

**CONSENT CALENDAR**

**Agenda Item # 4**

**AGENDA REPORT SUMMARY**

**Meeting Date:** October 12, 2021

**Subject:** Firearm Safe Storage Ordinance

**Prepared by:** Andy Galea, Chief of Police

**Approved by:** Jon Maginot, Deputy City Manager

**Attachment(s):**

1. Firearm Safe Storage Ordinance

**Initiated by:**

City Council

**Previous Council Consideration:**

April 27, 2021 / September 14, 2021

**Fiscal Impact:**

No significant fiscal impact is anticipated

**Environmental Review:**

Not applicable

**Policy Question(s) for Council Consideration:**

- Does the Council wish to adopt an ordinance that requires a person in possession of a firearm in a residence in Los Altos to safely store the firearm by placing the firearm in a locked container, or to disable the firearm with a trigger lock, or to have the firearm in their close possession and control?

**Summary:**

- Firearm fatalities and injuries are of epidemic proportions in Santa Clara County and across the country, and that unsecured weapons in the home pose a threat to public health and safety.
- When firearms are left unsecured in homes, children are at risk of injury or death
- Studies have found that the risk for suicide increases when firearms are kept loaded and/or unlocked.
- According to the FBI, over half of female victims of intimate partner homicide in the United States are killed with a gun.

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City Manager

GE

**Reviewed By:**

City Attorney

JH

Finance Director

JE

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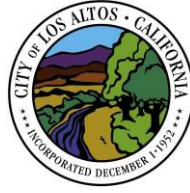


**Subject:** Firearm Safe Storage Ordinance

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- There is a wide consensus that applying trigger locks or using lock boxes to store unsupervised firearms in the home promotes health and safety.
  - Keeping unsecured firearms in the home increases the flow of illegal guns into the community.

**Staff Recommendation:**

Adopt Ordinance No. 2021-481 amending the Los Altos Municipal Code by adding a new Chapter 7.29 entitled "Safe Storage of Firearms"



**Subject:** Firearm Safe Storage Ordinance

**Purpose:**

The proposed ordinance generally requires a person in possession of a firearm in a residence in the City of Los Altos to either store the firearm by placing the firearm in a locked container, or to disable the firearm with a trigger lock, or to have the firearm in their close possession and control.

**Background / Discussion / Analysis:**

California law does not have a requirement that owners of firearms store them safely. The proposed ordinance would apply only to a firearm while they are inside of residences in the City of Los Altos and not apply whenever firearms are carried outside of residences.

At the April 27, 2021, city council meeting, Council Member Weinberg provided information on safe firearms storage. Following public comments and Council comments Council Member Weinberg moved that the Council direct staff to prepare a safe storage ordinance for the Council's consideration. The ordinance is substantially in accord with Santa Clara County Ordinance No NS-644 and includes the following provisions.

No person shall keep a loaded or unloaded firearm in any residence unless the firearm is (1) carried on their person;(2) in proximity and control of a person who is authorized to carry the firearm in accordance with all applicable laws, or (3) is stored in a locked container or disabled by a trigger lock approved by the DOJ.

Each day that a firearm is improperly stored shall constitute a separate violation.

The first violation shall be an infraction punishable by fine of \$500 and each violation thereafter shall be a fine of \$1,000.

Nothing in our ordinance shall affect a person's obligation to report a lost or stolen firearm.

**Options:**

- 1) Adopt a firearms storage ordinance

**Advantages:** The ordinance will require the safe storage of firearms.

**Disadvantages:** No ordinance will exist that will require the safe storage of firearms.

- 2) Decline to adopt a firearms storage ordinance.

**Advantages:** No change to municipal code ordinance.

**Disadvantages:** Safe storage of firearms will not be required.



**Subject:** Firearm Safe Storage Ordinance

**Recommendation:**

The staff recommends Option 1



**Subject:** Firearm Safe Storage Ordinance

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**Advantages:** The ordinance will require the safe storage of firearms.

**Disadvantages:** No ordinance will exist that will require the safe storage of firearms.

3) Decline to adopt a firearms storage ordinance.

**Advantages:** No change to municipal code ordinance.

**Disadvantages:** Safe storage of firearms will not be required.

**Recommendation:**

The staff recommends Option 1.

**ORDINANCE NO. 2021-481**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AMENDING THE LOS ALTOS MUNICIPAL CODE BY ADDING A NEW CHAPTER 7.29 ENTITLED “SAFE STORAGE OF FIREARMS” IN THE CITY OF LOS ALTOS AND MAKING FINDINGS PURSUANT TO CALIFORNIA ENVIRONMENTAL QUALITY ACT THAT THIS ORDINANCE IS CATEGORICALLY EXEMPT FROM ENVIRONMENTAL REVIEW**

**THE CITY COUNCIL OF THE CITY OF LOS ALTOS FINDS AS FOLLOWS:**

- (a) Firearm fatalities and injuries are of epidemic proportions in Santa Clara County and across the country, and that unsecured weapons in the home pose a threat to public health and safety:
1. According to statistics from the County of Santa Clara Public Health Department, in 2016, 11 percent of injury deaths within the County were due to firearms.
  2. According to the United States Centers for Disease Control and Prevention, in 2017, in the United States 39,773 people lost their lives in firearm-related incidents including homicides, suicides, and unintentional shootings. Of those deaths, 23,854 (60%) were due to suicide, and 486 were due to accidental discharge of weapons.
  3. According to a study published in the New England Journal of Medicine, in 2016, firearms were the second-highest cause of death among youth aged 1 to 19. The rate of firearm deaths among youth in the United States is more than 35 times higher than the rate in other high-income Countries.
  4. According to the United States Centers for Disease Control and Prevention, from 2013 to 2017, on average more than 1,000 children and teens in the United States committed suicide using firearms annually.
  5. Studies have found that the vast majority of guns used in youth suicides, unintentional shootings among minors, and school shootings perpetrated by minors are acquired from the minor’s home, or the homes of relatives or friends.
  6. When firearms are left unsecured in homes, children are at risk of injury or death:
    - a. In October of 2020, in Merced, California, a young boy shot and killed his 5-year-old sister with a firearm he found loaded and unsecured in a bag laying on the floor of his house.
    - b. In June of 2019, a San Bernardino, California, a 12-year-old boy gained access to an “unsecured firearm” and shot and killed his twin brother.

## ATTACHMENT 1

- c. In January of 2019, in San Jose, California, an 11-year-old was fatally shot by a 14-year-old after the teenager got a hold of two handguns that belonged to the grandfather of a friend.
- d. In April of 2019, in Fallbrook, California, a 12-year-old shot his 12-year old cousin in the shoulder after the children came across his uncle's gun.
- e. In March of 2019, in Miami Gardens, Florida, a 6-year-old fatally shot himself after coming across an unsecured firearm in his grandmother's home.
- f. In December of 2018, in Madera, California, a 5-year-old shot a 9-year-old in the back with an unsecured rifle at a family gathering.
- g. In July of 2018, a two-year-old toddler shot and killed himself with a loaded firearm he found on an entertainment center.
- h. In June of 2018, in Yakima, Washington, a 14-year-old shot his 14-year-old friend in the chest after the boys found an unsecured firearm in the shooter's home.
- i. In February of 2018, in Los Angeles, California, a 12-year-old brought a gun to school and injured four classmates after accidentally discharging the gun.
- j. In January of 2018, in Benton, Kentucky , a 15-year-old student opened fire on classmates, killing 2 and injuring 14 others, with a firearm he had found unsecured in his stepfather's closet.
- k. In August of 2017, in Syracuse, New York, a 9-year-old fatally shot his 8-year-old brother after finding their father's unsecured gun.
- l. In July of 2017, in Oakland, California, a 17-year-old boy visiting a relative's home fatally shot himself in the head while playing with an unsecured handgun.
- m. In July of 2016, in Lemoore, California, a 3-year-old who was visiting an apartment with her family fatally shot herself in the head after coming across an unsecured gun.
- n. In January of 2016, in Kokhanok, Alaska, an 11-year-old accidentally shot and killed a 5-year-old after finding an unsecured rifle.
- o. In May of 2015, in Gilroy, California, a 13-year-old accidentally shot herself in the leg with her stepfather's gun.

- p. In May of 2015, in Perris, California, a 14-year-old accidentally shot and killed his 9-year-old brother after the boys came across their stepfather's unsecured handgun.
  - q. In March of 2014, in Nuevo, California, a 5-year-old fatally shot himself after finding an unsecured firearm in his home.
  - r. In January of 2013, in Taft, California, a 16-year-old opened fire on his classmates, critically injuring one, after gaining access to his older brother's firearm.
7. Studies have found that the risk for suicide increases when firearms are kept loaded and/or unlocked.
  8. According to the FBI, over half of female victims of intimate partner homicide in the United States are killed with a gun. And, also according to FBI data, gun-related domestic killings increased by 26% from 2010 to 2017. Safely storing weapons may decrease the chances of a domestic dispute culminating in firearm related injury or death.
  9. There is a wide consensus among medical professionals, police chiefs, and gun rights advocates that applying trigger locks or using lock boxes to store unsupervised firearms in the home promotes health and safety:
    - a. The International Association of Chiefs of Police recommends that state and local governments mandate safe storage of firearms.
    - b. The American Academy of Pediatrics recommends that if families must have firearms in their homes, the firearms should be stored locked, unloaded, and separate from locked ammunition.
    - c. The National Rifle Association, the nation's leading gun rights advocacy organization, advises on its "NRA Family" website, that gun owners "[s]tore guns so they are inaccessible to unauthorized persons. What does this really mean? It means you need to take all possible steps to make sure that only you and trusted family members are able to get to your firearm."
  10. Keeping unsecured firearms in the home increases the flow of illegal guns into the community. According to the Center for American Progress, hundreds of thousands of firearms are stolen each year in the United States and many are subsequently sold illegally. The Center recommends that gun owners store firearms securely to help protect against theft.



(b) While government at all levels has an important, substantial, and compelling interest in protecting the public from firearm-related injuries and death, local governments are the entities primarily responsible for the protection of public health, safety, and welfare in their communities. The Los Altos City Council, therefore, has a responsibility to ensure that it protects public health and safety.

1. Our regional health care system incurs costs associated with treating and caring for those injured by firearm-related incidents. According to a 2018 analysis by the County of Santa Clara Public Health Department, the economic cost associated with firearm deaths, hospitalizations, and emergency department visits in Santa Clara County amounts to over \$126,000,000 annually, including the cost of medical bills and lost work. According to the Santa Clara Valley Medical Center, from January 1, 2016 to December 31, 2017, there were over 100 firearm injuries treated in the trauma center.
2. The City of Los Altos and its City Council respects the right of Los Altos residents to possess and lawfully use firearms. This ordinance applies only to firearms that are not being carried or in the close proximity and control of their lawful owners or other authorized users. Further, secure gun storage does not preclude swift access to firearms in the home by authorized users. The National Rifle Association notes that a modern gun lock box can be opened by its owner in less than two seconds, even in the dark.
3. Requiring firearms to be stored with trigger locks or in locked containers does not substantially burden a person's right and ability to use firearms for self-defense in the home.

(c) For the foregoing reasons, the City Council of the City of Los Altos wishes to protect the health, safety, and wellbeing of residents in the City of Los Altos, and the broader community, by reducing the potential for firearm related fatalities and injuries, including suicides, and diminishing the risk of theft by requiring gun owners to store their firearms in locked containers or with a disabling trigger lock except when being carried by or within the close proximity and control of an authorized person.

**NOW THEREFORE**, the City Council of the City of Los Altos does ordain as follows:

**SECTION 1.** The foregoing recitals are incorporated herein by this reference and made a part thereof.

**SECTION 2.** Los Altos Municipal Code is hereby amended by adding a new Chapter 7.29 entitled "Safe Storage of Firearms" to read as follows:

**7.29.010 Definitions.**

For purpose of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

- A. “*Firearm*” means any gun, pistol, revolver, rifle, or any device that is designed or modified to be used as a weapon, from which is expelled through a barrel a projectile by the force of an explosion or other form of combustion. “Firearm” does not include imitation firearms, BB guns, or air rifles as defined in Government Code section 53071.5 or any successor legislation.
- B. “*Close proximity and control*,” as used here, means within arm’s reach of a person who is actively paying attention to the firearm such that they could gain control of the weapon before an unauthorized person could access the weapon.
- C. “*Locked container*” means a locked container as defined in Penal Code section 16850, as amended from time to time and as listed on the California Department of Justice Bureau of Firearms roster of approved firearm safety devices.
- D. “*Residence*” means any structure intended or used for human habitation, including but not limited to houses, condominiums, rooms, in-law units, motels, hotels, single room occupancies, time shares, accessory dwelling units, and recreational and other vehicles where human habitation occurs, whether on a temporary or permanent basis, and whether owned, leased, rented, or used with or without compensation, and regardless of the lawful status of the structure or its occupancy. Notwithstanding the foregoing, “Residence” shall not include a seasonal hunting lodge when used by an individual with a valid hunting license from the state Department of Fish and Wildlife and when no child who does not also hold a valid hunting license from the state Department of Fish and Wildlife is present. A “seasonal hunting lodge” for the purposes of the previous sentence must be lawfully used for temporary human habitation, used by a given individual less than 90 days in a calendar year, and not located in an Urban Residential, Commercial, or Industrial District as defined by the Zoning Ordinance.
- E. “*Trigger lock*” means a trigger lock that is listed on the California Department of Justice’s roster of approved firearms safety devices and that is identified as appropriate for that firearm by reference to either the manufacturer and model of the firearm or to the physical characteristics of the firearm that match those listed on the roster for use with the device under Penal Code section 23655(d).

**7.29.29 Prohibition on keeping firearms in a residence unless in locked container, disabled with a trigger lock, carried by an authorized user, or in immediate control or possession of an authorized user.**

- A. Except when carried on the person of an individual in accordance with all applicable laws or when in the close proximity and control of a person who is authorized to carry a firearm in accordance with all applicable laws, in the City of Los Altos no person shall keep a firearm in any residence unless the firearm is stored in a locked container or the firearm is disabled with a trigger lock. This provision does not apply to the storage or use of a firearm outside of a residence.
- B. Each day that a firearm is improperly stored shall constitute a separate violation of this Section.
- C. The first violation of this Section shall be an infraction punishable by a fine not to exceed \$500.00.
- D. All additional violations of this Section beyond the first violation shall constitute an infraction punishable by a fine not to exceed \$1,000.00.

**7.29.30 Reporting theft or loss to law enforcement.**

Nothing in this ordinance affects a person’s obligations under California Penal Code §25250 to report that a firearm has been lost or stolen to local authorities within five days of the time he or she knew or reasonably should have known that the firearm had been lost or stolen.

**SECTION 3. CONSTITUTIONALITY.** If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

**SECTION 4. CEQA.** The City Council finds and determines that the proposed Ordinance relates to organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment, and therefore is exempt from California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15061(b)(3), which states the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment” as the Ordinance has no potential to result in a direct, or reasonably foreseeable, indirect impact on the environment.

**SECTION 5. PUBLICATION.** This ordinance shall be published as provided in Government Code section 36933.

**SECTION 6. EFFECTIVE DATE.** This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on September 14, 2021 and was thereafter, at a regular meeting held on \_\_\_\_\_, 2021 passed and adopted by the following vote:

AYES:

**ATTACHMENT 1**

NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Neysa Fligor, MAYOR

Attest:

\_\_\_\_\_  
Andrea Chelemengos, MMC, CITY CLERK

**ORDINANCE NO. 2021-481**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS  
AMENDING THE LOS ALTOS MUNICIPAL CODE BY ADDING A NEW CHAPTER  
7.29 ENTITLED “SAFE STORAGE OF FIREARMS” IN THE CITY OF LOS ALTOS  
AND MAKING FINDINGS PURSUANT TO CALIFORNIA ENVIRONMENTAL  
QUALITY ACT THAT THIS ORDINANCE IS CATEGORICALLY EXEMPT FROM  
ENVIRONMENTAL REVIEW**

**THE CITY COUNCIL OF THE CITY OF LOS ALTOS FINDS AS FOLLOWS:**

- (a) Firearm fatalities and injuries are of epidemic proportions in Santa Clara County and across the country, and that unsecured weapons in the home pose a threat to public health and safety:
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  - 4. According to the United States Centers for Disease Control and Prevention, from 2013 to 2017, on average more than 1,000 children and teens in the United States committed suicide using firearms annually.
  - 5. Studies have found that the vast majority of guns used in youth suicides, unintentional shootings among minors, and school shootings perpetrated by minors are acquired from the minor’s home, or the homes of relatives or friends.
  - 6. When firearms are left unsecured in homes, children are at risk of injury or death:
    - a. In October of 2020, in Merced, California, a young boy shot and killed his 5-year-old sister with a firearm he found loaded and unsecured in a bag laying on the floor of his house.

- b. In June of 2019, in San Bernardino, California, a 12-year-old boy gained access to an “unsecured firearm” and shot and killed his twin brother.
- c. In January of 2019, in San Jose, California, an 11-year-old was fatally shot by a 14-year-old after the teenager got a hold of two handguns that belonged to the grandfather of a friend.
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8. According to the FBI, over half of female victims of intimate partner homicide in the United States are killed with a gun. And, also according to FBI data, gun-related domestic killings increased by 26% from 2010 to 2017. Safely storing weapons may decrease the chances of a domestic dispute culminating in firearm related injury or death.
9. There is a wide consensus among medical professionals, police chiefs, and gun rights advocates that applying trigger locks or using lock boxes to store unsupervised firearms in the home promotes health and safety:
- a. The International Association of Chiefs of Police recommends that state and local governments mandate safe storage of firearms.
  - b. The American Academy of Pediatrics recommends that if families must have firearms in their homes, the firearms should be stored locked, unloaded, and separate from locked ammunition.
  - c. The National Rifle Association, the nation's leading gun rights advocacy organization, advises on its "NRA Family" website, that gun owners "[s]tore guns so they are inaccessible to unauthorized persons. What does this really

mean? It means you need to take all possible steps to make sure that only you and trusted family members are able to get to your firearm."

10. Keeping unsecured firearms in the home increases the flow of illegal guns into the community. According to the Center for American Progress, hundreds of thousands of firearms are stolen each year in the United States and many are subsequently sold illegally. The Center recommends that gun owners store firearms securely to help protect against theft.

(b) While government at all levels has an important, substantial, and compelling interest in protecting the public from firearm-related injuries and death, local governments are the entities primarily responsible for the protection of public health, safety, and welfare in their communities. The Los Altos City Council, therefore, has a responsibility to ensure that it protects public health and safety.

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2. The City of Los Altos and its City Council respects the right of Los Altos residents to possess and lawfully use firearms. This ordinance applies only to firearms that are not being carried or in the close proximity and control of their lawful owners or other authorized users. Further, secure gun storage does not preclude swift access to firearms in the home by authorized users. The National Rifle Association notes that a modern gun lock box can be opened by its owner in less than two seconds, even in the dark.

3. Requiring firearms to be stored with trigger locks or in locked containers does not substantially burden a person's right and ability to use firearms for self-defense in the home.

(c) For the foregoing reasons, the City Council of the City of Los Altos wishes to protect the health, safety, and wellbeing of residents in the City of Los Altos, and the broader community, by reducing the potential for firearm related fatalities and injuries, including suicides, and diminishing the risk of theft by requiring gun owners to store their firearms



in locked containers or with a disabling trigger lock except when being carried by or within the close proximity and control of an authorized person.

**NOW THEREFORE**, the City Council of the City of Los Altos does ordain as follows:

**SECTION 1.** The foregoing recitals are incorporated herein by this reference and made a part thereof.

**SECTION 2.** Los Altos Municipal Code is hereby amended by adding a new Chapter 7.29 entitled “Safe Storage of Firearms” to read as follows:

**7.29.010 Definitions.**

For purpose of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

- A. “*Firearm*” means any gun, pistol, revolver, rifle, or any device that is designed or modified to be used as a weapon, from which is expelled through a barrel a projectile by the force of an explosion or other form of combustion. “Firearm” does not include imitation firearms, BB guns, or air rifles as defined in Government Code section 53071.5 or any successor legislation.
- B. “*Close proximity and control*,” as used here, means within arm’s reach of a person who is actively paying attention to the firearm such that they could gain control of the weapon before an unauthorized person could access the weapon.
- C. “*Locked container*” means a locked container as defined in Penal Code section 16850, as amended from time to time and as listed on the California Department of Justice Bureau of Firearms roster of approved firearm safety devices.
- D. “*Residence*” means any structure intended or used for human habitation, including but not limited to houses, condominiums, rooms, in-law units, motels, hotels, single room occupancies, time shares, accessory dwelling units, and recreational and other vehicles where human habitation occurs, whether on a temporary or permanent basis, and whether owned, leased, rented, or used with or without compensation, and regardless of the lawful status of the structure or its occupancy. Notwithstanding the foregoing, “Residence” shall not include a seasonal hunting lodge when used by an individual with a valid hunting license from the state Department of Fish and Wildlife and when no child who does not also hold a valid hunting license from the state Department of Fish and Wildlife

is present. A “seasonal hunting lodge” for the purposes of the previous sentence must be lawfully used for temporary human habitation, used by a given individual less than 90 days in a calendar year, and not located in an Urban Residential, Commercial, or Industrial District as defined by the Zoning Ordinance.

- E. “*Trigger lock*” means a trigger lock that is listed on the California Department of Justice’s roster of approved firearms safety devices and that is identified as appropriate for that firearm by reference to either the manufacturer and model of the firearm or to the physical characteristics of the firearm that match those listed on the roster for use with the device under Penal Code section 23655(d).

**7.29.029 Prohibition on keeping firearms in a residence unless in locked container, disabled with a trigger lock, carried by an authorized user, or in immediate control or possession of an authorized user.**

- A. Except when carried on the person of an individual in accordance with all applicable laws or when in the close proximity and control of a person who is authorized to carry a firearm in accordance with all applicable laws, in the City of Los Altos no person shall keep a firearm in any residence unless the firearm is stored in a locked container or the firearm is disabled with a trigger lock. This provision does not apply to the storage or use of a firearm outside of a residence.
- B. Each day that a firearm is improperly stored shall constitute a separate violation of this Section.
- C. The first violation of this Section shall be an infraction punishable by a fine not to exceed \$500.00.
- D. All additional violations of this Section beyond the first violation shall constitute an infraction punishable by a fine not to exceed \$1,000.00.

**7.29.030 Reporting theft or loss to law enforcement.**

Nothing in this ordinance affects a person’s obligations under California Penal Code §25250 to report that a firearm has been lost or stolen to local authorities within five days of the time he or she knew or reasonably should have known that the firearm had been lost or stolen.

**SECTION 3. CONSTITUTIONALITY.** If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

**SECTION 4. CEQA.** The City Council finds and determines that the proposed Ordinance relates to organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment, and therefore is exempt from California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15061(b)(3), which states the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment” as the Ordinance has no potential to result in a direct, or reasonably foreseeable, indirect impact on the environment.

**SECTION 5. PUBLICATION.** This ordinance shall be published as provided in Government Code section 36933.

**SECTION 6. EFFECTIVE DATE.** This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on September 14, 2021 and was thereafter, at a regular meeting held on October 12, 2021 passed and adopted by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Neysa Fligor, MAYOR

Attest:

\_\_\_\_\_  
Andrea Chelemengos, MMC, CITY CLERK