

ORDINANCE 2102

**AN URGENCY INTERIM ORDINANCE OF THE TOWN OF LOS GATOS
EXTENDING ORDINANCE 2101 PROHIBITING THE APPROVAL OF
APPLICATIONS FOR WIRELESS COMMUNICATIONS FACILITIES**

WHEREAS, Government Code §65858 allows a legislative body, without following the procedures otherwise required prior to the adoption of a zoning ordinance, to adopt, as an urgency measure, an interim ordinance prohibiting any uses which may be in conflict with a contemplated general plan, specific plan or zoning proposal which the legislative body, planning commission or planning department is intending to study within a reasonable time; and

WHEREAS, the Town's Zoning Ordinance does not have adequate procedures for addressing the new technologies of wireless communications facilities; and

WHEREAS, numerous applications have been received by the Town for approval of new wireless communications facilities; and

WHEREAS, concerns have been raised in the community regarding the potential detrimental operational impacts of wireless communications facilities, including, but not limited to, location, noise, maintenance, lighting, visibility and safety; and

WHEREAS, concerns have also been expressed that decisions regarding wireless communications facilities should consider the importance of quality communications coverage throughout the Town and the attendant public safety benefits; and

WHEREAS, the costs to the Town, if any, associated with monitoring the long term use of wireless communications facilities have not been analyzed and determined; and

WHEREAS, absent comprehensive regulations, the Town is unable to ensure informed, consistent, uniform and fair decisions on applications for new wireless communications facilities; and

WHEREAS, the Town Council has directed the Town Department of Community Development to evaluate and make recommendations to the Planning Commission and the Town Council regarding regulation of wireless communication facilities; and



WHEREAS, approval of pending or new applications for wireless communications facilities during the time possible regulations are being studied could result in conflicts with any proposed regulations; and

WHEREAS, on July 1, 2002, the Town Council, on an urgency basis pursuant to Government Code §65858, introduced and adopted Ordinance 2101 prohibiting approval of applications for wireless communications facilities in the Town; and

WHEREAS, a public hearing on the extension of the period of the interim zoning established under Ordinance 2101 was duly noticed for July 15, 2002, pursuant to Government Code §65090.

THE TOWN COUNCIL OF THE TOWN OF LOS GATOS ORDAINS AS FOLLOWS:

1. Interim Ordinance. During the term of this Urgency Ordinance, no applications for permits for wireless communications facilities, either currently pending or received prior to the termination of this Ordinance, shall be approved by the Town.

2. Findings. There is a current and immediate threat to public health, safety and welfare if pending or new applications for wireless communications facilities are approved during the term of this Ordinance because of the following facts:

a. The Town's General Plan emphasizes the preservation of the character of the Town's residential and commercial neighborhoods as well as the Town's natural features, environmentally sensitive resources and open space vistas, while also emphasizing the importance of ensuring a variety of goods and services, adequate infrastructure and a high level of public safety.

b. The Town does not have specific existing regulations addressing how wireless communications facilities should be accommodated in the Town.

c. An increasing number of wireless communications companies have been licensed or approved by the Federal Communications Commission and/or the Public Utilities Commission and have made inquiries about the Town's procedures or applications for the approval of permits for new wireless communications facilities.

d. Members of the public have expressed an increasing concern that the approval of applications for wireless communications facilities will have a detrimental impact on the community resulting from their location,



operational noise, lighting, maintenance, visibility and safety.

e. Concerns have also been expressed that decisions regarding wireless communications facilities should consider the importance of quality communications coverage throughout the Town and the attendant public safety benefits.

f. Approval of applications for permits for wireless communications facilities may be in conflict with the regulations to be analyzed and adopted by the Town and would undermine the purpose of studying such regulation, thereby reducing the quality of life within the community to the extent the overall public health, safety and welfare are detrimentally affected.

g. On July 1, 2002, the Town Council, on an urgency basis pursuant to Government Code §65858, introduced and adopted Ordinance 2101 prohibiting approval of applications for wireless communications facilities in the Town; and

h. While Town staff has initiated the process to study and prepare recommended regulations for wireless communications facilities, the task will not be completed, nor can hearings before the Planning Commission or Town Council occur, prior to the expiration of Ordinance 2101 on August 15, 2002.

3. Term. This Ordinance shall be effective immediately and shall remain in effect for 10 months and 15 days from August 15, 2002, or until the Town Council chooses to repeal this Ordinance, whichever is earlier, unless extended pursuant to Government Code §65858.

4. Report. At least ten (10) days prior to expiration of this Ordinance, the Town Council shall issue a written report pursuant to Government Code §65858(d) describing the measures taken to alleviate the conditions which have led to the adoption of this Ordinance.

5. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

6. Posting. Within fifteen (15) days after its passage, the Town Clerk shall cause this Ordinance to be published one in a newspaper of general circulation published and circulated in the Town and posted in at least three (3) public places within the Town.

This Ordinance was passed and adopted at a regular meeting of the Town Council of the Town of Los Gatos on July 15, 2002, and adopted by at least a four-fifths (4/5) vote of the Town Council as follows:

COUNCIL MEMBERS:

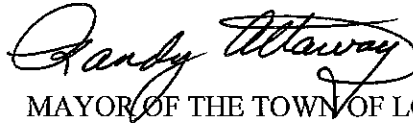
AYES: Steven Blanton, Steve Glickman, Joe Pirzynski,
Mayor Randy Attaway

NAYS: None

ABSENT: Sandy Decker

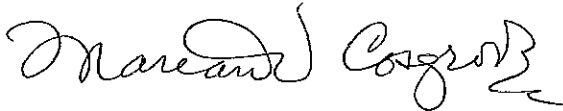
ABSTAIN: None

SIGNED:



MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:



CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA