

DRAFT ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING CHAPTER 29, "ZONING REGULATIONS," OF THE TOWN CODE REGARDING LAND USE AND ECONOMIC RECOVERY AMENDMENTS RELATED TO PERSONAL SERVICE BUSINESSES, BARS, TAP/TASTING ROOMS, SPECIALTY FOOD RETAIL, BANKS, FINANCIAL AND INVESTMENT SERVICES, OFFICE ACTIVITIES, FORMULA RETAIL, GROUP CLASSES, VETERINARIANS, AND DEFINITIONS

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, due to the severe economic impacts of the COVID-19 Pandemic and its economic impacts that followed including supply chain disruptions and inflation causing hardship on the community and the Town organization, the Town Council deemed it necessary to take additional action to suspend enforcement of certain provisions of the Town of Los Gatos Town Code and provided temporary process streamlining measures to facilitate the retention and attraction of Los Gatos businesses, reduce economic impacts, foster recovery, encourage economic vitality, and reduce commercial vacancies; and

WHEREAS, on June 3, 2020, in response to the COVID-19 Pandemic, the Town of Los Gatos adopted Economic Recovery Resolution 2020-022, which was intended to provide economic relief to businesses experiencing economic uncertainty during the COVID-19 emergency orders. Resolution 2020-022 has since been extended and expanded by Resolutions 2021-002, 2021-051, 2022-066, and current Resolution 2023-027 with a sunset date of October 31, 2023; and

WHEREAS, while the emergency orders for the recent COVID-19 Pandemic have been lifted, the ongoing effects of the Pandemic, harsh winter storms, and inflation and supply chain issues have created difficult and negative impacts on the Los Gatos business community; and

WHEREAS, the Town Council for the Town of Los Gatos continues to prioritize economic recovery through increased flexibility and opportunity; business permit streamlining; and economic and community vitality; and

WHEREAS, the Town of Los Gatos Town Council has an adopted strategic priority related to Economic Vitality and Pandemic Recovery, which prioritizes: economic recovery through increased flexibility and opportunity; business permit streamlining; and economic and community vitality; and

ATTACHMENT 1

WHEREAS, in consideration of the recent termination of Federal, State, and local emergency orders, and the sunset date of the current Economic Recover Resolution approaching, staff prepared amendments to the Town Code to continue the Town Council’s pre-Pandemic streamlining efforts and to offer post-Pandemic economic recovery support for businesses consistent with the Town Council Strategic Priorities; and

WHEREAS, on April 26, 2023, the Planning Commission reviewed and commented on the proposed amendments regarding land use and economic recovery and forwarded a recommendation to the Town Council for approval of the proposed amendments with modifications; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on June 20, 2023; and

WHEREAS, on June 20, 2023, the Town Council reviewed and commented on the proposed amendments regarding land use and economic recovery and the Town Council voted to introduce the Ordinance with specific modifications; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on August 1, 2023.

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

SECTION I. Section 29.10.020, “Definitions,” of Chapter 29, “Zoning Regulations,” is amended to add the following between the definitions of “*Automobile wrecking*” and “*Bar*” to read as follows:

Bank, retail means commercial and non-profit banks and credit unions, which are primarily focused on in-person customer services such as: cash 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.

SECTION II. Section 29.10.020, “Definitions,” of Chapter 29, “Zoning Regulations,” is amended to add the following between the definitions of “*Fence height*” and “*Home occupation*” to read as follows:

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.

SECTION III. Section 29.10.020, “Definitions,” of Chapter 29, “Zoning Regulations,” is amended to add the following between the definitions of “*Occupancy*” and “*Open space*” to read as follows:

Office activities means office uses, including but not limited to: administrative; professional; medical; dental; optical; real estate; insurance; financial and investment services; venture capital; technology incubator facilities; biotechnology incubator facilities, including dry-lab facilities where testing and analyses is performed using data, coding, and computer systems and excluding wet-lab facilities where testing and analyses are performed using physical samples, biological matter, chemicals, and/or hazardous substances; and other similar office uses characterized by an absence of retail sales.

SECTION IV. Section 29.10.020, “Definitions,” of Chapter 29, “Zoning Regulations,” is amended to add the following between the definitions of “*Shopping center*” and “*Stables*” to read as follows:

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: tea houses, donut shops, juice/smoothie bars, and ice cream/frozen yogurt shops. Specialty food retail does not include coffee houses.

SECTION V. Section 29.10.020, “Definitions,” of Chapter 29, “Zoning Regulations,” is amended to add the following between the definitions of “*Swimming pools*” and “*Townhouse*” to read as follows:

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.

SECTION VI. Section 29.10.020, “Definitions,” of Chapter 29, “Zoning Regulations,” definitions of “*Formula retail business*” is amended to read as follows:

Formula retail business means a retail business which, along with eleven (11) 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.

SECTION VII. Section 29.10.020, “Definitions,” of Chapter 29, “Zoning Regulations,” definitions of “Bar,” “Convenience market,” and “Personal service” are amended to read as follows:

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.

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 specialty food retail and also excluding establishments which have a sizeable assortment of fresh fruits and vegetables and fresh-cut meat.

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, rollers (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.

SECTION VIII. Subsection (b) of Section 29.10.150, “Number of Off-Street Spaces Required,” of Chapter 29, “Zoning Regulations,” is amended to read as follows:

(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, 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 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.

SECTION IX. Subsections (c)(9) and (10) of Section 29.10.150, “Number of Off-Street Spaces Required,” of Chapter 29, “Zoning Regulations,” is amended to read as follows:

- (9) *Retail and commercial stores shops, personal service businesses, specialty food retail, restaurants, bars, 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 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.

SECTION X. Subsection (1) of Section 29.20.185, “Table of Conditional Uses,” of Chapter 29, “Zoning Regulations,” is amended to read as follows:

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, retail									X	X	X		
	b. Reserved													
	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 or specialty									X	X	X	X	

		food retail use													
		2. Without food service (bar)									X				
		3. Tap/tasting room								X	X	X	X		
	i.	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. In conjunction with a specialty food retail use								X	X	X	X		
	m.	Convenience market								X	X	X			
	n.	Reserved													
	o.	Formula retail business greater than 10,000 s.f								X	X	X	X		
	p.	Reserved													
	q.	New office building approved or constructed after May 1, 2006								X	X	X			
	r.	New retail sales of firearms,											X		

		ammunition and /or destructive devices as set forth in section 29.70.100												
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SECTION XI. Subsection (9)(c) of Section 29.20.185, “Table of Conditional Uses,” of Chapter 29, “Zoning Regulations,” is amended to read as follows:

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

SECTION XII. Subsection (b) of Section 29.20.190, “Findings and Decision,” of Chapter 29, “Zoning Regulations,” is amended to read as follows:

- (b) 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 ten thousand (10,000) square feet 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.

SECTION XIII. Section 29.20.745, “Development Review Committee,” of Chapter 29, “Zoning Regulations,” is amended to read as follows:

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.

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

SECTION XIV. Section 29.60.085, "Permitted uses," of Chapter 29, Zoning Regulations," is amended to read as follows:

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.

SECTION XV. Section 29.60.210, "Permitted Uses," of Chapter 29, "Zoning Regulations," is amended to read as follows:

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, including formula retail up to ten thousand (10,000) 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.

SECTION XVI. Section 29.60.320, "Permitted Uses," of Chapter 29, "Zoning Regulations," is amended to read as follows:

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 ten thousand (10,000) 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) 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 manufacturing, warehousing, laundry or dry cleaning plants.
- (c) 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) Lyndon Avenue;
 - (2) Properties abutting Wood Road;
 - (3) The west side of Victory Lane;
 - (4) The south side of Los-Gatos-Saratoga Road excluding:
 - a. 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.

- b. The south side of Los Gatos-Saratoga Road between Santa Cruz Avenue and University Avenue; and
 - (5) The east side of South Santa Cruz Avenue directly across the street from Wood Road.
 - (6) The north and south side of West Main Street west of Victory Lane.
 - (7) Tenant suites located at 114 Royce Street with entries at the rear of the building and that do not have street frontage.
- (d) Notwithstanding subsection (c), 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.
- (1) Office activities existing on June 17, 1991; or
 - (2) 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.

SECTION XVII. Section 29.60.420, "Permitted Uses," of Chapter 29, "Zoning Regulations," is amended to read as follows:

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 ten thousand (10,000) 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.

SECTION XVIII. Subsection (a) of Section 29.70.100, “Permitted Uses,” of Chapter 29, “Zoning Regulations,” is amended to read as follows:

- (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 ten thousand (10,000) 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.

SECTION XIX. 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 XX. CEQA.

Adopting this Ordinance is not a project subject to CEQA because it can be seen with certainty that it will not impact the environment (CEQA Guidelines Section 15378).

SECTION XXI. Publication.

In accordance with Section 63937 of the Government Code of the State of California, this Ordinance takes effect 30 days from the date of its passage. The Town Council hereby directs the City Clerk to cause this Ordinance or a summary thereof to be published or posted in accordance with Section 36933 pf the Government Code of the State of California.

SECTION XXII. Effective Date.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 20th day of June 2023, and adopted by the Town Council of the Town of Los Gatos at its regular meeting on the 1st day of August 2023, by the following vote:

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: _____

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