TOWN OF LOS GATOS
COUNCIL AGENDA REPORT

MEETING DATE: 11/17/2026
ITEM NO: 11

DATE: November 17, 2026

TO: Mayor and Town Council

FROM: Gabrielle Whelan, Town Attorney

SUBJECT: **Consider a Recommendation of Denial from the Planning Commission Regarding Introduction of an Ordinance Amending Chapter 4 (Animals and Fowl) and Chapter 29 (Zoning Regulations) of the Town Code Regarding Electronic Dog Containment and the Town's Fence Regulations. The Proposed Amendments to the Town Code are Not Project Under Section 15378 of the California Environmental Quality Act. Town Code Amendment Application A-26-006. Project Location: Town Wide. Applicant: Town of Los Gatos.**

RECOMMENDATION: Consider Planning Commission's recommendation of denial regarding introduction of an Ordinance amending Chapter 4 (Animals and Fowl) and Chapter 29 (Zoning Regulations) of the Town Code regarding electronic dog containment and the Town's fence regulations.

FISCAL IMPACT:

No additional appropriation is required. One time publication and codification costs are expected to be absorbed within existing departmental budgets.

STRATEGIC PRIORITY:

A strategic priority does not address this action. This action supports the Town core goals of Good Governance by resolving conflicting Town Code provisions and Community Character by preserving wildlife movement and hillside appearance.

BACKGROUND:

A resident provided the Town with information pertaining to electronic dog containment systems and requested that the Town consider amending the Town Code to allow for the use of

PREPARED BY: Gabrielle Whelan, Town Attorney

Reviewed by: Town Manager and Community Development Director

electronic dog containment systems (Attachment 6). Specifically, the resident asked that the Town Council consider amending Town Code Section 4.40.005 to recognize hidden underground electronic fence systems as an additional method of dog containment. In response, the Town Council requested a brief informational report on this topic.

The Town Council received an informational report on August 4, 2026. After discussion, the Town Council directed the Town Attorney to draft an Ordinance permitting the use of underground electronic fence systems on properties of one acre or more in the hillside area. The reason for the amendment is to fill a gap in the current Town Code.

When proposed changes to the Town Code will affect Chapter 29, "Zoning Code," of the Town Code, they are referred to the Planning Commission for a recommendation to the Town Council. The Planning Commission considered the proposed Ordinance on October 28, 2026. Public comment was provided by the resident who requested the Town Code change, a neighbor, and the Santa Clara Valley Bird Alliance. At the hearing, the Planning Commission received the following information. The resident who requested the change resided on a parcel of .87 acres that would not be affected by the change. The neighbor expressed concern regarding harm to animals and the efficacy of electronic dog containment systems. The Santa Clara Valley Bird Alliance requested public outreach and an evaluation of the potential impacts to wildlife before the Town Code is amended.

Based on this public testimony, the Planning Commission voted 5-0-1 (Commissioner Sordi was absent) on October 28, 2026, to recommend denial of the Ordinance.

CURRENT TOWN CODE:

The draft Ordinance would amend Town Code Sections 4.40.005, 29.40.0310, and 29.40.0315.

Town Code Section 4.40.005 (a) currently requires that pets be contained or on a leash. If pets are contained by a fence, the fence is required to be six feet tall. Section 4.40.005 (a) reads as follows:

Sec. 4.40.005. - Restraint of dogs.

(a) The owner or person with the right to control any dog shall keep such dog under the owner's own physical restraint by means of a leash not to exceed six (6) feet in length, or shall keep such dog confined behind a fence not less than six (6) feet high. This section shall not apply to the following:
(1) Guide dogs for the blind or deaf while performing their duties;
(2) Dogs participating in field or obedience trails or exhibitions as permitted by the Town;
(3) Dogs assisting a security guard or assisting a peace officer engaged in law enforcement activities;

(4) Dogs assisting their owner/handler in legal hunting or in the herding of livestock;
(5) Dogs within an off-leash area designated by the Town;
(6) Dogs being trained for any of the above purposes on private land with permission of the landowner, so long as such dogs are under direct control of such individuals to assure that they do not violate any other provision of law.

Town Code Sections 29.40.030 through 29.40.0330 address fences in residential zones. Because it is important to read these provisions of the Town Code together, a copy of those Sections is included as Attachment 7.

Town Code Section 29.40.0315 prohibits solid fences in the hillside area and requires that perimeter fencing on properties of one acre or more, be wildlife friendly:

> Town Code Section 29.40.0310 defines "wildlife-friendly fence" as: a fence that allows any animal, regardless of size, to climb under, pass through, or jump over, with a maximum height of 42 inches and a minimum distance between the bottom rail and the ground of 18 inches.

When Sections 4.40.005 and 29.40.0315 are read together, they prohibit a dog owner on a property of one acre or more located in the hillside area from building a perimeter fence at the property line to contain a dog. The height that Section 4.40.005 requires is a height that is prohibited by Section 29.40.0315. This does not appear to have been a deliberate policy choice. Section 4.40.005 predates adoption of Section 29.40.0315. Both Sections predate widespread consumer availability of buried-wire containment technology, which was patented in 1973 and first became widely available between 1989-1993.

It should be noted that existing Town Code Section 29.40.0320 authorizes the Community Development Director to grant exceptions to the Town's fence regulations when specified conditions are present. Subsection (d) authorizes an exception when "a special security concern exists that cannot be practically addressed through alternatives." Subsection (e) authorizes an exception when "a special circumstance exists, including lot size or configuration, where strict enforcement of these regulations would result in undue hardship."

DISCUSSION:

One common type of electronic pet containment system is a wired invisible fence. The system uses a wire buried around the perimeter of a property to establish a designated boundary for the pet.

The State of California does not prohibit the use of electronic fences for ordinary pet containment. However, state law regarding "potentially dangerous or vicious dogs" requires an "enclosure," which is defined as "a fence or structure suitable to prevent the entry of young children, and which is suitable to confine a vicious dog in conjunction with other measures

which may be taken by the owner or keeper of the dog. The enclosure shall be designed to prevent the animal from escaping . . . ." (Food and Agricultural Code Sections 31601-31683). Thus, for potentially dangerous or vicious dogs, this language requires a physical fence as opposed to an electronic pet containment system.

Based on public comment and review of industry publications, staff has identified the following pros of allowing dog owners to use electronic dog containment systems:

1) Fills a gap between Town Code Sections 4.40.005 and 29.40.0315 affecting properties of one acre or more located in the hillside area;
2) Allows wildlife movement, which is consistent with the "Room to Roam Act" (described below);
3) Provides hillside property owners on property of one acre or more with a cost-effective tool to assist with keeping their dogs on their property while preserving the appearance of the Town's hillsides; and
4) Covers large acreage and adapts to hilly areas where fences are difficult to build.

Staff has identified the following California jurisdictions that allow the use of electronic dog containment fences:

Jurisdiction	**Code Section**	**Scope of Authorization**	**Relevant Language / Summary**	**Conditions or Limitations**
County of San Diego	**San Diego County Code § 62.669**	**General dog-control provision**	Recognizes an **"electronic pet containment system"** as one method by which a dog may be effectively controlled, in addition to voice control or physical restraint.	Applies to dogs; electronic containment is treated as an alternative method of control.
City of Del Mar	**Del Mar Municipal Code § 4.04.020**, incorporating specified San Diego County animal-control provisions	**General dog-control provision**	Incorporates San Diego County law requiring owners to effectively control dogs by voice, an **electronic pet containment system**, or physical and humane restraint by leash, fence, or other enclosure.	The City's treatment appears to derive substantially from its adoption of applicable County animal-control provisions.

Jurisdiction	Code Section	Scope of Authorization	Relevant Language / Summary	Conditions or Limitations
City of Salinas	**Salinas Municipal Code § 7-1**	**General animal-containment provision**	Animals are deemed to be running at large unless restrained or confined within an appropriate enclosure, **"such as an electrified fence or an electronic fence."**	Applies broadly to dogs and other animals, except domesticated cats. The enclosure must be designed to prevent escape.
County of Monterey	**Monterey County Code § 8.04.010**	**General dog-containment provision**	Recognizes a dog as confined within a "dog-tight enclosure" where contained by an **"electric or electronic fence."**	Applies to dogs in the unincorporated County.
City of Rolling Hills	**Rolling Hills Municipal Code § 6.24**	**Aggressive animals**	Expressly permits confinement of an aggressive animal by **"a fence, electronic fence, running line, pulley, or trolley system,"** or another approved device.	Limited to aggressive animals and subject to requirements designed to prevent escape.

The information provided by the resident also references a new state law, the "Room to Roam Act" (Attachment 8). Assembly Bill 1889 amends Government Code Section 65302 effective January 1, 2028. After January 1, 2028, Government Code Section 65302 will require that the Conservation Element of the Town's General Plan identify ways in which wildlife corridors can be protected in the Town.

A redline version of the draft Ordinance is attached as Attachment 3. A clean version of the draft Ordinance is attached as Attachment 2.

CONCLUSION:

The draft Ordinance would change Town Code Sections 4.40.005, 29.40.0310, and 29.40.0315 regarding electronic dog containment and the Town's fence regulations.

ALTERNATIVES:

The Town Council can:

1. Introduce the Ordinance;
2. Decline to introduce the Ordinance; or
3. Continue the matter with specific direction.

COORDINATION:

This item was coordinated with the Town Attorney's Office, Community Development Department, and Town Manager's Office.

ENVIRONMENTAL ASSESSMENT:

The proposed Ordinance amendments are not a project subject to CEQA because allowing electronic pet containment systems on specified properties will not result in an impact on the physical environment (CEQA Guidelines Section 15378). In addition, the proposed amendments are exempt from CEQA pursuant to the "common sense" exemption, because it can be seen with certainty that they will not impact the physical environment. (CEQA Guidelines Section 15061(b)(3).)

Attachments:
1. Required Findings
2. Draft Ordinance
3. Redline Showing Proposed Ordinance Amendments
4. October 28, 2026, Planning Commission Staff Report with Exhibits
5. October 28, 2026, Planning Commission Verbatim Minutes
6. Information provided by resident
7. Town Code Sections 29.40.030-29.40.0330
8. Room to Roam Act
9. Public Comments