



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 5/07/2024

DATE: May 2, 2024  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Introduce an Ordinance Titled "An Ordinance of the Town Council of the Town of Los Gatos Amending Chapter 29, 'Zoning Regulations,' of the Town Code Regarding Senate Bill (SB) 9 For Modified Design Review Standards and Other Clarifying Revisions." 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), SB 9 Ordinances are Not a Project Subject to the California Environmental Quality Act. Town Code Amendment Application A-24-003. Project Location: Town Wide.  
Applicant: Town of Los Gatos.

**RECOMMENDATION:**

Introduce an Ordinance titled "An Ordinance of the Town Council of the Town of Los Gatos Amending Chapter 29, 'Zoning Regulations,' of the Town Code Regarding SB 9 for Modified Design Review Standards and Other Clarifying Revisions" (Attachment 1).

**BACKGROUND:**

In September 2021, Governor Newsom signed 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.

**PREPARED BY:** Ryan Safty  
Associate Planner

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Community Development Department Director

BACKGROUND (continued):

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

- **Two-unit housing development** – Two homes on an eligible single-family residential parcel (whether the proposal adds up to two new housing units or adds one new unit on a parcel with an existing single-family residence).
- **Urban lot split** – A one-time subdivision of an existing single-family residential parcel into two parcels. This would allow up to four units (two units on each new parcel).

On December 21, 2021, Town Council adopted an Urgency Ordinance to implement local objective standards for SB 9 applications. On November 15, 2022, Town Council approved Ordinance 2334, which established the permanent SB 9 Ordinance within Chapter 29 (Zoning Regulations) of the Town Code (Attachment 3, Exhibit 2). No modifications have occurred since the adoption of the permanent Ordinance at the end of 2022.

At the February 13, 2024, Strategic Priorities meeting, Town Council provided guidance to Town staff on workload prioritization for the next two years. A local architect presented at this meeting, requesting that the SB 9 Ordinance be amended to allow flexibility with the second-story step-back rule (Attachment 3, Exhibit 3). Specifically, the recommendation was to allow the five-foot step-back to be measured from a covered porch projection on the first floor, and not just the wall of the first floor below. Town Council voted to include this request within the Strategic Priorities and listed the change as the first priority for ordinance amendments.

On April 10, 2024, the Planning Commission held a public hearing to consider the materials provided in the staff report (Attachment 3), and Desk Item (Attachment 4); received and considered public testimony on the Draft Ordinance (Attachment 3, Exhibit 4); reviewed the proposed changes; and recommended approval to Town Council with the recommendation to include a list of prohibited exterior building materials and screening requirements for ground-mounted mechanical equipment. The recommendations from the Planning Commission are reflected in the verbatim minutes (Attachment 5) and summarized below.

DISCUSSION:

The Draft Ordinance presented to the Planning Commission (Attachment 3, Exhibit 4) included amendments to Town Code, incorporating the requested second-story step-back rule as well as other clean-up amendments that staff has identified since Ordinance 2334 was adopted. On April 10, 2024, the Planning Commission conducted a public hearing, received public comment, and reviewed and discussed each of the proposed edits in Exhibit 4 of Attachment 3. Planning Commission recommended approval of each of the proposed amendments, and identified two

DISCUSSION (continued):

other formatting edits: first, to italicize the header of Section 29.10.630(1)(g); and second, to add a header to Section 29.10.630(1)(r).

In addition, a Planning Commissioner requested consideration of additional objective design standards similar to those of the City of San Mateo Interim Objective Building and Design Standards provided in the Desk Item (Attachment 4). The Planning Commission went through each of San Mateo's standards, and voted to recommend inclusion of exterior material prohibitions and ground-mounted mechanical equipment screening (Attachment 5), detailed below.

A. Exterior Material Prohibitions:

San Mateo's SB 9 standards prohibit the following materials on building exteriors: exterior foam molding, corrugated metal, vinyl siding, plywood, exterior insulation finishing system (EIFS), and any material with a light reflection value of less than 45 (Attachment 4). The Planning Commission voted to include exterior foam molding, vinyl siding, plywood, and EIFS as prohibited materials in their recommendation. The corrugated metal was noted to be acceptable as it has been used in ways that look nice for residential buildings, and the Town already has a light reflectivity limit for SB 9 properties in the hillsides, consistent with the Town's Hillside Development Guidelines and Standards. This draft recommended modification for exterior material prohibitions was added as Town Code Section 29.10.630(2)(i) – Design Review Standards (Attachments 1 and 2).

B. Mechanical Equipment Screening:

San Mateo's SB 9 standards require that, "ground-mounted utilities, mechanical equipment, generators, and air conditioning (AC) units that directly serve the development shall be screened from view from adjacent properties and the public right-of-way by either an enclosure designed as part of the building and/or fencing" (Attachment 4). Planning Commission recommended inclusion of similar screening requirements (Attachment 5).

Staff recommends modifying the language slightly to remain objective and uniformly enforceable. First, staff recommends removing mention of utilities as a property owner may not have the ability to modify a utility company's requirements. Second, staff recommends requiring screening from "streets" instead of "adjacent properties and public right-of-way," since it is challenging to verify and enforce screening from neighboring homes; and the Town defines "street" as, "any thoroughfare for the motor vehicle travel which affords the principal means of access to abutting property, including public and private rights-of-way and easements."

DISCUSSION (continued):

Staff's recommended language is as follows: "Heating, ventilation, and air conditioning (HVAC) units, generators, energy storage systems (ESS), and other similar ground-mounted mechanical equipment shall be screened from view from any adjacent street if not already located out of view behind a building or solid fence." This draft modification for mechanical equipment screening was added as Town Code Section 29.10.630(2)(j) – Design Review Standards (Attachments 1 and 2).

Staff has incorporated the additional recommended objective design standards into the Draft Ordinance included as Attachment 1. Attachment 2 includes a track-changes version (with removed text shown in strike-through and new text shown underlined) of the current SB 9 regulations in Ordinance 2334.

PUBLIC OUTREACH:

Staff conducted outreach through the following media and social media resources:

- The Town's website home page, What's New;
- The Town's Facebook page;
- The Town's Twitter account;
- The Town's Instagram account; and
- The Town's NextDoor page.

Public comment received at time of the publication of this report is included as Attachment 6.

ENVIRONMENTAL ASSESSMENT:

In accordance with California Environmental Quality Act (CEQA) Guidelines Section 15378, these proposed ordinance amendments are not a "project" subject to CEQA. Additionally, in accordance with Government Code Section 66411.7(n) and 66452.21(g), SB 9 ordinances are not a project subject to CEQA.

CONCLUSION:

Staff recommends that the Town Council introduce the draft Ordinance by taking the following steps:

1. Make the finding that the environmental impacts of the proposed amendments to the Town Code are not considered a project under CEQA Section 15378, and in accordance with Government Code Section 66411.7(n) and 66452.21(g), SB 9 ordinances are not a project subject to CEQA (Attachment 1, Section X);
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 (Attachment 1, Section XI); and
3. Introduce an ordinance of the Town Council of the Town of Los Gatos, by title only, amending Chapter 29, "Zoning Regulations," of the Town Code regarding Senate Bill 9 (SB 9) for modified design review standards and other clarifying revisions (Attachment 1).

ALTERNATIVES:

Alternatively, the Town Council may:

1. Introduce the Draft Ordinance with modifications; or
2. Continue this item to a date certain with specific direction to staff; or
3. Refer this item back to the Planning Commission with specific direction; or
4. Take no action, leaving the Town Code unchanged.

Attachments:

1. Draft Ordinance for Adoption
2. Draft Ordinance Redline
3. April 10, 2024 Planning Commission Staff Report (with Exhibits 1-4)
4. April 10, 2024 Planning Commission Desk Item
5. April 10, 2024 Planning Commission Verbatim Minutes
6. Public Comment Received Prior to 11:00 a.m., Thursday, May 2, 2024

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