilities, with contact information for each partner or site listed. The list should be reviewed and updated annually prior to the start of the PSPS season.

3.3.1.2 Notifications to All Customers

CPUC Phase 1 Guidelines require PG&E, whenever possible, to provide a minimum of 48 to 24 hours advance notice of an anticipated de-energization event to all affected customers or populations. In addition, whenever possible, PG&E is required to notify all affected customers or populations of an anticipated PSPS at least one to four hours preceding de-energization, and when PG&E actually de-energizes its lines.⁴⁵

Disseminating these notices as widely as possible will be especially critical to ensure PG&E customers with disabilities or access and functional needs have the time needed to adequately prepare to be without power for an extended time period. To assist, the Town Manager's Office has submitted to PG&E a list of organizations that provide services to people with disabilities or access and functional needs. The list should be reviewed and updated annually prior to the start of the PSPS season.

The Town also plays a supporting role in supplementing PG&E's notification efforts by sharing PG&E's messaging using appropriate methods. For further discussion of the Town's public information efforts, see Sections 3.3.2.6 and 5.

3.3.2 Town Action Following PG&E Priority Notification

3.3.2.1 Overview

On receiving a priority notification from PG&E regarding a potential or an imminent threat of de-energization, the Town Manager's Office, may take a number of actions. Depending on the nature of the message received from PG&E and potential impacts to the Town, actions may include, but are not limited

⁴² Phase 1 Guidelines, A2.

⁴³ Phase 1 Guidelines, A8.

⁴⁴ PG&E Public Safety Power Shutoff Policies and Procedures, 6.

⁴⁵ Phase 1 Guidelines, A8.

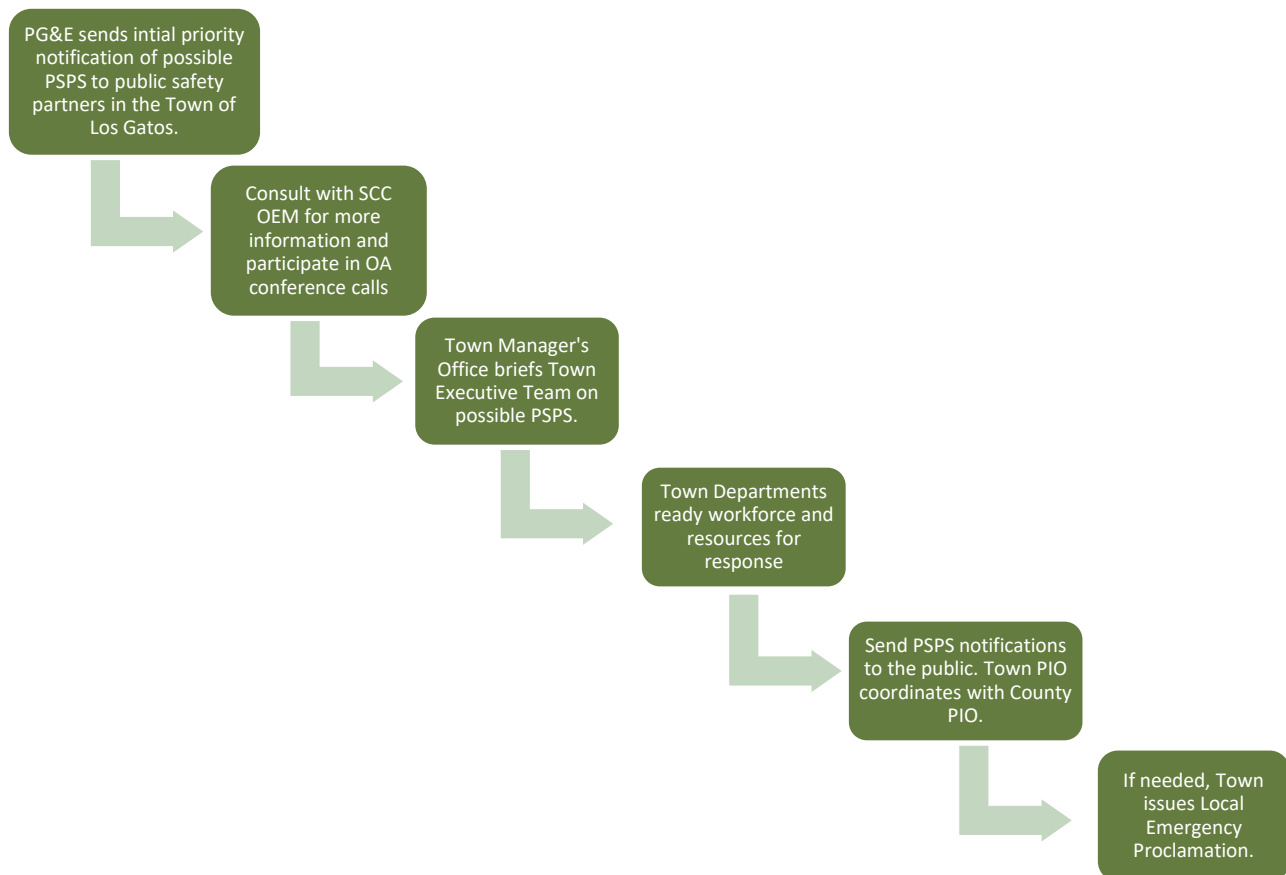


to, the following:

- Briefing the Town Executive Team (see Section 3.3.2.3). and Town Council.
- Activating the Town EOC at the appropriate staffing level (see Section 3.3.2.4).
- Activating the Public Information Officer position to provide support to PG&E and OA in coordinating media and public information regarding the event (see Section 3.3.2.6).
- Establishing and maintaining contact with OA representatives.
- Participating in OA PSPS conference calls to receive updated information regarding expected impacts.
- Assessing the possibility of extreme heat, destructive fire, or poor air quality within the Town.
- In consultation with other public safety partners and Town leaders, determining the need to request that PG&E delay de-energization (see Section 3.3.2.5).
- Requesting that Town Departments issue staff notifications and take additional preparedness or response actions.
- Assessing the need for mutual aid.
- Continuous monitoring of the situation, with modification of actions as needed (see Section 3.3.2.7).

For an illustration of the activity flow on notification by PG&E of a PSPS event, see Figure 3.1.

Figure 3.1. Town of Los Gatos PSPS Notification and Activity Flow





3.3.2.2 Establishing and Maintaining Contact with PG&E and SCC OEM

In a PSPS event, the Town and County OEM are almost fully dependent on PG&E for reliable information through conference calls and the PG&E portal, about the potential need for de-energization, the scope of planned de-energization, and the timing and impact of de-energization and re-energization. In addition, the County OEM, has communication with PG&E through EOC liaison positions and a single-point of contact with a PG&E representative. Thus, it is critical to successful coordination of a PSPS event that the Town establish and maintain good communications with County OEM and PG&E representatives.

During a PSP event, PG&E has promised to hold conference calls for emergency managers and other public safety partners. In past PSPS events, PG&E scheduled those calls at 8:00 a.m. and at 9:00 p.m. PG&E has encouraged public safety partners needing additional information to phone the electric Public Safety Specialists for their territory. At the county-level, SCC OEM may also invite PG&E's Public Safety Specialists to participate in OA conference calls. In addition, PG&E has created a liaison position when its EOC is open. The PG&E Liaison is available to field questions from impacted jurisdictions.

SCC OEM may invite PG&E representatives to serve as liaisons in the County EOC. However, PG&E has advised that they lack the personnel needed to provide liaisons to local jurisdiction EOCs.⁴⁶ Conversely, SCC OEM may attempt to send a County representative to PG&E's EOC, which is located in San Francisco, or may join with other regional partners in sending a regional local government representative to the PG&E EOC. That person would in turn liaise with all the emergency management offices in impacted areas, including in the Town of Los Gatos, should it be affected.

3.3.2.3 Town Executive Team Meetings

After receiving a PG&E priority notification of an imminent or potential PSPS event impacting the Town of Los Gatos, the TMO will schedule a PSPS briefing meeting with the Town Executive Team. The purpose of the PSPS briefing is to obtain and share available information with and between Departments. Briefings also help ensure a coordinated effort at the Town level, and between the Departments, in preparation and response to the PSPS event.

The briefing should include all department directors, particularly, Los Gatos-Monte Sereno Police Department, Parks and Public Works, Information Technology and Library. As well as representatives from Town Attorney, and Town Clerk.

During the briefing, attendees will be asked to share situational awareness information for their Departments, including the following:

- Current status;
- Planned preparedness or response actions (e.g., opening of event facilities; resource staging; public outreach efforts, especially to vulnerable populations).
- Standard Operating Procedure (SOP) updates
- Resource needs and limitations.

Briefings will continue as needed through the event, likely every morning and evening.

3.3.2.4 Activation of Town EOC

In consultation with the Op Area EOC, the Town Manager or Police Chief is responsible for activating the

⁴⁶ Pamela Perdue, PG&E PSPS Workshop, Watsonville, CA, August 19, 2019.



Town EOC when needed to successfully coordinate a PSPS event impacting the Town of Los Gatos. In addition to the conditions listed in the SEMS Regulations⁴⁷ and the Town of Los Gatos EOP that would require activation of the Town EOC, the EOC may be activated preceding or during a PSPS event when:

- The National Weather Service notifies the Town that Red Flag Warning and other weather conditions are likely to occur that would result in PG&E instituting a PSPS event.
- PG&E's advance notifications and other information indicate that a significant area of the Town may be without electric power, or that a significant segment of the community may be adversely impacted by an anticipated de-energization.

3.3.2.5 Request for Delay in De-Energization

The CPUC Phase 1 Guidelines require PG&E to respond to requests from public safety partners to delay de-energization.⁴⁸ As soon as possible after receiving notification from PG&E that a PSPS event may or will occur, Town Manager's Office will discuss the need to request a delay in de-energization with public safety partners and County agencies. The decision to request a delay on behalf of the Town will be made by the Town Manager's Office in consultation with Town public safety partners, including the Chief of Police, the Chief of the Santa Clara County Fire Department, and the County Public Health Officer. Any request to PG&E to delay de-energization will be made by the Town Manager's Office.

The CPUC has not yet issued guidelines on the circumstances justifying a delay in de-energization or how long a delay may last. However, a delay may be appropriate when there is an emergency situation in the Town that would be exacerbated by a lack of electrical power. For example, de-energization could exacerbate containment of an existing wildfire in an area to be de-energized if the lack of electricity would impact the ability to provide adequate water for fire suppression.⁴⁹

3.3.2.6 Town PIOs and Use of Joint Information System

As soon as possible after receiving notification from PG&E of a potential or imminent PSPS event, the Town PIOs will integrate into the Operational Area Joint Information System (JIS) to better enable the Town to provide support to PG&E in sharing information about the event with the media and the public. The OA uses the JIS to organize, integrate, and coordinate information to ensure timely, accurate, accessible, and consistent messaging across multiple jurisdictions and disciplines, with nongovernmental organizations, and with the private sector. As part of operationalizing the JIS, SCC OEM may activate the Joint Information Center (JIC), which is typically located at the County EOC. The JIC acts as a central location for coordinating with public information officers (PIO) from PG&E, County Departments, and partner jurisdictions to ensure appropriate coordination of PIO functions and messaging across the County.

In a PSPS event, PG&E remains primarily responsible for communicating information regarding the event. The Town acts in support of PG&E in providing information to the public. Accordingly, it will be essential for the Town, to the best of its ability, to coordinate its messaging with PG&E. PG&E has provided general sample public messaging in English to public safety partners through the PSPS Agency Resources Portal.

The PIOs will be responsible for providing supplementary public information through AlertSCC, social media, and other appropriate public alert and warning platforms. For further discussion of public

⁴⁷ 19 Cal. Code Regs. § 2409(f).

⁴⁸ Phase 1 Guidelines, A25.

⁴⁹ Phase 1 Guidelines, 122.



information in a PSPS event, see Section 5.

3.3.2.7 Supplementary Notification of Vulnerable Town Residents

The Town, in coordination with the County OEM, will make efforts to supplement PG&E's efforts to notify people who rely on electricity-dependent medical equipment of potential PSPS impacts, as required by the CPUC. The County's Emergency Medical Services (EMS) and Public Health Department (PHD) will overlay PG&E Medical Baseline customer information with information from the U.S. Department of Health and Human Services' emPOWER database to identify persons with critical needs. The emPOWER database includes Medicare beneficiaries who rely on electricity-dependent medical equipment, such as ventilators, to live independently in their homes. SCC EMS and SCC PHD will then work with local government jurisdictions in the Operational Area to determine how best to utilize this information to protect individuals with critical power needs.

Los Gatos-Monte Sereno Police Department (LG-MS PD) takes responsibility for supplementing PG&E's outreach to vulnerable populations in Los Gatos. After receiving a list from County OEM of Medical Baseline customers who have not been reached by PG&E, LG-MS PD officers will go door to door to notify Los Gatos customers who have not been reached by PG&E.

3.4 Response Phase

During the response phase, the Town Manager's Office (TMO) will gather and share status information with County Departments and agencies and other OA partners. Based on the Town's status and the needs of the situation, the TMO will determine the need for proclaiming a local emergency. In addition, as needed, the TMO will set priorities for critical resource sharing, facilitate response to life and public safety threats, and coordinate the process of obtaining additional resources. The TMO will also assist PG&E in keeping the media and the public informed regarding the event and available public resources.

3.4.1 Overview of EOC Activities

In the event a large or extended PSPS event produces significant damage or threatens lives and property, the Town will engage in response efforts as described generally in the Town EOP. Response activities in a PSPS event also may include the following:

- Continued operation of the Town EOC.
- Facilitating the issuance of a local disaster proclamation under the California Emergency Services Act (see Section 3.4.1.1).
- Obtaining and sharing information through conference calls, situation reports, and other means as needed with Town Departments and partners; County OEM; and OA partners (see Sections 3.3.2.3 and 3.3.2.7).
- Determining the need to request PG&E to re-energize its lines if needed or to prioritize re-energization (see Section 3.4.1.6).
- Coordinating the process of obtaining needed resources.
- Setting priorities for allocating scarce critical resources such as backup generators or fuel to run those generators.
- Providing continued support to PG&E in providing public information on de-energization status and impacts, the timeframe for re-energization, and available public resources (see Section 5).
- Preparing an advance plan for re-energization (Section 3.4.1.7).



3.4.1.1 Local Emergency Proclamation

The Town may proclaim a local emergency if the effects of a PSPS event are beyond the capability of local resources to mitigate effectively.⁵⁰ Pursuant to local ordinance, the Town Manager, in their role as Director of Emergency Services, may request that the Town Council proclaim the existence or threatened existence of a local emergency in a PSPS event. If the Council is not in session, the Director of Emergency Services may issue a local emergency proclamation. However, the Council must ratify the proclamation within seven days of its issuance, or the proclamation will have no further force or effect.⁵¹ Issuing a local emergency proclamation provides the Director the power to⁵².

- Make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the Town Council;
- Obtain vital supplies, equipment and such other properties found lacking and needed for the protection of life and property and to bind the Town for the fair value thereof and, if required immediately, to commandeer the same for public use;
- Require emergency services of any Town officer or employee and, in the event of the proclamation of a state of emergency in the County in which this Town is located or the existence of a state of war emergency, to command the aid of as many citizens of this community as the Director deems necessary in the execution of the Director's duties; such persons shall be entitled to all privileges, benefits, and immunities as are provided by State law for registered disaster service workers;
- Requisition necessary personnel or material of any Town department or agency; and
- Execute all of the Director's ordinary powers as Town Manager, all of the special powers conferred upon the Director by this chapter or by resolution or emergency plan pursuant hereto adopted by the Town Council, and all powers conferred upon the Director by any statute, by an agreement approved by the Town Council, and by any other lawful authority.

Issuance of a local emergency proclamation also is a prerequisite to activate the Town Disaster Service Workers (DSWs). In addition, a local proclamation is a precondition to requesting that the Governor proclaim a state of emergency, and to seeking state reimbursement for Town expenses under the California Disaster Assistance Act (CDAA)⁵³ as well as federal assistance.

NOTE: A local emergency proclamation is not required for fire or law mutual aid, for direct state assistance, for a Fire Management Assistance Grant (FMAG), or to participate in disaster loan programs of the United States Department of Agriculture (USDA) or the Small Business Administration (SBA).⁵⁴

3.4.1.2 Town Response Phase Activities

During a PSPS event, the Town is primarily responsible for facilitating response, which may include the following actions:

- Identifying critical facilities and individuals dependent on electricity that may be affected and

⁵⁰ Cal OES, "California Emergency Disaster Proclamation and CDAA Process," (2019). [https://www.caloes.ca.gov/RecoverySite/Documents/Proclamation%20and%20CDAA%20Process%20Fact%20Sheet%20Final%20Feb%202019%20\(003\).pdf](https://www.caloes.ca.gov/RecoverySite/Documents/Proclamation%20and%20CDAA%20Process%20Fact%20Sheet%20Final%20Feb%202019%20(003).pdf).

⁵¹ Town of Los Gatos, CA Ordinance Code §§ 8.10.035(a); see Cal. Govt. Code § 8630(b).

⁵² Town of Los Gatos, CA Ordinance Code §§ 8.10.035(b)

⁵³ Cal. Govt. Code §§ 8680-8692.

⁵⁴ Cal OES, "California Emergency Disaster Proclamation and CDAA Process."



ensuring the dispatch of personnel to provide assistance.

- Identifying sites for potential shelters, cooling centers, or other mass care facilities as needed, and working with Town Departments to establish and maintain those sites.
- Identifying sites for potential community resource centers (CRCs) as needed and supporting PG&E in establishing those CRCs.
- Coordinating the response to additional event needs as resources allow, such as transportation services for people with disabilities or access and functional needs, increased security, traffic control, and obtaining fuel for Town generators.
- Performing advance planning for the re-energization process.

NOTE: The American Red Cross has indicated that it will not provide shelter workers or other direct client services to support independent or government shelter operations during PSPS events. For further discussion, see Section 3.4.1.5.

3.4.1.3 Resource Prioritization

When a large portion of the Town is without power in a PSPS event, the EOC may need to focus its efforts based on the overall event priorities as provided in Section 3.2.2, or as set by the EOC Director during the event. In that situation, the EOC may focus initially on identifying critical facilities and individuals in need of electric power that have been or may be affected, and on ensuring that those facilities or persons receive appropriate assistance as resources allow. Once the EOC gathers situational reports on Town status and the status of critical Town facilities, the EOC Director may set priorities among those facilities as needed (see Section 3.4.1.4). Priorities should be set in consultation with EOC Management and with impacted local Departments within the Town.

In a large-scale PSPS event, it may also be necessary for the Town to request mutual aid or other Operational Area resources. In general, the Town must exhaust its resources before requesting resources from the County OEM.

3.4.1.4 Criteria for Prioritizing Critical Facilities

If a widespread PSPS event affects numerous Town facilities that are critical to response or recovery, it may be necessary to perform “facility triage”: allocating available response resources (e.g., police, fire, and EMS) to facilities that are most in need. Some facilities may require an immediate response in a PSPS event because of the potential for imminent or significant impacts to public health and safety impacts. Other facilities may require a response only in a lengthy disruption. Though response priorities for critical facilities vary depending on local requirements, factors to consider in setting facility priorities include the following:⁵⁵

- The type of facility involved. Critical facilities such as hospitals or fire stations may require more rapid response. Similarly, prolonged loss of power in some critical facilities could affect other facilities or infrastructure (e.g., telephone switching offices, natural gas compressor stations).
- Length of time before serious impacts occur.
- The nature of potential impacts. Critical facilities experiencing public safety impacts may merit a quicker response than those with impacts that amount to an inconvenience.
- Availability of backup power supplies. Critical facilities with backup generation capability may not

⁵⁵ Cal OES, Electric Power Disruption: Toolkit for Local Government (2012), 9. <https://www.caloes.ca.gov/PlanningPreparednessSite/Documents/Electric%20Power%20Disruption%20Toolkit%20ADA%20Edits.pdf>.



need immediate response.

- Number and groups of people potentially affected. Critical facilities where a large number of people would be affected may merit a quicker response than those where only a few would be affected. Also, critical facilities that serve people with disabilities or access and functional needs may require more rapid response than other facilities.

Table 3.1, below, contains possible criteria for critical facility prioritization in a PSPS event.

Table 3.1. Suggested Criteria for Critical Facility Prioritization

Facility Response Priority	Types of Facilities or Infrastructure in Priority Class
<p>Immediate Response</p> <ul style="list-style-type: none"> • Highest priority for response during a PSPS event. • Potential for immediate, serious impacts. • Most high-priority facilities will have or should have power backup capability. 	<ul style="list-style-type: none"> • Emergency services facilities (e.g., police, fire, and emergency medical services). • Medical facilities, including hospitals, health clinics, dialysis centers, and other healthcare facilities. • Road Intersections • Railroad crossings. • Other sites where people dependent on electricity for life support are located.
<p>Response Within the First Two Hours</p> <ul style="list-style-type: none"> • High priority for response. • Initiate contact with facilities in this category to determine needed response. 	<ul style="list-style-type: none"> • Residential care facilities, including adult and elder care homes, skilled nursing facilities, and other medical facilities. • Schools, especially nursery and elementary schools. • High-rise buildings.
<p>Response Within First Six Hours</p> <ul style="list-style-type: none"> • Medium priority for response. • Response needed within 6 hours • Initiate contact with all facilities in this category to determine necessary response. 	<ul style="list-style-type: none"> • Water facilities, including water supply and wastewater treatment.
<p>Response on Call</p> <ul style="list-style-type: none"> • Lower priority, but still important. • Respond on request for assistance from a facility. 	<ul style="list-style-type: none"> • Public facilities • Commercial or industrial property

Source: Adapted from Cal OES, Electric Power Disruption: Toolkit for Local Government (2012), 10.

3.4.1.5 Shelter Services

The Town of Los Gatos has shelter agreements with facilities throughout the Town. The Town also trains volunteers and employees to set up and work in Town managed shelters.

The American Red Cross has indicated it will not provide shelter workers or other direct client services to support independent or government shelter operations during PSPS events. Prior to a PSPS event, Red Cross may be available to provide technical assistance and training for responding agencies related to mass care and respite services, including assessing shelter facilities, assisting in community shelter



planning, connecting agencies with vendors, and providing shelter training. During a PSPS event, Red Cross is available to serve in a support role as follows:⁵⁶

- Assisting in distribution of community-donated snacks and water as a supporting agency.
- Serving as a liaison in unified commands and EOCs.

However, if another disaster, such as a wildfire, occurs during a PSPS event, the Red Cross will provide its standard mass care and shelter services.⁵⁷

3.4.1.6 Request for Re-Energization or Prioritized Re-Energization

The CPUC Phase 1 Guidelines require PG&E to respond to requests from public safety partners to re-energize de-energized portions of its system during a PSPS event.⁵⁸ The CPUC has not issued guidelines on the circumstances justifying re-energization or how long re-energization may last. However, CPUC's discussion in issuing Phase 1 Guidelines indicates that re-energization may be appropriate when an emergency situation arises in the Town that would be exacerbated by the lack of electrical power. For example, de-energization could exacerbate containment of a wildfire that ignites during de-energization if a lack of electricity would impact the ability to provide adequate water for fire suppression.⁵⁹ PG&E has also indicated that jurisdictions may request that their area be prioritized during the re-energization process in the event that power is needed to combat a wildfire or other incident.⁶⁰

If it appears at any time during a PSPS event that continued de-energization would exacerbate an emergency situation in the Town, Town Manager's Office will discuss the need to request re-energization or prioritized re-energization with public safety partners. The decision to make this request on behalf of the Town of Los Gatos will be made by the Town Manager in consultation with public safety partners, including the Director of OEM, the Chief of the LG-MS PD, and the SCC Public Health Officer.

3.4.1.7 Re-Energization Planning

When PG&E provides the Town Manager's Office with notice of an imminent PSPS that will impact areas within the Town, the PSPS event may initiate development of an event-specific Town re-energization plan. In the event the EOC has been activated the re-energization plan would be developed by the EOC Planning Section Advance Planning Unit. The re-energization plan must be reviewed and approved by the EOC Planning Section Chief, PIO, and EOC Director. The re-energization plan should include coverage of the following issues:

- Areas within Town jurisdiction that may need to be inspected by Town personnel prior to or following re-energization.
- Expected impacts of de-energization and re-energization on Town services and personnel, residents, businesses, property, and the environment.
- A method for prioritizing Town resources needed to perform re-energization inspection and other re-energization work, as needed.
- Recommended methods for assisting residents and businesses during short-term recovery.
- The need for intermediate or long-term recovery assistance, and recommended methods for

⁵⁶ Nikki Rowe, Red Cross Silicon Valley Red Cross, email to Annex author, August 13, 2019.

⁵⁷ Nikki Rowe, Red Cross Silicon Valley Red Cross, email to Annex author, August 13, 2019.

⁵⁸ Phase 1 Guidelines, A25.

⁵⁹ Phase 1 Guidelines, 122.

⁶⁰ Pamela Perdue, PG&E PSPS Workshop, Watsonville, CA, August 19, 2019.



addressing these needs.

- Messaging to be used to communicate needed re-energization and recovery information with the media and the public.

On notice of re-energization from PG&E, the Town will implement the re-energization plan. For further discussion of re-energization, see Section 3.5.

3.5 Re-Energization and Short-Term Recovery Phase

Re-Energization and Short-Term Recovery Phase includes PG&E re-energization of its power lines and facilities. For the Town, it includes implementing its re-energization plan, and assisting PG&E in keeping the public informed of re-energization status and of resources available to assist with short-term recovery. It also may include providing access and other support to PG&E crews inspecting or repairing equipment on public or private property. In addition, during this phase, the Town will facilitate restoration of Town services. Once the event has ended, the Town will declare an end to the event, deactivate the Town EOC, and transition recovery efforts to a recovery unit if needed.

3.5.1 Overview of Re-energization and Short-Term Recovery

The re-energization and short-term recovery phase involves re-energizing PG&E's transmission and distribution lines and other facilities. It also includes:

- Implementing the Town's re-energization plan (see Section 3.4.1.7).
- Assisting PG&E in keeping Town Departments and the public apprised of re-energization status and available public resources (Section 3.5.2).
- Providing access and other support to PG&E crews repairing equipment on public or private property (Section 3.5.3).
- Facilitating restoration of Town services impacted during de-energization.
- Completing damage reports.
- Assisting in establishing local assistance centers to address intermediate- or long-term individual and business recovery needs in the Town.
- Transferring EOC recovery activities to a recovery unit or to Town Departments as appropriate.
- Declaring an end to the event.
- Deactivating the Town EOC.
- Holding a debriefing and conducting an after-action review.

3.5.2 Notice of Re-Energization

The CPUC Phase 1 Guidelines require PG&E to provide notice to public safety partners, to critical facilities and infrastructure, and to all affected customers and populations immediately before re-energization begins. PG&E is also required to give notice to all affected customers and populations when re-energization is complete.⁶¹ The Town will also provide support to PG&E in sharing these notices with the public and media as appropriate.

When notifying Town partners of imminent re-energization, Town Manager's Office will remind personnel to ensure that backup and emergency equipment is returned to standby and made ready for subsequent disruptions. Facility operations and information systems may need to restore and test computer operating

⁶¹ Phase 1 Guidelines, A9.



systems to ensure proper functioning.

3.5.3 Supporting PG&E's Re-Energization Process

Following a PSPS event, PG&E may coordinate with the Town or County OEM regarding re-energization of impacted areas. While response actions are still being taken, PG&E may need support from County OEM and local government agencies such as law enforcement, fire, and public works Departments. Such support may include providing access to equipment sites to PG&E personnel so they can inspect and repair equipment prior to re-energization and preventing unauthorized persons from entering damaged areas.

3.5.4 Short-Term Recovery Considerations

In general, the goal of recovery following an extended PSPS event includes ensuring the return of displaced individuals and families, reestablishing essential government and commercial services to support the physical, emotional, and financial well-being of impacted community members. The Town's short-term recovery activities following a PSPS event may overlap with response activities and may include:⁶²

- Assessing damage.
- Addressing health and safety needs of residents and responders beyond immediate life safety issues, such as assisting residents and businesses displaced as a result of the power outage in returning to their homes or facilities.
- Identifying and facilitating mechanisms for expediting critical infrastructure restoration, such as prioritizing contracts, regulatory relief, and logistics support.
- Mobilizing organizations and resources needed for full recovery, such as facilitating access to Small Business Administration loans for impacted businesses.

To facilitate recovery efforts beyond short-term recovery, the Town may consider appointing a Recovery Unit within the Town EOC if needed. If activated, the EOC Director will ensure that the EOC works with recovery unit leadership and nongovernment organizations to shift roles and responsibilities to the Recovery Unit, if needed. The transition will include development of an appropriate process for properly transitioning from response operations to recovery, and a return to appropriate community functioning.

3.5.5 Non-Stafford Act Recovery Resources

For natural disasters falling under the federal Stafford Act, the state and federal government coordinate available resources to assist individuals and communities recover from those disasters. Because PSPS is considered a human-caused event, the Stafford Act is not available as a potential source of response and recovery reimbursement. Nevertheless, there are some resources available to support local government and resident recovery following a PSPS event.

For example, state agencies may offer programs or grants that can be re-prioritized to meet recovery needs. Federal agency participation following a non-Stafford Act incident are often limited to providing technical assistance. However, federal agencies such as the Small Business Administration (SBA) and the United States Department of Agriculture (USDA) offer programs or authorities that can directly support

⁶² See FEMA, Power Outage Incident Annex to the Response and Recovery Federal Interagency Operational Plans: Managing the Cascading Impacts from a Long-Term Power Outage (2017), 41 . [https://www.fema.gov/media-library-data/1512398599047-7565406438d0820111177a9a2d4ee3c6/POIA_Final_7-2017v2_\(Compliant_pda\)_508.pdf](https://www.fema.gov/media-library-data/1512398599047-7565406438d0820111177a9a2d4ee3c6/POIA_Final_7-2017v2_(Compliant_pda)_508.pdf).



the needs of a community impacted by a non-Stafford Act event.⁶³ The SBA may make disaster loans available for repair of physical damage to businesses, including private non-profit organizations, homeowners, and renters, if the governor requests an SBA Administrative disaster declaration. Similarly, on a disaster declaration from the Secretary of the Department of Agriculture, the SBA may make disaster loans available to small businesses, private non-profit organizations, and agricultural cooperatives.⁶⁴ For tables showing federal and state non-Stafford Act recovery resources that may be available following a PSPS event, see Appendix C.

⁶³ FEMA Region V, Non-Stafford Act Recovery Guide: Developing and Coordinating Resources (2013), 2. https://www.fema.gov/media-library-data/20130726-1910-25045-8797/non_stafford_act_recovery_guide.pdf.

⁶⁴ Small Business Administration (SBA), A Reference Guide to the SBA Disaster Loan Program (2015), 4. https://www.sba.gov/sites/default/files/files/SBA_Disaster_Loan_Program_Reference_Guide.pdf.



(Page Intentionally Left Blank)



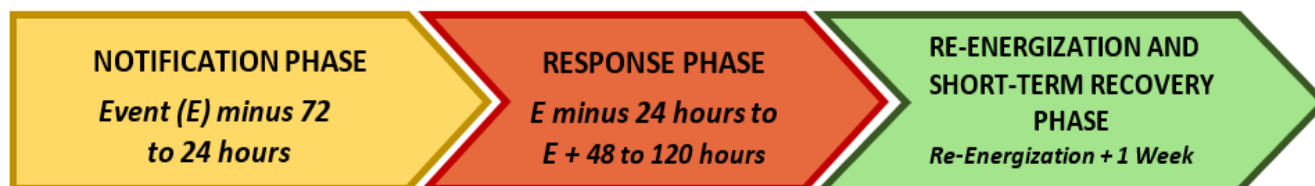
SECTION 4: CRITICAL ACTION GUIDE

The Critical Action Guide is a tear-away resource for the Town of Los Gatos emergency services personnel responding in a Pacific Gas and Electric (PG&E) Company Public Safety Power Shutoff (PSPS) event impacting the Town. This section is based on, summaries, and acts as a “resource finder” for the Annex. The section includes an overview of operational activity phases, a matrix to assist decision-makers in determining whether to request a delay in de-energization during a PSPS event, a Roles and Responsibilities table showing assumed PSPS-related responsibilities for participating organizations, and event coordination task lists of steps to consider to successfully coordinate a PSPS event.

4.1 Overview of Operational Activity Phases

Table 4.1 below shows the operational activity phases in a PSPS event, time frames for each phase, and a summary of the activities occurring during each phase. The time frames for phases are approximations. Phase time frames may vary in actual events and may also overlap. For further discussion of each operational phase, see Sections 3.3 through 3.5. Event (E) is the time when PG&E shuts off power.

Table 4.1. Operational Activity Phases



- On PG&E notification of imminent PSPS, notify Town Executive Team.
- Schedule meetings with Town Executive Team to gather information and establish an incident action plan.
- If needed, activate Town EOC and Joint Information Center.
- Participate in OA and PG&E conference calls to gather and share information.
- Monitor incident and adjust actions as needed.
- Support OA and PG&E in sharing PSPS information with the public and media.
- Review any materials populated by PG&E in the PSPS Portal

- Facilitate proclamation of local emergency if necessary.
- Meet with Town Executive Team to gather and share information.
- Consider pre-event shutoff of key facilities.
- Monitor PSPS impacts.
- Respond to life and public safety threats.
- Request re-energization if public safety needs necessitate.
- Request resources from OA.
- Establish shelters, cooling sites, and other mass care facilities as needed.
- Participate in OA and PG&E conference calls to gather and share information.
- Support OA and PG&E in sharing PSPS information with the public and media.

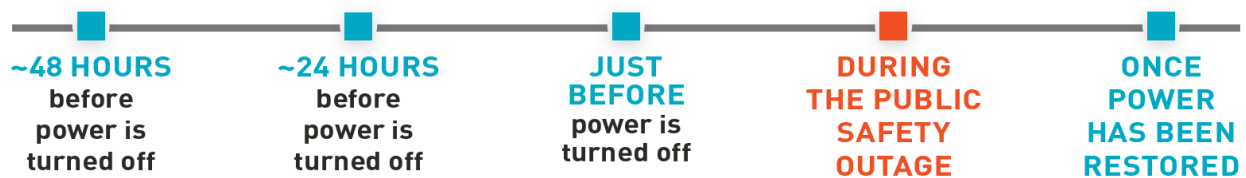
- Monitor PSPS re-energization impacts.
- Meet with Town Executive Team to gather and share information.
- Perform status and damage assessment.
- Continue gathering and sharing status information with OA and partners.
- Participate in OA and PG&E conference calls to gather and share information.
- Deactivate EOC, if opened
- Support OA and PG&E in sharing PSPS information with the public and media.



4.2 Timeline for PG&E PSPS Notifications

The California Public Utilities Commission (CPUC) has prescribed a timeline for PG&E in providing PPS notifications to public safety partners, critical facilities, service providers for people with disabilities or access and functional needs, customers, and other impacted populations. PG&E is required to abide by the timeline whenever possible. NOTE: Though the CPUC timeline begins at 72 hours, PG&E’s timeline begins at approximately 48 hours. The timeline shown in Figure 4.1, below, was created by PG&E. For further discussion of the timeline for PG&E notifications, see Section 2.3.4.

Figure 4.1. PG&E PPS Notification Timeline (When Possible)



Source: PG&E, Public Safety Power Shutoff Policies and Procedures (May 2019), 5.

4.3 Critical Decision Matrix: Seeking Delayed De-Energization, Re-Energization, or Prioritized Re-energization for Town

Table 4.2 below is intended to assist decision-makers at the Town level in understanding when and how to request that PG&E delay de-energization of its electrical system on behalf of the Town. The table also applies to requests for re-energization during a PPS event. PG&E has indicated that jurisdictions impacted by a PPS event may request that PG&E prioritize re-energization of all or a part of the impacted area in certain situations.⁶⁵ Table 4.2, below, assists decision-makers in understanding when and how to request that PG&E delay de-energization, re-energize during a PPS event, or prioritize re-energization of its system during a PPS event.

Table 4.2. Critical Decision Matrix: Requesting Delayed De-Energization or Re-Energization

Who May Request	Basis for Request	Timeframe for Request
Public safety partners, including: <ul style="list-style-type: none"> • Town Manager’s Office • Los Gatos-Monte Sereno Police Department • Santa Clara County Fire Department 	Emergency situation that would be exacerbated by lack of electrical power, such as a significant: <ul style="list-style-type: none"> • Wildfire • Hazardous material spill • Mass casualty incident • Pandemic or other widespread health emergency 	<ul style="list-style-type: none"> • Delay in Re-energization: As soon as possible after receiving advance notification from PG&E of imminent PPS. • Re-Energization or Prioritized Re-Energization: As soon as possible after receiving information indicating re-energization or prioritized re-energization is needed.

⁶⁵ Pamela Perdue, PG&E PPS Workshop, Watsonville, CA, August 19, 2019.



4.4 Anticipated Roles and Responsibilities

The tables below describe in general the anticipated roles and responsibilities of listed organizations in a PSPS event impacting the Town of Los Gatos. Every event is different. No plan can anticipate all issues posed by the event. The responsibilities included in the tables below must be adapted depending on the extent and length of the power outage, the available resources of the listed organizations, and other conditions present in the actual event.

4.4.1 PG&E Responsibilities Based on CPUC Guidelines

- Abide by Phase 1 Guidelines issued by California Public Utilities Commission (CPUC).
- Deploy PSPS as a measure of last resort.
- Provide priority notification of PSPS to public safety partners in SCC and local government jurisdictions that may be impacted in PSPS event as directed by CPUC Phase 1 Guidelines.
- Provide public safety partners with a secure data transfer site (PSPS Portal) to share maps of areas subject to de-energization and other information for situational awareness.
- Provide advance notification to all populations potentially affected by a PSPS event, including:
 - Critical facilities and infrastructure,
 - Access and functional needs populations, and
 - Jurisdictions that are not threatened by a utility-caused wildfire but may lose power as a result of PSPS.
- Whenever possible, provide PSPS notifications within the timeline provided in CPUC Phase 1 Guidelines.
- Follow Cal OES’s Alert and Warning Guidelines for effective public messaging and outreach.
- Respond to requests from public safety partners to delay de-energization or to re-energize during a PSPS event.
- Restore power only after confirming that it is safe to do so.
- Notify public safety partners, critical facilities, and all affected customers or populations immediately before re-energization begins.
- Notify all affected customers and populations when re-energization is complete.

Town Agencies and Responsibilities

4.4.2 Town Lead and Supporting Organizations

Organization	Anticipated Responsibilities
Lead Department	Town Manager’s Office
Supporting Town Departments	Town Executive Team: Police Department, Parks and Public Works, Library, Information Technology, Clerk, Human Resources, Community Development, Finance, Town Attorney
Supporting Organizations—	211-Bay Area, County Comm, California Governor’s Office of Emergency Services, California Public Utilities Commission, National Weather Service, Santa Clara



Regional, State, and Federal	County Office of Emergency Management
Operational Area Supporting Organizations	American Red Cross, Collaborating Agencies Disaster Relief Effort (CADRE), Community Emergency Response Teams (CERT) for Operational Area (OA) jurisdictions, Functional Assessment Service Team, Santa Clara County Amateur Radio Emergency Services/Radio Amateur Civil Emergency Services (ARES/RACES), Silicon Valley Clean Energy, San Jose Water Company, Valley Water

4.4.3 Town Departments Responsibilities

Organization	Anticipated Responsibilities
Town Executive Team, All Town Departments	<ul style="list-style-type: none"> • Receive and relay PSPS information to personnel. • Assess staffing needs and notify and recall personnel as required. • Support operations with specialized knowledge as able and needed. • Participate in Joint Information System (JIS) as needed. • Assist the Town Manager’s Office with PSPS-related issues when requested.
Town Manager’s Office	<ul style="list-style-type: none"> • Act as local lead agency in PSPS preparedness, response, and mitigation. • In consultation with Operational Area and partners, determine when a PSPS poses a threat to the Town requiring activation of the EOC and this Annex. • Activate and manage the Town EOC when needed • Initiate local public alerts. • Activate the Town Joint Information Center (JIC) to coordinate emergency communications in support of PG&E’s public information efforts. • Participate in conference calls with OA jurisdictions and partners throughout the event as needed to gather and share situational information. • Participate in PG&E calls, as applicable. • Monitor PG&E and National Weather Service (NWS) information throughout the event. • Advise Town Council Members on the status of the situation and potential need for a proclamation of local emergency under California Emergency Services Act and facilitate the proclamation process when needed. • Coordinate resources across the Town. • Request County resources when Town resources have been or soon will be exceeded. • Serve as a liaison between the media and the Town to provide responsive communication. • Engage residents and other community stakeholders to explain the Town’s PSPS-related policies, programs, services. • Coordinate information dissemination and strategic communications.



Organization	Anticipated Responsibilities
Parks and Public Works (PPW)	<ul style="list-style-type: none"> • Provide situational awareness of PSPS impacts to roads and parks. • Perform safety and damage assessments of PPW facilities as needed. • Provide situational awareness of PSPS impacts to Town facilities and infrastructure. • Develop setup and refueling plan for critical facilities on generator power. • Mitigate hazard of de-energized traffic signals. • Coordinate and track debris removal from roads. • Staff Town EOC positions when asked to do so.
Library	<ul style="list-style-type: none"> • Provide situational awareness of PSPS impacts to library and services • Establish a Community Resource Center for residents, if able and requested.
Town Attorney's Office	<ul style="list-style-type: none"> • Provide guidance on legal issues that arise before, during, and after a PSPS event. • Facilitate the local emergency proclamation process.
Los Gatos/Monte Sereno Police Department	<ul style="list-style-type: none"> • Provide situational awareness from the field, including evacuation needs as applicable. • Identify and address mutual aid resource needs. • Notify medical baseline customers of PSPS event, in coordination with the Santa Clara County Public Health Department, Sheriff's Office and PG&E. • Provide security at Town shelters and other event facilities. • Provide additional security for evacuated or secured areas as resources allow. • Activate and manage Los Gatos/Monte Sereno CERT volunteers, if needed. • Staff Town EOC positions when asked to do so.
Information Technology	<ul style="list-style-type: none"> • Provide situational awareness of PSPS-related impacts to IT facilities and infrastructure. • Provide technological support to Town facilities • Provide information technology and other technical resources and support to the Town EOC when needed. • Staff Town EOC positions when asked to do so.



4.4.4 Supporting Organizations—Regional, State, and Federal

Organization	Anticipated Roles and Responsibilities
211-Bay Area, United Way	<ul style="list-style-type: none"> • Share 24/7 PSPS information with the public in coordination with the Operational Area EOC JIC and other emergency services organizations, including road closures and shelters. • Connect callers and texters with local community services, such as food, shelter, counseling, childcare, and senior services. • Provide situational awareness of impacts on callers and of cascading events related to the PSPS event.
California Governor’s Office of Emergency Services (Cal OES)	<ul style="list-style-type: none"> • May activate Regional Emergency Operations Center (REOC) and State Operations Center (SOC) to coordinate information and resources. • May authorize use of state government resources to fill mutual aid requests or to support emergency operations. • Coordinate requests for state agency assistance in connection with the event, including assistance from the California Department of Forestry and Fire Prevention, California Department of Transportation, California Highway Patrol. • Coordinate requests for federal assistance. • Provide assistance in sharing public messaging regarding the PSPS event.
California Public Utilities Commission (CPUC)	<ul style="list-style-type: none"> • Provide safety and other engineers and public information staff to assist in PSPS recovery efforts. • Evaluate PSPS event impacts and issue regulations governing electrical utilities.
National Weather Service (NWS)	<ul style="list-style-type: none"> • Provide weather forecasts and alerts, advisories, and warnings to protect life, property, and the environment. • Communicate information and potential impacts to OA emergency managers, to the public, and to other core partners to help them make decisions that save lives and protect property and the environment.

4.4.5 Operational Area Supporting Organizations

Organization	Anticipated Roles and Responsibilities
American Red Cross (ARC)	<ul style="list-style-type: none"> • Prior to a PSPS event, provide technical assistance and training for responding agencies related to mass care and respite services. • Serve in a support or consulting role during a PSPS event by: <ul style="list-style-type: none"> ○ Assisting in distributing community-donated snacks and water. ○ Serving as a liaison in unified commands and EOCs. • If a disaster, such as a wildfire, occurs during a PSPS event, provide standard mass care and shelter services.
Collaborating Agencies Disaster	<ul style="list-style-type: none"> • Respond and provide essential services during and after a PSPS event as requested.



Organization	Anticipated Roles and Responsibilities
Relief Effort (CADRE)	<ul style="list-style-type: none"> • Coordinate with Santa Clara County service organizations in providing voluntary assistance to impacted people and areas within the County. • Serve as the official local Voluntary Agencies Active in Disaster (VOAD) for Santa Clara County.
Community Emergency Response Teams (CERT)	<p>If activated by LG/MS PD, trained to perform the role, and properly supervised:</p> <ul style="list-style-type: none"> • Provide situational awareness of PSPS impacts in their area of responsibility. • Perform damage assessment in area of responsibility. • Perform traffic control in designated areas. • Perform wellness checks on people impacted by the PSPS event as requested. • Perform utility control. • Assist in staffing shelter facilities, local assistance centers, community points of distribution, and other facilities as needed.
Functional Assessment Services Team (FAST)	<ul style="list-style-type: none"> • In coordination with SSA and mass care shelter management, conduct assessments and evaluations of people with disabilities or access and functional needs. • Identify and track necessary resources so people with disabilities or access and functional needs can maintain their health, safety, and independence while in shelters. • Assess the need for personal assistance services, durable medical equipment, consumable medical supplies, and prescribed medications. • Develop and implement service plans for people with disabilities or access and functional needs to meet essential functional needs of those identified. • Advise people with disabilities or access and functional needs on available recovery services, coordinate services, and maintain contacts and service notes. • Facilitate and provide technical assistance to shelter staff on resources for people with disabilities or access and functional needs.
Town Amateur Radio Emergency Services/Radio Amateur Civil Emergency Services (ARES/RACES)	<ul style="list-style-type: none"> • Provide volunteer amateur radio and other communications services in the Town EOC and at other event facilities when requested to do so. • Provide communication services to hospitals and other disaster volunteer groups participating in event response and recovery efforts. • Provide situational awareness of PSPS impacts in the OA.
Santa Clara County Large Animal Evacuation Team (SCCLAET)	<ul style="list-style-type: none"> • Provide volunteer large animal rescue and evacuation services when requested to do so. • Provide situational awareness of PSPS impacts to large animals in the OA. • Provide guidance in sheltering large animals if needed.
Santa Clara County Office of Emergency	<ul style="list-style-type: none"> • Act in an advisory role to the Town in PSPS preparedness, response, and mitigation.



Organization	Anticipated Roles and Responsibilities
Management	<ul style="list-style-type: none"> • Initiate public alerts via Emergency Alert System, AlertSCC, Wireless Emergency Alerts (WEA), and other public alerting systems as needed. • Activate the County Joint Information Center (JIC) to coordinate emergency communications in support of PG&E’s public information efforts. • Assist the Town and Operational Area with mutual aid resource needs. • Facilitate conference calls with the Town and all OA jurisdictions and partners throughout the event as needed to gather and share situational information. • Participate in PG&E, regional, and state calls, as applicable. • Monitor PG&E and National Weather Service (NWS) information throughout the event and request spot forecasts as needed. • Request state and federal resources when County resources have been or soon will be exceeded.
San Jose Water (SJW)	<ul style="list-style-type: none"> • Provide assessment of potential service disruption to the Town.
Silicon Valley Clean Energy (SVCE)	<ul style="list-style-type: none"> • Monitor and manage the SVCE system. • Provide situational awareness on PSPS impacts on SVCE services, facilities, and infrastructure to the Town. • Work with PG&E to safely and efficiently de-energize and re-energize the SVCE system.



4.5 PSPS Event Coordination Task Lists

The task lists below were developed for the three operational phases for a PSPS event as conceived by Santa Clara County OEM: (1) the Notification Phase, when the Town Manager’s Office receives notice of a PSPS from PG&E and begins public and partner outreach (see Section 4.5.1, below); (2) the Response Phase, when PG&E de-energizes its electrical system as the Town Manager’s Office monitors and facilitates needed response (see Section 4.5.2, below); and (3) the Re-Energization and Short-Term Recovery Phase, when the Town Manager’s Office assists Departments s in recovering from the PSPS (see Section 4.5.3, below). The task lists are intended to serve as a guide for emergency managers in responding to PSPS events at the EOC and departmental level. Users should adapt the task lists based on the circumstances at the time of the event, including time for response, safety considerations, and available resources. Though each task is numbered, tasks may be performed concurrently or in a different order, depending on the needs of the situation.

4.5.1 Notification Phase

The task list below is for the Notification Phase, when the Town Manager’s Office receives notice from PG&E of a possible or imminent PSPS. Event (E) is the time when PG&E shuts off power. The Notification Phase begins with PG&E notification of a potential or forthcoming power shutoff impacting the Town of Los Gatos. That notification may occur anywhere from 72 to 24 hours preceding shutoff. Because PG&E has sole control over whether and when to shut off power, the amount of advance notice provided may vary. Accordingly, the list below must be adapted to reflect conditions present in the actual event. For further discussion of the Notification Phase, see Section 3.3.

TASK LIST: NOTIFICATION PHASE—EVENT MINUS 72 TO 48 HOURS

NOTIFICATION PHASE: EVENT (E) MINUS 72 TO 24 HOURS						
<u>PRIORITIES</u>						
<ol style="list-style-type: none"> 1. Establish and maintain effective communications with the Operational Area, PG&E, and Town Departments. 2. Provide accessible, accurate, and effective public information to echo and support PG&E public outreach efforts. 3. Monitor the situation and activate the Town EOC as necessary. 4. Determine and take actions needed to minimize impacts to life safety, property, and infrastructure. 						
#	ACTION	INITIATING ENTITY	KEY PARTNERS	EOC RESPONSIBILITY	ANNEX SECTION	NOTES/RESOURCES
1	On receiving PG&E notification of possible PSPS, access PG&E PSPS Agency Resources Portal and obtain data on potential impacted areas and infrastructure, and other critical information.	Assistant Town Manager, Public Works Director, Emergency Services Coordinator (ESC), Los Gatos-Monte	PG&E	N/A	2.3.6	– PG&E PSPS Agency Portal: https://esft.pge.com/



NOTIFICATION PHASE: EVENT (E) MINUS 72 TO 24 HOURS						
#	ACTION	INITIATING ENTITY	KEY PARTNERS	EOC RESPONSIBILI-LITY	ANNEX SECTION	NOTES/RESOURCES
		Sereno Police Department (LG-MS PD)				
2	Establish and maintain contact with SCC OEM through direct contact and conference calls (ongoing). Confirm PSPS notice with them.	Assistant Town Manager, ESC	SCC OEM, PG&E	N/A	3.3.2.2	
3	Obtain call times for conference calls and plan who will attend calls	Assistant Town Manager, ESC	PG&E, SCC OEM	Planning Section Chief (PSC), Situation Status (Sit Stat) Branch Coordinator	3.3.2.2	
4	Providing public information regarding PSPS event through social media, website and other resources to support PG&E and SCC OEM.	Public Information Officers (PIOs)	SCC OEM PIO, NWS, PG&E, OPA, 211, SSA,	EOC Director, PIO, Social Media Specialist	3.3.2.6, 5	<ul style="list-style-type: none"> – Appendix D: Sample PSPS Public Messaging – PG&E PSPS Agency Portal: https://esft.pge.com/ – Operational Area Joint Information System
5	If needed, activate Town EOC based on criteria set forth in SEMS, EOP, and PSPS Annex, and based on circumstances presented by PSPS event.	Town Manager, Chief of Police	SCC OEM	N/A	3.3.2.1, 3.3.2.4	<ul style="list-style-type: none"> – Town of Los Gatos EOP – SEMS Regulations, 19 Cal. Code Reg. § 2409(f)
6	Communicate need to County for PG&E to delay de-energization due to emergency situation that would be exacerbated by lack of electrical power.	Town Manager, Chief of Police, SCCFD	SCCFD, LG/MS PD, SCC OEM, PG&E	EOC Director, Operations Section Chief (OSC)	4.3, 3.3.2.5	<ul style="list-style-type: none"> – Table 1.2: Critical Decision Matrix: Requesting Delayed De-Energization or Re-Energization for the County



NOTIFICATION PHASE: EVENT (E) MINUS 72 TO 24 HOURS						
#	ACTION	INITIATING ENTITY	KEY PARTNERS	EOC RESPONSIBILITY	ANNEX SECTION	NOTES/RESOURCES
7	Ensure operations appropriately considers and addresses access and functional needs throughout activation.	Assistant Town Manager, ESC, PIO, LG-MS PD	SCC OEM, Sheriff's Office, SCC PHD	Access and Functional Needs Coordinator	5.2.1, 6	
8	Determine need to do additional outreach or provide assistance to people using power-dependent medical devices or others with disabilities or access and functional needs.	LG-MS PD, Town Manager's Office, ESC	SCC Public Health, SCC OEM, Sherriff's Office, PG&E	Operations Section (Ops)	6	<ul style="list-style-type: none"> PG&E PSPS Agency Portal: https://esft.pge.com/ emPOWER identified data available on request: https://empowermap.hhs.gov/
9	Request that SCC OEM share with the PIO any event-specific public messaging it develops.	PIO	OEM EOC, PIO	PIO	3.3.2.6	<ul style="list-style-type: none"> Appendix D: Sample PSPS Public Messaging PG&E PSPS Agency Portal: https://esft.pge.com/ SCC Emergency Communications Annex
10	Monitor Town status; prepare and share periodic situation status reports with SCC OEM and partners, primarily through conference calls.	Assistant Town Manager, ESC	SCC OEM, LG/MS PD, PPW	EOC Director, EOC Coordinator	3.3.2.7	<ul style="list-style-type: none"> Appendix B: PSPS Essential Elements of Information
11	Provide status updates at designated times on the following, as applicable: <ul style="list-style-type: none"> Current situation and response activities. EOC, or other facility activation. Readiness or notification activities. Public information activities. Mass care and sheltering activities. Impacts to transportation, communications, utilities, or other critical infrastructure. Critical issues. 	Assistant Town Manager, ESC	Town Executive Team	Planning Section, Management Section	3.3.2.7	



4.5.2 Response Phase

The task list below is for the Response Phase, which spans from de-energization to just before re-energization. During this time, the Town and its partners will continue to monitor the situation and may activate our EOC, share information regarding status and needs with SCC OEM, send resource requests, and facilitate response as needed. PG&E has sole control over when to shut off power and the amount of advance notice affected areas will receive. Accordingly, the list below must be adapted to reflect conditions present in the actual event. For further discussion of the Response Phase, see Section 3.4.

TASK LIST: RESPONSE PHASE—E MINUS 24 HOURS TO RE-ENERGIZATION

RESPONSE PHASE: E MINUS 24 HOURS TO RE-ENERGIZATION						
PRIORITIES						
<ol style="list-style-type: none"> 1. Monitor the situation and proclaim a local emergency if necessary. 2. Take actions needed to minimize impacts to life safety, property, and infrastructure. 3. Request resources from SCC OEM as needed. 4. Maintain effective communication with SCC OEM, PG&E, and Town agencies. 5. Provide accessible, accurate, and effective public information to Town residents to echo and support SCC OEM and PG&E public outreach efforts. 						
#	ACTION	INITIATING ENTITY	KEY PARTNERS	EOC RESPONSIBILITY	ANNEX SECTION	NOTES/RESOURCES



RESPONSE PHASE: E MINUS 24 HOURS TO RE-ENERGIZATION						
#	ACTION	INITIATING ENTITY	KEY PARTNERS	EOC RESPONSIBILITY	ANNEX SECTION	NOTES/RESOURCES
1	Facilitate request for Town proclamation of local disaster under California Emergency Services Act if needed.	Town Disaster Council, Town Manager	Town Attorney's Office, Town Manager, Town Council	EOC Director	3.4.1.1	Disaster Proclamation Process: – Annex E: Emergency Proclamation Documents – https://library.municode.com/ca/los_gatos/codes/code_of_ordinances?nodeId=CO_CH8CIDEI_S8.10.035SAOWDU – https://www.caloes.ca.gov/RecoverySite/Documents/Proclamation%20and%20CDA%20Process%20Fact%20Sheet%20Final%20Feb%202019%20(003).pdf – https://www.caloes.ca.gov/RecoverySite/Documents/Proclamation%20Guide%202014%20V4.pdf
2	Activate Town EOC or adjust activation level based on needs of PSPS event.	Town Manager, Chief of Police	SCC OEM	EOC Director	3.3.2.1, 3.3.2.4	– Town of Los Gatos EOP – SEMS Regulations, 19 Cal. Code Reg. § 2409(f)
3	Continue monitoring situation and keep Town Executive Team, Town Council and partners informed as needed.	Town Manager, Assistant Town Manager, ESC	Town Executive Team	Planning Section (Plans), Ops	3.3.2.3, 3.3.2.7	
4	Continue to maintain contact with SCC OEM and participate in periodic PSPS phone conferences.	Assistant Town manager, ESC	SCC OEM, PG&E	EOC Management (Mgmt)	3.3.2.2	– PG&E contact information: S:\EOC OPS\PSPS EOC Information
5	Continue sharing accessible public messaging to echo and support PG&E as lead agency in providing public information regarding PSPS event.	PIO	OEM PIO, 211	EOC PIO	3.3.2.6, 5, 6.5	– Appendix D: Sample PSPS Public Messaging – PG&E PSPS Agency Portal: https://esft.pge.com/ – County of Santa Clara Emergency Communications Annex



RESPONSE PHASE: E MINUS 24 HOURS TO RE-ENERGIZATION						
6	Determine need to provide assistance to people relying on medical devices powered by electricity and others with disabilities or access and functional needs.	LG-MS PD, ESC, Assistant Town Manager	SCC OEM, Public Health Department, Sherriff's Office	Ops, PIO	6	<ul style="list-style-type: none"> PG&E PSPS Agency Portal: https://esft.pge.com/ emPOWER identified data available on request: https://empowermap.hhs.gov/
7	Ensure EOC appropriately considers and addresses access and functional needs throughout activation.	EOC Director, Assistant Town Manager, ESC	PD, SCC PH	Access and Functional Needs (AFN) Coordinator	6	
8	Communicate need for Community Resource Center to SCC OEM, if appropriate	Assistant Town Manager, ESC	SCC OEM, PG&E	Mmgt, Logistics Section (Logs)	2.4	
#	ACTION	INITIATING ENTITY	KEY PARTNERS	EOC RESPONSIBILITY	ANNEX SECTION	NOTES/RESOURCES
9	Take needed actions to minimize impacts to life safety, property, and environment.	LG-MS PD, Parks and Public Works Department (PPW)		All EOC officers and sections	3.4.1–3.4.2	– Town of Los Gatos EOP
10	Facilitate process of setting up shelters for people displaced, if needed.	Assistant Town Manager, ESC, LG/MS PD	SCC OEM	Care & Shelter Coord.	3.4.1.5	
11	Prevent unauthorized persons from entering areas containing sensitive de-energized or damaged areas.	LG-MS PD		Ops Law Enforcement Branch	3.5.3	
12	Coordinate process of obtaining needed resources.	Assistant Town Manager, ESC	Mutual Aid Coord.	EOC Director, Ops, Logs	3.4.1, 3.4.1.2	– Town of Los Gatos EOP
13	As needed, set priorities for allocating scarce critical resources such as backup generators or	Town Manager	Town Executive	EOC Mgmt	3.4.1.3, 3.4.1.4	



RESPONSE PHASE: E MINUS 24 HOURS TO RE-ENERGIZATION						
	fuel.		Team			
14	Communicate need to SCC OEM that PG&E re-energize or prioritize the Town of Los Gatos for re-energization if needed.	Town Manager, Chief of Police, SCCFD	SCC OEM, PG&E	EOC Director	4.4.3, 2.3.8, 3.4.1.6	
15	Prepare re-energization plan to anticipate resource needs and safety issues that may arise during re-energization.	Assistant Town Manager, ESC	LG-MS PD, PPW	EOC Director, Advance Plans Unit	2.5, 3.4.1.7	

4.5.3 Re-Energization and Short-Term Recovery Phase

The task list below is for the Re-Energization and Short-Term Recovery Phase, which occurs from PG&E re-energization of its system to at least one week following re-energization. It includes assisting PG&E in keeping the public apprised of re-energization status and available public resources, providing access and other support to PG&E crews inspecting equipment on public property, facilitating restoration of Town services, declaring an end to the event, and deactivating the Town EOC. PG&E has sole control over when to re-energize its system and the amount of notice of re-energization. Accordingly, the list below must be adapted to reflect conditions present in the actual event. For further discussion of this phase, see Section 3.5.

TASK LIST: RE-ENERGIZATION AND SHORT-TERM RECOVERY PHASE—RE-ENERGIZATION TO RE-ENERGIZATION PLUS ONE WEEK OR MORE

RE-ENERGIZATION & SHORT-TERM RECOVERY PHASE: RE-ENERGIZATION TO RE-ENERGIZATION + ONE WEEK OR MORE						
PRIORITIES						
<ol style="list-style-type: none"> 1. Provide PG&E with access to Town property as needed to facilitate re-energization. 2. Take actions needed to minimize impacts to life safety, property, and environment. 3. Maintain effective communications with SCC OEM and local agencies within the Town. 4. Provide accessible, accurate, and effective public information to Town residents to echo and support PG&E’s and SCC OEM’s public outreach efforts. 5. Work with partners in facilitating short-term recovery efforts. 						
#	ACTION	INITIATING ENTITY	KEY PARTNERS	EOC RESPONSIBILITY	ANNEX SECTION	NOTES/RESOURCES



RE-ENERGIZATION & SHORT-TERM RECOVERY PHASE: RE-ENERGIZATION TO RE-ENERGIZATION + ONE WEEK OR MORE						
1	Continue to maintain contact with SCC OEM and PG&E and participate in periodic PSPS phone conferences.	Assistant Town Manager, ESC	SCC OEM, PG&E	Mgmt	3.3.2.2	
2	When PG&E notifies of re-energization time, inform Town partners through situation reports.	Town Manager, Assistant Town Manager, ESC	All Annex partners	Ops, Plans Sit Stat	3.5.2	
3	Ensure EOC appropriately considers and addresses access and functional needs throughout activation	PIO, LG-MS PD, ESC, Assistant Town Manager		AFN Coordinator		
4	Share accessible public messaging regarding re-energization status and available resources to echo and support PG&E as lead agency in providing public information regarding PSPS event.	PIO	OEM PIO, 211	EOC PIO	3.3.2.6, 5, 6.5	<ul style="list-style-type: none"> – Appendix D: Sample PSPS Public Messaging – PG&E PSPS Agency Portal
#	ACTION	INITIATING ENTITY	KEY PARTNERS	EOC RESPONSIBILITY	ANNEX SECTION	NOTES/RESOURCES
5	Provide PG&E with access to Town property for inspection and repair of equipment prior to re-energization.	LG-MS PD, PPW		Ops	3.5.3	
6	Prevent unauthorized persons from entering areas containing sensitive de-energized or damaged areas.	LG-MS PD		Ops	3.5.3	
7	Facilitate restoration of Town services impacted during de-energization.	Town Manager	Town Executive Team	Ops	3.5.1, 3.5.3	
8	Collect and summarize damage reports, if applicable.	ESC	All Annex partners	Plans	3.5.1, 3.5.3	



RE-ENERGIZATION & SHORT-TERM RECOVERY PHASE: RE-ENERGIZATION TO RE-ENERGIZATION + ONE WEEK OR MORE						
9	If needed, facilitate establishment of local assistance centers to address intermediate- or long-term individual and business recovery needs in the Town.	Town Manager, Assistant Town Manager, ESC, Economic Vitality Manager	SCC OEM	Ops, Mgmt	3.5.4	
10	If needed, designate a Recovery Unit within the EOC to oversee short-term recovery efforts.	Town Manager, Assistant Town Manager	SCC OEM	EOC Director	3.5.4	
11	Transfer EOC recovery activities to Recovery Unit or to Town Departments and agencies as needed.	Town Manager, Assistant Town Manager		EOC Director	3.5.4	
12	Declare an end to PSPS event and deactivate Town EOC.	Town Manager, Chief of Police	All Annex Partners	EOC Director	3.5.1	
13	Facilitate process of debriefing, after-action review, and development of improvement plan.	ESC	All Annex Partners	N/A	3.5.1	



(Page Intentionally Left Blank)

DRAFT



SECTION 5: PUBLIC INFORMATION

5.1 Overview

During any emergency incident, communication of information to the public is a critical component of response and recovery activities. Appropriate, timely, and accessible communication of information can help the Town reduce life safety threats and address public concerns. However, because most traditional methods of emergency communication of information to the public rely on electricity, a Public Safety Power Shutoff (PSPS) event may pose a significant challenge to public communications. Without electricity to power the tools used to share and receive this information, communication through television, radio, email, the Town website, and social media may be limited for most of the public. In addition, because, as the source of information, PG&E retains the primary responsibility for communicating to the public throughout a PSPS event, the Town plays a supporting role in sharing and amplifying PG&E's messaging.

5.2 Initial Public Alerting Actions

When PG&E notifies the Town of a potential or an imminent PSPS event, it is essential that the Town issue effective public messaging regarding what to expect, actions the Town is taking in response, and how the public can stay safe and prepared. During a PSPS event impacting the Town, the Town Manager's Office is responsible for initiating and coordinating public alerts and messaging for the Town. Initial public alert and information functions may be performed by the members of the Town Manager's staff, after consultation with the Assistant Town Manager. Should the Town EOC open, a Joint Information System (JIS) will be used to assist with and manage public information and media coordination.

5.2.1 Public Information Officer Actions

As necessary and depending on the circumstances of the event, the Public Information Officer(s) will take the following steps at the direction of the Assistant Town Manager:

- Analyze information shared through the SCC OEM PIO group to choose appropriate messaging for the Town
- Utilize social media platforms (i.e. Facebook, Twitter, Nextdoor, Instagram), Town email lists, and the Town website for PSPS-related messaging

Pre-scripted public PSPS messages have been developed to provide the public with general information regarding PSPS events, safety information, and tips on the use of generators, etc. The pre-scripted messages are included in Appendix D. PG&E has also developed sample PSPS messaging, which is available on the PSPS Agency Resources Portal at <https://esft.pge.com/>.

5.3 Accessibility of Public Messages

It is critical that the Town issue PSPS-related public messages and alerts that are accessible to all members of the public, including people with disabilities and people with access and functional needs, such as those with limited English proficiency. Accessibility of alert and warning messages refers to whether individuals can receive and understand the messages. In issuing PSPS alerts and messages to the public, the Town will, whenever possible given time and resources:

- Compose messages that are simply worded and free of technical jargon, acronyms, abbreviations, or other phrases that are hard to understand.
- Provide text and audio to explain images or maps included in messages so recipients who are blind or have low vision can understand what is being shown graphically.



- Working with the County OEM, ensure messages are delivered in multiple formats, including via:
 - AlertSCC.
 - When appropriate, County OEM uses IPAWS systems, including the EAS and WEA to reach people in the Town.
 - Social media such as the Town Twitter, Facebook, Instagram and Nextdoor pages.
 - The Town website.
 - Email to all those signed up for email lists through the Town's website
 - Messaging to vulnerable populations by County agencies and nonprofit organizations that regularly serve them.
 - Share information in languages other than English, as resources allow.

For further discussion of public information, see the State of California Alert & Warning Guidelines.

DRAFT



SECTION 6: NEEDS OF PEOPLE WITH DISABILITIES OR ACCESS AND FUNCTIONAL NEEDS

6.1 Overview

As with virtually all incidents, a Public Safety Power Shutoff (PSPS) will likely affect people with disabilities or access and functional needs disproportionately. For example, people who use electricity- and battery-dependent assistive devices such as breathing machines; power wheelchairs and scooters; and oxygen, suction, or dialysis equipment may be unable to easily power or recharge the equipment during a PSPS event. This in turn may endanger lives and limit individuals' ability to function independently in the community. The Town Manager's Office will take steps, as outlined in this section, to ensure that the needs of people with disabilities and access and functional needs are appropriately considered and addressed during a PSPS event.

6.2 Town of Los Gatos Demographics

As of 2018, the U.S. Census estimates that of the approximately 30,922 people residing in Los Gatos, about 8.8 percent or 2,722 are people that have a disability, and 1,064 or 3.4 percent are under 65⁶⁶. The Census estimates that 18.8 percent or 5,813 Town residents are 65 or older. Approximately 1,330 or 4.2 percent of the Town's residents are children under five years of age. In addition, there are the approximately 16 people who are homeless and unsheltered in the Town. About 4.5 percent, or 1,392 people in the Town are estimated to live in poverty. Table 6.1, below, summarizes this information.

Publicly available information on the US Department of Health and Human Services (HHS) emPOWER website currently indicates that 7,580 people within zip codes 95030 and 95032, which encompasses areas surrounding the Town, are Medicare beneficiaries. Of that number, 139 are Medicare beneficiaries who rely on electricity-dependent medical equipment, such as ventilators, to live independently in their homes. A PSPS event of several days to a week could be life-threatening for these individuals.

In addition, over a fifth of Los Gatos residents (6,801) speak a language other than English at home, including, Asian and Pacific Island languages (8.9% of residents), other Indo-European languages (8.8%) and Spanish (4.4%)⁶⁷.

⁶⁶ Percentage of total population with specific difficulties: Ambulatory 4.7, Independent Living 4.6, Hearing 3.3, Cognitive 2.6, Self-care 1.9, Vision 1.

⁶⁷ U.S. Census Bureau, "Languages Spoken at Home. Los Gatos town, California." Accessed September 17, 2019. <https://data.census.gov/cedsci/table?g=1600000US0644112&tid=ACSST5Y2018.S1601>.



Table 6.1. Estimated Number of Town of Los Gatos Residents with Disability or Access and Functional Needs

Population Type	Percentage of Total Town 2018 Population	Estimated Number
Persons with a disability	8.8	2,722
Persons under 65 with disability	3.4	1,064
Persons 65 or older	18.8	5,813
Children under 5	4.2	1,330
Unsheltered homeless	0.05	16
People in poverty	4.5	1,392
Electricity-dependent Medicare beneficiaries living in zip codes 95030 and 95032	0.4	139

Sources: U.S. Census Bureau, “Quick Facts, Los Gatos town, California.” Accessed September 17, 2020.; Applied Survey Research. (2019). Santa Clara County Homeless Census & Survey, Watsonville, CA.; U.S. Department of Health & Human Services. “HHS emPOWER Map 3.0.” Updated August 18, 2019.

6.3 Legal Requirements

The Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability in employment, public accommodations, commercial facilities, transportation, and telecommunications.⁶⁸ The ADA defines a person with a disability as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.⁶⁹ For purposes of this Annex, people with access and functional needs (AFN) refers to individuals who are or who have:⁷⁰

- Physical, developmental, or intellectual disabilities;
- Chronic conditions or injuries;
- Limited English proficiency;
- Older adults;
- Children;
- Low income, homeless, or transportation disadvantaged (e.g., those dependent on public transit);
- Pregnant women.

6.4 Areas of Concern During Response and Recovery

Areas of concern for the Town of Los Gatos in addressing the needs of people with disabilities or access

⁶⁸ 42 U.S. Code §§ 12131–12132.

⁶⁹ Americans with Disabilities Act of 1990, 42 U.S. Code §§ 12131 et seq.

⁷⁰ See Cal. Govt. Code § 8593.3(b).



and functional needs during a PSPS event include the following:

- Accessible communications: Ensuring written and oral emergency communications and other information provided by the Town are accessible to people with disabilities and to those who speak languages other than English.
- Backup power for assistive devices: Ensuring that people who depend on electric- or battery-powered medical devices or other technology for life support and independence have sufficient notice that they may need to access backup power.
- Evacuation and transportation: Ensuring that any evacuation and transportation plans, if necessary, integrate accessible transportation providers during the planning process and when moving people with mobility impairments and those with transportation disadvantages. Transportation planning considerations should include staging, embarkation points, transportation centers, evacuee location, and care and shelter.
- Care and Shelter: Ensuring that evacuation sites, shelters, community resource centers, cooling sites, and other facilities established by the Town during the event are accessible to people with disabilities and access and functional needs (for further discussion, see Section 3.4.1.5).

6.5 Recommended EOC Actions

To address the concerns highlighted in Section 6.4, it is recommended that the Town Manager's Office consider taking the following steps during a PSPS activation:⁷¹

- Ensure each department considers and addresses access and functional needs throughout the activation.
- If established, work with the County's designated Disabilities and Access and Functional Needs (AFN) Multiagency Coordination (MAC) Group composed of appropriate EOC representatives, to coordinate accessibility of mass care and shelter services and of public information to people with disabilities and access and functional needs during activation.
- Ensure our PIO works closely with County OEM and PG&E to help deliver pre- and post-de-energization messaging that is accessible to people with disabilities and to those who speak languages other than English.
- If shelters are activated, work with the County to ensure that sufficient Functional Assessment Services Team personnel are available to assist with assessing and addressing the requirements of people with disabilities or access and functional needs (see Section 3.4.1.5).
- Work closely with the Town Attorney's Office to ensure compliance with applicable laws and ordinances.

For further discussion of public information, see Section 5 and the County of Santa Clara Emergency Communications Annex. For further discussion of mass care and shelter, see the County of Santa Clara Mass Care and Shelter Plan.

⁷¹ New York-New Jersey-Connecticut-Pennsylvania Regional Catastrophic Planning Team, Disabilities and Access and Functional Needs EOC Toolkit (2015), II-1-2. Accessed September 13, 2019. <http://crcog.org/wp-content/uploads/2017/12/Disabilities-and-Access-and-Functional-Emergency-Operations-Center-Toolkit.pdf>.



SECTION 7: ANNEX DEVELOPMENT AND IMPLEMENTATION

7.1 Annex Development

The Town of Los Gatos Public Safety Power Shutoff Annex was developed using the Santa Clara County OEM PSPS Annex as a template. Through the PSPS planning process, relevant parties' Departments and specific Town employees were consulted, including, Los Gatos-Monte Sereno Police Department, Parks and Public Works, and the Town Manager's Office, including the Lead Public Information Officer, Assistant Town Manager, and Emergency Services Coordinator. In addition, the Annex also took into consideration lessons learned from PSPS events in 2019.

At the County level, their Annex was developed in collaboration with partners and stakeholders throughout the Operational Area. This collaborative effort included participating in and holding workshops with representatives of County Departments, agencies, and special districts; local government jurisdictions; and external partners.

Events that assisted, both the County OEM and Town personnel, in developing this Annex include:

- Participation in regional PSPS conference calls hosted by the California Governor's Office of Emergency Services in June and July of 2019.
- Hosting a PSPS workshop for Santa Clara County in conjunction with PG&E on June 14, 2019.
- Participation in a PSPS presentation with representatives from San José, Morgan Hill, and Los Altos Hills at the June 2019 meeting of the Santa Clara County Emergency Managers Association.
- Briefing on and answering PSPS questions as part of the July 2019 meeting of the Santa Clara County Emergency Managers Association.
- Participation in the Bay Area Regional PSPS Workshop on August 15, 2019.
- Attending a PG&E PSPS workshop for Monterey and Santa Cruz Counties on August 19, 2019.
- Attending a PG&E PSPS workshop for the Santa Clara County Office of Education on August 22, 2019.
- Briefing the Santa Clara County Emergency Operational Area Council on PSPS preparedness and planning efforts at its August 22, 2019, meeting.
- Attended PG&E Wildfire Safety Working Session on May 29, 2020.
- Participated in PG&E PSPS updated Portal information webinar on July 24, 2020.

In addition, the County Office of Emergency Management (OEM) shared a draft version of the plan with County Departments and agencies and other OA partners, and has incorporated their feedback into the Annex. The Annex also reflects extensive research of past PSPS events in California and other types of power outages, and their impacts on communities and people.

7.2 Maintenance

This Annex is a dynamic document. The Town Manager's Office (TMO) is responsible for the maintenance, review, and update of this Annex in coordination with other essential stakeholders. The Annex will be reviewed annually and updated as needed. At a minimum, the Annex will undergo a formal revision every three years. TMO will make updates and revisions in collaboration with supporting organizations



identified in this Annex, to ensure the plan is accurate, effective, and actionable.

The Town will assess the need for revisions to the Annex based on the following considerations:

- Issuance of updated California Public Utilities Commission Guidelines, policies, or practices regarding PSPS that require changes in the Annex.
- Changes in PG&E PSPS protocols and practices.
- Changes in Town, County, state, or federal ordinances, laws, regulations, requirements, or organization.
- Lessons learned through exercises or actual events.
- Development of new tools or procedures.

If this Annex requires an immediate change due to lessons learned from trainings, exercises, or actual events, TMO will identify a course of action for review, update, and implementation of necessary changes. TMO will maintain a record of amendments and revisions and executable versions of all Annex documents. TMO is also responsible for distributing the Annex to all applicable agencies.

7.2 After-Action Review and Corrective Action

After every PSPS exercise or actual event, TMO is responsible for working with other stakeholders to complete an After-Action Report and Improvement Plan (AAR/IP). The AAR captures observations and recommendations based on event objectives as associated with relevant core capabilities and tasks



SECTION 8: AUTHORITIES AND REFERENCES

8.1 Authorities

8.1.1 Town

- Town Manager's Office (TMO), *Town of Los Gatos Emergency Operations Plan*, 2016.

8.1.2 County

- County of Santa Clara Ordinance Code §§ A8-5, A8-8, A8-9(a).
- County of Santa Clara Language Access Guidelines and Procedures. Accessed August 1, 2019. <https://www.sccgov.org/sites/oir/Documents/Language-Access-Guidelines-and-Procedures.pdf>.
- County of Santa Clara, Language Access Policy 3.58, March 24, 2015. <https://www.sccgov.org/sites/occ/Pages/languageaccess.aspx>.
- Santa Clara County Office of Emergency Management (OEM), *County of Santa Clara Emergency Operations Plan*, 2017.
- Santa Clara County OEM, *County of Santa Clara Emergency Communications Annex to the Emergency Operations Plan*, 2019 (in progress).
- Santa Clara County OEM, *County of Santa Clara Wildfire Annex to the Emergency Operations Plan*, 2019 (in progress).

8.1.3 State

- California Emergency Services Act, California Government Code §§ 8630(b), 8680–8692.
- California Standardized Emergency Management Regulations, 19 California Code of Regulations § 2409.
- California Governor's Office of Emergency Services (Cal OES), *State of California Emergency Plan*, October 2017. <https://www.caloes.ca.gov/cal-oes-divisions/planning-preparedness/state-of-california-emergency-plan-emergency-support-functions>.
- Cal OES, Standardized Emergency Management System (SEMS) Guidelines, 2009. <https://www.caloes.ca.gov/cal-oes-divisions/planning-preparedness/standardized-emergency-management-system>.
- Cal OES, State of California Alert & Warning Guidelines, March 2019. <http://calalerts.org/documents/2019-CA-Alert-Warning-Guidelines.pdf>
- California Public Utilities Commission (CPUC), Decision D1905042 - Decision Adopting De-Energization (Public Safety Power Shut-Off) Guidelines (Phase 1 Guidelines), May 2019. <http://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=ALL&DocID=296598822>.
- CPUC, Fire-Threat Maps, January 2018. <https://www.cpuc.ca.gov/firethreatmaps/>.
- CPUC, Resolution ESRB-8, Extending De-Energization Reasonableness, Notification, Mitigation, and Reporting Requirements, July 2018. <http://cpuc.ca.gov/deenergization/>.



8.1.4 Federal

- Americans with Disabilities Act of 1990, 42 U.S. Code §§ 12131 et seq.
- Federal Emergency Management Agency (FEMA), *National Disaster Recovery Framework* (2d ed.), 2016. https://www.fema.gov/media-library-data/1466014998123-4bec8550930f774269e0c5968b120ba2/National_Disaster_Recovery_Framework2nd.pdf.
- FEMA, *National Response Framework* (3d ed.), 2016. https://www.fema.gov/media-library-data/1466014682982-9bcf8245ba4c60c120aa915abe74e15d/National_Response_Framework3rd.pdf.
- FEMA, *Power Outage Incident Annex to the Response and Recovery Federal Interagency Operational Plans: Managing the Cascading Impacts from a Long-Term Power Outage*, 2017. [https://www.fema.gov/media-library-data/1512398599047-7565406438d0820111177a9a2d4ee3c6/POIA_Final_7-2017v2_\(Compliant_pda\)_508.pdf](https://www.fema.gov/media-library-data/1512398599047-7565406438d0820111177a9a2d4ee3c6/POIA_Final_7-2017v2_(Compliant_pda)_508.pdf).

8.2 References

- Cal OES, "California Emergency Disaster Proclamation and CDAA Process," 2019. [https://www.caloes.ca.gov/RecoverySite/Documents/Proclamation%20and%20CDAA%20Process%20Fact%20Sheet%20Final%20Feb%202019%20\(003\).pdf](https://www.caloes.ca.gov/RecoverySite/Documents/Proclamation%20and%20CDAA%20Process%20Fact%20Sheet%20Final%20Feb%202019%20(003).pdf).
- Cal OES, *Electric Power Disruption: Toolkit for Local Government*, 2012. <https://www.caloes.ca.gov/PlanningPreparednessSite/Documents/Electric%20Power%20Disruption%20Toolkit%20ADA%20Edits.pdf>.
- Federal Communications Commission (FCC), *Wireless Emergency Alerts (WEA)*. Accessed August 2, 2019. <https://www.fcc.gov/consumers/guides/wireless-emergency-alerts-wea>.
- FEMA Region V, *Non-Stafford Act Recovery Guide: Developing and Coordinating Resources*, 2013. https://www.fema.gov/media-library-data/20130726-1910-25045-8797/non_stafford_act_recovery_guide.pdf.
- National Academies of Sciences, Engineering, and Medicine, *Enhancing the Resilience of the Nation's Electricity System* (Washington, DC: The National Academies Press, 2017). <https://doi.org/10.17226/24836>.
- New York-New Jersey-Connecticut-Pennsylvania Regional Catastrophic Planning Team, *Disabilities and Access and Functional Needs EOC Toolkit*, 2015. <http://crcog.org/wp-content/uploads/2017/12/Disabilities-and-Access-and-Functional-Emergency-Operations-Center-Toolkit.pdf>.
- Pacific Gas & Electric Company (PG&E), *Community Wildfire Safety Program*. Accessed August 11, 2019. https://www.pge.com/en_US/safety/emergency-preparedness/natural-disaster/wildfires/community-wildfire-safety.page.
- PG&E, "Manage trees and plants near power lines." Accessed August 11, 2019. https://www.pge.com/en_US/safety/yard-safety/powerlines-and-trees/transmission-vs-distribution-power-lines.page.
- PG&E, *Pacific Gas and Electric Company Amended 2019 Wildfire Safety Plan*, 2019. https://www.pge.com/pge_global/common/pdfs/safety/emergency-preparedness/natural-disaster/wildfires/Wildfire-Safety-Plan.pdf.
- PG&E, *Public Safety Power Shutoff Policies and Procedures*, May 2019. https://www.pge.com/pge_global/common/pdfs/safety/emergency-preparedness/natural-disaster/wildfires/Public-Safety-Power-Shutoff-Policies-and-Procedures.pdf.



- PG&E, PG&E Public Safety Power Shutoff (PSPS) Report to the CPUC, Event from 06/07/2019 to 06/09/2019. Accessed August 11, 2019.
https://www.pge.com/pge_global/common/pdfs/safety/emergency-preparedness/natural-disaster/wildfires/PSPS-Report-Letter-06.21.19.pdf.
- Small Business Administration (SBA). (2015). A Reference Guide to the SBA Disaster Loan Program, 4. https://www.sba.gov/sites/default/files/files/SBA_Disaster_Loan_Program_Reference_Guide.pdf.
- U.S. Census Bureau, "Quick Facts, Santa Clara County, California." Accessed August 4, 2019.
<https://www.census.gov/quickfacts/santaclaracountycalifornia>.



(Page Intentionally Left Blank)



ABBREVIATIONS AND ACRONYMS

AAR/IP	After-Action Report/Improvement Plan
AFN	access and functional needs
ARC	American Red Cross
ADA	Americans with Disabilities Act
AlertSCC	Alert Santa Clara County
ARES	Amateur Radio Emergency Services
CADRE	Collaborating Agencies Disaster Relief Effort
Cal FIRE	California Department of Forestry and Fire Protection
Cal OES	California Governor's Office of Emergency Services
CDAAC	California Disaster Assistance Act
ConOps	Concept of Operations
CPUC	California Public Utilities Commission
CRC	community resource center
DSW	Disaster Service Worker
EAS	Emergency Alert System
EMS	Emergency Medical Services
EOC	Emergency Operations Center
EOP	Emergency Operations Plan
ESC	Emergency Services Coordinator
FCC	Federal Communications Commission
FEMA	Federal Emergency Management Agency
GIS	geographic information system
Hazmat	hazardous materials
ICS	Incident Command System
IPAWS	Integrated Public Alert and Warning System
JIC	Joint Information Center
JIS	Joint Information System
kV	kilovolt
LAET	Large Animal Evacuation Team
LG-MS PD	Los Gatos-Monte Sereno Police Department



TOWN OF LOS GATOS
PUBLIC SAFETY POWER SHUTOFF ANNEX

Logs	Logistics Section
Mgmt	Management Section
mph	miles per hour
NDA	nondisclosure agreement
NIMS	National Incident Management System
NWS	National Weather Services
OA	Operational Area
OPA	Office of Public Affairs
Ops	Operations Section
OSH	Office of Supportive Housing
PG&E	Pacific Gas and Electric
PHD	Public Health Department
PIO	Public Information Officer
Plans	Planning and Intelligence Section
PPW	Parks and Public Works
PSPS	Public Safety Power Shutoff
RACES	Radio Amateur Civil Emergency Services
REOC	Regional Emergency Operations Center
SCC OEM	Santa Clara County Office of Emergency Management
SCC OEM PIO	Santa Clara County Office of Emergency Management Public Information Officer
SEMS	Standardized Emergency Management System
SOC	State Operations Center
SSA	Social Service Agency
SVCE	Silicon Valley Clean Energy
TMO	Town Manager's Office
WEA	Wireless Emergency Alerts



(Page Intentionally Left Blank)



GLOSSARY

Access and functional needs population: Individuals who have developmental or intellectual disabilities; physical disabilities; chronic conditions or injuries; limited English proficiency; or who are non-English speaking, older adults, children, people living in institutionalized settings; those who are low income, homeless, or transportation disadvantaged, including those who are dependent on public transit; or those who are pregnant.

Affected Population: Persons who have been displaced, injured, or have suffered some other loss due to an incident or event.

Annex: A functional, support, hazard- or incident-specific, or other supplement to a basic emergency plan.

Appendix: An attachment to an emergency plan that provides relevant information referenced in an emergency plan. Appendices typically include forms, standard operating procedures, or other types of explanatory or guidance materials.

Community choice aggregator: An entity that participates in a community choice aggregation program created under California law, which allows cities and counties to buy or generate electricity for residents and businesses in their areas.

Community resource centers: Locations where PG&E may provide information and services to community members impacted by a PSPS event.

Critical facilities and infrastructure: Facilities and infrastructure that are essential to public safety and that require additional assistance and advance planning to ensure resiliency during PSPS events.

De-Energization: The effort to reduce the risk of fires caused by electric infrastructure by temporarily turning off power to specific areas.

Emergency Operations Center: A site from which government officials coordinate, monitor, and direct response activities during an emergency.

Emergency responder: Individual responsible for protecting and preserving life, property, the environment, or evidence in the early stages of an event or incident.

Emergency response providers: Federal, state, and local governmental and nongovernmental public safety, fire, law enforcement, emergency response, emergency medical services, and hospital emergency services providers; and related personnel, agencies, and authorities.

First responder: Individual responsible for protecting and preserving life, property, the environment, or evidence in the early stages of an event or incident.

Incident: An occurrence or event, whether caused by natural phenomena or by humans, that requires action by emergency response personnel to prevent or minimize loss of life or damage to property or the environment.

Joint Information Center: A physical location where public information officials can locate to perform critical emergency information, crisis communications, and public affairs functions.

Local government: Under the Standardized Emergency Management System (SEMS), the cities, counties, and special districts in an operational area. Local governments manage and coordinate the overall emergency response and recovery activities within their jurisdiction. In the case of unincorporated areas, local government refers to the County itself.

Multiagency coordination group: Agency administrators, executives, or designees from stakeholder



organizations impacted by an incident, who act as a policy-level body to support resource prioritization and allocation, make cooperative multi-agency decisions, and assist decision-making by elected and appointed officials and the Incident Commander responsible for the incident.

Mass care and shelter: Actions taken to feed, house, and provide other services to those affected by a PSPS event.

Medical Baseline Program: An assistance program for residential electricity customers who have special energy needs due to qualifying medical conditions. The program provides for a lower rate on monthly energy bills and advance notification in a PSPS event.

Mitigation: Actions taken to lessen the effects of events or incidents on people, property, and the environment.

Mutual aid: An agreement in which two or more parties agree to furnish resources, facilities, and services to other parties to the agreement when the party's own resources are inadequate to address an event or incident.

Operational Area: Under SEMS, an intermediate level of California's emergency management organization encompassing the County and all political subdivisions located within a County, including special districts. The operational area manages or coordinates information, resources, and priorities among local governments within the operational area and serves as the coordination and communication link between the local government level and regional level.

Person with a disability: A person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.

Public safety partners: First or emergency responders at the local, state, and federal level; water, wastewater, and communication service providers; community choice aggregators; affected publicly owned utilities or electrical cooperatives; the California Public Utilities Commission; the California Governor's Office of Emergency Services; and the California Department of Forestry and Fire Protection.

Public Safety Power Shutoff: Proactively turning off power for safety purpose as a last resort due to extreme weather and wildfire danger.

Recovery: The long-term activities beyond the initial emergency response phase of disaster operations that focus on returning all systems in the community to a normal status or to reconstitute these systems to a new condition that is less vulnerable.

Re-Energization: The process of restoring power to de-energized electric infrastructure.

Resources: Personnel, facilities, and equipment available for assignment in incidents or events.

Response: Activities that address the direct effects of an incident or event; immediate actions to save lives and to protect property and the environment.

Shelter: A facility that provides safe, accessible, and secure temporary housing before, during, or after an incident or event. Shelters may include general population shelters, medical needs shelters, and household pet shelters.

Situational Report (Sit Rep): A type of status report that provides decision-makers and other users with a summary of the current situation.

Special District: A unit of local government, other than a city, County, or city and County, with authority or responsibility to own, operate, or maintain a project for purposes of natural disaster assistance.



APPENDIX

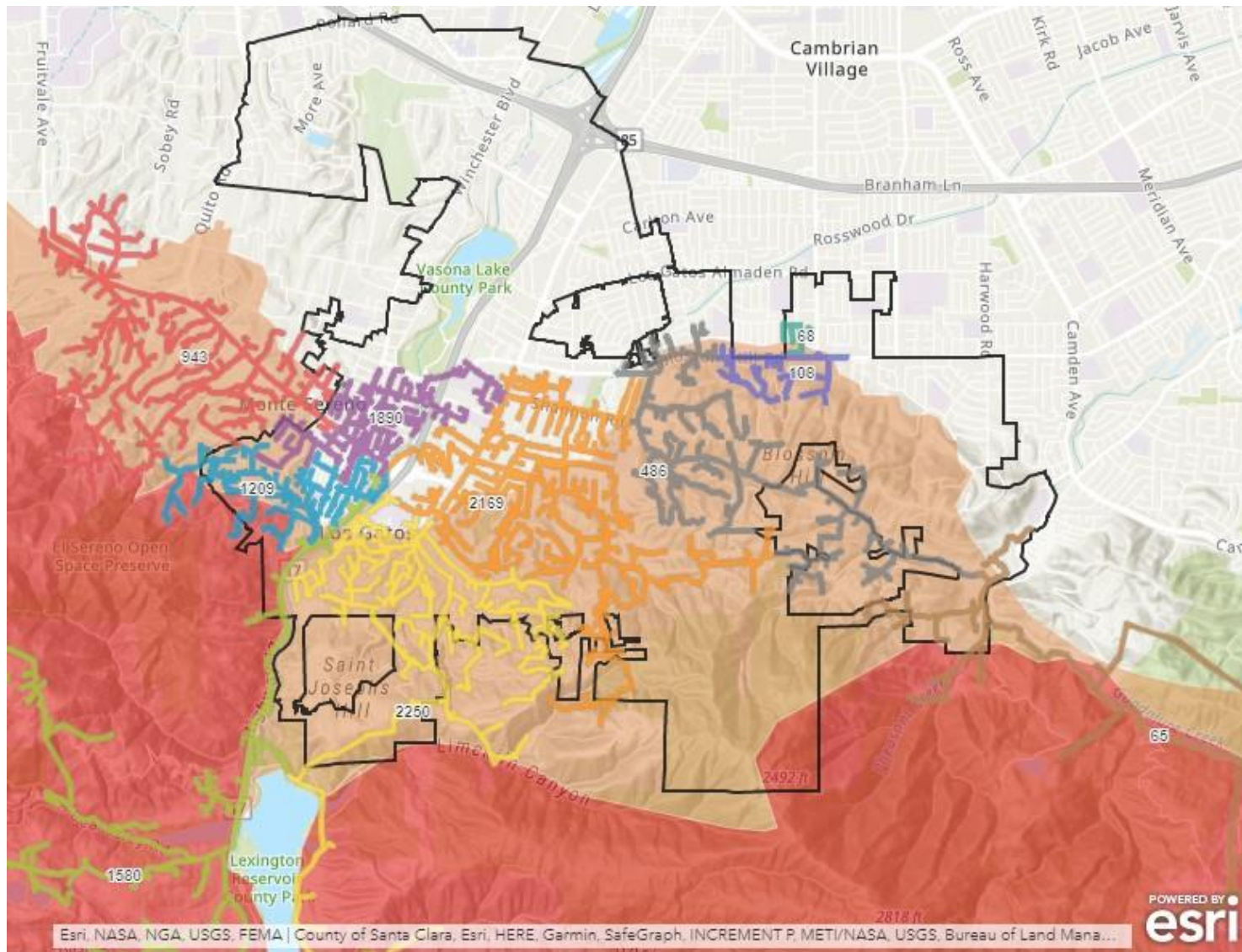


Appendix A: Maps



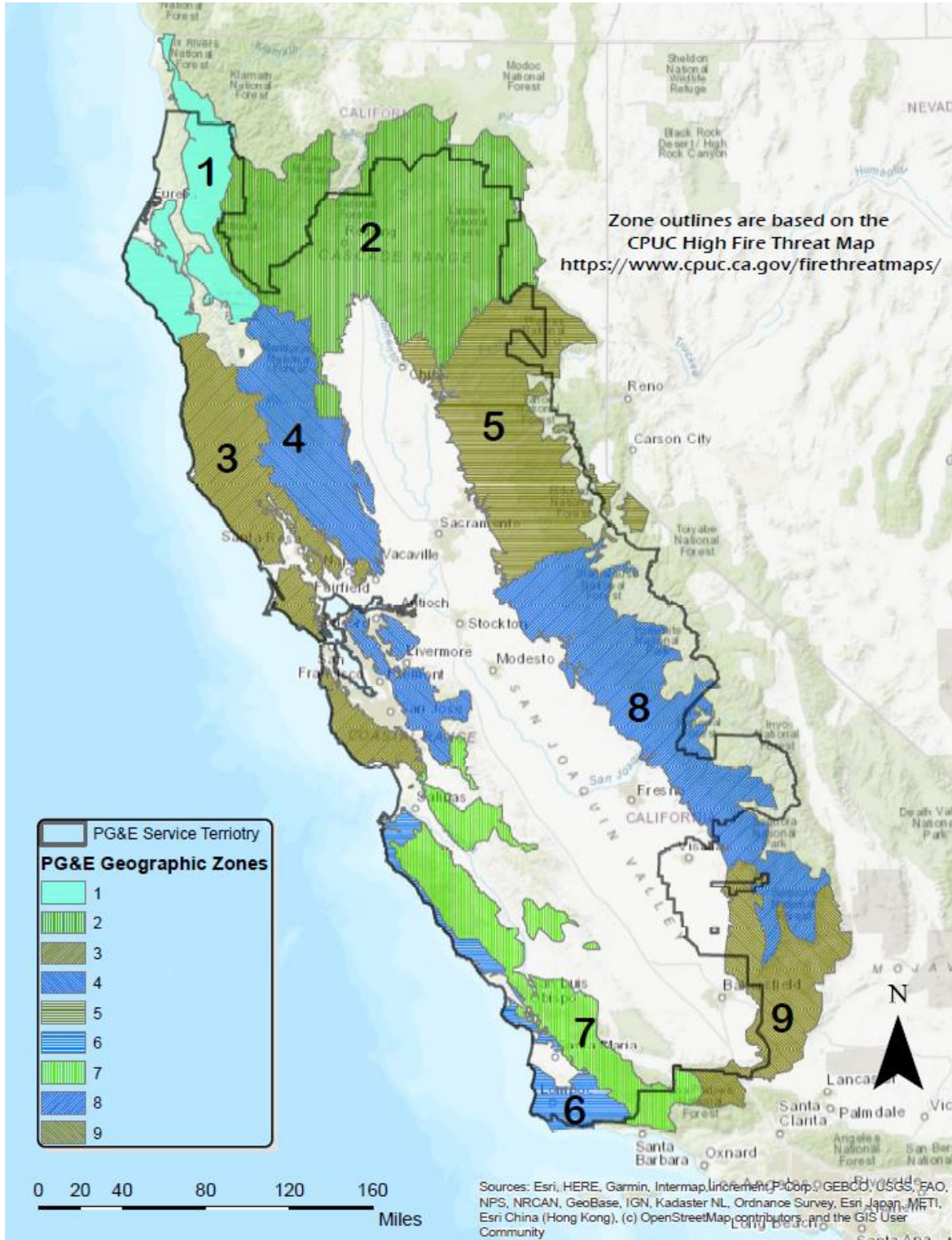
COUNTY OF SANTA CLARA
PUBLIC SAFETY POWER SHUTOFF ANNEX

A-1 Number of PG&E customers by circuit in CPUC high risk wildfire hazard tiers in/around the Town of Los Gatos. Orange: Tier 2. Red: Tier 3.





A-2 PG&E Geographic Zones



Source: PG&E Geographic Zone Map, accessed October 1, 2019. https://www.pge.com/pge_global/common/pdfs/safety/emergency-preparedness/natural-disaster/wildfires/2019-PGE-Geographic-Zones.pdf



Appendix B: PSPS Essential Elements of Information

The list below includes essential elements of information for a Public Safety Power Shutoff (PSPS) incident. The Town Manager’s Office and personnel in the Town Emergency Operations Center (EOC), when activated, may use this list as a guide in creating situational awareness and a common operating picture for the Town. However, every incident is different; EOC personnel will need to adapt this list depending on the circumstances present.

Weather Information in Advance of PG&E Notification

- Red Flag Warning issued by National Weather Service (NWS)
 - Begin date and time
 - End date and time
 - Area included in Warning
 - Expected temperatures
 - Expected humidity levels
 - Expected winds
- Sources:
 - NWS Monterey
 - 831-656-1717
 - <https://forecast.weather.gov/MapClick.php?CityName=Los+Gatos&state=CA&site=MTR&textField1=37.2267&textField2=-121.974&e=0#.X1p1fXIKiUk>
 - Northern California Fire Outlook: <https://gacc.nifc.gov/oncc/outlooks.php>


PG&E Notifications of De-Energization

- PG&E Pre-Incident Notifications
 - Date and time of notice
 - Type of notice: 72 hours 48 hours 24 hours “just before”
 - PSPS likelihood: Possible Imminent
 - Expected de-energization date and time
 - Area to be de-energized
 - Unincorporated area impacted
 - Cities or towns impacted
 - Critical infrastructure impacted
 - GIS Shapefile provided to TMO?
 - Expected duration of PSPS
 - Total population expected to be impacted?
 - People with Disabilities/Access and Functional Needs (PWD/AFN)
 - Number of Medical Baseline members in impacted area
 - Names and locations provided?
 - Other relevant information?



PG&E Community Resource Centers

- Time of set up
- Locations
- Hours
- Services available
- Center Point of Contact

 Sources: PG&E PSPS Agency Resources Portal, <https://esft.pge.com/html/skin/ric/C/login.html>

Initial Actions Taken

Town Manager's Office

- Executive Team Meeting
- Public Information campaign initiated
- EOC activation
- Local Emergency Proclamation
- Disaster Service Workers activated
- Contracts/MOUs invoked
- Mutual Aid invoked

State Proclamation of Emergency

- Local Government Requests
- County Request
- State Response

De-Energization Impacts

Critical Health Care Facilities

- Hospitals
- EMS
- Residential Care Facilities
- Health care clinics/Dialysis Centers
- Residents with medical conditions requiring electricity

People with Disabilities/Access and Functional Needs (PWD/AFN)

- Number and location of people dependent on electrical power for medical devices who need assistance
- Others needing assistance
- Assistance needed
- Assistance provided
- Other relevant information

Critical Facilities (non-Health care)

- Running without generator power
- Running with generator power



- Fuel needs
- Other needs
- Transportation
 - Roads
 - Public transportation
 - Airports
- Communications status
 - 9-1-1
 - 800 MHz
 - AlertSCC
 - Cell towers
 - Internet
 - ARES/RACES
 - Other

Resource Needs

- Types
 - Generators
 - Fuel
 - Potable Water
 - Food
 - Medical
 - Wastewater
 - Other
- Resources Requested
 - Requested
 - Received
 - En route

PG&E Re-Energization Notifications

- Re-Energization Expected
 - Date and time of notice
 - Type of notice: 1 hour before Electricity Re-Energized
 - Expected re-energization date and time
 - Area to be re-energized
 - Expected duration of PG&E system inspection
 - Sources: PG&E PSPS Agency Resources Portal
- PG&E Requests for Town Re-energization Assistance
 - Nature of request



- Response to request

Recovery

- Town Re-Energization and Short-Term Recovery Plan Developed
- Need for Recovery Unit
- Need for Recovery Facilities
 - Local Assistance Centers
 - Other facilities
- Additional Recovery Needs
 - County
 - Local governments



Appendix C: Non-Stafford Act Recovery Resources

C-1 Federal Programs

AGENCY	PROGRAM	SUPPORT FOR		MORE INFORMATION
		Individuals or Businesses	Government	
US Department of Agriculture (USDA)	Business and Industrial Loans (guaranteeing loans to lenders for rural businesses).	YES	NO	https://www.rd.usda.gov/programs-services/business-industry-loan-guarantees
	Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish	YES	NO	https://www.fsa.usda.gov/programs-and-services/disaster-assistance-program/emergency-assist-for-livestock-honey-bees-fish/index
	Emergency Conservation Program for Agricultural Producers (gives ranchers and farmers funding and assistance to repair drought-damaged farmland or to install water conservation methods)	YES	NO	https://www.fsa.usda.gov/programs-and-services/conservation-programs/emergency-conservation/index
	Emergency Forest Restoration Program (authorizes payments to owners of private forests to restore disaster-damaged forests)	YES	NO	https://www.fsa.usda.gov/programs-and-services/disaster-assistance-program/emergency-forest-restoration/index
	Farm Emergency Loans (when a natural disaster is designated by Secretary of Agriculture)	YES	NO	https://www.fsa.usda.gov/programs-and-services/farm-loan-programs/emergency-farm-loans/index
	Farm Labor Housing Loan and Grant program	YES	NO	https://www.rd.usda.gov/programs-services/farm-labor-housing-direct-loans-grants/wa
	Farm Operating Loans	YES	NO	https://www.fsa.usda.gov/programs-and-services/farm-loan-programs/farm-operating-loans/index
	Farm Ownership Loans	YES	NO	https://www.fsa.usda.gov/programs-and-services/farm-loan-programs/farm-ownership-loans/index



TOWN OF LOS GATOS
PUBLIC SAFETY POWER SHUTOFF ANNEX

AGENCY	PROGRAM	SUPPORT FOR		MORE INFORMATION
		Individuals or Businesses	Government	
USDA (continued)	Noninsured Crop Disaster Assistance Program (provides financial assistance to noninsurable crop producers when low yields, loss of inventory, or prevented planting occur due to natural disasters)	YES	NO	https://www.fsa.usda.gov/programs-and-services/disaster-assistance-program/noninsured-crop-disaster-assistance/index
	Rural Multi-Family Housing Loan Guarantees	YES	NO	https://www.rd.usda.gov/programs-services/multi-family-housing-loan-guarantees
	Rural Energy for America Program (REAP) Renewable Energy Systems & Energy Efficiency Improvement Guaranteed Loans & Grants in California	YES	NO	https://www.rd.usda.gov/programs-services/rural-energy-america-program-renewable-energy-systems-energy-efficiency/ca
	Rural Single-Family Housing Repair Loans & Grants	YES	NO	https://www.rd.usda.gov/programs-services/single-family-housing-repair-loans-grants
	Special Supplemental Nutrition Program for Women, Infants and Children (WIC)	YES	NO	https://www.fns.usda.gov/wic
	Supplemental Nutrition Assistance Program (SNAP)	YES	NO	https://www.fns.usda.gov/snap/supplemental-nutrition-assistance-program
	The Emergency Food Assistance Program (TEFAP)	YES	NO	https://www.fns.usda.gov/tefap/emergency-food-assistance-program
	Additional USDA programs			https://www.rd.usda.gov/programs-services/all-programs
US Department of Commerce (USDC)	Economic Adjustment Assistance (technical, planning and public works and infrastructure assistance in regions experiencing adverse economic changes)	NO	YES	https://www.eda.gov/funding-opportunities/
	Revolving Loan Fund (RLF) program	NO	YES	https://eda.gov/rlf/



TOWN OF LOS GATOS
PUBLIC SAFETY POWER SHUTOFF ANNEX

AGENCY	PROGRAM	SUPPORT FOR		MORE INFORMATION
		Individuals or Businesses	Government	
USDC (continued)	Additional Economic Development Administration (EDA) programs	NO	YES	https://restoreyoureconomy.org/index.php?src=gen_docs&ref=349&category=Main
Environmental Protection Agency	Energy Star Program	YES	NO	https://www.energystar.gov/buildings?s=mega
	Environmental Justice Small Grant Program	NO	YES	https://www.epa.gov/environmentaljustice/environmental-justice-small-grants-program
United States Department of Energy	Weatherization Assistance Program	YES	NO	https://www.energy.gov/eere/wipo/weatherization-assistance-program
Federal Emergency Management Agency	Technical Assistance to Local Government	N/A	YES	https://www.fema.gov/technical-assistance
	Pre-Disaster Mitigation Grant Assistance	YES	YES	https://www.caloes.ca.gov/cal-oes-divisions/hazard-mitigation/pre-disaster-flood-mitigation
	Disaster Recovery Assistance Information			https://www.disasterassistance.gov/
Department of Health and Human Services (HHS)	Temporary Assistance for Needy Families (TANIF) state grant program	NO	YES	https://www.acf.hhs.gov/ofa/programs/tanf
	Social Service Block Grant (SSBG) program (allows states to tailor social service programs to population needs)	YES	YES	https://www.acf.hhs.gov/ocs/programs/ssbg
	Community Services Block Grant (CSBG) program (provides funds to alleviate poverty in communities)	NO	YES	https://www.acf.hhs.gov/ocs/programs/csbg
	Substance Abuse and Mental Health Services Administration (SAMHSA) (free, confidential, 24/7 treatment referral and information service in English and Spanish for individuals and families with mental health or substance use needs)	YES	NO	https://www.samhsa.gov/find-help/national-helpline



TOWN OF LOS GATOS
PUBLIC SAFETY POWER SHUTOFF ANNEX

AGENCY	PROGRAM	SUPPORT FOR		MORE INFORMATION
		Individuals or Businesses	Government	
HHS (continued)	Low Income Home Energy Assistance Program (LIHEAP)	YES	NO	https://www.acf.hhs.gov/ocs/programs/liheap
Department of Housing and Urban Development (HUD)	Community Development Block Grant (CDBG) program	NO	YES	https://www.hudexchange.info/programs/cdbg/
	HOME program (block grant program for state and local governments to create affordable Housing for low-income households)	NO	YES	https://www.hudexchange.info/programs/home/
	HOPE Program	NO	YES	https://www.hud.gov/program_offices/public_indian_housing/programs/ph/hope6
	Housing Choice Voucher Program—Section 8 (assists low-income families and people with disabilities to afford decent, safe private housing)	YES	NO	https://www.hud.gov/topics/housing_choice_voucher_program_section_8
	Housing counseling	YES	NO	https://www.hud.gov/program_offices/housing/sfh/hcc
	Rental Assistance	YES	YES	https://www.hud.gov/topics/rental_assistance
	Self-Help Homeownership Opportunity Program (SHOP) (awards grant funds to national and regional non-profit organizations and consortia to purchase home sites and infrastructure needed to create homeownership programs for low-income persons and families)	NO	NO	https://www.hudexchange.info/programs/shop/



TOWN OF LOS GATOS
PUBLIC SAFETY POWER SHUTOFF ANNEX

AGENCY	PROGRAM	SUPPORT FOR		MORE INFORMATION
		Individuals or Businesses	Government	
Small Business Administration (SBA)	Disaster Loan Program (available if SBA Agency or Secretary of Agriculture declares a disaster)	YES	NO	https://disasterloan.sba.gov/ela/
Department of Labor	Workforce Reinvestment Act, National Dislocated Worker Grants (DWGs)	YES	YES	https://www.doleta.gov/dwgs/
	Workforce Innovation and Opportunity Act (WIOA), Adult and Youth Programs	YES	YES	https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8075 https://youth.workforcegaps.org/resources/2017/08/29/08/48/FactSheet
Department of the Treasury	Community Development Financial Institutions Program	YES	YES	https://www.cdfifund.gov/programs-training/Programs/cdfi-program/Pages/default.aspx
	Savings Bond Replacement and Reissuing	YES	NO	https://www.treasurydirect.gov/indiv/research/indepth/ebonds/res_e_bonds_eereplace.htm
Department of Veteran Affairs (VA)	Specially Adapted Housing for Disabled Veterans	YES	NO	https://www.benefits.gov/benefit/4733
	VA Home Loans	YES	NO	https://www.benefits.va.gov/homeloans/
	Burial Benefits	YES	NO	https://www.benefits.va.gov/compensation/claims-special-burial.asp



C-2 State Programs

AGENCY	PROGRAM	ASSOCIATED FEDERAL AGENCY/PROGRAM	MORE INFORMATION
California Governor’s Office of Emergency Services (Cal OES)	Overall direction for state support to affected counties	N/A	https://www.caloes.ca.gov/Governments-Tribal/Recovery
	Technical assistance to local emergency management	Federal Emergency Management Agency	https://www.fema.gov/technical-assistance
California Department of Employment Development (CDED)	Wages for dislocated workers to participate in disaster cleanup and structured work- based learning	US Department of Labor, National Dislocated Worker Grant (NDWG)	https://www.edd.ca.gov/about_edd/disaster_related_services.htm
	Unemployment Insurance (UI), Disability Insurance, or Paid Family Leave (PFL) benefits for persons impacted by disasters	N/A	https://www.edd.ca.gov/unemployment/disaster_unemployment_assistance.htm
California Department of Housing and Community Development (DHCD)	Community Development Block Program (CDBP) (partners with rural cities through creation and expansion of community and economic development opportunities for low- and moderate-income residents)	US Department of Housing and Urban Development, Community Development Block Grant Program	http://www.hcd.ca.gov/grants-funding/active-funding/cdbg.shtml
California Department of Insurance (CDI)	Provides assistance with insurance issues	N/A	1-800-927-HELP (4357); http://www.insurance.ca.gov/01-consumers/101-help/index.cfm
California Department of Social Services (CDSS)	Supplemental Nutrition Assistance Program benefit replacement (known as CalFresh in California)	US Department of Agriculture	http://www.cdss.ca.gov/inforesources/CalFresh-Outreach
	California Food Stamp Program (CFAP) (for qualified non-citizens who do not qualify for federal benefits)	N/A	http://www.cdss.ca.gov/inforesources/CalFresh/California-Food-Assistance-Program



Appendix D: Sample PSPS Public Information Messaging

D-1 Sample Public Information Talking Points

Town of Los Gatos Response to Planned Public Safety Power Shutoff (PSPS):

- On *[date]*, the Town of Los Gatos received notice from the Pacific Gas and Electric Company (PG&E) that PG&E intends to implement a Public Safety Power Shutoff of PG&E electric lines to areas within the Town due to high fire danger.
- The Town has a plan in place and will conduct a coordinated response to any power shutoff.
- PG&E estimates that *[number]* customers in the Town of Los Gatos are likely to be affected by the power shutoff. The areas affected by the shutoff include *[portion of Town]*.
- Town of Los Gatos, Town Manager's Office has developed a Public Safety Power Shutoff Plan and has put it into motion.
- We've notified and are coordinating with our local and regional response partners.
- We are coordinating public information and outreach with Town partners, so we are prepared to communicate with our community members in the event of a power shut down.

Background:

- In response to evolving weather and potential extreme fire danger, PG&E may proactively shut off power to some customers in the Town of Los Gatos.
 - Currently, PG&E is considering shutting down power to some *[elevated/extreme/elevated and extreme]* fire threat areas on the [California Public Utilities Commission High Fire Threat District map](#) shown here.
 - PG&E has stated that the power shutoff will mainly affect the *[describe area, e.g., southwestern]* portion of the Town.
- PG&E could turn off the power for safety as early as *[timeframe]*.
- PG&E has stated that it will notify the Town and PG&E customers 48 hours, 24 hours, and just prior to turning off the power. They will contact customers directly using the following means:
 - Automated calls;
 - Texts;
 - Emails;
 - Employees will go door-to-door to notify customers who have self-identified as having medical needs in the PG&E system.
- PG&E is asking customers to update their contact information at pge.com/mywildfirealerts so PG&E can keep customers informed.
- PG&E has stated that it will have to wait until the high winds die down before they can inspect power lines to restore power to effected areas. What does this mean?
 - For this particular event, PG&E expects that they will have to wait approximately *[number]* hours after they shut the power off before they can begin inspecting lines. Before PG&E can re-energize power lines, PG&E must physically inspect all lines, which is why there is a delay in restoring power.
 - PG&E currently estimates that power could be down for portions of the Town for *[time]*



frame]. PG&E is hopeful that it will be able to restore power sooner than that in more urban areas. More remote areas may take longer to inspect.

- Residents can learn if they are in a potentially impacted area by going to <https://m.pge.com/#high-fire-threat-map> and entering their address.
- PG&E has set-up a call center to provide more information:
 - o English: 1-877-660-6789
 - o Chinese: 1-800-893-9555
 - o Spanish: 1-800-660-6789
 - o Vietnamese: 1-800-298-8438.

Town of Los Gatos Response to Potential Power Shut Down:

- This afternoon, the Town of Los Gatos began its preparations for the potential shut down of PG&E power to areas of Los Gatos.
- So far, we've taken the following actions to prepare for a potential power shut down:
 - o We have implemented the Town's Public Safety Power Shutoff Plan;
 - o We have partially activated the Town's Emergency Operations Center (EOC);
 - o We've notified and are coordinating with our Town response partners;
 - o We are currently creating maps to show potential impacts to area hospitals, skilled nursing facilities, and our vulnerable populations;
 - o We are coordinating public information and outreach with Town partners and are prepared to communicate with our community members in the event that PG&E shuts off power.



D-2 Sample Media Release

FOR IMMEDIATE RELEASE

Date: *[Insert date]*

Contact: *[Insert name, email, and phone number]*

Town of Los Gatos Responds to PG&E's Potential Power Shutoff with Advanced Preparation

LOS GATOS, CA – This afternoon, the Town of Los Gatos acted promptly to prepare for the potential shut down of PG&E power to areas of Los Gatos. PG&E has notified the Town that it may activate its Public Safety Power Shutoff protocols due to extreme weather and could potentially initiate a power shutoff in the *[specify portion]* portion of Los Gatos within the next *[24 or other timeframe]* hours. The Town of Los Gatos is ready to respond to the effects of the power outage. However, the decision to turn off the power and the speed at which it is restored is managed solely by PG&E.

“We are being proactive and mobilizing our resources due to the potential power loss and increased fire threat,” stated *[position and name of source]*. “Agencies serving the Town have increased staffing resources, including adding *[strike team, task force, water tender, and an extra fire and EMS dispatcher, or other resources]* during this heightened threat.”

The Town of Los Gatos has proactively taken steps in preparation for a potential power shutoff after being notified by PG&E of its Public Safety Power Shutoff program in 2018, and of the possibility of a shutoff within the next *[24 or other timeframe]* hours. The Town has developed a Public Safety Power Shutoff Annex to the Town’s Emergency Operations Plan and has put that plan into effect. Additionally, the Town Manager’s Office has activated the Town’s Emergency Operations Center (EOC) and is actively coordinating with PG&E and with Town partners in monitoring the situation.

You can check if your home is in an area where power may be shut off on the PG&E website: *[link to map on public-facing PGE website]*. PG&E is monitoring weather patterns and will provide updates to customers and to the Town of Los Gatos when more information is available.

Town officials remind residents and visitors that it is important to have an emergency plan in place for yourself and for your loved ones. The Town recommends taking steps to prepare for a power outage, including:

Stay informed:

- Make sure you can receive updated information from PG&E by updating your contact information at www.pge.com/mywildfirealerts.
- Sign up for safety information on Nixle by texting your zip code to 888-777.
- Sign up for AlertSCC to get information on immediate threats to personal safety or property, tailored to an address you choose: <https://www.sccgov.org/sites/oes/alertscc/Pages/home.aspx>
- Santa Clara County will send a Wireless Emergency Alert (WEA) to specific areas if evacuations are ordered, intended to reach all cell phones in the area. To learn more about WEA: <https://www.fcc.gov/consumers/guides/wireless-emergency-alerts-wea>

Review your evacuation and communication plan:

- Identify several evacuation routes for your location in case roads are blocked and tell someone outside your area which routes you plan to use.



TOWN OF LOS GATOS
PUBLIC SAFETY POWER SHUTOFF ANNEX

- If you plan to evacuate by car should evacuation be needed, keep your car fueled and ready to go.
- Make a list of what you need to take with you if you have to leave your home quickly. Consider the Five P's of Evacuation: 1) People & Pets; 2) Prescriptions; 3) Papers; 4) Personal Needs; 5) Priceless Items.
- Talk to your medical provider about a power outage plan for medical devices powered by electricity and refrigerated medicines. Plan for batteries and other alternatives to meet your needs when the power goes out.
- Review the supplies you have available in case of a power outage.
 - Have flashlights with extra batteries for every household member.
 - Have enough nonperishable food and water for each person: at least a three-day supply of nonperishable food and one gallon of water per person per day for at least three days.
- Use a thermometer in the refrigerator and freezer so that you know the temperature when the power is restored. Throw out food if the temperature is 40 degrees or higher.
- Keep mobile phones and other electric equipment charged.
- Know how to manually open electric garage doors and gates.

For more information, including what to do during a power outage, visit www.ready.gov.

###



D-3 Sample Social Media Messaging

Important Notice for Town of Los Gatos Residents:

PG&E has notified Town of Los Gatos that as many as *[number of residents]* Town residents in could be without power for at least the next *[24 or other timeframe]* hours due to high fire danger.

PG&E has set-up a call center to provide more information:

- English: 1-877-660-6789
- Chinese: 1-800-893-9555
- Spanish: 1-800-660-6789
- Vietnamese: 1-800-298-8438

Español:

El Pueblo de Los Gatos informa a sus residentes que a alrededor de *[number]* personas se les pudiera suspender el servicio de electricidad y gas (PG&E) debido a una alerta por altas probabilidades de incendio.

Residentes podrían ver dichos servicios suspendidos por al menos unas *[number]* horas.

PG&E creó una línea de atención al cliente en español para ofrecer más información sobre esta situación:
1-800-660-6789



Appendix E: Town Emergency Proclamation Documents



E-1 Proclamation by the Director or Assistant Director of Emergency Services of the Existence of a Local Emergency

Proclamation by the Director or the Assistant Director of Emergency Services of the Existence of a Local Emergency

WHEREAS, Ordinance No. 8.10.035, Article A-1 of the Los Gatos Municipal Code empowers the Director of Emergency Services, or in the Director's absence the Acting Director to proclaim the existence or threatened existence of a local emergency when the Town of Los Gatos is affected or likely to be affected by a public calamity and the Town Council is not in session, and;

WHEREAS, the Director of Emergency Services of the Town of Los Gatos does hereby find; That conditions of extreme peril to the safety of people and property have arisen within the Town of Los Gatos, caused by _____ (*fire, flood, storm, mudslides, torrential rain, wind, earthquake, drought, or other causes*); which began on the _____ th day of _____, 20____ and;

That these conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the Town of Los Gatos, and;

That the Town Council of the Town of Los Gatos is not in session and cannot immediately be called into session:

NOW, THEREFORE, IT IS HEREBY PROCLAIMED that a local emergency now exists throughout the Town of Los Gatos, and;

IT IS FURTHER PROCLAIMED AND ORDERED that during the existence of said local emergency the powers, functions, and duties of the emergency organization of the Town of Los Gatos shall be those prescribed by state law, by ordinances, and resolutions of this Town, and; That this emergency proclamation shall expire in 7 days after issuance unless confirmed and ratified by the Town Council of the Town of Los Gatos.

Dated: _____ By: _____

Print Name _____

Address _____



E-2 Proclamation by the Town Council of the Existence of a Local Emergency

Proclamation by the Town Council Confirming the Existence of a Local Emergency that was proclaimed by the Director or the Acting Director of Emergency Services

WHEREAS, Ordinance No. 8.10.035, Article A-1 of the Los Gatos Municipal Code empowers the Director of Emergency Services or the Acting Director to proclaim the existence or threatened existence of a local emergency when the Town of Los Gatos is affected or likely to be affected by a public calamity and the Town Council is not in session, subject to ratification by the Town Council within seven days; and,

WHEREAS, conditions of extreme peril to the safety of people and property have arisen within the Town of Los Gatos caused by _____ (*fire, flood, storm, mudslides, torrential rain, wind, earthquake, drought, or other causes*)

Commencing on or about _____m., on the _____ day of _____, 20____, at which time the Town Council was not in session; and

WHEREAS, the Los Gatos Town Council does hereby find that the aforesaid conditions of extreme peril did warrant and necessitate the proclamation of the existence of a local emergency; and

WHEREAS, the Director of Emergency Services of the Town of Los Gatos, or the Acting Director, did proclaim the existence of a local emergency with the Town of Los Gatos on the _____ day of _____, 20_____;

NOW, THEREFORE, IT IS HEREBY PROCLAIMED AND ORDERED that said local emergency shall be deemed to continue to exist until its termination is proclaimed by the Town Council of the Town of Los Gatos, State of California.

Dated: _____

Town Council, Town of Los Gatos

Attest:

(Mayor)

Town Clerk



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/06/2020

ITEM NO: 2

ADDENDUM

DATE: October 5, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt Public Safety Power Shutoff (PSPS) Annex to the Town Emergency Operation Plan (EOP)

REMARKS:

The staff report incorrectly identified previous PSPS events in the Background section as occurring in 2020 instead of 2019.

In addition, following are additional edits that will be incorporated into the final draft of the PSPS Annex:

Section 3.2.3 – Addition of another bullet “Maintaining communication with the Town Council.”

Section 3.3.2.1 – Figure 3.1 third box in the diagram include “Town Council” directly after Town Manager’s Office briefs.

Section 3.3.2.3 – First paragraph addition of new second sentence, “The Town Executive Team is comprised of Directors, Assistant Directors, Senior Managers and critical positions as determined by the Town Manager.”

Section 3.4.1 - Addition of another bullet, “Management Section shares communication with the Town Council.”

Section 4.1 – Table 4.1 under Notification Phase include additional bullet, “Update the Town Council.”

PREPARED BY: Arn Andrews Assistant Town Manager Hannah Tarling Emergency Services Coordinator

Reviewed by: Town Manager and Town Attorney

PAGE 2 OF 2

SUBJECT: Adopt PSPS Annex to the Town EOP

DATE: September 10, 2020

Glossary – Addition of Executive Team description as follows, “The Town Executive Team is comprised of Directors, Assistant Directors, Senior Managers and other critical positions as determined by the Town Manager.”

Attachment Received Previously with Staff Report:

1. PSPS Annex



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/06/2020

ITEM NO: 3

DATE: September 29, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Approve the Mayor's Recommendation to Create and Appoint a Town Council Ad Hoc Committee to Study Wildfire Mitigation in the Wildland Urban Interface (WUI)

RECOMMENDATION:

Approve the Mayor's recommendation to create and appoint a Town Council Ad Hoc Committee to study wildfire mitigation in the Wildland Urban Interface (WUI).

BACKGROUND:

Over the last several years the Town Council has taken policy and budgetary action to address the Town's significant risk of wildfire. Of note, the following recent actions were taken:

- April 2019: Town adopts Annex 9 of the Santa Clara County Community Wildfire Protection Plan (CWPP).
- October 2019: Town Council accepts Wildland Urban Interface (WUI) Evacuation Assessment Report.
- November 2019: Town Council amends Chapter 11 (Garbage, Refuse, and Weeds) of the Town Code, expanding the definition of weeds.
- January 2020: Town Council takes several actions:
 - Amends Chapter 9 (Fire Protection and Protection) of the Town Code and adopts a 5-foot nonflammable zone requirement around new structures in the WUI. Council also adopts language which require defensible space beyond property lines in certain circumstances.

PREPARED BY: Arn Andrews
Assistant Town Manager

Reviewed by: Town Manager and Town Attorney

BACKGROUND (continued):

- Amends Chapter 11 of the Town Code (Garbage, Refuse, and Weeds) and increases required weed abatement along roadways from 5 feet to 10 feet.
 - Amends Chapter 29 of the Town Code (Tree Protection) and categorizes trees removed or maintained in the furtherance of defensible space as exceptions to tree protections.
- April 2020: Council authorizes the sale of property at Winchester and Lark to the Santa Clara County Fire District. Transaction sets the stage for County Fire to build a state-of-art fire station at the location and house significant wildfire fighting equipment in Town.
 - June 2020: Council budget actions include:
 - \$250,000 toward 11 miles of roadside fuel reduction in the WUI
 - \$1.5 million toward rehabilitating portions of Shannon Road
 - \$500,000 toward ecological assessment and first year of fuel removal in Town owned open space

While the aforementioned actions will serve the Town well, there are additional mitigation efforts the Town could consider. The establishment of a Town Council Ad Hoc Committee to study these issues would give priority attention to the risk of wildfire and provide a comprehensive report of recommendations to the Town Council for subsequent consideration.

DISCUSSION:

The Mayor is requesting this Ad Hoc Committee study a broad variety of wildfire mitigation policy and project options to improve the Town's wildfire resiliency. The Committee would examine best practices of similar WUI communities, lessons learned from recent fires, and other relevant areas of wildfire science. The Committee would compile a report which lists short, medium, and long-range mitigation options. Similar to other Town documents which address deferred street maintenance or unfunded liabilities, this report will provide the Council with an understanding of the types of projects and associated costs that achieve greater wildfire resiliency.

The timeline for the Committee will be completion of the report in December 2020 to align with the annual Strategic Priority and budget development process. The composition of the Committee is recommended to include:

- Mayor Marcia Jensen and Vice Mayor Barbara Spector
- Assistant Town Manager Arn Andrews and Director of Parks and Public Works Matt Morley

DISCUSSION (continued):

- Two resident members who reside in the WUI and are Community Emergency Response Team (CERT) certified
 - Rob Stump
 - Brad Gordon
- Assistant Santa Clara County Fire Chief Brian Glass

In preparation for the convening of the Committee, staff has already identified the following dates for initial meetings: October 21, 2020, November 9, 2020, and November 16, 2020. Additional meetings will be scheduled as needed to meet the deadline for the completion of the Committee's work.

CONCLUSION:

Approval of the Ad Hoc Wildfire Committee will give priority attention to the risk of wildfire and further the Town's wildfire mitigation efforts.

COORDINATION:

This staff report was coordinated with the Town Manager and Town Attorney.

FISCAL IMPACT:

There is no fiscal impact associated with the creation of the Committee.

ENVIRONMENTAL ASSESSMENT:

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



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/6/2020

ITEM NO: 4

DATE: September 30, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Following Actions for the Local Roadway Safety Plan (PPW Project Number 812-0132):

- a. Review and Approve the Scope of Services for a Request for Proposals (Attachment 1) to Prepare a Local Roadway Safety Plan.
- b. Authorize the Town Manager to Negotiate and Execute a Consultant Agreement for Preparing the Local Roadway Safety Plan with the Highest Scored Proposer in an Amount Not to Exceed \$80,000.

RECOMMENDATION:

Authorize the following actions for the Local Roadway Safety Plan (PPW Project Number 812-0132):

- a. Review and approve the scope of services for a Request for Proposals (Attachment 1) to prepare a Local Roadway Safety Plan.
- b. Authorize the Town Manager to negotiate and execute a Consultant Agreement for preparing the Local Roadway Safety Plan with the highest scored proposer in an amount not to exceed \$80,000.

BACKGROUND:

In October 2019 the State Department of Transportation (Caltrans) announced a call for Local Roadway Safety Plan (LRSP) applications. This is a new initiative in the State's Highway Safety Improvement Program (HSIP). Starting in 2022, a complete LRSP will be required for an agency to be eligible to apply for HSIP funds. To assist local agencies developing their safety plans, Caltrans has set aside a total of \$10 million. Town staff requested the maximum per agency grant amount of \$72,000.

PREPARED BY: Ying Smith
Transportation and Mobility Manager

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

BACKGROUND (continued):

On December 4, 2019, Caltrans informed staff that the Town was selected for funding for the implementation of a Local Roadway Safety Plan in an amount of \$72,000, with a 10% (\$8,000) local match requirement. The Local Roadway Safety Plan is included in the Town's adopted FY 2020/21-2024/25 Capital Improvement Program (CIP).

DISCUSSION:

A Local Roadway Safety Plan (LRSP) provides a framework for organizing stakeholders to identify, analyze, and prioritize roadway safety improvements on local and rural roads. Preparing an LRSP provides an opportunity to address unique roadway safety needs in Los Gatos while contributing to the success of the State's Strategic Highway Safety Plan.

Staff is considering a process that is tailored to the community's needs and issues. It would begin with safety data analysis and stakeholder engagement, resulting in the selection of areas of emphasis. Examples of areas of emphasis may include places that experience unsafe speeds, pedestrian safety, and intersection accidents. The process would further help the Town Council to prioritize future safety improvements on the local streets. The scope of work identified in the Request for Proposals (RFP) reflects this approach to ensure the consultant's work satisfactorily meets Caltrans' LRSP requirements.

The Town has received HSIP grants in the past. The completion of an LRSP will ensure that the Town continues to meet the eligibility requirement to apply and receive HSIP funds in the future. In addition, the LRSP will build the foundation for a comprehensive identification of safety issues and subsequent development of improvements.

CONCLUSION:

Approval of the staff recommendations would enable the start of the work to prepare a Local Road Safety Plan.

COORDINATION:

This report was coordinated with Caltrans, the Town Attorney's Office, and the Finance Department.

FISCAL IMPACT:

Project 812-0132 Local Roadway Safety Plan in the Fiscal Year 2020/21 – 2024/25 Capital Improvement Program Budget has sufficient budget for the consultant contract.

FISCAL IMPACT (continued):

Local Roadway Safety Plan Project 821-0132		
	Budget	Costs
Grant Fund (HSIP)	\$ 72,000	
GFAR	\$ 28,000	
Total Budget	\$ 100,000	
Proposed Contract		\$ 80,000
Total Expenditures		\$ 80,000
Remaining Budget		\$ 20,000

ENVIRONMENTAL ASSESSMENT:

The recommended action is not a project as defined under CEQA, and no further action is required.

Attachment:

1. Draft Request for Proposals - Local Roadway Safety Plan

TOWN OF LOS GATOS
DEPARTMENT OF PARKS AND PUBLIC WORKS
41 MILES AVENUE, LOS GATOS, CA 95030

REQUEST FOR PROPOSALS

Local Roadway Safety Plan

FEDERAL PROJECT NUMBER: LRSPL-5067(023)

PROPOSAL SUBMITTAL DEADLINE:

DATE: November 4, 2020

TIME: Noon, 12:00 pm



RFP

Town of Los Gatos
Request for Proposals - Local Roadway Safety Plan

TABLE OF CONTENTS

- I. Introduction
- II. Project Description and Background
- III. Scope of Work
- IV. Conflict of Interest Requirements
- V. Rights of the Town of Los Gatos
- VI. Insurance Requirements
- VII. Public Nature of Proposal Material
- VIII. Collusion
- IX. Disqualification

Appendix A – Proposal Requirements

Appendix B – Proposal Evaluation

Attachment 1 – Town of Los Gatos Local Roadway Safety Plan Funding Request Form

Attachment 2 – Town of Los Gatos Studies and Documents

Traffic Around Schools Study 2016

2018 Student Transportation Survey

Connect Los Gatos Community Engagement Plan

2020 Community Survey

2020 Bicycle and Pedestrian Master Plan Update

Attachment 3 – Sample Contract Agreement

Attachment 4 – Required Local Assistance Procedures Manual Exhibits

I. INTRODUCTION

The Town of Los Gatos (Town) is requesting proposals (RFP) for roadway safety and transportation engineering services.

The Local Roadway Safety Plan will be funded with Local and State dollars requiring the Consultant to follow all pertinent local, State, and Federal laws and regulations. Because DBE contract goals are not required for state-only funded contracts, **DBE participation is not required for this project, however, it is encouraged.**

The Consultant shall meet the appropriate minimum qualifications as required by this contract.

Total amount payable to the Consultant shall not exceed \$80,000. The performance period is no greater than twelve (12) months, with a project schedule determined by the Town and the select Consultant.

The proposals submitted in response to this RFP will be used as a basis for selecting the Consultant for this project. The Consultant's proposal will be evaluated and ranked according to the criteria provided in Appendix B, Proposal Evaluation, of this RFP.

Addenda to this RFP, if issued, will be posted on the Town of Los Gatos' website at:

<https://www.losgatosca.gov/2258/RFPREQ>

It shall be the Consultant's responsibility to check the above website to obtain any addenda that may be issued.

Table 1 shows the RFP and selection timeline. Proposals received after the time and date specified above will be considered nonresponsive and will not be considered.

Table 1 - RFP and Selection Timeline

Task	Deadline
Request for Proposal	October 7, 2020
Questions from Proposer	October 13, 2020
Town Response to Questions from Proposers	October 20, 2020
Deadline for Proposal Submittals	Noon, November 4, 2020
Virtual Interview (if necessary)	November 12 - 13, 2020
Scope Refinement and Negotiation	November 16 - 20, 2020
Notice to Proceed (tentative)	November 30, 2020
Final Delivery (tentative)	November 30, 2021

Proposers are requested to submit the proposal in electronic format in one of the following ways:

- Send the proposals via email (file size is limited to 25MB); or
- Upload to your own file sharing website or FTP site and send a link via email

The email address for electronic submittals is:

Ying C. Smith
Transportation and Mobility Manager
YSmith@LosGatosCA.gov

Hard copies of the proposals will not be accepted. If found necessary, the Town may request hard copies after the deadline. Any proposals received prior to the time and date specified in Table 1 may be withdrawn by written request of the proposer. To be considered, however, any modified proposal must be received before the RFP submittal deadline.

Unsigned proposals or proposals signed by an individual not authorized to bind the prospective Consultant will be considered nonresponsive and rejected.

The prospective Consultant is advised that should this RFP result in recommendation for award of a contract, the contract will not be in force until it is approved and fully executed by the Town.

All products used or developed in the execution of any contract resulting from this RFP will remain in the public domain at the completion of the contract.

Any questions related to this RFP shall be submitted in writing to the attention of Ying Smith via email at YSmith@losgatosca.gov by the deadline shown on Table 1. No oral questions or inquiries to other individuals about this RFP shall be accepted.

II. PROJECT DESCRIPTION AND BACKGROUND

The Town was awarded a Caltrans Highway Safety Improvement Program (HSIP) grant to prepare a Local Road Safety Plan. Preparing a LRSP provides an opportunity to address unique roadway safety needs in Los Gatos while contributing to the success of the State's a Strategic Highway Safety Plan.

Attachment 1 includes the Town of Los Gatos Local Roadway Safety Plan Funding Request Form.

The development of the LRSP should follow a process that is tailored to the community's needs and issues. It will begin with safety data analysis, includes stakeholder engagement, and result in the selection of emphasis areas. The process will further help the Town Council to prioritize future safety improvements on the local streets. The scope of work identified in the RFP

reflects this approach and will ensure the consultant's work satisfactorily meets Caltrans' LRSP requirements.

Los Gatos has benefited from a very engaged community. The stakeholders for this project will be the Complete Streets and Transportation Commission, the Los Gatos – Monte Serene Safe Route to School, local schools and neighborhood organizations. A list of relevant studies prepared by the Town are included in Attachment 2.

III. SCOPE OF WORK

General:

The Consultant selected shall provide the professional engineering services necessary to complete the contract documents and tasks to complete a Local Roadway Safety Plan for the Town of Los Gatos.

The work shall comply with the requirements of all of the following without limitation, and shall apply to this RFP and any subsequent contract as though incorporated herein by reference:

- Federal laws
- State laws
- Local laws
- Rules and regulations of governing utility districts
- Rules and regulations of the Town of Los Gatos

A preliminary scope of services is included in the Town's Safety Plan Funding Request Form in Attachment 1. Tasks and deliverables are further described below. The Consultant shall review the preliminary scope of services, tasks and deliverables and shall include any modifications, recommendations, additions, deletions, as the Consultant believes prudent for the project in the Consultant's proposal. For each task/sub-task listed below, (or as modified by the Consultant in the proposal), the proposal shall indicate the anticipated resource allocation that will be assigned to the task/sub-task and the number of hours anticipated for each. The final scope of services shall be developed with the Town during the final contract negotiations with the selected Consultant and shall be included in the final contract for services.

1. Visioning, Project Initiation & Management

Through a community engagement process, the Town will establish a vision statement for the Local Road Safety Plan. The development of the vision statement will be a collaborative effort by Town staff and the safety partners, with direction from the Town Council. The Consultant will support staff in finalizing the vision statement and collaboration with the safety partners.

Deliverable(s):

- 1.1 Provide input to the draft vision statement for the Local Road Safety Plan
- 1.2 Final Scope of Work
- 1.3 Project Management

2. Safety Data Analysis

Town staff completed the initial data screening using the Transportation Injury Mapping System (TIMS). The Consultant will combine the data with available land use and roadway data to analyze contributing factors and pull out the most pertinent trends.

This step will also include a review of the studies in Attachment 2, which provide the planning background and existing efforts. The Consultant may also consult the Police Department and other partners to gain better understanding of the trends and context. The Consultant will analyze the Town's street network to identify locations with the most risk factors. If necessary, the Consultant will carry out qualitative data collection efforts, such as walk audit and intercept surveys, with support from Town staff and volunteers.

Deliverable(s):

- 2.1 Contextual and Roadway Data
- 2.2 Collision Analysis

3. Selection of Emphasis Areas

This step should include the evaluation of other locations that match the profiles/contextual characteristics of collisions identified in Task 2, but have not had Killed or Seriously Injured (KSI) collisions during study period. The Consultant should evaluate geographic locations and collision types that are of specific interest based on systemic evaluation and collaboration with staff and stakeholders. Based on the evaluation and stakeholder input, the Consultant will identify a preliminary list of emphasis areas and recommend the high priority areas.

The Local Road Safety Plan will include multiple emphasis areas. Each area will be identified with a description, a goal, and strategies. The Local Road Safety Plan will support the Town of Los Gatos in strategically addressing transportation safety on the local roads.

Deliverable(s):

- 3.1 Systemic Evaluation
- 3.2 Recommendation for high priority emphasis areas

4. Report Documentation

The Consultant will prepare a draft report summarizing the findings and the selection of the Emphasis Areas. The Local Road Safety Plan will include multiple emphasis areas. Each area will be identified with a description, a goal, and strategies. The report should also provide

documentation of the analysis and process. The Consultant will finalize the report upon receiving comments from Town staff.

Deliverable(s):

- 4.1 Draft Report
- 4.2 Final Report

5. Community Engagement Support

Town staff will play a lead role in community engagement, as described in the following section, Work to be performed by the Agency. The Consultant will provide support and attend public meetings as requested by Town staff, following the community engagement plan.

The Consultant will prepare project materials to be used in engagement efforts, such as project factsheet, presentations, Questions and Answers, and website contents. The Consultant will also be requested to comment on the project materials prepared by staff.

Deliverable(s):

- 5.1 Attend two virtual public meetings, such as community meeting, Commission meeting and/or Council meeting.
- 5.2 Electronic materials to support outreach efforts

Work to be performed by the Agency

Coordination:

The Town shall provide coordination between the Consultant and the office of Caltrans Local Assistance, the Town Council, and the stakeholders.

Community Engagement:

Community engagement for this project should follow the framework identified in the Connect Los Gatos Community Engagement Plan, adopted by Town Council in March 2020. The Town intends to build on the extensive engagement efforts in the recent years and strengthen the relationship with the stakeholders. Town staff will prepare a community engagement plan for this project, provide coordination with the stakeholders, schedule necessary outreach events and community meetings, and provide periodic reports to the Town Council and the Commissions.

IV. CONFLICT OF INTEREST REQUIREMENTS

The Consultant shall also provide possible mitigation efforts, if any, to eliminate or avoid any actual or perceived conflicts of interest.

If a Consultant discovers a conflict during the execution of an assigned task order, the Consultant must immediately notify the Caltrans Contract Manager regarding the conflicts of interest. The Caltrans Contract Manager may terminate the Contract involving the conflict of

interest and Caltrans may obtain the conflicted services in any way allowed by law. Failure by the Consultant to notify Caltrans Contract Manager may be grounds for termination of the contract for default pursuant to the Contract Agreement.

No person shall offer, give or agree to give any Town employee any gratuity, discount or offer of employment in connection with the award of contract by the Town. No Town employee shall solicit, demand, accept or agree to accept from any other person a gratuity, discount or offer of employment in connection with a Town contract.

V. RIGHTS OF THE TOWN OF LOS GATOS

This RFP does not commit the Town to award a contract, to pay any costs incurred in the preparation of a proposal for this request, or to procure or contract for services. The Town reserves the right to:

- Make the selection based on its sole discretion;
- Reject any and all proposals;
- Issue subsequent Requests for Proposals;
- Postpone opening proposals for its own convenience;
- Remedy errors in the Request for Proposals process;
- Approve or disapprove the use of particular subconsultants;
- Negotiate with any, all or none of the Proposers regarding project scope;
- Accept other than the lowest cost offer;
- Waive informalities and irregularities in the Proposals; and/or
- Enter into an agreement with another Proposer in the event the originally selected Proposer defaults or fails to execute an agreement with the Town.

An agreement shall not be binding or valid with the Town unless and until it is executed by authorized representatives of the Town and of the Proposer.

VI. INSURANCE REQUIREMENTS

The selected Proposer(s), at Proposer's sole cost and expense and for the full term of the agreement or any extension thereof, shall obtain and maintain, at a minimum, all of the insurance requirements as outlined in the sample contract in Attachment 3.

All policies, endorsements, certificates and/or binders shall be subject to the approval of the Town of Los Gatos as to form and content. These requirements are subject to amendment or waiver, if so approved in writing by the Town of Los Gatos. The selected Proposer agrees to provide the Town with a copy of said policies, certificates and/or endorsement upon award of Agreement.

VII. PUBLIC NATURE OF PROPOSAL MATERIAL

Responses to this RFP become the exclusive property of the Town of Los Gatos. At such time as the Town awards a contract, all proposals received in response to this RFP become a matter of public record and shall be regarded as public records, with the exception of those elements in each proposal which are defined by the Proposer as business or trade secrets and plainly marked as "Confidential," "Trade Secret," or "Proprietary." The Town shall not in any way be liable or responsible for the disclosure of any such proposal or portions thereof, if they are not plainly marked as "Confidential," "Trade Secret," or "Proprietary," or if disclosure, in the Town's sole discretion, is required under the California Public Records Act as addressed below. Any proposal which contains language purporting to render all or significant portions of the proposal "Confidential," "Trade Secret," or "Proprietary" shall be regarded as non-responsive.

Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the Town of Los Gatos may determine, in its sole discretion that the information that a Proposer submits is not a trade secret. If a request is made for information marked "Confidential," "Trade Secret," or "Proprietary," the Town shall provide the Proposer who submitted the information reasonable notice to allow the Proposer to seek protection from disclosure by a court of competent jurisdiction, at the Proposer's sole expense.

VIII. COLLUSION

By submitting a proposal, each Proposer represents and warrants that its proposal is genuine and made in the interest of or on behalf of any person named therein; that the Proposer has not directly induced or solicited any other person to submit a sham proposal or any other person to refrain from submitting a proposal; and that the Proposer has not in any manner sought collusion to secure any improper advantage over any other person submitting a proposal.

IX. DISQUALIFICATION

Factors, such as, but not limited to, any of the following, may disqualify a proposal without further consideration:

- Evidence of collusion, directly or indirectly, among Proposers in regard to the amount, terms or conditions of this proposal;
- Any attempt to improperly influence any member of the evaluation team;
- Existence of any lawsuit, unresolved contractual claim or dispute between Proposer and the Town;
- Evidence of incorrect information submitted as part of the proposal;
- Evidence of Proposer's inability to successfully complete the responsibilities and obligations of the proposal; and
- Proposer's default under any previous agreement with the Town.

APPENDIX A – PROPOSAL REQUIREMENTS

These guidelines are provided for standardizing the preparation and submission of Proposal/Proposals by all Consultants. The intent of these guidelines is to assist Consultants in preparation of their proposals, to simplify the review process, and to help assure consistency in format and content.

Proposals shall contain the following information in the order listed:

1. Introductory Letter

The introductory (or transmittal) letter shall be addressed to:

Ms. Ying C. Smith
Transportation and Mobility Manager
YSmith@LosGatosCA.gov

The letter will address the Consultant's understanding of the services being requested and any other pertinent information the Consultant believes should be included. All addendums received must be acknowledged in the transmittal letter.

The letter shall be signed by the individual authorized to bind the Consultant to the proposal.

2. Consultant Information, Qualifications & Experience

The Town will only consider submittals from Consultants that demonstrate they have successfully completed comparable projects. These projects must illustrate the quality, type, and past performance of the project team. Submittals shall include a detailed description of a minimum of three (3) projects within the past five (5) years which include the following information:

1. Contracting agency
2. Contracting agency Project Manager
3. Contracting agency contact information
4. Contract amount
5. Funding source
6. Date of contract
7. Date of completion
8. Consultant Project Manager and contact information
9. Project Objective
10. Project Description
11. Project Outcome

3. Organization and Approach

- a. Describe the roles and organization of your proposed team for this project. Indicate the composition of subcontractors and number of project staff, facilities available and experience of your team as it relates to this project.
- b. Describe your project and management approach. Provide a detailed description of how the team and scope of work will be managed.
- c. Describe the roles of key individuals on the team. Provide resumes and references for all key team members. Resumes shall show relevant experience, for the Project's Scope of Work, as well as the length of employment with the proposing Consultant. Key members, especially the Project Manager, shall have significant demonstrated experience with this type of project, and should be committed to stay with the project for the duration of the project.

4. Scope of Work

- a. Include a detailed Scope of Work Statement describing all services to be provided.
- b. Describe project deliverables for each phase of your work.
- c. Describe your cost control and budgeting methodology for this project.

5. Schedule of Work

Provide a detailed schedule for all phases of the project and the proposing Consultant's services including time for reviews and approvals. The overall schedule shall be within twelve (12) months from the date of the notice-to-proceed.

6. Staff Qualifications and Approach

Provide information on the relevant experience, specific qualifications, and technical expertise of the Project Manager and key personnel in conducting similar services. Describe the Project Manager's and key personnel's familiarity of project and understanding of work completed to date and project objectives moving forward. Describe the roles of key individuals on the team and the resources allocated.

7. Conflict of Interest Statement

The proposing Consultant shall disclose any financial, business or other relationship with the Town that may have an impact upon the outcome of the contract or the construction project. The Consultant shall also list current clients who may have a financial interest in the outcome of this contract or the construction project that will follow. The proposing Consultant shall disclose any financial interest or relationship with any construction company that might submit a bid on the construction project.

8. Litigation

Indicate if the proposing Consultant was involved with any litigation in connection with prior projects. If yes, briefly describe the nature of the litigation and the result.

9. Contract Agreement

Indicate if the proposing Consultant has any issues or needed changes to the proposed contract agreement included as Attachment 3.

The Consultant shall provide a brief statement affirming that the proposal terms shall remain in effect for ninety (90) days following the date proposal submittals are due.

10. Federal-Aid Provisions

The proposing Consultant's services are State funded, which necessitate compliance with additional requirements. Special attention is directed to the Local Assistance Procedures Manual Exhibit (LAPM). The proposing Consultant shall complete and submit the following forms with the proposal to be considered responsive. These forms and instructions are provided for the proposer in Attachment 4.

- Disclosure of Lobbying Activities (LAPM 10-Q)
- Cost proposals per Sample Cost Proposal Exhibit 10-H (Sample #1)

Upon award and through completion of the project, the successful proposing Consultant will be required to follow applicable federal-aid requirements and shall complete and submit with the agreement the following forms at the time of award:

- Exhibit 10-K Consultant Certification of Contract Costs and Financial Management System
- Any other relevant forms required during the project.

Consultant shall demonstrate familiarity of providing services for similar projects and have a clear understanding of requirements/needs to facilitate the project through Caltrans Local Assistance and Local Assistance Procedures Manual.

11. Cost Proposal

In order to assure that the Town of Los is able to acquire professional services based on the criteria set forth in the Brooks Act and Government Code 4526, the proposal shall include a cost proposal for each task included in the proposal. Proposing Consultants will be required to submit certified payroll records, as required. The consultant performs the services stated in the contract for an agreed amount as compensation, including a net fee or profit. Reference sample cost estimate in Attachment 4 LAPM 10-H, Example #1. Consultant shall prepare a Lump Sum Fee estimate with progress payments at defined milestones/tasks.

APPENDIX B – PROPOSAL EVALUATION

Evaluation Process

All proposals will be evaluated by a Town of Los Gatos Selection Committee (Committee). The Committee may be composed of Town staff and other parties that may have expertise or experience in the services described herein. The Committee will review the submittals and will rank the proposers. The evaluation of the proposals shall be within the sole judgment and discretion of the Committee. All contacts during the evaluation phase shall be through the Town’s Project Manager only. Proposers shall neither contact nor lobby evaluators during the evaluation process. Attempts by Proposer to contact members of the Committee may jeopardize the integrity of the evaluation and selection process and risk possible disqualification of Proposer.

The Committee will evaluate each proposal meeting the qualification requirements set forth in this RFP.

The selection process should include oral interviews in a virtual format. The consultant will be notified of the time and format of oral interviews and if any additional information that may be required to be submitted.

Evaluation Criteria

Proposals will be evaluated according to the Evaluation Criteria and scored on a zero- to five-point rating. The scores for all the Evaluation Criteria will then be multiplied according to their assigned weight to arrive at a weighted score for each proposal, per Table 2. A proposal with a high weighted total will be deemed of higher quality than a proposal with a lesser-weighted total. The final maximum score for any project is five hundred (500) points.

		Rating Scale
0	Not Acceptable	Non-responsive, fails to meet RFP specifications. The approach has no probability of success. For mandatory requirement this score will result in disqualification of proposal.
1	Poor	Below average, falls short of expectations, is substandard to that which is the average or expected norm, has a low probability of success in achieving project objectives per RFP.
2	Fair	Has a reasonable probability of success, however, some objectives may not be met.
3	Average	Acceptable, achieves all objectives in a reasonable fashion per RFP specification. This will be the baseline score for each item with adjustments based on interpretation of proposal by Evaluation Committee members.

4	Above Average/ Good	Very good probability of success, better than that which is average or expected as the norm. Achieves all objectives per RFP requirements and expectations.
5	Excellent/ Exceptional	Exceeds expectations, very innovative, clearly superior to that which is average or expected as the norm. Excellent probability of success and in achieving all objectives and meeting RFP specification.

Table 2 - Evaluation Criteria and Respective Weights

No.	Written Evaluation Criteria	Weight
0	Completeness of Response	Pass/Fail
1	Consulting Firm's Experience	10
2	Team Qualifications & Experience	15
3	Organization & Approach	10
4	Scope of Services to be Provided	15
5	Schedule of Work	5
6	Cost	30
7	References	5
8	Conflict of Interest Statement	Pass/Fail
Subtotal:		90

No.	Interview Evaluation Criteria	Weight
9	Presentation by team	5
10	Q&A Response to panel questions	5
Subtotal:		10
Total:		100

0. Completeness of Response (Pass/Fail)

Responses to this RFP must be complete. Responses that do not include the proposal content requirements identified within this RFP and subsequent addenda and do not address each of the items listed below will be considered incomplete, be rated a Fail in the Evaluation Criteria and will receive no further consideration.

1. Consulting Firm's Experience

Relevant experience in preparing LRSP's that meet Caltrans' and other agencies' requirements, specific qualifications, and technical expertise of the firm, the key personnel assigned to the project, and sub-consultants to conduct similar services on both federal and nonfederal-aid projects.

2. Team Qualifications & Experience

- a. Roles and Organization of Proposed Team
 - i. Proposes adequate and appropriate disciplines of project team.
 - ii. Some or all of team members have previously worked together on similar project(s).
 - iii. Overall organization of the team is relevant to the Town's needs.
- b. Roles of Key Individuals on the Team
 - i. Proposed team members, as demonstrated by enclosed resumes, have relevant experience for their role in the project.
 - ii. Key positions required to execute the project team's responsibilities are appropriately staffed.
- c. Working Relationship with Town of Los Gatos
 - i. Team and its leaders have experience working in the public sector and knowledge of public sector procurement process.
 - ii. Team leadership understands the nature of public sector work and its decision-making process.
 - iii. Familiarity with the Los Gatos community and key stakeholders.

3. Organization & Approach

- a. Describes familiarity with this specific project and demonstrates understanding of project objectives moving forward as a federally funded project. Demonstrates a thorough review and evaluation of the RFP "Requested Scope of Services"
- b. Roles and Organization of Proposed Team
 - i. Proposes adequate and appropriate disciplines of project team.
 - ii. Some or all of team members have previously worked together on similar project(s).
 - iii. Overall organization of the team is relevant to Town of Los Gatos - Parks and Public Works Department needs.
- c. Project and Management Approach
 - i. Team is managed by an individual with appropriate experience in similar projects. This person's time is appropriately committed to the project.
 - ii. Project team and management approach responds to project issues. Team structure provides adequate capability to perform both volume and quality of needed work within project schedule milestones.
- d. Roles of Key Individuals on the Team
 - i. Proposed team members, as demonstrated by enclosed resumes, have relevant experience for their role in the project.
 - ii. Key positions required to execute the project team's responsibilities are appropriately staffed.

4. Scope of Services to be Provided

- a. Detailed Scope of Services to be Provided
 - i. Proposed scope of services is appropriate for all phases of the work.

- ii. Scope addresses all known project needs and appears achievable in the timeframes set forth in the project schedule.
- b. Project Deliverables
 - iii. Deliverables are appropriate to schedule and scope set forth in above requirements.
 - iv. Reflects the priorities identified by the Town and the appropriate allocation of resources based on the priorities and levels of complexity.
 - v. Provides the best value to the Town within the budget limit.
- c. Cost Control and Budgeting Methodology
 - vi. Proposer has a system or process for managing cost and budget.
 - vii. Evidence of successful budget management for a similar project.

5. Cost

Total amount payable to the Consultant shall not exceed \$80,000.

6. Schedule of Work

- a. Schedule shows completion of the work within or preferably prior to the Town of Los Gatos overall time limits as specified in Table 1.
- b. The schedule serves as a project timeline, stating all major milestones and required submittals for project management and Federal-Aid compliance.
- c. The schedule should reflect a well-organized approach. It should be reasonable and addresses potential risk factors, including both known and unknown challenges.

7. Conflict of Interest Statement (Pass/Fail)

- a. Discloses any financial, business or other relationship with the Town of Los Gatos that may have an impact upon the outcome of the contract or the construction project.
- b. Lists current clients who may have a financial interest in the outcome of this contract or the construction project that will follow.
- c. Discloses any financial interest or relationship with any construction company that might submit a bid on the construction project.

8. References

- a. Completeness of information provided regarding references as outlined in the RFP.
- b. Evaluation of references and project information provided from at least three (3) agencies you currently or have previously consulted for in the past five (5) years.

9. Presentation by Team at Interview

- a. Presentation is given by project team members and is clear, concise, and focused on the project.
- b. Team presentation conveys project understanding, communication skills, innovative ideas, critical issues and solutions.

10. Q&A Response to Panel Questions

Proposer's project team members provide comprehensive, well versed, and educated responses to various interview panel questions.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/06/2020

ITEM NO: 5

DATE: September 30, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Accept the Completion of Work Performed by Syserco Energy Solutions, Inc. for PPW Job No. 411-821-2008 Energy Efficiency Upgrades

RECOMMENDATION:

Accept the completion of work performed by Syserco Energy Solutions, Inc. for PPW Job No. 411-821-2008 Energy Efficiency Upgrades.

BACKGROUND:

At the October 2, 2018 Town Council Meeting, Council authorized the Town Manager to execute an Energy Services Agreement with Syserco Energy Solutions, Inc. for the design, installation, and commissioning of heating, ventilation and air conditioning (HVAC), building envelope, and lighting improvements at various Town facilities for a total project cost not to exceed \$1,664,358.

The delivery method chosen for the project was taken from a specific section of the California Government Code (4217.10 et seq) that allows for entering into design-build energy services contracts where the Town would work directly with a licensed contractor to develop and complete energy efficiency projects.

DISCUSSION:

Syserco Energy Solutions, Inc. has satisfactorily completed all of the work for the project for a final contract amount of \$1,664,358. PG&E has completed its project verification report and approved the On-Bill Financing zero percent loan in the amount of \$1,560,335.60. The check was delivered to the Town on August 9, 2020. The execution and recordation of the Certificate of Acceptance is now required to finalize the Town's acceptance of the project.

PREPARED BY: Jim Harbin
Superintendent

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

SUBJECT: Accept the Completion of Work Performed by Syserco Energy Solutions, Inc. for PPW
Job No. 411-821-2008 Energy Efficiency Upgrades

DATE: September 30, 2020

CONCLUSION:

Staff recommends accepting the completion of work performed by Syserco Energy Solutions, Inc. called for in the agreement with the Town of Los Gatos dated September 19, 2018. The Town will pay back the loan through payments on the PG&E bill for each location where work was done. The energy savings over the loan period are calculated to be less than the cost of the total financed improvements. However, all the improvements will ultimately be financed through anticipated energy savings.

FISCAL IMPACT:

Staff completed the project within the approved budget as shown below. The savings will go to the GFAR fund balance.

Energy Efficiency Upgrades - Town-wide Project 821-2008		
	Budget	Costs
GFAR	\$1,696,687	
Total Project Budget	\$1,696,687	
Syserco Energy Solutions		\$1,664,358
Advertising		\$139
Total Project Costs		\$1,664,497
Project Savings		\$32,190

ENVIRONMENTAL ASSESSMENT:

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



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/06/2020

ITEM NO: 6

DATE: September 28, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Consider Approval of Amendments and Introduce the Draft Ordinance by Title Only to Amend Chapter 29 (Zoning Regulations) of the Town Code Regarding Outdoor Lighting and Modifications to the Residential Design Guidelines, Town-Wide. Town Code Amendment Application A-20-005. Applicant: Town of Los Gatos.

RECOMMENDATION:

Consider approval of amendments and introduce the draft Ordinance by title only to amend Chapter 29 (Zoning Regulations) of the Town Code regarding outdoor lighting and modifications to the Residential Design Guidelines (Attachments 2 and 3).

BACKGROUND:

On October 22, 2019, the Town Council Policy Committee discussed Town Code Section 29.10.09015, which limits outdoor lighting and prohibits “shoestring lights.” The Policy Committee passed a motion to temporarily suspend the prohibition of shoestring lighting, while the Town considered new lighting regulations for different zones throughout Town, as described in the meeting minutes (Attachment 4, Exhibit 2).

On November 25, 2019 and January 28, 2020, the Town Council Policy Committee discussed and provided direction on potential outdoor lighting regulation modifications in order to better reflect the current interest in decorative string lighting while limiting light impacts on neighbors, as described in the meeting minutes (Attachment 4, Exhibits 3 and 4).

On July 28, 2020, the Town Council Policy Committee discussed the matter and recommended the modifications to the Town Code and Residential Design Guidelines for Planning Commission and Town Council consideration.

PREPARED BY: JENNIFER ARMER, AICP
Senior Planner

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

PAGE 2 OF 3

SUBJECT: Amendments of Chapter 29 (Zoning Regulations) of the Town Code Regarding
Outdoor Lighting and Modifications to the Residential Design Guidelines.

DATE: September 28, 2020

DISCUSSION:

On August 26, 2020, the Planning Commission reviewed the proposed Town Code amendments regarding outdoor lighting and the modifications to the Residential Design Guidelines (Attachment 2 and 3). The discussion by the Planning Commission included a recommendation that in addition to the modifications to Town Code and the Residential Design Guidelines recommended by the Policy Committee, the Town Council also consider adding light regulations based on a numerical measurement of type or intensity of the light, and adding a definition of “decorative lighting.” Staff can bring these back under a separate amendment, if directed by Council.

The Planning Commission had no recommendations for modifications to the draft Ordinance language and modifications to the Residential Design Guidelines and forwarded a recommendation of approval to the Town Council. Attachment 5 contains the verbatim minutes for the Planning Commission meeting.

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 1);
2. Make the required finding that the amendments to Chapter 29 of the Town Code regarding outdoor lighting are consistent with the General Plan (Attachment 1); and
3. Make the required finding that the modifications to the Residential Design Guidelines are consistent with the General Plan (Attachment 1);
4. Adopt a Resolution to modify the Residential Design Guidelines (Attachment 2), with any specific changes identified and agreed upon by the majority of the Town Council; and
5. Introduce the Ordinance of the Town of Los Gatos effecting the amendments of the Town Code regarding outdoor lighting A-20-005 (Attachment 3), 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.

PAGE 3 OF 3

SUBJECT: Amendments of Chapter 29 (Zoning Regulations) of the Town Code Regarding
Outdoor Lighting and Modifications to the Residential Design Guidelines.

DATE: September 28, 2020

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. Required Findings
2. Draft Resolution
3. Draft Ordinance
4. August 26, 2020 Planning Commission Staff Report with Exhibits 1 through 8
5. August 26, 2020 Planning Commission Verbatim Minutes

TOWN COUNCIL – October 6, 2020
REQUIRED FINDINGS FOR:

Town Code Amendment Application A-20-005

Consider Approval of Amendments and Introduce the Draft Ordinance by Title Only to Amend Chapter 29 (Zoning Regulations) of the Town Code Regarding Outdoor Lighting and Modifications to the Residential Design Guidelines, Town Wide. Town Code Amendment Application A-20-005. Applicant: Town of Los Gatos.

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 are consistent with the General Plan.
- The proposed modifications to the Residential Design Guidelines are consistent with the General Plan.

***This Page
Intentionally
Left Blank***

RESOLUTION 2020-

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
APPROVING AMENDMENTS TO CHAPTER 3 OF THE RESIDENTIAL
DESIGN GUIDELINES IN REGARDS TO OUTDOOR LIGHTING.**

Draft Resolution to be modified by Town Council deliberations and direction.

WHEREAS, the Residential Design Guidelines were adopted by the Town Council in October 2008; and

WHEREAS, on October 22, 2019, the Town Council Policy Committee held a public hearing to consider possible changes to the current regulations on outdoor lighting and prohibition of “shoestring lights.” The Policy Committee continued the matter to November 28, 2019, and directed staff to bring back possible modifications to Town Code and the Residential Design Guidelines for further discussion; and

WHEREAS, staff prepared draft modifications for the Policy Committee’s consideration; and

WHEREAS, on November 28, 2019, January 28, 2020, and July 28, 2020, the Policy Committee held public hearings to consider modifications to Guideline 3.11.5 of the Residential Design Guidelines; 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 26, 2020; and

WHEREAS, on August 26, 2020, the Planning Commission held a public hearing to consider modifications to Guideline 3.11.5 of the Residential Design Guidelines. The Planning Commission recommended that the Town Council approve the modifications; 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 6, 2020; 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).

ATTACHMENT 2

NOW, THEREFORE, BE IT RESOLVED:

1. The Town Council of the Town of Los Gatos adopts the modifications to Guideline 3.11.5 of the Residential Design Guidelines as follows:

...

3.11.5 Minimize exterior lighting impacts on neighbors

- All permanent exterior light fixtures should utilize shields so that no bulb is visible and to ensure that light is directed to the ground surface and does not spill light onto neighboring parcels or produce glare when seen from nearby homes.
- Decorative residential light fixtures are preferred ~~should be chosen~~ rather than strictly utilitarian security lighting fixtures.

...

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 6th day of October 2020 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: _____

***This Page
Intentionally
Left Blank***

DRAFT ORDINANCE 2020-____

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
AMENDING CHAPTER 29 (ZONING REGULATIONS) OF THE TOWN CODE REGARDING
OUTDOOR LIGHTING**

WHEREAS, Chapter 29 (Zoning Regulations) of the Town Code of the Town of Los Gatos regulates outdoor lighting and prohibits “shoestring lighting”; and

WHEREAS, on October 22, 2019, the Town Council Policy Committee held a public hearing to consider possible changes to the current regulations on outdoor lighting and prohibition of “shoestring lights.” The Policy Committee continued the matter to November 28, 2019, and directed staff to bring back possible modifications to Town Code and the Residential Design Guidelines for further discussion; and

WHEREAS, staff prepared draft modifications for the Policy Committee’s consideration; and

WHEREAS, on November 28, 2019, January 28, 2020, and July 28, 2020, the Policy Committee held public hearings to consider modifications to Sections 29.40.09015 and 29.40.025 of the Town Code; 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 26, 2020; and

WHEREAS, on August 26, 2020, the Planning Commission held a public hearing to consider modifications to Sections 29.40.09015 and 29.40.025 of the Town Code. The Planning Commission recommended that the Town Council approve the modifications; 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 6, 2020; and

WHEREAS, on October 6, 2020, the Town Council reviewed and commented on the amendments to Chapter 29 of the Town Code and the Town Council voted to introduce the Ordinance.

ATTACHMENT 3

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

SECTION I

Chapter 29 of the Los Gatos Town Code is hereby amended as follows:

ARTICLE I. – IN GENERAL

.....

Sec. 29.10.09015. - ~~Control of~~ Residential outdoor lighting.

~~Outdoor lights must be shielded and directed to shine on improvements including plants on the zoning plot where the lights are located and not directly on other property or any public right-of-way. Shoestring lighting is not permitted.~~

All permanent exterior light fixtures should utilize shields so that no bulb is visible and to ensure that light is directed to the ground surface and does not spill light onto neighboring parcels or produce glare when seen from nearby homes. Decorative lighting fixtures are preferred for security lighting fixtures.

.....

ARTICLE IV. – RESIDENTIAL ZONES

.....

Sec. 29.40.025. - Court game areas.

Tennis, volleyball, basketball, badminton and similar court game areas may be located anywhere on the lot except in the required front yard or side yard abutting the street. Fences over six (6) feet high are allowed to enclose court game areas, when approved through the Administrative Procedure for Minor Residential Projects. Lighting for court game areas is prohibited unless approved through the Administrative Procedure for Minor Residential Projects and unless it is in compliance with the following standards to the satisfaction of the Planning Director:

- (1) Game court lighting shall incorporate cut-off fixtures and lighting shall be shielded and directed onto the court.
- (2) Lighting for game court areas shall not be used after 10:00 p.m.
- (3) High-intensity lights are not permitted.
- (3)(4) Lighting in the hillside areas is prohibited. Hillside areas are defined by the hillside area map in the Hillside Development Standards and Guidelines.

.....

SECTION II

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

A. These Town Code amendments are exempt from 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 amendments to the Town Code would have a significant effect on the environment; and

B. The amendments to the Town Code are consistent with the General Plan.

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 was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 6th day of October 2020, 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 ____ day of ____ 20 . 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: _____



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 08/26/2020

ITEM NO: 2

DATE: August 19, 2020
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Forward a Recommendation to the Town Council for Approval of Amendments to Chapter 29 (Zoning Regulations) of the Town Code Regarding Outdoor Lighting and Modifications to the Residential Design Guidelines.
Location: Town Wide. Town Code Amendment Application A-20-005.
Applicant: Town of Los Gatos.

RECOMMENDATION:

Forward a recommendation to the Town Council for approval of amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding outdoor lighting and modifications to the Residential Design 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 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);
- The amendments to Chapter 29 of the Town Code are consistent with the General Plan; and
- The modifications to the Residential Design Guidelines are consistent with the General Plan.

PREPARED BY: JENNIFER ARMER, AICP
Senior Planner

Reviewed by: Planning Manager and Community Development Director

BACKGROUND:

On October 22, 2019, the Town Council Policy Committee discussed Town Code Section 29.10.09015, below, which limits outdoor lighting and prohibits “shoestring lights.” The Policy Committee motion was to temporarily suspend the prohibition of shoestring lighting while the Town considered new lighting regulations for different zones throughout Town.

On November 25, 2019, and January 28, 2020, the Town Council Policy Committee discussed and provided direction on potential outdoor lighting regulation modifications in order to better reflect the current interest in allowing decorative string lighting while limiting light impacts on neighbors.

DISCUSSION:

On July 28, 2020 the Town Council Policy Committee recommended the following modifications to the Town Code and Residential Design Guidelines. These modifications are shown below with additions underlined and deletions shown in strikethrough font.

A. Zoning Code

The following Section could be revised to read:

Sec. 29.10.09015. - ~~Control of~~ Residential outdoor lighting.

~~Outdoor lights must be shielded and directed to shine on improvements including plants on the zoning plot where the lights are located and not directly on other property or any public right-of-way. Shoestring lighting is not permitted.~~

All permanent exterior light fixtures should utilize shields so that no bulb is visible and to ensure that light is directed to the ground surface and does not spill light onto neighboring parcels or produce glare when seen from nearby homes. Decorative lighting fixtures are preferred for security lighting fixtures.

Modify the sports court lighting to prohibit high-intensity lights. The following section could be revised to read:

Sec. 29.40.025. - Court game areas.

Tennis, volleyball, basketball, badminton and similar court game areas may be located anywhere on the lot except in the required front yard or side yard abutting the street. Fences over six (6) feet high are allowed to enclose court game areas, when approved through the Administrative Procedure for Minor Residential Projects. Lighting for court game areas is prohibited unless approved through the Administrative Procedure for

DISCUSSION (continued):

Minor Residential Projects and unless it is in compliance with the following standards to the satisfaction of the Planning Director:

- (1) Game court lighting shall incorporate cut-off fixtures and lighting shall be shielded and directed onto the court.
- (2) Lighting for game court areas shall not be used after 10:00 p.m.
- (3) High-intensity lights are not permitted.
- (4) Lighting in the hillside areas is prohibited. Hillside areas are defined by the hillside area map in the Hillside Development Standards and Guidelines.

B. Residential Design Guidelines

Residential Design Guideline 3.11.5 could be revised to read:

Minimize exterior lighting impacts on neighbors:

- All permanent exterior light fixtures should utilize shields so that no bulb is visible and to ensure that light is directed to the ground surface and does not spill light onto neighboring parcels or produce glare when seen from nearby homes.
- Decorative residential light fixtures are preferred ~~should be chosen~~ rather than strictly utilitarian security lighting fixtures.

PUBLIC COMMENTS:

Public comments received by 11:00 a.m., Friday, August 21, 2020 are included as Exhibit 8.

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 of the amendments to Chapter 29 of the Town Code in the Draft Ordinance and the modifications proposed to the Residential Design Guidelines. 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);

CONCLUSION (continued):

2. Make the required finding that the amendments to Chapter 29 of the Town Code in the Draft Ordinance are consistent with the General Plan (Exhibit 1);
3. Make the required finding that the modifications to the Residential Design Guidelines are consistent with the General Plan (Exhibit 1);
4. Forward a recommendation to the Town Council for approval of the amendments to Chapter 29 of the Town Code in the Draft Ordinance (Exhibit 6); and
5. Forward a recommendation to the Town Council for approval of the proposed modifications to the Residential Design Guidelines (Exhibit 7).

B. Alternatives

Alternatively, the Commission can:

1. Forward a recommendation to the Town Council for approval of the Draft Ordinance and proposed modifications to the Residential Design Guidelines with modifications; or
2. Forward a recommendation to the Town Council for denial of the Draft Ordinance and proposed modifications to the Residential Design Guidelines; or
3. Continue the matter to a date certain with specific direction.

EXHIBITS:

1. Required Findings
2. Town Council Policy Committee Minutes, October 22, 2019
3. Town Council Policy Committee Minutes, November 25, 2019
4. Town Council Policy Committee Minutes, January 28, 2020
5. Town Council Policy Committee Minutes, July 28, 2020
6. Draft Ordinance
7. Draft Modifications to the Residential Design Guidelines
8. Public comments received by 11:00 a.m., Friday, August 21, 2020

PLANNING COMMISSION – August 24, 2020
REQUIRED FINDINGS FOR:

Town Code Amendment Application A-20-005

Consider amendments to Chapter 29 of the Town Code regarding Outdoor Lighting and proposed modifications to the Residential Design 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 amendments to Chapter 29 of the Town Code are consistent with the General Plan.
- The proposed modifications to the Residential Design Guidelines are consistent with the General Plan.

EXHIBIT 1

***This Page
Intentionally
Left Blank***



**Minutes of the Regular Town Council Policy Committee Meeting
October 22, 2019**

The Town Council Policy Committee of the Town of Los Gatos conducted a regular meeting on Tuesday, October 22, 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; Robert Schultz, Town Attorney; Joel Paulson, Community Development Director; Matt Morley, Parks and Public Works Director; Monica Renn, Economic Vitality Manager; Gitta Ungvari, Finance and Budget Manager; Holly Zappala, Management Analyst.

CONSENT ITEMS

1. Approve the Draft Minutes of September 24, 2019.

Approved.

VERBAL COMMUNICATIONS

Sarah Chaffin

- Commented regarding amending the Town's Below Market Price guidelines to allow teachers and other professions to be able to qualify.

The Committee requested that this item be placed on the agenda for the November Policy Committee meeting.

David Propach

- Commented regarding a policy change to allow a combined pottery shop and real estate office use on the ground floor in the Central Business District Commercial Zone.

OTHER BUSINESS

2. Discuss and Provide Direction of the Application of the Traffic Impact Policy and Associated Fees.

Monica Renn, Economic Vitality Manager, presented the staff report.

After discussion, the Committee agreed to forward a recommendation to the Town Council to modify the Traffic Impact Policy to be applied Town-wide to new square footage only. The Committee also requested that staff bring forward additional information in the Council report regarding (1) the loss of fees when a similar change was made for the downtown and (2) how the Traffic Impact Policy and fee would work if the Town switched from measuring vehicle trips based on the Institute of Transportation Engineers (ITE) standards to a vehicle miles traveled (VMT) approach.

3. Discuss Town Code Section 29.10.09015 regarding “shoestring lights,” and forward a recommendation to the Planning Commission and Town Council to remove the provision prohibiting them.

Monica Renn, Economic Vitality Manager, presented the staff report.

After discussion, the Committee agreed to forward a recommendation to the Town Council to revoke Section 29.10.09015 – Control of Outdoor Lighting of the Town Code and suspend the prohibition on shoestring lighting pending consideration of the new ordinance. The Committee requested that staff return with new draft ordinance language to regulate outdoor lighting by zone.

ADJOURNMENT

The meeting adjourned at 5:47 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the October 22, 2019 meeting as approved by the Town Council Policy Committee.

/s/ Holly Zappala, Management Analyst



Minutes of the Special Town Council Policy Committee Meeting
November 25, 2019

The Town Council Policy Committee of the Town of Los Gatos conducted a special meeting on Monday, November 25, 2019, at 4:00 p.m.

MEETING CALLED TO ORDER AT 4:00 P.M.

ROLL CALL

Members Present: Marcia Jensen, Barbara Spector.

Staff Present: Laurel Prevetti, Town Manager; Robert Schultz, Town Attorney; Joel Paulson, Community Development Director; Sally Zarnowitz, Planning Manager; Holly Zappala, Management Analyst.

CONSENT ITEMS

1. Approve the Draft Minutes of October 22, 2019.

Approved.

VERBAL COMMUNICATIONS

None.

OTHER BUSINESS

Mayor Jensen requested Item 3 be reviewed first.

3. **Discuss and Provide Direction on Potential Outdoor Lighting Regulation Modifications.**

Joel Paulson, Community Development Director, presented the staff report.

After discussion, the Committee asked staff to return to the Committee with revised proposed lighting regulations, similar to the City of Campbell's Lighting Design Standards, including the following considerations:

- Regulate lighting by zone or district
- Distinguish between permanent and temporary lighting
- Eliminate vague language

- Update terminology to include modern types of signs and eliminate obsolete references
- Maintain Hillside restrictions and adjust language to ensure enforceability
- Reduce restrictions on commercial signage
- Allow projected wall art as part of a Special Event Permit
- Consider allowing string lighting on private property on a permanent basis

2. Provide Direction on Potential Modifications to the Below Market Price Housing Program Regulations.

Joel Paulson, Community Development Director, presented the staff report.

Sarah Chaffin

-Commented that the Town's Below Market Price Housing Guidelines should allow eligibility for households who earn up to 120% or 150% of the Area Median Income (AMI) to accommodate people in households unable to afford housing in Los Gatos at market rate, but with incomes too high to qualify at the current 80% AMI eligibility limit (the "missing middle").

After discussion, the Committee asked staff to return to the Committee with revised proposed Below Market Price Housing Program Guidelines, including increasing the eligibility limit to 120% AMI, adjusting the requirements for purchases and rentals to correspond with each other, and making other revisions as identified by Committee members.

ADJOURNMENT

The meeting adjourned at 5:04 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the November 25, 2019 meeting as approved by the Town Council Policy Committee.

/s/ Holly Zappala, Management Analyst



**Minutes of the Town Council Policy Committee Regular Meeting
January 28, 2020**

The Town Council Policy Committee of the Town of Los Gatos conducted a regular meeting on Tuesday, January 28, 2020, 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; Robert Schultz, Town Attorney; Joel Paulson, Community Development Director; Sally Zarnowitz, Planning Manager; Monica Renn, Economic Vitality Manager; Jennifer Armer, Senior Planner; Holly Zappala, Management Analyst.

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

- 1. Approve the Draft Minutes of December 10, 2019.**
- 2. Approve the Town Council Policy Committee Meeting Schedule for 2020.**

Approved.

VERBAL COMMUNICATIONS

None.

OTHER BUSINESS

- 3. Discuss and Provide Direction on Potential Modifications to the Below Market Price Housing Program Regulations.**

Joel Paulson, Community Development Director, presented the staff report.

After discussion, the Committee asked staff to return to the Committee with revised proposed Town Code amendments and Below Market Price Housing (BMP) Guidelines, including increasing the household income requirement for BMP ownership to 120% of the Median Family Income to match the BMP rental requirement. The Committee requested clarification on questions regarding requiring BMPs in continuum care facilities and assigning preferences to applicants. The Committee agreed that the Town should modify

the Code and BMP Guidelines, while the Town's BMP housing provider, currently Hello Housing, may contribute an administrative appendix to the Guidelines.

4. Discuss and Provide Direction on Potential Outdoor Lighting Regulation Modifications.

Jennifer Armer, Senior Planner, was present to address questions.

After discussion, the Committee asked staff to send the Committee via email revised language, including consistent wording in the proposed Ordinance and the Residential Design Guidelines, and removal of the distinction of "holiday" or "patio" lights. Upon approval of the emailed language, the Committee agreed to forward a recommendation to the Planning Commission to approve the proposed modifications.

5. Discuss the Town's Interpretation of "Used Vehicles" in the Town Code and Determine if an Exemption for Indoor Showrooms is Appropriate.

Monica Renn, Economic Vitality Manager, presented the staff report.

Rodney Butterfield

-Commented that his company sells used cars, and they are high-end, restored vintage and sports racing cars. His customer base is collectors. He said that his showrooms look more like an antique art gallery as opposed to a used car lot.

John Eichinger

-Commented that he believes the addition of Mr. Butterfield's business would be an enhancement to downtown Los Gatos.

After discussion, the Committee agreed to forward a recommendation to the Planning Commission to amend Town Code Section 29.20.185, Table of Conditional Uses Section 7 to eliminate the word "new" from section (a) and entirely eliminate section (b) requiring used vehicle sales and rentals to be incidental to new vehicle sales.

6. Identify Future Work Plan Items for the Council Policy Committee.

Holly Zappala, Management Analyst, presented the staff report.

David Weissman

-Commented that the Town should revise its defensible space requirements in conjunction with the Hillside Development Standards and Guidelines Visibility Analysis as the two are tied together in practice.

PAGE 3 OF 3

SUBJECT: Minutes of the Regular Town Council Policy Committee Meeting of January 28,
2020

DATE: July 28, 2020

After discussion, the Committee agreed that the potential items for 2020 recommended by staff be added to the work plan for the Policy Committee in 2020 and each item be examined as it aligns with the Town's Strategic Priorities.

ADJOURNMENT

The meeting adjourned at 6:07 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the January 28, 2020 meeting as approved by the Town Council Policy Committee.

Holly Zappala, Management Analyst

***This Page
Intentionally
Left Blank***



**Minutes of the Town Council Policy Committee Regular Meeting
July 28, 2020**

The Town Council Policy Committee of the Town of Los Gatos conducted a regular meeting on Tuesday, July 28, 2020, at 5:00 p.m. via teleconference.

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

ROLL CALL

Members Present: Marcia Jensen, Barbara Spector.

Staff Present: Laurel Prevetti, Town Manager; Robert Schultz, Town Attorney; Joel Paulson, Community Development Director; Jennifer Armer, Senior Planner; Jocelyn Shoopman, Associate Planner; Holly Zappala, Management Analyst.

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

1. Approve the Draft Minutes of January 28, 2020.

Approved.

VERBAL COMMUNICATIONS

David Weissman

- Commented that Item #2 was placed on the Policy Committee agenda as a result of comments he had made at a prior Town Council meeting. He requested that when items are placed on an agenda that have been prompted by a comment from a speaker at a public meeting that the speaker be given advance notice of the item's placement on the agenda.

OTHER BUSINESS

2. Discuss and Provide Direction on Potential Modifications to the Hillside Development Standards and Guidelines Regarding Visibility.

In light of Mr. Weissman's comment, the Committee requested that this item be continued to the August Policy Committee meeting to allow sufficient time for review. The Committee also requested that Mr. Weissman be notified of the date and time of the August meeting once determined.

PAGE 2 OF 2

SUBJECT: Minutes of the Regular Town Council Policy Committee Meeting of July 28, 2020

DATE: August 11, 2020

3. Discuss and Provide Direction to Staff on Potential Outdoor Lighting Regulation Modifications.

Jennifer Armer, Senior Planner, presented the staff report.

After discussion, the Committee agreed to forward a recommendation to the Planning Commission to approve the proposed modifications.

ADJOURNMENT

The meeting adjourned at 5:18 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the July 28, 2020 meeting as approved by the Town Council Policy Committee.

Holly Zappala, Management Analyst

CHAPTER 29. – ZONING REGULATIONS

ARTICLE I. – IN GENERAL

DIVISION 1. - MISCELLANEOUS

Sec. 29.10.09015. - ~~Control of~~ Residential outdoor lighting.

~~Outdoor lights must be shielded and directed to shine on improvements including plants on the zoning plot where the lights are located and not directly on other property or any public right-of-way. Shoestring lighting is not permitted.~~

All permanent exterior light fixtures should utilize shields so that no bulb is visible and to ensure that light is directed to the ground surface and does not spill light onto neighboring parcels or produce glare when seen from nearby homes. Decorative lighting fixtures are preferred for security lighting fixtures.

(Ord. No. 1316, § 3.47.010, 6-7-76; Ord. No. 1335, 10-4-76)

ARTICLE IV. – RESIDENTIAL ZONES

DIVISION 1. - GENERALLY

Sec. 29.40.025. - Court game areas.

Tennis, volleyball, basketball, badminton and similar court game areas may be located anywhere on the lot except in the required front yard or side yard abutting the street. Fences over six (6) feet high are allowed to enclose court game areas, when approved through the Administrative Procedure for Minor Residential Projects. Lighting for court game areas is prohibited unless approved through the Administrative Procedure for Minor Residential Projects and unless it is in compliance with the following standards to the satisfaction of the Planning Director:

- (1) Game court lighting shall incorporate cut-off fixtures and lighting shall be shielded and directed onto the court.
- (2) Lighting for game court areas shall not be used after 10:00 p.m.
- (3) High-intensity lights are not permitted.
- ~~(3)~~(4) Lighting in the hillside areas is prohibited. Hillside areas are defined by the hillside area map in the Hillside Development Standards and Guidelines.

(Ord. No. 1316, § 4.10.015, 6-7-76; Ord. No. 1335, 10-4-76; Ord. No. 1950, § I, 7-19-93; Ord. No. 2100, § I, 7-1-02)

***This Page
Intentionally
Left Blank***

RESIDENTIAL DESIGN GUIDELINES

3.11.5 Minimize exterior lighting impacts on neighbors

- All permanent exterior light fixtures should utilize shields so that no bulb is visible and to ensure that light is directed to the ground surface and does not spill light onto neighboring parcels or produce glare when seen from nearby homes.
- Decorative residential light fixtures are preferred ~~should be chosen~~ rather than strictly utilitarian security lighting fixtures.

***This Page
Intentionally
Left Blank***

Jennifer Armer

From: Lee Fagot <leefagot@gmail.com>
Sent: Tuesday, July 28, 2020 5:30 PM
To: Joel Paulson; Jennifer Armer
Cc: Laurel Prevetti; Marcia Jensen; Barbara Spector
Subject: Policy Meeting Item 3 - New Lighting ordinance

I had raised my hand to speak on item 3 at today's Policy Meeting, but apparently missed the Mayor's attention. My comment was to be focused on how to be able to objectively enforce the lighting impact on neighbors. Is it possible to measure lumens of light at a specific distance from the source to determine if TOO bright? This is similar to the method of measuring noise from sources that could impact adjoining properties or neighborhoods?

Perhaps this could be included in the wording of the proposal that will come to this committee or the Council at their next meeting?

Take care and be safe, folks.

Lee Fagot
845 Lilac Way
408 828 7080 cell

***This Page
Intentionally
Left Blank***

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S:

Los Gatos Planning Commissioners:
Melanie Hanssen, Chair
Kathryn Janoff, Vice Chair
Mary Badame
Jeffrey Barnett
Kendra Burch
Matthew Hudes
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
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S:

CHAIR HANSSEN: We will now move on to the Public Hearings portion of the agenda and we will consider Agenda Item 2, which is forwarding a recommendation to the Town Council for approval of the amendments to Chapter 29, which are zoning regulations of the Town Council, regarding outdoor lighting, and there are also modifications to the Residential Design Guidelines for Outdoor Lighting as well.

The location is Town-wide, the Town Code Amendment Application is A-20-005, and the Applicant is Town of Los Gatos.

I understand that Ms. Armer will be giving the Staff Report this evening.

JENNIFER ARMER: Yes, good evening. Jennifer Armer, Senior Planner.

The item before you this evening is a combination of changes to the code and to the Residential Design Guidelines in regard to outdoor lighting; these are based on recommendations from the Town Council Policy Committee. They met several times near the end of last year and then another two times this year to consider what types of changes might bring the code more in alignment with the

1 Residential Design Guidelines so that there is consistency
2 as well as more appropriate wording to allow things like
3 shoestring lighting, previously prohibited, which they felt
4 was no longer applicable in town.

5 The Staff Report includes descriptions of changes
6 to the Zoning Code and changes to the Residential Design
7 Guidelines that are recommended based on the recommendation
8 from Town Council Policy Committee. Staff recommends that
9 the Planning Commission review the information provided in
10 the Staff Report and forward a recommendation to Town
11 Council for approval.
12

13 CHAIR HANSSEN: Thank you very much, Ms. Armer.
14 Do any of the Commissioners have questions for Ms. Armer or
15 Staff? I don't see any.

16 I did have one question for Staff and that is
17 there wasn't any mention of any changes to the commercial
18 lighting, so was this driven by a specific need to address
19 residential lighting guidelines?

20 JENNIFER ARMER: My memory of the discussion was
21 that by modifying this code that controls outdoor lighting—
22 the section of the code that's being modified because that
23 has now specifically targeted residential—it no longer
24 applies to commercial buildings and so it leaves them the
25

1 ability to do things like the shoestring lighting that was
2 previously prohibited.

3 CHAIR HANSSEN: So, basically it was driven by
4 the specific issues that were at hand and to fix those.
5 Okay. If no other Commissioners have any questions we would
6 now invite comments from the members of the public, and if
7 you are called to speak you may choose to state your name
8 and your address and you may choose to speak anonymously,
9 and you will have three minutes to make your comments.

10
11 We did have one public comment that was included
12 in our Staff Report but is there anyone that wanted to
13 speak from the public on this item tonight?

14 JOEL PAULSON: Thank you, Chair. If anyone would
15 like to speak on this item please use the Raised Hand
16 feature on Zoom. Chair, I am not seeing any raised hands.

17 CHAIR HANSSEN: All right, so then we will close
18 the public portion of the hearing and ask if any
19 Commissioners have questions of Staff, wish to comment on
20 the application, or introduce a motion for consideration by
21 the Commission? Commissioner Hudes and Commissioner Burch.
22 Commissioner Hudes first.

23 COMMISSIONER HUDES: Just a quick question
24 conveying the question that was put forward in the
25 correspondence by Lee Fagot. There is a suggestion that

1 perhaps we measure the light rather than try to regulate
2 the type of light, so for instance I don't know if high-
3 intensity light is a well-defined term but he had actually
4 suggested doing what we do with sound nuisance or noise
5 nuisance, which is to measure the noise. Is that even a
6 possibility here or is that something that's been thought
7 of?

8 JENNIFER ARMER: At this point the wording that
9 was recommended states that, "should not be producing glare
10 or seen by nearby homes," and that is based on the text
11 that we have had in the Residential Design Guidelines in
12 the code in the past, and so rather than targeting a
13 particular number it would be more about the effect of the
14 light and whether it goes onto a neighboring property.
15

16 COMMISSIONER HUDES: Okay, thank you.

17 CHAIR HANSSEN: Let's see, I think Commissioner
18 Burch had a question or a comment.

19 COMMISSIONER BURCH: So, obviously the California
20 Building Code items I'm sure are always taken into account
21 before these so we don't typically put things like required
22 foot candles, but there was one item that I wondered if we
23 had ever thought about putting this in, which is the part
24 of the code that talks about at commercial properties the
25 lighting being reduced 50-percent at close of business or

1 10:00p.m. I know that we've had other residents come before
2 us, particularly if we're looking at an upgrade with a
3 space that has like a large parking lot and lighting, that
4 have talked about the fact that the lights are very bright
5 even with the shields, as usually those are pretty bright
6 LED lights. Is that something that we could consider
7 putting in?

8 JENNIFER ARMER: It's not a topic that was
9 discussed by Policy Committee but I'd let Community
10 Development Director Paulson add if he has anything to add
11 to that.

12 JOEL PAULSON: Commissioner Burch, so as Ms.
13 Armer said that's not something that we looked at. My
14 initial thoughts are that is something we could look at
15 moving forward. Obviously that would take some outreach to
16 the business community, and I would envision that some of
17 them may have some concerns related to security depending
18 on the type of circumstance, the type of business, but if
19 that's something that you would like Staff to look at then
20 that could be part of the recommendation from Planning
21 Commission to Council, and then that would require further
22 work.

23 COMMISSIONER BURCH: May I follow up, Madam
24 Chair?

1 CHAIR HANSSEN: Yes.

2 COMMISSIONER BURCH: Well, I think my question
3 was more of since it's already actually in the Building
4 Code is it something that if somebody was having a
5 particular problem with a particular spot that that would
6 be enough maybe to contact the Town and Code Compliance? It
7 wasn't that we had to add in a bunch of added items, it was
8 that is just something I remember hearing a few times and
9 just wondering if there's a way to address it without
10 creating more work for you guys?
11

12 JOEL PAULSON: I would say that generally it
13 would be a code compliance issue that we would get and so
14 we would look to address that. For the newer buildings I'm
15 not sure when that requirement went into Building Code;
16 obviously they change it every three years. So, ultimately
17 we probably have a lot of existing facilities that are far
18 older than that that may not have to comply or may not have
19 the infrastructure to comply with that, but we would look
20 at that on a case-by-case basis through our Code Compliance
21 Program.

22 COMMISSIONER BURCH: Thank you.

23 CHAIR HANSSEN: Let's see, Commissioner Barnett.

24 COMMISSIONER BARNETT: Yes, if I'm reading this
25 right, new language proposed by the Policy Committee would

1 make decorative lighting preferred over security lighting
2 fixtures and I'm wondering where that came from, seeing
3 that security is generally primary?

4 JENNIFER ARMER: Similar language to that has
5 actually been in the regulations or at least the
6 guidelines, the idea being that if there is going to be
7 lighting on residences it could be something that is for
8 the purpose of security but that it should be decorative in
9 nature as part of the Residential Design Guidelines of
10 having good design, that it's more about the utility can be
11 done in a way that is aesthetically pleasing and consistent
12 with those guidelines.
13

14 CHAIR HANSSEN: Does that answer your question?
15 Commissioner Barnett has another question.

16 COMMISSIONER BARNETT: If I may have a follow up
17 question, the definition of decorative lighting seems to me
18 to be necessary. I don't know if that relates to lighting
19 such as for planting areas, landscaping, string lights,
20 which you mentioned, other types of lighting that's
21 basically decorative. In short, I wonder whether it would
22 be wise to include a definition of decorative lighting.
23

24 CHAIR HANSSEN: Thank you for your comment, and
25 do you have any other questions, Commissioner Barnett?

COMMISSIONER BARNETT: No, I don't.

1 CHAIR HANSSEN: Are there any other Commissioners
2 that have a question or a comment at this point? I did want
3 to ask the rest of the Commission, Commissioner Hudes did
4 bring up the comment by the member of the public about
5 considering—and this wouldn't be a today thing but
6 something to recommend to Council to continue to look at –
7 using lumens as a measure of how intense the lighting was.
8 I didn't know if any other Commissioners had any comments
9 about that, because we certainly have the opportunity in
10 addition to voting on this item in terms of a
11 recommendation to make additional recommendations. Let's
12 see, Commissioner Badame.

14 COMMISSIONER BADAME: Should we forward a
15 recommendation of approval to Town Council I would like to
16 have Commissioner Hudes' comments considered as well as
17 Commissioner Barnett's, because I find the word decorative
18 to be very subjective. What might be decorative to one
19 person is an eyesore to another.

20 CHAIR HANSSEN: I think that's a very good
21 comment. Any other thoughts on that? Okay, so if there are
22 no other comments could I get a motion on this item?
23 Commissioner Badame.

25 COMMISSIONER BADAME: I move to forward a
recommendation of approval of Town Code Amendment

1 Application A-20-005 in consideration of the comments made
2 by Commissioner Hudes and Commissioner Barnett. I can make
3 the findings for CEQA and I can also make the required
4 findings for the General Plan.

5 CHAIR HANSSEN: All right, thank you, and do I
6 have a second?

7 COMMISSIONER BARNETT: I'll second.

8 CHAIR HANSSEN: So, Commissioner Barnett seconds.
9 Are there any other questions or comments from
10 Commissioners before I call the question? Okay, once again
11 we will do a roll call vote, and we'll start with
12 Commissioner Burch.
13

14 COMMISSIONER BURCH: Yes.

15 CHAIR HANSSEN: Commissioner Tavana.

16 COMMISSIONER TAVANA: Yes.

17 CHAIR HANSSEN: Commissioner Badame.

18 COMMISSIONER BADAME: Yes.

19 CHAIR HANSSEN: Commissioner Hudes.

20 COMMISSIONER HUDES: Yes.

21 CHAIR HANSSEN: Commissioner Barnett.

22 COMMISSIONER BARNETT: Yes.

23 CHAIR HANSSEN: Vice Chair Janoff.

24 VICE CHAIR JANOFF: Yes.
25

1 CHAIR HANSSEN: And I vote yes as well, so the
2 motion passes unanimously. Mr. Paulson, are there appeal
3 rights regarding this item?

4 JOEL PAULSON: Thank you, Chair. No, there are
5 not appeal rights as this is a recommendation to the Town
6 Council, so we will forward that recommendation and the
7 Town Council will consider it.

8 CHAIR HANSSEN: Okay. Thank you very much.
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

*This Page
Intentionally
Left Blank*



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/06/2020

ITEM NO: 7

DATE: September 30, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Consider Approval of Amendments and Introduce the Draft Ordinance by Title Only to Amend Chapter 29 (Zoning Regulations) of the Town Code Regarding the Below Market Price Program and Adopt a Resolution to Modify the Below Market Price Housing Program Guidelines. Town Code Amendment Application A-20-004. Applicant: Town of Los Gatos.

RECOMMENDATION:

Consider approval of amendments and introduce the draft Ordinance by title only to amend Chapter 29 (Zoning Regulations) of the Town Code regarding the Below Market Price Program (Attachment 2) and adopt a resolution to modify the Below Market Price Housing Program Guidelines (Attachment 3).

BACKGROUND:

The Town first adopted BMP regulations in 1976 to provide the Town with a supply of affordable housing. The BMP regulations have been modified over the years since they were first adopted, with the most recent modifications to the regulations occurring in 2009.

The Town's BMP regulations have resulted in a current inventory of 55 for sale BMP units and 119 rental BMP units. The Town's administrator of the BMP Housing Program, Hello Housing, manages the daily operations of the program in partnership with the Town.

At the request of a previous Mayor, the discussion of BMP regulations was placed on the March 5, 2019 Town Council agenda. At the March 5, 2019 meeting, the Town Council discussed the matter and forwarded the item to the Town Council Policy Committee for review and recommendations.

PREPARED BY: JOCELYN SHOOPMAN
Associate Planner

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

BACKGROUND (continued):

On April 9, 2019, August 27, 2019, September 24, 2019, November 25, 2019, and January 28, 2020, the Policy Committee considered potential amendments to the Town Code regarding BMP regulations and modifications to the BMP Housing Program Guidelines.

On January 28, 2020, the Policy Committee recommended staff bring forward amendments to Chapter 29 of the Town Code regarding BMP regulations and modifications to the BMP Housing Program Guidelines for consideration by the Planning Commission and the Town Council to increase the number of BMP units built and decrease the opportunities to pay in-lieu fees, resulting in the construction of more on-site BMP units for development projects.

On August 12, 2020, the Planning Commission reviewed the proposed Town Code amendments regarding the Below Market Price Program and modifications to the Below Market Price Housing Program Guidelines (Attachment 4). Exhibit 2 contains the Town Council minutes for the March 5, 2019 meeting, and Exhibits 3 through 7 contain the Policy Committee minutes for the April 9, 2019, August 27, 2019, September 24, 2019, November 25, 2019, and January 28, 2020 meetings.

The Planning Commission recommended modifications to the draft Ordinance language and the draft BMP Housing Program and Guidelines based on the discussion at its hearing. The modifications as recommended by the Planning Commission are included in the draft Ordinance (Attachment 2) and draft BMP Housing Program and Guidelines (Attachment 3). The Planning Commission's recommended modifications are shown in black ~~strike through~~ and underline font and the additional modifications proposed by Hello Housing are shown in red ~~strike through~~ and underline font. Attachment 5 contains the verbatim minutes for the Planning Commission meeting.

As part of the larger conversation regarding Los Gatos becoming a more inclusive community, the Town hosted a community workshop regarding affordable housing on September 29, 2020. Town Manager Prevetti, Director Paulson, Town Attorney Schultz, and Associate Executive Director for West Valley Community Services Sujatha Venkatraman listened to community ideas and answered questions regarding existing program and services, State legislation, and new opportunities to increase affordable housing in Los Gatos (see Attachment 8 for the workshop summary).

DISCUSSION:

The Planning Commission raised the following questions for staff to address for the Council. Staff's response is contained below each question:

DISCUSSION (continued):

1. How does the point system account for part-time employees or self-employed persons who hold more than one job across the County?
 - a. The total number of hours worked at all jobs within the Town of Los Gatos or the total number of hours worked at all jobs within the County of Santa Clara are added together. For self-employed workers, a self-affidavit must be provided as part of the application submittal.
2. What is the mechanism to require that a second unit constructed by participating in the Incentive Program remain affordable for a minimum of 30 years?
 - a. A property owner that participates in the Incentive Program must record a deed restriction on the property that stipulates the rental rate, tenant income level, duration of affordability, and loan repayment requirement, as well as any other criteria as determined appropriate by the Town.
3. What happens to the tenant of a rental unit if their household income increases to exceed the specified Median Family Income (MFI) limit?
 - a. If a tenant's income exceeds the specified MFI limit, the rent may be increased to the average rent of similar units in the complex; in this case, the unit will no longer be a BMP unit and the next available unit that is comparable in size shall be designated as a BMP unit in its place, and must be rented to an eligible household so that the number of BMP units within the project remains the same.
4. Due to the need for more affordable housing, should the number of BMP units required for a development project be increased by an additional 10 percent?
 - a. Attachment 6 contains a comparison of affordable housing requirements for other cities located in Santa Clara County and Alameda County, prepared for the County of Santa Clara by Keyser Marston Associates in 2016. To modify the threshold for the number of BMP units required in a development project, a nexus study would be required.
5. Due to the need for more affordable housing, should the in-lieu fee be increased?
 - a. Attachment 6 contains a comparison of affordable housing requirements for other cities located in Santa Clara County and Alameda County prepared for the County of Santa Clara by Keyser Marston Associates in 2016. To modify the in-lieu fee for BMP units, a nexus study would be required.
6. Does the Town have the ability to limit the Homeowners Association (HOA) fees for a BMP unit?
 - a. The Town does not have the ability to set a maximum limit on the HOA fees for a BMP unit.

DISCUSSION (continued):

7. Does increasing the rental household annual income from no greater than 80 percent of the MFI to 120 percent of the MFI, increase the applicant pool; therefore, causing less of a preference for low and very low households?
 - a. Increasing the household income for rental units up to 120 percent of the MFI, would result in additional qualified applicants being able to submit an application for a BMP rental unit. The California Department of Housing and Community Development defines a moderate-income level as 80 percent to 120 percent of the local area median income.
8. Should the point system be modified to grant additional points to low and very low-income levels to allow a greater opportunity to participate in the program?
 - a. The Town Council may choose to modify the point system to grant additional points to low and very low-income levels. Additional analysis might be required to determine if this modification would allow low and very low-income levels a greater opportunity to participate in the program.
9. How do the BMP Housing Program and Guidelines account for the resale valuation of a BMP unit where the previous owner completed upgrades to the home?
 - a. The BMP Housing Program and Guidelines detail that BMP homeowners have the opportunity to increase their resale price to reflect pre-approved documented costs. To maintain the affordability for future BMP owners, the Town will cap all eligible capital improvements at 10 percent of the resale price.

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 1);
2. Make the required finding that the amendments to Chapter 29 of the Town Code in the Draft Ordinance are consistent with the General Plan (Attachment 1); and
3. Make the required finding that the modifications to the BMP Housing Program Guidelines are consistent with the General Plan (Attachment 1); and
4. Introduce the Ordinance of the Town of Los Gatos effecting the amendments of the Town Code regarding BMP regulations A-20-004 (Attachment 2), by title only with any specific changes identified and agreed upon by the majority of the Town Council; and
5. Adopt a Resolution approving modifications to the BMP Housing Program Guidelines (Attachment 3), with any specific changes identified and agreed upon by the majority of the Town Council.

PAGE 5 OF 5

SUBJECT: Below Market Price Program

DATE: September 30, 2020

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 and BMP Housing Program and Guidelines unchanged.

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. Required Findings
2. Draft Ordinance
3. Draft Resolution
4. August 12, 2020 Planning Commission Staff Report with Exhibits
5. August 12, 2020 Planning Commission Verbatim Minutes
6. Table V-1 of Affordable Housing Nexus Study prepared for Santa Clara County
7. Public Comment received by 11:00 a.m., October 1, 2020
8. September 29, 2020 Community Workshop Summary

TOWN COUNCIL – September 29, 2020
REQUIRED FINDINGS FOR:

Town Code Amendment Application A-20-004

Consider amendments to Chapter 29 of the Town Code regarding the Below Market Price Program and proposed modifications to the Below Market Price Housing Program 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 amendments to Chapter 29 of the Town Code are consistent with the General Plan.
- The proposed modifications to the BMP Housing Program and Guidelines are consistent with the General Plan.

ATTACHMENT 1

***This Page
Intentionally
Left Blank***

DRAFT ORDINANCE 2020-____

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
AMENDING CHAPTER 29 (ZONING REGULATIONS) OF THE TOWN CODE REGARDING
THE BELOW MARKET PRICE PROGRAM**

WHEREAS, Chapter 29 (Zoning Regulations) of the Town Code of the Town of Los Gatos regulates the Below Market Price Program; and

WHEREAS, on April 9, 2019, the Town Council Policy Committee held a public hearing to consider possible amendments to the current regulations regarding the Below Market Price Program. The Policy Committee continued the matter to August 27, 2019, and directed staff to bring back possible amendments to the Town Code and potential modifications to the Below Market Price Housing Program Guidelines for further discussion; and

WHEREAS, staff prepared draft amendments for the Policy Committee's consideration; and

WHEREAS, on August 27, 2019, September 24, 2019, November 25, 2019, and January 28, 2020, the Policy Committee held public hearings to consider amendments to Division 6 of the Town Code; 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 12, 2020; and

WHEREAS, on August 12, 2020, the Planning Commission held a public hearing to consider amendments to Division 6 of the Town Code. The Planning Commission recommended that the Town Council approve the amendments with modifications; 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 6, 2020; and

WHEREAS, on October 6, 2020, the Town Council reviewed and commented on the amendments to Chapter 29 of the Town Code and the Town Council voted to introduce the Ordinance.

ATTACHMENT 2

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

SECTION I

Chapter 29 of the Los Gatos Town Code is hereby amended as follows:

DIVISION 6. - HOUSING ASSISTANCE PROGRAM

Sec. 29.10.3000. - Intent.

This division is adopted to meet housing needs shown in the housing element of the general plan.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3005. - Below market price program—~~E~~ established.

This division establishes the below market price program (BMP).

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3010. - ~~Same Program~~—~~I~~ intent.

The below market price (BMP) program requires the provision of dwellings that persons and families of moderate and low income can afford to buy or rent, and assures to the extent possible that the resale prices of those dwellings, and rents if they are rented, will be within the means of persons and families of moderate and low income.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3015. - Application.

This division shall apply to all residential projects, mixed-use projects, multiple-family dwelling projects, residential condominium projects, condominium conversions, and ~~to all~~ residential planned development projects (d Division 2 of a Article VIII of this chapter) either approved after July 4, 1979, or whose approval includes a condition requiring the provision of BMP dwellings. ~~Projects in the R-I and HR zones are excepted from BMP participation. The exception does not apply if the project is built under the rules of an overlay zone unless the rules of the overlay zone provide otherwise.~~

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3020. - Definitions.

For the purposes of this division the following definitions shall apply:

BMP dwelling means any residential dwelling unit designated for very low, low, and moderate income persons and families under the rules of this section.

Person of moderate income means one whose income falls within the range specified by the Town Council in the resolution authorized by section 29.10.3040.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3025. - Scope.

The Below Market Price Program requirements shall apply to all residential ~~development projects, mixed-use projects, multiple-family dwelling projects, residential condominium projects, condominium conversions, and residential planned development projects~~ that include five (5) or more residential units or parcels which involve:

1. New construction of ownership or rental housing units, including mixed use developments and addition of units to existing projects, ~~or;~~
2. Subdivision of property for single family or duplex housing development, ~~or;~~
3. Conversion of rental apartments to condominiums or other common interest ownership, ~~or;~~ and
4. Conversion of non-residential use to residential use.

~~Planned development with an underlying zone of HR shall only be required to pay an in-lieu fee as established by a separate resolution.~~

The residential projects, mixed-use projects, multiple-family dwelling projects, residential condominium projects, condominium conversions, and residential planned development projects ~~developments consisting of five~~ that include (5) or more residential units are required to provide the following number of BMP units:

1. Projects containing five (5) or more but less than twenty (20) market rate units must provide a number of BMP units equal to ten (10) percent of the number of market rate units;~~;~~
2. Projects with from twenty (20) to one hundred (100) market rate units must provide BMP units as determined by the following formula:
$$\text{Number of BMP units} = .225 (\text{total \# of market rate units}) - 2.5;$$
3. All projects in excess of one hundred (100) market rate units must provide a number of BMP units equal to twenty (20) percent of the market rate units;~~;~~
4. Whenever the calculations of BMP units result in a fraction of one-half or more, the number of units to be reserved is increased to the next whole number;~~;~~ and
5. The Town, in limited circumstances, at its sole discretion, may consider an in-lieu payment alternative to the required BMP unit for a project with an underlying zone of HR. ~~in the case of Planned Unit development with an underlying zone of HR.~~ The required in-lieu fee is as established by a separate resolution and is to be paid to the Town prior to issuance of the certificate of occupancy for the market rate residential unit that triggered the BMP requirement. The provision for a BMP unit applies if the project is

built under the rules of an overlay zone unless the rules of the overlay zone provide otherwise.

BMP units shall be constructed and Certificate of Occupancies secured concurrently with or prior to the construction of the market-rate units. The BMP requirement will be calculated on the basis of the whole development. The Town Council may grant an exception to the phasing requirements during the project approval process.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3030. - Price.

The price of BMP units is controlled for the first buyer and for future buyers by the BMP Guidelines as adopted and amended from time to time by Council resolution and as follows:

1. The initial price is limited to direct construction cost and a proportionate share of the costs of preparing working drawings and specifications and providing on-site and off-site improvements, determined according to rules set by the Council;
2. The initial price does not include the cost of land, profit, or marketing costs;
3. Each BMP unit will be subjected to recorded title restrictions concerning manner of fixture sales, occupancy and leasing;
4. Each buyer of a BMP unit must agree to sell the unit to a moderate or low income buyer designated by the Town. The Town will designate moderate income persons according to rules adopted by the Council in effect at the time the seller purchased the unit;
5. The resale price cannot exceed the original selling price plus the value at the time of sale of improvements added by the owner, and plus an amount equal to the increase in cost of living or housing during the owner's tenure. The index or method to be used in calculating the increase is established by the Council;
6. If a BMP unit to be resold has not been properly maintained or for any other reason is in poor condition and in need of cleaning or repair, the Town may elect to do the work or have it done and recover the cost from the sale price limited as provided in subsection (5); and
7. The regulations will specify the period for controlled resales. The time period will be in perpetuity or for as long as is practical.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3035. - Project denial.

If an applicant for zoning approval declines to provide BMP units required by ordinance, the zoning approval shall be denied.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3040. - Administration.

The Council shall adopt by resolution regulations concerning all aspects of the BMP program, including the elements of location of the units, price, buyer eligibility standards, rent, the length of the period during which a unit will be subject to BMP restrictions, the form of recorded instruments and any other matter consistent with the provisions of this section.

(Ord. No. 2181, § III, 10-19-09)

SECTION II

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

A. These Town Code amendments are exempt from 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 amendments to the Town Code would have a significant effect on the environment; and

B. The amendments to the Town Code are consistent with the General Plan.

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 was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 6th day of October 2020 , 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 ____ day of _____ 20 . 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 2020-

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
APPROVING MODIFICATIONS TO THE BELOW MARKET PRICE
HOUSING PROGRAM AND GUIDELINES.**

Draft Resolution to
be modified by Town
Council deliberations
and direction.

WHEREAS, the Below Market Price Housing Program and Guidelines were adopted by the Town in 1976; and

WHEREAS, on April 9, 2019, the Town Council Policy Committee held a public hearing to consider possible modifications to the Below Market Price Housing Program and Guidelines. The Policy Committee continued the matter to August 27, 2019, and directed staff to bring back possible modifications to the Below Market Price Housing Program Guidelines for further discussion; and

WHEREAS, staff prepared draft modifications for the Policy Committee's consideration; and

WHEREAS, on August 27, 2019, September 24, 2019, November 25, 2019, and January 28, 2020, the Policy Committee held public hearings to consider modifications to the Below Market Price Housing Program Guidelines; 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 12, 2020; and

WHEREAS, on August 12, 2020, the Planning Commission held a public hearing to consider modifications to the Below Market Price Housing Program Guidelines. The Planning Commission recommended that the Town Council approve the modifications with additional modifications; 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 6, 2020; 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).

ATTACHMENT 3

NOW, THEREFORE, BE IT RESOLVED:

1. The Town Council of the Town of Los Gatos adopts the modifications to the Below Market Price Housing Program and Guidelines as follows:

Exhibit A

**TOWN OF LOS GATOS
BELOW MARKET PRICE HOUSING PROGRAM GUIDELINES**

I. Purpose

- A. Purpose: The overall purpose of the Below Market Price (BMP) Housing Program is to provide the Town of Los Gatos with a supply of affordable housing. While the program is available to all qualified applicants, the general intent of the program is to provide affordable housing for households who work or currently live in Los Gatos. The main goal is to increase the housing supply for households that have ~~median~~ moderate and low incomes compared to the median income for Santa Clara County and meet the housing needs identified in the Town’s General Plan Housing Element. The Program further intends to ensure, to the greatest extent possible, that rent and re-sale of these housing units will remain affordable to median and low-income levels for the longest feasible time as approved by an authorized body. Although the Town has a fee-in-lieu of constructing actual units option for defined circumstances, the primary objective of the BMP Program is to obtain actual “rental” or “for sale” housing units rather than equivalent funds. All off-site BMP units shall be constructed within the Town of Los Gatos. The construction and occupancy of the BMP unit is determined according to these Town Council established guidelines and authorizing ordinances.
- B. Enabling Legislation: The ~~Below Market Price Program~~ BMP is governed by Division 6 of Article VIII of Chapter 29 of the Town Code. The BMP Program is administered under these ~~Below Market Price Program~~ BMP Housing Program Guidelines.

II. Below Market Price Housing Requirements – General

- A. Applicability: The BMP Program requirements shall apply to all residential ~~development~~ development projects, mixed-use projects, multiple-family dwelling projects, residential condominium projects, condominium conversions, and residential planned development projects that include five (5) or more residential units or parcels which involve:
 1. New construction of ownership or rental housing units, including mixed use developments and addition of units to existing projects; ~~or~~

2. Subdivision of property for single family or duplex housing development;~~;~~
~~or~~
3. Conversion of rental apartments to condominiums or other common interest ownership; ~~and;~~ ~~or~~
4. Conversion of non-residential use to residential use.

B. Number of BMP Units: All residential ~~developments~~ projects, mixed-use projects, multiple-family dwelling projects, residential condominium projects, condominium conversions, and all residential planned development projects consisting of that include five (5) or more residential units or parcels are required to participate in the BMP Program. The requirements for participation increase by development size as shown below:

1. Five (5) to Nineteen (19) market rate units: The developer shall provide a minimum number of BMP units equal to ten (10) percent of the number of market rate units~~;~~
2. Twenty (20) to one hundred (100) market rates units: The developer shall provide a minimum of BMP units as determined by the following formula:

$$\text{Number of BMP units} = (.225 \times \text{total \# of market rate units}) - 2.5$$

This formula acts to increase the number of BMP units required, as a percentage of market-rate units, from ten percent (10%) to twenty percent (20%) over the range of 20 to 100 market rate units~~;~~ ~~and~~

3. One hundred and one (101) units or more: The developer shall provide a minimum number of BMP units equal to twenty percent (20%) ~~percent~~ of the number of market rate units.

BMP dwellings within a project of rental units ~~shall~~ should also be rental units. BMP units within a project of owner-occupied units ~~shall~~ should also be designated as units for purchase. BMP units within a project that contains both rental and owner-occupied units shall also be designated as both rental and as units for purchase, in a ratio similar to that of the market rate units.

The Town and developer may negotiate to provide more BMP units than required by the rules listed in these guidelines, ~~to fulfill a development's Community Benefit requirements.~~

C. Fraction of a BMP Housing Units: In determining the number of BMP units required, any decimal fraction of .5 or above shall be rounded up to the nearest whole number. Decimal fractions below .5 shall be rounded down to the nearest whole number.

D. Residential In-Lieu Payments: The general intent of the BMP Program is to provide the Town of Los Gatos with a supply of affordable housing for households who work or currently live in Los Gatos. However, there may be circumstances when

the construction of the BMP unit is impractical or there are unusual circumstances that make the construction of the unit inconsistent with Town policy. The Town, in limited circumstances, at its sole discretion, may consider an in-lieu payment alternative to the required BMP for a project with an underlying zone of HR unit in the case of Planned Unit development with an underlying zone of HR or a residential ~~developments~~ project, mixed-use project, multiple-family dwelling project, residential condominium project, condominium conversions, and all residential planned development projects with five (5) to nine (9) units with an underlying zone of HR. Prior to approving the in-lieu fee alternative, the applicant must demonstrate to the satisfaction of the Town why a BMP unit cannot be: ~~(1)~~ developed on the same site as the market rate units, and if it cannot be provided on the same site then; or (2) developed at an appropriate off-site location within the Town limits. If the developer provides sufficient justification that both of these alternatives are not viable, then an fee in-lieu fee option may be considered. The required in-lieu fee is as established by a separate resolution and is to be paid to the Town prior to issuance of the certificate of occupancy for the market rate residential unit that triggered the BMP requirement. The provision for a BMP unit applies if the project is built under the rules of an overlay zone unless the rules of the overlay zone provide otherwise.

The in-lieu fee shall be equal to the amount of six (6) percent of the building permit valuation for the entire project. The total building permit valuation shall be determined by the Town Building Official.

Fees shall be paid prior to or at time of final occupancy as follows:

1. ~~Multi-Family Owner Occupied Developments Projects:~~ Multi-Family Renter Occupied Developments: Prior to occupancy of each phase, a proportional amount of fees shall be paid, as determined during the Planning approval process; and
~~Prior to occupancy of each phase, a proportional amount of fees shall be paid, as determined during the Planning approval process.~~
 2. ~~Single-Family Planned Developments Projects:~~ Single-Family Planned Developments Projects: At time of final occupancy for each unit.
- E. Housing Fund: In-lieu fees will be deposited into the Town's Affordable Housing Fund. Applications and or recommendations for use of remaining funds will be reviewed as received. Possible use of the funds include, but is not limited to, the following:
1. Subsidizing the cost of owner-occupied units to make them affordable to low/moderate income households;
 2. Purchasing rental units to make them affordable to low/moderate income households;
 3. Purchasing land for the future development of affordable housing;
 4. Developing affordable housing;

5. ~~Supplementing of affordable housing projects; and developed through the Los Gatos Redevelopment Agency~~
 6. Funding administration of the program, as approved by the Town Council in its annual budget process.
- F. Off-Site Construction: The Town Council, in limited circumstances, at its sole discretion, may consider off-site construction of BMP units for continuum care facilities and for ~~Hillside Residential (HR) Zone District and residential developments projects, mixed-use projects, multiple-family dwelling projects, residential condominium projects, condominium conversions, and residential planned development projects~~ with five (5) to nine (9) units with an underlying zone of HR that have provided sufficient justification to the Town that an on-site BMP unit is not viable.
- G. Phasing of the Construction of On- and Off-Site BMP Units: On- and off-site BMP units shall be constructed and Certificate of Occupancies secured concurrently with or prior to the construction of the market-rate units. The BMP requirement will be calculated on the basis of the whole development. The Town Council may grant an exception to these phasing requirements during the Planned Development project approval process ~~for condominium conversion developments.~~
- H. Affordability Agreement: The developer of “for sale” BMP units shall enter into an affordability agreement with the Town. The agreement will ensure that the BMP units are sold to qualified buyers and will be released by the Town through the escrow process once the BMP is sold to a qualified buyer.

III. Characteristics of BMP Units

- A. Size of units: ~~The size and design of BMP dwelling units shall~~ should to the extent possible, reasonably be consistent with the market rate units in the project. The Town and developer may negotiate regarding the size of units if more units than required are to be provided ~~under the Community Benefit requirements.~~ BMP units should be provided proportionately in the same unit type mix (number of bedrooms) as the market rate units. In consideration of the household size of the households on the current program interest list, the Town and developer may negotiate to provide a greater proportion of a particular unit type. There ~~shall~~ should to the extent possible, not be a significant identifiable difference between the BMP and market-rate units visible from the exterior. The size and design of the BMP units ~~must~~ should to the extent possible, be ~~reasonably~~ consistent with the market-rate units in the development. The goal of the BMP Program is for a seamless integration of the BMP units with the market-rate units in a development.
- B. Location of units: BMP units shall be dispersed throughout the development, to the extent feasible, in all buildings, on each floor, and in each project phase. A concentration of BMP units in one location is not desirable and will generally not be allowed.

- C. Finish of units: The external appearance of BMP units should be indiscernible to that of the market rate units in the project. The internal finish of BMP units should be identical to that of the market rate units in the project, except that the developer may request Town approval of substitutions for luxury interior finishes, appliances, or fixtures, if such substitutions do not violate any Town code requirement.
- D. Project Facilities: All project facilities and amenities, including parking, must be available on the same basis to the BMP units as to the market rate units in the project, to the extent feasible, unless the deciding body approves a reduction in parking for the BMP units.

IV. The BMP Unit Purchase Process, Buyer Selection, and BMP Unit Sale and Resale Procedures.

A. Owner Occupied Units:

1. Applicant Eligibility

a. Household Income: In order to be eligible to purchase an owner-occupied BMP unit, an applicant's annual household income must be no greater than one hundred and twenty percent (100 120%) of the Median Family Income (MFI), adjusted for household size, as defined by the United States Department of Housing and Urban Development (HUD) for the San Jose, CA Primary Metropolitan Statistical Area (PMSA). Household income will be determined in accordance with the guidelines provided in Appendix A of this document. Eligible income includes, but is not limited to the following:

1. Payment from employer;
2. Payment from self-employment (e.g.: Lyft, Uber, DoorDash, etc.);
3. Spousal support;
4. Social Security Income; and
5. Dividends or Annuities from retirement accounts.

Additional information may be requested for confirmation of the provided documents. Applicants must provide sufficient documentation of income, as outlined in the Program's application, to the Town for use in determining the applicant's income level. Final determination of an applicant's income level and Program eligibility shall be at the sole discretion of the Town and/or its designee.

b. Household assets, such as real property, may also be considered in determining eligibility. Funds in excess of \$5,000 (excluding the

amount to be contributed as the Buyer's downpayment and retirement investment accounts such as 401K and 457K accounts) will be included when determining household income. In such cases, annual income will include the greater of the actual income from household assets or a percentage of the value of household assets based upon the current passbook savings rate as established by HUD. This income, if any, will be included as part of the household's total income.

c. b. Housing Costs: In order to be eligible to purchase an owner-occupied BMP unit, an applicant must also demonstrate the ability to pay monthly housing costs. The monthly housing costs shall include the following factors:

1. ~~1. — u~~ Unit price;
2. ~~2. — e~~ Current lending rates;
3. ~~3. — e~~ Estimated property taxes;
4. ~~4. — e~~ Estimated homeowner's private mortgage insurance (PMI) costs;
5. ~~u~~ Utility assumption;
6. ~~— h~~ Homeowners' association fees, if applicable; and
7. ~~5. — o~~ Other expenses as determined necessary by the lender.

d. e. Mortgage Financing: All persons must qualify for their own mortgage financing for the purchase of available BMP units without assistance from the Town. ~~Qualifications must include the ability to pay taxes, insurance, closing costs and any homeowner association fees in addition to the mortgage. All loans used to purchase or refinance BMP units must be fixed rate and fixed term without balloon payments to minimize homeowners exposure to increased risks of mortgage default.~~ Qualifications must include:

1. The ability to pay taxes, insurance, closing costs, and any homeowner's association fees in addition to the mortgage;
2. All loans used to purchase or refinance BMP units must be fixed rate and fixed term, without balloon payments, to minimize homeowner's exposure to increased risks of mortgage default. The program reserves the right to identify additionally prohibited loan programs and/or characteristics; and
3. Co-signers are allowed.

e. d. Required Downpayment: A homebuyer shall have a minimum downpayment that is equivalent to at least ~~10~~ three percent (3%) of the BMP purchase price and is required to document the source of all downpayment funds. The minimum ~~10~~ three percent (3%)

downpayment is exclusive of any other supplemental downpayment assistance grant or loan programs available from other agencies.

f. Purchase Contract: At the time a purchase contract is signed, the applicant must deposit a minimum of one percent (1%) of the purchase price.

2. First Time Home Buyers: The Below Market Price (BMP) Program is for First Time Home Buyers. A First Time Home Buyer, by definition, is an applicant whose name has not appeared on a residential title in the counties covered by the Association of Bay Area Governments (ABAG) or Association of Monterey Bay Governments (AMBAG) which are Alameda, Contra Costa, Marin, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, and Sonoma for at least three (3) years prior to application. Exception is made consistent with the Federal Housing and Urban Development (HUD) definitions (e.g. for people who were homeowners prior to a divorce, a displaced homemaker, a single parent who has only owned with a former spouse, a widow/widower of a veteran, etc.) and for tenants residing in a rental apartment proposed to be converted to a condominium or other common interest ownership prior to a Notice of Intent to Convert the development to an ownership residential unit.

B. Buyer Selection: A point system is used to establish a ranking of applicants for the purchase of an available unit. Applicants will be ranked according to total points and must have at least one point to be eligible to purchase a unit. In addition, applicant households must contain at least the same number of persons as the number of bedrooms in a unit, at the time of application, in order to be eligible to purchase that unit, if the unit contains three bedrooms or more.

All points are calculated per household, not for each individual within the household. For example, a household in which two members are senior citizens would receive six points for senior citizen status, not twelve points for two members having senior citizen status. Points are awarded as follows:

1. **Six points:**

- a. Senior citizens who reside in the Town at the time of application and have lived in the Town for at least the prior two years. A senior citizen is defined as any person 62 years of age or older at time of application or married couples living together when at least one spouse is 62 years of age or older at time of application;
- b. Senior Citizens who have lived in the Town for at least two years and have moved out of the Town within the last five years prior to the time of application;
- c. Disabled persons who reside in the Town at the time of application and who have lived in the Town for at least the prior two years. The

definition of “disabled” for the purpose of assigning points under this section shall be that used by the U.S. Social Security Administration for the purpose of determining eligibility for Social Security disability benefits;

- d. Households required to relocate their residence as a result of Council action or mobile home park closure;
- e. Regular Full-Time and Regular Part-Time Town employees as defined in the Town's Personnel Rules, but excluding Los Gatos Monte-Sereno Police Officers, who have been employed by the Town for a period of no less than ~~12 months~~ one year prior to the time of application;
- f. Single heads of household with dependent children who reside in the Town at the time of application and have lived in the Town for at least the prior two years. The definition of "single," when used in the context of "single heads of household," means only one parent is present in the home;
- g. All licensed pre-school and public or private K-12 school employees of schools and districts geographically located in and serving the Town, and who have been employed in such capacity for at least one year at the time of application; and
- h. All certified emergency first responders (e.g. sworn police officers, fire fighters, ~~and~~ emergency medical technicians, and paramedics) who have been employed in such capacity for at least one year at the time of application by an agency serving the Town.

2. **Four points:**

- a. Persons who live in the Town of Los Gatos at time of application and who have lived in the Town at least the prior two years.
 - i. Living in Los Gatos means: Occupying and renting, at the time of application, for at least two years prior to the application date, a bone fide rental dwelling unit within the incorporated Town limits, as evidenced by valid third-party documentation (e.g. current lease, CA driver's license or vehicle registration card, and/or utility bills showing applicant's name and street address in Los Gatos). For homeless applicants, evidence that the applicant's last permanent residence was located in Los Gatos and/or documentation from a case manager or homeless service provider may be used to document an applicant's current status in Los Gatos, which may include places or structures other than a bona fide dwelling unit (i.e. tent, vehicle, etc.)
- b. Persons who work in the Town of Los Gatos at time of application and have worked in the Town for at least the prior two years.
 - i. Working in Los Gatos means: A member of the household must

work a minimum of 20 hours per week as a permanent employee at a business within the incorporated Town limits. Telecommuting or working from an address located in Los Gatos for an employer not located in the Town of Los Gatos as defined above, shall not qualify as employment in the Town, unless the employer is providing the workspace in the Town as part of its corporate/company offices.

- ii. For persons who are retired at the time of application, the applicant's work history immediately prior to the date of retirement shall be considered in determining the length of employment. The Town may require applicants to submit pay stubs, W-2 forms, tax returns, or other satisfactory evidence as proof of employment at a Town of Los Gatos business. Length of employment shall be calculated from to the final date for submitting a Town Eligibility Preapplication.
- iii. Employment does not include volunteer work or any work without reportable income.

3. **Two points:**

- a. Households who have lived in the Town for at least 10 years and have moved out of the Town within the last ~~ten~~ 10 years prior to the time of application.
- b. Household size is worth two points per person.

4. **One point:**

- a. Households who live in Santa Clara County at time of the application.
 - i. Living within Santa Clara County means: Occupying and renting, at the time of application, for at least two years prior to the application date, a bona fide rental dwelling unit within the incorporated County of Santa Clara, as evidenced by valid third-party documentation (e.g. current lease, CA driver's license or vehicle registration card, and/or utility bills showing applicant's name and street address) in Santa Clara County. For homeless applicants, evidence that the applicant's last permanent residence was within the incorporated County of Santa Clara and/or documentation from a case manager or homeless service provider may be used to document an applicant's current status within the incorporated County of Santa Clara, which may include places or structures other than a bona fide dwelling unit (i.e. tent, vehicle, etc.)
 - b. Households who work within the incorporated County of Santa Clara County at time of the application.

- i. Working within Santa Clara County means: A member of the household must work a minimum of 20 hours per week as a permanent employee at a business within the incorporated County of Santa Clara. Telecommuting or working from an address located in Santa Clara County for an employer not located in the County as defined above, shall not qualify as employment in Santa Clara County, unless the employer is providing the workspace in the County as part of its corporate/company offices.
 - ii. For persons who are retired at the time of application, the applicant's work history immediately prior to the date of retirement shall be considered in determining the length of employment. The Town may require applicants to submit pay stubs, W-2 forms, tax returns, or other satisfactory evidence as proof of employment at a Santa Clara County business. Length of employment shall be calculated from to the final date for submitting a Town Eligibility Preapplication.
 - iii. Employment does not include volunteer work or any work without reportable income.
 - c. b. Households with an annual household income at or below sixty percent (60%) of the Median Family Income (MFI), adjusted for household size, as defined by the United States Department of Housing and Urban Development (HUD) for the San Jose, CA Primary Metropolitan Statistical Area (PMSA).
- 5. Applicants will initially be sorted by the number of preference points awarded. A lottery will be used to rank each qualified applicant and then will be randomly sorted through a lottery selection process in the case of a tie. Each applicant will be given a lottery ranking number in the case of a tie and will be notified in writing of the results of the selection process within one week of the lottery being conducted.
- 6. Application Review:
 - a. Applications will be reviewed in ranking order. Additional documents may be requested from the applicant with a deadline(s) outlined. Failure to return the additional documents by the deadline(s) will result in program disqualification due to an incomplete application.
 - b. After a full application review, applicants who meet the program eligibility requirements will be issued a conditional approval letter from the Town. Applicants who do not meet the program eligibility requirements will be issued a disqualification letter.
 - i. A disqualified applicant can submit an appeal within seven days from the date of the decision letter. Applicant must submit an appeal along with documentation demonstrating the reason for the

appeal. Seven days from receipt of the appeal, a hearing officer will be assigned to review the appeal and additional documentation submitted by the applicant. Seven days from assignment to a hearing officer, a final decision will be delivered by mail to the applicant.

ii. Eligible A—applicants are provided the opportunity to purchase available units in the order of ~~point~~ ranking, from most points to least points. An applicant may refuse to purchase of an available unit twice ~~has two opportunities to refuse to purchase a unit~~ before being removed from the current applicant pool.

7. Applicants who do not qualify for a particular project or who are not provided the opportunity to purchase a unit in a particular project shall retain their eligibility to apply for future projects.
8. An applicant must obtain pre-approval for a mortgage loan within one week after notification of eligibility to purchase a unit. The applicant must submit documentation of loan approval within three weeks of notification of eligibility to purchase a unit. These time limits may be extended by the Town for good cause.
9. ~~Exception to the Buyer Selection Process:~~ An exception to the Buyer Selection Process may be granted to a resident of a rental apartment that is proposed to be converted to an “owner occupied” condominium or other common interest ownership development. In order to qualify for the exception, the resident must have resided in the rental apartment prior to the issuance of the Notice of Intent to Convert the development to an ownership project and shall meet the financial eligibility requirements to qualify for a BMP unit. The resident shall be provided first right of refusal, regardless of point ranking, for units in the following order:
 - a. The unit they reside in if it is designated as a BMP unit; or
 - b. Any other available BMP unit.

C. Determination of Initial Selling Price: BMP units shall be priced to be affordable to households in two income categories: ~~Median~~ Moderate Income Households (those whose income is above eighty percent (80%), but no greater than one hundred and twenty percent (100 120%), of the ~~County Median Income MFI~~); and Low Income Households (those whose income is above fifty percent (50%), but no greater than eighty percent (80%), of the ~~County Median Income MFI~~).

1. Fifty percent (50%) of the units in a project should ~~shall~~ be priced to be affordable to ~~Median~~ Moderate Income Households; and fifty percent (50%) should ~~shall~~ be priced to be affordable to Low Income Households. Whenever the calculations result in fractional units, then the number of units priced to be affordable to Low Income Households shall be rounded up to the next whole number, and the number of units priced to be affordable to

~~Median~~ Moderate Income Households shall be rounded down to the next whole number, including zero (0). The following table applies this formula to projects with 1, 2, and 3 units:

Total Number of BMP Units in Project	Units Priced for Low Income Households	Units Priced for Median Income Households
1	1	0
2	1	1
3	2	1

The Town and developer may negotiate regarding the affordability mix of units, upon a showing by the developer that the project provides a public benefit to the residents of the Town. ~~to fulfill a development's Community Benefit requirements.~~

The Affordable Sales Price ~~affordability level~~ of a unit shall be for the purpose of setting the initial selling price only and does not prevent its sale to any household eligible to purchase an owner-occupied BMP unit, as set forth in these Guidelines.

2. Annually, the Town shall set the initial Affordable ~~unit's~~ Sales Price for each unit type (number of bedrooms), for each of the two income categories consistent with Health & Safety Code Section 50052.5, and assuming a three percent (3%) percent downpayment.

These initial sales prices shall be set using the most recent ~~Median Family Income (MFI)~~ figures from the ~~United States Department of Housing and Urban Development (HUD)~~ for the San Jose, CA ~~Primary Metropolitan Statistical Area (PMSA)~~, and through the following calculations:

- a. For units to be priced to be affordable to ~~Median~~ Moderate Income Households: the average of the ~~one hundred and twenty percent (100 120%)~~ MFI annual income and the eighty percent (80%) MFI annual income (assuming household size appropriate to size of unit) x Multiplier = Initial Sales Price.

Example: ~~100 120 percent %~~ MFI (4-person/4 bedroom) = \$105,000

80 percent % MFI (4-person/4 bedroom) = \$75,700

Average MFI = (\$105,000 + \$75,700) divided by 2 = \$90,350

Average MFI X Multiplier = Initial Sales Price

1. Assumptions of household size by size of unit are as follows:

Unit Size	Household Size
Studio	1
1 Bedroom	1
2 Bedroom	2
3 Bedroom	3
4 Bedroom	4

These assumptions of household size by size of unit shall be for the purpose of setting the initial sales price only, and do not prevent the sale of any unit to any household eligible to purchase an owner-occupied BMP unit, as set forth in these Guidelines.

- b. For units to be priced to be affordable to Low Income Households: the average of the eighty percent (80%) MFI annual income and the fifty percent (50%) annual income (assuming household size appropriate to size of unit) x Multiplier = Initial Sales Price.

Example: 50 percent % MFI (4-person/4 bedroom) = \$52,500

80 percent % MFI (4-person/4 bedroom) = \$75,700

Average MFI = (\$52,500 + \$75,700) divided by 2
= \$ 64,100

Average MFI X Multiplier = Initial Sales Price

- c. Calculation of Multiplier: A Multiplier shall be calculated, based on reasonable assumptions about unit sales prices, based on: the most recent comparable sales of BMP units; current lending rates, as determined by the most recent Primary Mortgage Market Survey (PMMS) conducted by the Federal Home Loan Mortgage Corporation (Freddie Mac); and related costs; ~~and~~ using the following formula:

1. Determination of Total Housing Cost: Sample sales price -

~~10~~ three percent (3%) downpayment = mortgage. Annual debt service on mortgage + annual property taxes + annual homeowners fees + annual private mortgage insurance (PMI) = Total Annual Housing Cost.

2. Determination of Minimum Household Income: Assuming one-third of household income goes for housing expenses, Total Annual Housing Cost x 3 = Minimum Annual Household Income.
3. Determination of Multiplier: Sample Sales Price/Minimum Annual Household Income = Multiplier.

Copies of the initial sales prices, and the calculations made, shall be available on request from the Town's Community Development Department.

D. Required Documents for Completing a Home Purchase:

The following documents must be read and signed by the Owner(s) before the sale or resale of a BMP unit is completed:

1. Promissory Note;
2. Performance Deed of Trust;
3. Deed Restriction, Refinance Restriction, and First Right of Refusal Agreement. Council approved Deed Restrictions shall be recorded with each Below Market Price dwelling unit in order to preserve indefinitely the affordability of the unit for persons of low and ~~median~~ moderate income; and
4. Request for Notice Under Section 2924 (b) of California Civil Code, for each lender Deed of Trust record on title.

E. Resale of Units:

1. If the owner elects to sell his/her unit, the Town must be notified in writing by the owner-;
2. When a ~~Below Market Price~~ BMP dwelling unit becomes available for resale, the Town shall set the resale price and make the unit available for purchase through the BMP process-;
3. The Town determines the resale price in accordance with the deed restriction recorded on the property-;
4. The ~~homeowner~~, as noted in the recorded Deed Restriction, is responsible for paying all closing costs (including commissions or fees)-; and
5. The homeowner is responsible for paying all costs related to a pest inspection prior to the sale of the property, as well as the cost to cure any deficiencies noted as "Section 1" in the inspection report prior to the close of escrow.

F. General Requirements:

1. Occupancy of Units: Consistent with the deed restriction that will be recorded on the subject property, the household purchasing a BMP unit must occupy the unit as their his or her primary residence during their his or her ownership of said unit. Annual compliance monitoring will be performed to confirm proof of owner occupancy. The owner shall cooperate with the Town and provide required certifications and any reasonable requests for supporting documentation to confirm compliance within fifteen (15) days of receipt of a written request by the Town. The Town or its designee has the right to review occupancy on a case-by-case basis. If the Town determines that an owner has intentionally made false statements or misrepresented any facts on the annual certification, or if an owner fails to submit the Certification of Owner Occupancy, the Town will treat this as a breach of the Deed Restrictions and will take all legal remedies available.
2. Capital Improvements: Consistent with the deed restriction, BMP homeowners will have the opportunity to increase their resale price to reflect pre-approved documented costs associated with capital improvements. To maintain the affordability for future BMP owners, the Town will cap all eligible capital improvements at ten percent (10%) of the resale price.
3. Title Transfer Restrictions: Any transfer without satisfaction of the provisions of the Deed Restrictions is prohibited.

V. Requirements for BMP Rental Development

A. Administration: The program shall be administered by the Town or its designee.

B. Applicant Eligibility:

1. Household Income: In order to be eligible to rent a BMP rental unit, a household's annual income must be no greater than ~~80~~ one hundred and twenty percent (120%) of the ~~Median Family Income (MFI)~~, adjusted for household size, as defined by the ~~United States Department of Housing and Urban Development (HUD)~~ for the San Jose, CA ~~Primary Metropolitan Statistical Area (PMSA)~~. Household income will be determined in accordance with the guidelines provided in Appendix A of this document. Eligible income includes, but is not limited to the following:
 - a. Payment from an employer;
 - b. Payment from self-employment (e.g.: Lyft, Uber, DoorDash, etc.);
 - c. Spousal support;
 - d. Social Security Income; and
 - e. Dividends or Annuities from retirement accounts.

Additional information may be requested for confirmation of provided documents.

2. Priority will be given to those households whose income is less than fifty percent (50%) of the MFI.
3. ~~Household assets may also be considered in determining eligibility.~~ Household Assets: For households applying to be a tenant of a BMP unit, the maximum asset limit is equal to the maximum household income adjusted for household size that is allowable in order to be eligible for the program. The maximum allowable household income limits for the BMP rental program are published annually. Assets are calculated based on account balances at the time of application.
4. Ability to Pay Rent: A tenant's ability to pay monthly rent will also be considered in determining tenant eligibility.

C. Tenant Selection: The property owner or manager of the development shall market the BMP unit(s) and solicit rental applications. Applications from tenants selected by the property owner or manager will be forwarded to Town or its designee for verification of income eligibility.

D. Annual Re-Certification of Income: At least once a year, the Town or its designee shall requalify BMP tenants to verify that they are eligible to remain in BMP rental units.

- a. The Town or its designee will provide the “BMP Renter Occupancy Certification Form” to all BMP tenants who have lived in a BMP unit for at least one year. If the BMP renter fails to submit a signed Occupancy Certification Form within thirty (30) days of the written request, then the lease shall automatically terminate, and the rent will increase to market rate, as determined by the apartment owner/property manager or the Town, within sixty (60) days of written notice from the apartment owner/property manager.
- b. On an annual basis, re-certification shall be based upon the BMP tenant’s household income as determined by:
 - i. Copies of payroll stubs or other verification of employment for the last two consecutive months;
 - ii. Prior year tax returns;
 - iii. Bank statements for the last two consecutive months;
 - iv. Household size; and
 - v. Town or its designee will accept signed affidavits in lieu of the following documentation:
 - a. No Financial Accounts under the tenant(s) name; and
 - b. No Income under the tenant(s) name.

E. Management:

1. BMP rental units shall be ~~managed~~ maintained and managed by the property owner or manager in the same manner as other units in the development.
2. An affordable BMP unit may not be leased until the Town has approved the unit for occupancy.
3. Tenants of BMP rental units are eligible to receive conciliation and mediation

services provided through the Town's Rental Dispute Resolution Program, when there is no concurrent issue concerning increase in or the amount of rent except as they regard rent increases.

4. All BMP units must be rented to BMP tenants approved by the Town or its designee.
5. An apartment owner/property manager shall notify the Town or its designee of any available BMP units and the Town or its designee shall have fourteen (14) days to provide apartment owner/property manager with an income eligible candidate(s). In reviewing each candidate, the apartment owner/property manager may apply the same tenant selection criteria, such as past performance in meeting financial obligations and credit references, as those applied to applicants for non-BMP units on the property, except for those standards relating to income eligibility and minimum income requirements.
6. Executed Lease Agreement and BMP Addendum: The apartment owner/property manager or tenant will provide the Town or its designee with a copy of the executed lease agreement and BMP Addendum within five (5) business days of execution.
7. Terms of Lease Agreement:
 - i. BMP tenants will be subject to the same conditions of tenancy as other tenants occupying the subject property, except for terms relating to occupancy, income eligibility, annual recertification, and limits on rents; and
 - ii. Each BMP unit shall be leased under a form of tenant lease approved by the Town or its designee. The tenant lease and BMP addendum shall, among other matters:
 - a. Provide for termination of the lease for failure: (1) to provide any information required under the Regulatory Agreement or reasonably requested by the apartment owner/property manager to establish or recertify the tenant's qualification, or the qualification of the tenant's household, for occupancy of the BMP unit; or (2) to income qualify as a result of any material misrepresentation made by such tenant with respect to the income computation or certification;
 - b. Be for an initial term of not less than one (1) year. After the initial year of tenancy, the lease may be month to month by mutual agreement of the apartment owner/property manager and the tenant; however, the rent may not be raised more often than once every twelve (12) months after such initial year. The apartment owner/property manager will provide each tenant with at least sixty (60) days' written notice of any increase in rent applicable to such tenant;
 - c. Prohibit subleasing of the BMP unit or any portion of the BMP unit, contain nondiscrimination provisions, and include the tenant's obligation to inform the property manager of any need for maintenance or repair;
 - d. Allow termination of the tenancy only for an increase in tenant's household income above qualifying income or for good cause, including violation of the terms and conditions of the tenant lease, violations of house rules, non-payment of rent, violations of applicable federal, state, or local law, or other good cause;

- e. Include, at the apartment owner's option, the obligation for the tenant to provide a security deposit not exceeding two (2) months' rent; and
 - f. Otherwise conform to BMP Guidelines.
8. Occupancy Requirements: The apartment owner/property manager shall notify the Town or its designee if it suspects that there have been any changes to the occupancy of the BMP unit. If the tenant fails to receive approval from the Town for any changes in occupancy, or subleases the property, or fails to provide the annual occupancy recertification, the tenant shall be in violation of its lease and will no longer qualify as a BMP tenant.
9. Waiting List Management:
- a. Waiting List: Anyone who wishes to be admitted to the property or to be placed on the property's Waiting List must complete an application. The application must include a signature certifying the accuracy and completeness of information provided. If the applicant is placed on the property's Waiting List, the List will note the name of the applicant, the date and time of application, the size of unit desired, and any other pertinent information;
 - b. Accommodating Persons with Disabilities: The property shall accommodate persons with disabilities who cannot utilize the property's preferred application process, by providing alternative methods of application in-take (e.g. accepting mailed or online applications). In addition, the public notification of any closing or opening of the property's Waiting List shall comply with HUD fair housing requirements, such as adopting suitable means to assure that notices reach eligible individuals with disabilities and those with limited English proficiency. The property also ensures that notices of and communications will be provided in a manner that is effective for persons with hearing, vision, and other communications-related disabilities consistent with Section 504 and ADA. Accessible and auxiliary aids and services are provided as needed, [e.g., materials in Braille, audio, large type, sign language interpreters, computer-assisted real time transcription (CART) services, assistive listening devices, etc.] Applications will be made available ahead of time, and in multiple venues, both physical and online, which will create a more accessible, and more effective application intake;
 - c. Use of a Lottery System: Due to the high volume of applications, when opening a previously closed Waiting List for a set period of time, the property will use a lottery to select which applicants will be placed on the Waiting List, and the order in which they will be placed. A public notice will clearly indicate that this system will be used to place applicants on the Waiting List; Further, applicants should be notified that, so long as the application is submitted within the stated timeframe, the timing of the application submission will have no effect on how soon they may be offered a unit. The date and time the lottery is held will be the date recorded on the Waiting List. Any preferences the applicant qualifies for will also be noted on the Waiting List;
 - d. Selecting Names from the Waiting List: The property will select names from the Waiting List in chronological order to fill vacancies;

- e. Applicant's Refusal to Accept a Unit: When appropriately sized units are offered to applicants, and an applicant turns down a unit offer two consecutive times, the applicant will be removed from the Waiting List;
 - f. Maintaining the Waiting List: In order to maintain a balanced application pool, the property may, at its discretion, restrict application acceptance, suspend application acceptance, and close a Waiting List in whole or in part. Decisions about closing the Waiting List will be based on the number of applications available, and the ability of the property to house an applicant within a reasonable period of time. Closing the Waiting List, restricting acceptance, or opening the Waiting List must be approved by the Town or its designee;
 - g. Advertising: Advertising and outreach activities will be done in accordance with applicable fair housing marketing requirements;
 - h. Updating the Waiting List: The Waiting List will be updated at least annually. The applicant is responsible to update the application with any changes that may occur to remain active on the current Waiting List;
 - i. Preferences: Assigning preferences to applicants who meet certain criteria is a method intended to provide housing opportunities to applicants based upon household circumstances. Applicants with preferences are selected from the Waiting List and receive an opportunity for an available unit earlier than those who do not have a preference. Preferences affect only the order of applicants on the Waiting List. They do not make anyone eligible who was not otherwise eligible, and they do not change an owner's right to adopt and enforce tenant screening criteria; and
 - j. Monitoring: The Town or its designee may request to audit the Waiting List from time to time to ensure compliance.
- E. Unit Rents: Rents may not exceed eighty percent (80%) of the most current Fair Market Rents as determined by the Santa Clara County Housing Authority.
- F. Annual Review: If a tenant's income increases so that it falls between eighty percent (80%) and ~~100~~ one hundred and twenty percent (120%) of MFI, then the rent may be increased in accordance with the Town's Rental Dispute Ordinance; and the unit shall still be considered a BMP Rental Unit. However, if a tenant's income exceeds ~~100~~ one hundred and twenty percent (120%) percent of MFI, the rent may be increased to the average rent of similar units in the complex; in this latter case, the unit will no longer be a BMP unit and the next available unit that is comparable in size shall be designated as a BMP unit in its place, and must be rented to an eligible household so that the number of BMP units within the project remains the same.
- G. Deed Restrictions: Council approved Deed Restrictions shall be recorded for each ~~Below Market Price~~ BMP rental dwelling unit, in order to preserve indefinitely the affordability of the unit for persons of low and moderate income.

~~VI~~4. RENTAL UNITS - NEW ~~SECOND~~ ACCESSORY DWELLING UNITS

- A. Administration: The program shall be administered by the Town or its designee.
- B. Second Accessory Dwelling Unit Incentive Program: ~~29.10.310 of the Town Code~~ Accessory Dwelling Units (ADU) owners, may choose to participate in ~~the Second Unit~~ an ADU Incentive Program (SUIP) as referenced in Section 29.10.320(a) of the Town Code and as set forth below.
1. The SUIP Incentive Program consists of a no interest construction loan to a property owner who intends to develop a new ~~second ADU unit~~. The loan amount shall be determined based on the square foot construction cost as set forth in the current version Uniform Building Code as adopted by the Town for new construction and remodels. The loan amount will be calculated at one hundred percent (100%) of the construction cost if the unit is income and rent restricted to serve households with incomes below fifty percent (50%) of the ~~Median Family Income (MFI)~~, adjusted for household size, as defined by the ~~United States Department of Housing and Urban Development (HUD)~~ for the San Jose, CA ~~Primary Metropolitan Statistical Area (PMSA)~~, or eighty percent (80%) of the construction cost if the unit is income and rent restricted to serve households with incomes below eighty percent (80%) of MFI.
 2. When a property owner participates in the SUIP Incentive Program, a deed restriction shall be recorded on the property. The deed restriction shall stipulate the rental rate, tenant income level, duration of affordability, ~~and~~ loan repayment requirement, ~~and as well as~~ any other criteria as determined appropriate by the Town.
 3. ~~An SUIP Incentive Program loan to construct an second accessory dwelling unit within the Central Los Gatos Redevelopment Project area shall be funded using Redevelopment Affordable Housing Funds and shall remain affordable for 55 years. An SUIP Incentive Program loan to construct an second ADU unit outside the Central Los Gatos Redevelopment Project area shall be funded using BMP Program Funds and shall remain affordable for a minimum of 30 years. The SUIP Incentive Program affordability restrictions as set forth in this section may only be amended by action of the Town Council.~~
 4. A tenant's ability to pay monthly rent will also be considered in determining tenant eligibility. Applications from tenants selected by the property owner or manager will be forwarded to the Town or its ~~agent~~ designee for verification of income eligibility. Rental agreements shall be submitted to the Town or its ~~agent~~ designee to verify compliance with the provisions of this section. Tenants are eligible to receive conciliation and mediation services provided through the Town's Rental Dispute Resolution Program except as they regard rent increases.

5. Units targeted to households with incomes up to ~~80~~ one hundred and twenty percent (120%) of the ~~Median Family Income (MFI)~~ shall have rents restricted to ~~80~~ one hundred and twenty percent (120%) of Fair Market Rents as determined by the ~~Santa Clara County Housing Authority HUD~~. Units targeted to households with incomes up to fifty percent (50%) of ~~CMF MFI~~ shall have rents restricted to fifty percent (50%) of Fair Market Rents as determined by the ~~Santa Clara County Housing Authority HUD~~. Tenant rents and incomes will be monitored annually.

APPENDIX A: Employment Income Calculation Methodology

Annual employment income must be determined for each job currently held. The following methods will be used for calculating household income for qualification purposes for the Town of Los Gatos BMP Program, with the vast majority of households expected to be evaluated under Method One (below). The Town or its designee will apply Method #1 for each job currently held by each household member. If, under the following circumstances, Method #1 is not the most accurate method of projecting of annual income, then at the discretion of Town or its designee, Methods #2-5 may be applied under certain scenarios, including but not limited to the following:

1. Household earns income from commissions;
2. Household is an educator;
3. Household's first pay date for the job was later than January 1st of the current year;
4. Household is receiving temporary disability compensation; or
5. Household is a seasonal worker.

Method #1: Year-to-Date Income from Paystubs

Use the most current paystub, divide the year-to-date (YTD) gross income by the current pay period number to get the pay period average. Then multiply the pay period average by the total number of pay periods the household receives in one year.

Example of Calculating Year-to-Date Income with Paystubs:

YTD income as stated on the most recent paystub for the calendar year = \$20,000

Current pay period on most recent pay stub = 10

Estimated pay period amount = \$2,000 (\$20,000 divided by 10)

Total number of pay periods in one year for the household = 24

Annualized pay = \$48,000 (\$2,000 x 24)

Method #2: Year-to-date Income and Last Year's Income

Use the most current paystub (or the last paystub received if the household currently receives no income) to determine the household's year-to-date gross earnings. Add the year-to-date earnings to the household's gross income from the most recent year's income tax return. Divide this number by 12 (to account for last year's earnings) plus the number of months the household's year-to-date income encompasses. This is the average monthly income. Multiply this number by 12 to annualize.

Example of Calculating Income using YTD plus Last's Year's Income:

YTD income as stated on the most recent paystub for the calendar year = \$20,000

Gross income from last year's income tax return: \$50,000

Number of months household has worked this year: 6

$\$50,000 + \$20,000 = \$70,000$

6 months + 12 months = 18 months

$\$70,000/18 = \$3,888.89$ (average monthly income)

$\$3,888.89 \times 12 = \$46,666.67$ (annualized income)

Method #3: Two-Year Average

Add the household's total gross income from the two most recent years' income tax returns.

Divide this number by 2 to get the two-year average.

Example of Calculating Income using the Two-Year Average:

Gross income from last year's income tax return: \$50,000

Gross income from the previous year's income tax return: \$55,000

$\$50,000 + \$55,000 = \$105,000$

$\$105,000/2 = \$52,500$ (average annual income)

Method #4: Paystub Average

Add the household's gross income from the two most recent months' paystubs. Divide this number by the number of paystubs included to get the pay period average. Then multiply the pay period average by the total number of pay periods the household receives in one year.

Example of Calculating Income using the Pay Check Average:

Total of most recent two months' paystub = \$8,000

Number of pay stubs included = 4

Estimated pay period amount = \$2,000 (\$8,000 divided by 4)

Total number of pay periods in one year for the household = 24

Annualized pay = \$48,000 (\$2,000 x 24)

Method #5: Verification of Employment

Reference the total annual income provided by Household's employer in Verification of Employment form (VOE).

In the above Method #1, Method #2, and Method #4, in cases where employer paid health insurance costs are included within the gross income on a household's paystubs, this income may be excluded from the gross income calculation.

APPENDIX B: Self-Employment Income Calculation Methodology

Self-employment income calculations will be based on the adjusted income from the two most recent years and a YTD Profit & Loss statement. The adjusted income shall include net income from tax returns with any depreciation or amortization added back. If the resulting adjusted income is negative, count the income as \$0. Negative cash flow from a business may not be used to offset income generated from other sources when determining compliance with income limits.

The Town or its designee will apply the following three income methods to calculate self-employment income. The method used will be determined by how long the household has been self-employed, as follows:

1. If the Household member is self-employed for less than two years but over one-year, annual income will be calculated by either; Method #1; or Method #2. The larger value of the two calculations will be selected as annual self-employment income. In the examples below, the calculation from annualizing Method #2 (\$60,000) is higher, and will be selected as the Household member's self-employment income.
2. If a business started in the same year as the year of qualifying, the income will be calculated using Method #2. In this case, the Household member must supply copies of all invoices and payments made to the Household member in support of the YTD Profit & Loss statement submitted.
3. If the Household member is self-employed for over two years, the Town will apply Methods #1, #2 and #3 to calculate self-employment income, and use the calculation that yields the highest annual income to determine eligibility. In the examples below, the calculation from annualizing Method #2 (\$60,000) is the highest, and will be selected as the Household member's self-employment income.

Method #1: YTD Profit & Loss Statement and Last Year's Tax Return

YTD Profit & Loss Statement and Last Year's Tax Return Calculation:

Use the adjusted YTD Profit & Loss statement to determine the Household member's year-to-date earnings. Add the YTD earnings to the Household member's adjusted income from the most recent year's income tax return. Divide this number by 12 (to account for last year's earnings) + the number of months the Household member's YTD income encompasses. This is the average monthly income. Multiply this number by 12 to annualize.

Example of Calculating Income using YTD Profit & Loss Statement and Last Year's Tax Return:

YTD adjusted income as stated on Profit & Loss statement = \$20,000

Adjusted income from last year's income tax return = \$50,000

Number of months from the YTD Profit & Loss Statement = 4

\$50,000 + \$20,000 = \$70,000

4 months + 12 months = 16 months

\$70,000/16 = \$4,375 (average monthly income)

\$4,375 x 12 = \$52,500 (annualized income)

Method #2: YTD Profit & Loss Statement

YTD Profit & Loss Statement Calculation:

Divide the year-to-date (YTD) adjusted income by the number of months on the YTD Profit & Loss statement to get the average monthly income. Multiply this number by 12 to annualize.

Example of Calculating Income with YTD Profit & Loss statement:

YTD adjusted income as stated on Profit & Loss statement = \$20,000

Number of months = 4

Average monthly income = \$5,000 (\$20,000 divided by 4)

Annualized pay = \$60,000 (\$5,000 x 12)

Method #3: Two-Year Tax Returns

Two-Year Tax Returns Calculation:

Add the adjusted income from the two most recent years' income tax returns. Divide this number by 2 to get the two-year average.

Example of Calculating Income using the Two-Year Average:

Adjusted income from last year's income tax return: \$50,000

Adjusted income from the previous year's income tax return: \$45,000

\$50,000 + \$45,000 = \$95,000

\$95,000/2 = \$47,500 (average annual income)

***This Page
Intentionally
Left Blank***



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 08/12/2020

ITEM NO: 2

DATE: August 5, 2020

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Forward a Recommendation to the Town Council for Approval of Amendments to Chapter 29 (Zoning Regulations) of the Town Code Regarding the Below Market Price Program, Town Wide. Town Code Amendment Application A-20-004. Applicant: Town of Los Gatos

RECOMMENDATION:

Forward a recommendation to the Town Council for approval of amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding the Below Market Price (BMP) Program.

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);
- The amendments to Chapter 29 of the Town Code are consistent with the General Plan; and
- The modifications to the BMP Housing Program and Guidelines are consistent with the General Plan.

PREPARED BY: JOCELYN SHOOPMAN
Associate Planner

Reviewed by: Planning Manager and Community Development Director

BACKGROUND:

The Town first adopted BMP regulations in 1979 to provide the Town with a supply of affordable housing. The BMP regulations have been modified over the years since they were first adopted, with the most recent modifications to the regulations occurring in 2009.

The Town's BMP regulations have resulted in a current inventory of 55 for sale BMP units and 119 rental BMP units. The Town's administrator of the BMP Housing Program, Hello Housing, manages the daily operations of the program in partnership with the Town.

At the request of a previous Mayor, the discussion of BMP regulations was placed on the March 5, 2019 Town Council agenda. At the March 5, 2019 meeting, the Town Council discussed the matter and forwarded the item to the Policy Committee for review and recommendations.

On April 9, 2019, August 27, 2019, September 24, 2019, November 25, 2019, and January 28, 2020, the Town Council Policy Committee considered potential amendments to the Town Code regarding BMP regulations and modifications to the BMP Housing Program Guidelines.

On January 28, 2020, the Policy Committee recommended staff bring forward amendments to Chapter 29 of the Town Code regarding BMP regulations and modifications to the BMP Housing Program Guidelines for consideration by the Planning Commission and the Town Council to increase the number of BMP units and decrease the opportunities to pay in-lieu fees, resulting in the construction of more on-site BMP units for development projects. Exhibit 2 contains the Town Council minutes for the March 5, 2019 meeting, and Exhibits 3 through 7 contain the Policy Committee minutes for the April 9, 2019, August 27, 2019, September 24, 2019, November 25, 2019, and January 28, 2020 meetings.

DISCUSSION:

Division 6 of Chapter 29 of the Town Code contains the Town's BMP Program.

A. Existing Town Code

Existing Town Code Section 29.10.3015 discusses the application of the Ordinance on development projects that are subject to the BMP Program. Section 29.10.3015 currently states:

This division shall apply to all multiple-family dwelling projects, residential condominium projects, condominium conversions, and to all residential planned development projects (division 2 of article VIII of this chapter) either approved after July 4, 1979, or whose approval includes a condition requiring the provision of BMP dwellings. Projects in the R-I and HR zones are excepted from BMP participation. The exception does not apply if the

DISCUSSION (continued):

project is built under the rules of an overlay zone unless the rules of the overlay zone provide otherwise.

Existing Town Code Section 29.10.3025 discusses the scope of projects that are subject to the BMP Program. Section 29.10.3025 currently states:

The Below Market Price Program requirements shall apply to all residential development projects that include five (5) or more residential units or parcels which involve:

1. New construction of ownership or rental housing units, including mixed use developments and addition of units to existing projects, or
2. Subdivision of property for single family or duplex housing development, or
3. Conversion of rental apartments to condominiums or other common interest ownership, or
4. Conversion of non-residential use to residential use.

Planned development with an underlying zone of HR shall only be required to pay an in-lieu fee as established by a separate resolution.

The residential developments consisting of five (5) or more units are required to provide the following number of BMP units:

1. Projects containing five (5) or more but less than twenty (20) market rate units must provide a number of BMP units equal to ten (10) percent of the number of market rate units.
2. Projects with from twenty (20) to one hundred (100) market rate units must provide BMP units as determined by the following formula:
Number of BMP units = .225 (total # of market rate units) - 2.5
3. All projects in excess of one hundred (100) market rate units must provide a number of BMP units equal to twenty (20) percent of the market rate units.
4. Whenever the calculations of BMP units result in a fraction of one-half or more, the number of units to be reserved is increased to the next whole number.
5. The Town, at its sole discretion, may consider an in-lieu payment alternative to the required BMP unit in the case of Planned Unit development with an underlying zone of HR. The required in-lieu fee is as established by a separate resolution and is to be paid to the Town prior to issuance of the certificate of occupancy for the market rate residential unit that triggered the BMP requirement. The provision for a BMP unit

DISCUSSION (continued):

applies if the project is built under the rules of an overlay zone unless the rules of the overlay zone provide otherwise.

BMP units shall be constructed and Certificate of Occupancies secured concurrently with or prior to the construction of the market-rate units. The BMP requirement will be calculated on the basis of the whole development. The Town Council may grant an exception to the phasing requirements during the project approval process.

B. Proposed Amendments

Based on the direction provided by the Policy Committee, staff has prepared a Draft Ordinance implementing the amendments (Exhibit 8), for the Planning Commission's consideration. The potential amendments, shown in ~~strike through~~ and underline font in Exhibit 8, would make the following substantive changes:

1. Remove projects in the R-1 and HR zones from being exempt from BMP participation; and
2. Remove planned development projects with an underlying zone of HR from only being required to pay an in-lieu fee.

C. Existing Below Market Price Housing Program Guidelines

The BMP Housing Program and Guidelines were adopted to provide the Town of Los Gatos with a supply of affordable housing. The BMP Housing Program and Guidelines detail the BMP housing requirements for residential developments, including the processes for purchasing a for sale BMP unit and renting a rental BMP unit.

D. Proposed Modifications

Based on the direction provided by the Policy Committee, staff has prepared modifications to the BMP Housing Program and Guidelines (Exhibit 9), for the Planning Commission's consideration. The potential modifications, shown in ~~strike through~~ and underline font in Exhibit 9, with additional modifications proposed by Hello Housing shown in red ~~strike through~~ and underline font, would make the following substantive changes:

1. Remove reference to the Los Gatos Redevelopment Agency or Community Benefit requirements;
2. Remove projects in the R-1 and HR zones from being exempt from BMP participation;

DISCUSSION (continued):

3. Remove planned development projects with an underlying zone of HR from only being required to pay an in-lieu fee;
4. Modify the language regarding the size of BMP units to allow for greater flexibility;
5. Modify the language regarding the parking requirements for BMP units to allow for a reduction in parking as determined by the deciding body;
6. Modify the Median Family Income (MFI) for owner occupied and rental units from 80 to 100 percent (current parameters), to 80 to 120 percent; and
7. Additional information and clarification for implementation of the BMP Program.

PUBLIC COMMENTS:

Public comments received by 11:00 a.m., Friday, August 7, 2020 are included as Exhibit 10.

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 of the amendments to Chapter 29 of the Town Code in the Draft Ordinance and the modifications proposed to the BMP Housing Program and Guidelines. 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 amendments to Chapter 29 of the Town Code in the Draft Ordinance are consistent with the General Plan (Exhibit 1);
3. Make the required finding that the modifications to the BMP Housing Program and Guidelines are consistent with the General Plan (Exhibit 1);
4. Forward a recommendation to the Town Council for approval of the amendments to Chapter 29 of the Town Code in the Draft Ordinance (Exhibit 8); and
5. Forward a recommendation to the Town Council for approval of the proposed modifications to the BMP Housing Program and Guidelines (Exhibit 9).

CONCLUSION (continued):

B. Alternatives

Alternatively, the Commission can:

1. Forward a recommendation to the Town Council for approval of the Draft Ordinance and proposed modifications to the BMP Housing Program and Guidelines with modifications; or
2. Forward a recommendation to the Town Council for denial of the Draft Ordinance and proposed modifications to the BMP Housing Program and Guidelines; or
3. Continue the matter to a date certain with specific direction.

EXHIBITS:

1. Required Findings
2. Town Council Minutes, March 5, 2019
3. Town Council Policy Committee Minutes, April 9, 2019
4. Town Council Policy Committee Minutes, August 27, 2019
5. Town Council Policy Committee Minutes, September 24, 2019
6. Town Council Policy Committee Minutes, November 25, 2019
7. Town Council Policy Committee Minutes, January 28, 2020
8. Draft Ordinance
9. Draft Modifications to the BMP Housing Program and Guidelines
10. Public comments received by 11:00 a.m., Friday, August 7, 2020

PLANNING COMMISSION – August 12, 2020
REQUIRED FINDINGS FOR:

Town Code Amendment Application A-20-004

Consider amendments to Chapter 29 of the Town Code regarding the Below Market Price Program and proposed modifications to the Below Market Price Housing Program and Guidelines.

FINDINGS

Required Findings for CEQA:

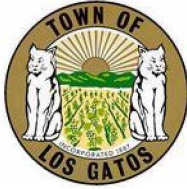
- It has been determined that there is no possibility that this project will have a significant impact on the environment; therefore, the project is not subject to the California Environmental Quality Act, Section 15061 (b)(3).

Required Findings for General Plan:

- The proposed amendments to Chapter 29 of the Town Code are consistent with the General Plan.
- The proposed modifications to the BMP Housing Program and Guidelines are consistent with the General Plan.

EXHIBIT 1

***This Page
Intentionally
Left Blank***



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 03/19/2019

ITEM NO: 1

**MINUTES OF THE TOWN COUNCIL MEETING
MARCH 5, 2019**

The Town Council of the Town of Los Gatos conducted a Regular Meeting on Tuesday, March 5, 2019, at 7:00 p.m.

MEETING CALLED TO ORDER AT 7:04 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

John Lochner led the Pledge of Allegiance. The audience was invited to participate.

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

1. Approve Council minutes of February 19, 2019.
2. Authorize the Town Manager to negotiate and execute an agreement with the City of Campbell for the pavement resurfacing and cost sharing of dual jurisdiction street sections in a form acceptable to the Town Attorney.
3. Authorize the Town Manager to execute a grant agreement with the Los Gatos Chamber of Commerce for partial funding in the amount of \$22,000 for a consultant to assist with the formation of a Los Gatos Property Business Improvement District (PBID).

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

VOTE: **Motion passed unanimously.**

VERBAL COMMUNICATIONS

None.

OTHER BUSINESS

4. Provide direction on potential amendments to the Town's Below Market Price (BMP) regulations.

Joel Paulson, Community Development Director, presented the staff report.

Other Business Item #4 – continued

Opened and closed Public Comment.

Council discussed the matter.

MOTION: **Motion** by **Mayor Leonardis** to forward the item to the Policy Committee for review with the ideas provided by the Town Council and best practices of other communities and return to Council with recommendations. **Seconded** by **Vice Mayor Jensen**.

VOTE: **Motion passed unanimously.**

5. Provide direction regarding potential Town Council Member term limits.

Laurel Prevetti, Town Manager, presented the staff report.

Opened Public Comment.

John Shepardson

- Commented on the issue.

Closed Public Comment.

Council discussed the matter.

MOTION: **Motion** by **Vice Mayor Jensen** to table the issue. **Seconded** by **Council Member Rennie**.

VOTE: **Motion passed 4/1. Council Member Sayoc voting no.**

PUBLIC HEARINGS

6. Town Code Amendment Application A-18-002. Project Location: Townwide. Applicant: Town of Los Gatos.

Consider amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding shared parking.

Azhar Khan, Assistant Planner, presented the staff report.

Opened and closed Public Comment.

Public Hearing Item #6 – continued

Council discussed the matter.

MOTION: **Motion** by **Vice Mayor Jensen** to introduce an Ordinance (Attachment 4), by title only, effecting amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding shared parking. **Seconded** by **Council Member Sayoc**.

VOTE: **Motion passed unanimously.**

The Town Clerk read the title of the ordinance.

OTHER BUSINESS

7. Adopt two resolutions related to business streamlining opportunities that reduce the timeline and cost of specific Town processes:
 - a. A resolution suspending Ordinance 2021 and modifying the assignment of duties for new conditional use permits for restaurants to the Development Review Committee until December 31, 2019; **RESOLUTION 2019-008** and
 - b. Adopt a resolution modifying the assignment of duties for minor exterior alterations on commercial buildings to be processed with a building permit until December 31, 2019. **RESOLUTION 2019-009**

Monica Renn, Economic Vitality Manager, presented the staff report.

Opened Public Comment.

John Shepardson

- Commented in support of the modifications.

Closed Public Comment.

Council discussed the matter.

MOTION: **Motion** by **Vice Mayor Jensen** to adopt the staff recommendation contained in the staff report. **Seconded** by **Council Member Sayoc**.

VOTE: **Motion passed 4/1. Council Member Rennie voting no.**

COUNCIL/TOWN MANAGER REPORTS

Council Matters

- Council Member Sayoc stated she performed a ribbon cutting for EQ1 Real Estate, she attended the Regional Economic Forum with Mayor Leonardis, and she attended the Police Foundation Ball.
- Council Member Spector stated she attended the Council Policy Committee meeting and the business brokers breakfast hosted by the Town.
- Mayor Leonardis stated he attended the West Valley Mayors and Managers meeting, Senator Beall's Emergency Preparedness Pancake Breakfast, the Regional Economic Forum with Council Member Sayoc, the business brokers breakfast with all Council Members, and performed a ribbon cutting for Boulevard Bites and Brews.
- Vice Mayor Jensen stated she attended the Council Policy Committee meeting, the business brokers breakfast, and performed a ribbon cutting for Lululemon.
- Council Member Rennie stated he performed a ribbon cutting for Jewelry Sky Diamond and attended the Boulevard Bites and Brews ribbon cutting, he attended the Valley Transportation Authority (VTA) Board Workshop, the VTA Congestion Management Subcommittee meeting, the VTA Capital Projects Oversight Committee meeting, the Silicon Valley Clean Energy Authority (SVCEA) Workshop, and the business brokers breakfast.

Manager Matters

- Announced Adult Commissioner mid-year recruitment has begun, applications are due April 5, 2019, 4:00 p.m.
- Announced the annual Youth Commissioner recruitment has also begun and applications are due May 3, 2019, 4:00 p.m.

ADJOURNMENT

The meeting adjourned at 8:15 p.m.

Attest:

/s/ Shelley Neis, Town Clerk



**MINUTES OF THE SPECIAL TOWN COUNCIL POLICY COMMITTEE MEETING
APRIL 9, 2019**

The Town Council Policy Committee of the Town of Los Gatos conducted a special meeting on Tuesday, April 9, 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; Laurel Prevetti, Town Manager; Arn Andrews, Assistant Town Manager.

VERBAL COMMUNICATIONS

None.

OTHER BUSINESS

1. Approval of the February 26, 2019 Council Policy Committee Minutes.

Approved.

2. Provide direction on potential demolition regulation modifications.

Joel Paulson, Community Development Director, presented the staff report.

Bess Weirsema, Studio 3

- Reported that the professional design community is in full support of the staff recommended changes. Suggested that some additional definition of what counts towards the 50% exterior wall calculation would be helpful. Supported the in-kind replacement standard if it enhances the structural integrity of the building and aligns better with existing building standards.

After discussion, the Committee directed staff to forward the recommended Town Code Amendments for the demolition regulation modifications (Attachment 2 of the staff report) to the Planning Commission for review. In addition, review by the Historic Preservation Committee is preferable if scheduling permits.

3. Provide direction on potential amendments to the Town's Below Market Price regulations.

Joel Paulson, Community Development Director, presented the staff report.

Natalie Ladd, BMP owner

- Disagreed with items 1, 2, and 5 from Attachment 5. Suggested that other communities have ownership programs and market rate resale options.

After discussion, the Committee asked staff to review elements of BMP regulations in other communities, review the Town's prior housing affordability plan, explore residential linkage fees, and provide options for amending the Town's BMP regulations including: potential lowering of threshold for requiring BMP units, greater flexibility in unit size and types, a potential plan for use of the Town's accumulated and future BMP in-lieu fees.

4. Provide direction on potential amendments to the Town Agenda Format and Rules Policy regarding time limits for applicant and appellant presentations and rebuttals.

Laurel Prevetti, Town Manager, presented the staff report.

After discussion, the Committee unanimously approved a motion to modify the Town Agenda Format and Rules Policy regarding Public Hearings. The section should be modified to reflect that when there is an appeal, the appellant shall be provided an initial ten (10) minutes and subsequent five (5) minute rebuttal. All other speakers shall be provided three (3) minutes. The Town Attorney expressed concerns about the modification and the Committee asked that he provide case law when the item goes to Council.

ADJOURNMENT

The meeting adjourned at 6:10 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the April 9, 2019 meeting as approved by the Council Policy Committee.

/s/ Arn Andrews, Assistant Town Manager



**Minutes of the Regular Town Council Policy Committee Meeting
August 27, 2019**

The Town Council Policy Committee of the Town of Los Gatos conducted a regular meeting on Tuesday, August 27, 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; Robert Schultz, Town Attorney; Arn Andrews, Assistant Town Manager; Joel Paulson, Community Development Director; Sally Zarnowitz, Planning Manager; Shelley Neis, Clerk Administrator; Michelle Radcliffe, Deputy Clerk; Jocelyn Shoopman, Associate Planner; Holly Zappala, Management Analyst.

VERBAL COMMUNICATIONS

None.

OTHER BUSINESS

1. Approval of the July 23, 2019 Council Policy Committee Minutes.

Approved with one modification.

2. Review and Provide Direction on Proposed Modifications to the Commission Appointment Policy.

Shelley Neis, Clerk Administrator, presented the staff report.

After discussion, the Committee agreed to forward a recommendation to the Town Council to amend the Commission Appointment Policy to allow applicants to apply for more than one Commission at a time.

3. Discuss and Provide Direction on the Land Use Appeal Process.

After continuing its discussion from prior meetings, the Committee asked staff to return to with 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.

The Committee asked that the revised language be simple, easy to understand, and clear about the Council's full discretion to decide the matter.

The Committee also requested that staff create a brochure to provide to appellants with information about filing an appeal, including frequently asked questions, deadlines, and options for withdrawal and refunds.

The Committee remained in agreement that the land use appellant has the responsibility ("burden of proof") of providing information to support a finding and not the Town Council.

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.

Jocelyn Shoopman, Associate Planner, presented the staff report.

After discussion, the Committee asked staff to return to the Committee with options for potential uses of the existing Below Market Price (BMP) in-lieu fees, and alternatives to modify the BMP program consistent with the goals of increasing the number of BMPs in the Town, decreasing the number of in-lieu fees collected, and keeping BMPs on-site when possible.

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 August 27, 2019 meeting as approved by the Town Council Policy Committee.

/s/Holly Zappala, Management Analyst



**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



**Minutes of the Special Town Council Policy Committee Meeting
November 25, 2019**

The Town Council Policy Committee of the Town of Los Gatos conducted a special meeting on Monday, November 25, 2019, at 4:00 p.m.

MEETING CALLED TO ORDER AT 4:00 P.M.

ROLL CALL

Members Present: Marcia Jensen, Barbara Spector.

Staff Present: Laurel Prevetti, Town Manager; Robert Schultz, Town Attorney; Joel Paulson, Community Development Director; Sally Zarnowitz, Planning Manager; Holly Zappala, Management Analyst.

CONSENT ITEMS

1. Approve the Draft Minutes of October 22, 2019.

Approved.

VERBAL COMMUNICATIONS

None.

OTHER BUSINESS

Mayor Jensen requested Item 3 be reviewed first.

3. **Discuss and Provide Direction on Potential Outdoor Lighting Regulation Modifications.**

Joel Paulson, Community Development Director, presented the staff report.

After discussion, the Committee asked staff to return to the Committee with revised proposed lighting regulations, similar to the City of Campbell's Lighting Design Standards, including the following considerations:

- Regulate lighting by zone or district
- Distinguish between permanent and temporary lighting
- Eliminate vague language

- Update terminology to include modern types of signs and eliminate obsolete references
- Maintain Hillside restrictions and adjust language to ensure enforceability
- Reduce restrictions on commercial signage
- Allow projected wall art as part of a Special Event Permit
- Consider allowing string lighting on private property on a permanent basis

2. Provide Direction on Potential Modifications to the Below Market Price Housing Program Regulations.

Joel Paulson, Community Development Director, presented the staff report.

Sarah Chaffin

-Commented that the Town's Below Market Price Housing Guidelines should allow eligibility for households who earn up to 120% or 150% of the Area Median Income (AMI) to accommodate people in households unable to afford housing in Los Gatos at market rate, but with incomes too high to qualify at the current 80% AMI eligibility limit (the "missing middle").

After discussion, the Committee asked staff to return to the Committee with revised proposed Below Market Price Housing Program Guidelines, including increasing the eligibility limit to 120% AMI, adjusting the requirements for purchases and rentals to correspond with each other, and making other revisions as identified by Committee members.

ADJOURNMENT

The meeting adjourned at 5:04 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the November 25, 2019 meeting as approved by the Town Council Policy Committee.

/s/ Holly Zappala, Management Analyst



**DRAFT
Minutes of the Town Council Policy Committee Regular Meeting
January 28, 2020**

The Town Council Policy Committee of the Town of Los Gatos conducted a regular meeting on Tuesday, January 28, 2020, 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; Robert Schultz, Town Attorney; Joel Paulson, Community Development Director; Sally Zarnowitz, Planning Manager; Monica Renn, Economic Vitality Manager; Jennifer Armer, Senior Planner; Holly Zappala, Management Analyst.

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

- 1. Approve the Draft Minutes of December 10, 2019.**
- 2. Approve the Town Council Policy Committee Meeting Schedule for 2020.**

Approved.

VERBAL COMMUNICATIONS

None.

OTHER BUSINESS

- 3. Discuss and Provide Direction on Potential Modifications to the Below Market Price Housing Program Regulations.**

Joel Paulson, Community Development Director, presented the staff report.

After discussion, the Committee asked staff to return to the Committee with revised proposed Town Code amendments and Below Market Price Housing (BMP) Guidelines, including increasing the household income requirement for BMP ownership to 120% of the Median Family Income to match the BMP rental requirement. The Committee requested clarification on questions regarding requiring BMPs in continuum care facilities and

assigning preferences to applicants. The Committee agreed that the Town should modify the Code and BMP Guidelines, while the Town's BMP housing provider, currently Hello Housing, may contribute an administrative appendix to the Guidelines.

4. Discuss and Provide Direction on Potential Outdoor Lighting Regulation Modifications.

Jennifer Armer, Senior Planner, was present to address questions.

After discussion, the Committee asked staff to send the Committee via email revised language, including consistent wording in the proposed Ordinance and the Residential Design Guidelines, and removal of the distinction of "holiday" or "patio" lights. Upon approval of the emailed language, the Committee agreed to forward a recommendation to the Planning Commission to approve the proposed modifications.

5. Discuss the Town's Interpretation of "Used Vehicles" in the Town Code and Determine if an Exemption for Indoor Showrooms is Appropriate.

Monica Renn, Economic Vitality Manager, presented the staff report.

Rodney Butterfield

-Commented that his company sells used cars, and they are high-end, restored vintage and sports racing cars. His customer base is collectors. He said that his showrooms look more like an antique art gallery as opposed to a used car lot.

John Eichinger

-Commented that he believes the addition of Mr. Butterfield's business would be an enhancement to downtown Los Gatos.

After discussion, the Committee agreed to forward a recommendation to the Planning Commission to amend Town Code Section 29.20.185, Table of Conditional Uses Section 7 to eliminate the word "new" from section (a) and entirely eliminate section (b) requiring used vehicle sales and rentals to be incidental to new vehicle sales.

6. Identify Future Work Plan Items for the Council Policy Committee.

Holly Zappala, Management Analyst, presented the staff report.

David Weissman

-Commented that the Town should revise its defensible space requirements in conjunction with the Hillside Development Standards and Guidelines Visibility Analysis as the two are tied together in practice.

PAGE 3 OF 3

SUBJECT: Draft Minutes of the Regular Town Council Policy Committee Meeting of January 28, 2020

DATE: February 25, 2020

After discussion, the Committee agreed that the potential items for 2020 recommended by staff be added to the work plan for the Policy Committee in 2020 and each item be examined as it aligns with the Town's Strategic Priorities.

ADJOURNMENT

The meeting adjourned at 6:07 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the January 28, 2020 meeting as approved by the Town Council Policy Committee.

Holly Zappala, Management Analyst

***This Page
Intentionally
Left Blank***

DIVISION 6. - HOUSING ASSISTANCE PROGRAM

Sec. 29.10.3000. - Intent.

This division is adopted to meet housing needs shown in the housing element of the general plan.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3005. - Below market price program—E established.

This division establishes the below market price program (BMP).

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3010. - ~~Same Program~~ —I intent.

The below market price (BMP) program requires the provision of dwellings that persons and families of moderate and low income can afford to buy or rent, and assures to the extent possible that the resale prices of those dwellings, and rents if they are rented, will be within the means of persons and families of moderate income.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3015. - Application.

This division shall apply to all residential projects, mixed-use projects, multiple-family dwelling projects, residential condominium projects, condominium conversions, and to all residential planned development projects (~~a Division 2 of a Article VIII of this chapter~~) either approved after July 4, 1979, or whose approval includes a condition requiring the provision of BMP dwellings. ~~Projects in the R-I and HR zones are excepted from BMP participation. The exception does not apply if the project is built under the rules of an overlay zone unless the rules of the overlay zone provide otherwise.~~

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3020. - Definitions.

For the purposes of this division the following definitions shall apply:

BMP dwelling means any residential dwelling unit designated for very low, low, and moderate income persons and families under the rules of this section.

Person of moderate income means one whose income falls within the range specified by the Town Council in the resolution authorized by section 29.10.3040.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3025. - Scope.

The Below Market Price Program requirements shall apply to all residential development projects, mixed-use projects, multiple-family dwelling projects, residential condominium

projects, condominium conversions, and residential planned development projects that include five (5) or more residential units or parcels which involve:

1. New construction of ownership or rental housing units, including mixed use developments and addition of units to existing projects,~~or;~~
2. Subdivision of property for single family or duplex housing development,~~or;~~
3. Conversion of rental apartments to condominiums or other common interest ownership,~~or;~~ and
4. Conversion of non-residential use to residential use.

~~Planned development with an underlying zone of HR shall only be required to pay an in-lieu fee as established by a separate resolution.~~

The residential projects, mixed-use projects, multiple-family dwelling projects, residential condominium projects, condominium conversions, and residential planned development projects ~~developments consisting of five~~ that include (5) or more residential units are required to provide the following number of BMP units:

1. Projects containing five (5) or more but less than twenty (20) market rate units must provide a number of BMP units equal to ten (10) percent of the number of market rate units;
2. Projects with from twenty (20) to one hundred (100) market rate units must provide BMP units as determined by the following formula:
$$\text{Number of BMP units} = .225 (\text{total \# of market rate units}) - 2.5;$$
3. All projects in excess of one hundred (100) market rate units must provide a number of BMP units equal to twenty (20) percent of the market rate units;
4. Whenever the calculations of BMP units result in a fraction of one-half or more, the number of units to be reserved is increased to the next whole number; and
5. The Town, in limited circumstances, at its sole discretion, may consider an in-lieu payment alternative to the required BMP unit for a project with an underlying zone of HR. ~~in the case of Planned Unit development with an underlying zone of HR.~~ The required in-lieu fee is as established by a separate resolution and is to be paid to the Town prior to issuance of the certificate of occupancy for the market rate residential unit that triggered the BMP requirement. The provision for a BMP unit applies if the project is built under the rules of an overlay zone unless the rules of the overlay zone provide otherwise.

BMP units shall be constructed and Certificate of Occupancies secured concurrently with or prior to the construction of the market-rate units. The BMP requirement will be calculated on the basis of the whole development. The Town Council may grant an exception to the phasing requirements during the project approval process.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3030. - Price.

The price of BMP units is controlled for the first buyer and for future buyers by the BMP Guidelines as adopted and amended from time to time by Council resolution and as follows:

1. The initial price is limited to direct construction cost and a proportionate share of the costs of preparing working drawings and specifications and providing on-site and off-site improvements, determined according to rules set by the Council.
2. The initial price does not include the cost of land, profit, or marketing costs.
3. Each BMP unit will be subjected to recorded title restrictions concerning manner of fixture sales, occupancy and leasing.
4. Each buyer of a BMP unit must agree to sell the unit to a moderate income buyer designated by the Town. The Town will designate moderate income persons according to rules adopted by the Council in effect at the time the seller purchased the unit.
5. The resale price cannot exceed the original selling price plus the value at the time of sale of improvements added by the owner, and plus an amount equal to the increase in cost of living or housing during the owner's tenure. The index or method to be used in calculating the increase is established by the Council.
6. If a BMP unit to be resold has not been properly maintained or for any other reason is in poor condition and in need of cleaning or repair, the Town may elect to do the work or have it done and recover the cost from the sale price limited as provided in subsection (5).
7. The regulations will specify the period for controlled resales. The time period will be in perpetuity or for as long as is practical.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3035. - Project denial.

If an applicant for zoning approval declines to provide BMP units required by ordinance, the zoning approval shall be denied.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3040. - Administration.

The Council shall adopt by resolution regulations concerning all aspects of the BMP program, including the elements of location of the units, price, buyer eligibility standards, rent, the length of the period during which a unit will be subject to BMP restrictions, the form of recorded instruments and any other matter consistent with the provisions of this section.

(Ord. No. 2181, § III, 10-19-09)

***This Page
Intentionally
Left Blank***

Exhibit A

TOWN OF LOS GATOS BELOW MARKET PRICE HOUSING PROGRAM GUIDELINES

I. Purpose

- A. Purpose: The overall purpose of the Below Market Price (BMP) Housing Program is to provide the Town of Los Gatos with a supply of affordable housing. While the program is available to all qualified applicants, the general intent of the program is to provide affordable housing for households who work or currently live in Los Gatos. The main goal is to increase the housing supply for households that have ~~median~~ moderate and low incomes compared to the median income for Santa Clara County and meet the housing needs identified in the Town's General Plan Housing Element. The Program further intends to ensure, to the greatest extent possible, that rent and re-sale of these housing units will remain affordable to median and low-income levels for the longest feasible time as approved by an authorized body. Although the Town has a fee-in-lieu of constructing actual units option for defined circumstances, the primary objective of the BMP Program is to obtain actual "rental" or "for sale" housing units rather than equivalent funds. All off-site BMP units shall be constructed within the Town of Los Gatos. The construction and occupancy of the BMP unit is determined according to these Town Council established guidelines and authorizing ordinances.
- B. Enabling Legislation: The ~~Below Market Price Program~~ BMP is governed by Division 6 of Article VIII of Chapter 29 of the Town Code. The BMP Program is administered under these ~~Below Market Price Program~~ BMP Housing Program Guidelines.

II. Below Market Price Housing Requirements – General

- A. Applicability: The BMP Program requirements shall apply to all residential ~~development~~ projects, mixed-use projects, multiple-family dwelling projects, residential condominium projects, condominium conversions, and residential planned development projects that include five (5) or more residential units or parcels which involve:
1. New construction of ownership or rental housing units, including mixed use developments and addition of units to existing projects; ~~or~~
 2. Subdivision of property for single family or duplex housing development; ~~or~~
 3. Conversion of rental apartments to condominiums or other common interest ownership; and; ~~or~~
 4. Conversion of non-residential use to residential use.

EXHIBIT 9

B. Number of BMP Units: All residential ~~developments~~ projects, mixed-use projects, multiple-family dwelling projects, residential condominium projects, condominium conversions, and all residential planned development projects ~~consisting of that include~~ five (5) or more residential units or parcels are required to participate in the BMP Program. The requirements for participation increase by development size as shown below:

1. Five (5) to Nineteen (19) market rate units: The developer shall provide a minimum number of BMP units equal to ten (10) percent of the number of market rate units;
2. Twenty (20) to one hundred (100) market rates units: The developer shall provide a minimum of BMP units as determined by the following formula:

$$\text{Number of BMP units} = (.225 \times \text{total \# of market rate units}) - 2.5$$

This formula acts to increase the number of BMP units required, as a percentage of market-rate units, from ten percent (10%) to twenty percent (20%) over the range of 20 to 100 market rate units; and

3. One hundred and one (101) units or more: The developer shall provide a minimum number of BMP units equal to twenty percent (20%) ~~percent~~ of the number of market rate units.

BMP dwellings within a project of rental units ~~shall~~ should also be rental units. BMP units within a project of owner-occupied units ~~shall~~ should also be designated as units for purchase. BMP units within a project that contains both rental and owner-occupied units shall also be designated as both rental and as units for purchase, in a ratio similar to that of the market rate units.

The Town and developer may negotiate to provide more BMP units than required by the rules listed in these guidelines, ~~to fulfill a development's Community Benefit requirements.~~

C. Fraction of a BMP Housing Units: In determining the number of BMP units required, any decimal fraction of .5 or above shall be rounded up to the nearest whole number. Decimal fractions below .5 shall be rounded down to the nearest whole number.

D. Residential In-Lieu Payments: The general intent of the BMP Program is to provide the Town of Los Gatos with a supply of affordable housing for households who work or currently live in Los Gatos. However, there may be circumstances when the construction of the BMP unit is impractical or there are unusual circumstances that make the construction of the unit inconsistent with Town policy. The Town, in limited circumstances, at its sole discretion, may consider an in-lieu payment alternative to the required BMP for a project with an underlying zone of HR unit in the case of Planned Unit development with an underlying zone of HR or a residential ~~developments~~ project, mixed-use project, multiple-family dwelling project, residential condominium project, condominium conversions, and all

residential planned development projects with five (5) to nine (9) units with an underlying zone of HR. Prior to approving the in-lieu fee alternative, the applicant must demonstrate to the satisfaction of the Town why a BMP unit cannot be: ~~(1)~~ developed on the same site as the market rate units, and if it cannot be provided on the same site then; or ~~(2)~~ developed at an appropriate off-site location within the Town limits. If the developer provides sufficient justification that both of these alternatives are not viable, then an fee in-lieu fee option may be considered. The required in-lieu fee is as established by a separate resolution and is to be paid to the Town prior to issuance of the certificate of occupancy for the market rate residential unit that triggered the BMP requirement. The provision for a BMP unit applies if the project is built under the rules of an overlay zone unless the rules of the overlay zone provide otherwise.

The in-lieu fee shall be equal to the amount of six (6) percent of the building permit valuation for the entire project. The total building permit valuation shall be determined by the Town Building Official.

Fees shall be paid prior to or at time of final occupancy as follows:

1. ~~Multi-Family Owner Occupied Developments Projects~~ Projects: Prior to occupancy of each phase, a proportional amount of fees shall be paid, as determined during the Planning approval process.
 2. ~~Multi-Family Renter Occupied Developments~~: ~~Prior to occupancy of each phase, a proportional amount of fees shall be paid, as determined during the Planning approval process.~~
 3. ~~Single-Family Planned Developments~~ Projects: At time of final occupancy for each unit.
- E. Housing Fund: In-lieu fees will be deposited into the Town's Affordable Housing Fund. Applications and or recommendations for use of remaining funds will be reviewed as received. Possible use of the funds include, but is not limited to, the following:
1. Subsidizing the cost of owner-occupied units to make them affordable to low/moderate income households;
 2. Purchasing rental units to make them affordable to low/moderate income households;
 3. Purchasing land for the future development of affordable housing;
 4. Developing affordable housing;
 5. Supplementing ~~of~~ affordable housing projects; and developed through the Los Gatos Redevelopment Agency
 6. Funding administration of the program, as approved by the Town Council in its annual budget process.
- F. Off-Site Construction: The Town Council, in limited circumstances, at its sole discretion, may consider off-site construction of BMP units for continuum care

facilities and for ~~Hillside Residential (HR) Zone District~~ and residential ~~developments~~ projects, mixed-use projects, multiple-family dwelling projects, residential condominium projects, condominium conversions, and residential planned development projects with five (5) to nine (9) units with an underlying zone of HR that have provided sufficient justification to the Town that an on-site BMP unit is not viable.

- G. Phasing of the Construction of On- and Off-Site BMP Units: On- and off-site BMP units shall be constructed and Certificate of Occupancies secured concurrently with or prior to the construction of the market-rate units. The BMP requirement will be calculated on the basis of the whole development. The Town Council may grant an exception to these phasing requirements during the Planned Development project approval process ~~for condominium conversion developments~~.
- H. Affordability Agreement: The developer of “for sale” BMP units shall enter into an affordability agreement with the Town. The agreement will ensure that the BMP units are sold to qualified buyers and will be released by the Town through the escrow process once the BMP is sold to a qualified buyer.

III. Characteristics of BMP Units

- A. Size of units: ~~The size and design of BMP dwelling units shall~~ should to the extent possible, reasonably be consistent with the market rate units in the project. The Town and developer may negotiate regarding the size of units if more units than required are to be provided ~~under the Community Benefit requirements~~. BMP units should be provided proportionately in the same unit type mix (number of bedrooms) as the market rate units. In consideration of the household size of the households on the current program interest list, the Town and developer may negotiate to provide a greater proportion of a particular unit type. There ~~shall~~ should to the extent possible, not be a significant identifiable difference between the BMP and market-rate units visible from the exterior. The size and design of the BMP units ~~must should to the extent possible,~~ be reasonably consistent with the market-rate units in the development. The goal of the BMP Program is for a seamless integration of the BMP units with the market-rate units in a development.
- B. Location of units: BMP units shall be dispersed throughout the development, to the extent feasible, in all buildings, on each floor, and in each project phase. A concentration of BMP units in one location is not desirable and will generally not be allowed.
- C. Finish of units: The external appearance of BMP units should be indiscernible to that of the market rate units in the project. The internal finish of BMP units should be identical to that of the market rate units in the project, except that the developer may request Town approval of substitutions for luxury interior finishes, appliances, or fixtures, if such substitutions do not violate any Town code requirement.

- D. Project Facilities: All project facilities and amenities, including parking, must be available on the same basis to the BMP units as to the market rate units in the project, to the extent feasible, unless the deciding body approves a reduction in parking for the BMP units.

IV. The BMP Unit Purchase Process, Buyer Selection, and BMP Unit Sale and Resale Procedures.

A. Owner Occupied Units:

1. Applicant Eligibility

- a. Household Income: In order to be eligible to purchase an owner-occupied BMP unit, an applicant's annual household income must be no greater than one hundred and twenty percent (100-120%) of the Median Family Income (MFI), adjusted for household size, as defined by the United States Department of Housing and Urban Development (HUD) for the San Jose, CA Primary Metropolitan Statistical Area (PMSA). Household income will be determined in accordance with the guidelines provided in Appendix A of this document. Eligible income includes, but is not limited to the following:

1. Payment from employer;
2. Payment from self-employment (e.g.: Lyft, Uber, DoorDash, etc.);
3. Spousal support;
4. Social Security Income; and
5. Dividends or Annuities from retirement accounts.

Additional information may be requested for confirmation of the provided documents. Applicants must provide sufficient documentation of income, as outlined in the Program's application, to the Town for use in determining the applicant's income level. Final determination of an applicant's income level and Program eligibility shall be at the sole discretion of the Town and/or its designee.

- b. Household assets, such as real property, may also be considered in determining eligibility. Funds in excess of \$5,000 (excluding the amount to be contributed as the Buyer's downpayment and retirement investment accounts such as 401K and 457K accounts) will be included when determining household income. In such cases, annual income will include the greater of the actual income from household assets or a percentage of the value of household assets based upon the current passbook savings rate as established by

HUD. This income, if any, will be included as part of the household's total income.

c. b. Housing Costs: In order to be eligible to purchase an owner-occupied BMP unit, an applicant must also demonstrate the ability to pay monthly housing costs. The monthly housing costs shall include the following factors:

1. ~~1.——u~~ Unit price;
2. ~~2.——e~~ Current lending rates;
3. ~~3.——e~~ Estimated property taxes;
4. ~~4.——e~~ Estimated homeowner's private mortgage insurance (PMI) costs;
5. ~~u~~ Utility assumption;
6. ~~——h~~ Homeowners' association fees, if applicable; and
7. ~~5.——o~~ Other expenses as determined necessary by the lender.

d. e. Mortgage Financing: All persons must qualify for their own mortgage financing for the purchase of available BMP units without assistance from the Town. ~~Qualifications must include the ability to pay taxes, insurance, closing costs and any homeowner association fees in addition to the mortgage. All loans used to purchase or refinance BMP units must be fixed rate and fixed term without balloon payments to minimize homeowners exposure to increased risks of mortgage default.~~ Qualifications must include:

1. The ability to pay taxes, insurance, closing costs, and any homeowner's association fees in addition to the mortgage;
2. All loans used to purchase or refinance BMP units must be fixed rate and fixed term, without balloon payments, to minimize homeowner's exposure to increased risks of mortgage default. The program reserves the right to identify additionally prohibited loan programs and/or characteristics; and
3. Co-signers are allowed.

e. d. Required Downpayment: A homebuyer shall have a minimum downpayment that is equivalent to at least ~~10~~ three percent (3%) of the BMP purchase price and is required to document the source of all downpayment funds. The minimum ~~10~~ three percent (3%) downpayment is exclusive of any other supplemental downpayment assistance grant or loan programs available from other agencies.

f. Purchase Contract: At the time a purchase contract is signed, the applicant must deposit a minimum of one percent (1%) of the purchase price.

2. First Time Home Buyers: The Below Market Price (BMP) Program is for First Time Home Buyers. A First Time Home Buyer, by definition, is an applicant whose name has not appeared on a residential title in the counties covered by the Association of Bay Area Governments (ABAG) or Association of Monterey Bay Governments (AMBAG) which are Alameda, Contra Costa, Marin, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, and Sonoma for at least three (3) years prior to application. Exception is made consistent with the Federal Housing and Urban Development (HUD) definitions (e.g. for people who were homeowners prior to a divorce, a displaced homemaker, a single parent who has only owned with a former spouse, a widow/widower of a veteran, etc.) and for tenants residing in a rental apartment proposed to be converted to a condominium or other common interest ownership prior to a Notice of Intent to Convert the development to an ownership residential unit.

- B. Buyer Selection: A point system is used to establish a ranking of applicants for the purchase of an available unit. Applicants will be ranked according to total points and must have at least one point to be eligible to purchase a unit. In addition, applicant households must contain at least the same number of persons as the number of bedrooms in a unit, at the time of application, in order to be eligible to purchase that unit, if the unit contains three bedrooms or more.

All points are calculated per household, not for each individual within the household. For example, a household in which two members are senior citizens would receive six points for senior citizen status, not twelve points for two members having senior citizen status. Points are awarded as follows:

1. **Six points:**

- a. Senior citizens who reside in the Town at the time of application and have lived in the Town for at least the prior two years. A senior citizen is defined as any person 62 years of age or older at time of application or married couples living together when at least one spouse is 62 years of age or older at time of application;
- b. Senior Citizens who have lived in the Town for at least two years and have moved out of the Town within the last five years prior to the time of application;
- c. Disabled persons who reside in the Town at the time of application and who have lived in the Town for at least the prior two years. The definition of “disabled” for the purpose of assigning points under this section shall be that used by the U.S. Social Security Administration for the purpose of determining eligibility for Social Security disability benefits;
- d. Households required to relocate their residence as a result of Council action or mobile home park closure;
- e. Regular Full-Time and Regular Part-Time Town employees as

defined in the Town's Personnel Rules, but excluding Los Gatos Monte-Sereno Police Officers, who have been employed by the Town for a period of no less than ~~12 months~~ one year prior to the time of application.;

- f. Single heads of household with dependent children who reside in the Town at the time of application and have lived in the Town for at least the prior two years. The definition of "single," when used in the context of "single heads of household," means only one parent is present in the home.;
- g. All licensed pre-school and public or private K-12 school employees of schools and districts geographically located in and serving the Town, and who have been employed in such capacity for at least one year at the time of application.;
- and
- h. All certified emergency first responders (e.g. sworn police officers, fire fighters, ~~and~~ emergency medical technicians, and paramedics) who have been employed in such capacity for at least one year at the time of application by an agency serving the Town.

2. **Four points:**

- a. Persons who live in the Town of Los Gatos at time of application and who have lived in the Town at least the prior two years.
 - i. Living in Los Gatos means: Occupying and renting, at the time of application, for at least two years prior to the application date, a bone fide rental dwelling unit within the incorporated Town limits, as evidenced by valid third-party documentation (e.g. current lease, CA driver's license or vehicle registration card, and/or utility bills showing applicant's name and street address in Los Gatos). For homeless applicants, evidence that the applicant's last permanent residence was located in Los Gatos and/or documentation from a case manager or homeless service provider may be used to document an applicant's current status in Los Gatos, which may include places or structures other than a bona fide dwelling unit (i.e. tent, vehicle, etc.)
- b. Persons who work in the Town of Los Gatos at time of application and have worked in the Town for at least the prior two years.
 - i. Working in Los Gatos means: A member of the household must work a minimum of 20 hours per week as a permanent employee at a business within the incorporated Town limits. Telecommuting or working from an address located in Los Gatos for an employer not located in the Town of Los Gatos as defined above, shall not qualify as employment in the Town, unless the employer is providing the workspace in the Town as part of its corporate/company offices.

- ii. For persons who are retired at the time of application, the applicant's work history immediately prior to the date of retirement shall be considered in determining the length of employment. The Town may require applicants to submit pay stubs, W-2 forms, tax returns, or other satisfactory evidence as proof of employment at a Town of Los Gatos business. Length of employment shall be calculated from the final date for submitting a Town Eligibility Preapplication.
- iii. Employment does not include volunteer work or any work without reportable income.

3. **Two points:**

- a. Households who have lived in the Town for at least 10 years and have moved out of the Town within the last ~~ten~~ 10 years prior to the time of application.
- b. Household size is worth two points per person.

4. **One point:**

- a. Households who live in Santa Clara County at time of the application.
 - i. Living within Santa Clara County means: Occupying and renting, at the time of application, for at least two years prior to the application date, a bone fide rental dwelling unit within the incorporated County of Santa Clara, as evidenced by valid third-party documentation (e.g. current lease, CA driver's license or vehicle registration card, and/or utility bills showing applicant's name and street address) in Santa Clara County. For homeless applicants, evidence that the applicant's last permanent residence was within the incorporated County of Santa Clara and/or documentation from a case manager or homeless service provider may be used to document an applicant's current status within the incorporated County of Santa Clara, which may include places or structures other than a bona fide dwelling unit (i.e. tent, vehicle, etc.)
 - b. Households who work within the incorporated County of Santa Clara County at time of the application.
 - i. Working within Santa Clara County means: A member of the household must work a minimum of 20 hours per week as a permanent employee at a business within the incorporated County of Santa Clara. Telecommuting or working from an address located in Santa Clara County for an employer not located in the County as defined above, shall not qualify as employment in Santa Clara

available units in the order of ~~point~~ ranking, from most points to least points. An applicant may refuse to purchase an available unit twice ~~has two opportunities to refuse to purchase a unit~~ before being removed from the current applicant pool.

7. Applicants who do not qualify for a particular project or who are not provided the opportunity to purchase a unit in a particular project shall retain their eligibility to apply for future projects.
 8. An applicant must obtain pre-approval for a mortgage loan within one week after notification of eligibility to purchase a unit. The applicant must submit documentation of loan approval within three weeks of notification of eligibility to purchase a unit.
 9. ~~Exception to the Buyer Selection Process:~~ An exception to the Buyer Selection Process may be granted to a resident of a rental apartment that is proposed to be converted to an “owner occupied” condominium or other common interest ownership development. In order to qualify for the exception, the resident must have resided in the rental apartment prior to the issuance of the Notice of Intent to Convert the development to an ownership project and shall meet the financial eligibility requirements to qualify for a BMP unit. The resident shall be provided first right of refusal, regardless of point ranking, for units in the following order:
 - a. The unit they reside in if it is designated as a BMP unit; or
 - b. Any other available BMP unit.
- C. Determination of Initial Selling Price: BMP units shall be priced to be affordable to households in two income categories: ~~Median Moderate~~ Moderate Income Households (those whose income is above eighty percent (80%), but no greater than one hundred and twenty percent (100 120%), of the ~~County Median Income MFI~~); and Low Income Households (those whose income is above fifty percent (50%), but no greater than eighty percent (80%), of the ~~County Median Income MFI~~).
1. Fifty percent (50%) of the units in a project should ~~shall~~ be priced to be affordable to ~~Median Moderate~~ Moderate Income Households; and fifty percent (50%) should ~~shall~~ be priced to be affordable to Low Income Households. Whenever the calculations result in fractional units, then the number of units priced to be affordable to Low Income Households shall be rounded up to the next whole number, and the number of units priced to be affordable to ~~Median Moderate~~ Moderate Income Households shall be rounded down to the next whole number, including zero (0). The following table applies this formula to projects with 1, 2, and 3 units:

Total Number of BMP Units in Project	Units Priced for Low Income Households	Units Priced for Median Income Households
1	1	0
2	1	1
3	2	1

The Town and developer may negotiate regarding the affordability mix of units, upon a showing by the developer that the project provides a public benefit to the residents of the Town. ~~to fulfill a development's Community Benefit requirements.~~

The Affordable Sales Price ~~affordability level~~ of a unit shall be for the purpose of setting the initial selling price only and does not prevent its sale to any household eligible to purchase an owner-occupied BMP unit, as set forth in these Guidelines.

2. Annually, the Town shall set the initial Affordable ~~unit's~~ Sales Price for each unit type (number of bedrooms), for each of the two income categories consistent with Health & Safety Code Section 50052.5, and assuming a three percent (3%) percent downpayment.

These initial sales prices shall be set using the most recent ~~Median Family Income (MFI)~~ figures from the ~~United States Department of Housing and Urban Development (HUD)~~ for the San Jose, CA ~~Primary Metropolitan Statistical Area (PMSA)~~, and through the following calculations:

- a. For units to be priced to be affordable to ~~Median~~ Moderate Income Households: the average of the ~~one hundred and twenty percent (100 120%)~~ MFI annual income and the eighty percent (80%) MFI annual income (assuming household size appropriate to size of unit) x Multiplier = Initial Sales Price.

Example: ~~100 120 percent %~~ MFI (4-person/4 bedroom) = \$105,000

80 percent ~~%~~ MFI (4-person/4 bedroom) = \$75,700

Average MFI = (\$105,000 + \$75,700) divided by 2 = \$90,350

Average MFI X Multiplier = Initial Sales Price

1. Assumptions of household size by size of unit are as follows:

Unit Size	Household Size
Studio	1
1 Bedroom	1
2 Bedroom	2
3 Bedroom	3
4 Bedroom	4

These assumptions of household size by size of unit shall be for the purpose of setting the initial sales price only, and do not prevent the sale of any unit to any household eligible to purchase an owner-occupied BMP unit, as set forth in these Guidelines.

- b. For units to be priced to be affordable to Low Income Households: the average of the eighty percent (80%) MFI annual income and the fifty percent (50%) annual income (assuming household size appropriate to size of unit) x Multiplier = Initial Sales Price.

Example: 50 percent % MFI (4-person/4 bedroom) = \$52,500

80 percent % MFI (4-person/4 bedroom) = \$75,700

Average MFI = (\$52,500 + \$75,700) divided by 2
= \$ 64,100

Average MFI X Multiplier = Initial Sales Price

- c. Calculation of Multiplier: A Multiplier shall be calculated, based on reasonable assumptions about unit sales prices, based on: the most recent comparable sales of BMP units; current lending rates, as determined by the most recent Primary Mortgage Market Survey (PMMS) conducted by the Federal Home Loan Mortgage Corporation (Freddie Mac); and related costs; ~~and~~ using the following formula:

1. Determination of Total Housing Cost: Sample sales price - ~~10~~ three percent (3%) downpayment = mortgage. Annual debt service on mortgage + annual property taxes + annual

homeowners fees + annual private mortgage insurance (PMI) = Total Annual Housing Cost.

2. Determination of Minimum Household Income: Assuming one-third of household income goes for housing expenses, Total Annual Housing Cost x 3 = Minimum Annual Household Income.
3. Determination of Multiplier: Sample Sales Price/Minimum Annual Household Income = Multiplier.

Copies of the initial sales prices, and the calculations made, shall be available on request from the Town's Community Development Department.

D. Required Documents for Completing a Home Purchase:

The following documents must be read and signed by the Owner(s) before the sale or resale of a BMP unit is completed:

1. Promissory Note;
2. Performance Deed of Trust;
3. Deed Restriction, Refinance Restriction, and First Right of Refusal Agreement.
Council approved Deed Restrictions shall be recorded with each Below Market Price dwelling unit in order to preserve indefinitely the affordability of the unit for persons of low and ~~median~~ moderate income; and
4. Request for Notice Under Section 2924 (b) of California Civil Code, for each lender Deed of Trust record on title.

E. Resale of Units:

1. If the owner elects to sell his/her unit, the Town must be notified in writing by the owner-;
2. When a ~~Below Market Price~~ BMP dwelling unit becomes available for resale, the Town shall set the resale price and make the unit available for purchase through the BMP process-;
3. The Town determines the resale price in accordance with the deed restriction recorded on the property-;
4. The ~~homeowner~~, as noted in the recorded Deed Restriction, is responsible for paying all closing costs (including commissions or fees)-; and
5. The homeowner is responsible for paying all costs related to a pest inspection prior to the sale of the property, as well as the cost to cure any deficiencies noted as "Section 1" in the inspection report prior to the close of escrow.

F. General Requirements:

1. Occupancy of Units: Consistent with the deed restriction that will be recorded on the subject property, the household purchasing a BMP unit must occupy the

unit as ~~their~~ ~~his or her~~ primary residence during ~~their~~ ~~his or her~~ ownership of said unit. Annual compliance monitoring will be performed to confirm proof of owner occupancy. The owner shall cooperate with the Town and provide required certifications and any reasonable requests for supporting documentation to confirm compliance within fifteen (15) days of receipt of a written request by the Town. The Town or its designee has the right to review occupancy on a case-by-case basis. If the Town determines that an owner has intentionally made false statements or misrepresented any facts on the annual certification, or if an owner fails to submit the Certification of Owner Occupancy, the Town will treat this as a breach of the Deed Restrictions and will take all legal remedies available.

2. Capital Improvements: Consistent with the deed restriction, BMP homeowners will have the opportunity to increase their resale price to reflect pre-approved documented costs associated with capital improvements. To maintain the affordability for future BMP owners, the Town will cap all eligible capital improvements at ten percent (10%) of the resale price.
3. Title Transfer Restrictions: Any transfer without satisfaction of the provisions of the Deed Restrictions is prohibited.

V. Requirements for BMP Rental Development

A. Administration: The program shall be administered by the Town or its designee.

B. Applicant Eligibility:

1. Household Income: In order to be eligible to rent a BMP rental unit, a household's annual income must be no greater than ~~80~~ one hundred and twenty percent (120%) of the ~~Median Family Income (MFI)~~, adjusted for household size, as defined by the ~~United States Department of Housing and Urban Development (HUD) for the San Jose, CA Primary Metropolitan Statistical Area (PMSA)~~. Household income will be determined in accordance with the guidelines provided in Appendix A of this document. Eligible income includes, but is not limited to the following:
 - a. Payment from an employer;
 - b. Payment from self-employment (e.g.: Lyft, Uber, DoorDash, etc.);
 - c. Spousal support;
 - d. Social Security Income; and
 - e. Dividends or Annuities from retirement accounts.

Additional information may be requested for confirmation of provided documents.

2. Priority will be given to those households whose income is less than fifty percent (50%) of the MFI.
3. ~~Household assets may also be considered in determining eligibility.~~ Household Assets: For households applying to be a tenant of a BMP unit, the maximum asset

limit is equal to the maximum household income adjusted for household size that is allowable in order to be eligible for the program. The maximum allowable household income limits for the BMP rental program are published annually. Assets are calculated based on account balances at the time of application.

4. Ability to Pay Rent: A tenant's ability to pay monthly rent will also be considered in determining tenant eligibility.

C. Tenant Selection: The property owner or manager of the development shall market the BMP unit(s) and solicit rental applications. Applications from tenants selected by the property owner or manager will be forwarded to Town or its designee for verification of income eligibility.

D. Annual Re-Certification of Income: At least once a year, the Town or its designee shall requalify BMP tenants to verify that they are eligible to remain in BMP rental units.

- a. The Town or its designee will provide the “BMP Renter Occupancy Certification Form” to all BMP tenants who have lived in a BMP unit for at least one year. If the BMP renter fails to submit a signed Occupancy Certification Form within thirty (30) days of the written request, then the lease shall automatically terminate, and the rent will increase to market rate, as determined by the apartment owner/property manager, within sixty (60) days of written notice from the apartment owner/property manager.
- b. On an annual basis, re-certification shall be based upon the BMP tenant’s household income as determined by:
 - i. Copies of payroll stubs or other verification of employment for the last two consecutive months;
 - ii. Prior year tax returns;
 - iii. Bank statements for the last two consecutive months;
 - iv. Household size; and
 - v. Town or its designee will accept signed affidavits in lieu of the following documentation:
 - a. No Financial Accounts under the tenant(s) name; and
 - b. No Income under the tenant(s) name.

E. Management:

1. BMP rental units shall be ~~managed~~ maintained and managed by the property owner or manager in the same manner as other units in the development.
2. An affordable BMP unit may not be leased until the Town has approved the unit for occupancy.
3. Tenants of BMP rental units are eligible to receive conciliation and mediation services provided through the Town's Rental Dispute Resolution Program, when there is no concurrent issue concerning increase in or the amount of rent except as they regard rent increases.
4. All BMP units must be rented to BMP tenants approved by the Town or its

- designee.
5. An apartment owner/property manager shall notify the Town or its designee of any available BMP units and the Town or its designee shall have fourteen (14) days to provide apartment owner/property manager with an income eligible candidate(s). In reviewing each candidate, the apartment owner/property manager may apply the same tenant selection criteria, such as past performance in meeting financial obligations and credit references, as those applied to applicants for non-BMP units on the property, except for those standards relating to income eligibility and minimum income requirements.
 6. Executed Lease Agreement and BMP Addendum: The apartment owner/property manager will provide the Town or its designee with a copy of the executed lease agreement and BMP Addendum within five (5) business days of execution.
 7. Terms of Lease Agreement:
 - i. BMP tenants will be subject to the same conditions of tenancy as other tenants occupying the subject property, except for terms relating to occupancy, income eligibility, annual recertification, and limits on rents; and
 - ii. Each BMP unit shall be leased under a form of tenant lease approved by the Town or its designee. The tenant lease and BMP addendum shall, among other matters:
 - a. Provide for termination of the lease for failure: (1) to provide any information required under the Regulatory Agreement or reasonably requested by the apartment owner/property manager to establish or recertify the tenant's qualification, or the qualification of the tenant's household, for occupancy of the BMP unit; or (2) to income qualify as a result of any material misrepresentation made by such tenant with respect to the income computation or certification;
 - b. Be for an initial term of not less than one (1) year. After the initial year of tenancy, the lease may be month to month by mutual agreement of the apartment owner/property manager and the tenant; however, the rent may not be raised more often than once every twelve (12) months after such initial year. The apartment owner/property manager will provide each tenant with at least sixty (60) days' written notice of any increase in rent applicable to such tenant;
 - c. Prohibit subleasing of the BMP unit or any portion of the BMP unit, contain nondiscrimination provisions, and include the tenant's obligation to inform the property manager of any need for maintenance or repair;
 - d. Allow termination of the tenancy only for an increase in tenant's household income above qualifying income or for good cause, including violation of the terms and conditions of the tenant lease, violations of house rules, non-payment of rent, violations of applicable federal, state, or local law, or other good cause;
 - e. Include, at the apartment owner's option, the obligation for the tenant to provide a security deposit not exceeding two (2) months' rent; and
 - f. Otherwise conform to BMP Guidelines.
 8. Occupancy Requirements: The apartment owner/property manager shall notify the Town or its designee if it suspects that there have been any changes to the

occupancy of the BMP unit. If the tenant fails to receive approval from the Town for any changes in occupancy, or subleases the property, or fails to provide the annual occupancy recertification, the tenant shall be in violation of its lease and will no longer qualify as a BMP tenant.

9. Waiting List Management:

- a. Waiting List: Anyone who wishes to be admitted to the property or to be placed on the property's Waiting List must complete an application. The application must include a signature certifying the accuracy and completeness of information provided. If the applicant is placed on the property's Waiting List, the List will note the name of the applicant, the date and time of application, the size of unit desired, and any other pertinent information;
- b. Accommodating Persons with Disabilities: The property shall accommodate persons with disabilities who cannot utilize the property's preferred application process, by providing alternative methods of application in-take (e.g. accepting mailed or online applications). In addition, the public notification of any closing or opening of the property's Waiting List shall comply with HUD fair housing requirements, such as adopting suitable means to assure that notices reach eligible individuals with disabilities and those with limited English proficiency. The property also ensures that notices of and communications will be provided in a manner that is effective for persons with hearing, vision, and other communications-related disabilities consistent with Section 504 and ADA. Accessible and auxiliary aids and services are provided as needed, [e.g., materials in Braille, audio, large type, sign language interpreters, computer-assisted real time transcription (CART) services, assistive listening devices, etc.] Applications will be made available ahead of time, and in multiple venues, both physical and online, which will create a more accessible, and more effective application intake;
- c. Use of a Lottery System: Due to the high volume of applications, when opening a previously closed Waiting List for a set period of time, the property will use a lottery to select which applicants will be placed on the Waiting List, and the order in which they will be placed. A public notice will clearly indicate that this system will be used to place applicants on the Waiting List; Further, applicants should be notified that, so long as the application is submitted within the stated timeframe, the timing of the application submission will have no effect on how soon they may be offered a unit. The date and time the lottery is held will be the date recorded on the Waiting List. Any preferences the applicant qualifies for will also be noted on the Waiting List;
- d. Selecting Names from the Waiting List: The property will select names from the Waiting List in chronological order to fill vacancies;
- e. Applicant's Refusal to Accept a Unit: When appropriately sized units are offered to applicants, and an applicant turns down a unit offer two consecutive times, the applicant will be removed from the Waiting List;
- f. Maintaining the Waiting List: In order to maintain a balanced application pool, the property may, at its discretion, restrict application acceptance, suspend application acceptance, and close a Waiting List in whole or in part. Decisions about closing the Waiting List will be based on the number of applications

available, and the ability of the property to house an applicant within a reasonable period of time. Closing the Waiting List, restricting acceptance, or opening the Waiting List must be approved by the Town or its designee;

- g. Advertising: Advertising and outreach activities will be done in accordance with applicable fair housing marketing requirements;
- h. Updating the Waiting List: The Waiting List will be updated at least annually. The applicant is responsible to update the application with any changes that may occur to remain active on the current Waiting List;
- i. Preferences: Assigning preferences to applicants who meet certain criteria is a method intended to provide housing opportunities to applicants based upon household circumstances. Applicants with preferences are selected from the Waiting List and receive an opportunity for an available unit earlier than those who do not have a preference. Preferences affect only the order of applicants on the Waiting List. They do not make anyone eligible who was not otherwise eligible, and they do not change an owner's right to adopt and enforce tenant screening criteria; and
- j. Monitoring: The Town or its designee may request to audit the Waiting List from time to time to ensure compliance.

E. Unit Rents: Rents may not exceed eighty percent (80%) of the most current Fair Market Rents as determined by the Santa Clara County Housing Authority.

F. Annual Review: If a tenant's income increases so that it falls between eighty percent (80%) and ~~100-~~ one hundred and twenty percent (120%) of MFI, then the rent may be increased in accordance with the Town's Rental Dispute Ordinance; and the unit shall still be considered a BMP Rental Unit. However, if a tenant's income exceeds ~~100~~ one hundred and twenty percent (120%) percent of MFI, the rent may be increased to the average rent of similar units in the complex; in this latter case, the unit will no longer be a BMP unit and the next available unit that is comparable in size shall be designated as a BMP unit in its place, and must be rented to an eligible household so that the number of BMP units within the project remains the same.

G. Deed Restrictions: Council approved Deed Restrictions shall be recorded for each ~~Below Market Price~~ BMP rental dwelling unit, in order to preserve indefinitely the affordability of the unit for persons of low and moderate income.

VI. RENTAL UNITS - NEW ~~SECOND~~ ACCESSORY DWELLING UNITS

A. Administration: The program shall be administered by the Town or its designee.

B. Second Accessory Dwelling Unit Incentive Program: ~~29.10.310 of the Town Code~~ Accessory Dwelling Units (ADU) owners, may choose to participate in the Second Unit an ADU Incentive Program (SUIP) as referenced in Section 29.10.320(a) of the Town Code and as set forth below.

1. The SUIP Incentive Program consists of a no interest construction loan to a property owner who intends to develop a new ~~second~~ ADU unit. The loan amount shall be determined based on the square foot construction cost as set forth in the current version Uniform Building Code as adopted by the Town for new construction and remodels. The loan amount will be calculated at one hundred percent (100%) of the construction cost if the unit is income and rent restricted to serve households with incomes below fifty percent (50%) of the ~~Median Family Income (MFI)~~, adjusted for household size, as defined by the ~~United States Department of Housing and Urban Development (HUD)~~ for the San Jose, CA ~~Primary Metropolitan Statistical Area (PMSA)~~, or eighty percent (80%) of the construction cost if the unit is income and rent restricted to serve households with incomes below eighty percent (80%) of MFI.
2. When a property owner participates in the SUIP Incentive Program, a deed restriction shall be recorded on the property. The deed restriction shall stipulate the rental rate, tenant income level, duration of affordability, ~~and~~ loan repayment requirement, ~~and as well as~~ any other criteria as determined appropriate by the Town.
3. ~~An SUIP Incentive Program loan to construct an second accessory dwelling unit within the Central Los Gatos Redevelopment Project area shall be funded using Redevelopment Affordable Housing Funds and shall remain affordable for 55 years. An SUIP Incentive Program loan to construct an second ADU unit outside the Central Los Gatos Redevelopment Project area shall be funded using BMP Program Funds and shall remain affordable for a minimum of 30 years. The SUIP Incentive Program affordability restrictions as set forth in this section may only be amended by action of the Town Council.~~
4. A tenant's ability to pay monthly rent will also be considered in determining tenant eligibility. Applications from tenants selected by the property owner or manager will be forwarded to the Town or its ~~agent~~ designee for verification of income eligibility. Rental agreements shall be submitted to the Town or its ~~agent~~ designee to verify compliance with the provisions of this section. Tenants are eligible to receive conciliation and mediation services provided through the Town's Rental Dispute Resolution Program except as they regard rent increases.
5. Units targeted to households with incomes up to ~~80~~ one hundred and twenty percent (120%) of the ~~Median Family Income (MFI)~~ shall have rents restricted to ~~80~~ one hundred and twenty percent (120%) of Fair Market Rents as determined by the ~~Santa Clara County Housing Authority~~ HUD. Units targeted to households with incomes up to fifty percent (50%) of ~~CMF MFI~~ shall have rents restricted to fifty percent (50%) of Fair Market Rents as determined by the ~~Santa Clara County Housing Authority~~ HUD. Tenant rents and incomes will be monitored annually.

APPENDIX A: Employment Income Calculation Methodology

Annual employment income must be determined for each job currently held. The following methods will be used for calculating household income for qualification purposes for the Town of Los Gatos BMP Program, with the vast majority of households expected to be evaluated under Method One (below). The Town or its designee will apply Method #1 for each job currently held by each household member. If, under the following circumstances, Method #1 is not the most accurate method of projecting of annual income, then at the discretion of Town or its designee, Methods #2-5 may be applied under certain scenarios, including but not limited to the following:

1. Household earns income from commissions;
2. Household is an educator;
3. Household's first pay date for the job was later than January 1st of the current year;
4. Household is receiving temporary disability compensation; or
5. Household is a seasonal worker.

Method #1: Year-to-Date Income from Paystubs

Use the most current paystub, divide the year-to-date (YTD) gross income by the current pay period number to get the pay period average. Then multiply the pay period average by the total number of pay periods the household receives in one year.

Example of Calculating Year-to-Date Income with Paystubs:

YTD income as stated on the most recent paystub for the calendar year = \$20,000

Current pay period on most recent pay stub = 10

Estimated pay period amount = \$2,000 (\$20,000 divided by 10)

Total number of pay periods in one year for the household = 24

Annualized pay = \$48,000 (\$2,000 x 24)

Method #2: Year-to-date Income and Last Year's Income

Use the most current paystub (or the last paystub received if the household currently receives no income) to determine the household's year-to-date gross earnings. Add the year-to-date earnings to the household's gross income from the most recent year's income tax return. Divide this number by 12 (to account for last year's earnings) plus the number of months the household's year-to-date income encompasses. This is the average monthly income. Multiply this number by 12 to annualize.

Example of Calculating Income using YTD plus Last's Year's Income:

YTD income as stated on the most recent paystub for the calendar year = \$20,000

Gross income from last year's income tax return: \$50,000

Number of months household has worked this year: 6

\$50,000 + \$20,000 = \$70,000

6 months + 12 months = 18 months

\$70,000/18 = \$3,888.89 (average monthly income)

\$3,888.89 x 12 = \$46,666.67 (annualized income)

Method #3: Two-Year Average

Add the household's total gross income from the two most recent years' income tax returns. Divide this number by 2 to get the two-year average.

Example of Calculating Income using the Two-Year Average:

Gross income from last year's income tax return: \$50,000

Gross income from the previous year's income tax return: \$55,000

$\$50,000 + \$55,000 = \$105,000$

$\$105,000/2 = \$52,500$ (average annual income)

Method #4: Paystub Average

Add the household's gross income from the two most recent months' paystubs. Divide this number by the number of paystubs included to get the pay period average. Then multiply the pay period average by the total number of pay periods the household receives in one year.

Example of Calculating Income using the Pay Check Average:

Total of most recent two months' paystub = \$8,000

Number of pay stubs included = 4

Estimated pay period amount = \$2,000 (\$8,000 divided by 4)

Total number of pay periods in one year for the household = 24

Annualized pay = \$48,000 (\$2,000 x 24)

Method #5: Verification of Employment

Reference the total annual income provided by Household's employer in Verification of Employment form (VOE).

In the above Method #1, Method #2, and Method #4, in cases where employer paid health insurance costs are included within the gross income on a household's paystubs, this income may be excluded from the gross income calculation.

APPENDIX B: Self-Employment Income Calculation Methodology

Self-employment income calculations will be based on the adjusted income from the two most recent years and a YTD Profit & Loss statement. The adjusted income shall include net income from tax returns with any depreciation or amortization added back. If the resulting adjusted income is negative, count the income as \$0. Negative cash flow from a business may not be used to offset income generated from other sources when determining compliance with income limits.

The Town or its designee will apply the following three income methods to calculate self-employment income. The method used will be determined by how long the household has been self-employed, as follows:

1. If the Household member is self-employed for less than two years but over one-year, annual income will be calculated by either; Method #1; or Method #2. The larger value of the two calculations will be selected as annual self-employment income. In the examples below, the calculation from annualizing Method #2 (\$60,000) is higher, and will be selected as the Household member's self-employment income.
2. If a business started in the same year as the year of qualifying, the income will be calculated using Method #2. In this case, the Household member must supply copies of all invoices and payments made to the Household member in support of the YTD Profit & Loss statement submitted.
3. If the Household member is self-employed for over two years, the Town will apply Methods #1, #2 and #3 to calculate self-employment income, and use the calculation that yields the highest annual income to determine eligibility. In the examples below, the calculation from annualizing Method #2 (\$60,000) is the highest, and will be selected as the Household member's self-employment income.

Method #1: YTD Profit & Loss Statement and Last Year's Tax Return

YTD Profit & Loss Statement and Last Year's Tax Return Calculation:

Use the adjusted YTD Profit & Loss statement to determine the Household member's year-to-date earnings. Add the YTD earnings to the Household member's adjusted income from the most recent year's income tax return. Divide this number by 12 (to account for last year's earnings) + the number of months the Household member's YTD income encompasses. This is the average monthly income. Multiply this number by 12 to annualize.

Example of Calculating Income using YTD Profit & Loss Statement and Last Year's Tax Return:

YTD adjusted income as stated on Profit & Loss statement = \$20,000

Adjusted income from last year's income tax return = \$50,000

Number of months from the YTD Profit & Loss Statement = 4

\$50,000 + \$20,000 = \$70,000

4 months + 12 months = 16 months

\$70,000/16 = \$4,375 (average monthly income)

\$4,375 x 12 = \$52,500 (annualized income)

Method #2: YTD Profit & Loss Statement

YTD Profit & Loss Statement Calculation:

Divide the year-to-date (YTD) adjusted income by the number of months on the YTD Profit & Loss statement to get the average monthly income. Multiply this number by 12 to annualize.

Example of Calculating Income with YTD Profit & Loss statement:

YTD adjusted income as stated on Profit & Loss statement = \$20,000

Number of months = 4

Average monthly income = \$5,000 (\$20,000 divided by 4)

Annualized pay = \$60,000 (\$5,000 x 12)

Method #3: Two-Year Tax Returns

Two-Year Tax Returns Calculation:

Add the adjusted income from the two most recent years' income tax returns. Divide this number by 2 to get the two-year average.

Example of Calculating Income using the Two-Year Average:

Adjusted income from last year's income tax return: \$50,000

Adjusted income from the previous year's income tax return: \$45,000

\$50,000 + \$45,000 = \$95,000

\$95,000/2 = \$47,500 (average annual income)

8/5/2020

To: Planning Commission

Fr: Sarah Chaffin

Re: Modification to Town MFI (Median Family Income) for Rental Units to 120% of AMI

Dear Commissioners,

Thank you for the opportunity to weigh in on the possible modification to the Town BMP guidelines for rental housing.

Currently, the Town only goes to a maximum of 80% to 100% of AMI for BMP rental guidelines. This is well below the state RNHA guideline of 120% of AMI. The net effect of the current policy is that essential workers like teachers & school employees, police dispatchers, nursing assistants and other community helpers make too much money to qualify for our BMP rental guidelines but not enough money to live in our community.

I would like to recommend that the Planning Commission supports the Council Policy Committee's recommendation to modify the Median Family Income for owner occupied and rental units to up to 120% of AMI.

This would be in line with state RNHA guidelines and help our valuable essential workers live where they work.

Thank you for your considerations.

Sincerely,



Sarah Chaffin

***This Page
Intentionally
Left Blank***



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 08/12/2020

ITEM NO: 2

DESK ITEM

DATE: August 12, 2020
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Forward a Recommendation to the Town Council for Approval of Amendments to Chapter 29 (Zoning Regulations) of the Town Code Regarding the Below Market Price Program, Town Wide. Town Code Amendment Application A-20-004. Applicant: Town of Los Gatos

REMARKS:

Exhibit 11 includes comments from a Planning Commissioner.

EXHIBITS:

Previously received with August 12, 2020 Staff Report:

1. Required Findings
2. Town Council Minutes, March 5, 2019
3. Town Council Policy Committee Minutes, April 9, 2019
4. Town Council Policy Committee Minutes, August 27, 2019
5. Town Council Policy Committee Minutes, September 24, 2019
6. Town Council Policy Committee Minutes, November 25, 2019
7. Town Council Policy Committee Minutes, January 28, 2020
8. Draft Ordinance
9. Draft Modifications to the BMP Housing Program and Guidelines
10. Public comments received by 11:00 a.m., Friday, August 7, 2020

Received with this Desk Item:

11. Comments from a Planning Commissioner

PREPARED BY: JOCELYN SHOOPMAN
Associate Planner

Reviewed by: Planning Manager and Community Development Director

***This Page
Intentionally
Left Blank***

From: Jeffrey Barnett
Sent: Tuesday, August 11, 2020 4:48 PM
To: Joel Paulson <jpaulson@losgatosca.gov>
Subject: Planning Commission Meeting 8.12.20 Item 2

Good afternoon, Joel.

Below are my comments concerning the proposed changes to the Code and the Guidelines related to the BMP Program. The proposed changes and my comments (in brackets) are in red font.

Would you kindly distribute this as a desk item.

Sec. 29.10.3010. – Program —Intent. The below market price (BMP) program requires the provision of dwellings that persons and families of moderate and low income can afford to buy or rent, and assures to the extent possible that the resale prices of those dwellings, and rents if they are rented, will be within the means of persons and families of moderate **and low** income. **[this harmonizes the statute internally and also with the Guidelines; the missing language appears to be an oversight.]**

Sec. 29.10.3030. - Price. The price of BMP units is controlled for the first buyer and for future buyers by the BMP Guidelines as adopted and amended from time to time by Council resolution and as follows: 1. The initial price is limited to direct construction cost and a proportionate share of the costs of preparing working drawings and specifications and providing on-site and off-site improvements, determined according to rules set by the Council. 2. The initial price does not include the cost of land, profit, or marketing costs. 3. Each BMP unit will be subjected to recorded title restrictions concerning manner of fixture sales, occupancy and leasing. 4. Each buyer of a BMP unit must agree to sell the unit to a moderate **or low** income buyer designated by the Town. The Town will designate moderate income persons according to rules adopted by the Council in effect at the time the seller purchased the unit. 5. The resale price cannot exceed the original selling price plus the value at the time of sale of improvements added by the owner, and plus an amount equal to the increase in cost of living or housing during the owner's tenure. The index or method to be used in calculating the increase is established by the Council. 6. If a BMP unit to be resold has not been properly maintained or for any other reason is in poor condition and in need

of cleaning or repair, the Town may elect to do the work or have it done and recover the cost from the sale price limited as provided in subsection (5). 7. The regulations will specify the period for controlled resales. The time period will be in perpetuity or for as long as is practical. [same comment]

Guidelines – Page 9 - 4. (b) ii

ii. For persons who are retired at the time of application, the applicant’s work history immediately prior to the date of retirement shall be considered in determining the length of employment. The Town may require applicants to submit pay stubs, W-2 forms, tax returns, or other satisfactory evidence as proof of employment at a Santa Clara County business. Length of employment shall be calculated from the **from the final date** for submitting a Town Eligibility Preapplication. [I do not understand the logic here. Should “from” be “to”?]

Guidelines -Page 10 (b) ii

For persons who are retired at the time of application, the applicant’s work history immediately prior to the date of retirement shall be considered in determining the length of employment. The Town may require applicants to submit pay stubs, W-2 forms, tax returns, or other satisfactory evidence as proof of employment at a Santa Clara County business. Length of employment shall be calculated **from the final date** for submitting a Town Eligibility Preapplication. [same issue here].

Guidelines – Page 11 (8)

An applicant must obtain pre-approval for a mortgage loan within one week after notification of eligibility to purchase a unit. The applicant must submit documentation of loan approval within three weeks of notification of eligibility to purchase a unit. **These time limits may be extended by the Town for good cause.** [the timeline benchmarks may be too short].

Guidelines – Page 16 D a

a. The Town or its designee will provide the “BMP Renter Occupancy Certification Form” to all BMP tenants who have lived in a BMP unit for at least one year. If the BMP renter fails to submit a signed Occupancy Certification Form within thirty (30) days of the written request, then the lease shall automatically terminate, and the rent will increase to market rate, as determined by the apartment owner, property manager **or the Town** within sixty (60) days of written notice from the apartment owner/property manager. [In the case of multifamily developments, such as condominiums and planned developments, there is no “apartment

owner”, and any retained property manager for the common interest development is unlikely to accept this responsibility. The Town should be able to set the fair market rate in the event of a tenant’s failure to timely submit a signed Occupancy Certification Form]

Guidelines – Page 17 6

6. Executed Lease Agreement and BMP Addendum: The apartment owner, property manager or tenant shall provide the Town or its designee with a copy of the executed lease agreement and BMP Addendum within five (5) business days of execution. [similar concern]

***This Page
Intentionally
Left Blank***

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S:

Los Gatos Planning Commissioners:
Melanie Hanssen, Chair
Kathryn Janoff, Vice Chair
Mary Badame
Jeffrey Barnett
Kendra Burch
Matthew Hudes

Town Manager: Laurel Prevetti

Community Development Director: Joel Paulson

Town Attorney: Robert Schultz

Transcribed by: Vicki L. Blandin
(619) 541-3405

ATTACHMENT 5

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S :

CHAIR HANSSEN: We will move on to the next item on the agenda, which is our public hearing, and that is Agenda Item #2 which is forwarding a recommendation to the Town Council for approval of amendments to Chapter 29, which is Zoning Regulations, of the Town Code regarding the Below Market Price, otherwise known as BMP, program. This applicability is town wide. The Town Code Application is A-20-004, and the Applicant is the Town of Los Gatos.

And I see Ms. Shoopman is our Staff person, so would you like to make a Staff Report?

JOCELYN SHOOPMAN: Good evening. On January 28th of this year the Policy Committee recommended amendments to Chapter 29 of the Town Code regarding BMP regulations as well as modification to the Town's BMP Housing Program guidelines with the intent to increase the number of BMP units by decreasing the opportunities to pay in lieu fees, resulting in the construction of more onsite BMP units for development projects.

The amendments as recommended by the Policy Committee also include modifications proposed by the Town's administrator of the BMP Housing Program, Hello Housing,

1 who manages the daily operations of the program in
2 partnership with the Town.

3 There is also a Desk Item for this evening that
4 includes comments made by a Planning Commissioner.

5 Otherwise, this completes Staff's report and we
6 are available for any questions.

7 CHAIR HANSSEN: Thank you, Ms. Shoopman, and it
8 looks like Commissioner Hudes has a question for you. If
9 any other Commissioners have questions you can use the
10 raised hand feature or raise your hand and I will have you
11 speak. So, Commissioner Hudes.

12 COMMISSIONER HUDES: I just wanted to get a
13 little better understanding of how this fits with
14 affordable housing and the Town, and I think this might be
15 helpful not just to me but maybe to the public as well.

16 How does the BMP program relate to state housing
17 requirements, RHNA requirements, and if there's a state
18 program why do we have this? And what does it cost the
19 Town? The Town has, I believe, 174 units that have been
20 produced. Just some overall framing so we understand what
21 this BMP is about. Thank you.

22 JOEL PAULSON: Well, I'll give that a shot and
23 then if the Town Attorney or Ms. Shoopman has any
24 additional input.
25

1 Backing up to the state, our Housing Element
2 cycle gives each area or region a regional housing needs
3 allocation. From that there is a body—currently right now
4 there is a Housing Methodology Committee body—who is going
5 to determine how those numbers will be split up among the
6 jurisdictions in the Bay Area. The numbers that come from
7 that are in numerous categories, so there are above-
8 moderate units, which is normal market rate units; there
9 are moderate units, which is below market rate; and there
10 are also low; very-low; and extremely-low categories. Those
11 numbers, when they are provided to the Town, are also
12 designated as a specific affordability level.
13

14 So, that is the number of units in each of those
15 categories the Town is expected to plan for over the eight-
16 year housing (inaudible) cycles, so that's how that is
17 generally handled.

18 Cost-wise, our Hello Housing contracts, I believe
19 the base is \$70,000 approximately, and then it also has
20 additional fees that come in if they do work above and
21 beyond what's in the contract, including the resale of BMP
22 units; they handle that process as well. If you have any
23 other specific questions, I'd be happy to answer them as
24 well.
25

1 CHAIR HANSSEN: So, Commissioner Hudes has more
2 questions.

3 COMMISSIONER HUDES: Just a follow up. We have
4 174 units that have come about in this program, I believe
5 some for sale and some rental, and this is a result of the
6 Town having this program and encouraging developers to
7 develop under it. What does it cost the Town in order to
8 get affordable housing in town?
9

10 JOEL PAULSON: I'm not sure I can quite follow
11 the question. The Town has had this ordinance in place, I
12 believe, since 1979, so when development that meets the
13 thresholds as they've evolved over the years, whether
14 that's a planned development or some other mechanism, once
15 they get over a certain number of units then they have to
16 provide Below Market Price units based on our ordinance.
17

18 A couple of other pieces of information.
19 Typically the for-sale units—I'll just give a hypothetical—
20 if you were required to do four BMP for-sale units then two
21 them would become moderate and two of them would become low
22 pursuant to our guidelines.

23 And in four rentals all the rentals are based on
24 the moderate-income level, so that's how the rental price
25 is set and every year the federal government provides those
rental rates for Santa Clara County.

1 COMMISSIONER HUDES: Just if I could follow up.
2 So, to get this program basically the Town provides some
3 administration and there are some costs associated with
4 that, but the bulk of what it costs, almost all of it,
5 comes from developers, is that correct?

6 JOEL PAULSON: That's correct.

7 COMMISSIONER HUDES: Okay, thank you.

8 CHAIR HANSSEN: Do any other Commissioners have
9 questions for Staff?
10

11 TOWN ATTORNEY SCHULTZ: If I might?

12 CHAIR HANSSEN: Go ahead. The Town Attorney has a
13 comment.

14 TOWN ATTORNEY SCHULTZ: Let me just add that
15 while I think it is true that, yes, today almost all of it
16 comes from the development of projects that meet the
17 requirements to provide below market price housing, but if
18 you go through the historic of how we got to this issue of
19 providing for below market price housing a lot of that came
20 through the redevelopment agencies, and the money we got
21 through redevelopment, because a component of all the money
22 that we collected had to go towards affordable housing.

23 I'm not sure how much we have in that fund right
24 now but it's really still left over from the redevelopment
25 agency and it enabled us to buy certain properties like the

1 Dittos Lane that's right now going through a BMP program.
2 So, before we actually went and purchased property or do
3 public/private partnerships with different housing
4 advocates, that's kind of dried up because we don't have
5 that redevelopment money.

6 So, now we do primarily rely on it. That's how it
7 came back, if you go way back to the redevelopment
8 agencies.

9 CHAIR HANSSSEN: Okay. Thank you so much. I was
10 going to ask, it's sort of a question and a comment
11 combined. I had been involved on the Housing Element along
12 with a number of other Commissioners, the current Housing
13 Element is going from 2015 to 2023, and the issue with the
14 Housing Element has been that you plan for density in
15 certain locations in Town but it's incumbent upon
16 developers to make a proposal to build those units, and so
17 to me—and this is where my question comes in—it seems to me
18 that the Below Market Price Program is really the only way
19 we can be assured via our Town Code that when developers
20 come in that we can get at least a couple of affordable
21 units because they can offset their costs of the market
22 price units with the below market price units. Is that a
23 correct statement?
24
25

1 JOCELYN SHOOPMAN: I would say that it's correct
2 in that this program relies on private developers who
3 propose applications to the Town, that propose a certain
4 amount of housing units, where then now these regulations
5 we can put in place and we can ask for the below market
6 rate units.

7 CHAIR HANSSEN: So, it seems like it's been
8 successful from the Town's perspective.

9 JOCELYN SHOOPMAN: I'll let Joel answer that, but
10 I would think yes.

11 CHAIR HANSSEN: All right, so that being the case
12 is there anyone else that has questions of Staff? Did I see
13 Commissioner Burch put her hand up? No. All right, well
14 then we will now invite comments from members of the
15 public. Do we have any members of the public that would
16 like to speak on this item?

17 JOEL PAULSON: For the member of the public we
18 now have two, and I see Heidi Owens' hand raised so I'm
19 going to allow her to speak.

20 CHAIR HANSSEN: Okay, Ms. Owens.

21 HEIDI OWENS: Hi, my question is if we can and why
22 we don't align the Below Market Price Program with those
23 different categories that you spoke about from the RHNA
24
25

1 numbers? Why don't we have an extremely-low-income
2 requirement, et cetera?

3 CHAIR HANSSEN: Staff, you're probably the best
4 to be able to comment on this from the history perspective.

5 JOEL PAULSON: Thank you, and thank you for the
6 question. So, it is challenging enough for us to exact
7 moderate and low units out of developers to make that work.
8 Where you typically see the very-low and extremely-low
9 units, those are generally done in either partnerships, as
10 the Town Attorney mentioned before, public/private
11 partnerships, or by specifically affordable housing
12 developers who are looking to get tax credits for their
13 projects and that helps fund that as well.

14 It is very rare to see a just standard developer
15 come with either very-low or extremely-low units unless
16 you're talking about very extremely high-density projects
17 where there is a significant number of units which wouldn't
18 be probably viable in the Town, and then again with either
19 funds of a jurisdiction or the nonprofits who that's really
20 their business to create affordable housing and to be
21 competitive for those tax credits, they generally have to
22 get down into that very-low, extremely-low level to be
23 competitive with other projects vying for those credits as
24 well.
25

1 And I'm not sure if the Town Attorney has any
2 additional thoughts on that. Yeah, it looks like he
3 doesn't.

4 CHAIR HANSSEN: I will jump in and say one thing
5 from the perspective of having sat on the Housing Element
6 Advisory Board. I remember very clearly that when we were
7 going through and trying to process our last RHNA that one
8 of the difficulties we had is I think it would have been a
9 desire of everyone to mandate more very, very low income,
10 but the feedback we got from the state, what I recall is
11 that we can't put a lot of restrictions on where they fall
12 in those buckets because the state views that as an
13 impediment to getting more housing built.

14 And, Mr. Paulson, if I'm incorrect let me know
15 but I remember that was kind of a big deal because we were
16 going through and saying why can't we force the issue a
17 little bit more but the answer was that's an impediment to
18 housing production, which is something the state doesn't
19 want.
20

21 JOEL PAULSON: Chair Hanssen, that's correct.
22 Again, they're always looking for jurisdictions to remove
23 barriers or impediments to housing production, so if we had
24 a program of that nature that looked at very-low or
25

1 extremely-low as requirements of some percentage, then that
2 would be challenging.

3 I would say just one more kind of historical
4 point that I'm trying to think, and there are probably very
5 few instances where it actually came to fruition. The Town
6 used to have a requirement for a community benefit, and so
7 what some projects would do is, even if they were only
8 required to do a moderate unit they might make that a low
9 unit as an additional community benefit or make it the
10 price point at a level lower than what would be required by
11 our code, so just a little additional information.

12
13 CHAIR HANSSEN: Are there any other questions
14 from the public?

15 JOEL PAULSON: I do not see any other hands
16 raised. Give it a couple of seconds here. Seeing none, I
17 think we're ready to move on in discussion.

18 CHAIR HANSSEN: All right, so thank you, Ms.
19 Owens, for your question and we will now close the public
20 portion of the hearing and ask if Commissioners have any
21 additional questions of Staff, wish to comment on the code
22 amendments, or introduce a motion for consideration by the
23 Commission?

24
25 It looks like we have a few hands up. I saw Vice
Chair Janoff and I saw Commissioner Hudes.

1 VICE CHAIR JANOFF: Thank you. Just a quick
2 clarification of the process. I've got four comments. Did
3 you want them at once? Well, three of them are questions,
4 one is a comment. You want them all at once or one at a
5 time, or how would you like to handle that?

6 CHAIR HANSSEN: I think it's fine to go ahead and
7 make all your comments at one time because we want to make
8 sure that every commissioner has a chance to talk about any
9 questions or comments that they have, and then hopefully we
10 move forward to a motion.

11 VICE CHAIR JANOFF: Okay, great. So, just real
12 quickly then, as a matter of format there are a whole bunch
13 of lists of bulleted items or numbered items. The
14 penultimate item as the term "and" afterward, which to me
15 is an all-inclusive rather than these are items on a list,
16 so some of them are not appropriate, some of them might be
17 appropriate.

18 I'll just point out on page 33 there's a
19 disconnect between the list at the top of the page and the
20 list that follows subsequently; there is or isn't an "and".
21 And then I'll just refer to pages 42, 43, 49, 50, and 51 as
22 having similar lists that may be confusing or overly
23 restrictive.
24
25

1 My second comment is on page 47 there's an
2 example calculation regarding how to calculate the 80-
3 percent or 120-percent. We don't know what the assumed MFI
4 is and I think it would be clarifying for that number to be
5 included if it's just an example, so we know how the full
6 calculation is made.

7 Page 56, Item 3 says it requires the unit to
8 remain affordable for 30 years. I wasn't sure what that
9 restriction is. Is it a restriction on the loan or on the
10 rent? There's something confusing about that restriction.

11 Then finally page 55, Item 5, "Tenant rents and
12 incomes will be monitored annually." What happens if their
13 income goes up? To what end are they monitoring annually?

14 So just a question. I'm not sure if these need
15 discussion but just clarification, perhaps in the text.

16 CHAIR HANSSEN: So, how do you want to handle
17 questions? And I know Commissioner Barnett had quite a
18 number of comments that were in the same vein about making
19 things more clear, and he actually had proposed new
20 language, so how does Staff want to handle that? Because at
21 the end of the day the action by the Commission will be
22 either a recommendation to forward this to Town Council, it
23 could have changes along with it, or we could say that it's
24 not ready for that, but usually in the past when we've done
25

1 this we pass along all the comments of the Commissioners
2 unless somebody disagrees. So, maybe Staff could help.

3 JOEL PAULSON: A couple of things. One is thank
4 you for the comments, Vice Chair; we'll take a look at
5 those and/ors.

6 To answer your last question, the guidelines
7 specifically talk about if you are in a rental unit and
8 your income goes up and you no longer qualify for the BMP
9 program, then what happens is you now have to pay full
10 market rate rental, and then the next unit that comes up
11 available for rent in that complex becomes a BMP for the
12 next person so that we always maintain the number.

13 And what I'll say is that it's not the same as
14 for-sale. So, you get into the program and you meet the
15 requirements and are successful in being selected and then
16 purchasing the BMP, your income can go up infinitely and we
17 don't obviously evict folks or make them sell the unit if
18 their income increases for for-sale.

19 VICE CHAIR JANOFF: Thank you for that.

20 CHAIR HANSSEN: Just to jump in as a follow up,
21 and Commissioner Hudes had a question. But when they sell
22 the unit it says in the code that they're going to sell the
23 unit at a below market price.

24 JOEL PAULSON: That's true.

1 CHAIR HANSSEN: Even if they're affordability of
2 paying their mortgage and stuff during the time they owned
3 it has changed, they still are bound to sell it as an
4 affordable unit, and it's got to be that unit that they're
5 in, right?

6 JOEL PAULSON: Correct.

7 CHAIR HANSSEN: All right, so Commissioner Hudes,
8 go ahead.

9 COMMISSIONER HUDES: Thank you. First of all, I
10 think that the comments by Commissioner Barnett should be
11 part of whatever motion that we get to and so rather than
12 repeat them I'm going to go to some other questions. I was
13 kind of stumbling over the same things he carefully put
14 into his item. I did have a couple of questions that it
15 would be good to get a response on.

16
17 The first one is on page 8 in the last paragraph
18 where it talks about the employees working in town that
19 would be entitled to the program. We have very few
20 permanent employees these days at moderate- to low-income.
21 Many employers are keeping the hours of employees below 35
22 to avoid paying for healthcare. I had a couple of questions
23 about this because I think we're looking at a little bit of
24 a different workforce today. Are part-time workers who
25 might be working more than one job included? And I notice

1 that in the definitions there a definition of self-
2 employed, but I wonder in this section whether self-
3 employed and sort of gig economy workers would be included
4 as well? That's the first question I had.

5 JOEL PAULSON: Well, those are great questions.
6 Most of these modifications for processing those things is
7 really handled by Hello Housing, so what we'll do is we
8 will get that information and get it back to you. But we
9 also raised that issue as depending on the action of the
10 Planning Commission tonight and we can figure out how they
11 exactly define that and whether or not people who are part-
12 time maybe in Los Gatos and San Jose and Campbell or in
13 multiple jurisdictions, then how is that handled? As well
14 as the gig economy workers who may do work in town but they
15 do work all over the place. So, those are good questions
16 and we definitely can get an answer to that from Hello
17 Housing.

18
19 COMMISSIONER HUDES: Great, thank you. I had a
20 couple others. Should I keep going, Chair?

21 CHAIR HANSSEN: Go ahead, because I don't see any
22 other Commissioners that had their hands up at the moment.

23 COMMISSIONER HUDES: Okay. So, this one is
24 probably the bigger thing I wanted to sort of get my head
25 around and that is we're raising the limit so I assume that

1 that will get more people into the pool, and I'm a bit
2 concerned about how do we protect the ability of the really
3 low-income folks to participate in this program if we're
4 pulling in a lot more folks? One of the ways, it seems, is
5 the point program. So, my first question on this is that
6 Item C on page 10, is that the only way that we
7 differentiate between the income of everyone who is jumping
8 into this pool, the 60-percent gets an extra point?
9

10 JOEL PAULSON: I believe so, and I would just
11 look to Ms. Shoopman to confirm that.

12 JOCELYN SHOOPMAN: Yes, that's the only bullet
13 that is going to differentiate.

14 COMMISSIONER HUDES: So, I guess the question I
15 raise, which I think is kind of a big question, is by
16 increasing the 120-percent of median doesn't that cause us
17 to have less of a preference for people who previously may
18 have been available in the low- and very-low-income and
19 decrease their chances of getting affordable housing? My
20 question is should we allocate more points equitably based
21 on income, for instance, six points for very-low, four
22 points for low, to allow these folks to compete with the
23 larger number of people in the pool. It's not a technical
24 question; it's more sort of a policy question that I'm
25 raising here. Does that make sense though?

1 JOCELYN SHOOPMAN: It does, and I will say to
2 give some context when the Policy Committee considered this
3 in their November meeting part of that meeting included
4 input from the Applicant for 20 Dittos Lane who was
5 proposing the teacher housing, and part of her conversation
6 in that meeting was that many of these teachers were in the
7 80- to 120-percent median family income range, and so based
8 on our current guidelines they go up to 100. Those
9 teachers, janitorial workers, office administration
10 wouldn't be able to meet the program, and so that was part
11 of the conversation of raising it to 120. Also, that would
12 be in line with the RHNA numbers for the California
13 Department of Housing.
14

15 JOEL PAULSON: So, I just offer a little bit more
16 on that, Commissioner Hudes. The predominant majority of
17 the state as well as how they designate different income
18 categories goes up to 120. The Town's was 100. At 100 you
19 actually have a pool that is pretty limited, but on the
20 for-sale units they also have to qualify. The reality is
21 that if someone is in the 60-percent and this was a
22 moderate unit, they're not going to qualify just from an
23 income to mortgage ratio standpoint. I don't know that it's
24 taking away from those folks' opportunities. What really
25 would be necessary is for us to have some private

1 developers, some of the nonprofits, come in and have units
2 designated specifically for those categories, because then
3 what that does is that gets rid of everybody else who is
4 above and so that pool is on equal footing, because that's
5 what they're doing.

6 The Town Attorney has probably looked at this
7 more recently than I, but just as an example the 50 below
8 market rate units in the North Forty project, 49 of those
9 are either very-low or extremely-low, and I can't remember
10 if it's very-low and extremely or it's low and very-low,
11 and I think there's one moderate unit for the manager who
12 will be onsite. It allows more people to qualify up to the
13 120, and it really does, as Ms. Shoopman mentioned, kind of
14 gets us in alignment with how the state defines those
15 income categories.

17 CHAIR HANSSEN: Go ahead, Commissioner Hudes.

18 COMMISSIONER HUDES: I just am raising this
19 because we think we're doing a good thing by opening the
20 pool to more people but since we have very few units that
21 actually come up we may be having the unintended
22 consequence of limiting the opportunities for the lowest
23 income people, and as you point out the issue isn't I don't
24 think so much with the purchase units but the predominance
25 is on the rental units. So, I don't know whether what I've

1 suggested would make sense or not, we could save that for
2 discussion, but I just am concerned about an unintended
3 consequence of opening the pool.

4 I had one more sort of real quick technical
5 point.

6 CHAIR HANSSEN: Okay, go ahead.

7 COMMISSIONER HUDES: And that's on page 11, the
8 first paragraph, that sentence, it seems it might be more
9 straightforward to just say, "If an applicant twice refuses
10 to purchase an available unit they will be removed from the
11 current applicant pool." The way it's worded, especially as
12 it's been revised, is not so clear.

13
14 JOEL PAULSON: Okay, we can look at simplifying
15 that language.

16 COMMISSIONER HUDES: And that's all I had. Thank
17 you.

18 CHAIR HANSSEN: If no other Commissioners had
19 questions, I had a couple questions. Let me just check; one
20 second.

21 First of all, I wanted to say after I ask my
22 other two questions I want to get some feedback from other
23 Commissioners on the issues that Commissioner Hudes raised,
24 which is is this the most equitable way of allocating those
25 below market price units and is it negatively affecting the

1 lower income people by raising the limit? So, I'm hoping
2 that some other Commissioners will have some comments on
3 that but I had two kind of quick questions.

4 I might not be interpreting this correctly but
5 whereas in the hillsides we might not have forced a below
6 market price unit, if I'm understanding this correctly like
7 the next time we see one of these eight-unit development
8 proposals in the hillsides that they're going to be
9 required to do at least one below market price unit, right?
10

11 JOCELYN SHOOPMAN: The previous language stated
12 that hillside projects shall only pay in lieu fees. That
13 language was struck out. It still leaves the possibility
14 for them to pay an in lieu fee if they can provide
15 justification that a BMP unit in that development would not
16 be viable.

17 CHAIR HANSSEN: Okay. My next question was going
18 to kind of go along that vein. Generally when we've seen
19 these five- to eight-unit developments that we're talking
20 about \$3 and \$4 million houses, so I wasn't knowing how the
21 math would ever work when you have these \$3 and \$4 million
22 dollar houses to make it affordable for someone that's
23 making even 120-percent of the market income. So, I think I
24 understand the thing behind it.
25

1 But so the other thing that I noted is that the
2 in lieu fees, generally this proposed language is going to
3 make it more restrictive towards making a BMP versus having
4 the option of opting out based on paying in lieu fees, but
5 if you read the code, it's fine, but if you read the
6 document it sort of seemed like oh, well if you have any
7 problems regardless of whether you're in the hillsides or
8 not that you can get Town Council approval to do the in
9 lieu fees, and I just wondered if that was a good thing if
10 we're trying to make it tighter and get more BMPs versus
11 having people pay into in lieu fees? Is that going to be
12 tight enough?
13

14 JOCELYN SHOOPMAN: I'm sorry, so were you
15 referring to the language in the Town Code as not being in
16 line with the guidelines?

17 CHAIR HANSSEN: Well, I might have interpreted it
18 incorrectly but the Town Code was pretty clear that that
19 was only for the hillsides where they could potentially do
20 in lieu fees, and as I was reading the guidelines it
21 sounded more open to me, so maybe I misinterpreted it. Let
22 me ask the clarifying question though. The intent is the
23 only people that can ask for in lieu fees are going to be
24 people that are developing in the hillsides, is that
25 correct?

1 JOEL PAULSON: I think you're looking at the Town
2 Code section which specifically talks about HR, and then on
3 pages 2 and 3 of the guidelines—and that's the number of
4 page, not the page in the PDF—they talk about HR only, or
5 residential projects conversion, and all developments with
6 five to nine units with an underlying of HR as well. So, it
7 looks like that's covered both on the code and the
8 guidelines. but we'll take another look at it as well prior
9 to getting it to Council just to confirm.
10

11 CHAIR HANSSEN: Perfect. Okay. Now, Commissioner
12 Burch had her hand up.

13 COMMISSIONER BURCH: Thank you. I have a couple
14 of questions, if that's okay.

15 One item had to do with the section concerning
16 the resale of a below market home and my question was if
17 the property owners did some work on the house, an addition
18 or something that actually increased the value of the home,
19 before that is sold does the Town do an updated assessment
20 and then set the allowable resell value?

21 JOEL PAULSON: I'll jump in unless Ms. Shoopman
22 has something to say first, but generally what happens is
23 Hello Housing, there are specific calculations that are
24 used for upgrades, whether that's upgrading appliances,
25 upgrading finishes, things like that, adding air

1 conditioning if there wasn't air conditioning. And then
2 there is also a depreciation scale that they use, and so
3 they determine what if any value is still left depending on
4 how long ago those were installed and the cost of those
5 installations.

6 I am trying to recall, but I don't recall ever
7 having seeing an addition to a BMP. Typically what we get
8 is they replaced their carpet with hardwood, or they put in
9 air conditioning where they didn't have it, things like
10 that. But yes, there is some flexibility there and a
11 process to handle that increase in value that would not
12 otherwise be (inaudible).

14 COMMISSIONER BURCH: Chair, do you mind if I ask
15 just a couple more?

16 CHAIR HANSSEN: Go ahead.

17 COMMISSIONER BURCH: All right. On page 38 in
18 discussion with the in lieu fee, how was 6-percent
19 determined to be the correct percentage?

20 JOEL PAULSON: That I don't know. That's what
21 it's been ever since I've been here, 20-plus years, but I
22 do not know the origins unfortunately of that number.

23 COMMISSIONER BURCH: I thought that might be the
24 answer. Historically does that feel appropriate?
25

1 JOEL PAULSON: We think it's appropriate, and
2 that in combination with the fact that we are now making it
3 extremely hard and only in the hillsides to allow in lieu
4 fees. And that was the Policy Committee's (inaudible) as
5 well is we really want the units produced, we don't have a
6 whole lot of large development in town in the first place
7 to get BMPs, and so I think we have somewhere in the
8 neighborhood of \$3.5 million in our BMP in lieu fee fund,
9 and so the reality is if the Town...

10
11 And we do have documents and there will probably
12 continue to be conversations of how to use that money. I
13 think some of it is being used for the Dittos Lane
14 projects, so that's generally what we use it for, and then
15 we use it for the administration of the BMP Program, which
16 currently there is an RFP out because every five years
17 approximately we go out and see if the current provider
18 still is kind of the appropriate provider for those
19 services, so we're going through that process currently as
20 well.

21 But it doesn't accrue much money. There's still a
22 handful. I think we have probably five more in the hillside
23 PD, and then I think the in lieu fees were also allowed for
24 Greenwich Terrace, which is eight lots, so other than that,
25 unless we get subdivisions in the hillside we're going to

1 be asking for the units, and the only opportunity for the
2 in lieu fees is in the hillsides and that's going to be
3 even more limited for a number of reasons, not to mention
4 fire and our own regulations, so we still think that that's
5 viable. Our provider hasn't (inaudible) is low or high, so
6 I think we're comfortable at this point moving forward with
7 that number and we'll reach out to them again to see if
8 there are any newer thoughts.

9
10 COMMISSIONER BURCH: So then I would wonder if
11 there's not a way to put some language around maybe
12 evaluation periods on that 6-percent. We do know how
13 property value goes around here and ensuring that if you
14 are getting this from developers, and I get that it's in a
15 very limited scope, but just ensuring that what you get
16 really does match the current financial conditions of the
17 real estate market so that it can be put to good use. I'm
18 not saying it needs to be changed, I just wondered if
19 there's a way we could put some kind of language around an
20 annual or every five year reevaluation of that percentage
21 and its applicability to the current market?

22
23 JOEL PAULSON: We could do that. What I will say
24 is that every time you want to reevaluate it we have to do
25 a brand new nexus study, which means hiring a consultant,
having them go through that and provide information, so

1 it's not something we can just change or have Staff ability
2 to modify or do that work on our own.

3 COMMISSIONER BURCH: Right.

4 JOEL PAULSON: The other thing I can offer is
5 that it depends on the development, but hillside
6 developments specifically is where the majority of those
7 funds come from historically, and it's actually most of
8 those folks. They'll get the planned development and
9 they'll get the subdivision, they sell the individual lots,
10 then the homeowner pays those fees because they're the one
11 who comes forward with the house, so it's not the developer
12 paying that up front.
13

14 Now, there is some negotiation with price, with
15 that factored in, so they may that conversation when
16 they're selling those lots to potential homeowners. I'm not
17 sure, I'm assuming there is because otherwise every time
18 someone had to pay that fee I'm sure we'd hear a lot more
19 than we currently hear regarding that issue.

20 CHAIR HANSSEN: To follow up on what Commissioner
21 Burch was asking, I mean you said it wasn't a problem, so
22 in your opinion and Staff this 6-percent has been enough of
23 a deterrent that do we typically get the people to... I mean,
24 from what I've seen on Planning Commission we typically get
25 them to do the BMP, so we haven't seen that many people do

1 the in lieu fees that are not in the hillsides in like the
2 last five years?

3 JOEL PAULSON: No, absolutely not.

4 CHAIR HANSSEN: Okay, so at the moment it seems
5 like the 6-percent is enough of a deterrent that they're
6 better off financially doing the BMP than they are...because
7 they're going to make whatever decision is the least amount
8 of money to them, right?

9 JOEL PAULSON: Well, so that's probably a
10 stretch. Using your analysis of let's just say a \$2 million
11 house, they're going to pay the BMP fee for that because
12 they would have to subsidize that home if they constructed
13 it significantly. Probably the most recent example is the
14 homes that went up off of Knowles, the old county
15 courthouse site. Those were not small homes, they're not
16 hillside homes by any means, but I think the moderate units
17 there were like they had to sell them for \$448,000,
18 somewhere in that neighborhood. That probably barely, even
19 in a flatland project, covered their construction costs.

20 But in a hillside there are a number of other
21 factors as well. Typically our hillside lots are larger
22 lots, typically larger homes. If someone was going to build
23 those in the hillside I imagine they would come in asking
24 for a smaller lot and a smaller home, just because the
25

1 other is if you're going in and you qualify for the Below
2 Market Price Program you're not going to have the extra
3 money to have a gardener or landscaper take care of that
4 big property and then utilities and other things that go
5 into it just sheerly based on the size of the home, those
6 would be burdens to our below market price folks to try to
7 be able to even maintain that.

8 They're private roads, there could be common
9 area/open space that would have HOA fees that would be very
10 high, so those are all some of the challenges that we have,
11 but I think we're going to see less and less of this and
12 they're going to ultimately probably have to go all the way
13 to the Council if they want to try to pay the in lieu fee
14 even for an HR (inaudible).

16 CHAIR HANSSEN: Just one quick question. The
17 housing that's going up on Union Avenue across from
18 Safeway, I know we heard about that. I'm trying to
19 remember. It was under the Housing Accountability Act, but
20 because it was nine units do they have to do a BMP?

21 JOCELYN SHOOPMAN: They do, so they are doing a
22 BMP above the mixed-use building.

23 CHAIR HANSSEN: Yeah, I thought that was the
24 case. So, then that says that part is working, that we're
25 getting people to do the units where it's not in the

1 hillsides, so I guess we'll have to see what happens with
2 the hillsides, but I think Commissioner Burch had a good
3 point worth considering. I don't know if it is financially
4 feasible for the Town to keep looking at it, but since
5 we're changing some of the dynamics we might need to at
6 least keep our eye on it. Now, Commissioner Badame has her
7 hand up.

8
9 COMMISSIONER BADAME: Thank you. Mr. Paulson, you
10 reminded me of the planned development—actually, I was on
11 the Planning Commission at the time—for Knowles near
12 Pollard. Can you remind me how many BMP units we got out of
13 that planned development?

14 JOEL PAULSON: Four.

15 COMMISSIONER BADAME: Thank you.

16 CHAIR HANSSEN: Commissioner Burch has her hand
17 up again.

18 COMMISSIONER BURCH: Sorry.

19 CHAIR HANSSEN: Don't be sorry.

20 COMMISSIONER BURCH: Mr. Paulson just reminded me
21 though of one of the things I wanted to ask about. On page
22 41 there's actually a note about HOA fees. It's Item C.

23 JOEL PAULSON: What page is that on, the
24 document?
25

1 COMMISSIONER BURCH: That is on 41. It where an
2 applicant has to demonstrate the ability to pay things
3 based on exactly what you were just saying. Like I would
4 assume people that are looking at BMPs, even if it was in a
5 development that had an HOA I feel like they probably
6 shouldn't be expected to pay an HOA fee. Does the Town have
7 the ability to dictate that or is that a developer right?

8 JOEL PAULSON: I'd probably defer to the Town
9 Attorney but I don't think that's something that we can
10 require the developer that any BMP does not have to pay HOA
11 fees. They're still using those facilities as well, but I
12 have not heard that that's an ability of the Town unless
13 Mr. Schultz has some additional information.

14 TOWN ATTORNEY SCHULTZ: I've never seen it but we
15 can look into it. We'll put that on the list when it goes
16 to Council. I have not seen it where that's happened. I
17 used to have all sorts of concerns like when the roof has
18 to be repaired if that unit hasn't provided the funds for
19 that fix you're asking all the other neighbors that have
20 chipped in their funds to pay for that neighbor's ability.

21 COMMISSIONER BURCH: Or even if the HOA fee could
22 be...

23 JOEL PAULSON: Reduced.
24
25

1 COMMISSIONER BURCH: ...correlated more to the
2 value of the home for that person maybe, I'd be curious.

3 TOWN ATTORNEY SCHULTZ: The issue for ownership
4 is really to integrate them, and so if they weren't paying
5 anything to the homeowners association would that mean they
6 wouldn't be able to sit on the board?

7 COMMISSIONER BURCH: Yeah, you're right.

8 TOWN ATTORNEY SCHULTZ: But we can look into it.
9 I mean, it's an interesting concept, because ownership of
10 BMPs is a trouble in any town and city because paying the
11 HOAs, we've had a few where they've fallen tremendously
12 behind on that and had to bail them out and find someone
13 else to bail them out, and so maybe it is something we need
14 to look at to see if there's any way we can incorporate
15 that into some of the larger developments.

16 COMMISSIONER BURCH: Right. Thanks. And then I
17 just had one more, Chair, and then I'll stop.

18 CHAIR HANSSEN: No, that's fine.

19 COMMISSIONER BURCH: On page 44, Item 3A, I was
20 actually just wondering if maybe Mr. Paulson could explain
21 that one to me. I understood pretty much everything within
22 the point system. That one I wasn't following along, so
23 it's like for people that lived in the Town but then moved
24 out?
25

1 JOEL PAULSON: That's been in our guidelines for
2 quite a while, ten years and moved out of town, (inaudible)
3 application.

4 TOWN ATTORNEY SCHULTZ: That's usually it's maybe
5 who had lived here more than ten years and then they have
6 maybe been gone just for a year or two. You don't have to
7 be gone ten years but at least within the last ten years
8 you've moved out maybe because you couldn't find rent in
9 this area, now you want to move back in.
10

11 COMMISSIONER BURCH: Oh, okay.

12 TOWN ATTORNEY SCHULTZ: But you couldn't go more
13 than ten, so if you lived here for 11 years and then were
14 gone for 11 years, you don't get the two points, but if
15 you've been here 11 years and you've been gone less than
16 that ten years, then you'd get the two points.

17 JOEL PAULSON: It's really I think (inaudible)
18 displacement, right?

19 TOWN ATTORNEY SCHULTZ: Yeah.

20 JOEL PAULSON: So if someone gets priced out of
21 the market and has to move to an adjacent jurisdiction
22 because they can get rent affordably, if a BMP unit comes
23 up back in town where they've lived for quite some time you
24 want to be able to provide them that opportunity and I
25

1 think that's probably why those points are in the
2 guidelines.

3 COMMISSIONER BURCH: Okay, thanks. That makes
4 more sense. Thank you.

5 CHAIR HANSSEN: Did you have any more questions
6 at the moment?

7 COMMISSIONER BURCH: (Inaudible) I can't promise
8 (inaudible).

9 CHAIR HANSSEN: That's fine, because we should
10 answer all of your questions. So, do any other
11 Commissioners have questions at the moment? It looks like
12 Commissioner Barnett. I'm hoping to hear from some of the
13 other Commissioners about the points that Commissioner
14 Hudes brought up, and so let me go to Commissioner Barnett
15 for what comments he has.

16 COMMISSIONER BARNETT: Speaking to that point, I
17 was wondering if Staff could help out with some notion of
18 how many of the BMP applicants for purchase or for rental
19 are at certain income levels that we can already define?

20 JOEL PAULSON: A couple of things. One is
21 rentals. Currently you have to be at 80-percent or below
22 the median income for Santa Clara County, and so kind of
23 getting back to Commissioner Hudes' point is yes, this does
24 expand that pool, but as the sheet will mention this was in
25

1 direct response to an issue that comes up quite often with
2 in this instance the teacher housing that was being done at
3 Dittos Lane.

4 For the for-sale units you have to fall into one
5 of those categories. Right now it's moderate or low is
6 typically what we see. If you have more than one unit then
7 the units get split between those two categories and then
8 you have to be in that income bracket so 100-percent of
9 people qualify for each of the income levels that apply for
10 that.

11
12 CHAIR HANSSEN: Okay, so did that answer your
13 question, Commissioner Barnett?

14 COMMISSIONER BARNETT: Yes, it does.

15 CHAIR HANSSEN: Okay. So, just to kind of do a
16 (inaudible) on where we are right now, because we had lots
17 of good questions and comments so far. Our objective for
18 this hearing is that we're supposed to make a
19 recommendation to Town Council, and in doing so if we're
20 recommending that they move forward with this it can be
21 with comments. We do need to make the findings that are
22 spelled out in the Staff Report in CEQA and compliance with
23 the General Plan.

24 So, that being the case we can take a number of
25 directions, and when we've done these studies in the past

1 we usually forward it along even if it's positive but
2 please consider all these things that we brought up. But we
3 could also say it's not ready and it needs to go back to
4 the Policy Committee and that's the most negative scenario,
5 so I wanted to put that out there in terms of moving the
6 discussion forward, and Commissioner Hudes has his hand up,
7 so go ahead.

8
9 COMMISSIONER HUDES: I'm prepared to summarize
10 into a motion if we're at that point, or if there are other
11 important points that folks would like to raise I will just
12 wait a bit.

13 CHAIR HANSSEN: Well, Commissioner Janoff has her
14 hand up so I'm going to take her comments, but I would say
15 that it would be a good idea to try to get a motion out
16 there to see where the Commission is, to see if we need to
17 modify things. So, Vice Chair Janoff.

18 VICE CHAIR JANOFF: Thank you. I just wanted to
19 say that I thought Commissioner Hudes' concerns about the
20 increase on the upper range is an interesting question and
21 we really don't know the answer because it's untested, and
22 I'm wondering whether it's possible to have a revisit with
23 a small report of some sort that can... If we decided to go
24 forward in supporting the larger range could we ask for a
25 report in an appropriate period of time that says this has

1 boxed a lot of people out or it's provided new
2 opportunities for people to get in, just so we know whether
3 this has been a constructive change or a not constructive
4 change? I think that it's an interesting point and we don't
5 know how to test it now; we won't know until we have some
6 data.

7
8 Then generally speaking I think the comments that
9 have been raised tonight have been very constructive and
10 clear. I would support forwarding this to the Town with
11 those comments to be considered.

12 CHAIR HANSSEN: Thank you very much for your
13 comments. So, Commissioner Hudes, if you wanted to make a
14 motion, that would be great.

15 COMMISSIONER HUDES: Yeah, actually I wanted to
16 start with one more comment and then I'll include it in the
17 motion, but I wanted to get it on the table first.

18 I don't think we have enough affordable housing.
19 I think the program is very important and I think we're
20 going to be pushed with a lot of numbers to reach and I
21 think it's going to be important that we create affordable
22 housing opportunities.

23 These numbers of how many units a developer has
24 to build were developed a long time ago. The profit on
25 development in town has gone up, we know that, and so I

1 would add a question of whether it might be appropriate to
2 look at raising the number that needs to be created, the
3 amount of housing, by perhaps 10-percent? So, whatever
4 formulas that we're using today, for instance a 5:19
5 requires 10-percent; perhaps it should be 11-percent so
6 that we actually end up getting more housing.

7 Now, it's pretty controversial and a big thing so
8 I'm going to hold off on the motion in case folks would
9 like to comment on that, but it seems to me that while
10 everything has gone up, yes, costs have gone up, prices
11 have gone up, but profits have gone up as well and so
12 perhaps there's an opportunity to take a look, maybe even
13 surveying what other municipalities are doing to see if we
14 can get more affordable housing created.

15 JOEL PAULSON: Through the Chair?

16 CHAIR HANSEN: Go ahead.

17 JOEL PAULSON: Commissioner Hudes, I think that's
18 a great idea and recommendation. I think basically you're
19 recommending that the percentages for the various
20 categories be reviewed and potentially increased. We would
21 have to perform a nexus study to do that. I know a number
22 of other jurisdictions in Santa Clara County have done that
23 recently; the Town did not participate in that action and
24 that was over the last few years, but we might be able to
25

1 use some of that base information if it's not stale to go
2 out and do an RFP or RFQ for a nexus study for the
3 potential to increase our BMP requirements to hopefully get
4 more units.

5 CHAIR HANSSEN: And Vice Chair Janoff has a
6 comment, and I do as well, so go ahead.

7 VICE CHAIR JANOFF: Just in light of those
8 comments, Director Paulson, do you know the outcome? Do you
9 know whether those numbers have been increased or
10 decreased? I mean, I'm sensitive to your previous comments
11 that we are wanting to not disincentivize the building of
12 affordable housing, so do you have any idea or any
13 information about what changed or didn't change with the
14 municipalities who conducted those studies?

15 JOEL PAULSON: I don't, but we can look at it. I
16 know that there are some jurisdictions that have higher
17 minimum requirements, 15-percent or maybe a few of them
18 have 20-percent, that's just across the board. Ours doesn't
19 start at 20-percent until I think you get over 100, but we
20 can take a look at a couple of those studies before it goes
21 to Council and move forward that information with that
22 question from Commissioner Hudes.

23 CHAIR HANSSEN: I had the same thought. I liked
24 Commissioner Hudes' suggestion, but from a big picture
25

1 perspective I'm thinking that we ought to try to get this
2 thing... It's going to be improved by the language changes
3 that have already been proposed without the additional
4 recommendations of the Planning Commission, so I think we
5 can add onto that, but the one thing we have to balance it
6 with is the research in the market that we're not going to
7 deter any production of affordable housing by squeezing the
8 developers more, but at the same time if a market supports
9 it we should try to do that.

10
11 I don't know at what point this is going to
12 Council but if it's possible to do that before that I think
13 it's worth looking at, but I don't want to stand in the... My
14 personal feeling is I don't want to stand in the way of
15 getting the code somewhat tighter even if there are to-dos
16 that go along with it. So, Commissioner Hudes had a
17 comment.

18 COMMISSIONER HUDES: I'm prepared to make a
19 motion to incorporate that idea, if that's okay.

20 CHAIR HANSSEN: Okay, go ahead.

21 COMMISSIONER HUDES: I move that we forward a
22 recommendation to the Town Council to approve the changes
23 as provided by Staff with the additions of the comments of
24 the Planning Commission, and I want to highlight several
25 changes that I think need to be pretty explicit.

1 The comments from Commissioner Barnett, as
2 written.

3 Commissioner Burch's comments about valuation, in
4 particular resale considerations.

5 Director Paulson's commitment to take a look and
6 do some research on part-time and gig workers.

7 Specifically the consideration of looking at
8 additional points for different income levels in the
9 formulation, and again, this is not explicit to change it
10 but to look specifically at five points for 60-percent and
11 three points for 80-percent as something for the
12 consultants to look at to try to balance this and give a
13 better opportunity for low-income residents to participate.
14

15 Consider increasing the number of units by doing
16 a survey of other communities to see whether it would be
17 possible to raise the requirements by 10-percent across the
18 board.

19 So, those are the ones that I captured that I
20 highlighted. There might be others, maybe somebody would
21 like to add them to the motion, but that's the motion as I
22 have it.

23 CHAIR HANSSEN: Are you able to make the findings
24 that are spelled out in the Staff Report?
25

1 COMMISSIONER HUDES: Yes, I would include those
2 findings.

3 CHAIR HANSSEN: Okay. So, let's see if there are
4 any Commissioners that would want to second the motion and
5 then we could always ask for modifications before we vote.
6 Commissioner Badame.

7 COMMISSIONER BADAME: I would second the motion
8 based upon the additions made by Commissioner Hudes.

9 CHAIR HANSSEN: Okay, so we have a motion and a
10 second. Before we take a vote though this might be a good
11 time to take any additional comments if there are
12 Commissioners that thought there is anything in addition to
13 what Commissioner Hudes had to say or if you had any
14 additional comments that you haven't already made about
15 this motion in general, this would be a good time to do it
16 before we take a vote. So I wanted to see if any other
17 Commissioners... But everyone had contributed suggestions so
18 I think we're okay. I don't see any hands raised.

19 So, that being the case we have a motion and a
20 second. Did I miss any? Okay, right. So then we'll do a
21 roll call vote and I will start with Commissioner Badame.

22 COMMISSIONER BADAME: Yes.

23 CHAIR HANSSEN: And then Commissioner Burch.

24 COMMISSIONER BURCH: Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIR HANSSEN: Okay, Commissioner Hudes.

COMMISSIONER HUDES: Yes.

CHAIR HANSSEN: Commissioner Barnett.

COMMISSIONER BARNETT: Yes.

CHAIR HANSSEN: Vice Chair Janoff.

VICE CHAIR JANOFF: Yes.

CHAIR HANSSEN: And then I vote yes as well, so the motion passes unanimously, and Mr. Paulson, are there any appeal rights for this decision?

JOEL PAULSON: There are not appeal rights as this is a recommendation.

CHAIR HANSSEN: Okay, thank you very much. And thank you for everyone for all your comments, because I think they were really helpful and will help shape this into a better solution for our town.

***This Page
Intentionally
Left Blank***

**TABLE V-1
COMPARISON OF AFFORDABLE HOUSING REQUIREMENTS - RESIDENTIAL
SANTA CLARA COUNTY CITIES**

	Campbell 2006	Los Altos Est. 1995, update 2009	Milpitas 2015	Santa Clara City Est. 1991, update 2006 and 2017
Year Adopted / Updated				
Minimum Project Size				
For Fee Payment	FS, <6du/Ac: 10 units FS, >6 du/Ac: n/a	n/a	FS/R: 5 units	FS/R: 3 units
For Build Requirement	FS, <6du/Ac: n/a FS, >6du/Ac: 10 units	FS: 5 units	no build req.	FS/R: 10 units
Impact / In-Lieu Fee	FS: \$34.50 /sf	none	FS/R: 5% building permit value	Single family: \$30 psf Townhome: \$25 psf Condo: \$20 psf Rentals: \$20 psf
Onsite Requirement/Option				
Percent of Total Units	FS: 15%	FS: 10%	FS/R: 5%	FS/R: 15%
Income Level for Qualification	FS: Low and Moderate	FS: Moderate If <10 units, one unit at Low.	FS/R: Low and Very Low	May be at a range of income levels.
Income Level for Pricing(% AMI)	FS: Moderate @ 110% Low @ 70%	Not Specified.	Not specified.	May be at a range of income levels but must average to 100% AMI or below.
Fractional Units	<0.5: round down, >0.5: round up	provide unit	not specified	pay fee or provide unit
Comments	code does not specify allocation between Low and Moderate; staff indicates approximately 50/50 allocation has been the experience.	<4 du/Ac: no requirement. Also, requirements may be waived by City Council for projects of 9 units or less.	In-lieu/impact fee introduced as temporary measure while City prepares formal nexus study. Fee has not yet been assessed.	

Abbreviations:

R = Rental
du = Dwelling Unit

FS = For Sale
Ac = Acre

/sf = per square foot
AMI =Area Median Income

MF = Multi-Family
SF = Single Family

1. Santa Clara County and Saratoga do not currently have an inclusionary housing requirement.

Notes: This chart presents an overview, and as a result, terms are simplified. For use other than general comparison, please consult the code and staff of the jurisdiction.

Virtually all cities that do not allow fee payment by right allow developers to seek Council approval of fee payment instead of on-site units, in addition to providing options for off-site construction and land dedication.

**TABLE V-1
COMPARISON OF AFFORDABLE HOUSING REQUIREMENTS - RESIDENTIAL
SANTA CLARA COUNTY CITIES (PLUS SAN MATEO COUNTY)**

	Cupertino	Mountain View	San Jose	Sunnyvale	San Mateo County
Year Adopted / Updated	Est. 1992, update 2015	Est. 1999, rental impact fee in 2012, update 2015	Est. 2010.	Update 2015	Est. 2004; update 2016
Minimum Project Size					
For Fee Payment	FS/R: 1 unit	FS: 3 units R: 5 units	FS/R: 20 units	FS: 8 units R: 4 units	FS/R: 1 unit
For Build Requirement	FS: 7 units	Mixed FS/R: 6 units FS: 10 units	no build req.	FS: 20 units	MF: 10 units; SF: no build reqmt.
Impact / In-Lieu Fee	FS: Detached \$15/sf, Attached \$16.50/sf, MF \$20/sf R: <35 du/Ac \$20/sf, >35 du/Ac \$25/sf	FS: 3% of sales price R: \$17/sf	FS: based on affordability gap R: \$125,000 SF per affordable unit owed	FS: 7% of sales price R: \$8.50/sf (4-7 units), \$17/sf (8+ units)	FS: 1 unit: \$5 psf above 2,500 SF 2-4 units: \$5 psf, 1st 2,500 SF then \$12.50 SF 5+ units: \$15 MF 5+ units: based on gap calculation R: \$10
Onsite Requirement/Option					
Percent of Total Units	FS/R: 15%	FS/R: 10%	FS: 15%	FS: 12.5% R: On-site credits (see below)	MF 5+ units: 20%; SF: 15%
Income Level for Qualification	FS: 1/2 Median 1/2 Moderate R: 40% Low, 60% Very Low	FS: Median R: Low	FS: Moderate R: 9% Moderate 6% Very Low	FS: Moderate	MF 5+ units: FS: ELI to Mod, <= 50% @ Mod; R: ELI to Low, <= 50% @ Low; SF: Mod
Income Level for Pricing(% AMI)	FS: Moderate @ 110%, Median @ 90% R: Low @ 60%, Very Low @ 50% AMI	FS: One unit: 90% AMI Multiple units: 80 - 100% AMI R: Ranges btwn 50-80% AMI	Moderate @ 110% AMI Rental @ 80% and 50% of AMI	Moderate @ 100% AMI	State H&S code standards
Fractional Units	<.5 unit owed: pay fee .5+ unit owed: round up	pay fee or provide unit	<.5 unit owed: round down .5+ unit owed: round up	pay fee or provide unit	pay fee
Comments			Inclusionary program reinstated in 2016 following litigation. Rental requirements automatically apply following AB 1505	On-site rental: developer credited \$300,000/du (Very Low), \$150,000/du (Low). Projects with fewer than 20 units are eligible to pay in-lieu fee.	Inclusionary program applies to multifamily projects of 5+ units; impact fee program applies to single family and smaller multifamily projects.

Abbreviations: R = Rental /sf = per square foot MF = Multi-Family
du = Dwelling Unit Ac = Acre AMI =Area Median Income SF = Single Family

Notes: This chart presents an overview, and as a result, terms are simplified. For use other than general comparison, please consult the code and staff of the jurisdiction. Virtually all cities that do not allow fee payment by right allow developers to seek Council approval of fee payment instead of on-site units, in addition to providing options for off-site construction and land dedication.

**TABLE V-1
COMPARISON OF AFFORDABLE HOUSING REQUIREMENTS - RESIDENTIAL
ALAMEDA COUNTY CITIES**

	Albany	Fremont	Hayward	San Leandro	Union City
Year Adopted / Updated	2005	Est. 2002, update 2015, full phase-in 2017	Updated in 2017	2004	Est. 2001, update 2006
Minimum Project Size For Fee Payment For Build Requirement	FS: 5 units FS: 7 units	FS/R: 2 units no build req.	FS/R: 2 units no build req.	FS: 2 units FS: 7 units	FS/R: 1 unit no build req.
Impact / In-Lieu Fee	FS: (Market Value - Affordable Price) x units owed	FS: Attached \$27.00 no units, \$18.50 w/ aff units Detached \$26.00 no units, \$17.50 w/ aff units, R: \$17.50 no map, \$27.00 w/ map	FS / R: \$18.18/sf, Condos (35+ DU/acre): \$15 /sf Add 10% if paid at C/O	FS: (Median Sale Price - Affordable Price) x units owed	Council Direction for Updated Ordinance (April 2017): FS: \$22/SF R: \$14/SF
Onsite Requirement/Option Percent of Total Units	FS: 15%	FS: Attached 3.5% plus \$18.50/sf Detached 4.5% plus \$17.50/sf R: 12.9%	FS: 10%, Condos (35+ DU/acre): 7.5% R: 6%	FS: 15%	FS: 15%
Income Level for Qualification	FS: <10 units: Low 10+ units: 50% Low, 50% Very Low	FS: Moderate Income R: 19% Extremely Low, 33% Very Low, 25% Low, 24% Moderate	FS: Moderate Income R: 50% Low, 50% Very Low	FS: 60% Moderate, 40% Low	FS: 60% Moderate, 30% Median, 10% Low.
Income Level for Pricing(% AMI)	Not specified.	FS: Moderate @ 110% AMI (120% w/approval) R: Low @ 60% AMI, Very Low @ 50% AMI, Extremely Low @ 30% AMI	FS: Moderate @ 110% AMI R: Low @ 60% AMI Very Low @ 50% AMI	FS: Moderate @ 110% AMI, Low @ 70% AMI	FS: Moderate @ 110% AMI, Median not specified (80-100%) Low @ 70% AMI
Fractional Units	<0.5: pay fee, >0.5: provide unit	pay fee or provide unit	pay fee or provide unit	<0.5: round down, >0.5: round up	pay fee or provide unit
Comments		Full phase-in levels shown. Rental projects with a subdivision map pay the higher fee. FS projects req. to provide onsite units and pay fee.		Fee calculated based on current median sales price.	Reflects Council direction for updates to ordinance that have not yet been adopted. Fee applies to additions over 500 square feet.

Abbreviations: R = Rental /sf = per square foot MF = Multi-Family
du = Dwelling Unit Ac = Acre AMI =Area Median Income SF = Single Family

Notes: This chart presents an overview, and as a result, terms are simplified. For use other than general comparison, please consult the code and staff of the jurisdiction. Virtually all cities that do not allow fee payment by right allow developers to seek Council approval of fee payment instead of on-site units, in addition to providing options for off-site construction and land dedication.

**TABLE V-1
COMPARISON OF AFFORDABLE HOUSING REQUIREMENTS - RESIDENTIAL
ALAMEDA COUNTY CITIES**

	Alameda (city)	Berkeley	Dublin	Oakland	Pleasanton
Year Adopted / Updated	2003	Est. 1986, rental fee 2011, update adopted 2017	Est. 1997, update 2005	2016	Est. 1978, update 2000.
Minimum Project Size					
For Fee Payment	FS: 5 units	FS/R: 5 units	FS/R: 20 units	FS/R: 1 unit	FS/R: 15 units
For Build Requirement	FS: 10 units	no build req.	FS/R: 20 units (partial)	no build req.	no build req.
Impact / In-Lieu Fee	FS: \$19,076/du	FS: 62.5% x (Sale Price - Affordable Price) x units owed R: \$34,000/du or \$37,000/du if paid at C/O	FS/R: \$127,061 per aff unit owed (in addition to on-site)	FS/R: MF \$12,000-\$22,000, SF Attached \$8,000-\$20,000, SF Detached \$8,000-\$23,000	FS/R: MF \$2,783/du, SF <1,500 sq ft: \$2,783/du, >1,500 sq ft: \$11,228/du
Onsite Requirement/Option					
Percent of Total Units	FS: 15%	FS/R: 20%	FS/R: 7.5%, plus fee (12.5% without fee)	FS/R: Option A 5% or Option B 10%	FS/R: MF 15% SF 20%
Income Level for Qualification	FS: 47% Moderate, 27% Low, 27% Very Low	FS: Low R: Current Very Low Proposed 1/2 Very Low, 1/2 Low	FS: 60% Moderate, 40% Low R: 50% Moderate, 20% Low, 30% Very Low	FS/R: Option A Very Low Option B Low and Moderate	FS: MF Low SF Moderate
Income Level for Pricing(% AMI)	FS: Moderate @ 110%, Low @ 70%, Very Low @ 50%	FS: Low @ 80% R: Low at 81%, Very Low at 50%.	FS: Moderate @ 110%, Low @ 70% R: Moderate @ 110%, Low @ 80%, Very Low @ 50%	FS: Moderate @ 110%, Low @ 70%, Very Low @ 50% R: Moderate 110%, Low @ 60%, Very Low @ 50%	FS: MF 80% AMI SF 120% AMI
Fractional Units	<0.5: round down, >0.5: round up	pay fee	<0.5: round down, >0.5: round up	pay fee or provide unit	<0.5: round down, >0.5: round up
Comments				Fees vary by neighborhood. Fees phased in through 2020. Full fee levels shown. On-site: May choose Option A or B. Based on draft ordinance prepared for April 19, 2016 council meeting.	

Abbreviations: R = Rental /sf = per square foot MF = Multi-Family
du = Dwelling Unit Ac = Acre AMI =Area Median Income SF = Single Family

Notes: This chart presents an overview, and as a result, terms are simplified. For use other than general comparison, please consult the code and staff of the jurisdiction. Virtually all cities that do not allow fee payment by right allow developers to seek Council approval of fee payment instead of on-site units, in addition to providing options for off-site construction and land dedication.

8/5/2020

To: Madame Mayor & Town Council

Fr: Sarah Chaffin

Re: Modification to Town MFI (Median Family Income) for Rental Units to 120% of AMI

Dear Madame Mayor & Town Council,

Thank you for the opportunity to weigh in on the possible modification to the Town BMP guidelines for rental housing.

Currently, the Town only goes to a maximum of 80% to 100% of AMI for BMP rental guidelines. This is well below the state RNHA guideline of 120% of AMI. The net effect of the current policy is that essential workers like teachers & school employees, police dispatchers, nursing assistants and other community helpers make too much money to qualify for our BMP rental guidelines but not enough money to live in our community.

I would like to recommend that the Town Council supports the Council Policy Committee's and Planning Commission's recommendation to modify the Median Family Income for owner occupied and rental units to up to 120% of AMI.

This would be in line with state RNHA guidelines and help our valuable essential workers live where they work. Increasing MFI could spur the production of more housing units. This change would increase the applicant pool but would not negatively impact lower income applicants as the essential workers would only qualify for higher income units.

Thank you for your considerations.

Sincerely,



Sarah Chaffin

***This Page
Intentionally
Left Blank***

**Summary of Community Workshop #2: Affordable Housing
September 29, 2020**

Mayor Marcia Jensen welcomed the community, explained how we got here, and stated that Town Manager Laurel Prevetti would be facilitating the meeting.

Town Manager Prevetti provided an overview of the workshop agenda and reviewed ground rules.

Community Development Director Joel Paulson presented a brief overview of Los Gatos Affordable Housing Programs.

Associate Executive Director of West Valley Community Services (WVCS) Sujatha Venkatraman provided overview of services and partnerships provided by WVCS.

Town Attorney Rob Schultz provided an overview of recent state housing legislation.

Town Manager Laurel Prevetti stated the presentations will be posted on the Town's website and opened the floor up to the community for comments, questions, and input.

Q&A/Comments Addressed During the Workshop

Lynel Gardner

- Inquired if Los Gatos is working with neighboring cities to reduce competition for funding and not repeating the same mistakes made in the 1960s with the civil rights movement.

Town Manager Prevetti stated the Town is typically more financially self-sufficient and therefore isn't competing with other cities for State funds. Robert Shultz stated partnering with other jurisdictions for better collaboration is a great idea. Associate Executive Director Venkatraman stated many cities are beginning to collaborate with other entities including at the county and state levels as housing is a statewide issue. Director Paulson stated the Town continues to look for opportunities to collaborate.

Chris of Los Gatos

- Inquired how many Section 8 houses are in Los Gatos.

Town Manager Prevetti stated the County Housing Authority is the entity that administers the Section 8 program and the Town does not know the number of Section 8 certificates being used in Los Gatos. The Town will work with the County to obtain the information if possible and post it to the Town website.

ATTACHMENT 8

Jefferey Suzuki

- Inquired by what metric the success of the Below Market Price (BMP) program is measured. Commented that the BMP program emphasizes ownership over rental housing, the Town is not doing enough to increase the supply of housing, and that the Town loses BMP units when families exceed the income limits.

Director Paulson stated that homeowners' income can increase and when they move, the unit is required to be sold at an affordable rate. Currently, the for-sale down payments is 10% and the Town is looking to change the down payment rate to 3%.

Heidi Owens (written question)

- Inquired what time period is represented with the BMP production numbers.

Director Paulson stated the first inclusionary housing ordinance was in 1976, therefore, up to 40+ years.

Heidi Owens (written question)

- Inquired why the Town does not utilize tiers of moderate, low, very low, and extremely low income?

Director Paulson stated the tiers are determined by state and federal agencies. The Town's current BMP focuses on low and moderate income for for-sale units, and low income for rental units.

Heidi Owens (written question)

- Inquired if Accessory Dwelling Units (ADUs) are counted toward Regional Housing Needs Allocation (RHNA) numbers.

Director Paulson stated that ADUs are counted toward moderate income in the current cycle; however, it is unsure how they will be counted in the future.

Laura Kramer Rahmil

- Was not able to speak due to technical difficulties.

Russ

- Thanked the Town for holding this workshop, stated that the lack of affordable housing is a social justice issue, asked about the backlog/waiting list for these programs, and inquired about the metrics the Town is utilizing to assess the success of these programs.

Associate Executive Director Venkatraman stated there is backlog and a family is typically on a wait list for 3 to 5 years to obtain affordable housing. Director Paulson stated BMP rental waiting lists are held by property owners/managers in Los Gatos, and Hello Housing maintains the lists for affordable for-sale units. In terms of increasing the supply, Town Attorney Shultz stated there is a need for third parties that own land and build affordable housing while collaborating with developers to reduce barriers to affordable housing.

Ali Miano

- Inquired if the Town would consider lowering affordable housing to a 3% down payment and asked about the process by which people become aware of affordable housing opportunities.

Director Paulson stated promotion is through the Town's website, social media, the Los Gatos Weekly, and sometimes large circulation newspapers.

Matthew Hudes

- Commented the Town should strive to increase cultural and economic diversity, not just racial diversity. Inquired what the Town can do to obtain more State funding, and if the Town would consider increasing the percentage of affordable housing units that are required of developers, awarding more points for low and very low incomes, and recognizing gig workers.

Town Manager Prevetti stated the Council will be considering modifications to the Town's BMP program on October 6, 2020.

Maria Ristow (written question)

- Inquired how West Valley Community Services is funded?

Associate Executive Director Venkatraman stated WVCS is funded by grants, fundraising, city support (including Los Gatos), and individual donors.

Anonymous Attendee (written question)

- Inquired about the specific cities that West Valley Community Services serves and asked if the 160 new families using WVCS are just from Los Gatos.

Associate Executive Director Venkatraman stated WVCS serves West San Jose, Cupertino, Los Gatos, Saratoga, Redwood Estates, and some other unincorporated parts of Santa Clara County. She added that there were 160 new families just from Los Gatos, and of those, 52 households received some form of financial assistance.

Don Capobres (written question)

- Inquired how the Town is collecting input from the developer community regarding how to build more affordable housing effectively not just through the BMP program but by design, and if the Town can get independent economic advice to see if various housing types are feasible.

Town Manager Prevetti stated the Town will follow up with the individual as well as other stakeholders regarding the comments. Town Attorney Schultz encouraged the individual to provide input to the General Plan Advisory Committee. Director Paulson stated the Town will reach out to developers, architects, builders, and others to see what challenges they face to building affordable housing.

Kinsey

- Commented that the Town could improve its affordable housing production by restricting single-family housing development, implementing public housing, implementing rent control, providing cooperative housing, and analyzing AB 1600 fees.

Town Manager Prevetti stated the Town has implemented some of these strategies such as rent control and thanked the commenter for her ideas.

Amy

- Inquired if there are incentives for private homeowners to develop ADUs; asked if in-lieu fees can be used to purchase existing housing which can then be converted to affordable housing; and identified an existing lot that could be used as affordable housing.

Director Paulson stated in-lieu fees come from hillside properties currently totaling around \$3.5 million, which does not go far to purchase land or existing structures given current prices.

There is the potential for ADU incentive programs in addition to the current programs such as the Town paying for the ADU application fee. Mayor Jensen stated the affordable housing fund information will be posted to the website.

Rob Rennie (written question)

- Inquired how the next RHNA cycle will change in regard to different affordability levels and if affordability levels will be a requirement rather than a goal.

Director Paulson stated that State laws have changed and in future RHNA cycles/Housing Elements, the Town will not be able to “reuse” sites as potential affordable housing locations. Mayor Jensen stated the Town’s Affordable Housing Overlay zone that required minimum levels of housing for each income level was found by the State to be a barrier to affordable housing production. Town Attorney Shultz stated when RHNA numbers are not met, the State implements repercussions. Associate Executive Director Venkatraman stated policies and visions need to be long-sighted to prevent the State from controlling RHNA needs.

Heidi Owens

- Asked if race was a criterion for affordable housing if the entity received Housing and Urban Development (HUD) funds, why LGBTQ is not included as a criterion in the BMP program, and why the LGMSPD are excluded from the BMP program.

Director Paulson explained the current criteria and stated the Council could consider the BMP guideline modifications on October 6, 2020.

Heidi Owens (written question)

- Inquired if any of the redevelopment funds were used to build affordable housing.

Town Attorney Shultz stated by law at least 20% of the funds were needed to go toward affordable housing and a couple properties were purchased with Redevelopment monies with the intent of creating affordable housing (e.g., Dittos Lane and behind Pizza My Heart).

Laura Kramer Rahmil (written question)

- Commented many Los Gatos residents will move away from the Town to more affordable housing and inquired if the Town would consider building an active adult community?

Director Paulson stated the Town has not seen a proposal for such a community, likely due to land constraints.

Russ (written question)

- Inquired how in lieu fees are calculated, if the Town has considered indexing in lieu to the market price of the units they'd otherwise be creating, limiting the number and allocating them by some sort of auction between developers, or establishing a "cap and trade" analog where developers are rewarded for adding affordable housing units beyond the minimum?

Director Paulson stated the BMP fees are 6% of the entire project and if the fees are identified as needing to be changed a Nexus study will need to be conducted and the developments are typically very small. Town Attorney Shultz stated Nexus studies are studies that show connection between fees and how much the entity is charging.

Anonymous Attendee (written question)

- Commented regarding North 40 phase one, the Town needs more housing but condemning the first big attempt to address housing makes no sense.

Lynel Gardner (written question)

- Inquired what has made Los Gatos self-sufficient and if being self-sufficient given Los Gatos an unfair advantage, politically, and economically. Commented being self-sufficient causing other cities historically, to be at a disadvantage, politically, economically. That makes it that much more important to collaborate with other cities that are at an unfair advantage. In other words, help those other cities to compete on the same level as Los Gatos. For dollars, contractors, builders, and investors. People of color are being pushed into a corner by gentrification and also competing for low-income housing.

Rob Rennie (written question)

- Inquired why an affordable housing organization would want to come to Los Gatos when they can get cheaper land elsewhere and what Los Gatos can do to help.

CDD Director Paulson stated the Town can partner with the private developers, ultimately the developers of affordable housing are looking for height and density. The Town needs to reach out to for profit developers and non-profit developers to find out what barriers there are.

Closing/Next Steps

Mayor Jensen thanked the attendees for a constructive and positive session. She thanked all Council Members for being in attendance to listen with her. She thanked the panelists and staff. She invited the community to attend the next Council Meeting on October 6 via Zoom at which time the Council would decide how to proceed on affordable housing.

The next community workshop is Thursday, October 22 on Community Culture. She invited everyone to attend. After each workshop, Town Council would take up the matter: listen/learn, then assimilate and act.

Additional Written Q&A Previously Addressed During the Workshop

Anonymous Attendee

- How large is the pool for rental rate housing right now? Aren't applicant pools extremely deep? Why would we increase the income ceiling when working class people should be the priority target of affordable housing?

Anonymous Attendee

- Seems like teacher housing is the only plan so far in the pipeline currently for LG. How do we replicate this project/program? Very good idea since education is a priority in our community. Can someone speak more on Town support?

Anonymous Attendee

- I am frankly disturbed by the idea that we would be considering middle income housing when there are applicant pools of hundreds of low income people.

Anonymous Attendee

- The BMP bought unit would essentially be dissolved if the home is foreclosed upon.

Anonymous Attendee

- What is the property behind Pizza My Heart designated for?

Anonymous Attendee

- I understand that when BMP units are passed from one owner to another, the unit is purchased at an "affordable" price. However, the fundamental issue still exists: the unit is effectively not low-income housing when its occupant is no longer low-income. Why shouldn't we focus our efforts on affordable rentals, where this problem wouldn't exist?



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/06/2020

ITEM NO: 8

DATE: September 28, 2020

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Provide Specific Direction to Modify the Town’s Pilot Parklet Program and Economic Recovery Initiatives:

- a. Discuss Town’s Pilot Parklet Program (established pre-COVID), and Consider Extending the Parklet Duration for a Minimum of Five to Seven Years; and
- b. Determine the Duration of the Temporary Economic Recovery (Krail) Parklets Located on Public Property in Downtown and Consider Phasing Options to Facilitate Outdoor Seating and Business Activities; and
- c. Discuss Options for Businesses to Implement Platforms, Ramps, Overhead Coverage, and Other Modifications Within the Economic Recovery Parklets to Continue to Support Outdoor Business Services Through the Winter; and
- d. Discuss Other Elements of the Economic Recovery Initiatives and Provide Further Direction as Appropriate.

RECOMMENDATION:

Provide specific direction to modify the Town’s Pilot Parklet Program and Economic Recovery Initiatives:

- a. Discuss Town’s Pilot Parklet Program (established pre-COVID), and consider extending the parklet duration for a minimum of five to seven years; and
- b. Determine the duration of the Temporary Economic Recovery (krail) Parklets located on public property in downtown and consider phasing options to facilitate outdoor seating and business activities; and

PREPARED BY: Monica Renn
Economic Vitality Manager

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

RECOMMENDATION (continued):

- c. Discuss options for businesses to implement platforms, ramps, overhead coverage, and other modifications within the Economic Recovery parklets to continue to support outdoor business services through the winter; and
- d. Discuss other elements of the Economic Recovery Initiatives and provide further direction as appropriate.

BACKGROUND:

On February 5, 2019, the Town Council adopted a Pilot Parklet Program that allowed for private businesses in Downtown to enter into a public-private partnership with the Town and construct outdoor dining areas on the public street for the business to use during operating hours and for the public to use otherwise. The pilot was recommended to last three years with the intent that a new streetscape program would begin in about the same amount of time. Later in 2019, the Town Council started a streetscape fund dedicating approximately \$1.9M to the future project.

However, in March of 2020, the world was struck with the COVID-19 pandemic that created an unprecedented and unpredictable economic situation. Through this upheaval, the Town Council quickly pivoted to support local businesses by adopting an Economic Recovery Resolution on June 2, 2020 and authorizing the expenditure of up to \$150,000 of the streetscape funds to create temporary parklets on public property (parking spaces on public streets) allowing business activities to commence outdoors.

The Resolution included a series of initiatives to provide opportunity and support for local businesses throughout the Town as they weathered the uncertain economy brought on by the pandemic. These initiatives included: streamlined policies; reduced fees for some Conditional Use Permits; the ability for current businesses to adapt their business model with staff level approval and an Economic Recovery Agreement; reduced parking requirements in private lots to accommodate outdoor business activities including patio/parklet dining; and a temporary parklet and curbside pick-up program that removed parking on N. Santa Cruz Avenue to allow for outdoor seating and business activities and quick turn parking spaces all within the parameters of the Public Health Order.

At the time of adoption, it was difficult to anticipate the duration of the program and the needs for businesses through the summer and beyond. Thus, the Council directed staff to work with businesses and remain flexible and adaptive as the needs changed and return at a future meeting with a project update and options for further steps.

SUBJECT: Discuss and Provide Direction on Pilot Parklet Program and Economic Recovery Initiatives

DATE: September 28, 2020

DISCUSSION:

As the months have unfolded, it has become clear that the pandemic and modified businesses operations will be part of the economic environment for the foreseeable future. This brings the challenge of the winter weather and how the Town may assist businesses with adapting the temporary outdoor spaces to accommodate their operations while remaining in compliance with State and County regulations including the Building and Fire Codes, Americans with Disabilities Act (ADA) regulations, and Public Health Orders.

Staff is providing the Town Council with some discussion points below for consideration and is requesting direction on next steps, including if the Council would like to commit additional funds beyond the initial \$150,000 dedicated to Economic Recovery on June 2, 2020. To date, the Town has spent approximately \$160K (including \$70k in staff costs absorbed by Parks and Public Works) on the installation and rental of the krail and other downtown modifications. In addition, the Council committed another \$150,000 from the fund for holiday light displays.

Pilot Parklet Program

The increased demand for space outdoors to conduct business activities has also brought increased interest in the Town's original Pilot Parklet Program adopted on February 5, 2019 (Pilot Parklet Program). Prior to the pandemic, the Town was allowing businesses and property owners to come in on a first come, first served basis to apply for and construct parklets for outdoor restaurant seating. The model allowed for businesses to spill over in front of other businesses, and little consideration was given to encouraging neighbors to work together to build larger parklets that could be divided to serve multiple businesses in a row. Now that most businesses need outdoor space, the approach for the Pilot Parklet Program may need to shift to consider how more equitable parklet spacing and utilization may be achieved.

With the addition of the Economic Recovery Parklet Program (krail parklets), staff has received several ideas and inquiries regarding when the krail parklets will be removed and how businesses may retain outdoor seating and business service areas beyond the pandemic.

The Pilot Parklet Program may be one way to achieve this continued outdoor service area; however, the investment is prohibitive for many in this uncertain economic environment. Thus there are still several stakeholders interested in the Town purchasing planters to replace the krail and create a more semi-permanent parklet barrier for businesses.

Additionally, the question remains on the timeline of the Pilot Parklet Program and if the Town still intends on ending in around 2022, as originally anticipated when the pilot began. Staff recommends extending the timeframe of the Pilot Parklet Program for another five to seven

DISCUSSION (continued):

years to allow for Economic Recovery and the planning that is required for a downtown streetscape program.

Economic Recovery Parklet Program (Krail Parklets in the Public Right of Way)

Town staff has been working with the business community since the beginning of June to implement and adjust the krail parklets in downtown along public streets. There are currently 42 businesses utilizing the temporary krail parklets, including restaurants, retailers, and personal service businesses. The Town has provided and painted the krail barriers that create the delineation from vehicular traffic while the businesses have provided their own furniture, sun protection, and platforms.

Town staff recommends that the Council consider a phased approach to end the krail parklets and set a timeline for the transition. The Council should provide direction on one of the following phasing options or identify another approach:

- Identify a specific duration for the krail parklets. Staff recommends retaining them through March 2021 at a minimum. The estimated cost of the krail rental would be \$10,000 per month plus \$10,000 pickup fee when the project is complete. The current rental is paid through October 2020.
- Provide a grant program that assists businesses with constructing their own parklets following the guidelines in place for the Pilot Parklet Program, incentivizing those businesses that work together to include neighboring businesses. This could include a sunset of the krail parklets at the end of spring or summer 2021 with a construction timeframe for the more permanent parklets soon thereafter. These permanent parklets would have the same time guarantee of five to seven years, or as determined by Town Council.
- Purchase concrete planter boxes to replace the krail, creating semi-permanent parklet spaces in the street as discussed at the June 1, 2020 Council meeting. The investment amount to replace existing krail parklets with planters would be approximately \$500k with additional monthly costs for Town upkeep and maintenance. In turn, the businesses would be responsible for installing proper ADA and storm drain access within the parklet space that their business utilizes. The planters are made to order and can take several months to be delivered. In this option, staff would replace the krail with the planters as they become available.

DISCUSSION (continued):

- Choose to leave the krail parklets in place without a timeline for removal. To date, the Town has expended \$160,000 on the rental and set up of the krail (through October 2020) and anticipate spending an additional \$10,000 per month rental of the existing krail.

Additional Guidance for Krail Parklets in the Public Right-of-Way

Additional direction is needed for the management and use of the public right of way within the temporary parklets even with a timeline determination by Council. This is especially important because businesses may have a longer term need for outdoor space and many are interested to know what could be allowed during the winter months. Specifically, this discussion has brought up issues of how businesses may provide customers with protection from the elements while maintaining only a single side of coverage as the County Public Health Order requires.

While staff continues to rely on the businesses to follow the Public Health Order, the Council may wish to provide direction regarding appropriate activities and structures within the krail parklets. Unlike private property, there has not been landowner oversight on the design and aesthetics of each parklet, thus the staff is asking the Council to give direction for these spaces.

Many of the overhead coverings and constructed platforms currently in place stretch the limit of what should be built without Town building permits or approval by Santa Clara County Fire. Staff recommends that now is the time to reset and provide the businesses with clear guidelines for what is expected with a timeline for compliance. Council's decision on the duration of the temporary krail parklets would help businesses determine their return on investment as they look to revamp their parklet consistent with the guidelines and in preparation for winter.

Staff is looking for specific direction from the Council on:

- **Parklet Overhead Coverage** - Several businesses have purchased or constructed shade structures within their parklets for the summer. Now, with colder and wetter weather expected in the winter, businesses are inquiring about what they may install to provide protection from the winter elements. As an example, some businesses are asking to replace canvas sail-type coverings with prefabricated corrugated awning covers, or other solid water-resistant materials.

Staff is seeking Council direction on the following specific items:

- Does the Council want to see structures built over the krail parklets?

DISCUSSION (continued):

- If yes, does the Council want to specify allowable materials or other parameters or let the businesses determine what works best for their budgets?
- Staff recommends that all existing and future overhead structures within the kral parklets obtain permits from the Town and/or Fire Department. This would also allow for the Town to evaluate structures that might be built next to one another to ensure that they work together to direct rainfall runoff appropriately.
- Would the Council like to create a grant program to businesses to offset some of the costs associated with obtaining permits? Staff can bring back the costs based on Council direction, or the Council could direct a not to exceed cost per business.
- Alternatively, would the Council prefer only umbrellas moving forward? Under this option, would the Council want to specify the type of umbrella or tent a business could utilize? Any structures that have been built to date without permits would all need to be removed.
- **Leveling Platforms and Ramps** - Several businesses have constructed platforms in their parklets to level the ground and make them more comfortable and accessible for guests. These have been constructed at the cost of the businesses. Some of the platforms present concerns because they do not allow rainwater to access the storm drains directly.

It is the responsibility of the business operating the parklet to ensure the parklet complies with ADA standards. Compliance with the ADA must include, at a minimum, either a parklet surface flush with the sidewalk or a parklet that provides an ADA compliant ramp. The underside of the platform must be constructed to allow for seasonal drainage.

- Would the Council like to provide financial support in the form of grants to businesses to build and/or modify the platforms to create ones that allow storm water to pass and provide leveling? If so, provide any direction on a grant program, or the staff can bring back options at a future meeting. If it is the will of the Council to phase the kral parklets to semi-permanent planters, the need for platforms and ramps would remain. Therefore, Council direction is needed for the immediate term for the temporary parklets to address ADA and drainage.

DISCUSSION (continued):

- **Heaters** - Provide direction on the use of heaters in the parklets. Outdoor heaters currently do not require a Town permit if they are on private property; however, they are typically allowed on public rights-of-way, such as the sidewalks in front of restaurants because they tend to inhibit full sidewalk access.

If heaters are permitted, an overhead covering for the parklet may not be an option based on the Fire Code. If Council is favorable towards allowing heaters, staff would require that the businesses work with the Fire Department to ensure that their use of heaters is safe for the parklet space they are using.

- **Unused Parklets** - For those parklets that are not being utilized by a business, would the Council like to see them remain in place, or be removed and the kral stored until a time when the business occupying the frontage can use them?

The original intent of implementing extra parklets was to create extra space throughout the downtown for people to spread out as they move through Town; however, staff observes that they are rarely used. Some have been requested by businesses and have an agreement in place; however, due to the current Public Health Order, the business is unable to open.

- If the Council would like to see the unused parklets remain, the Town will need to provide accommodation to make the spaces accessible and compliant with the ADA. Staff is asking the Council to provide direction if unassigned parklets should remain in place and if the Town should cover the cost for adding a platform or ramp to the space.
- **Pop up Retail and Temporary Food Carts in Parklets** – Staff has received a few inquiries from existing businesses that would like to partner with an ancillary pop-up business to create additional customer interest. One request was for a coffee cart located in its kral parklet on weekends only, while the other was for an ongoing coffee cart within the private outdoor property of the business. In both cases, the existing businesses are independent retailers without CUPs that would allow beverage/food uses. The existing businesses would not operate the pop-up coffee carts; instead, they would be operated by separate business entities.

While the Economic Recovery Resolution could allow for a business itself to modify their own business model, adding an additional business use such as food service and operating a pop-up within their parklet in the public right-of-way may stretch beyond the intent of the Economic Recovery Resolution. There are pros and cons to ancillary

DISCUSSION (continued):

businesses. On the one hand, adding additional business services in parklets could provide more interest from consumers and generate more business for the downtown as a whole. On the other hand, the addition could also create more localized competition to the downtown's existing businesses who may have much more restrictive service rules enforced through the Public Health Order as an established brick and mortar business.

Staff is seeking direction from the Council regarding pop-up retail and food cart uses in the krail parklets and/or within the confines of a business' private property. Staff proposes two options for consideration:

- Allow pop-up businesses to be hosted in krail parklets if the business occupying the parklet is agreeable to the pop-up and it occurs no more than four days per month; or
- Allow current Los Gatos businesses to host pop-up businesses on private property only including outside and inside property; however, the pop-up may not extend into public right-of-way.

For both options, the existing business would need to enter into an Economic Recovery Agreement with the Town and the pop-up would be required to obtain a Los Gatos business license and meet the requirements of all State and County public health and environmental health guidelines.

Temporary Parklets, Patios, and Business Areas on Private Property

For businesses located in shopping centers or with private parking lots, staff has utilized the Economic Recovery Resolution to execute Economic Recovery Agreements to allow for reduced parking requirements so that businesses may accommodate their business activities in the parking lot. While in most cases businesses were not permitted to use the entire lot, there are some parking lots that are not conducive to safely hosting business activities and car traffic, so exceptions were made for use of the entire private parking lot.

This opportunity for businesses with private lots has been successful and well received by stakeholders. Staff has received a few inquiries from nearby residences regarding noise during outdoor group fitness classes. In response, staff has worked with the business owners to address the issue successfully.

DISCUSSION (continued):

At this time, staff is not recommending any modifications to these elements of the Economic Recovery program.

Process Streamlining and Permit Fee Reduction

While the economic situation of the pandemic continues to stretch the limits of many of the Town's small businesses, it has been encouraging to see new businesses show interest in locating in Los Gatos. Staff has processed two new Conditional Use Permit (CUP) applications and one CUP modification since June 1, 2020. In addition, two to four more are anticipated in the upcoming weeks. The Town has also had three new personal service businesses utilize the Economic Recovery Agreement in lieu of a CUP, and two businesses use the Agreement to modify their existing business activities. Staff continues to provide personal and individualized support to Los Gatos businesses and property owners. Staff appreciates the Chamber's support with these efforts as well. Businesses as a whole have shown gratitude for the Town Council's actions of support thus far.

The Town's economic recovery initiatives have become a model many other communities are looking to emulate as they try to support their local business communities. Staff recommends that these initiatives remain in place for the duration of the pandemic or until such time that the Council deems appropriate. No action is needed to continue these initiatives.

CONCLUSION:

After discussing the topics and opportunities outlined in this report, and possibly others that may come forward through public comment or Town Council discussion, staff is requesting direction on next steps for the Economic Recovery Resolution initiatives and the Town's Pilot Parklet Program.

Below is an overview of the direction staff is seeking:

- A. Consider extending the duration of the Pilot Parklet Program for a minimum of five to seven years.
- B. Discuss the Temporary Economic Recovery (krail) Parklets located on public property in downtown and determine:
 - a. A timeline for the program duration. Staff recommends an extension to at least the end of March 2021.

CONCLUSION (continued):

- b. With a definitive timeframe for the krail, identify potential incentives for businesses to participate in the Town's Pilot Parklet Program which would likely be incorporated into a future streetscape project.
 - c. Alternatively, if the temporary parklets remain after March 2021, would the Council want to invest in the purchase and maintenance of a more attractive planter box option instead of continuing the use of krail?
- C. Discuss options for businesses to prepare for outdoor business activities through the winter within the Economic Recovery (krail) parklets. Specifically,
- a. Provide direction on weather coverings, platforms, ramps, drainage, and other modifications.
 - b. Provide direction on the use of heaters in the parklets.
 - c. If the Council would like to see the unused parklets remain, should the Town cover the costs for adding a platform or ramp to make the space ADA compliant?
 - d. Determine timelines for business owners to comply with drainage, ADA, and other requirements.
- D. Provide any additional direction on the Economic Recovery Resolution and supporting initiatives including:
- a. Pop-up businesses hosted in krail parklets or within private business space.

COORDINATION:

This report has been prepared with coordination between the Town Manager's and Town Attorney's Offices, and the Police, Community Development, Parks and Public Works, and Finance Departments.

FISCAL IMPACT:

The Council's direction may necessitate additional expenditures from the Economic Recovery fund, including:

- Extending the rental period of the existing krail;
- Purchasing and maintaining concrete planter boxes;
- Directing funds towards parklet grants for businesses; and
- Providing funds for the construction of parklet ramps or platforms in the krail parklets

PAGE 11 OF 11

SUBJECT: Discuss and Provide Direction on Pilot Parklet Program and Economic Recovery Initiatives

DATE: September 28, 2020

ENVIRONMENTAL ASSESSMENT:

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



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/06/2020

ITEM NO: 8

ADDENDUM

DATE: October 5, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Discuss and Provide Direction on Pilot Parklet Program and Economic Recovery Initiatives

REMARKS:

Question received from a Council Member:

Please advise as to what processes/requirements, if any, imposed by Saratoga on its “parklets” on Big Basin Way. Specifically, what were the requirements, if any, for the Plumed Horse and Hero Ranch. If the City imposed no requirements, how did these two restaurants address the issues raised Town staff in its staff report?

Response:

Staffed talked to the City of Saratoga to learn about the process it implemented to allow parklets in their Downtown (Village). First, the street is a State Highway so the City obtained encroachment permits from the State to use the space. The City spent about \$15k per parklet to purchase the plastic water filled k-rail barriers and construct ADA ramps. Once in place, the businesses were able to occupy the spaces with their own furnishings. The City did not issue permits for the use of canopies in the Village and so far no concerns have come up. Each of the businesses were asked to sign a parklet adoption form that included rules the State stipulated for use of Big Basin. City of Saratoga Public Works and the City Manager’s Office worked together to get the program up and running. It has been very successful so far with the end date recently extended from December 2020 to the end of Summer 2021.

Los Gatos staff has not been able to connect with each restaurant directly; however, based on the information provided by the City of Saratoga, staff assumes that restaurants implemented coverings and furniture items that were within the individual business’ budget and business model. While the Town does have a few similar structures already in place in Town, it is not clear if they all meet the guidelines provided by the Fire Department or State building code to be implemented without review or permits. It appears that the City of Saratoga and Town of

PREPARED BY: Matt Morley
Parks and Public Works Director

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

PAGE 2 OF 2

SUBJECT: Discuss and Provide Direction on Pilot Parklet Program and Economic Recovery Initiatives

DATE: October 5, 2020

Los Gatos have taken similar approaches to date by requiring the businesses to adhere to regulations and not requiring permits from the City/Town.

Downtown Lighting Program

The following provides the Town Council with an update of the holiday lighting program as discussed and approved at the September 15, 2020 Town Council meeting.

Staff has coordinated with the Chamber of Commerce to refine the lighting program, create a purchase order for the lighting, and identify electrical needs to support the displays. The Chamber also has the role of coordination with property owners where lights need to attach to their buildings. Staff will coordinate with the Town Attorney on the proper liability release to allow Town staff to do this work.

Through coordination with the lighting vendor, staff has learned more about the lighting package. The larger displays are made in Europe and will be shipped from there. The structures are reported to be well made of structural aluminum. The vendor estimates that the lighting will need substantial maintenance in four to five years when the LED lights may need to be repaired or replaced. The other fixtures will likely have a similar life expectancy. This aligns with the maintenance needs the Town experiences with the holiday tree and the other tree lights downtown.

Parks and Public Works (PPW) anticipates installing the lighting for the first year. The vendor has committed to providing adequate support along the way to ensure this can be done successfully. Based on the conversation with the lighting vendor, staff has revised the estimated hours for installation of the lighting from 200 to 300 hours. In addition, outlets will be installed at higher levels along 20 street light poles in the downtown by the Town's electrical contractor. The total project cost including lighting, contract electrical work, and equipment and supplies is estimated at \$130,000. Town staff time will be absorbed in the PPW budget.