

DRAFT ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING CHAPTER 16, ARTICLE II, SEC. 16.20.035 – CONSTRUCTION

WHEREAS, the Town of Los Gatos Municipal Code Section 16.10.015 states that unnecessary, excessive and disturbing noise and vibration is detrimental to the health, safety and welfare of the public and is contrary to public interest and that residents are entitled to the reasonable use and enjoyment of their property without exposure to noise disturbances, and;

WHEREAS, the Town of Los Gatos received public comment voicing concerns regarding construction activity on Sundays and holidays, and;

WHEREAS, it is the intent of the Town Council, in amending this ordinance, to enact law which upholds Municipal Code Section 16.10.015, and;

NOW, THEREFORE, THE PEOPLE OF THE TOWN OF LOS GATOS AND THE TOWN COUNCIL DO HEREBY ORDAIN AS FOLLOWS:

SECTION I. INCORPORATION OF RECITALS. The Town of Los Gatos finds that all Recitals are true and correct and incorporate them herein by this reference.

SECTION II. AMENDMENT OF MUNICIPAL CODE. Chapter 16, Article II, Section 16.20.035 is hereby amended to read as follows:

Sec. 16.20.035. - Construction.

- (a) Notwithstanding any other provision of this chapter, between the hours of 8:00 a.m. to 6:00 p.m. weekdays, and 9:00 a.m. to 4:00 p.m. Saturdays, construction, alteration or repair activities which are authorized by a valid Town permit or as otherwise allowed by Town permit, shall be allowed if they meet at least one of the following noise limitations:
 - (1) No individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet. If the device is located within a structure on the property, the measurement shall be made at distances as close to twenty-five (25) feet from the device as possible.
 - (2) The noise level at any point outside of the property plane shall not exceed eighty-five (85) dBA.

- (b) The term “construction, alteration or repair activities” shall include any physical activity on the construction site or in the staging area, including the delivery of materials.
- (c) Construction, alteration or repair activities shall be prohibited outside those hours and on Sundays and legal holidays with the following exceptions:
 - (1) A homeowner or tenant may perform construction, alteration or repair activities on their own property between 8:00 a.m. to 8:00 p.m. Monday through Saturday and 9:00 a.m. to 5:00 p.m. on Sundays and holidays, as long as the work being performed does not require a permit from the Town. All noise levels contained in Section 16.20.035 (1) apply to this section.
 - (2) If the Town Manager or designee finds evidence that an emergency exists that imperils the public safety, or immediate health and safety of the occupants, the Town Manager or designee may allow the construction or maintenance work to proceed during such hours as may be necessary for the duration of the emergency.
 - (3) At any time before commencement of or during construction activity, the chief building official may modify the permitted hours of construction upon twenty-four (24) hours written notice to the contractor, applicant, developer or owner. The chief building official can reduce or increase the allowable hours of construction activity. In approving modified hours, the chief building official may specifically designate and/or limit the activities permitted during the modified hours. If the hours of construction activity are modified, then the general contractor, applicant, developer or owner may be asked to erect a sign at a prominent location on the construction site to advise subcontractors and material suppliers of the working hours. The contractor, owner or applicant shall immediately produce upon request any written order or permit from the chief building official pursuant to this section upon the request of any member of the public, the police or Town staff.
 - (4) Violation of the allowed hours of construction activity, the chief building official's order, required signage or this section shall be a violation of this code.

SECTION III. CONSTRUCTION. The Town Council intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent. To the extent the provisions of the Los Gatos Municipal Code as amended by this Ordinance are substantially the same as the provisions of that Code as it read prior to the adoption of this Ordinance, those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.

SECTION IV. CEQA. The Town Council finds and determines that the adoption of this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines under the General Rule (Section 15061(b)(3)), which sets forth that the CEQA applies

only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that the proposed Town Code text amendments will have no significant negative effect on the environment.

SECTION V. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this ordinance. The Town Council of the Town of Los Gatos hereby declares that it would have passed this ordinance and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid. Except as expressly modified in this Ordinance, all other sections set forth in the Los Gatos Town Code shall remain unchanged and shall be in full force and effect.

SECTION VI. EFFECTIVE DATE. This ordinance shall take effect immediately and will be enforced thirty (30) days after its adoption.

SECTION VII. PUBLICATION AND POSTING. 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 VIII. INTRODUCTION AND ADOPTION. This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 3rd day of December 2019 and adopted by the following vote as an ordinance of the Town Council of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the 17th day of December 2019.

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: _____