

**DRAFT ORDINANCE**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS  
AMENDING CHAPTER 29, "ZONING REGULATIONS," OF THE TOWN CODE  
TO DEFINE "BY RIGHT APPROVALS" AND AMEND THE HOUSING ELEMENT  
OVERLAY ZONE (HEOZ), DIVISION 5 OF ARTICLE VIII, "OVERLAY  
ZONES AND HISTORIC PRESERVATION"**

**ZONING CODE AMENDMENT APPLICATION Z-24-001**

**PROPERTY LOCATION: TOWN WIDE  
APPLICANT: TOWN OF LOS GATOS**

**WHEREAS**, the Town of Los Gatos 2023-2031 Housing Element identifies amending the Town Code to create the Housing Element Overlay Zone as a strategy to accommodate the Town's Regional Housing Needs Allocation (RHNA); and

**WHEREAS**, the Planning Commission at its meeting on August 23, 2023, reviewed the proposed Town Code amendments, held a public hearing, and forwarded a recommendation of approval to the Town Council; and

**WHEREAS**, on October 3, 2023, the Town Council accepted the report of the Planning Commission's recommendation of approval for the proposed Town Code amendment, held a public hearing, and continued to the matter to November 7, 2023; and

**WHEREAS**, on November 7, 2023, the Town Council reviewed the proposed Town Code amendments, held a public hearing, and introduced the ordinance to amend the Town Code to modify the Affordable Housing Overlay Zone to be the Housing Element Overlay Zone; and

**WHEREAS**, on November 21, 2023, the Town Council adopted Ordinance No. 2347 to enact the proposed Town Code amendments; and

**WHEREAS**, on December 1, 2023, the Town received comments from the State Housing and Community Development Department (HCD) regarding the adopted Housing Element Overlay Zone ordinance; and

**WHEREAS**, staff has prepared a revised ordinance to address HCD's comments; and

**WHEREAS**, the Planning Commission at its meeting on January 24, 2024, reviewed proposed Town Code amendments, held a public hearing, and forwarded a recommendation of approval to the Town Council; and

**WHEREAS**, this matter was regularly noticed in conformance with State and Town law

ATTACHMENT 1

and came before the Town Council on February 20, 2024; and

**WHEREAS**, on February 20, 2024, the Town Council accepted the report of the Planning Commission's recommendation of approval for the proposed Town Code amendments, held a public hearing, and introduced an ordinance to add a definition of "by right approval" and modify the HEOZ 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 Chapter 29, "Zoning Regulations," of the Town Code is amended to add the following between the definitions of "*Business or commerce*" and "*Carport*" to read as follows:

*By right approval* shall have the meaning set forth in Government Code Section 65583.2 (i).

**SECTION II.** Division 5 of Article VIII, "Overlay Zones and Historic Preservation," of Chapter 29, "Zoning Regulations," is amended to read as follows:

#### **ARTICLE VIII. OVERLAY ZONES AND HISTORIC PRESERVATION**

...

##### **DIVISION 5. HOUSING ELEMENT OVERLAY ZONE**

###### **Sec. 29.80.505. Intent.**

The Housing Element Overlay Zone (HEOZ) ordinance in this division is intended to increase the supply and the mix of housing types, tenure, and affordability within the Town of Los Gatos. Through appropriate densities, concessions, and fee deferrals or waivers, the HEOZ encourages the development of housing affordable to all income levels on sites within the Town that are deemed to be most appropriate for such uses. The Housing Element lists sites within the Town of Los Gatos as key housing opportunities. The designation of these sites will assist the Town in meeting its Regional Housing Needs Allocation (RHNA), as required by the State.

###### **Sec. 29.80.510. HEOZ and underlying zoning.**

- (a) "By right" residential developments on sites with underlying zoning of RM, CH, or NF-SP (Table 1A below). Pursuant to Government Code Section 65583.2, subsections (h) and (i), in the HEOZ, residential developments with at least 20 percent of the units proposed for "low income" households are subject to "by right approval." These developments are subject to the following:

1. The developments must be developed within the density ranges specified in Table 1A below and in no event shall any residential development projects be developed below the minimum density of 30 units per acre.
2. The developments shall be subject to non-discretionary design review based on objective development standards in accordance with the procedures specified in Article II, "Administration and Enforcement," of Chapter 29, "Zoning Regulations," of the Town Code.
3. No California Environmental Quality Act review shall be required.
4. Any subdivision of sites in the HEOZ shall be subject to all laws, including, but not limited to, Chapter 24, "Subdivision Regulations," and Sections 29.10.067-29.10.087 of the Town Code implementing the Subdivision Map Act.
5. Residential units shall occupy at least 50 percent of the floor area in all mixed-use projects.
6. For residential developments and mixed-use projects, the standards set forth in Table 1A shall apply.

**Table 1A HEOZ Development Standards for "By Right" Residential Development**

General Plan Land Use Designation	Zoning	Minimum Yards	Maximum Lot Coverage	Maximum Floor Area Ratio (FAR)	Maximum Height Limit (ft)	Density Units Per Acre
High Density Residential	R-M	As authorized by Section 29.40.645	75%	N/A	45 feet	30-40
Mixed-Use	CH	As authorized by Section 29.60.435	N/A	3.0	45 feet	30-40
North Forty Specific Plan	NF-SP	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	30-40

- (b) For all other residential developments other than those described in subsection (a), the standards set forth in Table 1B below shall apply.

**Table 1B HEOZ Development Standards for Other Residential Development**

General Plan Land Use Designation	Zoning	Minimum Yards	Maximum Lot Coverage	Maximum Floor Area Ratio (FAR)	Maximum Height Limit (ft)	Density Units Per Acre
Low Density Residential	R-1	As authorized by Section 29.40.405	50%	N/A	30 feet	0-5
Medium Density Residential	R-1D, R-D, and R-M	As authorized by Section 29.40.405, 29.40.530, and 29.40.645	75%	N/A	35 feet	14-22 or 5-12 in Very High Fire Hazard Severity Zones
Neighborhood	C-1	As authorized by	N/A	1.0	35 feet	10-20

Commercial		Section 29.60.225				
Central Business District	C-2	As authorized by Section 29.60.335	N/A	2.0	45 feet	20-30
Office Professional	O	As authorized by Section 29.60.100	N/A	1.0	35 feet	10-20

- (c) The underlying zoning development standards will remain in effect for all other development without a residential component.
- (d) Regardless of the underlying zoning designation, no residential use may be developed that does not meet the applicable HEOZ development standards.
- (e) Where standards are not specified, the development standards provided in the underlying zoning district shall apply.

### **SECTION III. CEQA.**

The Town Council finds as follows:

- A. No further Environmental Analysis is required as an Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed Town Code amendments; and
- B. The Town Code amendments are consistent with the General Plan and its elements; and
- C. That all proceedings have been conducted in compliance with the provisions of Government Code Section 65850 et seq.

### **SECTION IV. EFFECTIVE DATE AND PUBLICATION.**

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 20<sup>th</sup> day of February 2024, 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 5<sup>th</sup> day of March 2024. This ordinance shall take effect 30 days after the date it is adopted. The Town Clerk shall cause this ordinance or a summary thereof to be published in accordance with Section 36933 of the California Government Code.

### **SECTION V. 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.

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***