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

DRAFT ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING CHAPTER 29, ZONING REGULATIONS, OF THE TOWN CODE REGARDING PROHIBITED USES, DEFINITIONS, APPEALS FOR DATA CENTERS.

WHEREAS, the Town of Los Gatos is a general law town and Government Code Section 65850 authorizes regulation of the use of land and buildings, subject to applicable state and federal law; and

WHEREAS, Town Code Sections 29.10.030 and 29.10.045 address land use compatibility and identify specified uses prohibited in all zones; and

WHEREAS, this Ordinance adds a defined land use to that list while preserving existing entries; and

WHEREAS, the proposed amendments would identify dedicated data centers as a distinct land use prohibited in every zoning district, while preserving the legality of ordinary computing equipment and technology work that is accessory and subordinate to another authorized principal activity; and

WHEREAS, Town Code Section 29.10.020 currently includes technology incubator facilities and certain biotechnology dry lab facilities within Office activities; and

WHEREAS, the Town intends to preserve such lawful activities where operating a data center is not the predominant use of the building or separately occupiable tenant space; and

WHEREAS, on April 2, 2024, the Town Council rescinded the 2040 Land Use and Community Design Elements. The 2020 Land Use and Community Design Elements remain operative, together with the other elements of the 2040 General Plan; and

WHEREAS, the Town Council has considered the goals and policies of the operative General Plan, including policies relating to community character, infrastructure, protection of residential areas, and the availability of commercial and industrial services and employment; and

WHEREAS, the amendments included herein are consistent with the General Plan, including but not limited to the following Goals: LU-1, LU-4, LU-6, CD-1, CD-2, PFS-6, PFS-7, ENV-8, ENV-11 and ENV-18; and

WHEREAS, the November 2025 Next 10 assessment, An Assessment of California Data Centers' Environmental and Public Health Impacts, by Rui Liu, Zhifeng Wu, and Shaolei Ren (University of California, Riverside), estimates increasing electricity use, water consumption, and air pollution related public health costs attributable to California data centers; and

WHEREAS, the Next 10 assessment estimates California data center electricity

consumption at 5.54 terawatt hours in 2019 and 10.82 terawatt hours in 2023; total water consumption, including water used for offsite electricity generation, at 25.42 billion and 49.91 billion liters respectively; and statewide monetized air pollution related health costs at $44.68 million and $155.44 million respectively; and

WHEREAS, the Town Council intends to distinguish a building or independently occupiable tenant space predominantly operated to supply data hosting, processing, storage, colocation, or computational capacity from offices, software engineering, artificial intelligence model development, research laboratories, professional services, and other otherwise lawful businesses using computing infrastructure to accomplish their principal activity; and

WHEREAS, state law regulates certain aspects of data centers, including water, energy, and CEQA matters; and

WHEREAS, this Ordinance regulates land use only to the extent permitted by controlling state and federal law and does not replace independent statutory requirements; and

WHEREAS, the amendments are consistent with the General Plan and its Elements; and

WHEREAS, the amendments are consistent with Chapter 29, "Zoning Regulations" 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 November 12, 2026; and

WHEREAS, on November 12, 2026, the Planning Commission reviewed and commented on the proposed amendments regarding prohibited uses, definitions, appeals and forwarded a recommendation to the Town Council for approval of the proposed amendments; and

WHEREAS, this matter was regularly noticed in conformance with state and Town law and came before the Town Council for public hearing on _____; and

WHEREAS, on _____, the Town Council reviewed and commented on the proposed amendments regarding accessory dwelling units and the Town Council voted to introduce the Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Los Gatos as follows:

SECTION I. Section 29.10.020, "Definitions," of Division 1, "Miscellaneous," of Article I, "In General," of Chapter 29, "Zoning Regulations," is amended to add the following between the definitions of "*Court*" and "*Demolition (historic structures)"* to read as follows:

Data center means a building, structure, or separately occupiable tenant space whose actual predominant land use or occupancy is the operation of dedicated computing infrastructure, including servers, processors, storage systems, networking systems, and related electrical and cooling systems, to provide electronic data processing, storage, remote hosting, colocation, or computational capacity. The determination shall be made by evaluating the

building, structure, or tenant space as a whole, not by isolating an interior server room, equipment area, or a component of a different lawful principal use.

Data center does not include computing, networking, cybersecurity, data storage, communications, or artificial intelligence equipment used as an accessory and subordinate component of a lawful principal activity such as software or product development, research and development, engineering, office activities, manufacturing, retail, health care, scientific, educational, governmental, or other lawful activity. This exclusion includes supporting affiliated operations, employees, clients, or business locations on or off the premises. The mere use of large quantities of computing equipment, a particular business name or industry, or provision of software or technology services does not, by itself, establish a data center use. A separately occupiable space or building used predominantly to provide dedicated data processing, hosting, colocation, storage, or computing capacity may qualify notwithstanding common ownership with other businesses. Telecommunications switching or routing and utility control facilities are not data centers unless the predominant occupancy otherwise satisfies this definition.

SECTION II. Section 29.10.020, "Definitions," of Division 1, "Miscellaneous," of Article I, "In General," of Chapter 29, "Zoning Regulations," the definition of "Office activities" is amended to read as follows:

Office activities means office uses, including, but not limited to: administrative; professional; medical; dental; optical; real estate; insurance; financial and investment services; venture capital; technology incubator facilities; biotechnology incubator facilities, including dry-lab facilities where testing and analyses is performed using data, coding, and computer systems and excluding wet-lab facilities where testing and analyses are performed using physical samples, biological matter, chemicals, and/or hazardous substances; and other similar office uses characterized by an absence of retail sales. Office activities do not include a data center as defined in this Section.

SECTION III. Section 29.10.045, "Uses prohibited," of Division 1, "Miscellaneous," of Article I, "In General," of Chapter 29, "Zoning Regulations," is amended to read as follows:

(a) *Generally*. All uses which are not authorized by this chapter either by specific listing or by category are prohibited.

(b) *Listed*. Notwithstanding the provisions of this chapter concerning categories of allowed uses, the following uses are prohibited in all zones:

Junkyard;

Drive-in restaurant;

Cemetery;

Sex shop;

Sex studio;

Mobile home occupied as a dwelling except in a mobile home park and except as a temporary structure and approved by the deciding body, and except when placed on a lot zoned for single-family dwelling, subject to all applicable ordinances and regulations affecting single-family dwellings;

Mobile home occupied for any purpose other than as a dwelling, except temporarily as an office in connection with and during construction work;

Heavy industry;

Airport;

Solid waste disposal site;

Sales of distilled spirits at a service station;

Data center.

The intent of this section is to prohibit uses which might appear to be included in an allowed category. Omission of a use from this section is not intended as an indication that the omitted use is allowed in some zones.

SECTION IV. Section 29.20.255, "Appeals from the decision by the Planning Director," of Division 4, "Post-Approval Actions," of Article II, "Administration and Enforcement," of Chapter 29, "Zoning Regulations," is amended to read as follows:

Any interested person as defined in section 29.10.020 may appeal to the Planning Commission any decision of the Planning Director:

(1) Determining an application for a horse permit, for an amateur horse event or animal permit, for a home occupation permit, for a tree removal permit, for a sign permit, for a minor residential development permit, or denying a certificate of use and occupancy on the ground that the use is not allowed in the zone.

(2) Granting or denying an extension of time related to one (1) of the foregoing transactions.

(3) Revoking or modifying one (1) of the foregoing approval of permits.

(4) Determination of an unlawful demolition and/or the penalty and the cost assessment for the unlawful demolition.

(5) Determining a request for reasonable accommodation.

(6) Determining matters pertaining to historic preservation.

(7) Determining whether a use constitutes a data center.

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SECTION V. California Environmental Quality Act (CEQA) Considerations.

The Town Council finds that the proposed amendments are not subject to CEQA review pursuant to CEQA, Section 15061 (b)(3), because it can be seen with certainty that they will not significantly affect the physical environment in that they add a use, data centers, to the list of prohibited uses and make minor changes to definitions and appeals.

SECTION IV. Severability.

In the event that a court of competent jurisdiction holds any Section, subsection, paragraph, sentence, clause, or phrase in this Ordinance unconstitutional, preempted, or otherwise invalid, the invalid portion shall be severed from this Ordinance and shall not affect the validity of the remaining portions of this Ordinance. The Town hereby declares that it would have adopted each Section, subsection, paragraph, sentence, clause, or phrase in this Ordinance irrespective of the fact that any one or more Sections, subsections, paragraphs, sentences, clauses or phrases in this Ordinance might be declared unconstitutional, preempted, or otherwise invalid.

SECTION V. Publication.

In accordance with Section 63937 of the Government Code of the State of California, this Ordinance takes effect 30 days from the date of its passage. The Town Council hereby directs the Town Clerk to cause this Ordinance or a summary thereof to be published or posted in accordance with Section 36933 of the Government Code of the State of California.

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SECTION VI. Effective Date.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the __th day of _____ 2026, and adopted by the Town Council of the Town of Los Gatos at its regular meeting on the ____ day of _____ 2026, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

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

ATTEST:

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

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