

ORDINANCE

**ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
AMENDING CHAPTER 29 (ZONING REGULATIONS) OF THE TOWN CODE
REGARDING LAND USE AND ECONOMIC VITALITY STREAMLINING
RELATED TO FORMULA RETAIL BUSINESSES IN THE DOWNTOWN C-2 ZONE,
RESTAURANTS, MINOR EXTERIOR MODIFICATIONS TO COMMERCIAL BUILDINGS,
AND GROUP CLASSES.**

WHEREAS, the Town of Los Gatos Town Council has an adopted strategic priority to streamline Land Use and Economic Vitality policies; and

WHEREAS, the Town has recently experienced a high turnover in commercial spaces, particularly in Downtown and additional commercial spaces are being added to the inventory through new developments in Los Gatos creating more opportunity for retail locations; and

WHEREAS, on June 5, 2018, the Town Council adopted Resolution 2018-032 approving a temporary 18-month suspension of Town Code Section 29.20.185 during which formula retail business less than 6,000 square feet could gain approval in the C-2 zone with a reduced process timeline and cost to allow an opportunity for the Town Council to gauge potential changes to the retail mix in downtown; and

WHEREAS, on June 19, 2018, the Town Council adopted Resolution 2018-039 approving a temporary 18-month suspension of Town Code Section 29.20.745 and portions of Town Code Section 29.20.755(2) regarding the assignment of duties to allow the Development Review Committee to approve certain modifications to existing Conditional Use Permits for restaurants to provide the ability to revise obsolete language, innovate existing businesses, and/or make other adjustments within the existing business location and square footage; and

WHEREAS, on March 5, 2019, the Town Council adopted Resolution 2019-008 approving a temporary 9-month suspension of Town Code Section 29.20.745 and portions of Town Code Section 29.20.755(2) regarding the assignment of duties to allow the Development Review Committee to approve new Conditional Use Permits for restaurants to create more opportunities to attract businesses to Los Gatos; and

ATTACHMENT 1

WHEREAS, on March 5, 2019, the Town Council adopted Resolution 2019-009 approving a temporary nine-month suspension of Town Code Section 29.20.745 providing businesses and commercial property owners an opportunity to make minor exterior modifications to their store fronts and buildings at the building permit level to create more opportunities to attract and retain businesses in Los Gatos; and

WHEREAS, on March 5, 2019, the Town Council adopted Resolution 2019-012 approving a temporary nine-month suspension of Town Code Section 29.20.750 (8), during which group classes could gain approval with a reduced process timeline and cost to create more opportunities to attract and retain businesses in Los Gatos; and

WHEREAS, by reassigning the duties, the impact of cost and process time on existing and prospective businesses is decreased and more closely aligned with neighboring jurisdictions which provides an incentive for businesses to consider locating in Los Gatos; and

WHEREAS, on October 1, 2019, the Town Council reviewed the result of the temporary suspension of Town Code Sections and voted to memorialize the streamlining effort through modification of the Town Code; and

WHEREAS, on November 5, 2019, the Town Council adopted Resolution 2019-051 extending the temporary streamlining efforts until such time that the Town Code amendments may be adopted; and

WHEREAS, on January 8, 2020, the Planning Commission reviewed and commented on the proposed amendments regarding land use and economic vitality streamlining and forwarded a recommendation to the Town Council for Approval of the proposed amendments with modifications; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on February 4, 2020; and

WHEREAS, on February 4, 2020, the Town Council reviewed and commented on the proposed amendments regarding land use and economic vitality streamlining and the Town Council voted to introduce the Ordinance.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES ORDAIN
AS FOLLOWS:

SECTION I

Ordinance 2021 is hereby rescinded.

SECTION II

Chapter 29 of the Town Code is hereby amended as follows:

ARTICLE I. DIVISION 1. MISCELLANEOUS

Sec. 29.10.020. – Definitions.

.....

Group classes means instruction provided at a rate greater than one (1) student per one (1) instructor and does not include schools as defined in this section.

Minor exterior alterations to commercial buildings means exterior alterations, including:

- (1) Replacing or changing out windows
- (2) Replacing or adding awnings
- (3) Changes to or addition of arcades
- (4) Replacement of or changes to exterior materials
- (5) Small scale additions where the project is in full compliance with the Town's Commercial Design Guidelines and Town Code and does not result in an intensification of use as described in Section 29.20.145 (4).

.....

~~Restaurant~~ means a retail food service establishment in which food ~~or~~ and beverage is prepared, served, and sold to customers for on-site or take-out consumption.

~~Restaurant, fast food means a restaurant with a large carry-out clientele, long hours of service, some open for breakfast but all open for lunch and dinner, and high turnover rates for eat-in customers.~~

~~Restaurant, high turnover (sit-down) means a restaurant with turnover rates generally of less than one (1) hour, is usually moderately priced and frequently belong to a restaurant chain, generally service breakfast, lunch and dinner, and are sometimes open twenty-four (24) hours a day.~~

~~Restaurant (minor) means any restaurant that satisfies the following criteria:~~

- ~~(1) Provides less than 25 seats;~~
- ~~(2) Serves no alcoholic beverages;~~

~~(3) Proposes no significant exterior changes that would alter the architectural character of the building; and~~

~~(4) Provides a net increase of less than five peak hour traffic trips.~~

~~Restaurant, quality means a restaurant of high quality and with turnover rates usually of at least one (1) hour or longer, generally do not serve breakfast, may not serve lunch, but always serve dinner.~~

.....

ARTICLE I. DIVISION 4. PARKING

Sec. 29.10.150 (c). Number of off-street spaces required.

.....

~~(29) Group classes. One (1) parking space for each employee and one (1) parking space per three (3) students.~~

.....

ARTICLE I. DIVISION 5. NONCONFORMING BUILDINGS, LOTS, AND USES

Sec. 29.10.225. Grounds for determining that a nonconforming use is no longer lawful.

.....

~~(2) That the nonconforming use is so exercised as to be detrimental to the public health or safety, or to be a nuisance; In determining whether a nonconforming restaurant or bar violates this subsection, the deciding body shall also apply the enforcement analysis contained in the Alcoholic Beverage Policy;~~

.....

ARTICLE II. DIVISION 3. APPROVALS

Sec. 29.20.185. Table of Conditional Uses.

.....

TABLE OF CONDITIONAL USES	RC	HR	R1	RD	R-M	RMH	R-1D	O	C-1	C-2	CH	LM	CM
(1) Commercial													
n. Formula retail business										*			
o. Formula retail business greater than 6,000 s.f.									X	<u>X</u>	X	X	
(4) Schools													
h. Art, craft, music, dancing school, <u>group classes</u>								X	X	X	X	X	

.....

Sec. 29.20.190. Findings and decision.

.....

- (b) The deciding body, on the basis of the evidence submitted at the hearing, may deny a conditional use permit for a formula retail business greater than 6,000 square feet or a personal service business if any of the following findings are made:

.....

ARTICLE II. DIVISION 5. ADMINISTRATION AND ENFORCEMENT

Sec. 29.20.318. Modification of operating hours of establishments serving alcoholic beverages.

.....

- (a) Notwithstanding section 29.20.310, if the Town Manager determines that there is cause to believe that any establishment serving alcoholic beverages may be in violation of the ~~Alcoholic Beverage Policy adopted by the Council~~ approved Conditional Use Permit for the establishment, the Town Manager will cause a notice of violation to be mailed to the current owners of the property and establishment as disclosed in the most recent County assessor's roll and the Town business license files. This notice will describe the alleged violations.;

.....

- (c) If after the hearing, the Manager or the Manager's designee determines that the establishment is in violation of the ~~Town's Alcoholic Beverage Policy~~ approved Conditional Use Permit for the establishment, the Manager or the Manager's designee may limit the hours of operation of the establishment, up to and including closure no later than 10:00 p.m. until the Manager or the Manager's designee determines that the violations have been abated. Upon determination that the violations have been abated, the Manager will notify the owners of the property and the establishment that the establishment is in compliance and will increase the operating time limits as the Manager or designee determines is appropriate in light of the violations that occurred and the abatement steps taken. The decision of the manager shall be effective immediately and the establishment shall immediately conform its hours of operation to the Manager's order.

.....

ARTICLE II. DIVISION 7. ASSIGNMENT OF DUTIES

Sec. 29.20.700. Planning Director.

.....

- (34) Determines applications for minor exterior alterations to commercial buildings.

.....

Sec. 29.20.745. Development Review Committee.

.....

- (8) ~~Determine and issue zoning approval for minor exterior alterations to commercial buildings.~~ Reserved.

.....

- (16) Determine and issue zoning approval for ~~minor~~ restaurants ~~that are located outside Downtown (the C-2 zone).~~

.....

- (21) Determine and issue zoning approval for group classes in the C-2 zone.

.....

Sec. 29.20.755. Town Council.

.....

- (2) Hears and determines Planning Commission recommendations for the adoption or amendment of the general plan or any specific plans and conditional use permits for establishments selling alcoholic beverages for on premises consumption (excluding restaurants) and for retail sales of firearms, ammunition and/or destructive devices.

.....

ARTICLE VI. DIVISION 2. O OR OFFICE ZONE

Sec. 29.60.085. Permitted uses.

.....

(3) Group classes

.....

ARTICLE VI. DIVISION 3. C-1 OR NEIGHBORHOOD COMMERCIAL ZONE

Sec. 29.60.210 (a). Permitted uses.

.....

(1) Retailing, including formula retail up to 6,000 square feet.

.....

(6) Group classes.

.....

ARTICLE VI. DIVISION 4. C-2 OR CENTRAL BUSINESS DISTRICT COMMERCIAL ZONE

Sec. 29.60.320 (a). Permitted uses.

.....

(1) Retailing, including formula retail up to 6,000 square feet.

.....

ARTICLE VI. DIVISION 5. CH OR RESTRICTED HIGHWAY COMMERCIAL ZONE

Sec. 29.60.420 (a). Permitted uses.

.....

(1) Retailing, including formula retail up to 6,000 square feet.

.....

(5) Group classes.

.....

ARTICLE VII. DIVISION 2. LM OR COMMERCIAL-INDUSTRIAL ZONE

Sec. 29.70.100 (a). Permitted uses.

.....

(1) Retailing, including formula retail up to 6,000 square feet.

.....

(7) Group classes.

.....

SECTION III

With respect to compliance with the California Environmental Quality Act (CEQA), the Town Council finds as follows:

A. These Town Code amendments are not subject to review under CEQA pursuant to sections and 15061(b)(3), in that it can be seen with certainty that there is no possibility that the proposed amendment to the Town Code would have significant impact on the environment; and

B. The proposed Town Code amendments are consistent with the General Plan and its Elements.

SECTION IV

If any provision of this Ordinance or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The Town Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

SECTION V

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

This Ordinance shall take effect thirty (30) days after its adoption. 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 VII

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 4th day of February 2020, 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 18th day of February 2020.

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: _____