

## **ORDINANCE 2273**

### **AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING CHAPTER 29 (ZONING REGULATIONS) OF THE TOWN CODE REGARDING PLANNED DEVELOPMENT ORDINANCES AND THE CONDITIONAL USE PERMIT TABLE**

**WHEREAS**, on November 4, 2013, an Ad Hoc Committee of the Town Council was established to study Planned Developments (PD) and the use of the PD Overlay Zoning within the Town of Los Gatos; and

**WHEREAS**, on February 17, 2015, the Town Council adopted Resolution 2015-008 establishing the Planned Development Study Committee (PDSC), which was tasked to research the PD overlay zoning designation and Conditional Use Permit process and formulate recommendations for the Town Council's consideration; and

**WHEREAS**, on August 2, 2016, the recommendations of the PDSC were presented to the Town Council, who directed Town staff to prepare proposed amendments to the Town Code, General Plan, and other policy documents, incorporating the recommendations from the PDSC, and to forward them to the Planning Commission for consideration; and

**WHEREAS**, on February 14, 2018, the recommendations of the PDSC and results of staff research were considered by the Planning Commission, who continued consideration on the item to the March 28, 2018 Planning Commission meeting with direction to staff to provide additional information from neighboring jurisdictions; and

**WHEREAS**, on March 28, 2018, staff provided the Planning Commission with the additional information and the Planning Commission forwarded a recommendation for approval to the Town Council; and

**WHEREAS**, this matter was regularly noticed in conformance with State and Town law

and came before the Town Council for public hearing on April 17, 2018;

**WHEREAS**, on April 17, 2018, the Town Council accepted the report of the Planning Commission's recommendation and voted to introduce an Ordinance on the proposed amendments regarding Planned Development Ordinances and the Conditional Use Table.

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

#### SECTION I

Town Code Chapter 29 is hereby amended to read as follows:

#### DELETED SECTIONS:

#### ARTICLE VIII. DIVISION 2 – PD or PLANNED DEVELOPMENT OVERLAY ZONE

#### ~~DIVISION 2. PD OR PLANNED DEVELOPMENT OVERLAY ZONE~~

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~~Sec. 29.80.075. Application.~~

~~Sec. 29.80.080. Intent.~~

~~Sec. 29.80.085. PD and underlying zone alternatives.~~

~~Sec. 29.80.090. Proper subdivision required.~~

~~Sec. 29.80.095. Relationship of PD procedures to other ordinances.~~

~~Sec. 29.80.100. General provisions in PD zones.~~

~~Sec. 29.80.105. Site area.~~

~~Sec. 29.80.110. Uses permitted.~~

~~Sec. 29.80.115. Density regulations.~~

~~Sec. 29.80.120. Adoption of official development plan.~~

~~Sec. 29.80.125. PD ordinance.~~

~~Sec. 29.80.130. Architecture and site approval.~~

~~Sec. 29.80.135. Phased development.~~

~~Sec. 29.80.140. Dedication prior to issuance of first building permit.~~

~~Sec. 29.80.145. Change in official development plan.~~

~~Secs. 29.80.150—29.80.210. Reserved.~~

**~~Sec. 29.80.075. Application.~~**

~~(a) The following ordinances that concern designation of land PD or RPD have at various times been adopted by the Town: 847, 855, 938, 967, 977, 992, 1053, 1061, 1067, 1077, 1109, 1110, 1121, 1123, 1129, 1172, 1216, 1247, 1275, 1279, 1281, and 1302. Of the foregoing ordinances the following:~~

~~(1) Have heretofore been repealed: 847, 967, 977 and 1123.~~

~~(2) Were repealed by Ordinance No. 1328: 855 and 992.~~

~~(3) Remain in effect, subject to the further provisions of this section: 938, 1053, 1061, 1067, 1077, 1109, 1110, 1121, 1129, 1172, 1216, 1247, 1275, 1279, 1281 and 1302.~~

~~(b) If a PD or RPD ordinance was in effect before the effective date of Ordinance No. 1328 and is not repealed by the provisions of this section, the regulations of such ordinance (including regulations that may have been incorporated by reference to the general provisions of a zoning ordinance then in effect) continue to apply to the land designated therein. However, any change in activities conducted on, or any new construction on land in such PD or RPD zone is subject to the regulations of this division.~~

~~(Ord. No. 1316, § 4.82.010, 6-7-76; Ord. No. 1328, 8-2-76; Ord. No. 1363, 8-1-77; Ord. No. 1838, § III, 11-5-90)~~

**~~Sec. 29.80.080. Intent.~~**

~~The purpose of the PD or planned development overlay zone is to provide for alternative uses and developments more consistent with site characteristics than are allowed in other zones, and so create an optimum quantity and use of open space and encourage good design. The PD zone permits establishment of a single use or the integration of several uses not ordinarily possible only if use and development is in compliance with a complete development plan showing relationships of the use or uses to each other, to the district as a whole, and to surrounding areas.~~

~~(Ord. No. 1316, § 4.82.020, 6-7-76; Ord. No. 1328, 8-2-76)~~

**~~Sec. 29.80.085. PD and underlying zone alternatives.~~**

~~A lot zoned PD or planned development overlay may be used either in the manner provided in the PD zone or the manner provided in the underlying zone but not both; the two (2) zones are complete alternatives. All of the regulations of the zone used apply, and none of the regulations of the other zone, except in the situation where a PD zone is used and the PD ordinance expressly incorporates provisions of the underlying zone. However, once land is used in the manner provided in one (1) of the zones an election shall not then be made to use the~~

land in the manner provided in the other zone unless the land is made to conform in all respects to the rules of the other zone. In this respect no nonconforming use privilege exists. (~~Ord. No. 1316, § 4.82.030, 6-7-76; Ord. No. 1328, 8-2-76~~)

**~~Sec. 29.80.090. Proper subdivision required.~~**

~~Notwithstanding the provisions of section 29.80.085, land zoned PD or planned development overlay may not be used in either manner provided in the PD zoning ordinance or the manner provided in the underlying zone unless the land is subdivided in conformity with the regulations of the applicable zone.~~

~~(Ord. No. 1316, § 4.82.040, 6-7-76; Ord. No. 1328, 8-2-76)~~

**~~Sec. 29.80.095. Relationship of PD procedures to other ordinances.~~**

~~Compliance with the provisions of this division does not relieve the applicant from having to comply with the subdivision ordinance or any other applicable ordinance of the Town. Subdivision applications shall not be filed for a PD until such time as the PD overlay zone ordinance has been adopted.~~

~~(Ord. No. 1316, § 4.82.050, 6-7-76; Ord. No. 1328, 8-2-76; Ord. No. 1942, § 1, 5-17-93)~~

**~~Sec. 29.80.100. General provisions in PD zones.~~**

~~Unless expressly provided otherwise in the PD or planned development overlay zoning ordinance, the general provisions of this chapter which apply to all zones also apply to PD zones. Every PD ordinance shall include a statement of the extent to which the provisions of sections 29.40.015 through 29.40.070 and article V of this chapter apply.~~

~~(Ord. No. 1316, § 4.82.060, 6-7-76; Ord. No. 1328, 8-2-76)~~

**~~Sec. 29.80.105. Site area.~~**

~~A planned development zone shall not consist of less than forty thousand (40,000) square feet of contiguous site area unless the purpose of the planned development is to provide housing for low income senior citizens, in which case there is no minimum site area.~~

~~(Ord. No. 1316, § 4.82.070, 6-7-76; Ord. No. 1328, 8-2-76; Ord. No. 1500, 5-18-81)~~

**~~Sec. 29.80.110. Uses permitted.~~**

~~All uses or combinations thereof to the extent specified in the official development plan shall be permitted in the PD or planned development overlay zone.~~

~~(Ord. No. 1316, § 4.82.080, 6-7-76; Ord. No. 1328, 8-2-76)~~

**~~Sec. 29.80.115. Density regulations.~~**

~~In residential planned developments the official development plan prescribes the density, which may not exceed the allowable density limits of the land use element of the general plan and any specific plan.~~

~~(Ord. No. 1316, § 4.82.090, 6-7-76; Ord. No. 1328, 8-2-76)~~

#### **~~Sec. 29.80.120. Adoption of official development plan.~~**

~~The applicant shall file a preliminary development plan drawn to scale with any application for PD zoning showing:~~

- ~~(1) A land use plan locating all proposed uses.~~
- ~~(2) A tentative site plan illustrating the following:~~
  - ~~a. Building placement.~~
  - ~~b. Open space, public and private; indicating how it is to be used.~~
  - ~~c. Natural features such as creeks, major trees, bluffs, etc.~~
  - ~~d. Sidewalks, paths and trails.~~
  - ~~e. Parking areas.~~
  - ~~f. Vehicular circulation.~~
  - ~~g. Major features on adjacent property which affect the development proposal or are potentially affected by it.~~
- ~~(3) Schematic architectural elevations of all buildings and structures illustrated in relationship to each other and any major structures on adjacent property which are affected by the development proposal or are potentially affected by it.~~
- ~~(4) Schedule for any phasing of development.~~
- ~~(5) Future lot lines, condominium units and easement areas, all subject to subdivision approval.~~
- ~~(6) Tabulation of land area including the areas of:~~
  - ~~a. Entire planned development.~~
  - ~~b. Public streets.~~
  - ~~c. Private streets.~~
  - ~~d. Driveways.~~
  - ~~e. Land covered by buildings including garages and carports.~~
  - ~~f. Landscaped public open space.~~
  - ~~g. Landscaped private open space.~~

- ~~h. Uncovered off-street parking.~~
  - ~~i. Net land after deduction of all public and private streets.~~
  - ~~(7) Floor area of each type of occupancy (for example: shops, offices, warehouses or dwellings).~~
  - ~~(8) Proposed number of off-street parking spaces.~~
  - ~~(9) Grading, soils, and geologic information.~~
  - ~~(10) Proposed signing.~~
  - ~~(11) Copies of any instrument or document such as covenants, conditions and restrictions which are intended to be used to affect the subdividing of the land.~~
  - ~~(12) Such other information as the Planning Commission or Planning Director may require, which may include but is not limited to market analysis showing the need for the planned development and its components.~~
- ~~(Ord. No. 1316, § 4.82.100, 6-7-76; Ord. No. 1328, 8-2-76)~~

**~~Sec. 29.80.125. PD ordinance.~~**

~~Any ordinance rezoning land to PD or planned development overlay shall incorporate the preliminary development plan as the official development plan. Either such ordinance, or the underlying zone, but not both, governs all development and use of the land. The official development plan shall specify the total number of permitted buildings, the categories of uses permitted, the total numbers of units of use, such as shops, offices, warehouses or dwellings, streets, sign regulations, and the total number of parking spaces or the formula by which the total number is to be calculated in such detail as is appropriate, and shall include any other performance standards which the Council determines are needed.~~

~~(Ord. No. 1316, § 4.82.110, 6-7-76; Ord. No. 1328, 8-2-76)~~

**~~Sec. 29.80.130. Architecture and site approval.~~**

~~In a PD zone architecture and site approval is required before any construction work is performed, whether or not a permit is required for the work, and before any permit for construction is issued. However, if the construction is to be done under the regulations of the underlying zone, the regulations of that zone, including regulations pertaining to approvals and permits, apply.~~

~~(Ord. No. 1316, § 4.82.120, 6-7-76; Ord. No. 1328, 8-2-76; Ord. No. 1838, § IV, 11-5-90)~~

**~~Sec. 29.80.135. Phased development.~~**

~~Phased development shall be approved only if each phase is designed to stand as an independent development and each meets the requirements of this chapter.~~

~~(Ord. No. 1316, § 4.82.130, 6-7-76; Ord. No. 1328, 8-2-76)~~

**~~Sec. 29.80.140. Dedication prior to issuance of first building permit.~~**

~~To assure that open space will be available for the entire developed PD or planned development overlay zone, public sites and development rights for required open spaces for any phase shall be dedicated in advance of the issuance of any permits. Dedications for other purposes may be required before the issuance of the first building permit.~~

~~(Ord. No. 1316, § 4.82.140, 6-7-76; Ord. No. 1328, 8-2-76)~~

**~~Sec. 29.80.145. Change in official development plan.~~**

~~Changes in the official development plan shall be made by ordinance.~~

~~(Ord. No. 1316, § 4.82.150, 6-7-76; Ord. No. 1328, 8-2-76)~~

**~~Secs. 29.80.150—29.80.210. Reserved.~~**

**ARTICLE I. DIVISION 1. Sec. 29.10.020. Definitions.**

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~~*Apartment hotel* means an apartment hotel which is a building or portion thereof used or designed as a residence for three (3) or more families living independently of each other in which food or meals are regularly provided to the tenants or some of them, and in which housekeeping or maid service is routinely provided to the tenants or some of them.~~

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~~*Boardinghouse* means any building used for the renting of rooms or providing of table board for from three (3) to five (5) persons, inclusive, over the age of sixteen (16) years, who are not related by blood or marriage to the resident operator thereof.~~

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~~*Condominium, residential* means a residential development, a condominium project, a community apartment project or a stock cooperative as defined in title 6 Common Interest Developments, section 1351 of the Civil Code.~~

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**ARTICLE IV. DIVISION 3. Sec. 29.40.255. - Subdivision requirements.**

~~Any subdivision into five (5) or more residential building sites shall require the approval of a planned development under the rules of section 29.80.075 et seq. of this chapter.~~

PROPOSED SECTIONS:

**ARTICLE VIII. DIVISION 2 – PD or PLANNED DEVELOPMENT OVERLAY ZONE**

**DIVISION 2. PLANNED DEVELOPMENT OVERLAY ZONE**

**Sec. 29.80.075. Purpose and Intent.**

**Sec. 29.80.080. Limitations on Use of Planned Development.**

**Sec. 29.80.085. Relationship of Planned Development procedures to other ordinances.**

**Sec. 29.80.090. Requirements.**

**Sec. 29.80.095. Findings.**

**Sec. 29.80.100. Phased development.**

**Sec. 29.80.105. Dedication prior to issuance of first building permit.**

**Sec. 29.80.110. Vested.**

**Sec. 29.80.120. Amendments to Previously Approved Planned Developments.**

**Sec. 29.80.075. Purpose and Intent.**

As more specifically provided in Section 29.80.080 (B), the purpose and intent of the Planned Development Overlay Zone (PD) is to preserve, enhance, and/or promote:

1. The Town's natural and historic resources;
2. The production of affordable housing;
3. The maximization of open space; and/or
4. A project that provides a public benefit to the citizens of the Town.

**Sec. 29.80.080. Limitations on Use of a Planned Development.**

**A. The PD overlay is not intended for:**

1. Uses inconsistent with the General Plan;
2. Proposed development that is reasonably feasible under the existing Town Code; or
3. A deviation of standards applicable to similar types of development.

**B. An Application for a PD shall only be considered by the recommending and deciding bodies if it meets the Purpose and Intent of this Division, and meets one or more of the following criteria:**

1. A project that provides a public benefit to the citizens of the Town.
2. Property that is designated within the Hillside Development Standards and Guidelines Area Map.
3. Property that has a historical designation or is within a Landmark Historic Preservation (LHP) Overlay Zone.



4. Property with a tree or "stand of trees" that is unique, historical, ecological, or of aesthetic value, as determined according to standards set forth in the Town's Tree Protection Ordinance.
5. Property that contains a stream, channel, or creek that supports or has supported riparian vegetation, fish, and/or aquatic life as further defined in the Guidelines and Standards for Land Use Near Streams.
6. A property with a geological hazard or within a fault zone.
7. A property being considered for affordable housing as defined in the Town's adopted and certified Housing Element.
8. A property being considered for a use or combination of uses not allowed in the Town's existing zoning districts.
9. A property being considered for the creative use of the site consistent with the base zoning district.

**Sec. 29.80.085. Relationship of Planned Developments to other adopted land use documents.**

The Planned Development Overlay shall not be used to deviate from General Plan provisions, Guidelines adopted by the Town Council, the standards contained in any existing land use regulation, or any other provision of the Town Code otherwise applicable to the property except as otherwise provided in Section 29.80.095 (4).

**Sec. 29.80.090. Requirements.**

The PD application shall include text and plans or diagrams that clearly demonstrate and specify all of the following:

1. Compliance with all sections of this Division.
2. Conformity of the PD to the goals, policies, applicable land use designation(s) and standards of the General Plan.
3. A plan or set of plans that identify characteristics existing on the property which warrant application of the PD Overlay Zone.
4. Proposed distribution, location and extent of the land uses on the site, including open space.
5. Proposed standards and criteria by which development will proceed, including standards for conservation, development and utilization of natural and/or historic resources.
6. Proposed deviations from the land use regulations and development standards applicable to the underlying zoning district(s).
7. Description of the public benefit of the proposal.

#### **Sec. 29.80.095. Findings.**

The deciding body, on the basis of the totality of the evidence and testimony submitted at the hearing, may adopt a PD if all of the following findings can be made:

1. The proposed PD is in compliance with all sections of this Division.
2. The proposed PD is in conformance with the goals, policies, and applicable land use designation(s) and standards of the Town's General Plan.
3. The proposed PD is in conformance with all other applicable land use regulations, including but not limited to Town Council adopted Guidelines, except as otherwise provided in Section 29.80.095 (4).
4. Any proposed use or development standards that deviate from the underlying zoning district(s) result in innovative and creative site planning to develop:
  - a. Housing with a minimum of 40 percent of the units affordable to households of very low, low, or moderate income; or
  - b. Mixed commercial, or mixed residential, or mixed commercial and residential development; or
  - c. A development designed and sited to protect, preserve and enhance conservation and enrichment of hillsides, natural and/or historic resources, ridgelines, a tree or stand of trees, creek and riparian corridors, geologic hazard or fault zone, and open space; or
  - d. A project that maximizes open space; or
  - e. The proposed PD provides a public benefit to the citizens of the Town.

#### **Sec. 29.80.100. Phased development.**

Proposed phasing plans shall be reviewed and adopted by the Town Council only if each phase is self-sufficient and is not dependent on subsequent phases to fulfill infrastructure requirements and/or conditions of approval.

#### **Sec. 29.80.105. Dedication prior to issuance of first building permit.**

Development rights for required open spaces shall be dedicated in advance of the issuance of any building permits.

#### **Sec. 29.80.110. Vested.**

Failure to obtain building permits for the approved Planned Development within 24 months from the date of approval will automatically void the PD ordinance, unless an extension of time has been granted by the Town Council for good cause shown.

## Sec. 29.80.120. Amendments to Previously Approved Planned Development.

Amendments to a PD approved both prior to and after the adoption of this Division may only be considered under this Division and its provisions and must meet the requirements set forth herein.

### AMENDED SECTIONS:

## **ARTICLE II. DIVISION 3. Sec. 29.40.255. – Table of Conditional Uses**

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(8) Residential Uses	RC	HR	R1	RD	R-M	R-1D	RMH	O	C-1	C-2	CH	LM	CM
a. One-family dwelling <u>(in a mixed-use project)</u>								x	x	x	x	x	
b. Two-family dwelling <u>(in a mixed-use project)</u>								x	x	x	x	x	
c. Multi-family dwelling <u>(in a mixed-use project)</u>								x	x	x	x	x	
<del>d. Boardinghouse</del>					x						x	x	
<del>e. Apartment hotel</del>					x						x	x	
<del>f. Mobile home park</del>					x								
<del>g. Residential condominium</del>					x			x	x	x	x	x	
<del>h. Caretaker residence</del>	x	x											
<del>i. Reserved</del>													
<del>j. Conversion of a mobile home park to condominium ownership any other use</del>					x		x						
<del>k. Live/work units</del>								x	x	x	x	x	

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## SECTION II

The Town Council finds as follows:

A. This ordinance is not subject to review under CEQA pursuant to section 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 III

If any provision of this ordinance or the application thereof to any person or circumstance is held 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. This 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 IV

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 V

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on April 17, 2018 and adopted by the following vote as an ordinance of the Town of Los Gatos at a meeting of the Town Council on May 1, 2018 and becomes effective 30 days after it is adopted.

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).

### COUNCIL MEMBERS:

AYES: Marcia Jensen, Steve Leonardis, Marico Sayoc, Mayor Rob Rennie

NAYS: Barbara Spector

ABSENT: None.

ABSTAIN: None.

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_