



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 04/26/2023

ITEM NO: 2

DATE: April 21, 2023
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Forward a Recommendation to the Town Council on Land Use and Economic Recovery Amendments to Chapter 29 (Zoning Regulations) of the Town Code Regarding Personal Service Businesses, Bars, Markets, Banks, Financial Services, Formula Retail, Group Classes, Veterinarians, Offices, and Definitions. The Proposed Amendments to the Town Code are Not Considered a Project Under the California Environmental Quality Act. Town Code Amendment Application A-23-001. **Project Location: Town Wide.**
Applicant: Town of Los Gatos.

RECOMMENDATION:

Forward a recommendation to the Town Council for approval of the land use and economic recovery amendments to Chapter 29 (Zoning Regulations) of the Town Code.

CEQA:

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. Individual projects processed in accordance with the Town's Zoning Code will undergo CEQA review.

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. Individual projects processed in accordance with the Town's Zoning Code will undergo CEQA review; and
- The amendments to Chapter 29 of the Town Code are consistent with the General Plan.

PREPARED BY: Sean Mullin, AICP
Senior Planner

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

BACKGROUND:

Throughout the last several years, the Town Council has identified strategic priorities related to:

- Community vitality;
- Economic recovery;
- Business permit streamlining; and
- Policies and ordinances as they relate to business activity.

Given the priorities identified by the Town Council, staff brought forward a series of policy and ordinance changes to begin this streamlining work, creating a more welcoming and flexible business environment with reduced timelines and fee structures for businesses. The recently adopted 2023 - 2025 Strategic Priorities includes Economic Vitality and Pandemic Recovery (Exhibit 3), providing an opportunity to continue the streamlining work that began before the pandemic to support the business community during the recovery.

Exhibit 4, Economic Vitality and Land Use Streamlining, illustrates the policy and ordinance streamlining that took place prior to 2020. Once the Pandemic hit the community and the devastating effects became notable, the local business community and economic well-being of the Town's shopping areas were among the stakeholder groups most negatively affected.

On March 12, 2020, the Director of Emergency Services (Town Manager) issued a proclamation pursuant to Town Code Section 8.10.035, declaring the existence of a local emergency within the Town due to the COVID-19 pandemic. On March 17, 2020, the Town Council adopted Resolution 2020-008 Ratifying and Continuing the Proclamation of Existence of Local Emergency Issued by the Director of Emergency Services (Exhibit 5).

At this point, it was understood that the potential length and impacts of the Pandemic were unknown and the Town needed to make adjustments to local land use and business permit policies to align with those being made at the County, State, and Federal levels through emergency orders, and to offer flexibility and options to support the local business community in the uncertain times. After thoughtful discussion by the Town Council, an Economic Recovery Resolution was adopted to provide businesses with options for flexibility to modify their business offerings. On June 3, 2020, an Economic Recovery Resolution 2020-022 was adopted by the Town Council, and has since been modified and extended with a current sunset date of June 30, 2022. Exhibit 6 is the current Economic Recovery Resolution, 2022-066.

A high-level overview of the streamlining and flexibility offered through the Economic Recovery Resolution includes:

- Suspension of rent for Town-owned facilities;
- Providing business resources through a COVID-19 website;

BACKGROUND (continued):

- Allowing restaurants to sell groceries, provide for curbside pickup, and sell alcohol via delivery and takeout;
- Allowing outdoor dining in parklets along N. Santa Cruz Avenue and in private parking lots;
- Allowing the use of pop-up patios, parklets, and outdoor spaces for signage, merchandising, and queueing;
- Allowing existing businesses in Town to relocate, expand, or open additional locations without obtaining a new Conditional Use Permit (CUP) through an Economic Recovery Agreement;
- Suspending the requirement for personal service businesses to obtain a CUP in the C-2 zone through an Economic Recovery Agreement;
- Reducing the cost for a new CUP by 50 percent, with the Town paying the balance of the fees;
- Allowing alcohol consumption with meals in Town parks, temporary pop-up parks, temporary patio dining areas, and parklets; and
- Extending the expiration date for all building permits and planning entitlements by two years.

The California Emergency Services Act (California Government Code Section 8550, *et seq.*) provides that once the Town Council determines that there is no need to continue the local emergency, the Council shall proclaim the termination of the local emergency at the earliest possible date. The Department of Health and Human Services is planning for the Federal Public Health Emergency for COVID-19 to expire on May 11, 2023. In response, the Governor of the State of California ended the State emergency declaration related to COVID-19 on February 28, 2023, and the County of Santa Clara demobilized its remaining COVID-19 mass vaccination and mass testing sites. On March 7, 2023, the Town Council adopted Resolution 2023-011, terminating the local emergency in line with the end of the State emergency declaration related to COVID-19 (Exhibit 7).

DISCUSSION:

With the quick adoption and implementation of Resolution 2020-022, the Town experienced fewer vacancies and business attrition during the darkest times of the Pandemic and was quick to assist businesses in reopening in new formats, locations, or with other modifications that allowed them to be compliant with health orders while serving the community through their business offerings. Since the adoption of Resolution 2020-022, the Town continues to see the benefit of the flexibility and latitude the streamlining offers businesses. Staff is bringing forward these recommendations to memorialize this flexibility within the Town Code to continue to welcome businesses and work toward the Town Council's strategic priority related to economic vitality and pandemic recovery.

DISCUSSION (continued):

Staff has received positive feedback from business and property owners, as the flexibility throughout the Pandemic and beyond has allowed for them to be agile and quickly adjust with the dynamic economic environment. Customer and community demands are more fluid than ever as folks are establishing their own new “normals” for comfortable shopping, dining, personal services, and community experiences. The proposed changes will continue this work and allow the Town to remain welcoming to a variety of business models through reduced timelines and fee structures.

The current economic environment is driven by social media, innovation, in-person experiences, and the ability to meet customer expectations. This fast-paced environment requires businesses to be on their toes and ready to pivot to keep up with the evolution of the community. Business life cycles vary greatly and ebb and flow with these economic trends. By creating a more flexible and streamlined permitting environment, the Town is making space to allow for current businesses to make these shifts more readily, and welcome new businesses with less perceived obstacles.

In consideration of the dynamic economic environment and the Town Council’s adopted strategic priority that promotes updates to Town policies and ordinances and permit streamlining related to economic vitality and pandemic recovery (Exhibit 3), staff is bringing forward recommendations for Town Code amendments related to CUP processes, land use definition clarity, and zoning updates to ultimately offer a more welcoming, flexible, and streamlined process for the business community. The specific amendments recommended are being identified based on the performance of the economic recovery efforts enacted during the COVID-19 emergency declaration, land use and economic vitality streamlining efforts during 2015 to 2019, and interactions with the business community. The proposed amendments provide continued support through increased flexibility and reduced process and cost.

A. Personal Service Businesses as a Permitted Use in the C-2 and O Zones

The Town Code defines a personal service business as one that predominately sells personal convenience services directly to the public, including but not limited to, barbers, beauty salons and related services, cosmetologists, electrolysis, facial and/or skin care, hair dressers and/or hair stylists, hair removal and/or replacement, manicurists, nail salons, pedicurists, permanent make-up, skin and body care, piercing, spas, tanning salons, tattooing, cleaners, dog grooming, tailors, and other services of a similar nature. Personal service business does not include travel agencies, insurance offices, law offices, architect offices, or any other type of office use.

Under the current Town Code, a personal service business is a permitted use in the C-1, CH, and LM zones. In the C-2 zone, personal service businesses are allowed on the ground floor with a CUP and are a permitted use in specific areas described in Section 29.60.320 (c)(2), as

DISCUSSION (continued):

shown on the map included as Exhibit 8. A CUP for a personal service use must be approved by the Planning Commission.

While the local COVID-19 emergency order was in place, the Town Council suspended the requirement for personal service businesses to obtain a CUP in the C-2 zone and allowed them to locate within the Office zone. This action offered locational flexibility and reduced costs and timelines to personal service businesses during the emergency order.

To continue the support of the business community consistent with the strategic priority, staff proposes amendments to the Town Code allowing personal service businesses on the ground floor throughout the C-2 zone, making them a permitted use by eliminating the CUP requirement, and removing limitations based on location within the C-2 zone. Additionally, personal service businesses would be added as a permitted use in the O zone. Below is a summary of the amendments to the Town Code necessary to carry out these changes:

- Update the definition of personal service businesses by adding specific services that have become common since the definition was originally developed (29.10.020);
- Add personal service businesses to the required parking for retail and commercial shops to reflect Town practice [29.10.150 (b)(1) and (c)(9)];
- Eliminate the CUP requirement for personal service businesses in the C-2 zone from the Table of Conditional Uses (29.20.185);
- Remove personal service businesses from the required findings for granting a CUP [29.20.190 (b)];
- Add personal service businesses as a permitted use in the O and C-2 zones (29.60.085 and 29.60.320); and
- Eliminate the locational restrictions for personal service businesses in the C-2 zone [29.60.320 (c)]

The impact of the proposed amendments to the Town Code regarding personal service businesses are summarized in the table on the following page.

DISCUSSION (continued):**Impact of Town Code Amendments on Personal Service Businesses in the C-2 and O Zones**

	Current Code	Amended Code
C-2 Zone*		
Application Type, Fee	CUP by Planning Commission: \$9,098.64 Use and Occupancy: \$278.16 Business License: \$75 to \$975	Use and Occupancy: \$278.16 Business License: \$75 to \$975
Average Processing Time	3 to 4 months	Over the counter (typical)
O Zone		
Application Type, Fee	Not permitted	Use and Occupancy: \$278.16 Business License: \$75 to \$975
Average Processing Time	Not permitted	Over the counter (typical)
* Where a CUP is required		

B. Bars, Markets, and other Miscellaneous Commercial Businesses

The Town Code currently includes definitions and regulations for bars and restaurants. Bars are defined as a drinking place where alcoholic beverages and snacks are served; possibly with entertainment such as music, television screens, video games, or pool tables. Bars are a conditional use allowed only in the C-2 zone and require approval by the Town Council. Restaurants are defined as a retail food service establishment in which food and beverage is prepared, served, and sold to customers for on-site or take-out consumption. Restaurants without alcohol service are a conditional use allowed in the C-1, C-2, CH, LM, and CM zones. Restaurants with alcohol service also require a CUP, but are not allowed in the CM zone. A CUP for either type of restaurant may be considered by the Development Review Committee (DRC).

While the local COVID-19 emergency order was in place, the Town Council suspended the requirement for up to five (5) markets, bars, and/or miscellaneous commercial businesses to obtain a CUP in the C-2 zone. This action offered reduced costs and timelines to specific Business types during the emergency order; however, the resolution and the current Town Code lack a definition for “market” and do not clarify what is meant by “miscellaneous commercial businesses.” One of the five available markets, bars, and/or miscellaneous commercial businesses executed an Economic Recovery Agreement, a wine tasting establishment without food located in the C-2 zone.

The market concept typically offers a hybrid of retail and restaurant uses within a single business. The current framework of the Town Code adequately regulates these types of businesses as either retail or restaurant, depending on the specific operational characteristics of the business. Therefore, there is no need to introduce markets as a new use in the Town Code. The “miscellaneous commercial businesses” term included in the resolution allowed the Town to be nimble in its regulatory approach to new businesses

DISCUSSION (continued):

within the bar to restaurant spectrum during an unprecedented time. As the recovery process continues, it is important that updated Town Code language continue to provide for flexibility while recognizing and defining the variety of business models within the bar to restaurant spectrum. Two examples of business types that do not fit into the framework of the existing Town Code are tap/tasting rooms and specialty food retail. When these business types pursue operation in the Town, they are often forced into a category that is not consistent with their desired operational characteristics, which may limit where they can be located and could require review by the Town Council.

Tap/Tasting Rooms

Tap/tasting rooms are a business model becoming more prevalent. A tap/tasting room offers sampling and sales of alcoholic beverages for on- or off-site consumption, but does not include the extended hours that are typical of a bar. Like a bar, food may be offered at a tap/tasting room, but is not a requirement. Currently, this type of business would either be classified as a bar or would need to incorporate food service infrastructure and staffing into their business model to open as a restaurant in the Town. This new category provides an opportunity to businesses that do not want to establish a kitchen to offer food and operate as a restaurant and do not want to offer late night hours of operation characteristic of a bar. Additionally, tap/tasting rooms typically provide a unique environment that may focus on craft and high-quality alcoholic beverages and provide a social gathering place with hours of operation not extending beyond 10:00 p.m. The limited hours of operation of a tap/tasting room reduce noise and other impacts, making them compatible in more areas of the Town. Lastly, the California Department of Alcoholic Beverage Control (ABC) requires different licenses for a bar and a tap/tasting room. The proposed tap/tasting room category recognizes the distinction in operational characteristics and the hours of operation between them and a bar, which allows the Town to regulate the two uses independently.

To continue the support of the business community consistent with the strategic priority and to provide increased flexibility and opportunity to new business types, staff proposes amendments to the Town Code to define and provide a regulatory framework for tap/tasting rooms. Tap/tasting rooms would be added to the restaurant categories for parking in the downtown area and outside of the downtown area. Tap/tasting rooms would also be added to the Table of Conditional Uses for the C-1, C-2, CH, and LM zones, and assigned to the DRC. A new definition would be added for tap/tasting room and the definition of bar would be simplified to reflect the rescinding of the Town's Alcohol Policy in 2019.

- *Tap/tasting room* means an establishment operating within the hours of 10:00 a.m. and 10:00 p.m. devoted to the sampling and sale of alcoholic beverages for on- and/or off-site consumption. Food service is not required.

DISCUSSION (continued):

- *Bar* means a drinking place operating within the hours of 6:00 a.m. and 2:00 a.m. where alcoholic beverages are served for on-site consumption. Food service is not required.

Below is a summary of the amendments to the Town Code necessary to carry out these changes:

- Update the definition of bar to recognize the rescinding of the Town's Alcohol Policy in 2019 (29.10.020);
- Add the definition of tap/tasting room (29.10.020);
- Add tap/tasting room to the required parking for restaurants [29.10.150 (b)(1) and (c)(9)];
- Add tap/tasting room to the Table of Conditional Uses:
 - Tap/tasting room would be allowed with an approved CUP in the C-1, C-2, CH, and LM zones.
 - Bars would continue to be allowed with an approved CUP only in the C-2 zone (29.20.185); and
- Update the assignment of duties adding tap/tasting room to the DRC, consistent with restaurants (29.20.745).

The impact of the proposed amendments to the Town Code regarding tap/tasting room businesses are summarized in the table below.

Impact of Town Code Amendments on Restaurant, Bar, and Tap/Tasting Room

	Zone Allowed with CUP	Application Type, Fee	Average Processing Time
Restaurant without Alcohol	C-1, C-2, CH, LM, CM (no change)	CUP by DRC: \$5,794.02 (no change)	3 to 4 months (no change)
Restaurant with Alcohol	C-1, C-2, CH, LM (no change)	CUP by DRC: \$5,794.02 (no change)	3 to 4 months (no change)
Bar	C-2 (no change)	CUP by Town Council: \$16,261.46 (no change)	4 to 6 months (no change)
Tap/Tasting Room	C-1, C-2, CH, LM	CUP by DRC: \$5,794.02	3 to 4 months

Specialty Retail and Specialty Food Retail

A specialty retail use is not a new business type to the Town. In fact, there are examples of businesses throughout Town that are considered specialty retail uses. To date, the Town Code has lacked a definition and regulatory framework specific to specialty retail uses, with staff relying on an interpretation of information in different Town policy documents to regulate the use. Currently, specialty retail businesses are considered walk-in and impulse businesses that offer pre-packaged foods and beverages, but do not offer meals, and with limited to no seating. While both restaurant and specialty retail businesses offer food

DISCUSSION (continued):

products, the primary distinction between the two uses is that food and beverages must be pre-prepared and may not be made-to-order to be considered a specialty retail use. Once a business offers any items made to order, including coffee, bagels with condiments, ice cream, etc., they are currently required to obtain a CUP for a restaurant use. Currently, a specialty retail business is regulated as a retail use and may be approved over the counter.

Within the current framework, a specialty retail business is limited in what and how products can be offered. Only pre-prepared food and beverages can be offered. This limitation forces some businesses into a restaurant CUP process that may not warrant that level of control. To increase flexibility within the retail food/restaurant space, staff recommends incorporating the following definition to bridge the gap between the two existing uses:

- *Specialty food retail* means businesses that are primarily walk-in and impulse businesses that do not generally serve meals, but offer pre-packaged/pre-prepared foods and/or made-to-order beverages and have limited to no seating. Examples include but are not limited to, coffee/tea houses, donut shops, juice/smoothie bars, and ice cream/frozen yogurt shops.

This definition creates a use between retail and restaurant that allows for a business to offer pre-prepared food items and made-to-order beverages while not being classified as a restaurant. Staff proposes amendments to the Town Code to define and provide a regulatory framework for a specialty food retail use. The new definition would be added to the Town Code and the specialty food retail use would be allowed as a permitted use in the C-1, C-2, CH, and LM zones, where retail uses are also a permitted use. However, approval of a CUP would be required for a specialty food retail business offering alcohol for off-site or on-site consumption along with the appropriate ABC license. The Table of Conditional Uses would be updated accordingly. Below is a summary of the amendments to the Town Code necessary to carry out these changes:

- Update the definition of convenience market to specifically exclude specialty food retail (29.10.020);
- Add the definition of specialty food retail (29.10.020);
- Add specialty food retail to required parking for restaurants [29.10.150 (b)(1) and (c)(9)];
- Add specialty food retail to the Table of Conditional Uses for establishments selling alcoholic beverages for consumption off-site or on-site (29.20.185);
- Update the assignment of duties adding specialty food retail uses offering alcoholic beverages for consumption off-site or on-site to the DRC, consistent with restaurants (29.20.745); and
- Add specialty food retail without alcoholic beverages as a permitted use in the C-1, C-2, CH, and LM zones (29.60.210, 29.60.320, 29.60.420, and 29.70.100).

DISCUSSION (continued):

The impact of the proposed amendments to the Town Code regarding specialty food retail businesses are summarized in the table below.

Impact of Town Code Amendments on Specialty Food Retail Businesses

	Current Code	Amended Code
Frozen Yogurt Shop		
Application Type, Fee	CUP (restaurant) by DRC: \$5,794.02 Use and Occupancy: \$278.16 Business License: \$75 to \$975	Use and Occupancy: \$278.16 Business License: \$75 to \$975
Average Processing Time	3 to 4 months	Over the counter (typical)
Coffee House		
Application Type, Fee	CUP (restaurant) by DRC: \$5,794.02 Use and Occupancy: \$278.16 Business License: \$75 to \$975	Use and Occupancy: \$278.16 Business License: \$75 to \$975
Average Processing Time	3 to 4 months	Over the counter (typical)
Specialty Food Retail Shop Offering Alcohol for Off- Site or On-Site Consumption		
Application Type, Fee	CUP (restaurant) by DRC: \$5,794.02 Use and Occupancy: \$278.16 Business License: \$75 to \$975	CUP (specialty food retail with off-site or on-site alcohol) by DRC: \$5,794.02 Use and Occupancy: \$278.16 Business License: \$75 to \$975
Average Processing Time	3 to 4 months	3 to 4 months

C. Banks and Financial and Investment Services

The Town Code does not provide a definition of bank, but does require a CUP for banks in the C-1, C-2, and CH zones. In 2020, an applicant requested a zoning consistency determination and approval of a CUP for a bank in the C-2 zone. The proposed use did offer some of the services traditional to banks, but also offered other financial and investment services that are typically considered office uses. The Planning Commission determined the use to be a bank and approved the CUP. This decision was appealed, and the Town Council determined that the proposed use was not appropriate for the specific location, granting the appeal and denying the application.

To clarify the distinction between a bank and a financial and investment services use, staff proposes amendments to the Town Code. New definitions would be added for retail bank, financial and investment services, and office activities. Existing regulations would continue to determine the parking requirements for office activities and where they could be located in the Town. The following new definitions would be added to the Town Code:

- *Bank, retail* means commercial and non-profit banks and credit unions, which are primarily focused on in-person customer services such as: deposits/withdrawals, loans,

DISCUSSION (continued):

checking and savings accounts, currency exchanges, mortgages, personal loans, and debit or credit card services. This classification does not include payday lending businesses or check cashing businesses. The term "payday lending business" as used herein means retail businesses owned or operated by a "licensee" as that term is defined in California Financial Code Section 23001(d), as amended from time to time. The term "check cashing business" as used herein means a retail business owned or operated by a "check casher" as that term is defined in California Civil Code Section 1789.31 as amended from time to time.

- *Financial and investment services* means businesses that offer financial advice and services, including but not limited to: investment banking, portfolio management, private equity, and venture capital.
- *Office activities* means office uses, including but not limited to: administrative, professional, medical, dental, optical, real estate, insurance, financial and investment services, and other similar office uses characterized by an absence of retail sales.

Below is a summary of the amendments to the Town Code necessary to carry out these changes:

- Add the definitions of retail bank, financial and investment services, and office activities (29.10.020);
- Add retail bank and financial and investment services to the required parking [29.10.150 (b)(2) and (c)(10)]; and
- Change "bank" to "retail bank" in the Table of Conditional Uses (29.20.185).

D. Formula Retail Greater than 6,000 Square Feet

The Town Code defines a formula retail business as a business which, along with seven or more other business locations, is required by contractual or other arrangement to maintain any of the following: standardized merchandise, services, décor, uniforms, architecture, colors, signs, or other similar features. Under the current Town Code, formula retail businesses up to 6,000 square feet are a permitted use in the C-1, C-2, CH, and LM zones. Formula retail businesses greater than 6,000 square feet are a conditional use in the C-1, C-2, CH, and LM zones and require Planning Commission approval.

To continue the support of the business community and to provide increased flexibility and opportunity for businesses in the Town, staff proposes amendments to the Town Code to allow formula retail businesses greater than 6,000 square feet as a permitted use in the C-1, C-2, CH, and LM zones by eliminating the formula retail definitions and specific regulations. With this change, a formula retail business as it is currently defined would simply be considered a retail business and allowed where retail uses are allowed. This change would not impact the requirement for an Architecture and Site approval for new construction of a

DISCUSSION (continued):

commercial building. Below is a summary of the amendments to the Town Code necessary to carry out these changes:

- Eliminate the definition of formula retail business (29.10.020);
- Eliminate the CUP requirement for formula retail businesses greater than 6,000 square feet in the C-1, C-2, CH, and LM zones from the Table of Conditional Uses (29.20.185);
- Remove formula retail businesses greater than 6,000 square feet from the required findings for granting a CUP [29.20.190 (b)];
- Remove formula retail businesses up to six thousand (6,000) square feet as a permitted use in the C-1, C-2, CH, and LM zones (29.60.210, 29.60.320, 29.60.420, and 29.70.100).

The impact of the proposed amendments to the Town Code regarding formula retail businesses are summarized in the table below.

Impact of Town Code Amendments on Formula Retail Businesses Greater than 6,000 sf

	Current Code	Amended Code
Application Type, Fee	CUP: \$9,098.64 Business License: \$75 to \$975	Use and Occupancy: \$278.16 Business License: \$75 to \$975
Average Processing Time	3 to 6 months	Over the counter (typical)
Deciding Body	Planning Commission	Community Development Director

Alternatively, the Planning Commission could consider maintaining the requirement for a CUP for a formula retail business greater than 6,000 square feet in specific zones, but change the deciding body from Planning Commission to DRC. Additionally, the Planning Commission could consider whether specific, but not all, types of formula retailer greater than 6,000 square feet should require a CUP in specific zones. One example of a specific type is a use that might still require a CUP is one whose primary focus is on alcohol sales.

E. Group Classes in C-2 Zone

The Town Code defines group classes as a class that offers instruction provided at a rate greater than one (1) student to one (1) instructor and does not include schools as defined in the Town Code. Under the current Town Code, group classes are a permitted use in the O, C-1, CH, and LM zones. Group classes require DRC approval of a CUP in the C-2 zone.

To continue the support of the business community and to provide increased flexibility and opportunity for businesses in the Town, staff proposes amendments to the Town Code to eliminate the requirement for a CUP for group classes in the C-2 zone, allowing it as a permitted use. Below is a summary of the amendments to the Town Code necessary to carry out these changes:

DISCUSSION (continued):

- Eliminate the CUP requirement for group classes in the C-2 zone from the Table of Conditional Uses (29.20.185);
- Eliminate group classes as an assigned duty for the DRC [29.20.745 (21)]; and
- Add group classes as a permitted use in the C-2 zone (29.60.085).

The impact of the proposed amendments to the Town Code regarding group classes businesses are summarized in the table below.

Impact of Town Code Amendments on Group Classes Businesses

	Current Code	Amended Code
Application Type, Fee	CUP: \$9,098.64 Business License: \$75 to \$975	Use and Occupancy: \$278.16 Business License: \$75 to \$975
Average Processing Time	3 to 6 months	Over the counter (typical)
Deciding Body	DRC	Community Development Director

F. Veterinarians in C-1 Zone

Currently, the Town Code requires Planning Commission approval of a CUP for a veterinarian (without a kennel) in the C-2, CH, LM, and CM zones. Veterinarians are not allowed in the C-1 zone. Staff has received several inquiries recently related to commercial properties in the C-1 zone, including locations on Los Gatos Boulevard, from parties interested in establishing a new veterinarian business.

Staff proposes amendments to the Town Code to allow veterinarians (without a kennel) in the C-1 zone with Planning Commission approval of a CUP, consistent with the other commercial zones. Below is a summary of the amendments to the Town Code necessary to carry out these changes:

- Amend the Table of Conditional Uses to allow veterinarians in the C-1 zone as a conditional use (29.20.185).

PUBLIC COMMENTS:

Staff conducted outreach through the following media and social media resources, as well as direct communication with the Chamber of Commerce and individual businesses and groups as summarized below:

- The Town's website home page, What's New;
- The Town's Facebook page;
- The Town's Twitter account;

PUBLIC COMMENTS (continued):

- The Town's Instagram account;
- The Town's NextDoor page;
- The Town's Community Development Booth at the Town's Spring Into Green Event on Sunday, April 23, 2023;
- Direct communication with the Chamber of Commerce Executive Director and Board Members; and
- Direct email communication to business stakeholders including property owners, business owners, and property managers/brokers.

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. Individual projects processed in accordance with the Town's Zoning Code will undergo CEQA review.

CONCLUSION:

A. Summary

To continue Town support of local businesses, staff has identified several amendments to the Town Code relative to land use and zoning consistent with the strategic priority that promotes updates to Town policies and ordinances related to economic vitality and pandemic recovery. The proposed amendments provide continued support through increased flexibility and reduced process and cost.

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 Amendments (Exhibit 2). The Planning Commission should also include any comments or recommended changes to the Draft Ordinance in taking the following actions:

1. Make the finding that the proposed amendments to the Town Code are not considered a project under the California Environmental Quality Act (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 amendments to Chapter 29 of the Town Code in the Draft Ordinance Amendments (Exhibit 2).

CONCLUSION (continued):

C. Alternatives

Alternatively, the Commission can:

1. Forward a recommendation to the Town Council for approval of the Draft Ordinance with modifications; or
2. Forward a recommendation to the Town Council for no changes to the Town Code; or
3. Continue the matter to a date certain with specific direction.

EXHIBITS:

1. Required Findings
2. Draft Ordinance Amendments
3. Strategic Priorities 2023 - 2025
4. Economic Vitality and Land Use Streamlining Information
5. Resolution 2020-008
6. Resolution 2022-066
7. Resolution 2023-011
8. C-2 Ground Floor Offices Map

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PLANNING COMMISSION – April 26, 2023
REQUIRED FINDINGS FOR:

Town Code Amendment Application A-23-001

Forward a Recommendation to the Town Council on Land Use and Economic Recovery Amendments to Chapter 29 (Zoning Regulations) of the Town Code Regarding Personal Service Businesses, Bars, Markets, Banks, Financial Services, Formula Retail, Group Classes, Veterinarians, Offices, and Definitions.

FINDINGS

Required Findings for CEQA:

- 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. Individual projects processed in accordance with the Town’s Zoning Code will undergo CEQA review.

Required Findings for General Plan:

- The proposed amendments to Chapter 29 of the Town Code regarding land use and economic recovery are consistent with the General Plan.

EXHIBIT 1

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Sec. 29.10.020. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings ascribed to them in this section unless the context clearly indicates otherwise:

...

Bank, retail means commercial and non-profit banks and credit unions, which are primarily focused on in-person customer services such as: deposits/withdrawals, loans, checking and savings accounts, currency exchanges, mortgages, personal loans, and debit or credit card services. This classification does not include payday lending businesses or check cashing businesses. The term "payday lending business" as used herein means retail businesses owned or operated by a "licensee" as that term is defined in California Financial Code Section 23001(d), as amended from time to time. The term "check cashing business" as used herein means a retail business owned or operated by a "check casher" as that term is defined in California Civil Code Section 1789.31 as amended from time to time.

Bar means a drinking place operating within the hours of 6:00 a.m. and 2:00 a.m. where alcoholic beverages ~~and snacks~~ are served for on-site consumption.; possibly with entertainment such as music, television screens, video games or pool tables. Food service is not required.

...

Convenience market means an activity that includes the retail sale of food, beverages, and small personal convenience items, primarily for off-premises consumption and typically found in establishments with long or late hours of operation and in a relatively small building; but excluding delicatessens and ~~other~~ specialty food ~~shops~~ retail and also excluding establishments which have a sizeable assortment of fresh fruits and vegetables and fresh-cut meat.

...

Financial and investment services means businesses that offer financial advice and services, including but not limited to: investment banking, portfolio management, private equity, and venture capital.

...

~~*Formula retail business* means a retail business which, along with seven (7) or more other business locations, is required by contractual or other arrangement to maintain any of the following: standardized merchandise, services, decor, uniforms, architecture, colors, signs or other similar features.~~

...

Office activities means office uses, including but not limited to: administrative, professional, medical, dental, optical, real estate, insurance, financial and investment services, and other similar office uses characterized by an absence of retail sales.

...

Personal service business means uses that predominately sell personal convenience services directly to the public, including but not limited to: acupressure, barbers, beauty salons and related services, cosmetologists, electrolysis, estheticians, facial and/or skin care, hair dressers and/or hair stylists, hair removal and/or replacement, manicurists, massage therapists, myofascial therapists, nail salons, pedicurists, permanent make-up, rolfers (therapists), skin and body care, piercing, spas, tanning salons, tattooing, cleaners, dog grooming, tailors, and other services of a similar nature. Personal service business does not include travel agencies, insurance offices, law offices, architect offices, or any other type of office use.

...

Specialty food retail means businesses that are primarily walk-in and impulse businesses that do not generally serve meals, but offer pre-packaged/pre-prepared foods and/or made-to-order beverages and have limited to no seating. Examples include but are not limited to: coffee/tea houses, donut shops, juice/smoothie bars, and ice cream/frozen yogurt shops.

...

Tap/tasting room means an establishment operating within the hours of 10:00 a.m. and 10:00 p.m. devoted to the sampling and sale of alcoholic beverages for on- and/or off-site consumption. Food service is not required.

Sec. 29.10.150. Number of off-street spaces required.

- (a) *Intent.* The regulations contained in this section are intended to ensure the provision of a sufficient number of off-street parking spaces privately and publicly owned and operated to satisfy needs generated by permissible uses.
 - (b) *Parking requirements for downtown.* In addition to other parking requirements, one visitor parking space for each residential unit other than detached single-family or two-family dwelling shall be required unless the Planning Commission makes a finding that more or less visitor parking is necessary due to the size or type of housing unit(s). The parking requirement for various uses in the downtown are as follows:
 - (1) *Retail and commercial stores shops, personal service businesses, specialty food retail, restaurants, bars, ~~taverns and~~ nightclubs, and tap/tasting rooms.* One (1) parking space for each three hundred (300) square feet of gross floor area.
 - (2) *Business and professional offices, retail banks, financial ~~institutions and investment services,~~ insurance companies, social service agencies and studios.* One (1) parking space for each two hundred fifty (250) square feet of gross floor area.
- ...
- (c) *Outside downtown parking requirements.* The number of off-street parking spaces required for areas outside the downtown is set in this subsection. When a use is not listed in this subsection, the Planning Director shall determine the parking requirements by analogy to the requirements for the listed uses. In addition to other parking requirements, one visitor parking space for each residential unit other than a detached single-family or two-family dwelling shall be required, unless the Planning Commission makes a finding that more or less visitor parking is necessary due to the size or type of housing unit(s).

...

- (9) *Retail and commercial stores shops, personal service businesses, specialty food retail, restaurants, bars, ~~taverns and~~ nightclubs, and tap/tasting rooms*. One (1) parking space for each two hundred thirty-five (235) square feet of gross floor area.
- (10) *Business and professional offices, retail banks, financial ~~institutions and investment services~~, insurance companies, social service agencies and studios*. One (1) parking space for each two hundred thirty-five (235) square feet of gross floor area.

...

Sec. 29.20.185. Table of conditional uses.

An "X" indicates that an activity is allowed in a zone if a conditional use permit is issued. Activities listed in this table are only allowed where a conditional use permit is issued, or where the activity is specifically listed in the permitted uses for the zone.

TABLE OF CONDITIONAL USES				RC	HR	R1	RD	R-M	R-1D	RMH	O	C-1	C-2	CH	LM	CM
(1)	Commercial															
	a.	Banks, <u>retail</u>										X	X	X		
	b.	Savings and loan office <u>Reserved</u>										X	X	X		
	c.	Drive-up window for any business										X	X	X		
	d.	Supermarket										X	X	X		
	e.	Super drugstore										X	X	X		
	f.	Department store										X	X	X		
	g.	Shopping center										X	X	X		
	h.	Motel											X	X		
	i.	Hotel											X	X		
	j.	Restaurant including those with outdoor dining areas or takeout food										X	X	X	X	X
	k.	Establishment selling alcoholic beverages for consumption on premises														
		1.	In conjunction with a restaurant <u>or specialty food retail use</u>									X	X	X	X	
		2.	Without food service (bar)										X			

				RC	HR	R1	RD	R-M	R-1D	RMH	O	C-1	C-2	CH	LM	CM
		3.	<u>Tap/tasting room</u>									<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	
	l.	Establishment selling alcoholic beverages for consumption off-premises (this provision only applies to establishments commencing or expanding off-premises sales after April 23, 1981)										X	X	X		
		1.	<u>In conjunction with a specialty food retail use</u>									<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	
	m.	Convenience market										X	X	X		
	n.	Reserved														
	o.	Formula retail business greater than 6,000 s.f. <u>Reserved</u>										X	X	X	X	
	p.	Personal service businesses (as set forth in section 29.60.320) <u>Reserved</u>											X			
(4)	Schools			RC	HR	R1	RD	R-M	R-1D	RMH	O	C-1	C-2	CH	LM	CM
	h.	Art, craft, music, dancing school, group classes <u>Reserved</u>											X			

(9)	Agriculture and Animal Services		RC	HR	R1	RD	R-M	R-1D	RMH	O	C-1	C-2	CH	LM	CM
	c.	Veterinary hospital (without kennel)									X	X	X	X	X

Sec. 29.20.190. Findings and decision.

- (a) The deciding body, on the basis of the evidence submitted at the hearing, may grant a conditional use permit when specifically authorized by the provisions of this chapter if it finds that:
- (1) The proposed uses of the property are essential or desirable to the public convenience or welfare;
 - (2) The proposed uses will not impair the integrity and character of the zone;
 - (3) The proposed uses would not be detrimental to public health, safety or general welfare; and
 - (4) The proposed uses of the property are in harmony with the various elements or objectives of the general plan and the purposes of this chapter.
 - (5) A hazardous waste facility proposal is subject to the California Health and Safety Code, Article 8.7, Section 25199—25199.14 and shall be consistent with the Santa Clara County Hazardous Waste Management Plan.
- (b) ~~Reserved. The deciding body, on the basis of the evidence submitted at the hearing, may deny a conditional use permit for a formula retail business greater than six thousand (6,000) square feet or a personal service business if any of the following findings are made:~~
- ~~(1) The proposed use of the property is not in harmony with specific provisions or objectives of the general plan and the purposes of this chapter;~~
 - ~~(2) The proposed use will detract from the existing balance and diversity of businesses in the commercial district in which the use is proposed to be located;~~
 - ~~(3) The proposed use would create an over-concentration of similar types of businesses, or~~
 - ~~(4) The proposed use will detract from the existing land use mix and high urban design standards including uses that promote continuous pedestrian circulation and economic vitality.~~

...

Sec. 29.20.745. Development Review Committee.

The Development Review Committee shall:

- (1) Regularly review and make recommendations to the Planning Commission concerning the determination of all matters which come before the Planning Commission except zoning ordinance amendments, zone changes (not including rezoning to PD), general plan adoptions and amendments, specific plan adoptions and amendments, and capital improvement plans.
- (2) Review and make recommendations to the Council concerning community-oriented bulletin boards and kiosks proposed to be erected on public property.
- (3) May on its own motion review and make recommendations concerning matters not assigned to it.
- (4) Reserved.
- (5) Determine and issue zoning approval for the storage of hazardous materials as provided in division 1 of article VII of this chapter.
- (6) Determine appropriate screening (fencing, landscaping or a combination) for hazardous materials storage sites as provided in division 1 of article VII of this chapter.
- (7) Determine and issue zoning approval for grading permits as provided in section 29.10.09045(b) and (c) of this chapter.
- (8) Reserved.
- (9) Determine and issue zoning approval for lot line adjustments and lot mergers.
- (10) Reserved.
- (11) Under the provisions of section 29.10.070 of this chapter and section 66424.2 of the Subdivision Map Act, determine whether lots have merged.
- (12) Determine and issue zoning approval for single-family dwellings.
- (13) Determine and issue zoning approval for minor subdivisions of land consisting of four lots or less.
- (14) Determine and issue zoning approval for minor modifications to Planned Developments when the Official Development Plan is not altered.
- (15) Determine and issue zoning approval for requests for reduction to setbacks on nonconforming lots.
- (16) Determine and issue zoning approval for restaurants, specialty food retail use selling alcoholic beverages for consumption off-site or on-site, and tap/tasting rooms.
- (17) May refer any matter assigned by ordinance to the Development Review Committee for decision to the Planning Commission for decision.

- (18) Determine and issue zoning approval for special parking lot surfaces for nurseries or botanical gardens under subsection 29.10.155(1).
- (19) Determines requests for reasonable accommodation when action is not required of the Council, Planning Commission or the Planning Director.
- (20) Determines applications for demolition, conversion, and removal of accessory dwelling units.
- (21) ~~Determine and issue zoning approval for group classes in the C-2 zone.~~ Reserved.

No Planning Commission action is invalid because of omission of review and recommendation.

Sec. 29.60.085. Permitted uses.

Activities allowed in the O or office zone must be those which would not unreasonably interfere with residential uses or other activities within the O zone, and which are in the following categories:

- (1) Offices, administrative, professional, medical, dental and optical laboratories associated with a professional use, real estate, insurance, stocks and bonds; and other similar offices characterized by absence of retail sales.
- (2) Retail sales by a pharmacy within a medical building.
- (3) Group classes.

(4) Personal service businesses.

(Ord. No. 1316, § 4.52.020, 6-7-76; Ord. No. 1363, 8-1-77; Ord. No. 2304 , § II, 2-18-20)

Sec. 29.60.210. Permitted uses.

- (a) Activities allowed in the C-1 or neighborhood commercial zone are those which do not unreasonably interfere with nearby residential uses and which are in the following categories:

- (1) Retailing ~~up to six thousand (6,000) square feet.~~
- (2) Personal service businesses and service businesses necessary for the conduct of households.
- (3) Office activities.
- (4) Limited manufacturing activities when a majority of sales are made, on site, to the ultimate consumer.
- (5) Activities permitted in the LM zone which were approved on or before February 1, 1993 provided any change of use must be a conforming use in the C-1 zone.
- (6) Group classes.

(7) Specialty food retail without alcoholic beverages.

- (b) Examples of proper C-1 activities are grocery stores, laundrettes, or dry cleaning agencies, drugstores, barbershops, appliance repair shops, and offices. Examples of activities which are not proper in the C-1 zone are vehicle service and sales, palmists and soothsayers, manufacturing, wholesaling, or laundry.

(Ord. No. 1316, § 4.54.020, 6-7-76; Ord. No. 1363, 8-1-77; Ord. No. 1930, § I, 2-1-93; Ord. No. 2304, § II, 2-18-20)

Sec. 29.60.320. Permitted uses.

- (a) Activities permitted in the C-2 or Central District Commercial Zone are those involving the conduct of commerce and general business and the sale of commodities necessary for the needs of residents and visitors of the Town, such as:
- (1) Retailing, ~~including formula retail up to six thousand (6,000) square feet.~~
 - (2) Reserved.
 - (3) Reserved.
 - (4) Office activities subject to subsection (c) below.
 - (5) Limited manufacturing activities when a majority of sales are made, on site, to the ultimate consumer.
 - (6) Wholesaling without warehousing on the premises.
 - (7) Single-family and two-family uses, in conjunction with the other uses permitted in this section.
 - (8) Personal service businesses.
 - (9) Group classes.
 - (10) Specialty food retail without alcoholic beverages.
- (b) Examples of proper C-2 activities are apparel stores, antique stores, artist studios, craft studios, auto part sales, artist supply shops, and EV sales, service, and repair. Examples of activities which are not proper in the C-2 zone are ~~vehicle sales or service~~, manufacturing, warehousing, laundry or dry cleaning plants.
- (c) ~~Personal service businesses and office activities in the C-2 zone are subject to the following:~~ Office activities in the C-2 zone shall not be located on the ground floor along any street, alleyway, or public parking lot except in the areas described below:
- ~~(1) Personal service businesses may be allowed on the ground floor in the C-2 zone with a conditional use permit. However, personal service businesses are considered a permitted use in the areas described in subsection (2)a—g below and in the remainder of the C-2 zone.~~
 - ~~(2) Office activities in the C-2 zone shall not be located on the ground floor along any street, alleyway, or public parking lot except in the areas described below:~~

~~a.~~(1) Lyndon Avenue;

~~b.~~(2) Properties abutting Wood Road;

~~c.~~(3) The west side of Victory Lane;

~~d.~~(4) The south side of Los-Gatos-Saratoga Road excluding:

~~ia.~~ That portion of the property located at the southwest corner of Los-Gatos Saratoga Road and Santa Cruz Avenue described more precisely as located between a straight line extended northerly along the west side right-of-way line of Santa Cruz Avenue and one hundred forty (140) feet west of that extended line.

~~ib.~~ The south side of Los Gatos-Saratoga Road between Santa Cruz Avenue and University Avenue; and

~~e.~~(5) The east side of South Santa Cruz Avenue directly across the street from Wood Road.

~~f.~~(6) The north and south side of West Main Street west of Victory Lane.

~~g.~~(7) Tenant suites located at 114 Royce Street with entries at the rear of the building and that do not have street frontage.

(2d) Notwithstanding subsection (c)(2), office activities on ground floors described below shall be considered conforming and shall be allowed to continue so long as the office use is not discontinued for one hundred and eighty (180) consecutive days. If the office use is discontinued for such a period, then the office use shall not be resumed, and token use shall not toll or interrupt a period of discontinuance.

a. Office activities existing on June 17, 1991; or

b. Office activities in a building under construction on July 16, 1990, if the applicable architecture and site approval specifically stated that the building was approved for office activities.

Sec. 29.60.420. Permitted uses.

(a) Activities allowed in the CH or restricted highway commercial zone are those which do not unreasonably interfere with nearby residential uses and which are in the following categories:

(1) Retailing, ~~including formula retail up to six thousand (6,000) square feet.~~

(2) Personal service businesses and service businesses necessary for the conduct of households.

(3) Office activities.

(4) Limited manufacturing activities when a majority of sales are made on site to the ultimate consumer.

(5) Group classes.

(6) Specialty food retail without alcoholic beverages.

- (b) Examples of proper CH activities are grocery stores, laundrettes or dry-cleaning agencies, drugstores, barbershops, appliance repair shops, and offices. Examples of activities which are not proper in the CH zone are palmists and soothsayers, manufacturing, wholesaling, or laundry or dry-cleaning plants.

Sec. 29.70.100. Permitted uses.

- (a) Activities allowed in the LM or commercial-industrial zone are those service-oriented and light industrial uses which may be inappropriate in a general commercial zone and which are in the following categories:

- (1) Retailing, ~~including formula retail up to six thousand (6,000) square feet.~~
- (2) Personal service businesses.
- (3) Service businesses necessary for the conduct of households or businesses.
- (4) Office activities approved on or before July 1, 1982; provided, that no change of use to office shall be permitted in the LM zone.
- (5) Limited manufacturing.
- (6) Wholesaling and warehousing.
- (7) Group classes.

(8) Specialty food retail without alcoholic beverages.

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Ongoing Strategic Priorities 2023-2025

SAFETY

- Community Policing
- Emergency Preparedness
 - CERT Recruitment & Training
 - Communications, EOC Readiness & Emergency Plan Development
- Fire Protection
 - Implementation of Ad Hoc Wildfire Mitigation Plan
- Vegetation and Hazardous Tree Management

PRUDENT FINANCIAL MANAGEMENT

- Address Pension & OPEB Obligations
- Sell or Lease Certain Town Properties
- Develop a Five-Year Structurally Balanced and Sustainable Operating Forecast
 - Explore New Revenue Opportunities
 - Cure Forecasted Structural Deficit
- Develop a Five-Year Full Funded Capital Plan

TRAFFIC/TRANSPORTATION

- Comprehensive Parking Study
 - Short, Medium, and Long-Term Actions
- Transportation Demand Management
 - Measure B Transportation Projects
 - Bicycle & Pedestrian Improvements
 - Community Shuttle
 - Summer/Rush Hour/School Traffic
 - Regional Transportation Issues
- Traffic Calming/Safety for All Users

QUALITY OF LIFE

- Community Vitality
 - Diversity, Equity & Inclusion Efforts
 - Community Where Older Adults Thrive
 - Adopt a Senior Road Map
 - Events & Other Town-Wide Efforts
 - Community Engagement
 - Environmental Sustainability/Climate Resiliency
- Economic Vitality & Pandemic Recovery
 - Policies & Ordinances
 - Semi-Permanent Parklets
 - Streamline Permit Process
- Land Use Planning
 - General Plan 2040
 - Housing Element
 - Affordable Housing Partnerships
 - SB9 Implementation
- Work with Town Partners to Support Needs of Unhoused Residents
- Redefine Town Commissions in Alignment with Strategic Priorities

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ECONOMIC VITALITY & LAND USE STREAMLINING



The Town of Los Gatos is proud to be the home of a variety of premium shopping and dining experiences. Our downtown is one of the most charming and beautiful places around, while Los Gatos Boulevard and surrounding shopping centers provide neighborhood convenience and other fantastic shopping, dining, and service businesses against the back drop of the picturesque foothills. The Town Council is committed to creating opportunities for existing and new businesses to thrive throughout Los Gatos, and as a result have adopted a strategic priority to continue to support our business community through streamlining processes, policies, and ordinances.

The list below highlights much of the work that has been completed to date, and we will continue to make strides in creating an environment that allows our business community to continue to be the very best. Please click on any of the items below to learn more about what was adopted:

- Flexible [outdoor seating](#) regulations on public and private property (9/1/15, Town Council Meeting, Item 11)
- Allowance for paid private [Downtown valet parking](#) (11/3/15, Town Council Meeting, Item 13)
- Allowance for [entertainment](#) by right before 10 P.M. and late-night entertainment with a permit (6/21/16, Town Council Meeting, Item 19)
- Significantly reducing the Traffic Impact Fees that are applied to existing commercial space in Downtown and Shopping Centers ([11/17/16](#) and [2/16/17](#), Policy Committee Meetings)
- Providing flexible [seating calculations for restaurants](#) guided by Maximum Fire Occupancy (3/20/18, Town Council Meeting, Item 9)
- Rescission of the [Town's Alcohol Beverage Policy](#) acknowledging that ample vetting and oversight is provided through the State of California's Alcohol Beverage Control (4/3/18, Town Council Meeting, Item 8)
- Resolution for a limited time suspending the Conditional Use Permit requirement for [Formula Retailers in Downtown](#) (6/5/18, Town Council Meeting, Item 18)
- Resolution for a limited time allowing [restaurants to modify their Conditional Use Permits at the Development Review Committee](#) level significantly reducing the time and cost related to a CUP modification (6/19/18, Town Council Meeting, Item 19)
- Elimination of [parking time limits](#) in public parking lots Downtown on Saturdays (11/6/18, Town Council Meeting, Item 8)
- Approval for a [one-way street pilot on N. Santa Cruz Avenue](#) for the Summer and Fall of 2019, offering more on street parking and greater opportunities for parklets and bike and pedestrian traffic (1/15/19, Town Council Meeting, Item 5)
- Approval of a [pilot program to allow parklets](#), also known as sidewalk cafes, on Main Street and N. Santa Cruz Avenue (2/5/19, Town Council Meeting, Item 11)
- Resolution for a limited time [suspending Ordinance 2021, and allowing new restaurants to obtain a CUP at the DRC](#) level until, and a resolution [allowing for minor exterior modifications to commercial buildings to be processed at building permit](#) 12/31/19 (3/5/19, Town Council Meeting, Item 7)
- Resolution for a limited time [allowing group classes without a CUP in commercial zones outside of downtown, and those within downtown to obtain a CUP at the DRC](#) level. (3/19/19, Town Council Meeting, Item 11)

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RESOLUTION 2020-008

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS RATIFYING AND CONTINUING THE PROCLAMATION OF EXISTENCE OF LOCAL EMERGENCY ISSUED BY THE DIRECTOR OF EMERGENCY SERVICES.

WHEREAS, Municipal Code Section 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, pursuant to California Government Code Section 8680.9, a local emergency is a condition of extreme peril to persons or property proclaimed as such by the governing body of the local agency affected by a natural or manmade disaster; and

WHEREAS, the purpose of a local emergency proclamation is to provide extraordinary powers to issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency, obtain vital supplies, and require emergency services of employees; and

WHEREAS, a local emergency proclamation is a prerequisite for requesting state or federal assistance; and

WHEREAS, conditions of extreme peril to safety of persons and property have arisen within the Town, based on the following:

1. A novel coronavirus (named "COVID-19") was first detected in Wuhan City, Hubei Province, China in December 2019. The Centers for Disease Control and Prevention (CDC) determined the virus to be a very serious public health threat.
2. On January 30, 2020, the World Health Organization declared the Covid-19 outbreak a Public Health Emergency of International Concern.
3. On January 30, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency.
4. On January 31, 2020, the first case of COVID-19 was confirmed in Santa Clara County ("County").
5. On February 10, 2020, the County declared a local health emergency and proclaimed a local emergency.
6. On March 11, 2020, the County had 48 cases of COVID-19 with increased community spread.
7. On March 11, 2020, the World Health Organization declared COVID-19 an International Pandemic.

WHEREAS, the Town Council does hereby find that the above described conditions of extreme peril did warrant and necessitate the proclamation of the existence of a local emergency in the Town; and

WHEREAS, California Government Code, Title 2, Division 1, Chapter 7.5 - California Disaster Assistance Act (CDAA) allows that with the Proclamation of a Local Emergency the Town may seek financial assistance and may request reimbursement of expenses incurred during any response, if approved by the Director of the California Office of Emergency Services or Concurrence or Governor's Proclamation; and

WHEREAS, on March 12, 2020, the Director of Emergency Services issued a proclamation declaring the existence of a local emergency within the Town; and

WHEREAS, the associated emergency conditions are on-going and the emergency should not be terminated at this time;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LOS GATOS THAT:

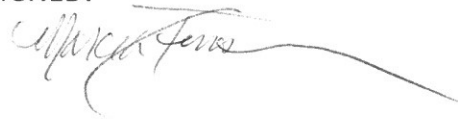
1. The Proclamation of Existence of a Local Emergency (Exhibit A), as issued by the Director of Emergency Services on March 12, 2020, is hereby ratified and confirmed.
2. The Town Council has reviewed the need for continuing the declaration of local emergency and finds based on substantial threat of continued community spread that the public interest and necessity require the continuance of the proclamation of local emergency related to COVID-19.
3. Said local emergency shall be deemed to continue to exist until terminated by the Town Council of the Town of Los Gatos.
4. The Director of the Office of Emergency Services is hereby directed to report to the Town Council within sixty (60) days on the need for further continuing the local emergency.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 17th day of March 2020, by the following vote:

COUNCIL MEMBERS:

AYES: Rob Rennie, Marico Sayoc, Barbara Spector, Mayor Marcia Jensen
NAYS: None
ABSENT: None
ABSTAIN: None

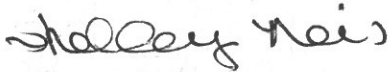
SIGNED:



MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: 3/18/20

ATTEST:



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

DATE: 3/19/2020

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RESOLUTION 2022-066

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS APPROVING TEMPORARY OUTDOOR PUBLIC SPACE EXPANSION AND TEMPORARY MODIFICATIONS TO SPECIFIC PROVISIONS RELATED TO BUSINESS PERMITS, PROCESSES, PROVISIONS, AND ACTIVITIES DURING THE COVID-19 PANDEMIC TO OFFER ECONOMIC RELIEF, RECOVERY, AND OPPORTUNITIES FOR COMMUNITY AND ECONOMIC VITALITY

WHEREAS, pursuant to the Town's police power, as granted broadly under Article XI, Section 7 of the California Constitution, the Town Council has the authority to enact and enforce ordinances and regulations for the public peace, morals, and welfare of the Town and its residents; and

WHEREAS, pursuant to California Government Code Section 8680.9, a local emergency is a condition of extreme peril to persons or property proclaimed as such by the governing body of the local agency affected by a natural or manmade disaster; and

WHEREAS, California Government Code Section 8634 states that "During a local emergency the governing body of a political subdivision, or officials designated thereby, may promulgate orders and regulations necessary to provide for the protection of life and property..."; and

WHEREAS, the purpose of a local emergency proclamation is to provide extraordinary powers to issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency, obtain vital supplies, and require emergency services of employees; and

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2," and the disease it causes has been named "coronavirus disease 2019," abbreviated COVID-19, ("COVID-19"); and

WHEREAS, on January 30, 2020, the World Health Organization declared the Covid-19 outbreak a Public Health Emergency of International Concern; and

WHEREAS, on January 30, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency; and

WHEREAS, on January 31, 2020, the first case of COVID-19 was confirmed in Santa Clara County ("County"); and

WHEREAS, on February 10, 2020, the Santa Clara County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19; and

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 an International Pandemic; and **WHEREAS**, on March 12, 2020, the Town Manager of Los Gatos acting in the capacity of Town of Director of Emergency Services, issued a Proclamation of Local Emergency; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

WHEREAS, on March 16, 2020, the Santa Clara County Department of Public Health directed all individuals in the County to Shelter in Place and mandated requirements, including but not limited to, social distancing, staying home if sick, canceling or postponing group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus; and

WHEREAS, on March 17, 2020, the Town Council of the Town of Los Gatos ratified the Proclamation of Local Emergency; and

WHEREAS, the pandemic and necessary federal, state and local public health orders requiring social distancing to prevent spread of COVID- 19 have had and will continue to have devastating economic impacts on the local community, including residents, businesses, employees and Town operations; and

WHEREAS, the longer the emergency order is in place, the more difficult it will be for small retail and restaurant operators to return and reopen their businesses; and

WHEREAS, although the Town continues to be in an emergency response phase, an emergency management principle has been established that recovery planning must begin as early as possible to strengthen community resilience while shortening the economic recovery timeline; and

WHEREAS, some of the actions that the Town has taken during this state of emergency to support local business are: eviction protections; suspension of rent for Town owned Facilities; a website with COVID 19 and business resources; and assistance for restaurants and food retailers by allowing sales of alcohol via delivery and takeout, providing flexibility for restaurants to sell groceries, and allowing curbside pickup; and

WHEREAS, due to the severe economic impacts of COVID- 19 and its economic impacts on the community and the Town organization, the Council deems it necessary to take additional action to suspend enforcement of certain provisions of the Town of Los Gatos Town Code and provide temporary process streamlining measures to facilitate the retention and attraction of Los Gatos businesses during the COVID-19 pandemic, reduce economic impacts, foster recovery, encourage economic vitality, and reduce commercial vacancies; and specified below to support social distancing requirements, effective public communication related to rapidly transitioning business re-opening status, and economic viability of businesses in adhering to permitted opening and social distancing requirements; and

WHEREAS, the below measures are intended to provide economic relief to businesses that are experiencing economic uncertainty while complying with State and County Orders. Accordingly, the Town will facilitate a temporary “pilot” program, which will include the development and implementation of a plan to use the right- of-way, sidewalks and streets to help maintain social distancing during the first few phases (stages) of reopening consistent with the State’s Resilience Roadmap and continued economic support of businesses for uses such as walking space, outdoor dining, and pick- up/delivery areas. The program would provide for residents to receive the health and wellness benefits of being outdoors and support businesses with enough space to safely physically distance; and

WHEREAS, the program is established for the purpose of supporting and facilitating the recovery of business and economic activity in the Town by expanding the spaces available for the safe conduct of such activities for Town businesses and their customers and patrons to create more physical distance for pedestrians and business patrons to maintain physical distancing; and nothing herein is intended to nor shall be deemed to create open gathering places or public fora unrelated to the intended business support and recovery purpose; and

WHEREAS, over the years, the Town’s conservative budgeting practices have resulted in healthy reserves and frequent annual budgetary surplus with a balanced Operating Budget for Fiscal Year 2020-2021 with no reductions to service, despite significant revenue and other economic impacts from sheltering-in-place. Those reserves and surpluses are now paying the Town huge dividends during the COVID 19 crisis; and

WHEREAS, on May 26, 2020, the Town Council reallocated \$1,900,000 in prior surpluses reserved for downtown streetscape revitalization toward COVID-19 economic stimulus recovery efforts. This is one of the single largest economic recovery packages ever proposed in the Town’s history; and

WHEREAS, time is of the essence to quickly implement a program to allow for safe physical distancing consistent with the State's Resilience Roadmap and County Guidelines in order to address both public health and economic impacts of COVID- 19, as residents have been primarily indoors since the initiation of the State and County Orders, this will be a dynamic temporary program, receiving input from the Town Council, and shall be subject to administrative modification by the Town, as authorized herein, as necessary in response to emerging issues or concerns of public, health, safety or convenience; and

NOW, THEREFORE, BE IT PROCLAIMED AND RESOLVED by the Town Council of the Town of Los Gatos that:

SECTION 1. All recitals set forth above, and all recitals included in support of Federal, State, and County actions referenced herein, are adopted as though fully set forth herein as findings in support of this Resolution and, after considering all such findings and current local circumstances the Council hereby declares the continuing existence of a local emergency related to the continued threat of COVID- 19 as it relates to public health and economic impacts; and

SECTION 2. In order to support the re-opening of restaurants and other businesses in accordance with the State Executive Order N-60-20, the Town Council hereby directs and authorizes the Town Manager to implement the following strategies that may be used independently or in combination, as outlined below:

1. As identified by the Town generally along N. Santa Cruz Avenue (south of Highway 9/Los Gatos-Saratoga Road) and Main Street, private businesses in the C-2 Zone are permitted to utilize public street parking spaces in proximity to their business for expanded dining and alcohol service, retail, or business use space to facilitate safely distanced pedestrian circulation, expanded outdoor dining and alcohol service, and customer queuing, pickup and waiting areas associated with permitted business activities and pursuant to the terms agreed upon in an Economic Recovery Agreement between the business and the Town;
2. Suspend parking requirements in private commercial lots to allow some parking spaces to be utilized for restaurant seating or business activities given sufficient parking remains available for customer use, and to allow for such to facilitate safely distanced pedestrian circulation, expanded outdoor dining and alcohol service, customer queuing, and pickup and waiting areas associated with permitted business activities and pursuant to the terms of agreed upon in an Economic Recovery agreement between the business and the Town;
3. Allow pop-up patios, parklets, and other areas to encourage and support additional ideas for outdoor space such as use of parts of the sidewalk for signage, merchandise and queueing, where adequate sidewalk width exists consistent with disabled access requirements and public safety; and

4. Current Los Gatos businesses may relocate, expand, or open an additional business location without obtaining a new Conditional Use Permit provided the business enters into an Economic Recovery agreement with the Town, documenting that any change of ownership is subject to a new Conditional Use Permit or Conditional Use Permit modification consistent with the existing Town Code;
5. The requirement for personal service businesses to obtain a Conditional Use Permit in the C-2 zone is suspended, and personal service businesses may locate within Office Zones (O), provided the business enters into an Economic Recovery agreement with the Town, documenting that any change of ownership is subject to a new Conditional Use Permit, or must comply with current provisions consistent with the existing Town Code;
6. The requirement for up to a total of five (5) markets, bars and/or other miscellaneous commercial businesses to obtain a Conditional Use Permit in the C-2 zone is suspended provided the business enters into an Economic Recovery agreement with the Town, documenting that any change of ownership is subject to a new Conditional Use Permit consistent with the existing Town Code;
7. The cost for a new Conditional Use Permit is reduced by 50% with the Town paying the balance of the fees;
8. Alcohol consumption is permitted with meals in Town parks, temporary pop-up parks, temporary patio dining, and parklets; and
9. The expiration date for all building permits and planning entitlements shall be extended by two years.

SECTION 4. Environmental Review. As a result of the COVID- 19 public health emergency, the Town of Los Gatos proposes a temporary program to use the right- of-way, sidewalks and streets to help maintain social distancing during the first few phases (stages) of reopening consistent with the State’ s Resilience Roadmap and provide for residents to receive the health and wellness benefits of being outdoors and support businesses with enough space to safely physically distance. The proposed project is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) as followed:

- A. The project is statutorily exempt under State CEQA Guidelines Section 15269 (Emergency Projects), because the temporary program includes specific actions that would allow for safe physical distancing consistent with the State’ s Resilience Roadmap and County and State Guidelines in order to mitigate the COVID- 19 public health emergency.
- B. The project is categorically exempt under State CEQA Guidelines Section 15301 (Existing Facilities) because the actions identified in the program are limited to the permitting, leasing, and minor alteration of existing public facilities, including

existing streets, sidewalks, bicycle and pedestrian trails, which would not result in the creation of additional automobile lanes. The program would result in a negligible expansion of existing commercial uses and a negligible expansion of the public's use of Town right of- way, as the uses included in the temporary program would not vary from the current uses of commercial businesses, residential areas, or public access within the Town's right- of-way.

SECTION 5. Notwithstanding any other Town policy or procedure, the Town Engineer shall be authorized to review and approve on behalf of the Town any and all design and construction necessary as part of the temporary program herein and the Town Manager shall be authorized to enter into agreements on behalf of the Town to implement the strategies herein without further action of the Town Council.

SECTION 6. Any provision of the Los Gatos Town Code or any appendix thereto inconsistent with the provisions of this Resolution, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to affect the provisions of this Resolution.

SECTION 7. All current and prior emergency and public health orders as currently enacted and in effect, or as subsequently amended or modified, issued by the Governor, the State or County Public Health Official or the Town or County Emergency Services Director are expressly adopted.

SECTION 8. This resolution remains in place until June 30, 2023.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 18th day of October, 2022 by the following vote:

COUNCIL MEMBERS:

AYES: Mary Badame, Matthew Hudes, Maria Ristow, Marico Sayoc, Mayor Rob Rennie

NAYS: None

ABSENT: None

ABSTAIN: None

SIGNED:



MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: 10/19/22

ATTEST:



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

DATE: 10/19/22

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RESOLUTION 2023-011

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS PROCLAIMING THE TERMINATION OF THE LOCAL EMERGENCY CAUSED BY THE COVID-19 PANDEMIC

WHEREAS, Municipal Code Section 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, on March 12, 2020, the Director of Emergency Services issued a proclamation declaring the existence of a local emergency within the Town; and

WHEREAS, on March 17, 2020, the Town Council adopted Resolution 2020-08 Ratifying and Continuing the Proclamation of Existence of Local Emergency Issued by the Director of Emergency Services; and

WHEREAS, the California Emergency Services Act (California Government Code Section 8550, *et seq.*) provides that once the Town Council determines that there is no need to continue the local emergency, the Council shall proclaim the termination of the local emergency at the earliest possible date; and

WHEREAS, the County of Santa Clara demobilized its remaining COVID-19 mass vaccination and mass testing sites by February 28, 2023 due to the upcoming end of the federal and state emergency declarations related to COVID-19; and

WHEREAS, on February 28, 2023, the Governor of the State of California ended the state emergency declaration related to COVID-19.

NOW, THEREFORE, BE IT RESOLVED, the Town of Los Gatos in the County of Santa Clara, State of California does hereby proclaim the termination of said local emergency.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 7th day of March, 2023, by the following vote:

COUNCIL MEMBERS:

AYES: Mary Badame, Matthew Hudes, Rob Moore, Rob Rennie, Mayor Maria Ristow

NAYS: None

ABSENT: None

ABSTAIN: None

SIGNED:

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

DATE: 3-8-23

ATTEST:

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

DATE: 3-9-23

WHERE OFFICE USES CAN BE LOCATED ON THE GROUND FLOOR IN THE C-2 ZONE PER TOWN CODE SECTION 29.60.320 (c).



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