



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 11/02/2026

ITEM NO: 10

DATE: October 29, 2026
TO: Mayor and Town Council
FROM: Chris Constantin, Town Manager
SUBJECT: **Adopt an Interim Urgency Ordinance Prohibiting Custodial Detention Facilities and Custodial Processing Facilities.**

RECOMMENDATION: Adopt 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.

FISCAL IMPACT:

Staff does not anticipate any fiscal impact associated with this action.

STRATEGIC PRIORITY:

This action furthers the goals of good governance and local zoning control.

BACKGROUND:

California Government Code Section 65858 authorizes local agencies to adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the Town Council, Planning Commission, or planning division is considering or studying or intends to study within a reasonable time. An urgency measure requires a 4/5 vote of the Town Council for adoption. The interim ordinance is of no further force and effect 45 days from its date of adoption. After notice pursuant to Government Code Section 65090 and a public hearing, the Town Council may extend the

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Reviewed by: Town Manager, Assistant Town Manager, Chief of Police, Community Development Director, Administrative Services Director, and Town Clerk

interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. Any extension also requires a 4/5 vote for adoption. No more than two extensions may be adopted.

A February 13, 2026, overview of the U.S. Immigration and Customs Enforcement (“ICE”) Detention Reengineering Initiative described a nationwide plan to expand and centralize detention capacity through eight large-scale detention centers, regional processing centers, and the acquisition of ten existing facilities, with activation targeted for November 30, 2026. Consistent with this effort, the Department of Homeland Security acquired the Otay Mesa Detention Center in San Diego County and the California City Detention Facility in Kern County. These developments represent a substantial federal expansion of detention capacity in California, with direct implications for the Town of Los Gatos.

In June 2026, the State of California and Santa Clara County filed a lawsuit challenging a proposed immigration detention and processing facility on an approximately 25-acre site near Gilroy. The lawsuit claimed that the federal government did not complete the required environmental review, coordinate with state and local agencies, follow the property’s land use restrictions, or provide adequate information about the facility’s purpose, size, and capacity. In September 2026, a federal judge temporarily stopped further construction. Concerns raised regarding the Gilroy site included the conversion of protected agricultural land, effects on sensitive species and habitat, potential hazardous materials impacts on roads, wastewater, drinking water, and other infrastructure, and increased demands on local services.

Congressman Liccardo has encouraged Bay Area jurisdictions to consider interim zoning controls, particularly where detention and processing facilities are not already defined and regulated, given the possibility that federal agencies may pursue additional sites in Northern California. The recent court order temporarily halting construction at the proposed site near Gilroy heightens this concern, as federal agencies may evaluate alternative locations in the region. Once a lease, option, or comparable site commitment is in place, a local jurisdiction’s ability to adopt effective controls may be constrained. The purpose of the interim urgency ordinance is to give staff an opportunity to evaluate potential land use, environmental, public health, and safety impacts – and to develop options for permanent regulations after public review. Other Bay Area jurisdictions, including most of those in Santa Clara County, are similarly evaluating interim and permanent land use controls.

Senate Bill 1367 was recently signed into law and prohibits local governments from approving land use changes to enable the construction of ICE detention or processing facilities owned or operated by private entities. However, Senate Bill 1367 will not take effect until January 1, 2027, and the Department of Homeland Security is currently looking for new sites. On October 20, 2026, the Town Council unanimously directed staff to research land use regulations prohibiting detention centers and to bring forward an urgency ordinance placing a temporary moratorium on detention centers.

DISCUSSION:

Existing Town Code Chapter 29, "Zoning," does not expressly define detention or custodial detention facilities or custodial processing facilities. Town Code Section 29.10.045(a) provides that all uses that are not authorized by Chapter 29 either by specific listing or by category are prohibited. However, in order to avoid the possibility of an applicant taking the position that the use falls within a permitted activity as well as any uncertainty, staff would like to develop potential amendments to the Zoning Code to definitively state that detention and processing facilities are a prohibited use.

The construction of new detention or processing facilities, or the conversion of existing buildings or properties to detention or custodial processing facilities, has the potential to cause significant environmental impacts, strain local infrastructure, create zoning and land use conflicts, and adversely affect public health and safety. The moratorium would provide a limited study period to evaluate possible approaches to use.

The proposed interim ordinance defines a "covered use" as any detention or custodial detention facility or custodial processing facility, whether proposed as a principal, accessory, temporary, intermittent, or component use, and regardless of the name used to characterize it. The ordinance would define the following additional terms for the purposes of the ordinance:

- 1) "Detention or custodial detention facility:" Any building, structure, property, or land used to confine, detain, hold, house, maintain custody of, or otherwise restrict the movement of one or more persons under governmental authority or an arrangement with a governmental entity, whether temporarily, overnight, or for a longer period. The definition includes jails, prisons, detention centers, holding or confinement facilities, correctional facilities, civil or immigration detention facilities, juvenile detention facilities, and substantially similar uses.
- 2) "Custodial processing facility:" Any building, structure, property, or land used primarily to receive, admit, book, register, fingerprint, photograph, search, screen, interview, evaluate, classify, stage, transfer, transport, release, or otherwise process persons who are in custody or being taken into custody. The definition applies even if persons are held only temporarily, no overnight accommodations are provided, or the facility is described as an office, field office, intake center, reporting center, transfer center, transportation center, or similar use.
- 3) "Operator:" Any public agency or private entity that owns, leases, manages, controls, staffs, funds, contracts for, or operates a covered use.
- 4) "Person in custody:" 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 without authorization.

- 5) "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.
- 6) "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.

The moratorium would not apply to routine law enforcement activities, lawful restrictions incidental to medical or residential care, ordinary supervision in schools and child care settings, offices or hearing locations without a custodial component, or transportation through the Town that does not involve detention or processing within the Town.

Town staff is studying the issues and will bring forward land use regulations governing the use, including but not limited to, definitions, classifications, operational standards, locational restrictions, discretionary review requirements, or prohibition. The Planning Commission would review any proposed amendments to the Zoning Code and provide its recommendation to the Town Council. If this work has not been completed within the initial 45-day effective period of the interim urgency ordinance, staff will return to the Town Council to request an extension of the interim urgency ordinance, as permitted by state law.

CONCLUSION:

Adoption of this interim urgency ordinance will place a moratorium on detention facilities and custodial processing facilities while Town staff researches the impacts of these land uses.

COORDINATION:

This report was coordinated with the Town Manager and Community Development Director.

ENVIRONMENTAL ASSESSMENT:

Adoption of this interim urgency ordinance is not subject to CEQA, because it can be seen with certainty that it will not have a significant effect on the physical environment [CEQA Guidelines Section 15061(b)(3)].

Attachment:

1. Proposed Interim Urgency Ordinance