

DRAFT ORDINANCE

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
AMENDING CHAPTER 29 (ZONING REGULATIONS) OF THE TOWN CODE
REGARDING ACCESSORY DWELLING UNITS**

WHEREAS, effective January 1, 2020, Assembly Bill 881, Assembly Bill 68, and Senate Bill 13 amended Government Code Section 65852 regarding accessory dwelling unit and junior accessory dwelling unit regulations, to further address barriers to the development of accessory dwelling units and junior accessory dwelling units; and

WHEREAS, the Town of Los Gatos 2015-2023 Housing Element Enhanced Second Unit Program identified amending the Town Code to allow new second units to be affordable to lower income households on nonconforming residential lots and in the Hillside Residential Zone (Action HOU-1.2) as a strategy to accommodate the Town's Regional Housing Needs Allocation (RHNA); and

WHEREAS, the Town Council wishes to amend the Town Code to comply with State law and to address Action HOU-1.2 of the Town of Los Gatos 2015-2023 Housing Element; and

WHEREAS, on February 26, 2020, the Planning Commission reviewed and commented on the proposed amendments regarding accessory dwelling units; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Planning Commission for public hearing on February 26, 2020; and

WHEREAS, on February 26, 2020, the Planning Commission reviewed and commented on the proposed amendments regarding accessory dwelling units and forwarded a recommendation to the Town Council for approval of the proposed amendments; and

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

WHEREAS, on _____, _____, the Town Council reviewed and commented on the proposed amendments regarding family daycare home regulations and the Town Council voted to introduce the Ordinance.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES
HEREBY ORDAIN AS FOLLOWS:**

SECTION I

Chapter 29 of the Town Code is hereby amended to read as follows:

ARTICLE I. DIVISION 1. MISCELLANEOUS

Sec. 29.10.020. - Definitions.

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~~Accessory dwelling unit means a detached or attached dwelling unit. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation and is generally smaller and located on the same parcel as the primary dwelling unit. An accessory dwelling unit also includes efficiency units and manufactured homes.~~

~~(1) A detached accessory dwelling unit is physically separate from the primary dwelling unit.~~

~~(2) An attached accessory dwelling unit is physically attached to the primary dwelling unit.~~

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ARTICLE I. DIVISION 4. PARKING

Sec. 29.10.150 (c). Number of off-street spaces required.

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~~(2) Accessory dwelling units . One parking space per unit or bedroom, whichever is less, shall be provided in addition to the required minimum number of parking spaces for the primary dwelling unit. These spaces may be provided in a front setback on a driveway (provided that it is feasible based on specific site or fire and life safety conditions) or through tandem parking.~~

~~When a garage is demolished in conjunction with the construction of an accessory dwelling unit, or converted to an accessory dwelling unit, any lost off-street parking spaces required for the primary residence may be located in any configuration on the same lot as the accessory dwelling unit, including as tandem spaces, or by the use of mechanical automobile parking lifts.~~

~~a. Exceptions. No parking spaces shall be required if the accessory dwelling unit meets any of the following criteria:~~

~~1. The accessory dwelling unit is located within one-half mile of a public transit stop.~~

- ~~2. The accessory dwelling unit is located within an architecturally and historically significant historic district.~~
- ~~3. The accessory dwelling unit is within the existing space of a primary residence or an existing accessory structure.~~
- ~~4. When on street parking permits are required but not offered to the occupant of the accessory dwelling unit.~~
- ~~5. When there is a car share vehicle (as defined by the California Vehicle Code) located within one block of the accessory dwelling unit.~~
- ~~6. When the Director finds that the lot does not have adequate area to provide parking.~~

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ARTICLE I. DIVISION 7. ACCESSORY DWELLING UNITS

Sec. 29.10.305. Intent and authority.

This division is adopted to comply with amendments to State Law § 65852.2 and 65852.22 which mandates that applications for accessory dwelling units be considered ministerially without a public hearing; and sets Town standards for the development of accessory dwelling units in order to increase the supply of affordable housing in a manner that is compatible with existing neighborhoods.

Sec. 29.10.310. Definitions.

Accessory dwelling unit. An accessory dwelling unit is a detached or attached dwelling unit. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation and is generally smaller and located on the same parcel as a proposed or existing primary dwelling. An accessory dwelling unit also includes efficiency units and manufactured homes.

(1) A detached accessory dwelling unit is physically separate from a primary dwelling.

(2) An attached accessory dwelling unit is contained within the space of and/or physically attached to a proposed or existing primary dwelling.

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Junior accessory dwelling unit. A junior accessory dwelling unit is a dwelling unit that does not exceed a floor area of 500 square feet and is contained within the space of a proposed or existing single-family or two-family primary dwelling. It shall include a cooking facility with appliances, and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit. It may include separate sanitation facilities or may share sanitation facilities with the primary dwelling.

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~~*New accessory dwelling unit.* A new accessory dwelling unit is an attached (with either an interior or exterior entrance) or a detached unit, created after December 31, 1987, which includes permanent provisions for living, sleeping, eating, cooking, and sanitation, and is generally smaller and located on the same parcel as the dwelling unit. An accessory dwelling unit also includes efficiency units and manufactured homes.~~

Sec. 29.10.315. Reserved.

Sec. 29.10.320. New accessory dwelling units.

(a) *Incentive program.* Any accessory dwelling unit developed under an Incentive Program which may be established by Resolution of the Town Council shall be made affordable to eligible applicants pursuant to the requirements of the Incentive Program. A deed restriction shall be recorded specifying that the accessory dwelling unit shall be offered at a reduced rent that is affordable to a lower income renter (less than 80 percent AMI) provided that the unit is occupied by someone other than a member of the household occupying the primary dwelling unit.

(b) *Design and development standards.*

- (1) *Number.* ~~Only~~ Not more than either one (1) attached accessory dwelling unit or one (1) junior accessory dwelling unit; or a combination of one (1) detached accessory dwelling unit and one (1) junior accessory dwelling unit; may be permitted on a lot with a proposed or existing primary dwelling.

Not more than a number equal to 25 percent of the existing multi-family dwelling units rounded-up to the next whole number, within the portions of an existing multi-family dwelling not used as livable space, and two (2) detached accessory dwelling units, may be permitted on a lot with a proposed or existing multi-family dwelling. ~~No additional accessory dwelling unit is allowed upon a lot with an existing accessory dwelling unit.~~

- (2) *Permitted zones.* Accessory dwelling units are allowed on lots in the R-1, R-D, R-M, R-1D, RMH, HR, and RC zones, or include an existing primary dwelling.
- (3) *Setbacks.* Attached accessory dwelling units shall comply with the setbacks of the zone for a primary dwelling ~~unit~~.

No accessory dwelling unit may be constructed in front of a primary dwelling that is a historic resource.

No detached accessory dwelling unit may be placed in front of the primary dwelling ~~unit~~ in the R-1, R-D, R-M, RMH, and R-1D zones.

Detached accessory dwelling units shall comply with the following minimum setbacks:

- a. Front and side setbacks abutting a street of the zone for a primary dwelling ~~unit~~.
- b. Rear and side setbacks of ~~five (5)~~ four (4) feet in the R-1, R-D, R-M, RMH, and R-1D zones.
- c. Setbacks from any other structure located on the same lot of five (5) feet.
- d. Setbacks for a primary dwelling and located within the Least Restrictive Development Area (LRDA), in the HR and RC zones.

(4) *Height.* Accessory dwelling units shall not exceed one (1) story ~~in height~~, and shall not exceed ~~fifteen (15)~~ sixteen (16) feet in height, unless the accessory dwelling unit is contained within the existing ~~two-second~~ story space of a primary dwelling ~~unit~~ or accessory structure; added to an existing ~~two-second~~ story of a primary dwelling unit that is not a historic resource; or added directly above an existing one-story accessory structure on a property with an existing two-story primary dwelling ~~unit~~ in the R-1, R-D, R-M, RMH, and R-1D zones.

(5) *Maximum unit size and maximum number of bedrooms.* The maximum floor area of an accessory dwelling unit is 1,200 square feet. The maximum number of bedrooms is two (2).

Detached accessory dwelling units exceeding a combined square footage of 450 square feet in the R-1, R-D, R-M, RMH, and R-1D zones shall not be subject to the Administrative Procedure for Minor Residential Projects. Detached accessory dwelling units exceeding a combined square footage of 600 or 1,000 square feet in the HR and RC zones shall not be subject to Development Review Committee or Planning Commission approval.

(6) *Floor area ratio (FAR) standards.* All accessory dwelling units (attached or detached) are allowed a ten (10) percent increase in the floor area ratio standards for all structures, excluding garages; except, notwithstanding the FAR standards in this subsection, an accessory dwelling unit that does not exceed a floor area of 800 square feet shall be permitted.

(7) *Lot coverage.* Accessory dwelling units must comply with lot coverage maximums for the zone; ~~except, with regard to the.~~ notwithstanding the lot coverage standards in this subsection, an accessory dwelling unit that does not exceed a floor area of 800 square feet shall be permitted.

- (8) *Parking.* One (1) accessory dwelling unit parking space per unit or bedroom, whichever is less, shall be provided in addition to the required minimum number of parking spaces for the primary dwelling. These spaces may be provided in a front or side setback abutting a street on a driveway (provided that it is feasible based on specific site or fire and life safety conditions) or through tandem parking.

In addition to parking otherwise required for units as set forth in section 29.10.150 of the Town Code, the number of off-street parking spaces required by this chapter for the primary dwelling ~~unit~~ shall be provided prior to the issuance of a building permit or final inspection, for a new accessory dwelling unit. When a garage is demolished in conjunction with the construction of an accessory dwelling unit, or converted to an accessory dwelling unit, any lost off-street parking spaces required for the primary dwelling shall not be required to be replaced. ~~may be located in any configuration on the same lot as the accessory dwelling unit, including as tandem spaces, or by the use of mechanical automobile parking lifts.~~

- a. *Exceptions.* No parking spaces shall be required if the accessory dwelling unit meets any of the following criteria:
1. The accessory dwelling unit is located within one-half mile walking distance of a public transit stop.
 2. The accessory dwelling unit is located within an architecturally and historically significant historic district.
 3. The accessory dwelling unit is within the existing space of a primary dwelling or an existing accessory structure.
 4. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 5. When there is a car share vehicle (as defined by the California Vehicle Code) located within one block of the accessory dwelling unit.
 6. When the Director finds that the lot does not have adequate area to provide parking.

- (9) *Design, form, materials, and color.* The design, form, roof pitch, materials, and color of a new accessory dwelling unit shall be compatible with the primary dwelling ~~unit~~ and the neighborhood. Entrances serving the accessory dwelling unit shall not be constructed on any elevation facing a public street. Accessory dwelling units shall retain the ~~single-family~~ residential appearance of the property.

- (10) *Town codes and ordinances.* All accessory dwelling units shall comply with all the provisions of this chapter and other applicable Town codes.

- (11) *Building codes.* The accessory dwelling unit shall comply with applicable building, health and fire codes. The accessory dwelling unit shall not be required to provide fire sprinklers if they are not required for the primary dwelling unit.
- (12) *Denial.* An application may be denied if it does not meet the design and development standards. An application may also be denied if the following findings are made:
- a. Adverse impacts on health, safety, and/or welfare of the public.
- (13) *Conversion of existing floor area .* An attached accessory dwelling unit or a junior accessory dwelling unit shall be permitted if the ~~accessory dwelling unit~~ is contained within the existing space of a primary dwelling, or constructed in substantially the same location and manner as an existing primary dwelling unit ~~or~~. A detached accessory dwelling unit shall be permitted if contained within the existing space of an accessory structure, or constructed in substantially the same location and manner as an existing accessory structure. The following provisions shall apply:
- a. The accessory dwelling unit shall be located on a lot zoned to allow single-family, two-family, or multi-family residential ~~within a zone for a single family~~ use.
 - b. The accessory dwelling unit shall have separate entrance from the primary dwelling unit.
 - c. The accessory dwelling unit shall have existing side and rear setbacks sufficient for fire safety.
 - d. No parking spaces shall be required for the accessory dwelling unit.
 - e. An expansion of 150 square feet beyond the physical dimensions of the existing structure, limited to accommodating ingress and egress, shall be permitted.
 - f. When an existing structure is non-conforming as to setback standards and converted to an accessory dwelling unit, any expansion of that structure may not be nearer to a property line than the existing building in accordance with section 29.10.245.

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SECTION II

With respect to compliance with the California Environmental Quality Act (CEQA), the Town Council finds as follows:

A. These Town Code amendments are not subject to review under CEQA pursuant to sections and 15061(b)(3), in that it can be seen with certainty that there is no possibility that the proposed amendment to the Town Code would have significant impact on the environment; and

B. The proposed Town Code amendments are consistent with the General Plan and its Elements.

SECTION III

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This Town Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

SECTION IV

Except as expressly modified in this Ordinance, all other sections set forth in the Los Gatos Town Code shall remain unchanged and shall be in full force and effect.

SECTION V

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the ___ day of _____ 2020, and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the ___ day of _____ 2020. This ordinance takes effect 30 days after it is adopted. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

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

DATE: _____