



**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 05/14/2025

ITEM NO: 4

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DATE: May 9, 2025  
TO: Planning Commission  
FROM: Joel Paulson, Community Development Director  
SUBJECT: Consider Making a Recommendation to the Town Council on an Ordinance Amending Chapter 29 (Zoning Regulations) of the Town Code for Senate Bill 9 (SB 9) in Response to the Provisions of Senate Bill 450 (SB 450). The Proposed Amendments to the Town Code Are Not Considered a Project Under Section 15378 of the California Environmental Quality Act, and in Accordance with Government Code Section 66411.7(n) and 66452.21(g), Senate Bill 9 Ordinances Are Not a Project Subject to the California Environmental Quality Act. Town Code Amendment Application A-25-002. **Project Location: Town Wide.** 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 for Senate Bill 9 (SB 9) in response to the provisions of Senate Bill 450 (SB 450).

**CEQA:**

In accordance with California Environmental Quality Act (CEQA) Guidelines Section 15378, these proposed ordinance amendments are not a project subject to CEQA because the proposed amendments affect processing of applications only and will not impact the physical environment. Additionally, in accordance with Government Code Section 66411.7(n) and 66452.21(g), SB 9 ordinances are not a project subject to CEQA.

**PREPARED BY:** Ryan Safty  
Associate Planner

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Reviewed by: Planning Manager, Community Development Director, and Town Attorney

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FINDINGS:

- In accordance with CEQA Guidelines Section 15378, these proposed ordinance amendments are not a project subject to CEQA because the proposed amendments affect processing of applications only and will not impact the physical environment. Additionally, in accordance with Government Code Section 66411.7(n) and 66452.21(g), Senate Bill 9 ordinances are not a project subject to CEQA; and
- The amendments to Chapter 29 of the Town Code are consistent with the General Plan.

BACKGROUND:

In September 2021, Governor Newsom signed new State law, SB 9, which went into effect on January 1, 2022. SB 9 requires ministerial approval of certain housing development projects and lot splits on a single-family zoned parcel, with the intent to increase residential densities within single-family neighborhoods across the State.

The law allowed for two new types of development activities that must be reviewed ministerially without any discretionary action or public input:

- **Two-unit housing development** – Two homes on an eligible single-family residential parcel (whether the proposal adds up to two new housing units or adds one new unit on a parcel with an existing single-family residence).
- **Urban lot split** – A one-time subdivision of an existing single-family residential parcel into two parcels. This would allow up to four units (two units on each new parcel).

On December 21, 2021, Town Council adopted an Urgency Ordinance to implement local objective standards for SB 9 applications. On November 15, 2022, Town Council approved Ordinance 2334, which established the permanent SB 9 Ordinance within Chapter 29 (Zoning Regulations) of the Town Code. On May 21, 2024, Town Council approved Ordinance 2359 (Exhibit 2), which included modifications to the previous ordinance to modify design review standards and make clarifying revisions. Ordinance 2359 is the Town's current SB 9 Ordinance.

In September of 2024, Governor Newsom signed new State law, Senate Bill 450 (SB 450), which went into effect on January 1, 2025 (Exhibit 3). SB 450 updates and expands the required provisions of SB 9. The SB 450 updates are summarized as follows, and additional details are provided in the Discussion Section of this report below.

1. Limitation on the imposition of standards on SB 9 projects unless they apply uniformly to development within the underlying zone;
2. Clarification on the amount of demolition allowed to an existing residence that had previously been rented;
3. Specification on timelines for local agency processing of SB 9 applications; and
4. Modification to the SB 9 denial finding for "specific adverse impact."

DISCUSSION:

Staff has prepared draft amendments to the Town's SB 9 regulations in Exhibit 4, which includes a track-changes version (with removed text shown in strike-through text and new text shown underlined) of the current SB 9 Ordinance. The proposed amendments are either in direct response to SB 450, or are considered clean-up amendments that staff has identified since the last time the SB 9 Ordinance was amended in May of 2024.

A. Senate Bill 450 Changes

The most impactful change from SB 450 is that local jurisdictions can no longer adopt specific zoning, subdivision, or design standards for SB 9 projects that are not uniformly applicable to development in the underlying (single-family) zoning district. SB 450 also introduced other revisions to the original SB 9 law, including: clarified standards on the amount of demolition allowed to an existing residence that had previously been rented; new processing timelines; and modified denial findings. Each of these four categories (design standards; demolition; processing timelines; denial findings) are detailed below, with an explanation on staff's proposed changes.

1. Design Standards: Previous SB 9 law allowed jurisdictions to adopt objective zoning, subdivision, and design standards for two-unit development and urban lot split applications so long as they would not preclude the construction of two, 800-square foot units with four-foot reduced side and rear setbacks. The Town's current SB 9 Ordinance includes a Design Review Standards section applicable for two-unit development applications [Exhibit 2, Town Code Section 29.10.630(2)]. Since SB 9 applications require ministerial review and allow for reduced side and rear setbacks, the standards were created with the intent of protecting neighbor privacy and enforcing some of the Town's residential guidelines to encourage orderly development.

The most significant change from SB 450 is that it now prohibits the Town from adopting specific zoning, subdivision, or design standards for SB 9 projects that are not uniformly applicable to development in the underlying (single-family) zoning district. However, the Town may adopt objective zoning, subdivision, and design standards on SB 9 applications if those standards are more permissive than applicable standards within the underlying zone.

Staff's proposed edits in Exhibit 4 would remove the majority of the design standards applicable to two-unit housing developments as they are not uniformly applicable to development in the underlying zone. For example, the Town's current SB 9 Ordinance prohibits roof top decks, but this standard is not uniformly applied to all development in the underlying residential zones (i.e. an Architecture and Site Application in the R-1:8 zone can propose a roof top deck; Town Code does not prohibit a roof top deck for all residential properties). Although the Town's Residential Design Guidelines contain

standards and guidelines related to second-story decks and balconies, these are not objective standards that are uniformly applicable in the underlying zone, and exceptions to the Town's Residential Design Guidelines can be requested. The following design standards would be removed: 16-foot building height limitation when within a required side or rear setback of the underlining zoning district; five-foot retaining wall height limitation; rooftop and second-floor terrace and deck prohibition and balcony limitation; requirement that the front entryway match the adjacent eave height; front porch depth and width limitations; nine-foot second story setbacks along the side and rear property lines; garage door size limitations; plate height restrictions; prohibited exterior materials; and screening of mechanical equipment.

Additionally, the previous requirement that the first residential unit built with an SB 9 two-unit housing development application be limited to 1,200 square feet is no longer applicable based on SB 450. Town Council had previously included this requirement in the Town's SB 9 Ordinance to encourage one of the units to be affordable by limiting the size.

Staff also reviewed Town Code and applicable policy documents and added additional objective standards in the draft Ordinance (Exhibit 4) that meet the requirements of SB 450. In order to maintain some of the hillside protection standards, staff proposes adding a "Hillside Area" definition to the draft amendments applicable to all properties within Hillside Area Map per the Town's Hillside Development Standards and Guidelines (HDS&G) and incorporate relevant objective standards from this document. The existing SB 9 standards derived from the HDS&G that were applicable to all properties would now only be applicable to properties in the Hillside Area. Standards related to driveway back-up space, size of detached garages, parking space dimensions, through lots with a "front" setback on both street frontages, setbacks when adjacent to a protected waterway, glare limitations, sidewalk requirements, etc. are also proposed, each of which was derived from existing Town Code or applicable Town policy documents.

2. Demolition: Previous SB 9 law restricted the amount of demolition allowed to an existing residential unit when proposing a new SB 9 application, whether the application was for a two-unit housing development or an urban lot split. Previously, SB 9 law had two separate provisions: one stating that no demolition or alteration to an existing residence is allowed with either an urban lot split or two-unit housing development if the housing is subject to a recorded covenant or law restricting levels of affordability, housing subject to any form of rent or price control, or housing that has been occupied by a tenant in the last three years [Government Code Sections 65852.21.(a)(3) and 66411.7.(a)(3)(D)]; and the second stating that a two-unit housing development cannot result in the demolition of more than 25 percent of the existing exterior structural walls unless either the local ordinance allows, or the site has not been occupied by a tenant in the past three years. The two provisions were previously combined in the Town's SB 9 Ordinance in Town Code Sections 29.10.630(3)(e) and 29.10.650(2)(h) (Exhibit 2).

SB 450 clarified the demolition provisions so that no form of demolition or alteration to an existing residence is allowed if it had been subject to a recorded covenant or law restricting levels of affordability, housing subject to any form of rent or price control, or housing that has been occupied by a tenant in the last three years. Additionally, there is no longer a 25 percent limitation on the amount of demolition of exterior walls of an existing residence associated with a new two-unit housing development as long as it has not been rented in the last three years.

The draft amendments in Exhibit 4 would simply remove reference to the “25 percent of exterior walls” limitation so that the Town’s Ordinance matches SB 9 law as updated by SB 450. Additionally, staff recommends adding a new, stricter definition of “demolition” for SB 9 applications as the Town Code’s demolition definition allows up to 50 percent removal of exterior framing, and the intent of SB 9 is to not allow any alteration or demolition to an existing residence subject to a recorded covenant or law restricting levels of affordability, housing subject to any form of rent or price control, or housing that has been occupied by a tenant in the last three years.

3. Processing Timelines: SB 450 creates new, strict timelines for local agency processing of SB 9 applications. The Town must now render a decision on an SB 9 project within 60 days of receiving a complete application, and if the Town fails to act within this timeframe, the application is deemed approved. Additionally, if the Town were to deny an SB 9 application, the Town must provide a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the applicant can remedy the application.

The draft amendments in Exhibit 4 would add these new processing timelines within the SB 9 Ordinance.

4. Denial Findings: Previous SB 9 law allowed denial of an SB 9 application if the Building Official made a written finding that the project would have a specific, adverse impact upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. SB 450 modified this language, removing review of a project’s impact on the physical environment for the permissible denial findings.

The draft amendments in Exhibit 4 would remove “the physical environment” from the denial findings sections within the SB 9 Ordinance.

B. Ordinance Clean-Ups

The following is a summary of the other substantive draft amendments to the SB 9 Ordinance, either for consistency with State law or items identified by staff as needing clarification. The following items are listed in the order that they appear in Exhibit 4:

- **Purpose and Applicability [Section 29.10.600].** For compliance with State law, the following line would be removed as it is no longer valid: “Any provision of this Division which is inconsistent with SB 9 shall be interpreted in a manner which is the most limiting on the ability to create a two-unit housing development or urban lot split, but which is consistent with State law.”
- **Definitions [Section 29.10.610].** In addition to the items discussed above, the definition of “entry feature” would be deleted as the relevant design standard for entry features is no longer applicable per SB 450. Staff also recommends including the Town Code definition of “street” within the SB 9 ordinance for clarity purposes.
- **Building Height [Section 29.10.630(1)(a)].** Per SB 450, the previous requirement that a building be limited to 16 feet in height if it is located in the Hillside Residential Zone or within the required side or rear setbacks of the applicable zoning district is not allowed. Instead, additional height limitations for buildings in the Hillside Area were added, which are objective standards within the HDS&G.
- **New Driveways [Section 29.10.630(1)(a)].** Per SB 450, the previous requirements regarding the number of driveways, maximum width of driveways, number of curb cuts, and maximum slope are not enforceable.
- **Dwelling Unit Type [Section 29.10.630(1)(c)].** Clarification to the two-unit development dwelling unit type was added, specifying that proposed attached units shall meet all applicable building code standards and be designed sufficient to allow separate conveyance. This amendment would not change the way SB 9 applications are currently being processed.
- **Floor Area Ratio and Lot Coverage [Section 29.10.630(1)(e)].** Clarification to the ten percent floor area ratio increase was added to specify that the ten percent increase only applies to situations where a second unit is proposed. The ten percent increase would not apply if SB 9 is used to develop a single residential unit on a vacant property.

Additionally, two new sections are proposed for clarification purposes based on how the Town currently processes SB 9 applications. First, specification that below-grade square footage is allowed in accordance with Town Code Sections 29.10.020 and 29.40.072 was added. Second, a limitation on the size of detached garages was added in accordance with Town Code Section 29.20.015.

- **Grading [Section 29.10.630(1)(f)].** Modifications to the grading limitation and process was added to help clarify how the existing process works. First, grading with an SB 9 application is limited to 50 cubic yards (cut plus fill) except for grading within the building footprint, light wells, vehicular access (driveway), and fire access (fire truck turnaround). Second, clarification was added to specify that although a ministerial Grading Permit at building permit stage is required, the associated discretionary Architecture and Site Application process will not be triggered for review of the grading work.

Additionally, a standard from the HDS&G limiting grading to just the footprint of the house, access, guest parking, and turnaround areas was added for properties within the Hillside Area.

- **Parking [Section 29.10.630(1)(o)].** Clarification to the parking section was added to specify that required parking must be met on-site, and that parking dimensions shall comply with Town Code Section 29.10.155(d).
- **Setbacks [Section 29.10.630(1)(p)].** Modification to the setback allowances is proposed to allow both an attached and detached garage to use the reduced setback provisions, instead of just attached garages included in the current SB 9 Ordinance. Detached garages under 450 square feet are allowed by Town Code to have a five-foot side and rear setback requirement; this modification would allow four-foot side and rear setbacks instead.

Clarification to the garage entry setback is also proposed within Table 1-2 – Setback Requirements, as this standard has caused confusion with the public in the past. The 18-foot garage entry setback is only applicable when the required zoning district setback is less than 18 feet (i.e. an R-1D property has a 15-foot front setback requirement, but Town Code requires garages and parking spaces have a minimum 18-foot backup distance).

Additionally, two new setback exceptions are proposed in Table 1-2 – Setback Requirements for clarification purposes based on how the Town currently processes SB 9 applications. First, in certain instances such as property slope and neighboring building locations, the required front yard setback may be reduced per Town Code. Second, through lots with frontage along two streets shall meet the front setback requirement along both street frontages so that a four-foot rear setback for a primary dwelling unit is not allowed along a street.

Lastly, as noted above, required setbacks from the Santa Clara County Valley Water Resources Protection Collaborative Guidelines and Standards for Land Use Near Streams shall be complied with when building adjacent to protected waterways.

- **Design Review Standards [Section 29.10.630(2)].** See Discussion Section A, Part 1 (Design Standards) above.

- **Eliss Act Eligibility.** For consistency with SB 9 law, the following provision is added to both the two-unit housing development and urban lot split sections of SB 9: “Parcels on which an owner of residential real property has exercised the owner’s rights under state law (Government Code Section 7060) to withdraw accommodations from rent or lease within fifteen (15) years preceding the development application are not eligible for a two-unit housing development.”
- **Applicability [Section 29.10.640].** A new applicability section is proposed, clarifying that when an application includes full site redevelopment, only the work integral to the construction of the new dwelling units and required access would be processed with the SB 9 application, and that other work (i.e. backyard grading of a sports court) would need a separate application.
- **Expiration [Section 29.10.640 and 29.10.660].** A new expiration section is proposed, referencing Town Code expiration and vesting requirements for both a two-unit housing development and urban lot split.
- **Parking [Section 29.10.650(1)].** A new parking section is proposed for urban lot splits in accordance with SB 9, requiring that each dwelling unit within an urban lot split contain adequate area to meet the parking requirements for two-unit housing developments.
- **Sidewalks [Section 29.10.650(1)].** A new sidewalk section is proposed for urban lot splits in accordance with Town Code Section 29.10.06712, specifying when new sidewalks are required with an urban lot split application.

#### PUBLIC COMMENTS:

Public comments received by 11:00 a.m., Friday, May 9, 2025, are provided in Exhibit 5.

#### CEQA DETERMINATION:

In accordance with CEQA Guidelines Section 15378, these proposed ordinance amendments are not a project subject to CEQA because the proposed amendments affect processing of applications only and will not impact the physical environment. Additionally, in accordance with Government Code Section 66411.7(n) and 66452.21(g), SB 9 ordinances are not a project subject to CEQA.

#### CONCLUSION:

##### A. Summary

The draft amendments in Exhibit 4 would amend Chapter 29 (Zoning Regulations) of the Town Code for SB 9 in response to the provisions of SB 450, as well as other clarifying revisions.



B. Recommendation

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 (Exhibit 4). The Planning Commission should also include any comments or recommended changes to the proposed amendments in taking the following actions:

1. Make the required finding that in accordance with CEQA Guidelines Section 15378, these proposed ordinance amendments are not a project subject to CEQA because the proposed amendments affect processing of applications only and will not impact the physical environment. Additionally, in accordance with Government Code Section 66411.7(n) and 66452.21(g), SB 9 ordinances are not a project subject to CEQA (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); and
3. Forward a recommendation to the Town Council for approval of the proposed amendments to Chapter 29 of the Town Code in the draft ordinance (Exhibit 4).

C. Alternatives

Alternatively, the Commission can:

1. Forward a recommendation to the Town Council for approval of the draft amendments with modifications; or
2. Continue the matter to a date certain with specific direction.

EXHIBITS:

1. Required Findings
2. Current Senate Bill 9 Ordinance 2359
3. Senate Bill 450 State Law
4. Draft Senate Bill 9 Ordinance
5. Public comments received by 11:00 a.m., Friday, May 9, 2025

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