



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 10/14/2026

ITEM NO:2

DATE: October 9, 2026
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Forward a Recommendation to the Town Council on an Ordinance Amending Chapter 29 (Zoning Regulations) of the Town Code for Senate Bill 9 (SB 9) Regarding Urban Lot Splits and Two-Unit Housing Developments in Response to Changes in State Law. The Proposed Amendments to the Town Code are Not Considered a Project Under Section 15378 of the California Environmental Quality Act, and in Accordance with Government Code Section 66411.7 (n) and 66452.21 (g), Senate Bill 9 Ordinances are Not a Project Subject to the California Environmental Quality Act. Town Code Amendment Application A-26-004. **Project Location: Town Wide.** Applicant: Town of Los Gatos.

RECOMMENDATION:

Forward a recommendation to the Town Council on an ordinance amending Chapter 29 (Zoning Regulations) of the Town Code for Senate Bill (SB) 9 regarding urban lot splits and two-unit housing developments in response to changes in state law.

CEQA:

The proposed amendments to the Town Code are not considered a project under Section 15378 of the California Environmental Quality Act (CEQA), and in accordance with Government Code Section 66411.7 (n) and 66452.21 (g), SB 9 Ordinances are not a project subject to CEQA.

PREPARED BY: Ryan Safty
Associate Planner

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

FINDINGS:

- The proposed amendments to the Town Code are not considered a project under Section 15378 of the California Environmental Quality Act (CEQA), and in accordance with Government Code Section 66411.7 (n) and 66452.21 (g), SB 9 Ordinances are not a project subject to CEQA; and
- The amendments to Chapter 29 of the Town Code are consistent with the General Plan.

BACKGROUND:

Senate Bill 9

In September 2021, Governor Newsom signed a new state law, SB 9, which went into effect on January 1, 2022. SB 9 requires ministerial approval of certain housing development projects and lot splits on a single-family zoned parcel, with the intent to increase residential densities within single-family neighborhoods across the State.

The law allowed for two new types of development activities that must be reviewed ministerially without any discretionary action or public input:

- **Two-unit housing development** – Two residences on an eligible single-family residential parcel.
- **Urban lot split** – A one-time subdivision of an existing single-family residential parcel into two parcels.

On December 21, 2021, the Town Council adopted an Urgency Ordinance to implement local objective standards for SB 9 applications. On November 15, 2022, the Town Council approved Ordinance 2334, which established the permanent SB 9 Ordinance within Chapter 29 (Zoning Regulations) of the Town Code. On May 21, 2024, the Town Council approved Ordinance 2359 (Exhibit 2), which included modifications to the previous ordinance to modify design review standards and make clarifying revisions. Ordinance 2359 is the Town's current SB 9 Ordinance, which is found in Division 10 of Article 1 of Chapter 29 of the Town Code.

Previous SB 9 law allowed jurisdictions to adopt objective zoning, subdivision, and design standards for two-unit development and urban lot split applications so long as they would not preclude the construction of two, 800-square foot units with four-foot side and rear setbacks. The Town's current SB 9 Ordinance includes a Design Review Standards section applicable to two-unit development applications [Exhibit 2, Town Code Section 29.10.630 (2)]. Since SB 9 applications require ministerial review and allow for reduced side and rear setbacks, the standards were created with the intent of protecting neighbor privacy and enforcing some of the Town's residential design guidelines to encourage orderly development and neighborhood compatibility.

Senate Bill 450

In September of 2024, Governor Newsom signed a new state law, SB 450, which went into effect on January 1, 2025 (Exhibit 3). SB 450 updates and expands the required provisions of SB 9. The SB 450 updates are summarized as follows:

1. Limitation on the imposition of standards on SB 9 projects unless they apply uniformly to development within the underlying zone;
2. Clarification on the amount of demolition allowed to an existing residence that had previously been rented;
3. Specification on timelines for local agency processing of SB 9 applications; and
4. Modification to the SB 9 denial finding for “specific adverse impact.”

The most significant change from SB 450 is that it now prohibits the Town from adopting specific zoning, subdivision, or design standards for SB 9 projects that are not uniformly applicable to development in the underlying (single-family) zoning district. However, the Town may adopt objective zoning, subdivision, and design standards on SB 9 applications if those standards are more permissive than applicable standards within the underlying zone.

On August 12, 2026, the Planning Commission reviewed a proposed Ordinance to establish new Objective Design Standards for Single-Family and Two-Family Residential Dwelling Units and Second-Story Additions. These standards stemmed from the Town’s existing SB 9 standards, as well as the more common design guidelines from the Town’s Single- and Two-Family Residential Design Guidelines (RDG) and Hillside Development Standards and Guidelines (HDS&G) documents, and were drafted to be uniformly applicable to the underlying residential zones. Specifically, the standards would be applicable to all new single-family units; two-family units; and second-story additions, whether new or an addition to an existing second-story. SB 9 projects would be required to comply with all of these new objective design standards. Town Council is tentatively scheduled to hear the Planning Commission’s recommendations on these new objective design standards in October. Reference to these draft new standards (Town Code Sections 29.40.080 – 29.40.100) are now shown in the proposed SB 9 Ordinance amendments in Exhibit 7, as discussed further in the Discussion Section of this report.

Assembly Bill 1061

In October of 2025, Governor Newsom signed a new state law, Assembly Bill (AB) 1061, which went into effect on January 1, 2026 (Exhibit 4). AB 1061 refines and further limits previous historic restrictions applicable to SB 9 applications. Specifically, AB 1061 narrows the historic exemption applicable to SB 9 applications, so that it only applies to designated (state or local) landmark properties or historic resources designated by Town ordinance. The Town’s historic districts with LHP (Landmark and Historic Preservation) overlays, as well as the individual properties adopted as historic sites, were adopted by ordinance and are excluded from SB 9

applications. Properties with lesser historic designations or presumptive historic designations (such as Pre-1941 structures) are no longer exempt from SB 9.

HCD Letter of Technical Assistance

The California Department of Housing and Community Development (HCD) provided a letter of technical assistance to the Town on May 5, 2026, regarding the status of the Town's SB 9 Ordinance (Exhibit 5). The letter identified 17 items that are not in compliance with current state law, the majority of which are related to the SB 450 changes. All 17 items would be addressed within the proposed amendments in Exhibit 7. Staff responded to the HCD letter in June, confirming the Town's plan to update its SB 9 Ordinance to comply with current state law (Exhibit 6).

DISCUSSION:

Below is a summary of the proposed amendments to each section of the Town's SB 9 Ordinance as recommended by staff and reflected in Exhibit 7.

- **Sec. 29.10.600. Purpose and applicability.**
 - Replace the term "SB 9" with the appropriate Government Code Sections as the senate bill numbers can be reused over time (i.e. SB 9 may refer to a different law in the future).
- **Sec. 29.10.610. Definitions.**
 - Add a definition for "demolition" due to the changes resulting from SB 450. One of the changes from SB 450 was clarification on the amount of demolition allowed to an existing residence that had previously been rented out. Previous law allowed 25 percent demolition, while SB 450 modified it so that no demolition or alteration is allowed. The Town's definition of demolition allows 49 percent removal of existing structural walls, which doesn't align with the intent of this change from SB 450.
 - Delete the definition of "entry feature" as this term is no longer used in the updated ordinance.
 - Delete the definition of "first residential unit" as it stated that the first unit built with a two-unit housing development was limited to 1,200 square feet. SB 450 removed this allowance, and HCD's letter reiterates this (Comment 5, Exhibit 5).
 - Add a definition for "street." This definition is also in Section 29.10.020 of Town Code, but is being copied here for clarification on the lot frontage requirements within the SB 9 Ordinance.
 - Delete the second half of the "two-unit housing development" definition, as requested by HCD (Comment 1, Exhibit 5), as it overly restricts SB 9 development.

- Sec. 29.10.620. Eligibility.
 - Move and separate out the historic property exclusions for each SB 9 application type as AB 1061 now differentiates between the allowances to historic properties on urban lot splits and two-unit housing developments when previously they were the same for both application types.
- Sec. 29.10.630. Two-unit housing development standards.
 - Rename this section for clarification purposes as it is currently titled “Requirements.”
- Sec. 29.10.630 (1). Zoning standards.
 - Modify the building height standard as the previous height restriction within required setbacks and for HR zoned properties are no longer allowed with SB 450. HCD’s letter also reiterates this (Comment 3, Exhibit 5). New height and second-story location restrictions have been added in the new Objective Design Standards for Single-Family and Two-Family Residential Dwelling Units and Second Story Additions, and compliance with these new objective design standards is required by Town Code Section 29.10.630 (2), as discussed below.
 - Modify the driveway standards as required by SB 450. The items that are more restrictive than the underlying zone are shown crossed-out.
 - Specify that attached units must be designed sufficiently to allow separate conveyance for clarification purposes as required by state law.
 - Remove the 1,200-square foot first unit maximum. SB 450 removed this allowance, which is also referenced in HCD’s letter (Comment 5, Exhibit 5).
 - Add clarification to the 10 percent floor area ratio increase, specifying that it is only allowed when two units are proposed and not when the development results in just one residential unit on the lot.
 - Add reference to Town Code allowances to below-grade square footage for clarification purposes, confirming that below-grade square footage would not count towards maximum allowed floor area.
 - Clarify that detached garages exceeding 450 square feet are not allowed with SB 9 and must obtain separate Minor Residential Development approval.
 - Delete the grading section, which limited projects to 50 cubic yards of grading, not counting building excavation and fire access. HCD’s letter states that, pursuant to SB 450, this is no longer allowed as it was exclusive to SB 9 developments (Comment 4, Exhibit 5). Site grading restrictions for the hillsides have been added in the new Objective Design Standards for Single-Family and Two-Family Residential Dwelling Units and Second Story Additions.
 - Delete the cut and fill limitations. Although not referenced in HCD’s letter, SB 450 removed the Town’s ability to enforce this for all SB 9 projects as the standard was taken from the Town’s HDS&G. Other site grading restrictions for the hillsides have been added in the new Objective Design Standards for Single-Family and Two-Family Residential Dwelling Units and Second Story Additions to limit hillside grading.

- Move the 30 percent sloped building site limitation to the new Objective Design Standards for Single-Family and Two-Family Residential Dwelling Units and Second Story Additions in order to be compliant with SB 450.
- Delete the retaining wall standard. Although not referenced in HCD's letter, SB 450 removed the Town's ability to enforce this for all SB 9 projects as the standard was taken from the Town's HDS&G. Other site grading restrictions for the hillsides have been added in the new Objective Design Standards for Single-Family and Two-Family Residential Dwelling Units and Second Story Additions to limit hillside grading.
- Move the light reflectivity maximums to the new Objective Design Standards for Single-Family and Two-Family Residential Dwelling Units and Second Story Additions in order to be compliant with SB 450.
- Add decorative lighting, sports court lighting, and glare restrictions for clarification purposes.
- Add reference to Town Code 29.10.155 (d) to specify parking space dimension requirements for clarification purposes.
- Add reference to the standards and provisions of the Santa Clara County Valley Water Resources Protection Collaborative Guidelines and Standards for Land Use Near Streams document for clarification purposes.
- Add clarification to the garage entry setback, specifying that 18 feet is required when the required garage setback is less than 18 feet. The modification is for clarification purposes, and the standard ensures that garages always maintain the required back-up space even when setbacks allow them to be closer to a street.
- Delete the increased street-side setback standards. SB 9 states that local jurisdictions cannot require more than four feet for a side yard setback, which is also referenced in HCD's letter (Comment 7, Exhibit 5).
- Add Exception 7 to the setback table for clarification purposes; when constructing on a "through lot" with two street frontages, both street frontage shall meet the front setback requirement.
- Sec. 29.10.630 (2). Design review standards.
 - Replace this entire section with a reference to the new Objective Design Standards for Single-Family and Two-Family Residential Dwelling Units and Second Story Additions in Town Code Sections 29.40.080 – 29.40.100. As discussed above, SB 450 mandates that many of these standards be made applicable to all underlying zones. The previous standards for finished floor; front entryway and porch design; garage width; and prohibited materials would be deleted, while standards for second story setback, plate height, windows, and mechanical equipment are revised and included in the new Objective Design Standards for Single-Family and Two-Family Residential Dwelling Units and Second Story Additions.

- Sec. 29.10.630 (3). General requirements and restrictions.
 - Modify the language regarding allowed number of units and ADUs. State law on ADUs has recently changed, including rules on maximum allowed ADUs on a single-family property, which is also referenced in HCD's letter (Comment 11, Exhibit 5).
 - Modify the Building and Fire Codes section to clarify that compliance with current Building and Fire Codes is only required for new two-unit developments and not in instances where existing units would remain (Comment 12, Exhibit 5).
 - Modify the restrictions on the demolition section to comply with SB 450, as noted in comment 13 of Exhibit 5. Previous law allowed 25 percent demolition, while SB 450 does not allow any demolition or alteration.
 - Add the Ellis Act restriction, pursuant to SB 450.
 - Add the new historic exclusions, pursuant to AB 1061. These exclusions would apply to the Town's historic districts with LHP overlays, as well as the individual properties adopted as historic sites. This exclusion would not apply to properties developed with a pre-1941 residence not adopted by ordinance.
 - Modify the exception language, as noted in HCD's letter (Comment 14, Exhibit 5), for clarification purposes.
- Sec. 29.10.640. Application process for two-unit housing development.
 - Add an applicability section, clarifying that two-unit housing development applications shall only include work integral to the creation of that dwelling unit. Unrelated site work (such as rear yard grading for a lawn or sports court) that would normally trigger an Architecture and Site Application for a Grading Permit would not be permitted with the ministerial two-unit housing development application. This modification also helps address the reduction of HDS&G limitations on two-unit housing development projects noted above.
 - Add a review process section, which includes the updated processing deadlines pursuant to SB 450.
 - Remove the neighbor notification provision. HCD's letter states this is not allowed as it does not apply to conventional residential development in the underlying zone (Comment 15, Exhibit 5).
 - Include a reference to the Town's expiration and permit vesting provisions for clarification purposes.
 - Revise the denial section pursuant to SB 450, which is also referenced in HCD's letter (Comment 16, Exhibit 5).
- Sec. 29.10.650. Urban lot split standards.
 - Rename this section for clarification purposes as it is currently titled "Subdivision standards."
- Sec. 29.10.650 (1). Subdivision standards.
 - Add a reference to the parking requirements in the urban lot split portion of the Ordinance for clarification purposes; in cases where an urban lot split divides a lot with

two existing residences (one on each new lot), this ensures that each existing unit has adequate parking.

- Sec. 29.10.650 (2). General requirements and restrictions.
 - Modify the restrictions on demolition section to comply with SB 450, as noted in Comment 13 of Exhibit 5. Previous law allowed 25 percent demolition, while SB 450 does not allow any demolition or alteration.
 - Add the Ellis Act restriction, pursuant to SB 450.
 - Add the new historic exclusions, pursuant to AB 1061. These exclusions would apply to the Town's historic districts with LHP overlays, as well as the individual properties adopted as historic sites. This exclusion would not apply to properties developed with a pre-1941 residence not adopted by ordinance.
 - Delete the utility providers requirement as it implies that the Town or utility provider can require offsite improvements to record the urban lot split (Comment 17, Exhibit 5).
- Sec. 29.10.660. Application process for urban lot splits.
 - Add a review process section, which includes the updated processing deadlines pursuant to SB 450.
 - Remove the neighbor notification provision. HCD's letter states this is not allowed as it does not apply to conventional residential development in the underlying zone (Comment 15, Exhibit 5).
 - Include a reference to the Town's expiration and permit vesting provisions for clarification purposes.
 - Revise the denial section pursuant to SB 450, which is also referenced in HCD's letter (Comment 16, Exhibit 5).
- Sec. 29.10.670. Sunset clause.
 - Replace the term "SB 9" with the appropriate Government Code Sections as the senate bill numbers can be reused over time (i.e. SB 9 may refer to a different law in the future).

PUBLIC COMMENTS:

Staff conducted outreach through the following media and social media resources, as well as direct communication with stakeholders as summarized below:

- The Town's website home page, What's New;
- The Town's Facebook page;
- The Town's Twitter account;
- The Town's Instagram account;
- The Town's NextDoor page; and
- Direct email communication to local architects and designers.

At the time this report was published, no public comments were received.

CEQA DETERMINATION:

The proposed amendments to the Town Code are not considered a project under Section 15378 of the California Environmental Quality Act (CEQA), and in accordance with Government Code Section 66411.7 (n) and 66452.21 (g), Senate Bill 9 Ordinances are not a project subject to CEQA.

CONCLUSION:

A. Summary

The draft amendments in Exhibit 7 would amend Chapter 29 (Zoning Regulations) of the Town Code for two-unit housing developments and urban lot splits in response to the provisions of SB 450 and AB 1061, as well as other clarifying revisions.

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 (Exhibit 7). The Planning Commission should also include any comments or recommended changes to the draft Ordinance in taking the following actions:

1. Make the required finding that the proposed amendments to the Town Code are not considered a project under Section 15378 of the California Environmental Quality Act (CEQA), and in accordance with Government Code Section 66411.7 (n) and 66452.21 (g), Senate Bill 9 Ordinances are not a project subject to CEQA (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 proposed amendments to Chapter 29 of the Town Code in the draft Ordinance (Exhibit 7).

C. Alternatives

Alternatively, the Commission can:

1. Forward a recommendation to the Town Council for approval of the draft amendments with modifications; or
2. Continue the matter to a date certain with specific direction.

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SUBJECT: SB 9 Ordinance Amendments/A-26-004

DATE: October 9, 2026

EXHIBITS:

1. Required Findings
2. Current Senate Bill 9 Ordinance 2359
3. Senate Bill 450 State Law
4. Assembly Bill 1061 State Law
5. HCD Senate Bill 9 Ordinance Technical Assistance Letter
6. Town Response to HCD Technical Assistance Letter
7. Draft Senate Bill 9 Ordinance