

## **DRAFT ORDINANCE**

### **AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING CHAPTER 24, "SUBDIVISION REGULATIONS," AND CHAPTER 29, "ZONING REGULATIONS," OF THE TOWN CODE REGARDING TOWN-INITIATED PARCEL MERGERS**

**WHEREAS**, Town Code Section 29.10.070 currently addresses lot mergers for lots that do not conform with the Town's requirements;

**WHEREAS**, Section 29.10.070(b) currently provides that "any parcels under the same or substantially the same ownership that do not meet the [Town's] criteria . . . shall be considered merged;"

**WHEREAS**, The State Subdivision Map Act (Map Act) governs in the area of subdivisions and preempts local ordinances with regard to lot mergers;

**WHEREAS**, The Town Code currently conflicts with, and is preempted by, State law; and

**WHEREAS**, Staff is proposing an ordinance to amend the Town's subdivision ordinance to conform with State law regarding lot mergers.

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

**SECTION I.** Town Code Section 29.10.070, "Lot Merger," is repealed.

**SECTION II.** A New Section 24.10.080, "Town-Initiated Parcel Merger," is added to Chapter 24, "Subdivision Regulations," of the Town Code to read as follows:

- "(a) The Town may initiate a merger of a parcel with a contiguous parcel held by the same owner if any one of the contiguous parcels held by the same owner does not conform to standards for minimum parcel size, under the zoning ordinance applicable to the parcel and if, in accordance with Government Code Section 66451.11, all of the following requirements are satisfied:
- (1) At least one of the affected parcels is undeveloped by any structure for which a building permit was issued or for which a building permit was not required at the time of construction, or is developed only with an accessory structure or accessory structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel.
  - (2) With respect to any affected parcel, one or more of the following conditions exists:

ATTACHMENT 1
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- a. Comprises less than 5,000 square feet in area at the time of the determination of merger;
  - b. Was not created in compliance with applicable laws and ordinances in effect at the time of its creation;
  - c. Does not meet current standards for sewage disposal and domestic water supply;
  - d. Does not meet slope stability standards;
  - e. Has no legal access which is adequate for vehicular and safety equipment access and maneuverability;
  - f. Its development would create health or safety hazards; or
  - g. Is inconsistent with the applicable general plan and any applicable specific plan, other than minimum lot size or density standards.
- (b) Before initiating a parcel merger, the Town will notify the owner of the affected parcels and provide the owner with the opportunity for a public hearing. The public hearing will be conducted by the Planning Commission. The decision of the Planning Commission may be appealed to the Town Council within ten days of the decision of the Planning Commission. The decision of the Town Council shall be final.”

### **SECTION III. 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 IV. Publication.**

The Town Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the Town of Los Gatos and to cause publication once in the Los Gatos Weekly, the official publication of legal notices of the Town of Los Gatos, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance. 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).

**SECTION V. CEQA.**

Adopting this ordinance addressing Town initiated lot mergers 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 VI. Effective Date.**

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 7<sup>th</sup> day of February 2023, 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 \_\_\_\_\_, 2023. This ordinance takes effect 30 days after it is adopted.

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: \_\_\_\_\_