

DRAFT ORDINANCE

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
AMENDING CHAPTER 29, "ZONING REGULATIONS," OF THE TOWN CODE
REGARDING APPEALS FROM THE DECISION BY THE PLANNING DIRECTOR,
APPEALS FROM THE DECISION OF THE HISTORIC PRESERVATION COMMITTEE,
ASSIGNMENT OF DUTIES TO THE PLANNING DIRECTOR, ASSIGNMENT OF DUTIES TO
THE PLANNING COMMISSION, POWERS AND DUTIES OF PLANNING COMMISSION,
POWERS AND DUTIES OF THE PLANNING DIRECTOR, AND POWERS AND DUTIES OF
THE HISTORIC PRESERVATION COMMITTEE**

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, structures, sites, and areas of special character or special historical, architectural, or aesthetic interest or value, are irreplaceable assets to the Town; and

WHEREAS, the purpose of historic preservation is to promote the health, safety and general welfare of the public through:

- (1) The protection, enhancement, perpetuation and use of structures, sites and areas that are reminders of past eras, events and persons important in local, State, or National history, or which provide significant examples of architectural styles of the past or are landmarks in the history of architecture, or which are unique and irreplaceable assets to the Town and its neighborhoods, or which provide for this and future generations examples of the physical surroundings in which past generations lived.
- (2) The development and maintenance of appropriate settings and environment for such structures.
- (3) The enhancement of property values, the stabilization of neighborhood and areas of the Town, the increase of economic and financial benefits to the Town and its inhabitants, and the promotion of tourist trade and interest.
- (4) The enrichment of human life in its educational and cultural dimensions by serving aesthetic as well as material needs and fostering knowledge of the living heritage of the past.

WHEREAS, the Town Council of the Town of Los Gatos established the Historic Preservation Committee as an advisory body on all matters pertaining to historic preservation; and

WHEREAS, the Town Council wishes to clarify that the Historic Preservation Committee is an advisory body providing recommendations to the Planning Commission and the Planning Director; and

WHEREAS, the amendments to the Town Code are consistent with the General Plan in that the amendments will continue to implement Policies CD-12.4 and CD-12.5 of the 2020 General Plan and Policy ENV-13.5 of the 2040 General Plan; and

WHEREAS, on February 14, 2024, the Planning Commission reviewed and commented on the proposed amendments regarding historic preservation and forwarded a recommendation to the Town Council for _____ of the proposed amendments; and

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

WHEREAS, on _____, the Town Council reviewed and commented on the proposed amendments regarding historic preservation and the Town Council voted to introduce the Ordinance.

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

SECTION I. Section 29.20.255, "Appeals from the decision by the Planning Director," of Chapter 29, "Zoning Regulations," is amended to read as follows:

Any interested person as defined in section 29.10.020 may appeal to the Planning Commission any decision of the Planning Director:

- (1) Determining an application for a horse permit, for an amateur horse event or animal permit, for a home occupation permit, for a tree removal permit, for a sign permit, for a minor residential development permit, or denying a certificate of use and occupancy on the ground that the use is not allowed in the zone.
- (2) Granting or denying an extension of time related to one (1) of the foregoing transactions.
- (3) Revoking or modifying one (1) of the foregoing approval of permits.
- (4) Determination of an unlawful demolition and/or the penalty and the cost assessment for the unlawful demolition.
- (5) Determining a request for reasonable accommodation.
- (6) Determining matters pertaining to historic preservation.

SECTION II. Section 29.20.258, “Appeals from the decision of the Historic Preservation Committee,” of Chapter 29, “Zoning Regulations,” is removed.

~~**Sec. 29.20.258. Appeals from decisions of the Historic Preservation Committee.**~~

~~Any interested person as defined in section 29.10.020 may appeal to the Planning Commission any Historic Preservation Committee determination.~~

SECTION III. Section 29.20.700, “Planning Director,” of Chapter 29, “Zoning Regulations,” is amended to read as follows:

- (1) Prescribes all forms and contents of applications.
- (2) Keeps all records of Planning Commission, Development Review Committee, Historic Preservation Committee, Planning Director and Planning Department work, except records transmitted to the Town Council and retained by the Town Clerk.
- (3) Investigates applications.
- (4) Gives all notices except notices of proceedings of the Town Council.
- (5) Prepares Development Review Committee and Planning Commission agendas, sets Development Review Committee and Planning Commission hearing dates (subject to the requirements of this chapter) and establishes filing deadlines.
- (6) Issues permits for temporary sales of Christmas trees and pumpkins, use and occupancy certificates, horse permits and amateur horse events, home occupations and sign permits.
- (7) Determines revocations or modifications of animal permits and home occupation permits.
- (8) May refer any matter assigned by ordinance to the Planning Director for decision to the Planning Commission for decision.
- (9) Determines applications for sign approval when action is not required of the Council or Planning Commission.
- (10) Determines applications for tree permits upon recommendation by the Director of Parks, Forestry and Maintenance Services to the extent provided by section 29.10.0985.
- (11) Determines applications for section 29.10.09030 demolition permits.
- (12) Where action is based on an application or notice of appeal, prepares a written notification of all determinations, except determinations by the Council, and sends the notifications to all applicants and appellants.
- (13) Prepares and sends notifications required by statute to the County Assessor.
- (14) Notifies applicants of hearings.
- (15) Keeps records of nonconforming signs and mails notices to owners of such signs.

- (16) Corrects the zoning map.
- (17) Keeps lists of nonconforming uses and buildings.
- (18) Reviews applications for construction permits for ordinance compliance.
- (19) Determines parking requirements for uses whose parking requirements are not specified.
- (20) Keeps records of those properties which have utilized parking district exemptions.
- (21) Determines applications for expansion of nonconforming one- or two-family dwellings.
- (22) Reviews all required parking lot screening.
- (23) May approve lower walls around required trash enclosures.
- (24) Chairs the Development Review Committee.
- (25) Assists in the writing of ordinances.
- (26) Determines whether lots have merged.
- (27) Jointly with the Building Official and the Town Engineer, determines parking lot permits as provided by section 29.10.155(l).
- (28) Determines initial applications, any application for time extensions and applications for remodeling or reconstruction for secondary dwelling unit permits.
- (29) Determines application for plumbing fixtures in accessory buildings.
- (30) Has those duties described in division 8 of this article.
- (31) Determines applications for accessory structures in R-1 zones in excess of four hundred fifty (450) square feet or on properties with one- or two-family dwellings.
- (32) Maintains a record of secondary dwelling unit development transfer credits and a list of persons interested in obtaining a transfer credit.
- (33) Determines requests for reasonable accommodation when action is not required of the Council, Planning Commission or the Development Review Committee.
- (34) Determines applications for minor exterior alterations to commercial buildings.
- (35) Determines matters pertaining to historic preservation as provided in section 29.80.222.

SECTION IV. Section 29.20.750, “Planning Commission,” of Chapter 29, “Zoning Regulations,” is amended to read as follows:

The Planning Commission:

- (1) May initiate general plan amendments and specific plans or amendments.
- (2) Hears and recommends all proposals for adoption and amendment of the general plan.

- (3) Hears and recommends all proposals for adoption and amendment of specific plans.
- (4) May initiate zone changes and amendments to this chapter.
- (5) Hears and recommends proposals for zone changes, rezonings, and amendments to this chapter, including those referred to it by the Town Council.
- (6) Determines whether to hear applications for rezoning made within one (1) year of a similar application.
- (7) Determines variance applications.
- (8) Determines conditional use permit applications that are not assigned to the Development Review Committee or the Town Council.
- (9) Determines applications for architecture and site approval except those items listed in section 29.20.745.
- (10) Determines time extension when it would have had the power to grant the original approval.
- (11) Determines revocations and modifications of zoning approvals as provided in section 29.20.310.
- (12) Determines matters referred to it by the Planning Director.
- (13) Hears appeals from decisions of the Planning Director.
- (14) Determines whether to allow all deviations from the standards of this chapter which are specifically authorized by this chapter except variances, and determines when stricter standards than those generally imposed by this chapter but specifically provided for in this chapter apply.
- (15) Determines applications to alter or demolish structures, sites and areas designated, determines whether the Commission must suspend action on applications to alter or demolish structures, sites and areas designated, under the provisions of division 3 of article VIII of this chapter, or for which designation proceedings are pending.
- (16) Determines location and adequacy of required open space for residential condominiums in any zone and for multiple-family developments in the R-M zone.
- (17) Determines applications for section 29.10.0980 tree permits.
- (18) Determines requirements for access to remote areas in the RC and HR zones.
- (19) Determines applications for neighborhood identification signs, and signs on freestanding walls.
- (20) Performs any functions required by statute or ordinance but not specifically assigned by this chapter.
- (21) Determines whether a nonconforming use is no longer lawful.

- (22) Forwards a recommendation to the Town Council concerning mobile home park conversion permit applications.
- (23) Determines requests for reasonable accommodation when action is not required of the Council, Development Review Committee, or the Planning Director.
- (24) Determines requests for reasonable accommodation when action is not required of the Council, Development Review Committee, or the Planning Director.
- (25) Determines matters pertaining to historic preservation as provided in section 29.80.220.

SECTION V. Section 29.80.220, “Powers and duties of Planning Commission,” of Chapter 29, “Zoning Regulations,” is amended to read as follows:

The Planning Commission:

- (1) Shall recommend to the Town Council, after public hearing, concerning designation of landmarks and historic districts, as provided in section 29.80.245.
- (2) May establish and maintain a list of structures and other landmarks deserving official recognition although not designated as landmarks or historic districts, and take appropriate measures for recognition.
- (3) Shall hear and determine architecture and site approval applications for demolition a designated landmark sites and principal buildings in historic districts, as provided in sections 29.80.270 through 29.80.290.
- (4) May take steps to encourage or bring about preservation of structures or other features where the Planning Commission has decided to suspend action on a permit application, as provided in section 29.80.285.
- (5) Shall seek and consider a ~~report~~ recommendation from the Historic Preservation Committee when undertaking the powers and duties set forth in subsections (1) and (3) above, and shall consult with or request assistance from the Historic Preservation Committee when undertaking the powers and duties set forth in subsections (2) and (4) above.

SECTION VI. Section 29.80.222, “Powers and duties of the Planning Director,” of Chapter 29, “Zoning Regulations,” is added to read as follows:

The Planning Director:

- (1) Upon recommendation by the Historic Preservation Committee, determines matters pertaining to historic preservation as provided in section 29.80.227 that are not assigned to the Planning Commission.

SECTION VII. Section 29.80.225, “Historic Preservation Committee,” of Chapter 29, “Zoning Regulations,” is amended to read as follows:

- (a) The Historic Preservation Committee acts as an advisory body to the Planning Commission and Planning Director on all matters pertaining to historic preservation. The Historic Preservation Committee shall consist of five (5) members, three (3) public members and two (2) Planning Commissioners. The public members shall be appointed by the Town Council, and the Planning Commission members shall be appointed by the Planning Commission Chair and affirmed by the Town Council.
- (b) The Committee is composed of professional and lay members with demonstrated interest, competence or knowledge in historic preservation. Committee members shall be appointed from among the disciplines of architecture, history, architectural history, planning, archeology or other historic preservation-related disciplines such as urban planning, American studies, American civilization, cultural geography or cultural anthropology to the extent that such professionals are available in the community.

SECTION VIII. Section 29.80.227, “Powers and duties of the Historic Preservation Committee,” of Chapter 29, “Zoning Regulations,” is amended to read as follows:

The Historic Preservation Committee shall:

- (1) Regularly review and make recommendations to the Planning Commission concerning the determination of all matters pertaining to historic preservation which comes before the Planning Commission.
- (2) Review and make recommendations to the Planning Director concerning the determination of a minor residential development permit for properties with a LHP overlay zone or structures which were built prior to 1941.
- (3) ~~Determine and issue approval for~~ Review and make recommendations to the Planning Director concerning minor residential and commercial exterior alterations not covered under the architecture and site approval process or the minor residential development permit, for designated properties with a LHP overlay zone pursuant to subsection 29.20.485.
- (4) Upon request of the Planning Director, review pending or proposed building permits dealing with historic structures when it is questionable that the work proposed meets the guidelines for pre-1941 structures.
- (5) May, on request of the property owner, advise with respect to any proposed work requiring or not requiring a Town permit on any historic structure, a designated landmark site or in a designated historic district. Examples of the work referred to are additions, demolitions, painting and repainting of exterior surfaces, roofing, fencing, landscaping, glazing, and installation of lighting fixtures. In advising, the Historic Preservation Committee shall be guided by the purposes and standards specified in this division and other applicable ordinances and/or development standards. This subsection does not impose regulations or controls on any property.

(6) Review and make recommendations to the Planning Director on requests for removal of a pre-1941 property from the Historic Resources Inventory.

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.

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 XI. 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 XII. Effective Date.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the ___ day of _____ 2024, and adopted by the Town Council of the Town of Los Gatos at its regular meeting on the ___ day of _____ 2024, 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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