

ORDINANCE NO.

AN URGENCY ORDINANCE OF THE TOWN OF LOS GATOS ESTABLISHING A TEMPORARY MORATORIUM ON THE FILING, ACCEPTANCE, PROCESSING, OR APPROVAL OF APPLICATIONS FOR, AND THE ESTABLISHMENT OR OPERATION OF, DETENTION OR CUSTODIAL DETENTION FACILITIES AND CUSTODIAL PROCESSING FACILITIES PENDING STUDY OF APPROPRIATE ZONING AND LAND USE REGULATIONS

WHEREAS, the Department of Homeland Security “Immigration Control Enforcement (‘ICE’) Detention Reengineering Initiative” directive dated February 13, 2026, outlined the acquisition and development of eight large-scale detention centers, sixteen processing sites, and the acquisition of ten turnkey facilities; and

WHEREAS, ICE has publicly stated that detention centers in California are “crucial to ICE’s detention network on the West Coast,” and ICE has recently acquired two detention facilities in California, the Otay Mesa and California City facilities, demonstrating an active and ongoing federal effort to expand detention and processing capacity in the State; and

WHEREAS, the directive stated that ICE intended to have all facilities active by November 30, 2026; and

WHEREAS, in January of 2025, the United States General Services Administration entered into a twenty-year lease with a private landowner for an approximately 25-acre former agricultural research site in unincorporated Santa Clara County for development and operation by ICE’s Enforcement and Removal Operations Division as an immigration enforcement and detainee holding facility; and

WHEREAS, on June 24, 2026, Santa Clara County and the State of California filed a Motion for Preliminary Injunction seeking to enjoin the Department of Homeland Security from constructing a detention or custodial detention facility outside of Gilroy that could hold up to 150 detainees, citing significant environmental impacts, improper zoning, and failure to cooperate with state and local governments; and

WHEREAS, in its Opposition to the Motion, the U.S. Government included a declaration from the Acting Deputy Field Office Director for the ICE San Francisco Field Office, stating that the County property was selected because of its central location within the San Francisco Field Office’s area of responsibility, approximately one and a half to two hours from four other Enforcement and Removal Operations offices, which would allow those offices to assist one another and reduce travel time; and

WHEREAS, on September 11, 2026, the United States District Court for the Northern District of California recently issued a preliminary injunction halting construction while the

litigation proceeds, which may increase pressure on federal agencies and their contractors to identify additional or alternative sites elsewhere in the region; and

WHEREAS, it is possible that ICE may pursue alternative sites within Santa Clara County based upon a stated desire for sites that are within one and half to two hours driving distance of other facilities in California; and

WHEREAS, detention or custodial detention facilities and custodial processing facilities can impose substantial and distinct impacts on local jurisdictions, including water supply and wastewater capacity, vehicle trips and traffic generated by staff, detainee transport, and visitors, and the potential need for local traffic management, emergency response, crowd management, or other municipal services during demonstrations, public gatherings, or facility-related incidents; and

WHEREAS, local municipalities have not been afforded the opportunity to evaluate issues surrounding detention or custodial detention facilities and custodial processing facilities and provide input, resulting in some local jurisdictions turning to litigation after development activity was already underway; and

WHEREAS, the Town's existing zoning regulations do not expressly address potential impacts of detention and custodial facilities, especially those constructed on an accelerated timeline; and

WHEREAS, the Town of Los Gatos needs time to analyze and determine how best to revise its Zoning Code and accompanying regulations to address the potential establishment or operation of detention or custodial detention facilities and custodial processing facilities; and

WHEREAS, an application could be submitted and asserted to fall within a permitted land use classification before the Town completes its study; and

WHEREAS, the processing or approval of such an application could establish or authorize a use without standards addressing its security, emergency response, circulation, intake, release, transfer, infrastructure, access, and land use compatibility characteristics; and

WHEREAS, Senate Bill 1367 was recently signed into law and prohibits local agencies from approving either a new land use in a manner that authorizes construction of a detention facility or a change of use that permits use of an existing building as a detention facility; and

WHEREAS, Senate Bill 1367 does not take effect until January 1, 2027; and

WHEREAS, the Town Council directs staff to study contemplated amendments to the Town's zoning regulations addressing detention or custodial detention facilities and custodial processing facilities, including possible definitions, use classifications, locational standards,

development and operational standards, discretionary review requirements, or a Townwide prohibition, and intends that this study be completed within a reasonable time; and

WHEREAS, Government Code Section 65858 authorizes a local jurisdiction, by a 4/5 vote, to adopt a 45-day interim urgency ordinance prohibiting uses that may conflict with a zoning proposal the Town is studying or intends to study within a reasonable time; and

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

SECTION I. Recitals. The above recitals are true and correct and are hereby adopted as the Town Council's findings.

SECTION II. Purpose and Authority. In the interest of protecting the health, safety, and welfare of the residents of the Town of Los Gatos, it is the purpose and intent of this urgency interim Ordinance to place a temporary moratorium on the filing, acceptance, processing, and approval of any application or entitlement for the establishment, expansion, or change of use of a custodial processing facility or detention or custodial detention facility on private property, and on public property to the extent permitted by federal and state law, Townwide, while the Town studies potential amendments to General Plan and Zoning Code. The Town Council has the authority to adopt this Ordinance pursuant to 1) California Government Code Section 65858 as an urgency measure prohibiting any use that may be in conflict with potential amendments to its General Plan and Zoning Code and 2) its police power pursuant to Article XI, Section 7, of the California Constitution.

SECTION III. Findings. Pursuant to Government Code Section 65858, the Town Council hereby finds and determines that there is a current threat to the public health, safety, and welfare of the Town of Los Gatos that warrants the establishment of this temporary moratorium and that without a moratorium prohibiting use of private property, and public property to the extent permitted by law, as a detention or custodial detention facility or custodial processing facility while these issues and concerns are being examined and appropriate regulations are being developed, there remains a current and immediate threat. These findings are based on the recitals set forth above.

SECTION IV. Definitions. For the purposes of this Ordinance, the following terms shall have the meanings ascribed thereto:

1. "Covered Use" means any detention or custodial detention facility or custodial processing facility, whether proposed as a principal, accessory, temporary, intermittent, or component use, regardless of its formal designation or characterization.
2. "Custodial processing facility" means any building, structure, portion of a building or structure, property, or land used or intended to be used primarily for one or more of the following activities:
 - a. Receiving, admitting, booking, registering, fingerprinting, photographing, searching,

- screening, interviewing, evaluating, or classifying persons who are in custody or are being taken into custody;
- b. Determining the detention, release, transfer, placement, transportation, removal, or custodial status of persons;
 - c. Temporarily holding, staging, assembling, or maintaining custody of persons before or after transport, transfer, release, adjudication, or placement; or
 - d. Coordinating, directing, dispatching, or administering custodial intake, detention, confinement, transportation, transfer, or release operations from the premises.

A custodial processing facility includes a facility that conducts the described activities even if persons are held only temporarily, the facility does not provide overnight accommodations, or the operator characterizes the facility as an office, administrative office, field office, intake center, processing center, reporting center, transfer center, transportation center, or other similar use.

3. "Detention or custodial detention facility" means any building, structure, portion of a building or structure, property, or land used or intended to be used to confine, detain, hold, house, maintain custody of, or otherwise restrict the freedom of movement of one or more persons under governmental authority or pursuant to a contract or other arrangement with a governmental entity, whether on a temporary, short-term, overnight, or longer-term basis. A detention or custodial detention facility includes, but is not limited to, a jail, prison, detention center, detention facility, holding facility, confinement facility, correctional facility, civil detention facility, immigration detention facility, juvenile detention facility, temporary holding facility, or other substantially similar use, regardless of the name or terminology used to describe the facility.
4. "Operator" means any public agency, private person, corporation, partnership, limited liability company, nonprofit organization, contractor, subcontractor, or other entity that owns, leases, manages, controls, staffs, funds, contracts for, or operates a detention or custodial detention facility or custodial processing facility.
5. "Person in custody" means a person whose freedom of movement is restrained under actual or asserted governmental authority, including a person who is detained, confined, arrested, transported under restraint, required to remain at a facility, or not free to leave the facility without authorization.
6. "Private property" means real property within the Town that is not owned by a governmental agency, including real property that is owned by a private person or entity and leased, licensed, or otherwise made available to a governmental agency.
7. "Public property" means real property within the Town that is owned by a governmental agency, including the Town, the County of Santa Clara, the State of California, the United States, and any of their respective agencies, districts, or instrumentalities.

SECTION V. Temporary Moratorium. During the effective period of this interim urgency ordinance and with regard to land uses subject to the Town's zoning authority:

1. No application, request, or other submittal for a covered use shall be filed with or accepted by the Town.

2. The Town shall not process, deem complete, review, act upon, approve, conditionally approve, or issue any building permit, certificate of occupancy, business license, administrative approval, similar use determination, or other permit, approval, license, or land use entitlement for a covered use.
3. No person or entity shall establish, commence, locate, convert property to, or expand a covered use within the Town.
4. No covered use shall be treated as a governmental office, professional office, administrative office, public or quasi-public use, institutional use, emergency facility, transportation use, or other broader use classification for purposes of avoiding this moratorium.

SECTION VI. Application to Public Property. To the fullest extent permitted by federal and state law, the moratorium imposed by Section V shall apply equally to any application for a covered use on public property. This Ordinance is a generally applicable land use regulation and does not purport to regulate, and shall not be construed as regulating or discriminating against, the United States, the State of California, or any of their agencies in the performance of governmental functions. Nothing in this Ordinance shall be construed to apply to any such agency, or to any property owned or occupied by any such agency to the extent such application is preempted or prohibited by the Supremacy Clause of the United States Constitution, the doctrine of intergovernmental immunity, or the laws of the State of California; in all other respects this Ordinance shall apply to the fullest extent permitted by law.

SECTION VII. Limited Exclusions. This interim urgency ordinance does not apply to: (1) temporary restraint or custody by the Los Gatos-Monte Sereno Police Department incidental to an arrest, investigation, emergency response, transportation, or transfer; (2) a licensed hospital, medical facility, residential care facility, or behavioral health facility that temporarily limits a patient's movement as authorized by law and incidental to care; (3) ordinary supervision by a school, childcare facility, or residential care facility; (4) a judicial or administrative hearing location without a detention or custodial detention facility, holding intake, or custodial processing component; (5) a general governmental, legal, social service, or professional office that does not conduct custodial detention, holding intake, transfer, staging or processing; or (6) transportation through the Town when no person is received, detained, held, processed, staged, transferred, or released at a location within the Town.

SECTION VIII. Study of Zoning and Land Use Regulations. Town staff is directed to study and develop options for an appropriate zoning and land use response to covered uses, which may include definitions, use classifications, locational standards, development and operational standards, discretionary review requirements, or a Townwide prohibition. Any permanent regulation shall be considered separately in accordance with applicable notice, hearing, and environmental review requirements. No language in this interim urgency ordinance commits the Town Council to adopt a particular permanent regulation.

SECTION IX. 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 Section and shall not affect the validity of the remaining portions of this Section. The Town hereby declares that it would have adopted each Section, subsection, paragraph, sentence, clause, or phrase in this Section irrespective of the fact that any one or more Sections, subsections, paragraphs, sentences, clauses or phrases in this Section might be declared unconstitutional, preempted, or otherwise invalid.

SECTION X. CEQA. Pursuant to CEQA Guidelines Section 15061(b)(3), this urgency ordinance is not subject to the California Environmental Quality Act (“CEQA”) because it can be seen with certainty that the temporary moratorium, which preserves the status quo, temporarily restricts development of covered facilities, and has no possibility of causing a significant effect on the environment.

SECTION XI. Term and Effective Date. This interim urgency ordinance shall take effect immediately upon adoption pursuant to Government Code Section 65858(a) and Government Code Section 36937(b) and shall remain in effect for 45 days from the date of adoption, unless repealed or extended by the Town Council in accordance with Government Code Section 65858.

SECTION XII. Ordinance not codified. This Ordinance shall not be codified in the Los Gatos Town Code.

SECTION XIII. Publication. Pursuant to Government Code Section 65858, as soon as is reasonably practicable, but in no event after the fifteenth day after its adoption, the Town Clerk shall publish the Ordinance in the Town’s official newspaper.

This Ordinance was adopted at a regular meeting of the Town Council of the Town of Los Gatos on the 2nd day of November, 2026, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

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

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