



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/15/2019

ITEM NO: 8

DATE: October 10, 2019
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Introduction of an Ordinance of The Town of Los Gatos Amending Chapter 4 – Animals and Fowl, Article VI, Sections 4.60.050 and 4.60.055 Entitled Animal Rescuer and Trap-Neuter-Return Registration and Maintenance of Animal Rescuer or TNR Activist Registration and Article VIII Entitled Beekeeping

RECOMMENDATION:

Accept public comment and then move for the introduction and first reading of an Ordinance, by title only, amending Chapter 4 entitled Animals and Fowl, Articles VI and VIII.

BACKGROUND:

The implementation of the September 2018 updates to the Town Code regarding feral cats and TNR registration has shown that the requirements of Town Code Sections 4.60.050 and 4.60.055 pertaining to registration by TNR organizations were unduly burdensome and unnecessary to achieve the desired outcome.

In addition, the recent annexation of 24 Los Gatos islands, effective August 31, 2019, highlighted the need to update Town beekeeping regulations to more closely align with ordinances of Santa Clara County and surrounding jurisdictions, and best practices.

DISCUSSION:

Article VI – Animal Establishment Registration

Town Code Sections 4.60.050 and 4.60.055 formerly regulated the keeping of more than the number of adult animals allowed by the Code for the purpose of animal rescue. In short, this Code was originally written to regulate shelters, requiring them to register with the Town

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Deputy Town Attorney

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

DISCUSSION (continued):

Manager or Animal Control Agency as an animal rescuer and provide proof of Internal Revenue Code Section 501(c)(3) status and proof that animal rescue was a primary organizational goal. In the amendment of the Town Code Chapter 4 – Animals and Fowl in September 2018, these sections were expanded to include a registration requirement for Trap-Neuter-Return (TNR) organizations and persons.

In the past year of implementation of this change, it has become apparent that this registration requirement does not suit the nature of most, if not all, TNR work. TNR work may be done by individuals or organizations; although these organizations rarely have a physical presence. They are more often comprised of volunteer individuals, often with only an internet presence. In addition, TNR organizations and individuals are not housing animals in large numbers in shelters or structures in the Town. Rather the nature of the activity involves individual trapping of feral cats, removal to a veterinarian for neuter/spay and other medical treatment, and return to location of origin. Therefore, the impact cannot be compared to that of a shelter, obviating the need for registration.

Further the actual trapping and removing and returning aspect of TNR activity does not carry with it the potential for the same nuisance consequences that the feeding activity does. While feeding feral cats to facilitate the successful trapping is a part of TNR work, it is often carried out by individuals other than the trappers. It is the non-TNR feeding activity which can cause the health and safety and sanitation nuisance conditions. Therefore, in practice it is more important to regulate and permit the feeding activity. Requiring registration by trappers unduly burdens and discourages the aspect of TNR that has the least potential for a harmful impact and the most potential for ultimate improvement of the feral cat population in the Town.

The proposed amendments to Sections 4.60.050 and 4.60.055 (Attachment 1 Ordinance and Attachment 2 Redline) simply remove all references to TNR organizations and individuals, and keep the requirements the same for animal shelters.

Article VIII – Beekeeping

Beekeeping is an endeavor which continues to gain popularity in recent years. Bees provide pollination, which is an essential ecosystem service. According to the University of California Agriculture and Natural Resources White Paper, close to 75% of all flowering plants on Earth rely to some degree on pollinators in order to set seed or fruit. Pollinators are required for producing 15 to 30% of the human food supply. In California alone, about one-third of agricultural revenue comes from pollinator-dependent crops. Declines in pollinator populations could have serious economic repercussions throughout the United States and the world, including rising food costs and potential crop failures.

DISCUSSION (continued):

Responding to the known decline in pollinators, President Obama issued a Presidential Memorandum in 2014 establishing the Pollinator Health Task Force and in June 2016 the White House published the Pollinator Partnership Action Plan (PPAP). This Plan discusses the need for coordinated national/federal actions with state, local, and private efforts to achieve improvements in pollinator health and recover from pollinator losses.

The Los Gatos Town Code Article VIII – Beekeeping – has not been revised for over two decades. It is much more restrictive than all but one of the surrounding jurisdictions, including Santa Clara County, which previously governed the Town's recently annexed islands. The Town's current regulations effectively limit beekeeping operations in most areas of the Town given the large distance requirements. In addition, the present Los Gatos Beekeeping Ordinance does not allow beehives to be located less than one thousand feet from the nearest residence, church, school, public building or corral, or less than 300 feet from any public road. This requirement rules out beekeeping for many residential parcels. Of the jurisdictions researched, only Campbell has the same language in their Code (see Attachment 4).

The number of hives (aka colonies) allowed and location of hives are two of the most important concerns to residents. Santa Clara County ties the location of hives to the number of hives. Fewer hives can be closer; greater number of hives must be commensurately farther from property lines, or roads or other dwellings. In the County Code, one to three colonies must be no less than 100 feet from all property lines and public roadways. If an effective flight dispersing barrier is maintained, that requirement drops to 25 feet. In the County's Ordinance, a flight dispersing barrier is defined as a fence, hedge or wall which serves to prevent the apiary from becoming a nuisance. The definition does not further stipulate location or placement of barrier, thus the standard perimeter/property line fence could constitute said barrier. The County's location parameters, while more forgiving than the Town's present 1,000 feet, still are geared more for larger properties than are typical in the Town.

The neighboring cities (with the exception of Campbell, as stated) have location requirements that vary from six to ten feet from property lines. Some also have distance requirements from the nearest dwelling unit or public road (see Attachment 4). The proposed Ordinance (Attachment 1 and Attachment 3 Redline) for the Town of Los Gatos ties number of hives to the size of the property and requires a uniform distance from property lines and public roadways for ease of enforcement.

The proposed Ordinance (Attachment 1) also has nuisance sections which give the Town the ability to address and enforce public health, safety, and nuisance concerns.

CONCLUSION:

Approval of the Animal Establishment registration requirement changes will ease the burden on TNR organizations and approval of the recommended amendments to Beekeeping will further the desired goal of promoting pollinator populations by making beekeeping possible on more parcels within the Town. Keeping the current beekeeping ordinance in place will limit or proscribe beekeeping on many parcels within the Town.

ALTERNATIVES:

1. Not approve the recommended amendments.
2. Approve different amendments and return with revised Ordinance.
3. Refer the issue back to staff with direction.

COORDINATION:

In the rewrite of Sections 4.60.050 and 4.60.055 of Article VI – “Animal rescuer and trap-neuter-return registration and Maintenance of animal rescuer or TNR activist registration, the proposed revisions were sent to some interested members of the TNR community.

In the rewrite of the Beekeeping ordinance, research was conducted which included speaking with the Santa Clara County Agricultural Commissioner’s Office; meeting with interested groups and individuals from local business ChicknBees, and the Santa Clara Valley Beekeepers’ Guild; reading online research papers; and examining the ordinances for 10 mostly neighboring jurisdictions: the cities of Santa Clara, San Jose, Monte Sereno, Saratoga, Morgan Hill, Cupertino, Campbell, Santa Clara County and two instructive ordinances from San Diego County and the city of Concord. Drafts of the Town’s proposed Ordinance were circulated to local experts for feedback.

In the last five years, Town staff has received approximately one complaint a year about beehives. On September 30, 2019, Town staff received a number of complaints about one beekeeping residence on Kingston Hill Way. Town staff was provided with a list of 10 people who reported being stung in this vicinity. Staff reached out to all 10 and interviewed eight. All but two reported or identified wasp stings. This property did have a wasp nest on it adjacent to the sidewalk. The owner has now taken remedial measures to eradicate the wasp nest. However two people identified bee stings and one neighbor immediately adjacent reports getting some bees in her home. Town staff visited this area three times and met with the beekeeper each time, as well as the affected neighbor on two occasions. Town staff has asked the beekeeper to relocate the hives to the other side of his house; however, it is unknown at this time whether that will prevent any bees from encroaching into the neighbor’s yard.

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SUBJECT: Chapter 4 – Animals and Fowl: Article VI and Article VIII

DATE: October 15, 2019

FISCAL IMPACT:

Approval will have no negative fiscal impact on the Town.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Draft Ordinance
2. Redline changes to Chapter 4 – Animals and Fowl; Article VI – “Animal Establishments”, Sections 4.60.050 and 4.60.055 of Article VI – “Animal rescuer and trap-neuter-return registration and Maintenance of animal rescuer or TNR activist registration
3. Redline changes to Chapter 4 – Animals and Fowl: Article VIII – “Beekeeping”
4. Chart of surrounding jurisdictions