



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 01/21/2020

ITEM NO: 10

DATE: January 14, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Introduce an Ordinance, by Title Only, Effecting an Amendment to:
a. Chapter 9 (Fire Prevention and Protection) of the Town Code regarding Defensible Space regulations.
b. Chapter 11 (Garbage, Refuse and Weeds) of the Town Code regarding Weed Abatement regulations.
c. Chapter 29 (Tree Protection) of the Town Code regarding exemptions for Defensible Space.

RECOMMENDATION:

Introduce an Ordinance, by title only, effecting an amendment to:
a. Chapter 9 (Fire Prevention and Protection) of the Town Code regarding Defensible Space regulations.
b. Chapter 11 (Garbage, Refuse and Weeds) of the Town Code regarding Weed Abatement regulations.
c. Chapter 29 (Tree Protection) of the Town Code regarding exemptions for Defensible Space.

EXECUTIVE SUMMARY:

On April 16, 2019, the Town Council adopted Annex 9 (Attachment 1) of the Santa Clara County Community Wildfire Protection Plan (CWPP). Among other things, Annex 9 included a matrix of recommended actions to mitigate occurrence and potential damage associated with wildfire. One of the strategic goals identified in the Annex was the development of a wildfire evacuation assessment for the Wildland Urban Interface (WUI) portion of Town.

PREPARED BY: Arn Andrews
Assistant Town Manager

Reviewed by: Town Manager, Town Attorney, Director of Parks and Public Works, and Director of Community Development

EXECUTIVE SUMMARY (continued):

On October 15, 2019, the Town Council received the Wildland Urban Interface Evacuation Assessment. As part of the development of that assessment, staff conducted a review of the Town's Municipal Code as it relates to wildfire mitigation. Based on that assessment, staff identified Chapter 9, Chapter 11, and Chapter 29 for Town Code revisions. The recommendations in this report have been developed to augment and align Town Codes related to wildfire mitigation which reflect currently adopted best practices and State legal requirements. In addition, the recommended changes will help to facilitate the implementation of portions of Annex 9.

Due to the interrelated nature of the recommended code revisions this staff report has been developed as a single report. However, three independent Ordinances have been drafted and based on Council's action would require three individual First readings.

BACKGROUND:

Los Gatos is identified as a Community at Risk from wildfires on the Federal and the California Fire Alliance list of Communities at Risk in Santa Clara County. The Los Gatos Wildland Urban Interface (WUI) planning area includes primarily Very High Fire Hazard Severity Zone (VHFHSZ) areas on the southern side of Los Gatos. The WUI area is best described as an area that transitions from a natural condition (wildland) to human settlements. Homes and other development in the WUI are at risk of catastrophic wildfire due to the presence of vegetation that could fuel a wildfire.

The WUI and VHFHSZ designations within the Town trigger multiple State mandated requirements for building codes and other areas which can help mitigate the occurrence or spread of wildfire. In particular, California Public Resources Code (PRC) 4291 mandates 100 feet of defensible space around structures in high fire severity zones. In addition, PRC 4291 was expanded in 2008 to allow local jurisdictions require defensible space beyond property lines under certain circumstances. While the Town has traditionally adopted Chapter 49 of the California Fire Code (with amendments) which incorporates the legal requirements associated with WUI defensible space, other Town Codes have either contradicted or been inconsistent with the maintenance of defensible space.

DISCUSSION:

Defensible Space

Defensible space means an area around the perimeter of structures in which vegetation, debris, and other types of combustible fuels are treated, cleared, or reduced to slow the rate and intensity of potentially approaching wildfire or fire escaping from structures. The creation of reasonable and adequate defensible space focuses on measures to modify or breaking

DISCUSSION (continued):

up the hazards emanating from the continuity of fire fuels, both horizontal (across the ground) and vertical (from the ground up into the crowns of brush and trees). Fuels that exhibit a large degree of both vertical and horizontal continuity are the most hazardous; in particular when they are on slopes. Thus, mitigation of wildfire hazards within the defensible space perimeter focuses on breaking up the continuity of horizontal and vertical fuels, while also addressing environmental concerns like habitat and erosion protection. Attachment 2 from Cal Fire provides a simple illustration of defensible zones and horizontal and vertical spacing.

Appropriate defensible space does not require, or advocate, the clear cutting of trees and brush. Often times a continuous canopy of fire-resistant trees may be desirable in some cases to create shade (sometimes referred to as a "shaded fuel-break") which can suppress weeds and grasses and help retain moisture.

If the Town Council introduces and adopts the proposed Ordinances, staff will design a website and offer educational tools to provide specific recommendations and resources to our residents and property owners.

Chapter 9 (Fire Prevention and Protection)

Chapter 49 of the California Fire Code (with amendments) is adopted into the Town Code and incorporates the legal State requirements associated with WUI structures. However, State legislation grants local jurisdictions the authority to add additional restrictions based on the threat severity in that jurisdiction. Given the significant wildfire threat in Los Gatos, staff is recommending several amendments beyond the usual administrative additions.

Most substantively, staff is recommending that the Town adopt language permissible under California Government Code Section 51182 (a)(2) which may require defensible space beyond property lines under certain circumstances. In addition, staff is recommending that the Town adopt a 5-foot nonflammable zone around new structures consistent with best practices advocated by County Fire.

Staff's recommendations are provided in a draft Ordinance (Attachment 3) and in redline format (Attachment 4).

Chapter 11 (Garbage, Refuse, and Weeds)

On November 5, 2019, the Town Council adopted amendments to Chapter 11 to expand the definition of weeds to include other dead vegetation, fallen limbs, and combustible trash on private property and add additional language to clarify and strengthen the Town's weed

DISCUSSION (continued):

abatement program. In order to better align the Ordinance, staff is recommending a minor edit to increase the required width from a roadway for weed abatement from 5 feet to 10 feet.

Staff's recommendations are provided in a draft Ordinance (Attachment 5) and in redline format (Attachment 6).

Chapter 29 (Tree Protection)

In order for WUI residents of the Town to adequately manage defensible space, staff is recommending revisions to Chapter 29 (Tree Protection) of the Town Code.

Most substantively, staff is recommending that trees either removed or maintained in the furtherance of defensible space be categorized under Sec.29.10.0970 Exceptions. By creating defensible space as an exception item, it would preclude any other elements of the Code Division thereby significantly increasing the ease with which homeowners can become compliant with State law. Its important to note, that protected trees listed in subcategory (3) and (10) under Sec.29.10.0960 will not be exempted from the provisions of the Division. Staff's recommendations are provided in a draft Ordinance (Attachment 7) and in redline format (Attachment 8).

CONCLUSION:

To continue enhancing the Town's protection and resilience from the threat of wildfire, staff recommends adoption of revisions to Chapter 9, Chapter 11, and Chapter 29 of the Town Code.

COORDINATION:

This staff report was coordinated with the Director of Parks and Public Works, Director of Community Development, Town Attorney, and Santa Clara County Fire District.

FISCAL IMPACT:

There is no fiscal impact associated with these Ordinances.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required

Attachments:

1. Town of Los Gatos Annex 9
2. Cal FIRE defensible space diagram
3. Chapter 9 – Draft Ordinance
4. Chapter 9 – Draft Amendments (redline)

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SUBJECT: Amendments to Chapter 9, Chapter 11, and Chapter 29 of the Town Code

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5. Chapter 11 – Draft Ordinance
6. Chapter 11 – Draft Amendments (redline)
7. Chapter 29 – Draft Ordinance
8. Chapter 29 – Draft Amendments (redline)