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**TOWN OF LOS GATOS**  
**OFFICE OF THE TOWN ATTORNEY**

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**MEMORANDUM**

**To:** Mayor & Council  
**From:** Robert Schultz, Town Attorney  
**Date:** January 20, 2022  
**Subject:** Ordinance and Policy Priorities for the January 25, 2022 Priority Setting Study Session

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The Town Attorney's Office is continually evaluating the Municipal Code for needed updates and provides this Memorandum to assist the Town Council in its Priority Setting Study Session. The list is in order of recommended priority. However, please realize that although these ordinances are in recommended priority, many issues may arise during the year that can alter these priorities.

**1. Amendments to Tree Protection Ordinance**

The Town's Tree Protection Ordinance was adopted in 2015. During amendments to our code related to fire protection, issues were raised regarding fines and penalties associated with illegal trimming and removal of trees. Code amendments are necessary to strengthening code enforcement and increase civil penalties for illegal tree removal or damage.

**2. Single Use Disposable Foodware and Litter Reduction Ordinance**

The Youth Commission has been working on Single Use Disposable Foodware and Litter Reduction Ordinance. Single use disposable foodware and packaging (SUDs) - including plates, cutlery, cups, lids, straws, "clamshells" and other containers - is a major contributor to street litter, ocean pollution, marine and other wildlife harm and greenhouse gas emissions. The use of disposable foodware has grown exponentially over the past few decades. Because the environmental costs of these products are largely hidden to the business operator and consumer, little attention is paid to the quantity of packaging consumed and quickly thrown away. Reducing the use of SUDs and/or requiring compostable products in the Town of Los Gatos is a key strategy to achieve the Town's Zero Waste and Climate Action goals, and to address the many environmental impacts and costs associated with the use and disposal of single-use foodware and packaging. SUDs often become litter therefore minimizing their use will assist the Town with achieving stormwater program requirements.

### **3. Commercial Cannabis Operations and Facilities Ordinance**

Los Gatos Town Code currently prohibits all medical marijuana operations and distribution facilities throughout the Town. With recent State law changes, cities and counties across California are exploring these new regulations and the fiscal tax impact of allowing Commercial Cannabis Operations and facilities. The Town Council has authorized the hiring of a Cannabis Consultant to help Council and public better understand the legal cannabis industry and the implications of allowing licensed cannabis businesses.

### **4. Ordinance Relating to Two Unit Residential Development and Urban Lot Splits in Single – Family Residential Zones pursuant to Senate Bill 9**

Senate Bill 9 requires a proposed housing development containing no more than two residential units (SB 9 2-Unit Housing Development) within a single-family residential zone to be considered ministerially, without discretionary review or public hearing, if the proposed housing development meets certain objective requirements. Senate Bill 9 (SB 9) also requires a local agency to ministerially approve an Urban Lot Split in a single-family residential zone if it meets certain objective requirements. In both cases, the Town may apply objective zoning standards, objective subdivision standards, and objective design standards. The Town has adopted an SB 9 Urgency Ordinance establishing regulations pertaining to two-unit residential developments and urban lot splits in single-family residential zones in the Town, pursuant to Senate Bill 9. The regulations adopted by this urgency ordinance must be replaced by permanent town code amendments that incorporate the standards contained in the urgency ordinance or such other or different standards as may be enacted by the Town Council.

### **5. Accessory Dwelling Unit Ordinance**

In 2019 and 2020 Governor Newsom signed several bills changing how local agencies regulate accessory dwelling units (“ADU”) and junior accessory dwelling units (“JADU”). These bills include Senate Bills 13, 1030, and 1371, and Assembly Bills 68, 587, 670, 671, 881, and 3182. The bills are currently effective and are codified in California Government Code (GC) Section 65852.2 and 65852.22 (“State Law”). The changes to State Law build on ADU and JADU legislation adopted in 2016 and 2017. State Law further reduces restrictions on the construction of ADU/JADUs in order to address the shortage of affordable housing in California. The Town has already amended its ADU to comply with State Law but must make additional amendments based upon direction and input from California Department of Housing and Community Development (“HCD”)

### **6. Lot Merger/Adjustment Ordinance**

Lot Mergers occur when two or more parcels are combined into a single legal parcel. The Town’s existing process to merge parcels does not comply with the State Subdivision Map Act and must be revised in order for the Town to utilize the ability to involuntarily merge lots. In addition, the Town’s Lot Line Adjustment Ordinance (realignment of boundaries between existing parcels) needs amendments to streamline, update, and address certain requirements that are in conflict with State law or are outdated.

## **7. Shared Mobility Device Ordinance**

The Town does not have a Shared Mobility Device Ordinance. Shared mobility devices, such as electric scooters (e.g., Bird, Lime-S) and bikes (e.g., LimeBike, JUMP, Mobike, Spin), have surged locally and in cities throughout the United States. These mobility devices can be rented by the public via a smartphone application that unlocks the motorized devices from any location and lets the user park it when the rider arrives at their chosen destination. These mobility devices are highly visible, drawing considerable attention and controversy when they arrive in any area. They have raised significant community concerns about safety and enforcement, including concerns about users riding on the sidewalk, doubling up on scooters, users failing to observe traffic controls in violation of the California Vehicle Code and other unsafe or uncivil rider behaviors. The devices have also posed new challenges in managing the safe public use of the street and sidewalks. The Town should adopt an ordinance regulating shared mobility service in the Town that would include permitting requirements and an operational framework.

## **8. Public Nuisance /Blight/Administrative Abatement Hearing Ordinance**

The Town does not have a comprehensive Public Nuisance Ordinance related to the identification, definition, and enforcement of nuisances. Such an Ordinance would make identification of violations easier for residents and businesses to understand and thereby comply with, as well as to assist the Town in enforcing the Code and providing due process. The Nuisance Ordinance would provide a just, equitable, and practicable method for preventing, discouraging, and/or abating certain conditions which endanger the life, limb, health, property, safety, or welfare of the general public. Currently, the Administrative Abatement of Violations section of our Town Code is antiquated and needs to be updated to allow for the enforcement of Code violations through administrative hearings effectively applied and administered in a fair, expedient, and cost-efficient manner.

## **9. Amendments to Sign Ordinance**

The Town's Sign Ordinance was adopted in 1976 and was last updated and amended in 1992. Based upon issues that have arisen during elections, my office conducted research regarding political sign and has determined based the US Supreme Court's decision in *Reed v Town of Gilbert*, 576 U.S. 155 (2015), that our current Sign Code appears to have aspects and sections that are no longer constitutional.

## **10. Noise Ordinance**

The Town's Noise Ordinance was adopted in 1991. With the changes to the Town's Entertainment Policy, the Town needs to analyze and determine whether the noise levels set forth in the Noise Ordinance adequately protect the residents of Los Gatos from unnecessary, excessive, and disturbing noise and vibration.

## **11. Wireless Facilities Ordinance**

The Town's current Wireless Facilities Ordinance was adopted in 2003 to conform to the 1996 Telecommunications Act and is now outdated based on the ongoing changes to State and Federal legislation and leaves the Town unprepared for the scale of expansion that is on the horizon. Our current Ordinance only deals with the collocation of wireless facilities on existing utility poles. Various wireless facility companies are now proposing installations in the public right of way. Such installations could be on existing Town-owned structures, such as streetlight poles, or could involve the companies putting in their own new poles. The Town needs to update its wireless telecommunications ordinance to address the current status of Federal and State law as well as to reflect best practices in siting and design standards to preserve the aesthetics of the Town but to also facilitate providing competitive, varied, and high-quality wireless communications service infrastructure.

*RWS*