



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 8/4/26

ITEM NO: 17

DATE: July 30, 2026
TO: Mayor and Town Council
FROM: Gabrielle Whelan, Town Attorney
SUBJECT: **Electronic Pet Containment and Town's Fence Regulations**

RECOMMENDATION: Receive information regarding electronic pet containment and the Town's existing fence regulations and provide direction to staff.

FISCAL IMPACT:

This informational report does not have a fiscal impact.

STRATEGIC PRIORITY:

This informational report supports transparent Council consideration of a resident's request. It is not related to an adopted Strategic Priority and does not, by itself, establish a new work program. Council consideration is necessary to determine if the Town Council desires to deploy staff resources for this public request.

BACKGROUND:

A resident provided the Town Council with information pertaining to electronic pet containment systems and requested that the Town Council consider amending the Town Code to allow for the use of electronic pet containment systems. (Attachment 1.) 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 pet containment. In response, the Town Council requested a brief informational report on this topic.

PREPARED BY: Gabrielle Whelan, Town Attorney, and Bridgette Falconio, Administrative Technician

Reviewed by: Town Manager, Assistant Town Manager, Administrative Services Director, and
Community Development Director

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.

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 code together, a copy of those Sections are attached. (Attachment 2.)

Town Code Section 29.40.0315 prohibits solid fences in hillside areas 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 hillside animal owner on a property of one acre or more from building a perimeter fence at the property line to contain the animal. 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 1989-1993.

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:

Attached is information prepared by the resident who made the request (Attachment 1) as well as articles published by the Whole Dog Journal and VCA Pet Hospitals (Attachment 3).

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

- 1) Removes a conflict between Town Code Sections 4.40.005 and 29.40.0315 affecting hillside properties of one acre or more;
- 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 pets 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.

The cons are:

- 1) Pain to animals related to an electric shock.

- 2) While the electronic fences are designed to keep pets in, the electronic fences do not keep other dogs, stray animals, or wildlife off property and away from pets.
- 3) Pets can still leave the property if they are sufficiently motivated or the power goes out or the collar battery dies; and
- 4) Verification of compliance with fencing requirement is more challenging.

To date, staff has identified the following local jurisdictions in California that allow the use of electric pet containment fences:

<u>Jurisdiction</u>	<u>Code Section</u>	<u>Scope of Authorization</u>	<u>Relevant Language / Summary</u>	<u>Conditions or Limitations</u>
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.
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.

<u>Jurisdiction</u>	<u>Code Section</u>	<u>Scope of Authorization</u>	<u>Relevant Language / Summary</u>	<u>Conditions or Limitations</u>
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.

Attached is a copy of the San Diego County ordinance authorizing the use of electronic pet containment fences (Attachment 4).

The information provided by the resident also references a new state law, the "Room to Roam Act" (Attachment 5). 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.

CONCLUSION:

Town staff is requesting direction from the Town Council regarding the request that the Town Code be amended to specifically authorize the use of electronic pet containment fences.

COORDINATION:

This report was coordinated with the Community Development Department and Town Manager.

ENVIRONMENTAL ASSESSMENT:

This is an informational report and is not a project defined under CEQA.

Attachments:

1. Information provided by resident
2. Town of Los Gatos Town Code Sections 29.40.030-29.40.0330
3. Articles from VCA Animal Hospitals and Whole Dog Journal
4. San Diego County Ordinance
5. Assembly Bill 1889, "Room to Roam Act"