



**TOWN OF LOS GATOS  
TOWN COUNCIL POLICY COMMITTEE SPECIAL MEETING  
NOVEMBER 15, 2018  
TOWN COUNCIL CHAMBERS – 110 EAST MAIN STREET  
LOS GATOS, CA  
1:30 P.M.**

*Rob Rennie, Mayor  
Marcia Jensen, Council Member*

**MEETING CALLED TO ORDER**

**ROLL CALL**

**VERBAL COMMUNICATIONS** *(Members of the public may address the Committee on any matter that is not listed on the agenda. Unless additional time is authorized by the Committee, remarks shall be limited to three minutes.)*

**OTHER BUSINESS** *(Up to three minutes may be allotted to each speaker on any of the following items.)*

1. Approve the October 18, 2018 Council Policy Committee Draft Minutes.
2. Review and provide direction on potential short-term rental regulations.
3. Continue to discuss parameters for a Town parklet pilot program.
4. Discuss and provide direction for potential amendments to the Town Code regarding fences, hedges and walls.

**ADJOURNMENT**

**IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT THE CLERK DEPARTMENT AT (408) 354-6834. NOTIFICATION 48 HOURS BEFORE THE MEETING WILL ENABLE THE TOWN TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING [28 CFR §35.102-35.104]**

*This Page  
Intentionally  
Left Blank*



---

**DRAFT  
MINUTES OF THE TOWN COUNCIL SPECIAL POLICY COMMITTEE MEETING  
OCTOBER 18, 2018**

The Town Council Policy Committee of the Town of Los Gatos conducted a Special Meeting on Thursday, October 18, 2018, at 1:30 p.m.

**MEETING CALLED TO ORDER AT 1:30 p.m.**

**ROLL CALL**

Members Present: Rob Rennie, Marcia Jensen

Staff Present: Laurel Prevetti, Town Manager; Robert Schultz, Town Attorney; Arn Andrews, Assistant Town Manager; Joel Paulson, Community Development Director; Matt Morley, Parks and Public Works Director; Michael D'Antonio, Police Captain; Kalipo Kauwelo, Police Sergeant; Monica Renn, Economic Vitality Manager; Sally Zarnowitz, Planning Manager; Holly Zappala, Management Analyst.

**VERBAL COMMUNICATIONS**

Karen Delaney

-Commented that the Committee should consider changes to the Town's Code of Conduct and ethics so that elected public officials are held accountable for their actions and any violations are fully disclosed to the public. Ms. Delaney also provided written materials to the Committee members.

**OTHER BUSINESS**

**1. Approval of September 20, 2018 Council Policy Committee Draft Minutes.**

Approved.

**2. Discuss and provide direction on parklet parameters.**

Monica Renn, Economic Vitality Manager, presented the staff report.

Catherine Somers

-Commented that the Town should control and implement the parklet pilot program, use locations that will be best from a safety perspective, decide on a consistent design for the parklets, and ensure that they are open to everyone.

Terry Martin

-Commented that the proposed parklet in front of Southern Kitchen was intended as an area for customers to have coffee and wait for a table than to be served. He looked at the Portland, Oregon model where parklets serve as common seating areas for the public and are not necessarily intended for a single restaurant or business. He cautioned against using wire as a barrier due to safety concerns and recommended raised concrete planter boxes.

Lee Quintana

-Commented that in Portland, Oregon there is no requirement for a barrier between the sidewalk and the parklet, and they are primarily against the buildings. She believes parklets should be public spaces and is opposed to providing public property for a private restaurant use. In New York City, parklet areas are labeled with plaques that indicate the space for public use.

After discussion, the Committee's direction was to return to the Committee with:

- Options for parklet pilot programs including both a Town-funded model as well as a Town and business partnership model to begin on Main Street.
- The associated costs for each model, barrier/safety options, as well as potential objective criteria to determine ideal parklet locations.
- Draft design guidelines, appropriate materials, and options.

**3. Receive a report on downtown Saturday time limited parking and provide direction to staff for next steps.**

Matt Morley, Parks and Public Works Director, presented the staff report.

Catherine Somers

-Commented that she supports unlimited parking in the municipal lots on Saturdays and that this would encourage to ensure that their staff park in unlimited parking spaces on other days.

Maria Ristow

-Commented that she supports unlimited parking in the lots on all Saturdays and retaining the parking limits on the streets.

After discussion, the Committee decided to forward a recommendation to the Town Council that the Committee agreed with the recommendation of the Transportation and Parking Commission to allow for unlimited parking in the Town's municipal lots on Saturdays, retain parking time limits on downtown streets, and look forward to the comprehensive parking study findings.

**4. Discuss potential regulations for short-term rentals.**

Holly Zappala, Management Analyst, presented the staff report.

Maria Ristow

-Commented that although short-term rentals are not allowed in Campbell and Saratoga, the Airbnb website shows listings in both areas. She said that when she stays in Airbnb rentals, the hosts typically provide local rules for their guests to follow. Breaking the rules can result in the renter getting a bad review on Airbnb and ruining their reputation as a good renter. This serves as a deterrent to breaking the local rules as a guest.

Lee Quintana

-Commented that the short-term rental model used in Hood River, Oregon requires a permit for all short-term rentals, designates zoning districts for short-term rentals in commercial districts, and limits the number of rental days per year.

After discussion, the Committee's direction was to return to the Committee with options for allowing and regulating short-term rentals, including:

- Consider a goal of not denying homeowners the right to do what they wish with their homes while protecting neighbors from nuisance situations.
- Create an over-the-counter permitting process that is not too complicated or expensive.
- Draft a sample short-term rental application form with clear instructions.
- Allow for the Community Development Director to revoke a short-term rental permit.
- Address the concerns of investment properties being purchased for the sole purpose of use as a short-term rental and losing affordable housing within the Town.
- Look at options for limiting the number of nights in un-hosted rentals versus unlimited nights in hosted rentals.
- Look at limiting short-term rentals to one per owner and one per parcel.

**ADJOURNMENT**

The meeting adjourned at 3:26 p.m.

PAGE 4 OF 4

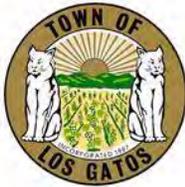
SUBJECT: DRAFT MINUTES OF THE TOWN COUNCIL SPECIAL POLICY COMMITTEE  
MEETING OF OCTOBER 18, 2018

DATE: NOVEMBER 15, 2018

This is to certify that the foregoing is a true  
and correct copy of the minutes of the  
October 18, 2018 meeting as approved by the  
Council Finance Committee.

---

Holly Zappala, Management Analyst



**TOWN OF LOS GATOS**  
**TOWN COUNCIL POLICY COMMITTEE**

MEETING DATE: 11/15/2018

ITEM NO: 2

---

DATE: November 7, 2018  
TO: COUNCIL POLICY COMMITTEE  
FROM: LAUREL PREVETTI, TOWN MANAGER  
SUBJECT: REVIEW AND PROVIDE DIRECTION ON POTENTIAL SHORT-TERM RENTAL (STR) REGULATIONS.

**RECOMMENDATION:**

Review and provide direction on potential short-term rental (STR) regulations.

**BACKGROUND:**

On October 2, 2018, a staff report regarding short-term rentals (STRs) was brought to the Town Council for initial discussion and direction. Council voted unanimously to refer the item to the Policy Committee for further discussion with input from Council members. A copy of the Council Staff Report is available as Attachment 1.

STRs were discussed at the October 18, 2018 Town Council Policy Committee meeting. A copy of the Policy Committee Staff Report is available as Attachment 2.

After discussion, the Policy Committee's direction was for staff to return to the Committee with options for allowing and regulating STRs. The Committee asked that staff consider a goal of not denying homeowners the right to do what they wish with their homes while protecting neighbors from nuisance situations. The Committee requested an over-the-counter permitting process that is not too complicated or expensive. The Committee asked staff to consider allowing the Community Development Director the ability to revoke an STR permit, look at options for limiting the number of nights in un-hosted rentals versus unlimited nights in hosted rentals, look at limiting STRs to one per owner and one per parcel, and also to address the concerns of investment properties being purchased for the sole purpose of use as an STR and losing affordable housing within the Town.

PREPARED BY: HOLLY ZAPPALA  
Management Analyst

---

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

---

BACKGROUND (continued)

Current regulatory environments for STRs adopted by other municipalities run the gamut from highly regulated to lightly regulated. A good example of a highly regulated environment can be found in the “Short-Term Rental Operating License” section of the Hood River, Oregon Municipal Code (Attachment 3). In contrast to regulatory environment adopted by Hood River, the Town of Los Altos Hills has adopted less stringent requirements to their Municipal Code for STRs (Attachment 4).

The “DISCUSSION” section of the staff report lays out the primary areas of consideration for the regulation of STRs. The first issue to consider is whether to allow hosted and/or un-hosted rentals. Additionally, there are a variety of options regarding issues of regulating zones, accessory dwelling units, parking, the permitting process, revocation of permits, enforcement, and miscellaneous regulations to conserve the Los Gatos housing stock and mitigate neighborhood impact. The report provides a range of options for each area of discussion reflective of the varying degrees of regulation which could be adopted.

DISCUSSION:

*Hosted vs Un-Hosted Rentals*

In a hosted rental, a permanent resident must reside at the property while it is being rented. Hosted STRs may present fewer code compliance issues since the host is present to oversee the rental. Having a resident host may also increase the comfort of neighbors who may otherwise be unsure about the guests. Un-hosted rentals are normally for an entire house/property as opposed to a room or accessory dwelling unit. Un-hosted rentals may have more neighborhood compatibility issues and enforcement issues, such as noise complaints.

Option 1: Allow hosted rentals and prohibit un-hosted rentals. Requiring the host to reside on-site would limit hosts to renting a portion of their primary dwelling or an accessory dwelling unit on the property and require them to be present to handle any code compliance violations that may arise.

Option 2: Allow un-hosted rentals with a limited number of rental days (i.e. 60 or 90 days per year), while allowing an unlimited number of days per year for hosted rentals.

Option 3: Allow a limited number of rental days per year for both hosted and un-hosted rentals. Hosted rentals could have a greater limit (i.e. 180 days) than un-hosted rentals.

Option 4: Do not regulate hosted vs. un-hosted rentals.

DISCUSSION (continued):

It is important to note that should the Town limit the number of rental days for hosted or un-hosted rentals, the Town would need to rely on hosts to self-report the number of rental days per year, as Airbnb does not provide specific data for each property when remitting transient occupancy tax (TOT) on behalf of its hosts. Enforcement of the number of rental days allowed per year is challenging to enforce for this reason.

*Regulation by Zone*

STRs may be confined to certain zones within the Town, or the number of STRs within these zones could be limited, as a way to mitigate neighborhood impact and conserve housing stock.

Option 1: Allow a maximum number of permits (with a lottery and/or first-come, first-serve wait list) in certain zones. For example, in the Residential Downtown zone (R-1D), a maximum of 15 STR permits could be allowed. In other zones, such as Hillside Residential (HR), permits could be unlimited.

Option 2: Allow a maximum number of permits (with a lottery and/or first-come, first-serve wait list) in each residential zone. For example, 15 permits could be allowed in the R-1D zone, 25 in the HR zone, etc.

Option 3: STRs could be prohibited in certain zones where there are a higher concentration of properties and residents, while allowed in other zones.

Option 4: No regulations on the number of STR permits allowed in each zone.

*Accessory Dwelling Units*

Per Town Code Sec. 29.10.320 (b) (14), shown in Attachment 3, currently rentals for durations of less than 30 days are prohibited in new accessory dwelling units, approved after February 6, 2018, when the ordinance went into effect.

Option 1: Allow STRs in accessory dwelling units approved before February 6, 2018 only. Maintain the current prohibition on STRs in accessory dwelling units approved after February 6, 2018.

Option 2: Amend the Town Code to remove Sec 29.10.320 (b) (14) and allow STRs in all accessory dwelling units provided they adhere to all other regulations.

Option 3: Prohibit STRs in all accessory dwelling units in Town.

DISCUSSION (continued):

To note: During staff review of Airbnb's website, the majority of listings in Los Gatos (almost half) were for accessory dwelling units.

*Parking*

In an effort to decrease neighborhood impact and mitigate existing parking concerns, parking for registered STRs can be regulated.

Option 1: Require all STR parking to remain on-site in areas where parking is not permitted. Require STR parking to be limited to using the two guest parking passes purchased per house/property through the Police Department in areas where parking is permitted.

Option 2: Limit the number of vehicles allowed per STR guest. For example, a maximum of one or two vehicles could be allowed per rental.

Option 3: Do not regulate parking for STRs.

*Permitting Process*

A potential process for registering an STR with the Town would include the following steps and could potentially be completed over-the-counter:

- Obtain a business license. This would be required as business is being conducted in Town. The current annual fee for a business license for a hotel is \$7.50 per room being rented plus the Senate Bill 1186 state-mandated fee, which is currently \$4.
- Submit a one-page STR registration form with the fee to be determined. A sample can be drafted as the regulations are developed. The current fee for a Home Occupation permit is around \$180.00.
- Submit a TOT registration form. All hosts should self-report their TOT data. Hosts using platforms other than Airbnb would also need to self-remit TOT directly to the Town, unless the Town were to enter into voluntary TOT collection agreements with other platforms in the future.
- Provide a copy of the Certificate of Occupancy for the property to ensure the space is habitable and in compliance with all permit conditions, laws and codes. If no Certificate of Occupancy can be produced, the host must obtain and pass a Health and Safety inspection from the Community Development Department. The current fee for this inspection is around \$300.00.

DISCUSSION (continued):

*Revocation of STR Permits*

In an effort to mitigate neighborhood impact, the Town can reserve the right to revoke STR permits.

Option 1: Allow the Community Development Director the ability to revoke STR permits at his/her discretion.

Option 2: Automatically revoke STR permits after a certain number of code compliance violations (i.e. three confirmed violations within a 12-month period) or failure to remit TOT after a certain period of time.

Option 1A. Revocation of an STR permit lasts for a defined period of time (i.e. one or two years)

Option 1B. Revocation of an STR permit is permanent for that host at that property.

*Enforcement*

At first, staff recommends that enforcement continue on a complaint-driven basis. The Town currently receives a small number (between one and three a year) of STR related complaints. Should the need arise, there are third party firms that provide services such as identifying all STR rentals in Town for registration and providing a 24/7 rental hotline for complaints. Additional enforcement options may also be considered such as:

Option 1: Creating a penalty for failing to register an STR within 90 days of operation in order to encourage compliance.

Option 2: Creating an online map/directory of registered STRs in Town by address with the ability click on a property and file an online complaint.

*Miscellaneous Regulations to Conserve Housing Stock*

A number of additional regulations may be adopted in order to help conserve the housing stock in Los Gatos:

Option 1: Prohibit STRs in Senior Housing units (the Town currently expressly prohibits them in Below Market Price units).

Option 2: Require a property owner approval letter for all STRs in which the host is not the owner.

DISCUSSION (continued):

Option 3: Limit STR registration to one per owner.

Option 4: Limit STR registration to one per parcel. Apartment complexes may require a lottery and/or a wait list on a first-come, first-serve basis.

*Miscellaneous Regulations to Mitigate Neighborhood Impact*

Additional regulations may be put in place in order to protect neighbors from nuisance situations:

Option 1: Prohibit commercial or assembly uses such as weddings and special events.

Option 2: Require a homeowners' association (HOA) approval letter for all STR properties that are part of an HOA.

Option 3: Require hosts to provide guests with local rules regarding occupancy, parking noise, trash collection schedules, etc. to follow during their stay.

Option 4: Limit the maximum number of overnight lodgers (not including minor children). Limits can be imposed per number of rooms (i.e. two guests for each room rented) or can be imposed as a standard number (i.e. maximum of four guests per rental). The limits can be different for hosted and un-hosted rentals.

Option 5: Prohibit renting to unaccompanied minors.

Option 6: Require STR hosts (or an appointed site manager) to be on call 24/7 to manage the STR unit and respond to reported issues, contact the tenants regarding complaints received, and/or be physically present at the STR unit to address reported concerns within a certain amount of time (i.e. 30 minutes) from the time of notification.

CONCLUSION AND NEXT STEPS:

Staff looks forward to the direction of the Committee regarding the best policy options for regulating STRs in Los Gatos. Depending on the level of policy regulation the Committee wishes to pursue, staff will then craft the appropriate administrative regime to effectuate the policy objectives.

FISCAL IMPACT:

Based on preliminary data received from Airbnb, the Town may receive estimated annual transient occupancy tax revenue of \$226,800 if the Town were to enter into a voluntary TOT collection agreement with Airbnb.

Attachments:

1. October 2, 2018 Los Gatos Council Report
2. October 18, 2018 Policy Committee Report
3. City of Hood River Short-Term Rental Policy
4. Town of Los Altos Hills Short-Term Rental Policy
5. Town Code Sec. 29.10.320
6. Public Comment Received November 2, 2018
7. Public Comment Received November 6, 2018

*This Page  
Intentionally  
Left Blank*



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 10/02/2018

ITEM NO: 8

---

DATE: SEPTEMBER 27, 2018  
TO: MAYOR AND TOWN COUNCIL  
FROM: LAUREL PREVETTI, TOWN MANAGER  
SUBJECT: DISCUSS AND PROVIDE DIRECTION REGARDING POTENTIAL REGULATIONS FOR SHORT-TERM RENTALS.

**RECOMMENDATION:**

Discuss and provide direction regarding potential regulations for short-term rentals (STRs).

**BACKGROUND:**

Short-term rental (STR) is the practice of renting a portion of or an entire home to a person or group of people for periods of less than 30 nights. In recent years, there has been exponential growth of STRs offered through “sharing economy” websites, such as Airbnb (by far the leader of the group), VRBO, Flipkey, and Homeaway. To illustrate the growth in STR platforms, seven million guests used Airbnb to rent out rooms or homes in California in 2017, according to Matt Middlebrook, Airbnb’s Public Policy Lead for California. The growing popularity of STRs is forcing municipalities across the country and the world to develop strategies in response.

A review of Airbnb’s website shows between 50 and 100 STR properties currently in Los Gatos. The majority (about 45 percent) are guesthouses/cottages, followed by about 30 percent room rentals and approximately 20 percent entire houses for rent. There were also a couple local hotel rooms listed and even a camper/recreational vehicle (RV). Currently, STR listings do not include the address of the rental, making them difficult to locate based on public listing information; however, based on information from one popular STR information aggregator, the picture below illustrates the units currently available in Los Gatos. Another STR information aggregator places the STR inventory at approximately 104 units in the 95030 and 95032 zip codes.

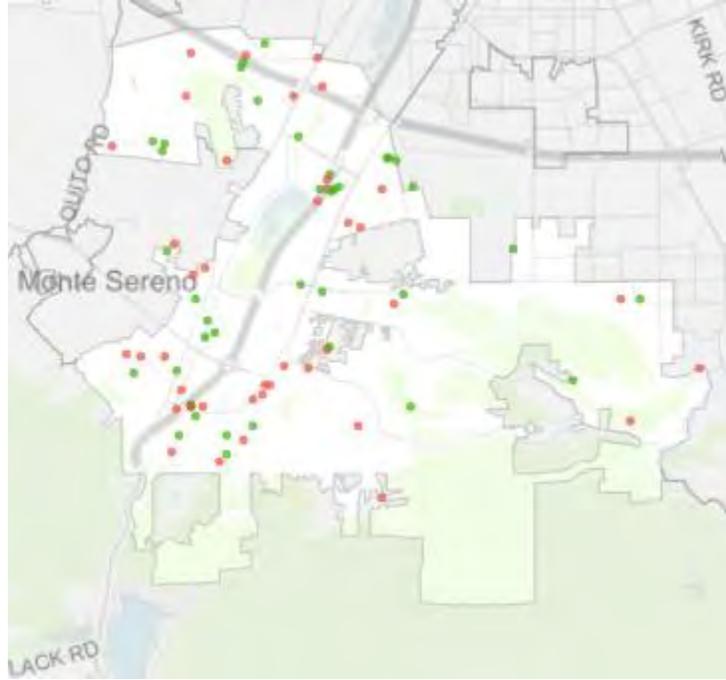
PREPARED BY: ARN ANDREWS, Assistant Town Manager  
HOLLY ZAPPALA, Management Analyst

---

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

---

BACKGROUND (Cont'd):



Source: Inside Airbnb (red entire homes/apartments, green private/shared room)

Given the wide adoption of STR platforms and the subsequent proliferation of STRs within Los Gatos, it is timely for the Town Council to discuss the Town's current STR approach, review policy options, and provide direction on potential STR regulations.

DISCUSSION:

*Existing Town STR Approach*

The current Town of Los Gatos Zoning Ordinance is silent on the subject of short-term rentals as a permitted use in any of the Town's zones, which by default prohibits them from occurring within the Town's jurisdiction. Town Code Sec. 25.30.010 defines a hotel as any structure occupied by transients for dwelling, lodging, or sleeping purpose. Town Code Sec. 29.10.020 further defines a hotel/motel as a building where lodging, with or without meals, is provided for compensation and where occupancy is generally limited to no more than thirty (30) days. A hotel is not a permitted use in the residential zones, therefore prohibiting homeowners from renting out a house for 30 days or less. A transient is defined as any person who exercises occupancy for a period of thirty (30) consecutive calendar days or less. In addition, Code Sec. 29.10.320 (b) (14) also specifically prohibits rentals for durations of less than thirty (30) days, including short-term rentals, in accessory dwelling units. The Town enforces these Code

SUBJECT: DISCUSS AND PROVIDE DIRECTION REGARDING POTENTIAL REGULATIONS FOR SHORT-TERM RENTALS (STR)  
 SEPTEMBER 27, 2018

DISCUSSION (Cont'd):

sections and the prohibition on a complaint-driven basis. The Town received two STR complaints in 2015, one in 2016, three in 2017, and three in 2018 so far.

The current Transient Occupancy Tax (TOT) rate in Los Gatos is 12% and it applies to rentals that do not exceed 30 consecutive days. These rentals have historically been hotel stays, until the recent popularity of the sharing economy rentals. The Town currently collects this tax from hotels. The tax is paid by the hotel guest and collected and remitted by the hotel owners. No TOT is collected for STRs currently.

*Alternative STR Policy Approaches*

There are many STR policy approaches being adopted by regional and national peer municipalities. In Santa Clara County, jurisdictions have taken a variety of approaches to the topic of STRs. The City of Saratoga has banned them while the Cities of San Jose and Sunnyvale have regulated them. The Cities of Santa Clara and Morgan Hill have no ordinances or regulations in place but have agreements with Airbnb to collect Transient Occupancy Tax through its reservation platform. Other municipalities, including the Town of Los Gatos, do not have an ordinance regulating STRs.

Regulates STRs	STRs not allowed	No Regulations	Regulations under consideration
San Jose	Campbell	Gilroy	Mountain View
Sunnyvale	Milpitas	Santa Clara	Cupertino
Los Altos Hills	Saratoga	Morgan Hill	
San Francisco	Palo Alto		

While the policy approaches may vary in adoption, the variables addressed during policy formation are fairly consistent. In municipalities that have chosen to regulate STRs, there are a variety of best practices emerging as a way to manage them, including establishing a geographic zone specifically for STRs, requiring the STR host to be present, limiting the number of rental days per year (difficult to enforce), and limiting the number of guests at one time (difficult to enforce).

Following are the primary policy considerations if the Council would like to consider regulating and allowing STRs.

DISCUSSION (Cont'd):

- **Type:** There are two primary types of residency options in practice to consider:
  1. **Hosted Rentals:** In a hosted rental, a permanent resident must live at the home while it is being rented. Hosted STRs could present fewer compliance issues since the host would reside on the premises to oversee the rental. Having a resident host living at the house could also increase the comfort of neighbors who may otherwise be unsure about the guests.
  2. **Un-Hosted Rentals:** Un-hosted rentals are normally for the entire house/property as opposed to a room or accessory dwelling unit. Un-hosted rentals could have more neighborhood compatibility and enforcement issues, such as noise complaints. Un-hosted rentals may also have a greater impact on the affordability of the rental housing market, as owners may seek to rent multiple properties concurrently.
- **Geographic Zone(s):** STRs could be confined to certain zones within the Town. The number of STRs within those zones within the Town could also be limited. A minimum distance could also be established between properties that have been permitted for STRs.
- **Limiting the number of days allowed per year:** Many jurisdictions have regulated the number of days per year an STR can be rented. Jurisdictions further codify a distinct number of days per year for hosted units versus un-hosted units, with un-hosted rental days per year being significantly less than the number allowed for hosted rentals.
- **Maximum number of guests at one time—Hosted:** In order to control the number of people using an STR and the effects on neighbors (parking and noise), a limitation on the number of STR guests allowed in a 24-hour period can be included in the regulations. Children under a certain age can be excluded from the count. The number of guests can be calculated based on the number of rooms in the house. However, having one standard regardless of the number of bedrooms makes enforcement easier (e.g. four guests per property).
- **Maximum number of guests at one time—Un-Hosted:** If the entire home is available for use, some jurisdictions increase the maximum number of guests beyond the limit imposed upon hosted rentals.
- **Parking:** Vehicle parking for STRs could be required to remain on-site, or the number of vehicles per STR could be limited.

DISCUSSION (Cont'd):

- **Commercial Uses:** Assembly or commercial uses, such as weddings or other special events, could be prohibited at STRs. This would reduce noise, vehicles, and the overall impacts to a neighborhood.

*Additional STR Policy Considerations*

Potential Impact on Housing

While research regarding the potential impact of the STR market on housing availability is still in its infancy, early research indicates that it could have a negative impact in certain markets. Given the current relatively small number of STRs in Los Gatos, they likely have a minimal impact on current housing availability; however, if more homeowners begin renting their entire homes for longer durations, this could become a more prominent issue.

To discourage the conversion of units from long-term housing to STRs, municipalities have taken approaches such as: requiring STRs be only at the owner's primary residence, allowing only one unit per parcel to be used as an STR, requiring the host to be present during rental periods, and prohibiting STRs in Below Market Rate and senior units.

Neighborhood Character and Impacts

Transient tenants associated with STRs may impact parking, noise, and neighborhood character. There are a number of regulations that can be used to mitigate most of these concerns including: limiting the number of guests at one time, requiring parking to be on-site, limiting the number of vehicles, prohibiting assembly/commercial uses (such as weddings), requiring hosts to provide guests with local rules regarding noise, etc., and requiring the host to live at and be present at the property during any rentals.

Enforcement

In order to assist in effective enforcement either a continued ban on STRs or some form of a regulated model, violation penalties for both should be made clear and significant enough to encourage compliance. Some jurisdictions have created high penalties for failing to register an STR within 90 days of operation. This encourages STRs to register, making enforcement of any other violations much easier. In addition, many cities also include the ability to revoke the operator's STR-related business license or registration after two or three violations.

Staff will need to evaluate if additional Code Enforcement staff would be needed to assist in STR regulation. Given the history of very few STR-related complaints each year and the

DISCUSSION (Cont'd):

relatively low number of STRs currently in Town, additional staff may not be required right away.

Revenue Collection

Most municipalities that allow STRs require hosts to maintain a current business license and all hosts must report/remit TOT to the municipality. If the Town were to move forward with a regulatory program for STRs, a process for TOT collections from STRs would need to be established.

Airbnb has recently started entering into agreements with municipalities to collect and remit TOT on behalf of hosts/property owners. This allows municipalities to interact with one organization, rather than collecting funds from hundreds of individual property owners. Locally, San Jose, Santa Clara, Palo Alto, San Francisco, and Oakland have established agreements with Airbnb to collect and remit TOT on behalf of short-term rental hosts. Hosts using platforms other than Airbnb must self-report and remit TOT.

The other option is to refrain from contracting with Airbnb and use the honor system where owners remit taxes directly to the Town for all platforms. This approach has been less effective in other municipalities.

CONCLUSION AND NEXT STEPS:

Council should determine if the status quo approach to short-term rentals in Los Gatos should be maintained or if regulations should be drafted to allow STRs.

Among the options for Council consideration:

- Make no changes to the current Town ordinances and create enforcement tools to encourage compliance;
- Create an ordinance regulating STRs in the Town of Los Gatos and rely on owners/hosts to report and remit TOT directly to the Town;
- Create an ordinance regulating STRs in the Town of Los Gatos and enter into an agreement with Airbnb (and similar platforms) wherein Airbnb collects the TOT on behalf of the Town and remits directly to the Town; and
- Enter into an agreement with Airbnb wherein Airbnb collects the TOT on behalf of the Town and remits directly to the Town, while not changing the current Town ordinances.

Staff looks forward to the direction of the Town Council.

PAGE 7 OF 7

SUBJECT: DISCUSS AND PROVIDE DIRECTION REGARDING POTENTIAL REGULATIONS  
FOR SHORT-TERM RENTALS (STR)  
SEPTEMBER 27, 2018

COORDINATION:

This report was coordinated with the Town Attorney, Director of Community Development, and Director of Finance.

FISCAL IMPACT:

No fiscal impact at this time.

*This Page  
Intentionally  
Left Blank*



**TOWN OF LOS GATOS**  
**TOWN COUNCIL POLICY COMMITTEE**

MEETING DATE: 10/18/2018

ITEM NO: 4

---

DATE: OCTOBER 12, 2018  
TO: COUNCIL POLICY COMMITTEE  
FROM: LAUREL PREVETTI, TOWN MANAGER  
SUBJECT: DISCUSS POTENTIAL REGULATIONS FOR SHORT-TERM RENTALS (STRs)

RECOMMENDATION:

Discuss potential regulations for short-term rentals (STRs).

BACKGROUND:

On October 2, 2018, a staff report regarding short-term rentals (STRs) was brought to the Town Council for initial discussion and direction. Council voted unanimously to refer the item to the Policy Committee for further discussion with input from Council members. A copy of the Council Staff Report is available as Attachment 1.

Council requested additional research regarding how neighboring municipalities have responded to this issue and considerations that those jurisdictions took into account when formulating their approaches. Council also sought an estimate of the anticipated revenue from transient occupancy tax (TOT) associated with STRs if the Town were to allow and regulate STRs.

DISCUSSION:

The policy responses of municipalities comparable to Los Gatos generally fall into one of three categories: (1) outright prohibition of STRs, (2) TOT voluntary collection agreements with Airbnb without specific policy allowing/regulating STRs, and (3) policy adoption to allow and regulate STRs. Following is a summary of findings from staff's review of neighboring jurisdiction staff reports and/or discussions with neighboring jurisdiction staff.

PREPARED BY: HOLLY ZAPPALA  
Management Analyst

Attachment 2

---

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

---

DISCUSSION (Continued):

1. Outright prohibition of STRs

Some local municipalities have chosen not to allow STRs within their jurisdictions. STRs are banned in both Campbell and Saratoga.

*Campbell*

Campbell's position on STRs is nearly identical to the status-quo position of the Town of Los Gatos. STRs are not a permitted use in the Campbell Zoning Ordinance, which by default prohibits them from occurring in Campbell. Hotel-type uses are not permitted in residential zones, which prohibits homeowners from renting out their houses for periods of less than 30 nights. Campbell Code Enforcement enforces this ban on a complaint-driven basis. They receive relatively few complaints concerning STRs. There has been no interest within the City of Campbell in addressing the topic of STRs further, so their ordinance continues to remain silent on the subject. Campbell does not collect any TOT revenue from STRs.

*Saratoga*

Saratoga bans STRs outright within its city. The Saratoga Municipal Code is similar to those of Los Gatos and Campbell in that it does not allow STRs by-right as a permitted use in any residential zoning district. Saratoga staff examined the issue and brought it to the City Council in April, 2015 (see Attachment 2). Ultimately, the City chose to uphold the ban on STRs in order to avoid increased traffic, noise, and the high turnover of renters. Residents preferred to maintain their relatively quiet streets and valued neighborhood stability and privacy. Saratoga enforcement efforts include the creation of a flyer and a page on their website dedicated to providing information to the community regarding the ban on STRs (see Attachment 3). They currently receive approximately one or two STR-related complaints per year and do not collect any TOT revenue from STRs.

2. TOT voluntary collection agreement with Airbnb with no ordinance amendment to allow/regulate STRs

There are several neighboring jurisdictions that have chosen to enter into agreements with Airbnb wherein Airbnb collects TOT on behalf of its hosts and remits directly to the municipality, while not amending their Municipal Ordinances to allow or regulate STRs. Both Santa Clara and Morgan Hill have chosen this approach.

DISCUSSION (Continued):

*Santa Clara*

The City of Santa Clara does not regulate STRs. In 2015, the City Council authorized the City Manager to execute a voluntary tax collection agreement with Airbnb for the collection of the City's TOT on short term rentals (see Attachment 4). While the City has an agreement with Airbnb, there are other sharing economy rental sites that operate within the City of Santa Clara which do not have a TOT agreement with the City. Santa Clara has also not conducted any due diligence to ensure receipt of TOT from Airbnb, although the City has acknowledged that an upcoming review is warranted and planned (see Attachment 5).

Santa Clara's Zoning Code does not call out any restrictions and the relevant Zoning Code sections do not include provisions disallowing uses not mentioned, unlike other parts of their Code. The City's TOT definitions are broad enough to apply to STRs. Given the number of rentals in Santa Clara (approximately 130 at the time of the report), the anticipated revenue, and Airbnb's willingness to enter into a voluntary tax collection agreement, staff recommended the City enter into the agreement with Airbnb and Council approved it. One year into the agreement, Santa Clara's TOT revenue was \$291,789.26 (see Attachment 6). This was significantly higher than the initial projected annual TOT revenue of \$60,000.

*Morgan Hill*

Morgan Hill also chose a passive approach to the issue of STRs. Although they are not allowed in Morgan Hill, the City is aware that they are still occurring. There are approximately less than 50 listings on Airbnb. The City chose to enter into an agreement with Airbnb wherein Airbnb collects the TOT on behalf of its hosts and remits directly to the City (see Attachment 7). This was a strategy to collect the TOT revenue since the STRs, though not allowed, are still occurring within the City. Morgan Hill also created a system for hosts using platforms other than Airbnb to register and pay TOT independently (see Attachment 8). To date, no one has registered. If no STR-related complaints are received, the City does not get involved in the operation of the STRs; however, if complaints are received, the City will enforce the ban on STRs.

*Palo Alto*

Palo Alto has a similar strategy to Morgan Hill, noting that the TOT applies to homeowners or companies who may be renting bedrooms or dwelling units on a short-term basis, even if this activity violates the City's Zoning Ordinance.

DISCUSSION (Continued):

3. Policy adoption to allow/regulate STRs

In addition to the aforementioned policy choices, other local municipalities have chosen to allow and regulate STRs in their jurisdictions. When STRs are allowed, there are a number of policy considerations to be taken into account when establishing rules to regulate them. Some of the major considerations include: the type of rental (hosted vs. un-hosted), geographic location (confining them to certain zones), limiting the number of rental days allowed per year, limiting the number of renters allowed at one time, regulating parking, and limiting commercial/assembly uses. Sunnyvale and Los Altos Hills have both chosen to allow and regulate STRs within their jurisdictions.

*Sunnyvale*

Sunnyvale allowed and regulated STRs in 2015 (see Attachment 9). The City entered into a voluntary TOT collection agreement with Airbnb in 2018 (see Attachment 10). Sunnyvale staff also created a webpage with STR information, including an STR rental application and TOT registration form for hosts (see Attachment 11).

The City of Sunnyvale considered the impact on the housing stock and chose to not permit un-hosted rentals as a way to protect housing stock in the City. Un-hosted rentals can have a greater impact on the rental housing market, as owners may seek to purchase and rent multiple properties concurrently. A requirement for the host to reside on-site limits hosts to only rent a portion of their primary dwelling or an accessory dwelling unit on the property. Sunnyvale also considered neighborhood compatibility concerns when formulating STR regulations. They chose to limit the number of renters at one time and reserved the ability to revoke an approved STR. In addition to addressing housing stock concerns the city also required the host to reside on-site to handle nuisance concerns as a way to address the potential neighborhood compatibility issues. The highlights of Sunnyvale's Ordinance are as follows:

- STRs must be permitted through the City
- Maximum of four overnight lodgers (not including minor children)
- Renting to unaccompanied minors is prohibited
- Host shall reside on-site
- Host shall comply with all permit conditions, laws, and codes
- Rental space must be suitable for occupancy (sleeping space in tents, sheds, vehicles, etc. is not permitted)
- Host shall obtain a business license

DISCUSSION (Continued):

- Host shall be responsible for collecting/remitting TOT
- Host shall be responsible for ensuring the property does not become a nuisance
- STR approval may be revoked by the Director

The full ordinance may be found in Attachment 12 and minutes from the Council meeting are in Attachment 13.

*Los Altos Hills*

The Los Altos Hills Town Council also voted to allow and regulate STRs in early 2018 (see Attachment 14). The Council considered several concerns including preserving neighborhood integrity and not allowing developers to use residential properties for commercial enterprises. The Council discussed the goal of allowing responsible rentals but also providing protection for neighbors from nuisance situations. The importance of STRs being effectively controlled in neighborhoods was noted. Council expressed interest in not denying homeowners the right to do what they wish with their homes, but to deny landowners the ability to misuse their property to the detriment of neighbors.

Los Altos Hills approved a number of regulations to preserve neighborhood compatibility, including requiring the rental property to contain the owner's primary residence, prohibiting commercial uses, and requiring parking to remain on-site.

The highlights of the approved Los Altos Hills Ordinance regulating STRs is as follows:

- One STR per property is allowed
- The STR property shall contain the owner's primary residence
- Host shall comply with all permit conditions, laws, and codes
- Rental space must be suitable for occupancy (sleeping space in tents, sheds, vehicles, etc. is not permitted)
- Events and commercial uses are prohibited
- All parking must be on-site
- Host shall be responsible for ensuring the property does not become a nuisance
- STR license will be revoked after three validated nuisance violations

The complete ordinance may be found in Attachment 15 and Council meeting minutes in Attachment 16. Los Altos Hills does not have a TOT and is not planning on instituting one for STRs at this time. However, they are currently researching and interested in contracting with a third-party firm to identify all STRs in Town for online registration and to provide a 24/7 rental hotline for complaints.

DISCUSSION (Continued):

Town staff has been in contact with Airbnb and they have committed to send pro forma data for the past year regarding STRs in Los Gatos. The estimated potential TOT numbers for Los Gatos are forthcoming and will be shared once received.

CONCLUSION AND NEXT STEPS:

The Policy Committee should discuss and determine if the status-quo approach to banning short-term rentals in Los Gatos should be maintained or if regulations should be drafted to allow STRs.

Among the options for consideration are:

- Make no changes to the current Town ordinances and create enforcement tools to encourage compliance;
- Create an ordinance regulating STRs in the Town of Los Gatos and rely on owners/hosts to report and remit TOT directly to the Town;
- Create an ordinance regulating STRs in the Town of Los Gatos and enter into a voluntary TOT collection agreement with Airbnb wherein Airbnb collects and remits TOT directly to the Town on behalf of its hosts; and
- Enter into a voluntary TOT collection agreement with Airbnb wherein Airbnb collects and remits TOT directly to the Town on behalf of its hosts, while not changing the current Town ordinances.

Staff looks forward to the direction of the Policy Committee.

FISCAL IMPACT:

No fiscal impact at this time.

Attachments:

1. September 27, 2018 Los Gatos Council Report
2. April 1, 2015 Saratoga Council Report
3. Saratoga Short-Term Rental Flyer
4. September 29, 2015 Santa Clara Council Report
5. Santa Clara Response to Council Inquiries
6. Santa Clara One Year Review of Airbnb TOT
7. May 16, 2018 Morgan Hill Council Report
8. How to Guide for Short-Term Rentals in Morgan Hill
9. September 15, 2015 Sunnyvale Council Report

PAGE 7 OF 7

SUBJECT: SHORT-TERM RENTAL DISCUSSION

OCTOBER 18, 2018

10. June 12, 2018 Sunnyvale Council Report
11. Sunnyvale Short-Term Rental Webpage and Forms
12. Sunnyvale Municipal Code Chapter 19.76
13. September 15, 2015 Sunnyvale Council Meeting Minutes
14. March 22, 2018 Los Altos Hills Council Report
15. Los Altos Hills Ordinance 575
16. April 20, 2017 Los Altos Hills Council Meeting Minutes

This Page  
Intentionally  
Left Blank



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 10/02/2018

ITEM NO: 8

---

DATE: SEPTEMBER 27, 2018  
TO: MAYOR AND TOWN COUNCIL  
FROM: LAUREL PREVETTI, TOWN MANAGER  
SUBJECT: DISCUSS AND PROVIDE DIRECTION REGARDING POTENTIAL REGULATIONS FOR SHORT-TERM RENTALS.

RECOMMENDATION:

Discuss and provide direction regarding potential regulations for short-term rentals (STRs).

BACKGROUND:

Short-term rental (STR) is the practice of renting a portion of or an entire home to a person or group of people for periods of less than 30 nights. In recent years, there has been exponential growth of STRs offered through "sharing economy" websites, such as Airbnb (by far the leader of the group), VRBO, Flipkey, and Homeaway. To illustrate the growth in STR platforms, seven million guests used Airbnb to rent out rooms or homes in California in 2017, according to Matt Middlebrook, Airbnb's Public Policy Lead for California. The growing popularity of STRs is forcing municipalities across the country and the world to develop strategies in response.

A review of Airbnb's website shows between 50 and 100 STR properties currently in Los Gatos. The majority (about 45 percent) are guesthouses/cottages, followed by about 30 percent room rentals and approximately 20 percent entire houses for rent. There were also a couple local hotel rooms listed and even a camper/recreational vehicle (RV). Currently, STR listings do not include the address of the rental, making them difficult to locate based on public listing information; however, based on information from one popular STR information aggregator, the picture below illustrates the units currently available in Los Gatos. Another STR information aggregator places the STR inventory at approximately 104 units in the 95030 and 95032 zip codes.

PREPARED BY: ARN ANDREWS, Assistant Town Manager  
HOLLY ZAPPALA, Management Analyst

---

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

---

BACKGROUND (Cont'd):



Source: Inside Airbnb (red entire homes/apartments, green private/shared room)

Given the wide adoption of STR platforms and the subsequent proliferation of STRs within Los Gatos, it is timely for the Town Council to discuss the Town's current STR approach, review policy options, and provide direction on potential STR regulations.

DISCUSSION:

*Existing Town STR Approach*

The current Town of Los Gatos Zoning Ordinance is silent on the subject of short-term rentals as a permitted use in any of the Town's zones, which by default prohibits them from occurring within the Town's jurisdiction. Town Code Sec. 25.30.010 defines a hotel as any structure occupied by transients for dwelling, lodging, or sleeping purpose. Town Code Sec. 29.10.020 further defines a hotel/motel as a building where lodging, with or without meals, is provided for compensation and where occupancy is generally limited to no more than thirty (30) days. A hotel is not a permitted use in the residential zones, therefore prohibiting homeowners from renting out a house for 30 days or less. A transient is defined as any person who exercises occupancy for a period of thirty (30) consecutive calendar days or less. In addition, Code Sec. 29.10.320 (b) (14) also specifically prohibits rentals for durations of less than thirty (30) days, including short-term rentals, in accessory dwelling units. The Town enforces these Code

SUBJECT: DISCUSS AND PROVIDE DIRECTION REGARDING POTENTIAL REGULATIONS FOR SHORT-TERM RENTALS (STR)  
 SEPTEMBER 27, 2018

DISCUSSION (Cont'd):

sections and the prohibition on a complaint-driven basis. The Town received two STR complaints in 2015, one in 2016, three in 2017, and three in 2018 so far.

The current Transient Occupancy Tax (TOT) rate in Los Gatos is 12% and it applies to rentals that do not exceed 30 consecutive days. These rentals have historically been hotel stays, until the recent popularity of the sharing economy rentals. The Town currently collects this tax from hotels. The tax is paid by the hotel guest and collected and remitted by the hotel owners. No TOT is collected for STRs currently.

*Alternative STR Policy Approaches*

There are many STR policy approaches being adopted by regional and national peer municipalities. In Santa Clara County, jurisdictions have taken a variety of approaches to the topic of STRs. The City of Saratoga has banned them while the Cities of San Jose and Sunnyvale have regulated them. The Cities of Santa Clara and Morgan Hill have no ordinances or regulations in place but have agreements with Airbnb to collect Transient Occupancy Tax through its reservation platform. Other municipalities, including the Town of Los Gatos, do not have an ordinance regulating STRs.

Regulates STRs	STRs not allowed	No Regulations	Regulations under consideration
San Jose	Campbell	Gilroy	Mountain View
Sunnyvale	Milpitas	Santa Clara	Cupertino
Los Altos Hills	Saratoga	Morgan Hill	
San Francisco	Palo Alto		

While the policy approaches may vary in adoption, the variables addressed during policy formation are fairly consistent. In municipalities that have chosen to regulate STRs, there are a variety of best practices emerging as a way to manage them, including establishing a geographic zone specifically for STRs, requiring the STR host to be present, limiting the number of rental days per year (difficult to enforce), and limiting the number of guests at one time (difficult to enforce).

Following are the primary policy considerations if the Council would like to consider regulating and allowing STRs.

DISCUSSION (Cont'd):

- **Type:** There are two primary types of residency options in practice to consider:
  1. **Hosted Rentals:** In a hosted rental, a permanent resident must live at the home while it is being rented. Hosted STRs could present fewer compliance issues since the host would reside on the premises to oversee the rental. Having a resident host living at the house could also increase the comfort of neighbors who may otherwise be unsure about the guests.
  2. **Un-Hosted Rentals:** Un-hosted rentals are normally for the entire house/property as opposed to a room or accessory dwelling unit. Un-hosted rentals could have more neighborhood compatibility and enforcement issues, such as noise complaints. Un-hosted rentals may also have a greater impact on the affordability of the rental housing market, as owners may seek to rent multiple properties concurrently.
- **Geographic Zone(s):** STRs could be confined to certain zones within the Town. The number of STRs within those zones within the Town could also be limited. A minimum distance could also be established between properties that have been permitted for STRs.
- **Limiting the number of days allowed per year:** Many jurisdictions have regulated the number of days per year an STR can be rented. Jurisdictions further codify a distinct number of days per year for hosted units versus un-hosted units, with un-hosted rental days per year being significantly less than the number allowed for hosted rentals.
- **Maximum number of guests at one time—Hosted:** In order to control the number of people using an STR and the effects on neighbors (parking and noise), a limitation on the number of STR guests allowed in a 24-hour period can be included in the regulations. Children under a certain age can be excluded from the count. The number of guests can be calculated based on the number of rooms in the house. However, having one standard regardless of the number of bedrooms makes enforcement easier (e.g. four guests per property).
- **Maximum number of guests at one time—Un-Hosted:** If the entire home is available for use, some jurisdictions increase the maximum number of guests beyond the limit imposed upon hosted rentals.
- **Parking:** Vehicle parking for STRs could be required to remain on-site, or the number of vehicles per STR could be limited.

DISCUSSION (Cont'd):

- **Commercial Uses:** Assembly or commercial uses, such as weddings or other special events, could be prohibited at STRs. This would reduce noise, vehicles, and the overall impacts to a neighborhood.

*Additional STR Policy Considerations*

Potential Impact on Housing

While research regarding the potential impact of the STR market on housing availability is still in its infancy, early research indicates that it could have a negative impact in certain markets. Given the current relatively small number of STRs in Los Gatos, they likely have a minimal impact on current housing availability; however, if more homeowners begin renting their entire homes for longer durations, this could become a more prominent issue.

To discourage the conversion of units from long-term housing to STRs, municipalities have taken approaches such as: requiring STRs be only at the owner's primary residence, allowing only one unit per parcel to be used as an STR, requiring the host to be present during rental periods, and prohibiting STRs in Below Market Rate and senior units.

Neighborhood Character and Impacts

Transient tenants associated with STRs may impact parking, noise, and neighborhood character. There are a number of regulations that can be used to mitigate most of these concerns including: limiting the number of guests at one time, requiring parking to be on-site, limiting the number of vehicles, prohibiting assembly/commercial uses (such as weddings), requiring hosts to provide guests with local rules regarding noise, etc., and requiring the host to live at and be present at the property during any rentals.

Enforcement

In order to assist in effective enforcement either a continued ban on STRs or some form of a regulated model, violation penalties for both should be made clear and significant enough to encourage compliance. Some jurisdictions have created high penalties for failing to register an STR within 90 days of operation. This encourages STRs to register, making enforcement of any other violations much easier. In addition, many cities also include the ability to revoke the operator's STR-related business license or registration after two or three violations.

Staff will need to evaluate if additional Code Enforcement staff would be needed to assist in STR regulation. Given the history of very few STR-related complaints each year and the

DISCUSSION (Cont'd):

relatively low number of STRs currently in Town, additional staff may not be required right away.

Revenue Collection

Most municipalities that allow STRs require hosts to maintain a current business license and all hosts must report/remit TOT to the municipality. If the Town were to move forward with a regulatory program for STRs, a process for TOT collections from STRs would need to be established.

Airbnb has recently started entering into agreements with municipalities to collect and remit TOT on behalf of hosts/property owners. This allows municipalities to interact with one organization, rather than collecting funds from hundreds of individual property owners. Locally, San Jose, Santa Clara, Palo Alto, San Francisco, and Oakland have established agreements with Airbnb to collect and remit TOT on behalf of short-term rental hosts. Hosts using platforms other than Airbnb must self-report and remit TOT.

The other option is to refrain from contracting with Airbnb and use the honor system where owners remit taxes directly to the Town for all platforms. This approach has been less effective in other municipalities.

CONCLUSION AND NEXT STEPS:

Council should determine if the status quo approach to short-term rentals in Los Gatos should be maintained or if regulations should be drafted to allow STRs.

Among the options for Council consideration:

- Make no changes to the current Town ordinances and create enforcement tools to encourage compliance;
- Create an ordinance regulating STRs in the Town of Los Gatos and rely on owners/hosts to report and remit TOT directly to the Town;
- Create an ordinance regulating STRs in the Town of Los Gatos and enter into an agreement with Airbnb (and similar platforms) wherein Airbnb collects the TOT on behalf of the Town and remits directly to the Town; and
- Enter into an agreement with Airbnb wherein Airbnb collects the TOT on behalf of the Town and remits directly to the Town, while not changing the current Town ordinances.

Staff looks forward to the direction of the Town Council.

PAGE 7 OF 7

SUBJECT: DISCUSS AND PROVIDE DIRECTION REGARDING POTENTIAL REGULATIONS  
FOR SHORT-TERM RENTALS (STR)  
SEPTEMBER 27, 2018

COORDINATION:

This report was coordinated with the Town Attorney, Director of Community Development, and Director of Finance.

FISCAL IMPACT:

No fiscal impact at this time.

*This Page  
Intentionally  
Left Blank*



## SARATOGA CITY COUNCIL

**MEETING DATE:** April 1, 2015  
**DEPARTMENT:** Community Development  
**PREPARED BY:** Erwin Ordoñez, Community Development Director

---

**SUBJECT:** Short-Term Rentals Regulation

---

### **RECOMMENDED ACTION:**

Review staff research regarding Short-Term Rentals (STR's) and provide direction to the Planning Commission.

### **BACKGROUND:**

Local jurisdictions throughout the nation are grappling with the issue of Short-Term Rentals (STR's) and the potential impact raised with these types of "new sharing economy" commercial uses.

The advent of internet, wireless and web application-based platforms (e.g. AirBnb, HomeExchange, etc.) allow property owners to establish these commercial businesses in areas that are exclusively residential with relatively very-low or no investment costs and no notification requirement to the residents of local communities. While the threshold to establish these businesses is low, unregulated STR's have high potential to generate unwanted impacts to surrounding areas that can over-time erode the quality of life in a neighborhood (e.g. increased traffic, parking demand, noise disturbances, litter, and perceived neighborhood safety issues).

On February 4, 2015, at a Joint City Council/Planning Commission, Council directed staff to prepare an initial summary report of this issue for its review so it can provide guidance to the Planning Commission.

### Adopted City Code

The City of Saratoga Municipal Code does not allow Short-Term Rentals by-right as a Permitted Use in any residential zoning district.

Short -Term Rentals due to length of stay and operations (i.e. less than 30 days) would most closely approximate a hotel, motel, or bed and breakfast use. These uses are only allowed by City Code Section 15-19.020(b) as potential Conditional Uses in designated commercial zoning districts and require the application and approval of a Conditional Use Permit (CUP).

An initial review of the 71 listings available on a STR-related website that resulted from a "Saratoga, CA" keyword query determined that only 16 have the potential to be located within the City. The other listings are located in surrounding communities or the unincorporated areas.

In July 2014, the City received its first neighborhood complaints regarding a STR business operating unlawfully in a Single Family Residential Zoning District. The City issued a series of Code Enforcement letters and a formal citation in December 2014. The citation was recently upheld by the City's outside Administrative Hearing Officer.

#### Staff Research

To assist with the City Council and Planning Commission review of this study issue staff has researched other communities who have or are considering ordinances for the regulation of STR's.

Currently, the cities of San Jose, San Francisco and San Luis Obispo have recently adopted local ordinances to allow and regulate STR's with early mixed results. Copies of relevant media reports are included in Attachment D. The cities of San Mateo and Sunnyvale are initiating their own studies of the issue.

The City of San Jose ordinance allows both owner and non-owner occupied short-term rentals by by-right in all residential zoning districts as "incidental uses" but sets limits on maximum number of "transient users" and establishes a limit of 90 rental days per calendar year that the unit can be rented out. Additionally, the ordinance requires that operators pay a 10-percent transient occupancy tax on their rentals.

The San Luis Obispo ordinance allows only owner occupied short-term rentals and defines them as "homestays" which can be approved by the Community Development Director through an administrative permit. Non-owner occupied short-term rentals are classified as "vacation rentals" and are prohibited. Homestays are not permitted uses in secondary units. The Homestay ordinance also requires additional parking, compliance with building and fire codes, establishes a maximum of four guests, the provision of owner contact information, and the payment of transient occupancy taxes.

In addition to these efforts there are at least two bills which have been proposed in the State Legislature to regulate STR's and could pre-empt regulation by local cities. Staff will monitor these bills as this study issue proceeds.

#### **ISSUES TO CONSIDER:**

Staff has outlined below a list of issues that could be considered by the Planning Commission if the City Council is supportive of potential changes to the City Code to allow Short-Term Rentals in Saratoga:

- 1) Defining What is considered a Short Term Rental
  - a) Duration of lease (i.e. less than 30 days)
  - b) Primary Use of the home vs. Ancillary/Accessory Short Term Rental Use
    - i) Limit on maximum number rooms and/or percentage of square footage

- ii) Limit on maximum number renters (e.g. maximum of 4 persons)
  - iii) Use of Secondary Dwelling Units (e.g. possible loss of affordable units)
- c) Owner Occupancy Requirements
  - i) No employees
  - ii) Absentee Landlords Issue
- 2) Identifying specific zoning districts or properties for Short Term Rental use
  - a) All residential zones vs. specific residential zones
- 3) Identifying Specific Requirements for Short Term Rental Uses
  - a) Additional Off-Street Parking Requirement (per room)
  - b) Possible New Permit/License Type
  - c) City Issued Short Term Rental Guest Parking Placard
  - d) Signs prohibited
- 4) Establishing a Permit Approval Process
  - a) Ministerial Permit (No notice or appeal) vs. Conditional Use Permit (Administrative or Planning Commission)
- 5) Additional Considerations
  - a) Collection of Transient Occupancy Tax (TOT)
  - b) Additional Code Enforcement demand

**ATTACHMENTS:**

Attachment A – City Code Excerpts

Attachment B – Map of West Valley Short-Term Rentals

Attachment C – Copies San Francisco and San Luis Obispo Short-Term Rental Ordinances

Attachment D – Copies of Short-Term Rental Media Reports

*This Page  
Intentionally  
Left Blank*

# City of Saratoga – Short Term Rentals



The City of Saratoga prohibits short-term rentals in the City's single-family residential districts. The City's regulations are intended to preserve Saratoga's residential environment.



Renting a private home in lieu of a hotel during a vacation or business trip has risen in popularity. Among other resources, online booking sites facilitate short term hotel type rentals between homeowners who can earn some extra income and travelers looking for an affordable and convenient place to stay.



However, like many other cities, the City of Saratoga's Municipal Code *prohibits* rental of a single-family home or room(s) within the home for a period of 30 consecutive calendar days or less.

The rules are put in place to avoid increased traffic, noise, and the high turnover of short-term renters on quiet streets where residents value stability and privacy.

For more information about the city's laws defining hotel type rentals:  
See City Code Section 15-06.360 and Section 5-25.020(f)

You can also give us a call at 408-868-1222 or email us at <mailto:planning@saratoga.ca.us>

## COMPLAINTS

Complaints are investigated on a case-by-case basis. Anonymous complaints will not be accepted. If you would like to file a formal complaint, contact: Code Enforcement: 408.868.1214

*This Page  
Intentionally  
Left Blank*



**Date:** September 29, 2015

**To:** City Manager for Council Action

**From:** Assistant City Manager

**Subject:** Authorization for the City Manager to Execute a Voluntary Tax Collection Agreement with Airbnb, Inc., Inc. for the Collection of the City's Transient Occupancy Tax on Short Term Rentals

### **EXECUTIVE SUMMARY**

Over the summer staff evaluated opportunities to apply the City's transient occupancy tax (TOT) to owners of residential property that rent some or a portion of their properties to travelers seeking short term accommodations utilizing internet-transacted vacation rentals. The proliferation of internet use has allowed for connections to be made through sharing economy web sites such as Home Away, Vacation Rentals by Owner (VRBO), and Airbnb, Inc. After research and discussion, staff determined that the collection and remittance of taxes by hosted platforms that facilitate the financial transactions such as Airbinb, Inc. would provide efficiencies for the City to collect additional TOT tax revenue.

Staff engaged Airbnb, Inc. in discussions about their interest in entering into a tax collection agreement with the City that would result in Airbnb, Inc. collecting TOT from hosts that rent accommodations to guests in Santa Clara via the Airbnb, Inc. platform. Currently, Airbnb, Inc. is collecting and remitting taxes in seventeen locations. Attachment A provides a complete list of the jurisdictions in which Airbnb, Inc. is currently collecting occupancy-related taxes and remitting directly to respective taxing authorities on behalf of its Hosts. This simplifies and automates the process for TOT collection compared to other hosted platforms that primarily act as online classifieds.

Staff proposes to enter into a Tax Collection Agreement between Airbnb, Inc. and the City for the collection of the City's Transient Occupancy Tax pursuant to Chapter 3.25 of the Municipal Code. Airbnb, Inc. is a corporation which provides an Internet platform through which third parties desiring to rent out accommodations ("Hosts") and third parties desiring to book accommodations ("Guests") have the opportunity to locate each other, communicate, negotiate, and book a transaction pursuant to an agreement between the Hosts and Guests.

For the purposes of this Tax Collection Agreement, Airbnb, Inc. has agreed to act as a limited collection and remittance agent of the Hosts to the extent such Hosts offer to or rent accommodations to Guests in Santa Clara via the Airbnb, Inc. platform that are subject to the City's Transient Occupancy Tax. Airbnb, Inc. assumes all responsibilities for the collection and remittance of the Transient Occupancy Tax for applicable transactions on its platform in the City, starting on the effective date of the collection agreement.

Short-term rentals that do not exceed 30 consecutive days in duration are the type of transient occupancy that is already subject to the City's Transient Occupancy Tax, which is 9.5%. The City's larger CFD tax rate of 11.5% will not apply to these rentals; in order for additional properties to be included in the CFD rate, they need to affirmatively vote to annex into the CFD area and this will not happen here.

Below summarizes other key provisions of the agreement. Staff is seeking authority for the City Manager to review and execute the final agreement.

- Airbnb will register as an operator for the reporting, collection and remittance of TOT.
- Collection will begin not later than November 1, 2015, (contingent upon the City's execution of the agreement).
- Airbnb will notify hosts that TOT will be collected and remitted as of the effective date and notify guests of the amount of TOT collected and remitted on each booking transaction.
- The City will maintain audit rights with Airbnb, but not individual hosts.
- The Public Records Act will apply to the agreement.
- Airbnb will retain records documenting the payment of TOT for a minimum of three years.
- Either party will be able to terminate the agreement for convenience.

#### **ADVANTAGES AND DISADVANTAGES OF ISSUE**

No known disadvantages. Staff will evaluate the tax collection agreement and Airbnb, Inc.'s performance over the next year and develop recommendations for future agreements and/or new agreements with other hosted platforms that facilitate the booking and payment transaction.

#### **ECONOMIC/FISCAL IMPACT**

At this time, Airbnb, Inc. estimates that there are approximately 130 hosts in Santa Clara using their internet-based, hosted platform. A typical Santa Clara host rents out their residence 65 nights per year with an average length of stay of 6.5 nights. Based on an average nightly rate of \$77 and average earnings per host of about \$5,000 annually, Airbnb estimates that the TOT that could be collected and remitted through Airbnb, Inc., Inc. would be approximately \$60,000 annually. Additional revenue is anticipated to be generated in Santa Clara during Super Bowl 50 as visitors seek local short term rental accommodations. The revenue will be deposited into the City's Transient Occupancy Tax account in the General Fund.

#### **RECOMMENDATION**

That the Council authorize the City Manager to review and execute a voluntary tax collection agreement with Airbnb, Inc. for the collection of the City's transient occupancy tax on short term rentals, subject to City Attorney approval.



Sheila A. Tucker  
Assistant City Manager

APPROVED:



Julio J. Fuentes  
City Manager

## **BACKGROUND**

"Sharing economy" websites such as Airbnb, VRBO, Home Away and others provide applications that allow owners of residential property to rent some or a portion of their properties to travelers seeking such accommodations. There are some key distinctions in business models. For example, Airbnb is a community marketplace for people to list and book space for any duration of time. Airbnb, Inc. facilitates the process of listing and booking a space by handling all financial transactions. It's also free to list space on Airbnb. A processing fee is charged only when a place is booked.

In contrast, other sharing economy websites have primarily acted as online classifieds where vacation rental owners pay to advertise their space. The site puts guests in contact with owners or property managers. However, the transaction is typically not facilitated and thus tenants and owners are responsible for processing their own payments. In addition to these subscription models, some sharing economy sites have added new online payment options in which they also offer to facilitate the booking and payment transaction similar to Airbnb. Staff will continue to evaluate opportunities for new agreements with other hosted platforms that facilitate the booking and payment transaction.

The question about how and if these new types of business models should be regulated is one currently being tackled in several communities. Advocates argue that such short-term rentals provide individuals with the ability to earn extra income to support their basic cost of living expenses, enables travelers to find less expensive alternative to hotels, and that guests of vacation rentals stay longer and spend more money in the communities in which they stay. Critics of such short-term rentals argue that this type of activity changes the character of residential neighborhoods, reduces long-term residential housing from the market, increases rents, skirts regulations (e.g. health and safety inspections), and potentially harms hospitality industry jobs and wages. The City has not received any complaints related to Airbnb, Inc. or other similar platform rentals.

Several cities have amended their municipal code to expressly allow and regulate transient occupancy as an incidental use to primary residential uses. Research with the Planning Department and the City Attorney's Office determined that the City's Zoning Code currently does not call out any restrictions and the relevant zoning codes do not include provisions disallowing uses not mentioned (unlike other parts of the code). The City's TOT definitions in Chapter 3.25 are broad enough to apply to short term rentals. Given the number of rentals in Santa Clara, the anticipated revenue, and Airbnb, Inc.'s voluntary agreement to enter into a tax collection agreement, staff is recommending the City enter into this agreement.

## Attachment A

Currently, Airbnb, Inc. is collecting and remitting taxes in the following locations:

### 1. Amsterdam, NL

Guests who book Airbnb listings that are located in the City of Amsterdam, NL will pay the following taxes as part of their reservation:

- Amsterdam Tourist Tax: 5% of the listing price including any cleaning fee. For detailed information, visit [Amsterdam's government website](#).

### 2. Chicago, IL

Guests who book Airbnb listings that are located in Chicago, IL will pay the following taxes as part of their reservation:

- Chicago Hotel Accommodation Tax: 4.5% of the listing price including any cleaning fee for reservations 29 nights and shorter. For detailed information, visit [CityofChicago.org](#).

### 3. District of Columbia

Guests who book Airbnb listings that are located in the District of Columbia will pay the following taxes as part of their reservation:

- DC Sales Tax on Hotels (transient accommodations): 14.5% of the listing price including any cleaning fee for reservations 90 nights and shorter. For detailed information, visit [DC.gov](#).

### 4. Malibu, CA

Guests who book Airbnb listings that are located in Malibu, CA will pay the following taxes as part of their reservation:

- Malibu Transient Occupancy Tax: 12% of the listing price including any cleaning fee for reservations 30 nights and shorter. For detailed information, visit [MalibuCity.org](#).

### 5. Multnomah County and Portland, OR

Guests who book Airbnb listings that are located in the State of Oregon, Multnomah County and/or the City of Portland will pay the following taxes as part of their reservation:

- Oregon Transient Lodging Tax: 1% of the listing price including any cleaning fee for reservations 30 nights and shorter. 1% is the State imposed tax rate only. For detailed information, visit [Oregon.gov](#).
- Multnomah County Transient Lodging Tax: 11.5% of the listing price including any cleaning fee for reservations 30 nights and shorter. 11.5% is the maximum Transient Lodging Tax for listings in Multnomah County (excluding the State level tax). For example, for Portland listings that are also located in Multnomah County, the Portland Transient Lodging Tax is 6% and the Multnomah County Transient Lodging Tax is 5.5%. For detailed information, visit [PortlandOregon.gov](#).

- Portland Transient Lodging Tax: 6% of the listing price including any cleaning fee for reservations 30 nights and shorter

## **6. North Carolina**

Guests who book Airbnb listings that are located in the State of North Carolina will pay the following taxes as part of their reservation:

- North Carolina Sales Tax: 6.75-7.5% of the listing price including any cleaning and guest fees for reservations less than 90 nights. The State imposes both a statewide 4.75% tax and a local 2-2.75% tax, which varies by county. For detailed information, visit [North Carolina's website](#).
- City and/or County Occupancy Tax: All locally imposed occupancy taxes will be collected on reservations in North Carolina. The tax varies by city and county. It is typically 1-8% of the listing price including any cleaning and guest fees for reservations less than 90 nights.

## **7. Oakland, CA**

Guests who book Airbnb listings that are located in Oakland, CA will pay the following taxes as part of their reservation:

- Oakland Transient Occupancy Tax: 14% of the listing price including any cleaning fee for reservations 30 nights and shorter. For detailed information, visit [Oakland's FAQ page](#).

## **8. Palo Alto, CA**

Guests who book Airbnb listings that are located in Palo Alto, CA will pay the following taxes as part of their reservation:

- Palo Alto Transient Occupancy Tax: 14% of the listing price including any cleaning fee for reservations 30 nights and shorter. For detailed information, visit [CityofPaloAlto.org](#).

## **9. Philadelphia, PA**

Guests who book Airbnb listings that are located in Philadelphia, PA will pay the following taxes as part of their reservation:

- Philadelphia Hotel Room Rental Tax: 8.5% of the listing price including any cleaning fee for reservations 30 nights and shorter. 8.5% is the tax rate imposed by the City and County of Philadelphia (the tax jurisdictions are one and the same). For detailed information, visit [Phila.gov](#).

## **10. Phoenix, AZ**

Guests who book Airbnb listings that are located in Phoenix, AZ will pay the following taxes as part of their reservation:

- Phoenix Hotel/Motel Tax: 3% of the listing price including any cleaning fee for reservations 29 nights and shorter.
- Phoenix Transaction Privilege (Sales) Tax: 2% of the listing price including any cleaning fee for all reservations. For detailed information, visit [Phoenix.gov](http://Phoenix.gov).

### **11. San Diego, CA**

Starting July 15, 2015, guests who book Airbnb listings that are located in San Diego, CA will pay the following taxes as part of their reservation:

- San Diego Transient Occupancy Tax: 10.5% of the listing price including any cleaning fee for reservations 30 nights and shorter.
- San Diego Tourism Marketing District Assessment: 0.55% of the listing price including any cleaning fee for reservations 30 nights and shorter. For detailed information, visit [SanDiego.gov](http://SanDiego.gov).

### **12. San Francisco, CA**

Guests who book Airbnb listings that are located in San Francisco, CA will pay the following taxes as part of their reservation:

- San Francisco Transient Occupancy Tax: 14% of the listing price including any cleaning fee for reservations 29 nights and shorter. 14% is the tax rate imposed by the City and County of San Francisco (the tax jurisdictions are one and the same). For detailed information, visit [SFTreasurer.org](http://SFTreasurer.org).

### **13. San Jose, CA**

Guests who book Airbnb listings that are located in San Jose, CA will pay the following taxes as part of their reservation:

- San Jose Transient Occupancy Tax: 10% of the listing price including any cleaning fee for reservations 30 nights and shorter. For detailed information, visit [SanJoseCa.gov](http://SanJoseCa.gov).

### **14. India**

Starting August 1, 2015, guests who book Airbnb listings that are located in the Country of India will pay the following taxes as part of their reservation:

- India Service Tax: 14% of the listing price including any cleaning fee, less a 40% abatement. Airbnb is required, as an aggregator, to collect and remit service tax on behalf of Airbnb hosts. For detailed information, visit [India's government website](http://India's government website).

### **15. Chamonix- Mont-Blanc, France**

Starting August 1, 2015, guests who book Airbnb listings that are located in Chamonix-Mont-Blanc will pay the following taxes as part of their reservation:

- Tourist Tax: 0.75€ per person per night for the category "meublés touristiques non classés". Exemptions may apply to some guests. For detailed information, visit [your local city hall's website](#). If a guest believes they are subject to an exemption, they may reach out to the Municipality.

## **16. Rhode Island**

Starting August 15, 2015, guests who book Airbnb listings that are located in Rhode Island will pay the following taxes as part of their reservation:

- Rhode Island Sales Tax: 7% of the listing price including any cleaning fee for reservations 30 nights and shorter. For detailed information, visit [RI.gov](#).
- Rhode Island Local Hotel Tax: 1% of the listing price including any cleaning fee for reservations 30 nights and shorter.
- Rhode Island Statewide Hotel Tax: 5% of the listing price including any cleaning fee for reservations 30 nights and shorter on rentals of private rooms or shared rooms only. Rentals of an entire home or apartment are excluded from this tax.

## **17. City of Sunnyvale**

Starting in October, 2015, guests who book Airbnb listings that are located in Sunnyvale will pay the following taxes as part of their reservation:

- Host shall obtain a business license
- Sunnyvale's Transient Occupancy Tax: 10.5%
- Host required to reside on-site throughout the lodgers' stay

*This Page  
Intentionally  
Left Blank*

City of Santa Clara

RESPONSE TO COUNCIL INQUIRIES

**City's Transient Occupancy Tax (TOT) Agreement:** At the May 29, 2018 Council meeting, the Council requested additional information concerning the City's Transient Occupancy Tax (TOT) agreement with Airbnb, Inc. On September 29, 2015, the City Council authorized the City Manager to execute a voluntary tax collection agreement with Airbnb, Inc. for the collection of the City's TOT on short term rentals. Airbnb, Inc. is a corporation which provides an Internet platform through which third parties desiring to rent out accommodations ("Hosts") and third parties desiring to book accommodations ("Guests") have the opportunity to locate each other, communicate, negotiate, and book a transaction pursuant to an agreement between the Hosts and Guests. For the purposes of the Tax Collection Agreement, Airbnb, Inc. agreed to act as a limited collection and remittance agent of the Hosts to the extent such Hosts offer to or rent accommodations to Guests in Santa Clara via the Airbnb, Inc. platform that are subject to the City's Transient Occupancy Tax. Airbnb, Inc. assumed all responsibilities for the collection and remittance of the Transient Occupancy Tax for applicable transactions on its platform in the City, starting on the effective date of the collection agreement which was October 15, 2015.

While the City does have an agreement with Airbnb, there are other internet-transacted vacation rental sites that operate within the City of Santa Clara, such as Vacation Rentals by Owner (VRBO) and Home Away, which do not have a TOT agreement with the City. The City has also not conducted any due diligence to ensure receipt of TOT from Airbnb, as stated that evening that a review was warranted and planned.

*This Page  
Intentionally  
Left Blank*



**AGENDA REPORT**

**Date:** February 7, 2017

**To:** City Manager for Council Information

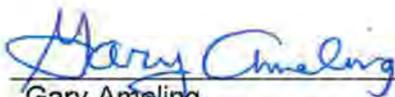
**From:** Director of Finance

**Subject:** One-Year Review of Airbnb Transient Occupancy Tax

On September 29, 2015, a Tax Collection Agreement was executed between Airbnb, Inc., and the City of Santa Clara for the collection of the City's 9.5% Transient Occupancy Tax (TOT) pursuant to Chapter 3.25 of the Municipal Code.

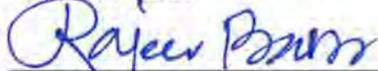
Airbnb began collecting TOT from its hosts during October 2015. Airbnb remits quarterly TOT payments to the City. For the initial partial quarter ending December 31, 2015, the City received \$38,982.30. In the first four full reporting quarters that followed through December 31, 2016, the City has received \$291,789.26 year-to-date in TOT collections.

Collection Period	Amount Collected
01-01-2016 thru 03-31-2016	\$65,265.66
04-01-2016 thru 06-30-2016	\$80,497.02
07-01-2016 thru 09-30-2016	\$73,885.58
10-01-2016 thru 12-31-2016	\$72,141.00
<b>Total</b>	<b>\$291,789.26</b>



Gary Ameling  
Director of Finance

APPROVED:



Rajeev Batra  
Interim City Manager

*This Page  
Intentionally  
Left Blank*



CITY OF MORGAN HILL

## **CITY COUNCIL STAFF REPORT**

### **MEETING DATE: May 16, 2018**

PREPARED BY: Edith Ramirez, Economic Development Director  
APPROVED BY: City Manager

## **AIRBNB VOLUNTARY COLLECTION AGREEMENT**

### **RECOMMENDATION(S)**

Authorize the City Manager to negotiate and execute a Voluntary Collection Agreement with Airbnb Inc. for the collection of the City's Transient Occupancy Tax on behalf of Airbnb hosts who rent their residences to others using the Airbnb application and platform.

### **COUNCIL PRIORITIES, GOALS & STRATEGIES**

#### **Ongoing Priorities**

Maintaining Fiscal Responsibility

#### **2018 Strategic Priorities**

Economic Development and  
Telecommunications  
Regional Initiatives

### **GUIDING DOCUMENTS**

Economic Blueprint

### **REPORT NARRATIVE:**

Airbnb is the largest of several online internet-based applications which allows people to rent all or part of their homes to third parties in exchange for payment, also known as short-term rentals. Online platforms like Airbnb allow residents to advertise their homes on the internet. When a home is booked, the customers pay by credit card directly to the online platform. The online platform receives a fee, which is typically a percentage of the rental fee, and remits the remainder to the host. Typically, no Transient Occupancy Tax (TOT) is collected with these transactions.

To collect TOT, the online platform has requested that the City enter into a Voluntary Collection Agreement with Airbnb. Currently, the City does not have a mechanism to collect TOT from short term rentals in Morgan Hill. It is recommended that the City enter into a Voluntary Collection Agreement (attached) with Airbnb to act as a limited collection and remittance agent of the host of short term rentals using the Airbnb platform.

To facilitate collection from other non-Airbnb platforms or hosts, Finance and Economic Development staff have created a two-step self-reporting system. A user-friendly flyer created for this new effort is attached.

The use of short term rentals is a growing trend. Entering into an agreement with Airbnb to collect TOT will allow the City to capture revenue from this growing industry. Having a

clear reporting system will encourage residents who allow short-term rental of their property outside of the Airbnb platform to self-report. In addition to the financial benefits to the City, this effort will support the City's goals to grow the tourism industry in the City.

Tourism in general is a pillar of the General Plan 2035 priorities and is one of the four key industries identified in the Economic Blueprint. A key strategy for Tourism is to support lodging, specifically, action item #25 calls to "Ensure General Plan and Zoning Code, address Bed and Breakfast, Airbnb, and Hotel Development." Expanding, growing, and capturing new TOT revenue streams is essential to achieving the objectives laid out in both the Economic Blueprint and General Plan.

**COMMUNITY ENGAGEMENT: Involve**

The Council action supports the Economic Blueprint which had an extensive community and stakeholder outreach process.

**ALTERNATIVE ACTIONS:**

1. The Council may choose not to enter into a Voluntary Collection Agreement with Airbnb.
2. The Council may wish to provide additional direction on the short-term rental TOT collection efforts.

**PRIOR CITY COUNCIL AND COMMISSION ACTIONS:**

None.

**FISCAL AND RESOURCE IMPACT:**

The fiscal impact of entering into this Voluntary Collection Agreement is unknown. Currently, there are a couple of dozen short term rentals that are listed in Airbnb. Staff is not projecting significant revenue increases at this time, but as the industry grows the revenues will increase. If the City were to assume 50 hosts in Morgan Hill listing on Airbnb's site, and an average rent of \$80 per night, for 24 nights per year (only 2 nights per month), the projected revenue based on a 10% TOT, would be \$9,600 in TOT revenue on an annual basis.

**CEQA (California Environmental Quality Act):**

Not a Project.

The creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment.

**LINKS/ATTACHMENTS:**

1. Airbnb - Morgan Hill Draft VCA (4.5.18)
2. Short Term Rental Guide Flyer

## **How to Guide for Short-Term Rentals in Morgan Hill**

This guide is to be used as a checklist, please speak with a City Staff Member if you have any additional questions.

**Step 1: Fill out the Transient Occupancy Tax Registration Form, which can be found online here: [bit.ly/TOTRegistration](http://bit.ly/TOTRegistration)**

**Step 2: If applicable\*, apply for a Business License with the City of Morgan Hill. The Business License application can be found online here: [bit.ly/BusinessLicenseMH](http://bit.ly/BusinessLicenseMH)  
For more information about Business Licenses go online here: [bit.ly/BusinessLicenseInfo](http://bit.ly/BusinessLicenseInfo)**

**Done: Yes, it's that easy.**

**\*Ask a City Staff Member if your short-term rental is subject to a Business License.**

*This Page  
Intentionally  
Left Blank*



# City of Sunnyvale

## Agenda Item

15-0562

Agenda Date: 9/15/2015

---

### REPORT TO COUNCIL

#### SUBJECT

Introduce an Ordinance to add a new Chapter 19.76 entitled "Short-term Rentals and Home Sharing" to Title 19 of the Sunnyvale Municipal Code, and find that the project is exempt under CEQA pursuant to Guidelines 15061(b)(3) (Study Issue 2015-7147) (Continued from August 25, 2015)

#### REPORT IN BRIEF

In recent years, the City has experienced a significant increase in the number of residents who rent all or part of their homes to guests staying thirty days or less. Pursuant to the zoning code (19.12.210), this activity is considered transient lodging similar to hotels and motels, and is therefore currently prohibited in residential zoning districts. However, enforcement of this prohibition is resource intensive and challenging. Many short-term rentals appear to co-exist peacefully with neighbors; there have been instances, however, where neighbors complained that short-term rental activities created a nuisance, especially when the rental generates a high turnover of strangers in the neighborhood. While not entirely reliable as an accurate count of activity, based on a review of advertising on websites such as Airbnb, there are currently more than 200 residences in the City being used for short-term rentals, making the task of enforcement a significant workload. Typically, the Department of Public Safety (DPS) responds on a complaint basis, and works towards resolving the issue with the occupant, owner and neighbors. However, DPS cannot lawfully enter a residence to conduct an investigation without a search warrant, consent, or exigent circumstances.

City Council ranked this study as a priority (CDD 15-12, Attachment 1), asking staff to identify realistic regulations to more effectively respond to this rapidly growing business. The goal of this study is to consider different options that address the concerns surrounding this new type of business, as well as respond to its growing use and popularity.

Many people use short-term rentals while on business trips, vacations, or while their home is under construction. Proponents argue that short-term rentals provide a more local experience, create opportunities to meet people, and are a more affordable alternative to traditional lodging. During large, area-wide events, short-term rentals can help augment the existing lodging units by providing people with more options in attending the event. Proponents also argue that many residents use short-term rentals as a way of augmenting their income, and may help some residents to afford their homes.

Concerns about short-term rentals include allowing a commercial-type use in residential areas, and complaints from neighbors about safety due to the high turnover of residents, noise, incompatibility with the residential neighborhood, and parking. Another concern is that short-term rentals remove housing stock that could otherwise be available for long-term rental or sale, adding to Silicon Valley's critical housing shortage.

---

Many cities nationwide are working to develop effective programs to address short-term rentals. After reviewing many approaches, staff is recommending allowing short-term rentals in Sunnyvale with defined zoning standards and enforcement tools to address neighborhood concerns and ensure compliance. The recommended zoning code amendments focus on simplicity and ease of administration to reduce the deterrents for hosts of short-term rentals to obtain the necessary approvals. Staff will also attempt to work with businesses offering the service (such as Airbnb, Flipkey, Homestay) in Sunnyvale to collect transient occupancy tax (TOT) from hosts. This would reduce the work necessary by the City to find the hosts and ensure that TOT is paid.

The Housing and Human Services Commission (HHSC) reviewed the item on July 22, 2015, and the Planning Commission (PC) reviewed it on July 27, 2015. The HHSC voted unanimously to accept several of the staff recommendations, but suggested unhosted rentals also be allowed if property management is provided. The HHSC was split on whether the permits should be appealable. The draft HHSC minutes are attached, but the Commission has not met since to finalize them (Attachment 9).

The PC also accepted many of the staff recommendations (see Minutes, Attachment 10), and also recommended an unhosted option provided there is a local agent for management and contact in emergencies, and a higher maximum number of guests allowed than for hosted. The PC also recommended that approved accessory living units ("granny flats") be allowed as hosted short-term rentals, and further requested the short-term rental issue be returned in 12 months to determine the effectiveness of the program.

Staff recommends Alternative 1 to adopt an amendment to the Zoning Code (Title 1) to allow short-term rentals and home sharing (Attachment 2).

Staff continues to recommend limiting short-term rentals to hosted rentals only. Concerns with unhosted rentals include the impact on neighborhoods, the potential for corporate-type, short-term rentals, difficulty in ensuring a permanent resident or agent is available to manage the unit, and the potential impact to affordable housing. If the City Council supports allowing unhosted short-term rentals as recommended by the HHSC and PC, then they should also adopt Alternative 4 with the following additional provisions: 1) allow two guests per bedroom and a total of eight guests on site at one time; and 2) require an application for unhosted short-term rentals to include a floor plan of home indicating number of bedrooms, a list of all properties applicant is operating as a short-term rental in the City of Sunnyvale, and the name, address and phone number of a local contact person.

### **BACKGROUND**

The Sunnyvale Municipal Code prohibits hotels and motels from most residential areas. Hotels are defined as facilities that offer transient lodging accommodations to the general public for compensation, and transient is defined as any individual who exercises occupancy for a period of 30 consecutive calendar days or less.

While short-term rentals are not new, they have expanded in popularity due to the emergence of Internet sites that link prospective renters to available properties. Renters work with the homeowner or another individual with the Internet companies serving as a middleman in the business transaction. These Internet sites give individuals more options for advertising their rentals, but the transactions tend to be private and difficult for a regulating agency to track.

Many cities are grappling with how to handle the growing popularity of short-term rentals. Some cities have attempted to put wide-ranging regulations in place to control the use, while others have taken a more hands-off approach. A brief description of how some cities are reacting to this use is included in Attachment 3.

In order to better understand the community's thoughts about the issue, an Open City Hall web page was created to provide information and a survey to receive feedback. In summary, 50 percent of the respondents are generally supportive of short-term rentals and another 24 percent would be supportive if only hosted rentals are allowed (see Attachment 4 for a summary of that survey). Hosted refers to rentals where the resident lives on the premises while the home or rooms are rented; unhosted refers to situations where the full house may be rented and the resident does not reside on the premises.

### **Enforcement**

Since the short-term rental business model is a fairly new concept, the City only started addressing the issue in FY 2014/15, after staff determined that it is a municipal code violation. The City has not proactively enforced any short-term rentals but has received approximately ten complaints. Of those complaints, most were resolved quickly after informing the property owners that short-term rentals are a violation of the municipal code. Three property owners were informed of the violation and stated that they would cease the practice; however, subsequent complaints from concerned neighbors prompted further investigation revealing that the practice had not ceased. The three property owners received administrative citations.

Short-term rentals present enforcement challenges for Sunnyvale and other jurisdictions. Numerous short-term rental platforms exist with new ones continually added, making it difficult to prove that a resident is renting their home for fewer than 30 days. This is further complicated by the fact that many of these rental platforms do not provide the specific addresses of the rental properties so they are difficult to locate (even the user may not know the exact location until the transaction is completed). Staff has also found that after warning people about the violation, some have simply changed the description on the website to state "30 days or longer" while still renting their rooms/homes on a per night basis. To pursue and effectively enforce short-term rental complaints, additional staffing would be needed since these cases can be complicated, time intensive, and difficult to prove. DPS staff cannot enter private residences to gather evidence without a search warrant or consent, and short-rental platforms are generally unwilling to share information without a subpoena.

During the joint Study Session on May 12, 2015, City Council and Planning Commission members had questions about whether the City can identify short-term rental hosts and enforce City rules using tax data. According to Airbnb, they do collect taxpayer information from hosts, and those with income from house rentals must report that as taxable income. This is not sufficient data, however, for the City to determine which home owners and tenants are using the residence as a rental unit because the only information the City receives from the State Franchise Board is a list of individuals and property addresses for which a principal business activity (PBA) code is issued. The list the City receives does not specify the type of business at that location, so there is no way to determine if the PBA was for a rental unit, home consulting business, or other use. As a result, use of tax data is not sufficient for enforcement of city regulations.

### **EXISTING POLICY**

---

**General Plan:**

*From Land Use and Transportation (LT):*

**GOAL LT-2 Attractive Community** - Preserve and enhance an attractive community, with a positive image and a sense of place, that consists of distinctive neighborhoods, pockets of interest, and human-scale development.

*Policy LT-2.1* Recognize that the City is composed of residential, industrial and commercial neighborhoods, each with its own individual character; and allow change consistent with reinforcing positive neighborhood values.

*Policy LT-3.4* Determine appropriate density for housing based on site planning opportunities and proximity to services.

*Policy LT-6.3* Consider the needs of businesses as well as residents when making land use and transportation decisions

*Policy LT-7.4* Support land use policies that provide a diversified mix of commercial/industrial development.

*From Community Character (CC):*

*Policy CC-1.7* Encourage neighborhood patterns that encourage social interaction and avoid isolation.

**ENVIRONMENTAL REVIEW**

Pursuant to California Environmental Quality Act (CEQA) Guidelines 15061(b)(3), CEQA does not apply to activities that are not a project. The code changes will not have the potential for causing a significant effect on the environment. Allowing homes to be used for short-term rentals does not change the nature of residential areas in which they are located, it only changes the term of occupancy. This is not considered an environmental impact pursuant to CEQA.

**DISCUSSION**

Short-term rentals are enjoying immense popularity, with future growth expected. Although the use of personal residences for hotel-type lodging is popular, it comes with concerns and issues that are difficult to resolve. Listed below are areas of concern for this type of business in residential zones.

The report identifies options to address these issues:

1. Lack of oversight of hosts
2. Difficulty in enforcement
3. Neighborhood compatibility
4. Safety
5. Noise
6. Parking

**Overview**

Enforcing short-term rentals is difficult whether the zoning remains the same (currently considered to be illegal) or if they are an allowed use. One key issue is that the Internet companies that post the rentals act as the middleperson in the transactions, but do not ensure that the host meets local regulations. Companies like Airbnb acknowledge that people using their service must do their own

due diligence regarding local permitting, and in some cases offer brief summaries of what different jurisdictions require, but they do not take responsibility for the transactions. In contrast to a hotel business, which gets the necessary permits to build and operate a lodging facility (in addition to providing on-site personnel to secure and maintain the facility), short-term rental companies act as go-between by listing available rentals and collecting a fee for each transaction. While these services benefit residents wishing to offer short-term rentals, surrounding residents may not be aware of such rentals until they occur.

In order to impose regulations that will benefit the entire community, cities have tried with varying success to place land use requirements and restrictions on the hosts. Cities have enacted specific permitting requirements but the resulting success rate of people obtaining permits is less than 10 percent. The companies that act as middlemen do not monitor or require proof of a local permit to list a rental. Responsibility for enforcing permitting requirements presently rests entirely with the jurisdiction. However, the State legislature is currently working on a number of bills on this issue, which may resolve the issue at the state level.

### Options

Various cities have adopted regulations to ensure short-term rentals are compatible with their surrounding neighborhoods, but no single approach has proven to be an optimal solution. San Francisco has been cited as an example with a process in place that works well, but recent actions have shown otherwise. The Planning Department for San Francisco recently notified the Board of Supervisors of the difficulty of enforcing their regulations. Some of the aspects of the San Francisco regulations that are difficult to enforce include: the specified number of days units can be rented out; the number of days a permanent resident must live in the unit; and that tenants may not make more in short-term rental than their monthly rent. The Board of Supervisors recently has been discussing ways to change the process to ensure more participation by hosts with a resulting program that is enforceable. Recent statistics have shown that fewer than 10 percent of the Airbnb hosts have received permits for their businesses in San Francisco.

In choosing options for Sunnyvale, staff identified the best practices from different cities that could maximize the success rate of compliance and enforcement. Options are discussed below, followed by the staff recommended alternative.

Issues specific to short-term rentals:

- Regulating the use - type of license, registration or permit?
- Hosted versus unhosted rentals
- How many guests at one time
- Limit on number of days
- Limit the types of units
- Fees and taxes

There are two main types of short-term rentals: Hosted and unhosted. Hosted are rentals where the permanent resident lives in the unit, while unhosted are rentals of the entire house. Approaches for each are shown below. Regardless of hosted or unhosted, the issues to consider regarding short-term rentals include: (1) Methods to regulate the use, and (2) Standard criteria to be used regardless of the permitting option. Shown below are different options for these issues.

---

**A. Regulating the Use.** There are three main approaches to regulating short-term rentals:

1. Allow the use. There are different options to regulate short-term rentals. One approach would be to consider them to be allowed uses subject to performance criteria, but not require a permit. Another option is to require City approval to ensure compliance. The following is a discussion of those options:
  - a. *Allow by right.* This is the simplest approach for the hosts because it requires the least amount of action on their part. It is possible that requiring any type of permit could deter hosts from working with the City on meeting the goals of the program. The downside with this approach is the difficulty in knowing which hosts are meeting the performance criteria thereby making enforcement more difficult.

An example of a city that allows the uses by right, San Jose amended the zoning code to allow short-term rentals by right, provided they meet newly created performance standards. These include different occupancy standards based on type of unit and number of bedrooms; limits on the number of days per year rentals may be allowed; record keeping required by the hosts; and review by City, possible (see Attachment 5 for the San Jose criteria).

Although the approach used by San Jose removes the need for a permit, ensuring that the performance standards are met could be burdensome. It would be difficult for the City to determine compliance with the number of days a year units are rented; the number of people allowed based on the number of bedrooms; and allowing the City to review each host's lodging records. Although a permit or zoning clearance requirement may dissuade some people from working with the City, a simple process with consistent standards provides a relatively easy permit process. It would also make it easier for the City to determine those units that meet the criteria from those that do not based on who obtained a permit and who did not. Also, having a permit could provide the City with easier access into a residential unit to ensure compliance with City regulations.

Each short-term rental would need to register with the City to ensure the appropriate fees are collected.

- b. *Community Development Director's Approval.* This type of review is a variation of the process used for Large Family Child Care Homes (LFCCH) greater than 300 feet from another LFCCH. The Director's Approval provides an opportunity to review the requirements with the resident/host. Rather than site-specific conditions of approval, performance standards would be defined in the zoning code that would be applicable to all short-term rentals. These approvals are neither appealable nor noticed. The intent is to ensure the use is tracked and hosts understand the requirements. The approval can be revoked by the Director for violation of performance standards.
  - c. *Planning permit.* The two options include a Miscellaneous Plan Permit (MPP) or Use Permit (UP). This would be a more thorough review than a Director's Approval, and would allow specific conditions of approval to be added, as well as allow the permit to be appealed (appeal may be limited to the applicant or may allow any concerned party to appeal). An MPP would take up to two weeks to review and may include notification

to nearby property owners prior to taking an action (which increases the process time by another two weeks). A UP expands the review and requires a noticed public hearing with mailed notices to nearby property owners, advertising in the local newspaper and posting of the site. A UP requires significantly more staff time to process than an MPP and decisions would also be appealable to the Planning Commission. The minimum time frame to process is six to eight weeks (if there is no appeal). These types of permits help ensure conformity with the property and neighborhood and to provide options to apply conditions of approval unique to the site. When permits are issued for a use at a property, it provides the City with tools to enforce the use, including a record of which short-term rentals have permits, which makes it easier to inspect properties to ensure compliance with City requirements and conditions of approval.

2. Specifically prohibit. This option would include amending the code to explicitly disallow short-term rentals. It would take away any ambiguity or confusion about whether short-term rentals meet the definition of transient occupancy, and could assist in enforcement of the uses. This would be the most effective approach if the intent is to definitively prohibit the uses.
3. Make no changes. This option would continue to prohibit short-term rentals since they are considered transient occupancy. This is not an ideal approach because the large number of hosts in the City would be difficult to enforce and it may be possible to only enforce the extreme cases. This could result in selective enforcement, and given the temporary nature of the rental, the use may be discontinued by the time Neighborhood Preservation arrives at the property.

Staff recommendation: Amend the code to allow short-term rentals, subject to obtaining a Director's Approval. A Director's Approval is an existing process, making it easier for staff to implement. Although some hosts may have hesitancy to take the time to get City approval for their short-term rental unit, this process is the easiest to implement and provides the most effective tool to enforce the uses. Ultimately, having short-term rental applications available on-line would likely increase compliance and participation by the hosts.

## **B. Types of Short-term Rentals**

If it is decided to allow short-term rentals, it is necessary to determine which type is allowed. Listed below is a discussion of both types:

1. Hosted Rentals: A permanent resident must live at the home while it is being rented. Requiring the permanent resident to be residing at the home while rented can address concerns about the safe rental of the unit and in meeting City requirements. Having a resident host living at the house could also increase the comfort of neighbors who may otherwise be unsure of whom the guests are. Hosts will need to demonstrate that they are physically residing at the home during any period it is being rented.
2. Unhosted Short-term Rentals: Both the HHSC and PC supported unhosted rentals provided management of the property was nearby. There are examples where an unhosted unit is a good neighbor, but it can also become more of a hotel-type unit with higher turnover of renters. Options for regulating unhosted rentals are listed in Attachment 6.

Hosted short-term rentals could present fewer compliance issues since the host would reside on the premises to oversee the rental. Unhosted rentals (entire house rentals) could have more neighborhood compatibility and enforcement issues, and are more likely to be used as a true business than sharing a home. Staff supports allowing a short-term rental if the permanent resident lives in the home while it is being rented. This approach should help alleviate the concerns about not having a resident host to ensure the safe rental of the unit and not meeting City requirements. Having a resident host living at the house could also increase the comfort of neighbors who may otherwise be unsure of whom the guests are.

Staff recommendation: Although both the HHSC and PC supported unhosted rentals provided management of the property was nearby (e.g., available by phone and able to respond to the property in-person within a short time frame), staff recommends limiting short-term rentals to hosted rentals only due to:

- Neighborhood compatibility issues for unhosted rentals;
- The impact unhosted units could have on the affordability of the rental housing market;
- The lack of a permanent resident in the home;
- The potential of larger groups of people renting out homes without a resident to supervise; and,
- The potential for unhosted homes to be used as a hostel, quasi-hotel or corporate housing, which is not in keeping with the intent of residential zoning districts.

### **C. Application Process**

If the decision is to allow short-term rentals, certain information should be provided to the City to ensure the criteria are met, and to assist in enforcing the uses. The following criteria would apply to both hosted and unhosted rentals, while number four would apply only to unhosted rentals:

1. Approval issued to individual or property. As opposed to other planning permits, the approval for short-term rentals should be issued to a specific person at a specific address. This would help assure that the host is aware of the City requirements and limitations.
2. Owner consent. Require property owner's consent to the application if the host is not the property owner, including homeowner's associations in common interest developments. This is especially important for subleases and apartment units.
3. Best practices. In order to remind hosts of the community's interests in having compatible short-term rental units in residential neighborhoods, a "best practices" sheet will be prepared by the City to be signed by applicant at the time of approval acknowledging understanding and agreement of the items listed. Examples of what could be included in the list of best practices includes: ensuring that guests park on-site, maintain quiet hours during the night, limit outdoor activities, notifying neighbors of the activity, etc.
4. Unhosted rentals. In order to provide greater security and assurance that an unhosted rental unit wouldn't negatively impact a neighborhood, certain specific items could be required as part of the application:
  - a. Floor plan of home indicating number of bedrooms.
  - b. Name, address and phone number of a local contact person.
  - c. In addition to the requirements for hosted rentals, additional requirements for unhosted

rentals could be included, such as: identifying a local contact person or property manager for the property; or requiring a floor plan to determine the maximum number of allowed guests (if regulated by bedrooms).

Staff recommendation: Applications for short-term rentals should:

- Apply to an individual for specific properties;
- Require the property owner and homeowner association consent;
- Be provided with a best practices document if approved; and,
- If unhosted rentals are allowed, the applicant must also provide the floor plan of the home.

Staff does not recommend requiring a local contact person because that information cannot be easily verified during the permit process or may change over time.

**D. Codify specific requirements.** In order to make the requirements easier to enforce and understand, specific criteria regarding short-term rentals should be codified. The attached zoning code amendments include short-term rental standards and include minimum or maximum allowances. These criteria would only be used if the use is allowed, and wouldn't be necessary if the use is prohibited.

1. Maximum number of guests at one time- Hosted. In order to control the number of people using a short-term rental and the concomitant effects on neighbors (e.g. parking and noise), a limitation of the number of short-term rental guests allowed in a 24- hour period can be added (some regulations exclude children under five years old from the count). Some cities allow a three-bedroom unit to rent to more people than a two-bedroom, and so on, but staff expects that having one standard regardless of the number of bedrooms make enforcement easier.
2. Maximum number of guests at one time- Unhosted. Since the entire home is available for rental, increasing the maximum number of guests could be considered beyond the recommended limit of four for hosted rentals. Cities that allow unhosted rentals have adopted different approaches. Options include allowing a higher total number of guests regardless of the house size (e.g. six or eight), or setting a maximum occupancy base on number of bedrooms. Many cities use two guests per bedroom, with a maximum of eight or ten. Although both standards are clear and understandable, it will be more challenging to regulate based on the number of bedrooms.
3. Limiting the number of days allowed per year. As seen in other cities, setting a specific number of days a year a residence can be rented for short-term purposes is difficult and infeasible to enforce. Staff would need to closely monitor the number of days that guests stay at the residence, or rely on the good faith effort of hosts to provide such records when requested. Placing a limit on the number of days that short-term rentals are allowed is contrary to the program goal of creating standards that can be reasonably enforced.
4. Regulate the types of residence allowed (single-family detached, townhouse, apartment, etc.). Making regulations that ensure the highest rate of compliance depends on predictability and commonality. By having different standards for different housing types

or conditions, it could create confusion and complications that could affect the success of compliance. Therefore, having the same requirements for any type of residence helps in permitting and enforcement.

Staff recommendation: Adopt changes to the code to specifically address short-term rentals (see draft ordinance Attachment 2), including:

- Allow short-term rentals because it increases the likelihood of compliance with City regulations and promotes greater sensitivity and responsiveness to the potential concerns of neighbors;
- Limit short-term rentals to hosted;
- Limit to four guests per residential unit at one time;
- Do not define a limit on the number of days per year that is allowed for short-term rentals.
- Allow short-term rentals in any unit type. Require property owner signature on application forms for leased residences (e.g. apartments, duplexes) and homeowners' association approval for common interest developments (e.g. townhouses, condominiums).
- Require that all renters have facilities for sleeping, bathing, and toileting inside of a permanent dwelling that is suitable for human occupancy. Rental of sleeping space in or on balconies, porches, tents, sheds, vehicles or outdoor areas is prohibited.
- Unhosted rentals (not recommended by staff) - If Council allows unhosted rentals, consider a limit of six to eight guests on site at one time.

**E. Payment of fees and taxes.** Three types of fees and taxes typically assessed on lodging uses are: permit application fees, business license tax and TOT (these do not include regular fees for new development such as building permits, sewer connections, etc.). This revenue would assist in covering the cost of implementing the program and in providing enforcement. Listed below are the fees and their collection options.

1. Permit Application Fee. The fee established should cover the staff time in issuing the approval. In setting the fee amount, one option would be to create a modest fee to avoid a significant disincentive for hosts to obtain a City approval. If Director Approval is the selected process, the same approval for a LFCCH does not currently require a fee; however, staff suggests that a fee is reasonable to consider for short-term rentals. Another approach would be to require a higher fee to assist in enforcing these uses. Regardless of the process chosen, enforcement of short-term rentals can be costly and staff intensive.
2. Business License Tax. The Municipal Code limits collection of business licenses to rental of "any building or buildings (whether or not connected), in a single ownership, *within which three or more separate spaces or units* are located which are available for rental and are intended to be used for office or *dwelling, lodging or sleeping purposes.*" Since short-term rentals typically do not involve the separate rental of three or more spaces or units, business license taxes would not apply in most cases. Since it is a tax, the method of changing this requirement would require a vote by residents. A property owner would be required to pay a business license tax if their rental met the requirements of the Municipal Code.
3. Transient Occupancy Tax (TOT). Short-term rental units provide overnight and

temporary lodging for business travelers and other visitors similar to hotels/motels. TOT is required for short-term rentals at the same rate as for hotels/motels. Some companies, such as Airbnb, have worked with cities so the company collects the TOT on behalf of the City and remits it on a quarterly basis.

Staff recommendation: Staff recommends the following actions:

- Adopt a processing fee in the City's Fee Schedule that is reasonable to ensure maximum participation from the short-term rental hosts in the City;
- Collect business license tax where subject to the tax under the Municipal Code. Note, in most cases, short-term rentals can operate without a City business license;
- Short-term rental hosts are required to pay the 10.5 percent Sunnyvale TOT. If short-term rentals are allowed, staff recommends working with the short-term rental companies to set up a remittance program. Any host that uses a platform that does not collect the TOT will be required to pay the tax in accordance to the TOT ordinance.

### **FISCAL IMPACT**

#### *Transit Occupancy Tax (TOT)*

Short-term rentals are treated the same as any other lodging uses and would be required to pay TOT. The current rate is 10.5 percent, and applies to the guest staying at a hotel, not the hotel itself. Therefore, the tax is not based on the hotel and number of units but the length of time a guest stays.

According to Airbnb, there are, on average, 120 Sunnyvale units on their platform at one time, though most are not rented each night. They estimate each host rents their unit seventy-five days a year at an average rate of \$90 per night for an annual income per year of \$6,750. The resulting TOT from Airbnb hosts would be approximately \$85,000 per year. Airbnb is the leader in the short-term rental market, and the same information was not available from other companies, but if all other platforms in total equal Airbnb's market share, the total additional TOT for the City would be approximately \$170,000 per year.

TOT is paid by the lodging facility, in this case the hosts, but Airbnb has shown a willingness to work with the City in collecting the TOT. Staff has discussed with Airbnb the possibility of collecting the TOT on behalf of the City that, since all transactions go through their system, would greatly assist the City in assuring the TOT is paid by all hosts using the Airbnb platform. Staff will attempt to work with other platforms to have them collect the TOT and remit to the City, but the City cannot compel them to do so.

Any TOT collected goes into the General Fund. Penalties and interest would be charged for hosts that do not pay TOT.

#### *Business License Tax*

The City Municipal Code requires the rental of three or more separate spaces or units to pay a business license tax. Staff expects that most short-term rentals will be for fewer than three separate spaces or units, and therefore not be subject to the tax. As a result, no significant related fiscal impact is expected.

There will be additional costs and fee revenue that can be developed following further Council direction. If so directed, staff will return to Council with a resolution amending the Fee Schedule to

---

reflect the appropriate processing fee for short-term rentals. That Report to Council will provide additional information regarding the fiscal impact.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website. Notice was sent to the neighborhood associations, interested parties, and was posted on the Open City Hall web page created for this study. Staff met with a representative from Airbnb, and communicated with members of the community on the issue.

At a joint study session with the City Council and Planning Commissioners, topics discussed included:

- Determining how neighboring cities address the issue.
- Enforcement concerns: Determine what actions DPS can do at this time, and what tools they need to be more effective going forward.
- Research whether federal tax information can be used to identify individuals claiming income from short-term rentals.
- Describe the expected revenue from collecting TOT and business license taxes for short-term rentals.
- Discuss with Airbnb how it would work with the City in coming up with program options.

Staff has received information from hosts of short-term rental properties explaining the value of the short-term rental service. Staff has also received information from residents concerned about short-term rentals in their neighborhoods, and the difficulty in the illegality of the uses. Finally, staff has received information from representatives of hotel workers about the negative effect short-term rentals have on the stock of affordable housing in the area. Correspondence can be found in Attachment 7. Staff also has had discussions with representatives of Airbnb; a summary of this discussion is captured in Attachment 8.

During both the HHSC and PC hearings, several people spoke in favor of allowing short-term rentals in Sunnyvale. Many of those people also advocated allowing unhosted short-term rentals. A representative of hotel workers spoke about the negative impact short-term rentals has on the affordability and availability of affordable housing for their workers in the area and suggested that if allowed, short-term rentals be hosted units only.

### **ALTERNATIVES**

1. Introduce an Ordinance to add a new Chapter 19.76 entitled Short-term Rentals and Home Sharing to Title 19 of the Sunnyvale Municipal Code.
2. Direct staff to return with a Resolution amending the Fee Schedule to reflect the appropriate processing fee for short-term rentals.
3. Find that the project is exempt from CEQA under Guideline 15061(b)(3).
4. Introduce an Ordinance with modifications to the staff recommendation, such as allowing unhosted short-term rentals as recommended by the Planning Commission and Housing and Human Services Commission.
5. Do not add Chapter 19.76 and make no changes at this time.

**STAFF RECOMMENDATION**

Alternatives 1, 2 and 3: (1) Introduce an Ordinance to add a new Chapter 19.76 entitled Short-term Rentals and Home Sharing to Title 19 of the Sunnyvale Municipal Code; (2) Direct staff to return with a Resolution amending the Fee Schedule to reflect the appropriate processing fee for short-term rentals; and (3) Find that the project is exempt from CEQA under Guideline 15061(b)(3).

Regulating short-term rentals will continue to be difficult whether the City takes a proactive approach or not. The nature of the business makes it difficult for the City to regulate and enforce the use. Staff finds, however, that the best chance at maximizing success with this business type is to create clear requirements, an easy approval process and reasonable fees. The recommendation considers different options that both address the concerns surrounding this new type of business, as well as respond to its growing popularity, and follows Council's direction to identify realistic regulations to more accurately respond to this growing business type.

Although both the HHSC and PC recommend allowing unhosted short-term rentals, staff recommends limiting short-term rentals to hosted situations only. The potential issues related to unhosted rentals raises additional concerns, including the impact it could have on the affordability of the rental housing market, the lack of permanent resident present at the home, and the potential of larger groups of people renting out homes without a resident present. Unhosted rentals also bring the potential for homes to be used as quasi-hotel, corporate housing, which is not in keeping with the intent of residential zoning districts.

If the Council would like to allow unhosted short-term rentals, staff recommends adopting Alternative 4 with the following additional provisions: 1) allow two guests per bedroom and a total of eight guests on site at one time; and 2) require an application for an unhosted short-term rentals to include a floor plan of home indicating number of bedrooms, a list of all properties applicant is operating as a short-term rental in the City of Sunnyvale, and the name, address and phone number of a local contact person.

Prepared by: Andrew Miner, Principal Planner

Reviewed by: Trudi Ryan, Planning Officer

Reviewed by: Hanson Hom, Director, Community Development

Reviewed by: Frank Grgurina, Director, Public Safety

Reviewed by: Grace K. Leung, Director, Finance

Reviewed by: Kent Steffens, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. Study Issue Paper
2. Draft Ordinance
3. Other Cities' Approaches
4. Open City Hall Survey Results
5. San Jose Performance Criteria
6. Unhosted rental options
7. Correspondence
8. Summary of Airbnb Business
9. Draft Housing and Human Services Commission minutes of 7/22/15
10. Planning Commission minutes of 7/27/15

*This Page  
Intentionally  
Left Blank*



### REPORT TO COUNCIL

#### **SUBJECT**

Approve Agreement between the City of Sunnyvale and Airbnb, Inc. for the Collection of the City's Transient Occupancy Tax on Short-Term Rentals

#### **BACKGROUND**

Like many cities across the country, the City of Sunnyvale continues to grapple with the popularity of short-term rentals. Sunnyvale Municipal Code (SMC) Chapter 19.76 provides that short-term rental hosts register with the City and remit Transient Occupancy Taxes, "in accordance with any hosting platform if utilized, pursuant to Chapter 3.16." Chapter 19.76 also requires the host to reside on-site throughout the lodger's stay (no "unhosted" rentals) and limits the number of adult overnight lodgers to four.

The proliferation of hosting platforms facilitating short-term rental transactions has made it difficult for cities to track and register rentals. A recent estimate identified more than 900 short-term rental listings in Sunnyvale across multiple hosting platforms. Online platforms generally do not make available the identity of hosts or addresses of rental listings, nor do they proactively facilitate collection of TOT. These limitations have made it difficult for cities to identify properties being used as short-term rentals and to collect applicable taxes.

Generally, lodgers booking accommodations pay electronically using the host platform website, with the host platform briefly holding the funds, deducting platform service fees from guests and hosts before passing the remainder of the funds to the host. Many public agencies have negotiated tax collection agreements with hosting platforms for the collection and remittance of TOT payments.

#### **EXISTING POLICY**

Council Policy, Chapter 7, *Planning and Management*, Policy B.1.1 - The City will maintain a diversified and stable revenue base, not overly dependent on any land use or external funding source.

Council Policy, Chapter 7, *Planning and Management*, Policy B.1.4 - When considering a new tax or revenue source or an increase in an existing tax or revenue source, the following criteria should be considered:

- Community/Voter acceptance
- Competitiveness with surrounding communities
- Efficiency of revenue collection and enforcement
- Effectiveness in generating sufficient revenues in the short and long-term to justify its establishment

- Enhancement of revenue diversity to promote stability and provide protection from downturns in business cycles
- Equity/Fairness in distribution of the revenue burden on various segments of the community

### **ENVIRONMENTAL REVIEW**

This action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(b)(4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment and section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

### **DISCUSSION**

The City currently has a total of 28 short-term rental hosts registered, with 20 actively remitting an average of \$3,200 in TOT monthly. Staff has received multiple complaints from registered hosts who are aware of and frustrated by the low citywide levels of compliance with SMC requirements, as they feel that this is unfair to the few hosts who do comply.

Since late 2015, when the short-term rental ordinance went into effect, the City has received complaints on approximately 20 properties from neighbors about lawful and unlawful short-term rental activity. The Department of Public Safety, Neighborhood Preservation Unit, responds to complaints and works to address violations of the short-term rental ordinance, while respecting the constitutional and legal rights of residents and guests in private homes.

City staff engaged Airbnb (currently the largest hosting platform for short-term rentals) regarding entering into a voluntary tax collection agreement on behalf of hosts using their service. After research and discussion, staff determined collection and remittance of taxes by the hosting platform is appropriate and would provide immediate benefits to the City.

Over 30 California public agencies have already entered into similar tax collection agreements with Airbnb. In Santa Clara County, Palo Alto, Santa Clara and San Jose have negotiated voluntary tax collection agreements with Airbnb.

Key provisions of the proposed agreement are summarized below:

- Airbnb is not a host, but will act on hosts’ behalf to collect and remit TOT.
- Airbnb will assume liability to report, collect and remit the correct amount of TOT.
- The agreement does not relieve short-term rental hosts from remitting TOT for bookings on other platforms, or registration requirements under the Short-Term Rental ordinance.
- Airbnb will not provide personal identifying information about hosts except in response to a warrant or court order.
- The City will maintain audit rights with Airbnb, but not individual hosts.
- The City agrees to waive the right to collect TOT payments owed by hosts for Airbnb bookings made prior to the effective date of the agreement.
- Airbnb agrees to notify guests and hosts of the TOT to be collected.

The proposed agreement does not require Airbnb to enforce other terms of the City's short-term rental ordinance, such as registration or host-occupancy requirements. Likewise, this agreement only covers bookings via the Airbnb platform, so staff will be initiating entering into agreements and collection processes with other hosting platforms.

Staff's recommendation is that enforcement be effected via other means, such as contracting with a compliance service equipped to identify and outreach to hosts across multiple hosting platforms. Staff is currently exploring this service with potential vendors. TOT payments for platforms not covered by a collection agreement could also be remitted through such a service.

### **FISCAL IMPACT**

The City will receive additional Transient Occupancy Tax revenue as a result of entering into this Agreement. Airbnb estimates that bookings would generate approximately \$500,000 in annual revenue. Revenue from TOT goes to the General Fund.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

### **RECOMMENDATION**

Authorize the City Manager to execute a Voluntary Collection Agreement, in substantially the same form as Attachment 1 to the report, with Airbnb, Inc. for the collection of Transient Occupancy Tax.

Prepared by: Beth Goodsell, Senior Management Analyst  
Reviewed by: Timothy J. Kirby, Director, Department of Finance  
Reviewed by: Teri Silva, Assistant City Manager  
Reviewed by: John Nagel, City Attorney  
Approved by: Kent Steffens, City Manager

### **ATTACHMENTS**

1. Draft Airbnb, Inc. Voluntary Collection Agreement

*This Page  
Intentionally  
Left Blank*



## Short-term Rentals

### What is a short-term rental?

A short-term rental (or vacation rental) is the renting out of your residence, rooms in your residence or an accessory unit (granny flat). Short-term rentals are for a period of 30 consecutive calendar days or less. Such rentals have become a popular option for visitors, and the City has regulations in place to ensure the needs of everyone in the community are balanced.

### Am I legally eligible to host a short-term rental?

To legally host a short-term rental, you must adhere to [Municipal code 19.76](#) which requires that you:

- Reside on-site throughout the guests' (lodgers') stay
- Limit guests to a maximum of four adult guests per night
- Register as a host with the City
- Collect and pay Transient Occupancy Tax (TOT)

### How do I register as a host?

1. Fill out the [short-term rental application](#)
2. Complete the [Transient Occupancy Tax \(TOT\) Registration form](#)
3. Bring your completed short-term rental application and TOT registration form to the One-Stop Permit Center for approval and pay a one-time registration fee.

**Note:** If you have separate listings for three or more spaces or rooms, you are required to obtain a business license.

#### [How to apply for a Business License](#)

### How do I pay the Transient Occupancy Tax?

The Transient Occupancy Tax, sometimes called a "hotel tax," requires that any person or business engaged in the renting of any number of rooms for lodging, dwelling, or sleeping purposes, must collect, report and remit this tax to the City on any guest rentals.

The Transient Occupancy Tax rate for the City of Sunnyvale is 10.5%.

Use the following form to submit the TOT payment each month:

#### [Monthly TOT Remittance Form](#)

**Notice:** Effective August 1, 2018, Airbnb will collect and remit TOT on behalf of hosts. Hosts must still remit TOT for non-Airbnb bookings.

[Website Feedback](#) Close

### TOT Exemptions

Some guests may be exempt from paying Transit Occupancy Tax:

- Federal, California state or foreign government employees
- Guests who have stayed longer than 30 consecutive days

[TOT Exemption Claim Form](#)

Last Updated: Jul 26, 2018



Sunnyvale

# SHORT TERM RENTAL APPLICATION FORM

City of Sunnyvale  
Community Development Department  
Planning Division - 456 Olive Avenue - Sunnyvale, CA 94087 - Phone (408) 730-7444

Property Address: \_\_\_\_\_ APN: \_\_\_\_\_

### Applicant Information

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Email: \_\_\_\_\_ Phone: \_\_\_\_\_

### Property Owner Information

If the property is an apartment complex or common interest development, the application shall include the name, address, contact information and signature of the apartment manager or HOA

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Email: \_\_\_\_\_ Phone: \_\_\_\_\_

**General Requirements.** The City Code requires that all short-term rentals comply with the following regulations:

1. Short-term rental activity must be approved by the Director pursuant to Section 19.76.050 of the Sunnyvale Municipal Code.
2. A maximum of four overnight adult lodgers are allowed per night in any residential unit. Rental to unaccompanied minors under the age of 18 is prohibited.
3. The Host must reside on-site throughout the lodgers' stay.
4. The host must provide all lodgers with facilities for sleeping, bathing, and toileting inside of a permanent dwelling that is suitable for human occupancy.
5. Register with Finance to pay the transient occupancy tax.
6. Submit current application fee - See Planning Fees Sheet or ask staff.

**Declaration.** I certify that I have read and will comply with the Short-Term Rental of Residential Property Ordinance as listed above and hereby state Short-Term Home Rental will conform to all the provisions set forth therein. I also understand and agree that non-compliance with the above is grounds for revocation of the Short-Term Rental Permit as outlined above. Further, I certify that the information supplied on this form is true and correct to the best of my knowledge.

\_\_\_\_\_  
*Signature - Applicant*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature - Property Owner or agent (if applicable)*

\_\_\_\_\_  
*Date*

### OFFICE USE ONLY

Project Number: _____		Type of Payment Fee total: _____ <input type="checkbox"/> Check _____ <input type="checkbox"/> Credit _____ <input type="checkbox"/> Cash
Accepted By	Filing Date	Receipt #
<input type="checkbox"/> Approval	<input type="checkbox"/> Denial	By
		For the Director of Community Development      Date



Sunnyvale

# TRANSIENT OCCUPANCY TAX

## Registration Form

Please return completed form to: City of Sunnyvale • Department of Finance • 650 W. Olive Avenue, Sunnyvale, CA 94086 • Office Hours: Monday – Friday, 8 a.m. to 5 p.m. • 408-730-7670

- Request Type     New Registration     Update to Existing Registration
- Type of Property     Hotel/Motel     Corporate Housing     Short-Term Rental

### PROPERTY DETAILS

Property Name \_\_\_\_\_

Property Address \_\_\_\_\_  
*(Physical Address)*

Number of Rooms at this Property \_\_\_\_\_ Operation Start Date \_\_\_\_\_

### PROPERTY OWNER INFORMATION

Send all correspondence (including legal correspondence) to this address

Owner Name(s) \_\_\_\_\_

Mailing Address \_\_\_\_\_

Telephone Number \_\_\_\_\_ Email \_\_\_\_\_

Ownership Type     Corporation     Ltd Liability     Sole Proprietor  
 Partnership     Trust     Other: \_\_\_\_\_

### OPERATOR/MANAGER INFORMATION - if different from Property Owner

Send all correspondence (including legal correspondence) to this address

Operator Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

Telephone Number \_\_\_\_\_ Email \_\_\_\_\_

### SIGNATURE

I declare under penalty of perjury that all the above information is true and correct to the best of my knowledge.

Print Name \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_



Sunnyvale

# TRANSIENT OCCUPANCY TAX Exemption Claim Form

Please return completed form to: City of Sunnyvale • Department of Finance • 650 W. Olive Avenue,  
Sunnyvale, CA 94086 • Office Hours: Monday – Friday, 8 a.m. to 5 p.m. • 408-730-7670

The City of Sunnyvale Transient Occupancy Tax Ordinance (Section 3.16.050) states that no tax shall be due for hotel occupancy for the exemptions listed below. This form is to be kept with the Operator and made available for inspection by the Tax Administrator upon request. **A separate form is required for each person and each occupancy.**

Property Name \_\_\_\_\_  
(Name of Hotel or Rental Property)

Property Address \_\_\_\_\_

Dates of Occupancy From \_\_\_\_\_ To \_\_\_\_\_ Total Rent Paid \$ \_\_\_\_\_  
(check in date) (check out date)

### GUEST INFORMATION

Guest Claiming Exemption \_\_\_\_\_

Guest Phone Number \_\_\_\_\_

### GOVERNMENT EXEMPTIONS – *complete this section if claiming State/Federal/Foreign Employee Exemption*

Agency Name \_\_\_\_\_ Agency Department \_\_\_\_\_

Agency Address \_\_\_\_\_

### EXEMPTION REQUESTED

- Non-Transient Occupancy:** A guest is transient for the first 30 days of continuous stay and taxable for that period. Once 30 days elapse, the guest becomes non-transient and exempt from tax for the remaining uninterrupted stay. **Note:** If there is a non-refundable, contractual agreement for a stay of more than 30 days upon check in, the guest is not subject to the tax for any portion of the stay and a claim form is not required.
- State of California/Federal Officer or Employee\*:** Any federal or state of California officer or employee on business who shall pay rent by warrant or check drawn on the Treasury of the United States or the state of California or who provides written evidence of such official business on an official claim form approved in advance by the tax administrator. Government contractors are not exempt from this tax.
- Foreign Government Officer or Employee\*:** Any officer or employee of a foreign government exempt by reason of express provisions of federal law or international treaty.

### GUEST SIGNATURE

I declare under penalty of perjury that all the above information is true and correct to the best of my knowledge.

Signature of Guest Claiming Exemption \_\_\_\_\_ Date \_\_\_\_\_

\* **OPERATOR:** Contractors for government agencies are not exempt from tax. Do not accept this form unless the guest provides you with at least one acceptable proof of exemption: 1) copy of the warrant or check drawn on the treasury of the United States or state of California, 2) copy of the official travel orders indicating the issuing governmental agency and the guest's full name, 3) copy of a letter on the official letterhead of an exempt governmental agency requesting exemption and listing the employee's name and stating that the stay is for official government business. The dates of occupancy must be included.

*This Page  
Intentionally  
Left Blank*

## City of Sunnyvale Municipal Code

### Chapter 19.76 SHORT-TERM RENTAL OF RESIDENTIAL PROPERTY

<http://qcode.us/codes/> and intent.

The purpose of this chapter is to establish regulations governing the short-term rental of residential property within the city of Sunnyvale. The establishment of these regulations will help maintain adequate housing stock for permanent residents while ensuring that short-term rental activities do not become a nuisance or threaten the public health, safety, or welfare due to excessive noise, disorderly conduct, overcrowding, traffic congestion, illegal parking, the accumulation of refuse, and other effects related to short-term rentals. (Ord. 3059-15 § 1).

<http://qcode.us/codes/>

For purposes of this chapter, the following definitions apply:

- (a) “Host” means the person who is responsible for conducting the short-term rental activity and who is identified as the host in the application for approval submitted pursuant to this chapter.
- (b) “Hosted short-term rental” means to provide transient lodging in a dwelling unit, for compensation, for a period of thirty consecutive calendar days or less, while the host resides on-site throughout the lodger’s stay. “Hosted short-term rentals” do not include transient lodging in city-approved hotels and motels.
- (c) “Hosting platform” means a marketplace in whatever form or format which facilitates short-term rentals through advertising, match-making or any other means, using any medium of facilitation, and from which the operator of the hosting platform derives revenues, including booking fees or advertising revenues, from providing or maintaining the marketplace.
- (d) “Short-term rental” means to provide transient lodging in a dwelling unit, for compensation, for a period of thirty consecutive calendar days or less. “Short-term rental” does not include transient lodging in city-approved hotels and motels. (Ord. 3059-15 § 1).

<http://qcode.us/codes/sunnyvale/> prohibited.

The short-term rental of residential property is a prohibited use in every zoning district in the city, with the exception of approved hosted rentals permitted pursuant to this chapter. (Ord. 3059-15 § 1).

<http://qcode.us/codes/sunnyvale/view.php?> general requirements.

(a) Hosted short-term rentals are allowed in any zoning district where residential uses are permitted subject to the following requirements:

- (1) The short-term rental activity must be approved by the director pursuant to Section

<http://050.qcode.u>

(2) A maximum of four overnight lodgers are allowed per night in any single-family dwelling or any single dwelling unit in a multi-family dwelling. The limit of four overnight lodgers does not include minor children who are accompanied by an adult.

(3) Rental to unaccompanied minors under the age of eighteen is prohibited.

(4) The host shall reside on-site throughout the lodgers' stay. To reside on-site means that the property being used for short-term rentals is the host's primary residence and the host uses the property for purposes of eating, sleeping, and other activities of daily living during the time periods that lodgers are present. Lodgers may stay in an accessory dwelling unit if the host resides in the primary dwelling. Lodgers may also stay in one dwelling unit of a two-family dwelling if the host resides in the other dwelling unit.

(5) The host shall comply with all permit conditions and applicable local, state, and federal laws including but not limited to health, safety, fire, and building codes.

(6) The host must provide all lodgers with facilities for sleeping, bathing, and toileting inside of a permanent dwelling that is suitable for human occupancy. Rental of sleeping space in or on balconies, porches, tents, sheds, vehicles or outdoor areas is prohibited.

(7) The host shall obtain a business license if required by Chapter [http](http://) of this code.  
://

(8) The host shall collect and remit transient occupancy tax, in coordination with any hosting platform if utilized, pursuant to Chapter [http](http://) of this code.  
://

(9) The host is responsible for ensuring the property does not become a nuisance due to the short-term rental activity. (Ord. 3059-15 § 1).

<http://codehosted.com/sunnyvale/view.php?code=3059-15> approval required.

(a) No person shall undertake, maintain, authorize, aid, facilitate or advertise any hosted or short-term rental activity that does not comply with the provisions of this code.

(b) The application for approval of short-term rental shall include the following:

(1) Name, address and contact information of the host.

(2) Name, address and contact information of the owner of the property where the short-term rental activity will occur. In the event that the applicant is not the legal owner of the property, the application shall be signed by the property owner consenting to the use of the property for short-term rentals.

(3) If the property is part of a common interest development, the application shall include a letter of authorization from the homeowner's association indicating that use of the property for short-term rentals meets the property's requirements.

(4) Any additional information or supporting materials to describe existing property conditions and the proposed operations as required by the director.

(c) The director shall not approve the short-term rental application unless he or she finds that the use will comply with the requirements of this code and other applicable law. The decision of the director shall be final. (Ord. 3059-15 § 1).

<http://qcode.us/codes/sunnyvale/>

The approval of short-term rental may be revoked or modified by the director as follows:

(a) Notice and Hearing. Notice shall be mailed to the host at the address specified in the approval application. The notice shall specify the reasons for the revocation and shall designate a time and place of an administrative hearing with the director of community development no sooner than the sixth business day following the mailing date of the notice. The host shall be given the opportunity to present written and oral evidence at the hearing. Failure to appear at the hearing shall constitute a waiver of any objections to the proposed revocation.

(b) Revocation. Following the hearing, the director may revoke the approval if the director makes one or more of the following findings:

(1) The approval was obtained by fraud;

(2) The short-term rental activity has been or is being conducted in violation of any provision of this code or other applicable law;

(3) The conditions of approval have been or are being violated;

(4) The short-term rental activity constitutes a public nuisance.

(c) Notice of Decision. A written notice of the director's decision shall be prepared and mailed to the host at the address specified in the application for approval. If the approval is revoked, the notice shall contain a statement directing the host to immediately cease using the property for short-term rental, and that failure to cease such use may be subject to further legal action or enforcement.

(d) Appeal. The decision of the director is final. The decision may be appealed to the Superior Court. (Ord. 3059-15 § 1).

<http://qcode.us/>

The city council may establish and set by resolution all fees and charges as may be necessary to effectuate the purpose of this chapter. (Ord. 3059-15 § 1).

<http://qcode.us/codes/sunnyvale/view.php?topic=19-5-19-76-19-76-080&frames-on>

Any short-term rental operated, conducted, or maintained contrary to the provisions of this chapter shall be, and the same is hereby declared to be, unlawful and a public nuisance which the city attorney may seek to abate, remove, and enjoin in any manner provided by law. Such remedies shall be in addition to any other remedies available to the city under this code or under state law. (Ord. 3059-15 § 1).

*This Page  
Intentionally  
Left Blank*



# City of Sunnyvale

## Meeting Minutes City Council

---

Tuesday, September 15, 2015

7:00 PM

Council Chambers, City Hall, 456 W. Olive  
Ave., Sunnyvale, CA 94086

---

### Regular Meeting-7 PM

#### **CALL TO ORDER**

Mayor Griffith called the meeting to order in Council Chambers.

#### **SALUTE TO THE FLAG**

Mayor Griffith led the salute to the flag.

#### **ROLL CALL**

**Present:** 7 - Mayor Jim Griffith  
Vice Mayor Tara Martin-Milius  
Councilmember David Whittum  
Councilmember Pat Meyering  
Councilmember Jim Davis  
Councilmember Glenn Hendricks  
Councilmember Gustav Larsson

#### **SPECIAL ORDER OF THE DAY**



#### **SPECIAL ORDER OF THE DAY - Falls Prevention Day**

Mayor Griffith presented a proclamation to Dr. Tamar Semerjian of Silicon Valley Healthy Aging Partnership and Sunnyvale Community Services Manager Gerard Manuel in recognition of Falls Prevention Awareness Day.

#### **PUBLIC ANNOUNCEMENTS**

Mayor Griffith announced an upcoming "Small Business Ignite" program.

Councilmember Whittum announced board and commission vacancies and an application deadline.

Michael Goldman announced an upcoming event to provide information about the Sunnyvale Public Lands Act and presented a PowerPoint presentation.

#### **CONSENT CALENDAR**

Councilmember Meyering pulled Items 1.A through 1.E and 1.G through 1.J.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Larsson seconded the motion to approve Consent Calendar Item 1.F.

The motion carried by the following vote:

- Yes: 7 -** Mayor Griffith
- Vice Mayor Martin-Milius
- Councilmember Whittum
- Councilmember Meyering
- Councilmember Davis
- Councilmember Hendricks
- Councilmember Larsson

**No: 0**

**1.A**  Approve City Council Meeting Minutes of August 25, 2015

Public Hearing opened at 12:05 a.m.

No speakers.

Public Hearing closed at 12:05 a.m.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Larsson seconded the motion to approve the City Council Meeting Minutes of August 25, 2015 as submitted.

The motion carried by the following vote:

- Yes: 6 -** Mayor Griffith
- Vice Mayor Martin-Milius
- Councilmember Whittum
- Councilmember Davis
- Councilmember Hendricks
- Councilmember Larsson

**No: 1 -** Councilmember Meyering

**1.B**  Approve City Council Special Meeting Minutes of September 1, 2015

Public Hearing opened at 12:05 a.m.

No speakers.

Public Hearing closed at 12:05 a.m.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Larsson seconded the motion to approve the City Council Special Meeting Minutes of September 1, 2015 as submitted.

The motion carried by the following vote:

- Yes: 6 -** Mayor Griffith
- Vice Mayor Martin-Milius
- Councilmember Whittum
- Councilmember Davis
- Councilmember Hendricks
- Councilmember Larsson

- No: 1 -** Councilmember Meyering

1.C  15-0193 Approve the List(s) of Claims and Bills Approved for Payment by the City Manager

Public Hearing opened at 12:06 a.m.

No speakers.

Public Hearing closed at 12:06 a.m.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Larsson seconded the motion to approve the list(s) of claims and bills.

The motion carried by the following vote:

- Yes: 6 -** Mayor Griffith
- Vice Mayor Martin-Milius
- Councilmember Whittum
- Councilmember Davis
- Councilmember Hendricks
- Councilmember Larsson

- No: 1 -** Councilmember Meyering

1.D  15-0194 Authorize Amending an Existing Contract for Cellular Wireless Phone Services (F16-24)

Public Hearing opened at 12:07 a.m.

No speakers.

Public Hearing closed at 12:07 a.m.

MOTION: Councilmember Meyering moved and Vice Mayor Martin-Milius seconded the motion to 1) Approve an amendment to an existing contract with Verizon Wireless to increase the contract value by \$20,000, from \$96,000 to

\$116,000; and 2) delegate authority to the City Manager to renew the contract for up to four additional one year periods, subject to available funding, acceptable pricing and service.

The motion carried by the following vote:

- Yes: 7 -** Mayor Griffith
- Vice Mayor Martin-Milius
- Councilmember Whittum
- Councilmember Meyering
- Councilmember Davis
- Councilmember Hendricks
- Councilmember Larsson

**No: 0**

- 1.E  Approve Budget Modification No. 5 to Modify Funding for Two-Phase Feasibility Study of Structural Stormwater Best Management Practices for the SMaRT Station® and the Concrete Recycling Facility and Modify Contract with Geosyntec Accordingly

Public Hearing opened at 12:09 a.m.

No speakers.

Public Hearing closed at 12:09 a.m.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Hendricks seconded the motion to approve 1) Approve Budget Modification No. 5 and 2) Modify the Geosyntec contract scope of work to delete the concrete recycling facility study and add the supplement to the SMaRT Station feasibility study.

The motion carried by the following vote:

- Yes: 6 -** Mayor Griffith
- Vice Mayor Martin-Milius
- Councilmember Whittum
- Councilmember Davis
- Councilmember Hendricks
- Councilmember Larsson

**No: 1 -** Councilmember Meyering

- 1.F  Reject Bid for Vehicle Exhaust Removal Systems at Three Fire Stations (F15-86)

Reject the one bid received from Air Exchange Inc. in the amount of \$231,153.

- 1.G  15-0197 Approve Final Map (Tract No. 10294) - 67-unit Condominiums at 680 and 698 East Taylor Avenue by Taylor Morrison of California, LLC, a California Limited Liability Company

Public Hearing opened at 12:11 a.m.  
No speakers.  
Public Hearing closed at 12:11 a.m.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Davis seconded the motion to approve the final map for Tract No. 10294; authorize the Mayor to sign the subdivision agreement upon submittal of other documents deemed necessary by the Director of Public Works; direct the City Clerk to sign the City Clerk's Statement and forward the final map for recordation.

The motion carried by the following vote:

- Yes:** 6 - Mayor Griffith  
Vice Mayor Martin-Milius  
Councilmember Whittum  
Councilmember Davis  
Councilmember Hendricks  
Councilmember Larsson

- No:** 1 - Councilmember Meyering

- 1.H  15-0199 Approve Final Map (Tract No. 10299) - 184-unit Condominiums at 701 East Evelyn Avenue by DR Horton Bay, Inc., a Delaware Corporation

Public Hearing opened at 12:11 a.m.  
No speakers.  
Public Hearing closed at 12:11 a.m.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Davis seconded the motion to approve the final map for Tract No. 10299; authorize the Mayor to sign the subdivision agreement upon submittal of other documents deemed necessary by the Director of Public Works; direct the City Clerk to sign the City Clerk's Statement and forward the final map for recordation.

The motion carried by the following vote:

- Yes: 6 -** Mayor Griffith  
 Vice Mayor Martin-Milius  
 Councilmember Whittum  
 Councilmember Davis  
 Councilmember Hendricks  
 Councilmember Larsson

- No: 1 -** Councilmember Meyering

- 1.I  15-0927 Approve Final Map (Tract No. 10285) - Seven Single-family Homes at 523 E. Homestead Road by Madison Terrace, LLC, a California Limited Liability Company

Public Hearing opened at 12:11 a.m.  
 No speakers.  
 Public Hearing closed at 12:11 a.m.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Davis seconded the motion to approve the final map for Tract No. 10285; authorize the Mayor to sign the subdivision agreement upon submittal of other documents deemed necessary by the Director of Public Works; direct the City Clerk to sign the City Clerk's Statement and forward the final map for recordation.

The motion carried by the following vote:

- Yes: 6 -** Mayor Griffith  
 Vice Mayor Martin-Milius  
 Councilmember Whittum  
 Councilmember Davis  
 Councilmember Hendricks  
 Councilmember Larsson

- No: 1 -** Councilmember Meyering

- 1.J  15-0897 Adopt Resolutions Approving Amendments to the City's Contribution for CalPERS Medical Insurance for Management, SEA/Confidential and SEIU Annuitants (Retirees)

Public Hearing opened at 12:17 a.m.  
 No speakers.  
 Public Hearing closed at 12:17 a.m.

MOTION: Vice Mayor Martin-Milius moved and Councilmember Larsson seconded the motion to adopt two resolutions (1) fixing the employer's contribution under the Public Employee's Medical and Hospital Care Act ("PEMHCA") for 2016, and (2)

amending Salary Resolution No. 190 05 to modify the City's contribution for medical insurance for Management, SEA/Confidential and SEIU employees and annuitants.

The motion carried by the following vote:

- Yes:** 6 - Mayor Griffith  
 Vice Mayor Martin-Milius  
 Councilmember Whittum  
 Councilmember Davis  
 Councilmember Hendricks  
 Councilmember Larsson
- No:** 1 - Councilmember Meyering

**PUBLIC COMMENTS**

Michael Goldman spoke regarding costs of public libraries and provided a PowerPoint presentation.

Andy Frazer spoke regarding the Sunnyvale Public Lands for Public Use Act and provided a PowerPoint presentation.

Peter Cirigliano spoke regarding a recent article in The Metro.

Maria Pan spoke regarding freedom of speech.

Steve Scandalis spoke regarding the Sunnyvale Public Lands for Public Use Act.

**PUBLIC HEARINGS/GENERAL BUSINESS**

- 2  REQUEST FOR CONTINUATION to October 27, 2015 to Introduce an Ordinance to Amend various sections of the Sunnyvale Municipal Code Title 19 (Zoning) Related to Child Care Facilities (CDD 15-11); Approve Guidelines for Commercial Child Care; and Finding of CEQA Exemption Pursuant to CEQA Guideline 15061(b)(3). (Planning File: 2015-7149)

Director of Community Development Hanson Hom provided the recommendation to continue this item to October 27.

Public Hearing opened at 7:39 p.m.

No speakers.

Public Hearing closed at 7:39 p.m.

MOTION: Councilmember Hendricks moved and Vice Mayor Martin-Milius seconded the motion to continue this item to October 27, 2015.

The motion carried by the following vote:

- Yes: 7 -** Mayor Griffith
- Vice Mayor Martin-Milius
- Councilmember Whittum
- Councilmember Meyering
- Councilmember Davis
- Councilmember Hendricks
- Councilmember Larsson

**No: 0**

- 3  Council Update and Possible Direction on Establishing a Temporary County Cold Weather Shelter for the 2015-16 Winter Season at the City's Onizuka Site

Community Development Director Hanson Hom provided the staff report. City Manager Deanna Santana, City Attorney Joan Borger and Neighborhood Preservation Manager Christy Gunvalson provided additional information.

Public Hearing opened at 7:52 p.m.

David Wessel, Democratic Club of Sunnyvale, spoke in support of the Onizuka site for the emergency cold weather shelter and clarified his comments from a previous Council meeting regarding the effect of the Sunnyvale Public Lands for Public Use Act.

Diana Nguyen spoke regarding enforcement of shuttle service for the shelter to prevent loitering and the need to address security concerns.

Marie Bernard, Sunnyvale Community Services, spoke in support of the Onizuka site for a temporary cold weather shelter and regarding services that will be provided by community service groups.

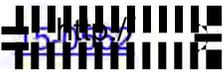
Public Hearing closed at 7:58 p.m.

MOTION: Councilmember Davis moved and Councilmember Whittum seconded the motion to receive the report.

The motion carried by the following vote:

**Yes: 7 -** Mayor Griffith  
Vice Mayor Martin-Milius  
Councilmember Whittum  
Councilmember Meyering  
Councilmember Davis  
Councilmember Hendricks  
Councilmember Larsson

**No: 0**

- 4  150592 Introduce an Ordinance to add a new Chapter 19.76 entitled "Short-term Rentals and Home Sharing" to Title 19 of the Sunnyvale Municipal Code, and find that the project is exempt under CEQA pursuant to Guidelines 15061(b)(3) (Study Issue 2015-7147) (Continued from August 25, 2015)

Principal Planner Andrew Miner provided the staff report and noted a correction to the report on page 13 in the last paragraph, that the list of provisions for unhosted rentals should not have been included. Director of Community Development Hanson Hom and Director of Finance Grace Leung provided additional information.

Public Hearing opened at 8:53 p.m.

Linda McGahen spoke in support of short-term rentals and home sharing and provided information regarding personal verification procedures she uses.

Diana Ngyuen requested consideration of changing the ordinance for the occupancy limits to two people per room.

Charisse Ma Lebron, Director of Community Development and Health Policy, Working Partnerships USA, spoke in support of allowing hosted short-term rentals, and requested amendments such as a permanent City of Sunnyvale residency requirement, that Council not permit unhosted rentals and provide close monitoring of the potential impact on the affordable housing stock.

Majid Bargh expressed concerns regarding potential negative impacts of short-term rentals on long-term rentals and neighborhoods and recommended strict limitations on short-term rentals including a permanent residency requirement.

Sarah McDermott, Unite Local 19, stated they have been working with Working Partnerships to ensure short-term rentals are not impacting affordable housing and hospitality workers. McDermott spoke in support of the staff recommendation of hosted only, and recommended strict limitations on unhosted if approved, including

a 90-day limit for unhosted and 180 days for hosted rentals. McDermott recommended the owner of the property be a Sunnyvale resident.

Dan Paustian spoke in support of allowing unhosted short-term rentals and provided information on the careful review of potential clients.

Jackie Nicoli spoke in support of allowing short-term rentals and regarding the reviews available on both sides.

David Wessel spoke in opposition to the ordinance altogether, citing problems with enforcement and lack of notice to the public.

Nancy Smith expressed concerns regarding loss of rentals in Sunnyvale, accountability of owners or tenants, the potential for coercion of tenants by raising rental rates, and including restrictions for hosts in the ordinance.

John Cordes, SNAIL Neighborhood Association Chair speaking for himself, spoke in support of allowing short-term rentals including the unhosted option. Cordes also provided information regarding the short-term rental of RVs.

Ray Crump expressed concerns regarding safety of children and spoke in opposition to unhosted rentals.

Ed Gocka spoke in support of the staff recommendation of restricting short term rentals to hosted.

Simone Yan spoke in support of short-term rentals for the opportunities it provides to people who otherwise cannot afford long-term rent in Sunnyvale. Yan also spoke in support of the benefits to the economy.

Chris Oliva spoke regarding the opportunity to defray long-term costs of a mother-in-law unit and in support of the ordinance.

Public Hearing closed at 9:36 p.m.

MOTION: Councilmember Davis moved and Councilmember Larsson seconded the motion to approve Alternatives 1, 2 and 3: (1) Introduce an Ordinance to add a new Chapter 19.76 entitled Short term Rentals and Home Sharing to Title 19 of the Sunnyvale Municipal Code; (2) Direct staff to return with a Resolution amending the Fee Schedule to reflect the appropriate processing fee for short term rentals; and (3) Find that the project is exempt from CEQA under Guideline 15061(b)(3).

FRIENDLY AMENDMENT: Councilmember Larsson offered a friendly amendment to add the language “as amended from time to time” as suggested by staff in the response to Council comments.

Councilmember Davis accepted the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Larsson offered a friendly amendment to allow a host to stay in an accessory dwelling unit if they are renting the primary unit.

Councilmember Davis accepted the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Larsson offered a friendly amendment to return to Council in two years with an update on how it has gone and a chance to revisit the ordinance.

Councilmember Davis stated this is already covered by the first friendly amendment.

FRIENDLY AMENDMENT: Councilmember Hendricks offered a friendly amendment to add a requirement that any lister must include the City permit number in their listing.

Councilmember Davis accepted the friendly amendment.

FRIENDLY AMENDMENT: Councilmember Hendricks offered a friendly amendment to exclude mobile home parks.

Councilmember Davis declined to accept the friendly amendment.

AMENDMENT: Councilmember Whittum moved to amend the motion to exclude mobile home parks from the ordinance.

Councilmember Hendricks seconded the motion to amend.

Following discussion, Councilmember Whittum withdrew the motion to amend and Councilmember Davis accepted the exclusion of mobile home parks as a friendly amendment, with direction to staff to prepare the appropriate language when the ordinance comes back to Council for adoption.

City Clerk Kathleen Franco Simmons read the ordinance title.

The motion carried by the following vote:

- Yes:** 6 - Mayor Griffith  
Vice Mayor Martin-Milius  
Councilmember Whittum  
Councilmember Davis  
Councilmember Hendricks  
Councilmember Larsson
- No:** 1 - Councilmember Meyering

Council recessed at 10:42 p.m.

Council reconvened at 11 p.m. with all Councilmembers present.

- 5  Introduce an Ordinance to Amend Sunnyvale Municipal Code Chapter 8.16 (Solid Waste Management and Recycling), Chapter 10.04 (General Provisions), and Title 12 (Water & Sewers).

Director of Environmental Services John Stufflebean provided the staff report.  
Director of Finance Grace Leung provided additional information.

Public Hearing opened at 11:09 p.m.  
No speakers.  
Public Hearing closed at 11:09 p.m.

MOTION: Councilmember Davis moved and Vice Mayor Martin-Milius seconded the motion to approve Alternative 1: Introduce the proposed Ordinance to Amend Sunnyvale Municipal Code Chapter 8.16 (Solid Waste Management and Recycling), Chapter 10.04 (General Provisions), and Title 12 (Water & Sewers).

AMENDMENT: Councilmember Meyering moved to amend the motion to, at the moment, delete the resetting in section 12.24.230 and postpone a determination about changing the meter resetting charge until we have more concrete information as to what the new charge will be.  
The motion to amend died due to lack of a second.

City Clerk Kathleen Franco Simmons read the three ordinance titles.

The motion carried by the following vote:

- Yes: 6 -** Mayor Griffith  
 Vice Mayor Martin-Milius  
 Councilmember Whittum  
 Councilmember Davis  
 Councilmember Hendricks  
 Councilmember Larsson

- No: 1 -** Councilmember Meyering

**6**  15-03937 Adopt Memorandum of Understanding between the City of Sunnyvale and the Communication Officers Association and the Corresponding Resolution to Amend the City's Salary Resolution and the Resolution for Paying and Reporting the Value of Employer Paid Member Contributions for CalPERS Retirement

Director of Human Resources Teri Silva provided the staff report.

Public Hearing opened at 11:15 p.m.

No speakers.

Public Hearing closed at 11:15 p.m.

MOTION: Councilmember Davis moved and Councilmember Larsson seconded the motion to approve Alternative 1: Adopt the Memorandum of Understanding between the City of Sunnyvale and the Communication Officers Association, and the corresponding Resolution amending the City's Salary Resolution and the Resolution for Paying and Reporting the Value of CalPERS Employer Paid Member Contributions.

The motion carried by the following vote:

- Yes: 5 -** Mayor Griffith  
 Vice Mayor Martin-Milius  
 Councilmember Davis  
 Councilmember Hendricks  
 Councilmember Larsson

- No: 2 -** Councilmember Whittum  
 Councilmember Meyering

**7**  15-03937 Consider a Request for Funding from Urban Systems Laboratories for an Automated Transit Network Development Partnership and Approval of Budget Modification No. 6

Assistant City Manager Kent Steffens provided the staff report.

Public Hearing opened at 11:22 p.m.  
No speakers.  
Public Hearing closed at 11:22 p.m.

MOTION: Councilmember Davis moved and Councilmember Hendricks seconded the motion that the City of Sunnyvale, contingent upon other communities joining in the partnership with additional funds, and that any partnership agreement that is drafted, it is understood that we are interested in pursuing the concept, not buying in to the development or building of the structure.

The motion failed by the following vote:

- Yes:** 3 - Councilmember Whittum  
Councilmember Davis  
Councilmember Hendricks
- No:** 4 - Mayor Griffith  
Vice Mayor Martin-Milius  
Councilmember Meyering  
Councilmember Larsson

MOTION: Councilmember Hendricks moved and Councilmember Whittum seconded the motion to proceed with the remaining agenda items.

- Yes:** 7 - Mayor Griffith  
Vice Mayor Martin-Milius  
Councilmember Whittum  
Councilmember Meyering  
Councilmember Davis  
Councilmember Hendricks  
Councilmember Larsson

**No:** 0

8  Cast Vote as Member City for the League of California Cities Peninsula Division 2016 Election of Officers

Assistant City Manager Kent Steffens provided the staff report.

Public Hearing opened at 11:56 p.m.  
No speakers.  
Public Hearing closed at 11:56 p.m.

MOTION: Councilmember Hendricks moved and Vice Mayor Martin-Milius seconded the motion to ratify the list in the report:

President: Liz Kniss, Councilmember, Palo Alto

Vice President: Alicia Aguirre, Council Member, Redwood City

Secretary-Treasurer: Marilyn Librers, Councilmember, Morgan Hill

Board Director (Two-Year Term): Kirsten Keith, Council Member, Menlo Park

San Mateo County: Larry Moody, Councilmember, East Palo Alto

Santa Clara County: Jim Davis, Councilmember, Sunnyvale

The motion carried by the following vote:

- Yes: 7 -** Mayor Griffith
- Vice Mayor Martin-Milius
- Councilmember Whittum
- Councilmember Meyering
- Councilmember Davis
- Councilmember Hendricks
- Councilmember Larsson

**No: 0**

- 9  Approve City Position on Proposed League of California Cities' 2015 Annual Resolutions

Assistant City Manager Kent Steffens provided the staff report.

Public Hearing opened at 11:59 p.m.

No speakers.

Public Hearing closed at 11:59 p.m.

MOTION: Councilmember Hendricks moved and Councilmember Davis seconded the motion to approve resolution positions:

1. League Bylaw Amendment - Support
2. Overconcentration of Alcohol & Drug Treatment Facilities - Support
3. Residential Rentals, Support for SB 593 (McGuire) - Support
4. Compensation for Prolonged Electrical Power Outages - Take No Position

AMENDMENT: Councilmember Meyering moved to amend the motion to take no action on Resolution #2.

The motion to amend died due to lack of a second.

FRIENDLY AMENDMENT: Councilmember Whittum offered a friendly amendment to take no position on Resolution #2 pending clarification on the item.

Councilmember Hendricks declined to accept the friendly amendment.

The motion carried by the following vote:

**Yes: 5 -** Mayor Griffith  
 Vice Mayor Martin-Milius  
 Councilmember Davis  
 Councilmember Hendricks  
 Councilmember Larsson

**No: 2 -** Councilmember Whittum  
 Councilmember Meyering

**COUNCILMEMBERS REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS**

Councilmember Whittum reported his attendance at meetings of the El Camino Real Bus Rapid Transit Policy Advisory Committee and a VTA Board meeting.

Vice Mayor Martin-Milius reported her attendance at the CALAFCO conference.

**NON-AGENDA ITEMS & COMMENTS**

**-Council**

Councilmember Whittum reported the comments he made earlier on the water rates study are available on the dais or electronically.

Mayor Griffith reported on the State of the City Address and Community Awards event held on September 12.

**-City Manager**

Assistant City Manager Kent Steffens reported SB588 passed the legislature and is on Governor's desk for signature.

**INFORMATION ONLY REPORTS/ITEMS**

-  15-0189 Tentative Council Meeting Agenda Calendar
-  15-0197 Information/Action Items
-  15-0199 \$15 by 2018 Regional Minimum Wage Goal Update (Information Only)
-  15-0194 Study Session Summary of August 25, 2015 - Sunnyvale Clean Water Program - Master Plan Update



15101973

Board/Commission Meeting Minutes

**ADJOURNMENT**

Mayor Griffith adjourned the meeting at 12:22 a.m.

*This Page  
Intentionally  
Left Blank*

TOWN OF LOS ALTOS HILLS  
Staff Report to the City Council

March 22, 2018

SUBJECT: INTRODUCTION OF AN AMENDMENT TO CHAPTER 10 OF THE MUNICIPAL CODE (ZONING) TO ADOPT SHORT-TERM RENTAL REGULATIONS. FILE # 117-17-MISC

FROM: Suzanne Avila, AICP, Planning Director SA

APPROVED: Carl Cahill, City Manager c.c.

RECOMMENDATION OF THE PLANNING COMMISSION:

That the City Council waive reading and introduce the ordinance amending Chapter 10 of the Los Altos Hills Municipal Code.

BACKGROUND:

The City Council began discussion of issues related to short-term rentals in 2016. A Town Hall/Special City Council meeting was held on March 23, 2017 to discuss and take comments from the public on the issue. At the April 20, 2017 City Council meeting the Council directed staff to draft an ordinance to regulate short-term rentals in Town. A draft ordinance was considered and recommended for approval by the Planning Commission on August 3, 2017. The Council considered the draft ordinance on September 21, 2017 and directed staff to work with the Planning Commission to revise the ordinance to simplify the permit process and establish regulations to address neighborhood impacts for short-term rentals that are not operating in compliance with Town Code.

DISCUSSION:

The specific direction by the City Council on September 21, 2017 was as follows:

- **Prohibit short-term rental properties as commercial enterprises:** The Council stipulated that short-term rental uses shall be limited to residents of the Town, and that the property should contain the owner's primary residence.
- **Only restrict problem rentals:** Many short-term rentals operate currently in Town without any issue or impact on neighborhoods. Those short-term rentals should be allowed to continue without undue burden or restriction. The commercial listings and problem rentals should be removed and/or addressed through application of appropriate conditions of approval or code enforcement action when needed.

Based on this direction, staff revised the draft ordinance as follows:

- **Short-term rental license:** Rather than require an in-depth permit application process, a simple short-term rental license (similar to a business license) would be

applied for, potentially online, which would determine compliance with the homeowner requirement along with agreement to the Short-Term Rental Policy.

- The Town could work with a vendor that would regularly search online and review all Los Altos Hills short-term rental listings and pursue compliance with the licensing and policy agreement. This would better establish the Town's ability to track and enforce nuisance violations and complaints.
- **Conditional Short-Term Rental Permit:** While the Town cannot adopt regulations that only apply to problem rentals, clear expectations can be set for applicants which would simplify the process for revocation. Applicants who wish to pursue a short-term rental after revocation would be subject to a more restricted permit process with appropriate conditions to address specific impacts. This would effectively allow the Town to apply more stringent regulations on problem sites while allowing those in good standing to operate with fewer restrictions. The process would also allow an applicant to pursue an exception to the general rules within the Ordinance. For example:
  - The Ordinance restricts short-term rental applicants to only registered property owners and requires the property to contain their primary residence. A local resident who does not reside on the property full time could request an exception through the conditional permit process; or
  - A property owner who is interested in renting out more than one space at the same time could document the appropriateness of their request through the conditional permit process.

The conditional permit process would allow the applicant to provide appropriate justification and documentation as to how the use will comply with the intent of the Short-term Rental Ordinance and Policy. Through a noticed public hearing process staff and neighbors would consider the intended use and could apply additional requirements or limitations to ensure the use does not become a nuisance for the neighborhood.

The Ordinance grants the Site Development Committee the authority to approve conditional short-term rental permits. The intention is to allow the Planning Director to approve justifiable exceptions when neighbor concerns have been adequately addressed, similar to the existing Fast Track process for new residences. If a consensus cannot be reached or the impacts are particularly egregious the matter would be forwarded to the Planning Commission.

- **Policy and Agreement:** Staff has drafted a Short-term Rental Policy and Applicant Agreement. This document will coincide with the license application and require the property owner to sign documenting their agreement to adhere to the Town's standards and what would be considered a violation.

The Planning Commission recommended approval of the draft ordinance as presented and requested two edits to the short-term rental policy and applicant agreement.

PUBLIC COMMENT:

No additional written comments have been received since the matter was last discussed by the City Council.

FISCAL IMPACT:

Staff will propose an annual license fee with adoption of the upcoming fee schedule that will cover permit issuance and code enforcement as well as a Conditional Permit process fee if it is to be different than the Site Development Permit process fee(s) currently in place (\$1,328 plus deposit to cover staff time). Pending approval of a permit fee applications can be processed based on staff time and materials.

Town staff will work in coordination with a vendor such as Host Compliance to identify and bring existing and new rental sites into compliance with the Town's short-term rental regulations. Ongoing enforcement and neighbor complaints will be handled by the Town's Code Enforcement Officer and will require additional code enforcement hours.

CONCLUSION:

Staff and the Planning Commission believe the proposed ordinance will be effective in addressing short-term rental operating issues previously reported by Town residents.

All prior reports and memos on this topic can be reviewed along with their attachments on the short-term rental page of the Los Altos Hills website. Staff will continue to do outreach to residents to inform them of the new regulations; including use of social media, the Town website, and an article in the Town newsletter.

Staff will report back to the Planning Commission and the City Council six months after the ordinance goes into effect to provide available data on the effectiveness of the regulations.

Report prepared by: Marni Moseley AICP, Senior Planner

ATTACHMENTS:

1. Draft short-term rental ordinance
2. Short-term rental policy and application agreement
3. August 3, 2017 Planning Commission report
4. September 21, 2017 City Council report
5. February 1, 2018 Planning Commission report

**ORDINANCE \_\_\_\_\_**

AN ORDINANCE OF THE TOWN OF LOS ALTOS HILLS AMENDING SECTION 10-1.702 AND ADDING SECTIONS 10-1.1202 THROUGH 10-1.1208 TO THE LOS ALTOS HILLS MUNICIPAL CODE PERTAINING TO SHORT-TERM RENTAL REGULATIONS WITHIN RESIDENTIAL ZONES

**WHEREAS**, the City Council of the Town of Los Altos Hills (“Town”) wishes to amend the Municipal Code with regard to regulation of short-term rentals in Town and establish regulatory and enforcement guidelines.

**NOW, THEREFORE**, the City Council of the Town of Los Altos Hills does **ORDAIN** as follows:

**Section 1. AMENDMENTS**

The following sections are hereby added to Title 10, Chapter 1 (“Zoning”) of the Los Altos Hills Municipal Code to read as follows. Sections and subsections that are not amended by this ordinance are not included below, and shall remain in full force and effect.

**Article 7. Accessory uses and structures permitted (R-A).** is hereby amended:

**10-1.702 Accessory uses and structures permitted (R-A).**

.....

(r) One short-term rental unit operated pursuant to the requirements of Article 12 of this chapter.

.....

**Article 12. Short-term Rental of Residential Property** is hereby added:

**10-1.1201 Purpose and intent.**

The purpose of this chapter is to establish regulations governing the short-term rental of residential property within the Town of Los Altos Hills. The establishment of these regulations will provide for additional residential options while ensuring that short-term rental activities do not become a nuisance or a threat to public health, safety, or welfare due to excessive noise, disorderly conduct, overcrowding, traffic congestion, illegal parking, refuse accumulation, and other effects related to short-term rentals.

**10-1.1202 Definitions.**

For purposes of this chapter, the following definitions apply:

(a) "Primary residence" means the residence must be used as the owner/applicant's primary residence for a minimum of 270 days per year and must be listed as the mailing address with the Santa Clara County Assessor.

(b) "Short-term rental" means to provide transient lodging use in exchange for compensation in any dwelling unit, in whole or in part, on residential property for a period of thirty (30) consecutive calendar days or less.

(c) "Validated nuisance" means a prohibited use or impact associated with a short-term rental including those listed within the Short-term Rental Policy and which sufficient documentation is provided to confirm the occurrence and extent of the violation.

**10-1.1203 Short-term rentals prohibited.**

No person shall use or maintain, nor shall any person authorize, aid, facilitate or advertise the use of, any residential property on any parcel for short-term rental without registering and obtaining a short-term rental license from the Town of Los Altos Hills.

**10-1.1204 General requirements.**

Short-term rentals permitted on residential property shall be subject to following restrictions and requirements:

(a) A maximum of one (1) short term rental unit is permitted per residential property.

(b) The short-term rental property shall contain the property owner's primary residence.

(c) The short-term rental shall comply with all applicable local, state, and federal laws, including but not limited to state and local health, safety, fire, and building codes.

(d) The host must provide all renters with facilities for sleeping, bathing, and toileting within a permanent dwelling that is suitable for human occupancy. Rental of sleeping space in or on balconies, porches, tents, sheds, vehicles, garages or outdoor areas is prohibited.

(e) Short-term rental uses are permitted solely for residential purposes only. No events or commercial uses are permitted. This includes site rentals for weddings, corporate meetings/events/trainings, photo or video shoots, birthday parties, etc.

(f) All short-term rental parking must be provided on-site in approved parking areas. No overnight street parking is permitted pursuant to Municipal Code section 4-3.1006.

(g) The host is responsible for ensuring the property does not become a nuisance due to any short-term rental occupant activities. Any short-term rental with three (3) validated nuisance violations will result in revocation of the short-term rental license.

**10-1.1205 Conditional Short-Term Rental Permit Approval required.**

An applicant may apply for a Conditional Short-Term Rental Permit if an exception to the general requirements is requested or if a previously approved short-term rental license has been revoked. A noticed public hearing before the Site Development Committee is required for consideration of a Conditional Short-Term Rental permit.

(a) Additional limitations and restrictions may be imposed to ensure any nuisance concerns or site-specific limitations are adequately addressed to ensure that the short-term rental use would be compatible with the general intent of this Ordinance and the policies of the Town of Los Altos Hills. Additional limitations or restriction may include but are not limited to:

- i. limitation on number of rental rooms or occupants
- ii. additional off-street parking provisions
- iii. modification of quiet hours for occupants
- iv. neighborhood notification and or ongoing communication requirements

(b) Pursuant to 10-1.1002 of the Municipal Code, the decision of the Site Development Committee may be appealed to the Planning Commission.

**10-1.1206 Fees.**

The City Council may establish and set by resolution all fees and charges as may be necessary to effectuate the purpose of this chapter.

**10-1.1207 Violations a public nuisance—Penalties, nuisance abatement, and other remedies.**

Any short-term rental operated, conducted, or maintained contrary to the provisions of this chapter shall be, and the same is hereby declared to be, unlawful and a public nuisance which the City may seek to abate, remove, and enjoin in any manner provided by law. Such remedies shall be in addition to any other remedies available to the City under this chapter or applicable local or state law.

**SECTION II. SEVERABILITY.**

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of this ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council of the Town of Los Altos Hills hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

**SECTION III. EFFECTIVE DATE AND PUBLICATION.**

This ordinance shall take effect thirty (30) days after adoption. Within fifteen days after the passage of this ordinance the City Clerk shall cause this ordinance or a summary thereof to be published once, with the names of those City Councilmembers voting for or against it in a newspaper of general circulation in the Town of Los Altos Hills, as required by law.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

BY: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

2840788.1

**TOWN OF LOS ALTOS HILLS**

26379 Fremont Road  
Los Altos Hills, CA 94022  
Phone: (650) 941-7222  
www.losaltoshills.ca.gov



---

**Short-Term Rental Policy and Applicant Agreement**

---

Approved by City Council – X/X/XXXX

**Intent:**

The purpose of this policy is to inform applicants of the Town's expectations of the standard operating practices of short-term rentals within the Town. The Town is a rural residential community with expectations of peace and privacy for its residents. Short-term rentals are limited to property owners and permitted with the expectation that their use would not impact neighbors or the character of the community. All property owners are responsible for ensuring their renters are informed of and comply with this policy.

The property owner must in addition comply with all provisions of the Short-term Rental Ordinance and ensure the property does not become a nuisance, as listed below, due to any short-term rental occupant activities. Any short-term rental with three (3) validated nuisance violations will result in revocation of the short-term rental license.

**Prohibited Nuisance Activities**

***Parking:*** All renters and residents must park on-site. The Town prohibits parking on pathways at any time and does not permit on-street parking overnight, including private streets. The Property Owner/host/applicant are responsible for ensuring that sufficient parking is available for themselves and their renter(s), resident(s) and visitor(s) throughout their stay.

***Noise:*** Outdoor amplified sound systems are prohibited. All short-term rentals must comply with the Town's noise limitations as described in Section 5-2.02 of the Municipal Code: 50 decibels during daytime and 40 decibels at nighttime. Daytime shall be the period from 8:00 a.m. to 7:00 p.m. on weekdays, and 9:00 a.m. to 7:00 p.m. on weekends and Town Holidays, Pacific Standard Time or Daylight-Saving Time.

***Events:*** Short-term rental uses are permitted solely for residential purposes only. No events or uses that are commercial in nature are permitted. Such prohibited uses include site rentals for weddings, corporate meetings/events/trainings, photo or video shoots, birthday parties, and other non-residential events and commercial gatherings.

***Visitors:*** Renters are permitted to have visitors as long as all visitors abide by the short-term rental policy. The host/applicant is responsible for ensuring the visitors' compliance.

**Minors:** Adult (21 years of age or older) supervision is required throughout the rental period for all renting minors.

**PROPERTY OWNER SIGNATURE REQUIRED:**

I hereby acknowledge that I have read, understand and accept the Short-Term Rental Policy and agree to abide by these restrictions and ensure all renters of my property understand and comply. I understand that any documented violations of this policy may be used to revoke my short-term rental license and that I will be held financially responsible for Town time and materials associated with any nuisance violation documentation and/or abatement.

Property Owner Signature	Date     /     /

TOWN OF LOS ALTOS HILLS  
Staff Report to the Planning Commission

AUGUST 3, 2017

---

SUBJECT: INTRODUCTION OF AN AMENDMENT TO CHAPTER 10 OF THE MUNICIPAL CODE (ZONING) TO ADOPT SHORT TERM RENTAL REGULATIONS WITHIN RESIDENTIAL ZONES. FILE # 117-17-MISC

FROM: Marni Moseley, AICP, Senior Planner

APPROVED: Suzanne Avila, Planning Director

---

RECOMMENDATION: That the Planning Commission:

Review the draft short-term rental ordinance (Attachment 1), accept public comment, and forward a recommendation to the City Council.

BACKGROUND:

The City Council discussed concerns regarding short term rentals and whether to pursue collection of Transient Oriented Tax (TOT) on July 20, 2016 and October 20, 2016. A Town Hall/Special City Council meeting was held on March 23, 2017 to discuss and take comments from the public on the issue. A follow up to this meeting was provided at the April 20, 2017 City Council meeting where the Council directed staff to draft an ordinance to regulate short term rentals in Town. Example ordinances and staff feedback has been provided to both the Planning Commission and the City Council in recent months. Staff has drafted an ordinance to best encompass the feedback received so far.

DISCUSSION:

Based on the limited feedback that staff has received on this matter, the draft ordinance was prepared with consideration for how staff would regulate and enforce the ordinance. Some areas that the Commission may want to discuss are:

- **Length of permit term and renewal requirements:** the ordinance includes a one-time permit application and the requirement for an annual business license to maintain current contact information. Any change to the permit conditions would require a new permit review.
- **Maximum number of rental nights:** the draft ordinance does not currently include a maximum number of nights. The enforcement of a restriction like this could be problematic due to the difficulty of verifying where short term rentals exist and how many nights they are being rented. Most rentals are listed on multiple rental sites and when a unit is listed as unavailable it does not necessarily mean the unit is rented. The requirement of the owner/host to reside on-site throughout the rental period is expected to discourage the commercial motel type uses.

- **Director approval:** the draft ordinance appoints the Planning Director as the approving body. This would make the decision of the Planning Director appealable to the Planning Commission. The Commission should provide direction on the approval process and whether that should include a noticed public hearing or a courtesy notice to adjacent neighbors. The more complicated the review process the higher the application fees would need to be to cover the associated costs of review.
- **Penalties and/or fines for non-compliance:** If additional fines or enforcement measures for repetitive nuisance violations are necessary they should be included in the ordinance.

ATTACHMENTS:

1. Draft short-term rental ordinance
2. Matrix of other communities regulations

TOWN OF LOS ALTOS HILLS  
Staff Report to the City Council

September 21, 2017

---

SUBJECT: INTRODUCTION OF AN AMENDMENT TO CHAPTER 10 OF THE MUNICIPAL CODE (ZONING) TO ADOPT SHORT-TERM RENTAL REGULATIONS. FILE # 117-17-MISC

FROM: Suzanne Avila, AICP, Planning Director

APPROVED: Carl Cahill, City Manager

---

RECOMMENDATION OF THE PLANNING COMMISSION:

That the City Council waive reading and introduce the ordinance amending Chapter 10 of the Los Altos Hills Municipal Code.

BACKGROUND:

The City Council discussed concerns regarding short-term rentals and whether to pursue collection of Transient Oriented Tax (TOT) on July 20, 2016 and October 20, 2016. A Town Hall/Special City Council meeting was held on March 23, 2017 to discuss and take comments from the public on the issue. A follow up to this meeting was provided at the April 20, 2017 City Council meeting where the Council directed staff to draft an ordinance to regulate short-term rentals in Town. Example ordinances and staff feedback has been provided to both the Planning Commission and the City Council in recent months. The draft ordinance was considered by the Planning Commission on August 3, 2017 and the Commission recommended approval of the draft with minor edits.

A Town-wide notice was sent to inform residents and property owners of the Town Hall meeting on March 23, 2017 and to engage the community of the topic. A short-term rental page was created on the Town's website to keep the community informed regarding information and meetings, and information was circulated on Next Door and Facebook. An additional Town-wide notice was sent at the end of August to notify the community regarding the September 21<sup>st</sup> Council meeting and to encourage those interested to review the past and upcoming documents on the topic. In addition, all required legal ads were placed in the Town Crier.

DISCUSSION:

On April 20, 2017, the Council provided staff with the direction to permit short-term rentals within the Town while establishing regulations to help limit and remove "problem rentals". Staff continues to receive comments both in support and in opposition of short-term rentals. An ordinance was drafted based on feedback from the Council as well as the types of complaints and issues that have arisen over the last year.

The Planning Commission considered the draft ordinance on August 3, 2017 and provided minor edits along with a recommendation of approval. The modifications requested by the Planning Commission are as follows:

- Short-term rentals should require at least one renter that is at least 21 years of age
- The applicant/host must be a minimum of 25 years of age
- Increase of the quiet hours until 8 a.m. rather than 7 a.m.
- Clarification on restriction regarding non-renting visitors

These edits have been incorporated into the draft ordinance (see Attachment 1). Additionally, staff found an error in the draft ordinance considered by the Planning Commission that includes a permit renewal requirement. That section was added by the attorney's office and was not an intended requirement. Staff believes that either an annual business license or permit renewal should be required, but not both. The permit renewal section has been removed from the ordinance since this is how the topic was presented by staff to the Planning Commission.

Staff has received additional public comments on the topic and draft ordinance since the August 3 Planning Commission meeting (see Attachment 3). Many of the public comments/concerns were already incorporated in the draft ordinance. The topics which were not included are:

- Excluding any participants in the International Student Placement (ISP) program through Foothill College
- Limiting the number of children or minors permitted
- On-site Signage/Identification for each short-term rental
- Limitation on number of rentals/year
- Less regulation and paperwork

PUBLIC COMMENT:

All public comments received since the August 3, 2017 Planning Commission meeting are included in Attachment 3.

FISCAL IMPACT:

The Town will need to establish a permit review fee and annual renewal or business license fee to cover staff permit review and enforcement.

CONCLUSION:

The City Council should consider the comments from the public and the discussion by the Planning Commission and provide feedback for modification to the draft ordinance. Revisions will be made and proceeded by a second reading of the ordinance. Ordinances are effectuated 30 days after the second reading.

All prior reports and memos on this topic can be reviewed along with their attachments on the short-term rental page of the Los Altos Hills website.

Report prepared by: Marni Moseley AICP, Senior Planner

ATTACHMENTS:

1. Draft Ordinance
2. August 3, 2017 Planning Commission report
3. Public comments

TOWN OF LOS ALTOS HILLS  
Staff Report to the Planning Commission

February 1, 2018

---

SUBJECT: INTRODUCTION OF AN AMENDMENT TO CHAPTER 10 OF THE MUNICIPAL CODE (ZONING) TO ADOPT SHORT TERM RENTAL REGULATIONS WITHIN RESIDENTIAL ZONES. FILE # 117-17-MISC

FROM: Marni Moseley, AICP, Senior Planner

APPROVED: Suzanne Avila, AICP, Planning Director

---

RECOMMENDATION: That the Planning Commission:

Review the draft short-term rental ordinance (Attachment 1) and Short-term Rental Policy and Applicant Agreement (Attachment 2), accept public comment, and forward a recommendation to the City Council.

BACKGROUND:

The Planning Commission considered a draft short-term rental ordinance on August 3, 2017 and recommended approval of the ordinance with several edits, to the City Council. The Council considered the amended ordinance on September 21, 2017 and directed staff to work with the Planning Commission to revise the ordinance to simplify the permit process and establish regulations to address neighborhood impacts for short-term rentals that are not operating in compliance with Town Code.

DISCUSSION:

The specific direction by the City Council on September 21, 2017 was as follows:

- **Prohibit short-term rental properties as commercial enterprises:** The Council was firm that short-term rental uses shall be limited to residents of the Town, and that the property should contain the owner's primary residence.
- **Only restrict problem rentals:** There are 30 to 75 short-term rentals advertised in and around Los Altos Hills. Many operate without any issue or impact on neighborhoods. Those short-term rentals should be allowed to continue without undue burden or restriction. The commercial listings and problem rentals should be removed and/or addressed through application of appropriate conditions of approval or code enforcement action when needed.

Based on this direction, staff revised the draft ordinance as follows:

- **Short-term rental license:** Rather than require an in-depth permit application process, a simple short-term rental license (similar to a business license) would be

applied for, potentially online, which would determine compliance with the homeowner requirement along with agreement to the Short-Term Rental Policy.

- The Town could work with a vendor that would regularly review all Los Altos Hills short-term rental listings and pursue compliance with the licensing and policy agreement. This would better establish the Town's ability to track and enforce nuisance violations and complaints.
- **Conditional Short-Term Rental Permit:** While the Town cannot adopt regulations that only apply to problem rentals, clear expectations can be set for applicants which would simplify the process for revocation. Applicants who wish to pursue a short-term rental after revocation would be subject to a more restricted permit process with appropriate conditions to address specific impacts. This would effectively allow the Town to apply more stringent regulations on problem sites while allowing those in good standing to operate with fewer restrictions. The process would also allow an applicant to pursue an exception to the general rules within the Ordinance. For example:
  - The Ordinance restricts short-term rental applicants to only registered property owners and requires the property to contain their primary residence. A local resident, who does not reside on the property full time could request an exception through the conditional permit process; or
  - A property owner who is interested in renting out more than one space at the same time could document the appropriateness of their request through the conditional permit process.

The conditional permit process would allow the applicant to provide appropriate justification and documentation as to how the use will comply with the intent of the Short-term Rental Ordinance and Policy. Through a noticed public hearing process staff and neighbors would consider the intended use and apply additional requirements or limitations to ensure the use does not become a nuisance for the neighborhood.

While the Ordinance grants the Site Development Committee the authority to approve conditional short-term rental permits, staff anticipates that most applications would be forwarded to the Planning Commission for review. The intention is to allow the Planning Director to approve justifiable exceptions when neighbor concerns have been adequately addressed, similar to the existing Fast Track process for new residences. If a consensus cannot be reached or the impacts are particularly egregious the matter would be forwarded to the Planning Commission.

- **Policy and Agreement:** Staff has drafted a Short-term Rental Policy and Applicant Agreement. This document will coincide with the license application and require the property owner to sign documenting their agreement to adhere to the Town's standards and what would be considered a violation.

ATTACHMENTS:

1. Draft short-term rental ordinance
2. Draft short-term rental policy and applicant agreement
3. September 21, 2017 City Council minutes

*This Page  
Intentionally  
Left Blank*

**ORDINANCE 575**

AN ORDINANCE OF THE TOWN OF LOS ALTOS HILLS AMENDING SECTION 10-1.702 AND ADDING SECTIONS 10-1.1202 THROUGH 10-1.1208 TO THE LOS ALTOS HILLS MUNICIPAL CODE PERTAINING TO SHORT-TERM RENTAL REGULATIONS WITHIN RESIDENTIAL ZONES

**WHEREAS**, the City Council of the Town of Los Altos Hills (“Town”) wishes to amend the Municipal Code with regard to regulation of short-term rentals in Town and establish regulatory and enforcement guidelines.

**NOW, THEREFORE**, the City Council of the Town of Los Altos Hills does **ORDAIN** as follows:

**Section 1. AMENDMENTS**

The following sections are hereby added to Title 10, Chapter 1 (“Zoning”) of the Los Altos Hills Municipal Code to read as follows. Sections and subsections that are not amended by this ordinance are not included below, and shall remain in full force and effect.

**Article 7. Accessory uses and structures permitted (R-A).** is hereby amended:

**10-1.702 Accessory uses and structures permitted (R-A).**

.....

(r) One short-term rental unit operated pursuant to the requirements of Article 12 of this chapter.

.....

**Article 12. Short-term Rental of Residential Property** is hereby added:

**10-1.1201 Purpose and intent.**

The purpose of this chapter is to establish regulations governing the short-term rental of residential property within the Town of Los Altos Hills. The establishment of these regulations will provide for additional residential options while ensuring that short-term rental activities do not become a nuisance or a threat to public health, safety, or welfare due to excessive noise, disorderly conduct, overcrowding, traffic congestion, illegal parking, refuse accumulation, and other effects related to short-term rentals.

#### **10-1.1202 Definitions.**

For purposes of this chapter, the following definitions apply:

(a) “Primary residence” means the residence must be used as the owner/applicant’s primary residence for a minimum of 270 days per year and must be listed as the mailing address with the Santa Clara County Assessor.

(b) “Short-term rental” means to provide transient lodging use in exchange for compensation in any dwelling unit, in whole or in part, on residential property for a period of thirty (30) consecutive calendar days or less.

(c) “Validated nuisance” means a prohibited use or impact associated with a short-term rental including those listed within the Short-term Rental Policy and which sufficient documentation is provided to confirm the occurrence and extent of the violation.

#### **10-1.1203 Short-term rentals prohibited.**

No person shall use or maintain, nor shall any person authorize, aid, facilitate or advertise the use of, any residential property on any parcel for short-term rental without registering and obtaining a short-term rental license from the Town of Los Altos Hills.

#### **10-1.1204 General requirements.**

Short-term rentals permitted on residential property shall be subject to following restrictions and requirements:

(a) A maximum of one (1) short term rental unit is permitted per residential property.

(b) The short-term rental property shall contain the property owner’s primary residence.

(c) The short-term rental shall comply with all applicable local, state, and federal laws, including but not limited to state and local health, safety, fire, and building codes.

(d) The host must provide all renters with facilities for sleeping, bathing, and toileting within a permanent dwelling that is suitable for human occupancy. Rental of sleeping space in or on balconies, porches, tents, sheds, vehicles, garages or outdoor areas is prohibited.

(e) Short-term rental uses are permitted solely for residential purposes only. No events or commercial uses are permitted. This includes site rentals for weddings, corporate meetings/events/trainings, photo or video shoots, birthday parties, etc.

(f) All short-term rental parking must be provided on-site in approved parking areas. No overnight street parking is permitted pursuant to Municipal Code section 4-3.1006.

(g) The host is responsible for ensuring the property does not become a nuisance due to any short-term rental occupant activities. Any short-term rental with three (3) validated nuisance violations will result in revocation of the short-term rental license.

#### **10-1.1205 Conditional Short-Term Rental Permit Approval required.**

An applicant may apply for a Conditional Short-Term Rental Permit if an exception to the general requirements is requested or if a previously approved short-term rental license has been revoked. A noticed public hearing before the Site Development Committee is required for consideration of a Conditional Short-Term Rental permit.

(a) Additional limitations and restrictions may be imposed to ensure any nuisance concerns or site-specific limitations are adequately addressed to ensure that the short-term rental use would be compatible with the general intent of this Ordinance and the policies of the Town of Los Altos Hills. Additional limitations or restriction may include but are not limited to:

- i. limitation on number of rental rooms or occupants
- ii. additional off-street parking provisions
- iii. modification of quiet hours for occupants
- iv. neighborhood notification and or ongoing communication requirements

(b) Pursuant to 10-1.1002 of the Municipal Code, the decision of the Site Development Committee may be appealed to the Planning Commission.

#### **10-1.1206 Fees.**

The City Council may establish and set by resolution all fees and charges as may be necessary to effectuate the purpose of this chapter.

#### **10-1.1207 Violations a public nuisance—Penalties, nuisance abatement, and other remedies.**

Any short-term rental operated, conducted, or maintained contrary to the provisions of this chapter shall be, and the same is hereby declared to be, unlawful and a public nuisance which the City may seek to abate, remove, and enjoin in any manner provided by law. Such remedies shall be in addition to any other remedies available to the City under this chapter or applicable local or state law.

### **SECTION II. SEVERABILITY.**

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of this ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council of the Town of Los Altos Hills hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

### **SECTION III. EFFECTIVE DATE AND PUBLICATION.**

This ordinance shall take effect thirty (30) days after adoption. Within fifteen days after the passage of this ordinance the City Clerk shall cause this ordinance or a summary thereof to be published once, with the names of those City Councilmembers voting for or against it in a newspaper of general circulation in the Town of Los Altos Hills, as required by law.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

BY: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

2840788.1

# Town of Los Altos Hills

## City Council Regular Meeting Minutes

Thursday, April 20, 2017

Council Chambers, 26379 Fremont Road, Los Altos Hills, California

**Mayor Waldeck** called the meeting to order at 6:02 p.m.

### CALL TO ORDER (6:00 P.M.)

#### A. Roll Call

Present: Mayor Waldeck, Vice Mayor Radford, Councilmember Corrigan, Councilmember Spreen, Councilmember Wu  
Absent: None  
Staff: City Manager Carl Cahill, City Attorney Steve Mattas, Planning Director Suzanne Avila, Senior Engineer Tina Tseng, Administrative Services Director Pak Lin, Senior Planner Marni Moseley, City Clerk Deborah Padovan

#### B. Pledge of Allegiance

### 1. AGENDA REVIEW

There were no changes to the agenda.

### 2. PRESENTATIONS AND APPOINTMENTS

#### A. Introduction by George Hurst of the Newest CERT Members and the Administration of Oath to the CERT Volunteers

Los Altos Hills County Fire District Emergency Preparedness Coordinator **George Hurst** introduced the newest Los Altos Hills CERT members.

**City Clerk Deborah Padovan** administered the oath of office to the CERT members.

#### B. Invitation by Marc Sidel to Attend Hidden Villa's Behind the Scenes Event on Sunday, May 7, 2017

**Marc Sidel, Hidden Villa**, thanked the Council for continuing to invest in Hidden Villa, as the annual community grants received by the Town is truly appreciated. He invited the Council for a Behind the Scenes tour of Hidden Villa and Japanese Cultural Day on Sunday, May 7, 2017.

C. [Annual Report of the Pathways Committee](#)

**Ann Duwe, Chair of the Los Altos Hills Pathways Committee**, presented the annual report of the committee. Council asked questions of **Ms. Duwe**. No action was taken.

D. [Annual Report of the Environmental Initiatives Committee](#)

**Raj Reddy, Chair of the Los Altos Hills Environmental Initiatives Committee**, presented the annual report of the committee. Council asked questions of **Mr. Reddy**. No action was taken.

E. [Westwind Community Barn Report Presented by Victoria Dye Equestrian](#)

**Victoria Dye** presented a report on the financials of Westwind Community Barn.

Council asked questions of **Ms. Dye** and received her responses. No action was taken.

F. [Reappointment to the Environmental Initiatives Committee](#)

**City Clerk Padovan** presented the reappointment request of **Aileen Lee** to the Environmental Initiatives Committee.

**Peter Evans, Los Altos Hills**, said that **Aileen** is a worldwide recognized thought leader in environmental policy and the committee is lucky to have her.

**MOTION MADE AND SECONDED: Councilmember Spreen moved to reappoint Aileen Lee to the Environmental Initiatives Committee for a second, four-year term. The motion was seconded by Vice Mayor Radford.**

Motion Carried 5 to 0:

AYES: Mayor Waldeck, Vice Mayor Radford, Councilmember Corrigan, Councilmember Spreen, Councilmember Wu

NOES: None

ABSENT: None

ABSTAIN: None

G. Reappointment to the Community Relations Committee

**City Clerk Padovan** presented the reappointment request of **Nena Price** to the Community Relations Committee.

**MOTION MADE AND SECONDED:** Councilmember **Corrigan** moved to reappoint **Nena Price** to the Community Relations Committee for a second, four-year term. The motion was seconded by Vice Mayor **Radford**.

Motion Carried 5 to 0:

AYES: Mayor Waldeck, Vice Mayor Radford, Councilmember Corrigan, Councilmember Spreen, Councilmember Wu

NOES: None

ABSENT: None

ABSTAIN: None

**3. PRESENTATIONS FROM THE FLOOR** Persons wishing to address the Council on any subject not on the agenda may do so now. Please complete a Speaker Card located on the back table of the Council Chambers and submit it to the City Clerk. Comments are limited to two (2) minutes per speaker. California law prohibits the Council from acting on items that do not appear on the agenda. Under a Resolution previously adopted by the Council, such items can be referred to staff for appropriate action, which may include placement on the next available agenda.

**Kjell Karlsson, Los Altos Hills**, thanked the Los Altos Hills maintenance crew for the fantastic job they did cleaning up after the storm of April 6, 2017.

**Councilmember Corrigan** pointed out that Building Technician Austin Hancock also worked alongside the maintenance crew on a Saturday to assist in the cleanup.

**Captain Rich Urena, Santa Clara County Sheriff's Office**, explained that all of the sheriff officers are now wearing body cams and demonstrated the use.

**Apurva Chandra, Los Altos Hills**, spoke about auxiliary dwelling units, also known as in-law units. **Mayor Waldeck** asked the City Manager if staff was aware of the topic and if any action was needed. The City Manager responded and said the Town is aware of the law. **Planning Director Suzanne Avila** said she believes the Town ordinances are in agreement.

**Pat Ley, Los Altos Hills**, said she has received an email informing her of focus groups organized to express views on the working habits of town staff. She asked, "have you

given any consideration whatsoever to the anger and frustration and indignation that people so commented on, are going to wreak havoc in what you consider a happy family staff?"

#### **4. CONSENT CALENDAR**

**MOTION MADE AND SECONDED:** Vice Mayor **Radford** moved to approve the CONSENT CALENDAR, with the exception of item 4.G, specifically. The motion was seconded by Councilmember Spreen.

Motion Carried 5 to 0:

AYES:            Mayor Waldeck, Vice Mayor Radford, Councilmember Corrigan, Councilmember Spreen, Councilmember Wu

NOES:            None

ABSENT:        None

ABSTAIN:      None

- A.    Approval of Special Meeting Minutes: City Council Meeting - March 8, 2017
- B.    Approval of Special Meeting Minutes: City Council Meeting - March 23, 2017
- C.    Review of Disbursements: February 1, 2017 - February 28, 2017    \$462,499.00
- D.    Review of Disbursements: March 1, 2017 - March 31, 2017    \$897,791.00
- E.    Resolution 14-17 Approving the Purchase of Three Art Pieces for \$27,690 and Increasing the Special Donation Expenditure Budget by \$30,000 to Purchase and Install Art Pieces (Staff: P. Lin)
- F.    Adoption of Ordinance 569 (Second Reading) Amending Title 10, Chapter 2, Article 4, of the Los Altos Hills Municipal Code, Restrictions During Rainy (Wet Season) (Staff: A Chen)
- H.    Resolution 15-17 Accepting the Grant of an Open Space Easement on the Lands of Gera; 12345 Gigli Court; File #51-15-TM-IS-ND (Staff: S. Avila)
- G.    Resolution Awarding of Contract for the 2017 Sanitary Sewer Repair and Replacement Project to C2R Engineering, Inc. (Staff: T. Tseng)

**Councilmember Corrigan** questioned the budget allocation.

Senior Engineer Tina Tseng provided an explanation on the budget allocation for the project.

Council discussion ensued.

**MOTION MADE AND SECONDED:** Vice Mayor Radford moved to adopt Resolution 16-17 awarding the contract for the 2017 sanitary sewer repair and replacement project to C2R Engineering in the amount of \$792,820.50; approve a contingency fund of \$79,280, authorize the Public Works Director to approve potential contract change orders within said fund and authorize the City Manager to execute contracts with consulting/inspection firms in an amount not to exceed \$131,200. The motion was seconded by Councilmember Spreen.

Motion Carried 5 to 0:

AYES: Mayor Waldeck, Vice Mayor Radford, Councilmember Corrigan, Councilmember Spreen, Councilmember Wu

NOES: None

ABSENT: None

ABSTAIN: None

## **5. ONGOING BUSINESS**

- A.** Consider Adoption of a Resolution Initiating a Reorganization (Annexation) of an Inhabited Area Designated as Mora Glen Drive No. 2, Approximately 106 Acres Located on Eastbrook Avenue, Eastbrook Court, Mora Drive, Mora Glen Drive, Mora Heights Way, Partridge Lane and Terry Way; File #86-17-MISC (Staff: S. Avila)

**Planning Director Suzanne Avila** presented the staff report.

Council discussion ensued.

**Shetal Divatia, Los Altos Hills**, asked that the Council address existing roadways before spending more for annexation.

**Carey Trost, Unincorporated Santa Clara County**, spoke in opposition to the annexation.

Council discussion ensued. No action was taken.

- B.** Consideration of Regulations for Short Term Rentals and Provide Direction to

[Staff \(Staff: M. Moseley\)](#)

**Senior Planner Marni Moseley** presented the staff report.

**Peter Evans, Los Altos Hills**, spoke about owner occupied properties and believed owners should be able to do what they want with their property.

**Scott Vanderlip, Los Altos Hills**, recommended that the Town approach this slowly and understand issues from all sides.

**Angela Sanders, Los Altos Hills**, questioned the liability on a private street if someone gets hurt due to a short-term rental.

**Wendie Ward, Los Altos Hills**, suggested the Town move as quickly as possible as these short-term rentals are exploding.

**Bill Happ, Los Altos Hills**, spoke about an unpleasant experience of a short-term rental near him.

**Bonnie Badertscher, Los Altos Hills**, spoke against short-term rentals.

**Roxann Happ, Los Altos Hills**, stated her opposition to short-term rentals.

**Pat Lang, Los Altos Hills**, said she likes living here because it is nice, quiet and rural. She was not in support of short term rentals.

**Mansour Moussavian, Los Altos Hills**, shared a negative experience of a short-term rental near him.

**Nils Anguist, Los Altos Hills**, suggested enforcement of short-term rentals based on days and how many times a year.

Council discussion ensued.

**Councilmember Wu** said her goal is to keep Los Altos Hills as the number one place to live and to keep the integrity of the neighborhood. We do not want to disrupt the peace and ambiance. Short-term rentals are disruptive and said we need have a way to effectively control them.

**City Manager Cahill** said that the Town does have regulations on the books that can address some of the symptoms of the rentals. Since this is a land use matter, he requested the Council provide direction to staff and the Planning Commission to suggest rules that can be enforced.

**Vice Mayor Radford** said that if a developer is in town and never takes residence and simply uses the property as a rental, he believes it should be shut down as it is a commercial enterprise. He recognized that owners rent out second units and if an

owner is going to travel for three months and they want to put it up on Airbnb to offset travel costs, that is appropriate. He was mostly concerned about developers using properties as a commercial enterprise and said "that needs to stop immediately."

**Councilmember Corrigan** concurs that the problem it is snowballing. She was in support of sending it the Planning Commission with very specific guidelines. There should be clear understanding of owner occupied vs. non-owner occupied permissions; the number of nights, the number of people as well as number of times per year. Furthermore, it is the intention of the Town to enforce no parties, no events, complying with all parking, noise ordinances and no shuttle rentals to obfuscate what may be occurring at an evening event. She said it was not her intention to deny individual homeowners the right to do what they wish with their own home, but it is her intention to deny a land owner to misuse their property to the detriment of neighbors. She later added that there needs to be a notification component to address neighbor concerns.

**Councilmember Wu** stated that neighborhood complaints should weigh heavily for investigation.

**Councilmember Spreen** said that he sees a few things; we have to protect individuals from nuisance situations; whatever is done, it has to be administrable. Meaning, what is the minimum number of rules that would allow the program to run itself. He wanted to allow responsible rentals. Having an onsite owner is key and onsite should be defined legally, but he envisions that the owner either has to be onsite or if renting the entire property, owner contact information needs to be made available to neighbors. Anyone the Town finds who is not registered, we have to come up with some "teeth for enforcement".

DIRECTION: Return this item to the Planning Commission to review the issue and bring it back as soon as possible with a recommendation and proposal of regulations for the Council to review. **Councilmember Corrigan** added that the Planning Commission should be given sufficient time, perhaps 90 days, for them to make a recommendation to craft an ordinance for the Council to discuss.

Meeting went into Recess at 8:47 p.m.

Meeting Reconvened at 8:52 p.m.

C. [Discussion of Potentially Updating the Private to Public Road Policy \(Added at the Request of Mayor Waldeck\)](#)

**Mayor Waldeck** presented the item.

**Thomas Brunner, Los Altos Hills**, presented a proposal on behalf of the residents of Byrne Park Lane and Deer Springs Way. He requested that the council add an agenda item at a future meeting to accept Deer Springs Way and Byrne Park Lane into the public road system of Los Altos Hills.

Council discussion ensued.

**Walt Wood, Los Altos Hills**, said the Town has a vested interest in this road due to the water storage at the end of Byrne Park Road.

DIRECTION: The City Manager shall draft a broad policy amendment to allow the Council to make exceptions. In addition, staff shall return with resolutions accepting these two roads, Byrne Park Lane and Deer Springs Way, into the Town's public road system.

**Allan Epstein, Los Altos Hills**, provided an explanation about the private roads in Town.

## 6. NEW BUSINESS

### A. Resolution Awarding a Contract to a Vendor to Provide a Scope of Service and Project Management to Update the Audio/Video System in the Council Chambers (Staff: D. Padovan)

**Councilmember Spreen** said he discussed this item with the City Clerk and he has a number of questions relating to the needs of the audio/video system in the chambers. He suggested a short term subcommittee be formed to craft a request for proposals of what audio/video tasks need to occur in the Council Chambers.

**Councilmember Wu** said she has ideas and would be happy to serve on the subcommittee.

DIRECTION: Form an ad hoc committee consisting of **Councilmembers Spreen and Wu** to review the audio/video system in the Council Chambers.

## 7. REPORTS FROM COMMITTEES, SUB-COMMITTEES, AND COUNCILMEMBERS ON OUTSIDE AGENCIES

### A. Recommendation by the Environmental Design and Protection Committee to Extend the Criteria for the Removal of Heritage Oaks to other Tree Species and Consolidate the Town's Current Tree Regulations into a Comprehensive Tree Protection Ordinance

**Carol Gottlieb** presented the recommendation of the Environmental Design and Protection Committee. She requested approval from the Council for funds for the services of an arborist.

Council discussion ensued.

At this point, the Council considered a motion to extend the meeting past 10:00 p.m.

**MOTION MADE AND SECONDED:** Councilmember **Corrigan** moved to extend the meeting past 10 p.m. The motion was seconded by Councilmember **Spreen**.

Motion Carried 5 to 0:

AYES: Mayor Waldeck, Vice Mayor Radford, Councilmember Corrigan, Councilmember Spreen, Councilmember Wu

NOES: None

ABSENT: None

ABSTAIN: None

Council discussion ensued regarding tree preservation.

**Nancy Couperus, Los Altos Hills**, said the committee fully supports this proposal. She pointed out that we are the only town in this area that doesn't protect trees other than oaks.

**Pat Lang, Los Altos Hills**, said one of her neighbor's clear cut cedar trees that were 60 feet tall and "it looks horrid."

**Jitze Couperus, Los Altos Hills**, said all surrounding towns have more stringent requirements for tree removal than we do and the word is out for developers.

**Planning Director Avila** stated an arborist would give staff advice on what trees should be protected.

**Councilmember Corrigan** stated her opposition to the motion.

**MOTION MADE AND SECONDED:** Vice Mayor **Radford** moved to authorize spending up to \$10,000 for an arborist to work with the staff and committee and provide recommendations regarding potentially updating the tree protection ordinance. The motion was seconded by Councilmember **Spreen**.

Motion Carried: 3-0-1

AYES: Mayor Waldeck, Vice Mayor Radford, Councilmember Spreen

NOES: Councilmember Corrigan

ABSENT: None

ABSTAIN: Councilmember Wu

- B. Public Art Committee Presentation Requesting Placement of the Three Sculptures Accepted by the City Council in November 2016 and an Update on the Completion of the Sculpture Known as "Blue"

**Councilmember Radford** presented the report on the placement of public art.

**MOTION MADE AND SECONDED:** Councilmember Corrigan moved to approve the sighting of the art sculptures, but remain committed to using our current standards for signage and naming art work. The motion was seconded by Vice Mayor Radford.

Motion Carried 5 to 0:

AYES: Mayor Waldeck, Vice Mayor Radford, Councilmember Corrigan, Councilmember Spreen, Councilmember Wu

NOES: None

ABSENT: None

ABSTAIN: None

**Vice Mayor Radford** stated that we will be proceeding with the art work placement and directed the City Manager provide the art committee with our standard bronze plaques for the proper wording.

## **8. STAFF REPORTS**

A. City Manager - No report.

B. City Attorney – No report.

C. City Clerk

**City Clerk Padovan** announced that the Coyote Forum was being held on Thursday, April 27, 2017 and Brown Act training for committee members was occurring on Thursday, May 11, 2017.

D. Planning Director

**Planning Director Avila** stated that a representative for TrakIt, the Town's new building permit software, will be here next week to start to the transition.

E. Administrative Services Director - No report.

F. Public Works Director – No report.

**9. COUNCIL INITIATED ITEMS**

A. Consideration and Possible Action to Remove the VTA Bicycle and Pedestrian Advisory Committee Appointment from the Charter of the Pathways Committee and Include, when Appropriate, in the Annual Council Appointments (Councilmember Spreen)

**Councilmember Spreen** presented the item and suggested amending the Pathways Committee charter to remove any reference to that appointee position and have it as part of the Council's annual appointment process.

**MOTION MADE AND SECONDED:** Councilmember **Spreen** moved to amend the standing committee resolution removing from the Pathways Committee charter any reference to that appointed position (VTA BPAC) and have the appointment to the VTA BPAC as part of the Council's annual appointment process when necessary. The motion was seconded by Vice Mayor **Radford**.

Motion Carried 5 to 0:

AYES: Mayor Waldeck, Vice Mayor Radford, Councilmember Corrigan, Councilmember Spreen, Councilmember Wu

NOES: None

ABSENT: None

ABSTAIN: None

B. Consideration and Possible Action to Form an Information Technology Committee to Review Technology Utilized by the Town (Councilmember Wu)

**Councilmember Wu** presented the item.

**MOTION MADE AND SECONDED:** Councilmember **Wu** moved to form a Technology Committee to Review Technology to improve the Town's technology. The motion was seconded by Mayor **Waldeck**.

The motion failed due to lack of a second.

Council discussion ensued and included discussion about the focus of the committee and suggested working with staff determine the needs of technology.

The Council requested that **Councilmember Wu** return with a more refined, targeted charter. **Vice Mayor Waldeck** withdrew his second on the motion on the floor.

**10. ADJOURN**

The meeting adjourned at 10:47 p.m.

Respectfully submitted,

*Deborah Padovan*

Deborah Padovan

City Clerk

The minutes of the April 20, 2017 regular City Council meeting were approved as presented at the May 18, 2017 regular City Council meeting.

## **CHAPTER 5.10      SHORT-TERM RENTAL OPERATING LICENSE**

Legislative History:    *Ord. 2028 (2016)*

### **SECTIONS:**

- 5.10.010 Title.
- 5.10.020 Purpose and Scope.
- 5.10.030 Definitions.
- 5.10.040 Annual Short-term Rental Operating License Required.
- 5.10.050 Application and Fee.
- 5.10.060 Term of Annual License and Transferability.
- 5.10.070 Operating License and License Renewal.
- 5.10.080 Criteria for Approval of an Operating License and Operating License Renewal.
- 5.10.090 Additional Operational Requirements.
- 5.10.100 Violations.
- 5.10.110 Penalties.
- 5.10.120 Appeals of Short-term Rental Operating License Determinations.
- 5.10.130 Discontinuance of Short-term Rental Occupancy.
- 5.10.140 Remedies Not Exclusive.

5.10.010 Title. The provisions of this chapter are intended to authorize and regulate the short-term rental of residential dwelling units on all property within the City of Hood River. To that purpose, there is added to the Hood River Municipal Code Chapter 5.10 entitled "Short-Term Rental Operating License," and those sections and subsections set forth below.

5.10.020 Purpose and Scope.

A. This ordinance provides reasonable and necessary regulations for the licensing of short-term rental of residential dwelling units in order to:

1. Ensure the safety, welfare and convenience of renters, owners and neighboring property owners throughout Hood River.
2. Balance the legitimate livability concerns with the rights of property owners to use their property as they choose.
3. Recognize the need to limit short-term rental options within the neighborhoods to ensure compatibility, while recognizing the benefits of short-term rentals in providing recreation and employment opportunities, as well as transitional housing and business or hospital related short stays.
4. Help maintain the City's needed housing supply for residential use.
5. Protect the character of the City's neighborhoods by limiting the number and concentration of full-time short-term rentals in residential zones. In the adoption of these regulations, the City finds that the transient rental of dwelling units has the potential to be incompatible with surrounding residential uses. Therefore, special regulation of dwellings listed for transient occupancy is necessary to ensure that these uses will be compatible with surrounding residential uses and will not materially alter the neighborhoods in which they are located.

B. A short-term rental license is a permission to operate a short-term rental in accordance with this chapter. An operating license may be terminated or revoked if the standards of this chapter are not met or the dwelling is sold or otherwise transferred as defined in this chapter. This chapter provides an administrative framework for licensing the annual operation of a short-term rental.

C. The regulations of this code are not intended to permit any violation of the provisions of any other law or regulation.

D. Exemption of a use from the provisions of this chapter shall not exempt the use from other applicable provisions of this Code.

#### 5.07.030 Definitions.

A. Applicant(s) means an owner(s) of a dwelling unit who applies to the City for a short-term rental operating license.

B. Authorized agent is a property management company or other entity or person who has been designated by the applicant or licensee, in writing, to act on their behalf. The authorized agent may or may not be the designated representative for purposes of contact for complaints.

C. City Manager means the City Manager or his or her designee.

D. Hosted homeshare means the transient rental of a portion of a dwelling while the homeowner is present. For the purposes of this Title, “present” means the homeowner is staying in the dwelling overnight.

E. Licensee means the owner(s) of a dwelling unit who holds a short-term rental operating license.

F. Non-transient rental means to rent a dwelling unit or room(s) for compensation on a month-to-month basis, or for a longer period.

G. Owner(s) means the natural person(s) or legal entity that owns and holds legal or equitable title to the property. If the owner is a business entity such as a partnership, corporation, limited liability company, limited partnership, limited liability partnership or similar entity, all persons who own an interest in that business entity may be considered an owner.

H. Short-term rental means a Hosted Homeshare or Vacation Home Rental.

I. Short-term rental operating license means the regulatory license required by HRMC 5.10.030 and described in this chapter. It will be referenced as an “operating license.”

J. Transfer means the addition or substitution of owners not included on the original license application, whether or not there is consideration. If multiple owners exist on a license, individual owners may be removed from the license without constituting a transfer.

K. Transient rental means to rent a dwelling unit or room(s) for compensation on less than a month-to-month basis.

L. Vacation home rental means the transient rental of an entire dwelling unit.

M. Daytime means between the hours of 7:00am to 10:00pm

N. Overnight means between the hours of 10:00 pm to 7:00 am the following day

5.10.040 Annual Short-Term Rental Operating License Required. No owner of property within the Hood River City limits may advertise, offer, operate, rent, or otherwise make available or allow any other person to make available for occupancy or use a short-term rental without a short-term rental operating license. Advertise or offer includes through any media, whether written, electronic, web-based, digital, mobile or otherwise.

5.10.050 Application and Fee.

A. Application Required. Applications for an operating license shall be on forms provided by the City, demonstrating the application meets the standards required by this chapter. The applicant or authorized agent shall certify the following information to be true and correct:

1. Owner/Applicant Information. Applicant's name, permanent residence address, telephone number, and the short-term rental address and telephone number.
2. Proof of Residential Use (for conforming short-term rentals within the R-1, R-2 or R-3 zones only). The residential use of a dwelling unit shall be established through its continued use as the primary residence of the property owner. The applicant shall provide at least two of the following items as evidence that the dwelling is the primary residence of the owner:
  - A copy of the voter registration.
  - A copy of an Oregon Driver's License or Identification Card.
  - A copy of federal income tax return from last tax year (page 1 only financial data should be redacted).
3. Representative Information. The applicant shall provide the name, telephone number, address and email of a local representative (which can be a person or company) who can be contacted concerning use of the property or complaints related to the short-term rental, as set forth in HRMC 5.10.080. For the purposes of this requirement, local means the representative's address is within a 30 minute travel time of the subject property.
4. Parking. Statement that required parking spaces are available, with a dated photo(s) submitted of interior and exterior parking spaces. A site plan including a parking diagram of these parking spaces shall also be submitted.
5. Occupancy. Occupancy limits and number of bedrooms.
6. Good Neighbor Guidelines. Acknowledgment of receipt and review of a copy of the City's good neighbor guidelines. In addition, evidence that the City's good neighbor guidelines has been effectively relayed to short-term rental tenants, by incorporating it into the rental contract, including it in the rental booklet, posting it online, providing it in a conspicuous place in the dwelling unit, or a similar method.

7. Listing Number. If they advertise, the listing numbers or website addresses of where the short-term rental advertises (such as the VRBO/Airbnb/rental website number, account number, URL, etc.).

8. A completed checklist for fire safety as required by HRMC 5.10.080.C.2.

9. Proof of garbage service as required by HRMC 5.10.080.C.3.

10. Such other information as the City Manager or designee deems reasonably necessary to administer this chapter.

B. Incomplete Application. If a license application does not include all required materials, the application will be considered incomplete and the City will notify the applicant, in writing, explaining the information required. If the applicant provides the missing required information within 30 calendar days of the date of the notice, the application will be reviewed. If the applicant does not provide the required information, the application will be deemed withdrawn and the City may refund all or a portion of the application fee.

C. License Fee. The fee for application for a short-term rental operating license or license renewal shall be as established by resolution of the City Council.

5.10.060 Term of Annual License and Transferability.

A. Term. A short-term rental operating license shall be renewable annually on or before January 15th, the license may be renewed annually for up to four years by the licensee or authorized agent provided all applicable standards of this chapter are met. If an authorized agent changes during the operating license period, the licensee shall timely notify the City in writing of the change.

B. Transferability. The operating license shall be issued in the name of the licensee(s) and is not transferable.

5.10.070 Operating License and License Renewal.

A. License Must Be Obtained.

1. An operating license shall be obtained and renewed as required in this section. The permission to operate a short-term rental in the City of Hood River shall be revoked for failure to obtain or renew a license to operate as provided in this chapter.

2. The maximum number of nights per year which a short-term rental may be operated shall be in accordance with HRMC 17.04.115 and as specified below. The license shall specify whether the short-term rental will be operated as a hosted homeshare or a vacation home rental; however, the number of nights allowed is the maximum number for all short-term rental use of the subject property. The maximum number of nights shall be indicated on the license and shall not be exceeded.

Short-term rentals in C-1 and C-2 zones:	365 nights /year
Conforming short-term rentals in R-1, R-2 and R-3 zones:	90 nights /year
Existing non-conforming short-term rentals in R-1, R-2 and R-3 zones:	See HRMC 5.10.070.A.3

3. Existing Nonconforming Short-term Rentals within the R-1, R-2 and R-3 zones. For the purposes of this section, an existing non-conforming short-term rental is one which meets all of the standards and criteria in HRMC 17.04.115.D. The extent of the non-conformity shall be limited to the maximum number of nights of transient rental which previously occurred in any one calendar year, 2013 through October 13<sup>th</sup>, 2016. The applicant has the burden of proving by a preponderance of credible evidence all of the elements of a nonconforming hosted homeshare or vacation home rental.

B. Application and Renewal Application Process.

1. Existing Short-term Rentals. Existing short-term rentals may continue to operate until such time as the City has approved or denied the application. If approved, the license may be renewed annually thereafter in accordance with subsection C, below. If denied, operation of the short-term rental must cease within 30 days. Failure to submit an application as required by this section shall result in the loss of all non-conforming use status.

2. New Short-term Rentals. A license shall be obtained before beginning operations. A completed operating license application and fee may be submitted and issued at any time. The license may be renewed annually thereafter in accordance with subsection C, below.

C. Renewal Standards.

1. Operating licenses may be renewed by the licensee annually for up to four years after the year of issuance.
2. The City will review an application for operating license renewal and issue a renewal provided all the standards in this chapter continue to be met. If not met, the City will not renew the operating license and the property shall not be used as a short-term rental.

D. A decision on an operating license application or renewal may be appealed as provided in HRMC 5.10.120.

5.10.080 Criteria for Approval of an Operating License and Operating License Renewal.

A. The applicant has the burden of proof to demonstrate compliance with each applicable criterion for approval or renewal of the operating license. The approval criteria also operate as continuing code compliance obligations of the owner. Staff may verify evidence submitted and the applicant shall cooperate fully in any investigation.

B. To receive approval, an applicant must demonstrate that all approval criteria listed below has been satisfied:

1. Zoning. The property is in compliance with requirements of HRMC Title 17 (Zoning).
2. Contact Information. The applicant or authorized agent has provided information sufficient to verify a qualified person will be available to be contacted about use of the short-term rental during and after business hours. The licensee or representative shall be available to be contacted by telephone to ensure a response to the short-term rental address at all hours (24 hours a day, seven days a week) while the dwelling unit is occupied for rent. Response must be within 30 minutes. The designated

representative may be changed from time to time throughout the term of the license. To do so, the license information shall be revised with the City at least 14 days prior to the date the change takes effect, except when the failure to do so is beyond the licensee's control. In an emergency or absence, contact forwarding information to a qualified person may be provided for the licensee or representative. In the case of Hosted Homeshares, the contact person shall be the permanent resident who will be hosting the transient accommodations.

3. Notice to Neighbors. For Vacation Home Rentals, the licensee or authorized agent shall either: (a) provide an annual mailing or otherwise distribute by hand, a flier to neighbors within a 250-foot radius of the short-term rental property address containing the operating license number and owner or representative contact information, or (b) post a small placard or sign as specified by the City on the property in proximity to the adjacent street advising neighbors and tenants of the same information where it can be seen from the public right-of-way.

The purpose of this notice is so that adjacent property owners and residents can contact a responsible person to report and request resolution of problems associated with the operation of the short-term rental. If the permanent contact information changes during the license period, the new information must be mailed or distributed again, or changed on the placard or sign.

#### C. Health and Safety.

1. Responsibility. It is the licensee's responsibility to assure that the short-term rental is and remains in substantial compliance with all applicable codes regarding fire, building and safety, health and safety, and other relevant laws.

2. Fire and Emergency Safety. A completed checklist for fire safety (fire extinguishers, smoke alarms, carbon monoxide detectors, etc.) shall be required with each annual operating license application and renewal. The licensee shall be responsible for completing the fire safety checklist and ensuring continued compliance. Verification by the City shall be required prior to issuance of a license and may be required for each renewal at the City Manager's discretion.

3. Solid Waste Collection – minimum service requirements. During all months that the dwelling is available for transient accommodation, Vacation Home Rentals shall have weekly solid waste collection service with assisted pick-up provided by the solid waste provider, if available. For the purposes of this section, assisted pick-up means the collection driver retrieves the cart from the driveway, rolls it out for service, and then places it back in its original location.

D. Mandatory Postings. The short-term rental license issued by the City (or a copy thereof) shall be displayed in a prominent location within the interior of the dwelling adjacent to the front door. The license will contain the following information:

1. A number or other identifying mark unique to the short-term rental operating license which indicates the license is issued by the City of Hood River, with the date of expiration;
2. The name of the licensee or representative and a telephone number where the licensee or representative may be contacted;
3. The number of approved parking spaces;
4. The maximum occupancy permitted for the short-term rental;
5. Any required information and conditions specific to the operating license;
6. Day of week of trash pickup;
7. The property address; and

8. The City of Hood River official logo.

E. The licensee shall be in compliance with the Hotel Tax Code pursuant to HRMC Chapter 5.09, and subject to the Tax Administrator's authority under that chapter.

F. Parking.

1. One (1) hard surfaced off-street parking space shall be provided for every two bedrooms. In calculating the number of spaces required, the total shall be rounded up. Parking areas shall not be located in the front yard. If the garage is to be utilized to meet the parking requirement, a photo of the interior of the garage shall be submitted to show the garage is available for parking. Required parking may be permitted on another lot within 250 feet of the subject property with a shared parking agreement or proof of legal parking access.

2. A parking diagram of the approved parking spaces shall be provided to tenants and be available in a prominent location within the short-term rental dwelling.

5.10.090 Additional Operational Requirements.

A. Advertising and License Number. The licensee or authorized agent shall put the annual operating license number on all advertisements for the specific property, if legally possible.

B. Complaints.

1. Response to Complaints. The licensee or representative shall respond to neighborhood questions, concerns, or complaints in a reasonably timely manner depending on the circumstances.

2. Record of Response. The licensee or representative shall maintain a record of complaints and the actions taken in response to the complaint, if relevant, in an electronic or written manner deemed reasonable to document the interaction. If kept, this record can then be made available for City inspection upon request to investigate a complaint.

C. Inspection. Upon application for an operating license all short-term rentals shall be subject to inspection by the City for compliance with this section.

1. The City Manager may conduct a site visit upon an application for a short-term rental to confirm the number of bedrooms (as defined by the International Building Code) stated on the application and the number, location and availability of on-site parking spaces. The site visit will be coordinated with the applicant and be conducted during the City's normal business hours, and with reasonable notice.

2. The City Manager may visit and inspect the site of a short-term rental to ensure compliance with all applicable regulations, during the City's normal business hours, and with reasonable notice and other procedural safeguards as necessary. Code violations shall be processed in accordance with HRMC Title 1.

D. Specific Prohibitions. The following activities are prohibited on the premises of a Short-term Rental during periods of transient rental:

1. Events. Examples of events include, but are not limited to, company retreats, weddings, rehearsal dinners, etc.

2. Unattended barking dogs.
3. Activities that exceed noise limitations set by HRMC Title 8.09.

E. The maximum overnight occupancy for the dwelling shall be limited to two persons per bedroom (as defined by the International Building Code) and two additional persons (e.g., a two-bedroom dwelling is permitted a maximum overnight occupancy of six persons). The maximum daytime occupancy shall be limited to the overnight occupancy plus six additional persons (e.g., a two-bedroom dwelling is permitted a maximum daytime occupancy of twelve).

F. Administrative Rules. The City Manager shall have the authority to establish administrative rules and regulations consistent with the provisions of this chapter for the purpose of interpreting, clarifying, carrying out, furthering, and enforcing the provisions of this chapter. A copy of such administrative rules and regulations shall be on file in the Office of the City Recorder and be posted on the City website.

#### 5.10.100 Violations.

In addition to complaints related to nuisance and noise and other violations of the HRMC, the following conduct also constitutes a violation of this chapter and is a civil infraction:

- A. The discovery of material misstatements or providing of false information in the application or renewal process.
- B. Representing a dwelling as available for occupancy or rent as a short-term rental where the owner does not hold a valid operating license issued under this chapter, or making a short-term rental available for use, occupancy or rent without first obtaining a valid operating license.
- C. Advertising or renting a short-term rental in a manner that does not comply with the standards of this chapter.
- D. Failure to comply with the substantive standards of HRMC 5.10.080 and HRMC 5.10.090.

#### 5.10.110 Penalties.

- A. In addition to the fines and revocation procedures described below, any person or owner who uses, or allows the use of, or advertises, property in violation of this chapter is subject to the enforcement authority of HRMC Title 1.
- B. Each twenty-four hour period in which a dwelling is used, or advertised, in violation of this chapter or any other chapter of the HRMC shall be considered an occurrence for calculation of the following fines:
  1. The first occurrence of one or more violation(s) will incur a warning or other fine amount otherwise specified in HRMC, whichever is greater.

2. A second occurrence of one or more violation(s) within a 12-month period is subject to a \$250 fine or other fine amount otherwise specified in HRMC, whichever is greater.

3. A third occurrence and all subsequent occurrences of violation(s) within a 12-month period is subject to a \$500 fine or other fine amount otherwise specified in HRMC, whichever is greater.

C. Revocation. The following actions are grounds for immediate revocation of an operating license:

1. Failure to renew an operating license as set forth in HRMC 5.10.070 while continuing to operate a short-term rental.

2. The occurrence of three or more violations within a 12-month period resulting in fines pursuant to 5.10.110.B3.

3. The discovery of material misstatements or providing of false information in the application or renewal process is grounds for immediate revocation of the operating license.

4. Such other violations of this chapter of sufficient severity in the reasonable judgment of the City Manager, so as to provide reasonable grounds for immediate revocation of the operating license.

D. Notice of Decision/Appeal/Stay. If the operating license is revoked as provided in this section, the City Manager shall send written notice of revocation to the licensee stating the basis for the decision. The notice shall include information about the right to appeal the decision and the procedure for filing an appeal. The licensee may appeal the City Manager's decision to revoke the operating license under the procedures set forth in HRMC 5.10.120. Upon receipt of an appeal, the City Manager shall stay the revocation decision until the appeal has been finally determined by the Hearing Officer.

#### 5.10.120 Appeals of Short-term Rental Operating License Determinations.

A. Filing Requirements – Notice. The licensee or authorized agent may appeal a short-term rental operating license decision to deny or revoke an operating license under HRMC 5.10.100.

B. Authority to Decide Appeal. The Hearings Officer shall be responsible for determining an appeal of a decision approving or denying an application or renewal application for an operating license, or revoking or suspending an operating license, in any zone.

C. Time for Filing. An appellant is required to file a written notice of appeal including the basis for the appeal within 14 calendar days of the license determination being appealed. This requirement is jurisdictional and late filings shall not be allowed.

D. Fee for Appeal. The City Council may establish by resolution a fee for filing an appeal, which shall be jurisdictional.

E. Procedures. The City Manager may establish administrative procedures to implement the appeal procedures provided in this section, including any required forms. The Council may adopt procedures for hearings not in conflict with this section, including but not limited to time limits on oral testimony and limitations on written argument.

F. Hearing. Within 35 days of receiving the notice of appeal, the City Manager shall schedule a hearing on the appeal before the Hearings Officer. At the hearing, the appellant shall have the opportunity to present evidence and arguments as may be relevant. The Hearings Officer may direct the City Attorney to draft findings of fact and interpretations of code or law to be considered at a later meeting.

G. Standard of Review and Decision. The Hearings Officer shall determine whether the City's decision was based on a preponderance of the evidence. A decision of the Hearings Officer shall be based on the evidence received, in writing and signed by the chair, no later than 30 days after the close of the hearing. The Hearings Officer may determine not to suspend or revoke the license, or to revoke or suspend the license. If the Hearings Officer upholds the decision to revoke the operating license, the Hearings Officer shall order the licensee to discontinue use as a short-term rental. If the Hearings Officer reverses the decision to revoke the operating license, the operating license shall be continued.

H. Finality. The Hearings Officer's decision shall be final on the date of mailing the decision to the appellant. The Hearings Officer's decision is the final decision of the City and is appealable only by writ of review to Circuit Court.

#### 5.10.130 Discontinuance of Short-term Rental Occupancy.

A. After Revocation. After a short-term rental operating license has been revoked, the dwelling unit may not be used or occupied as a short-term rental unless a subsequent license is granted, and the licensee whose license has been revoked shall not be eligible to reapply for a short-term rental license for short-term rental occupancy of the same property for a period of two years.

B. After Expiration. If a short-term rental operating license expires, the dwelling unit may not be used or occupied as a short-term rental until such time as a subsequent license has been granted for that property.

5.10.140 Remedies Not Exclusive.

The remedies provided in this chapter are in addition to, and not in lieu of, all other legal remedies, criminal and civil, which may be pursued by the City to address any violation of this code, the Development Code, or other public nuisance.

*This Page  
Intentionally  
Left Blank*

**ORDINANCE 575**

AN ORDINANCE OF THE TOWN OF LOS ALTOS HILLS AMENDING SECTION 10-1.702 AND ADDING SECTIONS 10-1.1202 THROUGH 10-1.1208 TO THE LOS ALTOS HILLS MUNICIPAL CODE PERTAINING TO SHORT-TERM RENTAL REGULATIONS WITHIN RESIDENTIAL ZONES

**WHEREAS**, the City Council of the Town of Los Altos Hills (“Town”) wishes to amend the Municipal Code with regard to regulation of short-term rentals in Town and establish regulatory and enforcement guidelines.

**NOW, THEREFORE**, the City Council of the Town of Los Altos Hills does **ORDAIN** as follows:

**Section 1. AMENDMENTS**

The following sections are hereby added to Title 10, Chapter 1 (“Zoning”) of the Los Altos Hills Municipal Code to read as follows. Sections and subsections that are not amended by this ordinance are not included below, and shall remain in full force and effect.

**Article 7. Accessory uses and structures permitted (R-A).** is hereby amended:

**10-1.702 Accessory uses and structures permitted (R-A).**

.....

(r) One short-term rental unit operated pursuant to the requirements of Article 12 of this chapter.

.....

**Article 12. Short-term Rental of Residential Property** is hereby added:

**10-1.1201 Purpose and intent.**

The purpose of this chapter is to establish regulations governing the short-term rental of residential property within the Town of Los Altos Hills. The establishment of these regulations will provide for additional residential options while ensuring that short-term rental activities do not become a nuisance or a threat to public health, safety, or welfare due to excessive noise, disorderly conduct, overcrowding, traffic congestion, illegal parking, refuse accumulation, and other effects related to short-term rentals.

#### **10-1.1202 Definitions.**

For purposes of this chapter, the following definitions apply:

(a) “Primary residence” means the residence must be used as the owner/applicant’s primary residence for a minimum of 270 days per year and must be listed as the mailing address with the Santa Clara County Assessor.

(b) “Short-term rental” means to provide transient lodging use in exchange for compensation in any dwelling unit, in whole or in part, on residential property for a period of thirty (30) consecutive calendar days or less.

(c) “Validated nuisance” means a prohibited use or impact associated with a short-term rental including those listed within the Short-term Rental Policy and which sufficient documentation is provided to confirm the occurrence and extent of the violation.

#### **10-1.1203 Short-term rentals prohibited.**

No person shall use or maintain, nor shall any person authorize, aid, facilitate or advertise the use of, any residential property on any parcel for short-term rental without registering and obtaining a short-term rental license from the Town of Los Altos Hills.

#### **10-1.1204 General requirements.**

Short-term rentals permitted on residential property shall be subject to following restrictions and requirements:

(a) A maximum of one (1) short term rental unit is permitted per residential property.

(b) The short-term rental property shall contain the property owner’s primary residence.

(c) The short-term rental shall comply with all applicable local, state, and federal laws, including but not limited to state and local health, safety, fire, and building codes.

(d) The host must provide all renters with facilities for sleeping, bathing, and toileting within a permanent dwelling that is suitable for human occupancy. Rental of sleeping space in or on balconies, porches, tents, sheds, vehicles, garages or outdoor areas is prohibited.

(e) Short-term rental uses are permitted solely for residential purposes only. No events or commercial uses are permitted. This includes site rentals for weddings, corporate meetings/events/trainings, photo or video shoots, birthday parties, etc.

(f) All short-term rental parking must be provided on-site in approved parking areas. No overnight street parking is permitted pursuant to Municipal Code section 4-3.1006.

(g) The host is responsible for ensuring the property does not become a nuisance due to any short-term rental occupant activities. Any short-term rental with three (3) validated nuisance violations will result in revocation of the short-term rental license.

#### **10-1.1205 Conditional Short-Term Rental Permit Approval required.**

An applicant may apply for a Conditional Short-Term Rental Permit if an exception to the general requirements is requested or if a previously approved short-term rental license has been revoked. A noticed public hearing before the Site Development Committee is required for consideration of a Conditional Short-Term Rental permit.

(a) Additional limitations and restrictions may be imposed to ensure any nuisance concerns or site-specific limitations are adequately addressed to ensure that the short-term rental use would be compatible with the general intent of this Ordinance and the policies of the Town of Los Altos Hills. Additional limitations or restriction may include but are not limited to:

- i. limitation on number of rental rooms or occupants
- ii. additional off-street parking provisions
- iii. modification of quiet hours for occupants
- iv. neighborhood notification and or ongoing communication requirements

(b) Pursuant to 10-1.1002 of the Municipal Code, the decision of the Site Development Committee may be appealed to the Planning Commission.

#### **10-1.1206 Fees.**

The City Council may establish and set by resolution all fees and charges as may be necessary to effectuate the purpose of this chapter.

#### **10-1.1207 Violations a public nuisance—Penalties, nuisance abatement, and other remedies.**

Any short-term rental operated, conducted, or maintained contrary to the provisions of this chapter shall be, and the same is hereby declared to be, unlawful and a public nuisance which the City may seek to abate, remove, and enjoin in any manner provided by law. Such remedies shall be in addition to any other remedies available to the City under this chapter or applicable local or state law.

### **SECTION II. SEVERABILITY.**

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of this ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council of the Town of Los Altos Hills hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

### **SECTION III. EFFECTIVE DATE AND PUBLICATION.**

This ordinance shall take effect thirty (30) days after adoption. Within fifteen days after the passage of this ordinance the City Clerk shall cause this ordinance or a summary thereof to be published once, with the names of those City Councilmembers voting for or against it in a newspaper of general circulation in the Town of Los Altos Hills, as required by law.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

BY: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

2840788.1

Sec. 29.10.320. - New accessory dwelling units.

(a) *Incentive program* . Any accessory dwelling unit developed under an Incentive Program which may be established by Resolution of the Town Council shall be made affordable to eligible applicants pursuant to the requirements of the Incentive Program. A deed restriction shall be recorded specifying that the accessory dwelling unit shall be offered at a reduced rent that is affordable to a lower income renter (less than 80 percent AMI) provided that the unit is occupied by someone other than a member of the household occupying the primary unit.

(b) *Design and development standards* .

(1) *Number* . Only one (1) accessory dwelling unit may be permitted on a lot. No additional accessory dwelling unit is allowed upon a lot with an existing accessory dwelling unit.

(2) *Permitted zones* . Accessory dwelling units are allowed on lots in the R-1, R-D, R-M, R-1D, HR, and RC zones.

(3) *Setbacks* . Attached accessory dwelling units shall comply with the setbacks of the zone for a primary dwelling unit.

No detached accessory dwelling unit may be placed in front of the primary dwelling unit in the R-1, R-D, R-M, and R-1D zones.

Detached accessory dwelling units shall comply with the following minimum setbacks:

- a. Front and side setbacks abutting a street of the zone for a primary dwelling unit.
- b. Rear and side setbacks of five (5) feet in the R-1, R-D, R-M, and R-1D zones.
- c. Setbacks from any other structure located on the same lot of five (5) feet.
- d. Setbacks for a primary dwelling unit, and located within the Least Restrictive Development Area (LRDA), in the HR and RC zones.

An accessory dwelling unit with existing side and rear setbacks sufficient for fire safety shall be permitted if the accessory dwelling unit is contained within the existing space of a primary dwelling unit or accessory structure.

(4) *Height* . Accessory dwelling units shall not exceed one (1) story in height, and shall not exceed fifteen (15) feet in height, unless the accessory dwelling unit is contained within the existing two-story space of a primary dwelling unit or accessory structure; added to an existing two-story primary dwelling unit; or added above an existing one-story accessory structure on a property with an existing two-story primary dwelling unit in the R-1, R-D, R-M, and R-1D zones.

(5) *Maximum unit size and maximum number of bedrooms* . The maximum floor area of an accessory dwelling unit is 1,200 square feet. The maximum number of bedrooms is two (2).

Detached accessory dwelling units exceeding a combined square footage of 450 square feet in the R-1, R-D, R-M and R-1D zones shall not be subject to the Administrative Procedure for Minor Residential Projects. Detached accessory dwelling units exceeding a combined square footage of 600 or 1,000 square feet in the HR and RC zones shall not be subject to Development Review Committee or Planning Commission approval.

(6) *Floor area ratio (FAR) standards* . All accessory dwelling units (attached or detached) are allowed a ten (10) percent increase in the floor area ratio standards for all structures, excluding garages.

(7) *Lot coverage* . Accessory dwelling units must comply with lot coverage maximums for the zone except with regard to the addition of a single efficiency unit.

(8) *Parking* . In addition to parking otherwise required for units as set forth in section 29.10.150 of the Town Code, the number of off-street parking spaces required by this chapter for the primary

dwelling unit shall be provided prior to the issuance of a building permit or final inspection, for a new accessory dwelling unit. When a garage is demolished in conjunction with the construction of an accessory dwelling unit, or converted to an accessory dwelling unit, any lost off-street parking spaces required for the primary dwelling unit may be located in any configuration on the same lot as the accessory dwelling unit, including as tandem spaces, or by the use of mechanical automobile parking lifts.

- a. *Exceptions* . No parking spaces shall be required if the accessory dwelling unit meets any of the following criteria:
  1. The accessory dwelling unit is located within one-half mile of a public transit stop.
  2. The accessory dwelling unit is located within an architecturally and historically significant historic district.
  3. The accessory dwelling unit is within the existing space of a primary dwelling unit or an existing accessory structure.
  4. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
  5. When there is a car share vehicle (as defined by the California Vehicle Code) located within one block of the accessory dwelling unit.
  6. When the Director finds that the lot does not have adequate area to provide parking.
- (9) *Design, form, materials, and color* . The design, form, roof pitch, materials, and color of a new accessory dwelling unit shall be compatible with the primary dwelling unit and the neighborhood. Entrances serving the accessory dwelling unit shall not be constructed on any elevation facing a public street. Accessory dwelling units shall retain the single-family appearance of the property.
- (10) *Town codes and ordinances* . All accessory dwelling units shall comply with all the provisions of this chapter and other applicable Town codes.
- (11) *Building codes* . The accessory dwelling unit shall comply with applicable building, health and fire codes. The accessory dwelling unit shall not be required to provide fire sprinklers if they are not required for the primary dwelling unit.
- (12) *Denial* . An application may be denied if it does not meet the design and development standards. An application may also be denied if the following findings are made:
  - a. Adverse impacts on health, safety, and/or welfare of the public.
- (13) *Conversion of existing floor area* . An accessory dwelling unit shall be permitted if the accessory dwelling unit is contained within the existing space of a primary dwelling unit or accessory structure. The following provisions shall apply:
  - a. The accessory dwelling unit shall be located within a zone for a single-family use.
  - b. The accessory dwelling unit shall have separate entrance from the primary dwelling unit.
  - c. The accessory dwelling unit shall have existing side and rear setbacks sufficient for fire safety.
  - d. No parking spaces shall be required for the accessory dwelling unit.
- (14) *Rentals longer than 30 days* . Rentals for durations of less than thirty (30) days, including short-term rentals (as defined by the California Government Code), are prohibited.
- (15) *Maximum number of dogs, cats, or litters* . All accessory dwelling units shall comply with Section 4.40.010 of the Town code.

( [Ord. No. 2270, § I, 2-6-18](#) )

## Holly Zappala

---

**From:** Kathy Kroesche <kathy.kroesche111@gmail.com>  
**Sent:** Friday, November 02, 2018 1:45 PM  
**To:** Holly Zappala  
**Subject:** short term rentals

Dear Holly,

Regarding the Town of Los Gatos plans to address short term rentals, I would like to share my story. My parents were both teachers in Portola Valley and we would rent out our home in Menlo Park during the summer starting in the 70s, decades before Airbnb. Now I am married to a Los Gatos High School teacher, and we, out of necessity, have rented out our home for the past 9 summers in order to pay for repairs, travel, and college for our daughters.

This next summer we are traveling to Uganda to work in an orphanage and teach teachers. We cannot afford this travel without renting out our home. Ideally, we'd like to rent it for more than 30 days, but due to the prevalence of Airbnb and other sites, we are finding longer terms longer than a week or two hard to achieve. I hope the Town will consider the great expense of housing in our area and the need for people to make ends meet using their own assets. Renting out one's own personal home is not easy. We would not do it if it wasn't necessary.

Thank you for your consideration. The Town meeting on this issue is on my birthday so it will be a challenge to slip away from family.

Take Care,

**Kathy Kroesche**

Cell 408-438-0103

*This Page  
Intentionally  
Left Blank*

## Holly Zappala

---

**From:** Jennifer E Liebthal <jliebthal@gmail.com>  
**Sent:** Tuesday, November 06, 2018 4:39 PM  
**To:** Holly Zappala  
**Subject:** Short Term Vacation Rentals

Hi Holly,

I support vacation rentals in Los Gatos. I am unable to make the November 15th meeting regarding short term rental regulations as I will be out of town however I did want to provide some input for consideration. I think that having short term rentals in Los Gatos can help bring more vacationers into Los Gatos and help promote and increase much needed revenue for our local businesses. I think it may also help those in Los Gatos who have lived here for generations but are finding it hard to make ends meet to subsidize their income by renting out a room, etc.

It may be nice to impose a short term rental tax and some laws saying that if any rental has multiple infractions (noise, etc) then there is some consequence.. maybe being suspended from renting for some certain amount of time.

Thanks for your time,  
Jennifer

*This Page  
Intentionally  
Left Blank*



**TOWN OF LOS GATOS**  
**POLICY COMMITTEE REPORT**

MEETING DATE: 11/15/2018

ITEM NO: 3

---

DATE: NOVEMBER 8, 2018  
TO: COUNCIL POLICY COMMITTEE  
FROM: LAUREL PREVETTI, TOWN MANAGER  
SUBJECT: CONTINUE DISCUSSION ON PARKLETS AND PROVIDE DIRECTION TO STAFF

RECOMMENDATION:

Continue discussion on parklets and provide direction to staff.

BACKGROUND:

In recent months, property owners and businesses have been inquiring about adding parklets in front of their locations to attract business and offer customers an outdoor dining experience where sidewalks may not be wide enough to support outdoor furniture. Most commonly, a parklet is defined as a small seating area or green space created as a public amenity on or alongside a sidewalk, especially in a former roadside parking space. The Town does not have a definition of a parklet at this time although a definition could be included in a policy if it is the direction of the Policy Committee.

Staff has been open to accepting and reviewing submittals for a public-private partnership for the construction of parklets as stakeholders inquire, and recognize that there will likely be a bigger conversation about parklets as the Town looks at one-way streets in Downtown in early 2019. Establishing policy guidelines and supporting a pilot now may assist in the progression of that larger conversation.

Town staff has received two proposals for parklets along Main Street. Staff had informed interested property owners that they could submit proposals for review and approval as a pilot program if the property owners provide a professionally designed plan and cover the cost for the construction and maintenance of the parklet. After the initial review of both submittals, several policy questions arose for which staff sought the Policy Committee's direction at the October 18, 2018 Policy Committee meeting. At that meeting, the Policy Committee directed staff to return with two possible scenarios: one that addressed a pilot parklet program in which the Town fully funded, built and maintained the parklet, and a second that was a public-private

PREPARED BY: MONICA RENN  
Economic Vitality Manager

BACKGROUND (continued):

partnership between the Town and the building owner or business immediate adjacent to the requested parklet location.

DISCUSSION:

**Public-Private Partnership Pilot Program**

Staff benchmarked several other parklet programs in local and national jurisdictions to better understand standards of practice. Except for one jurisdiction (Menlo Park) all programs discovered by staff were built and maintained with the full financial burden on the private business providing the parklet. Staff assumes this may in part be because when jurisdictions provided their own community park and public spaces, a policy is not necessarily crafted for it to occur. It was also discovered that most jurisdictions require the parklets to be free and open to the public regardless of if the person is a customer of the business or if the business is open.

During conversations at the Policy Committee meeting on October 18, 2018, the Committee expressed interested in further discussing what a public-private partnership could be in Los Gatos and asked staff to provide examples of provisions that could be included in a pilot parklet program policy. Understanding that there may still be interest in further exploring a Town funded and constructed program, staff has provided three examples from other jurisdictions (Attachment 1) that the Policy Committee could use as a starting point for a Town Policy, and staff believes these examples provide a high-level frame work for identifying the elements of the Town's potential policy. In addition, it should be noted that the recommendation for this public-private partnership pilot would only be for Main Street at this time given the work that the Town will be doing with the community and consultants regarding one-way streets in early 2019 on N. Santa Cruz Avenue.

**Town funded, Built, and Maintained Pilot Program**

A program where the Town constructs and maintains a parklet at the Town's expense provides for some advantages and disadvantages. This model provides for greater control of the size, design, and use of a parklet. Areas where businesses may resist in a private model, such as shared use, become less of an issue if the Town owns the parklet. This also allows for parklets that are designed around casual all-purpose use, in contrast to the anticipated restaurant table and seating use anticipated in the Public-Private model.

The disadvantages of the Town leading the program are significant. The Town will be less nimble in implementation and more expensive in overall costs. In addition, without having

DISCUSSION (continued):

adjacent business financially invested, daily maintenance by the Town will be costly, especially at a level to support outdoor dining.

FEEDBACK AND NEXT STEPS:

Staff is interested in several areas of feedback from the committee, including:

- Usage- Is an improved parklet considered a public space with equal priority given to the sponsoring business and open public use or is the parklet dedicated to the business that pays for the installation?
- Size – Is there a size that makes sense, balancing the investment in infrastructure, maximizing the space, and considering existing parking supply constraints. Staff recommends a discussion in terms of a parklet length of one or two parking spaces.
- Are there specific design elements that should be allowed or excluded?
- Term – Assuming a parklet is allowed through a permit process, what should the duration of the permit be?
- Other specific input as desired by the Committee to guide next steps.

COORDINATION:

The preparation of this report was coordinated with Community Development, Parks and Public Works, and the Town Manager's Office.

FISCAL IMPACT:

There is no fiscal impact associated with these initiatives at this time.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Examples of Parklet Policies/Processes from the Cities of West Hollywood, San Leandro, and Eureka.

*This Page  
Intentionally  
Left Blank*



# Eureka's Parklet Program Policy and Procedures Manual



# Contents

- Geographic Limitations.....3
- Design Requirements.....5
- Site Plan Requirements.....7
- Operational Requirements.....8
- Aesthetic Criteria.....9
- Aesthetic Criteria Checklist.....12

# Geographic Limitations

1. Property must be located within the Eureka city limits.
2. No more than two parklets may be located on any given block.
3. Parklets are not allowed on streets with speed limits higher than 30 miles per hour.
4. Parklets shall not be located in; blue ADA zones, yellow loading/unloading zones, green limited parking zone, fire hydrant zones, fire lanes, active bus stops, etc. Relocation of yellow and green zones may be requested of the City, but all adjacent businesses must agree to the relocation, and the parklet owner must pay all expenses.
5. Parklets cannot cover manholes or public utility valve/covers.
6. Parklets must comply with all existing engineering requirements (e.g sight visibility triangle).





# Design Requirements

1. Except as noted below, the standard length of a parklet shall be 20 feet, which is the standard length of one parallel parking space per the California Vehicle Code. The following types of exceptions may be considered for this length requirement:
  - Parklets that utilize unused space, such as at the end of a block, or are directly adjacent to landscape areas and/or bulb-outs may be allowed to utilize the unused space.
  - Two adjoining parklets may be allowed (40 feet total).
  - Parklets may be extended beyond 20 feet if public bicycle/motorcycle parking is included.
  - Non-profit businesses that provide a clear benefit to the surrounding community may be allowed to utilize an area beyond 20 feet.
2. Parklets are public spaces, and shall be designed in such a way as to provide community benefit at all times whether the associated business is open or closed.
3. Parklets must include some permanent seating, standing-height tables, landscaping, or artistic/interactive elements.
4. Parklets shall be aligned with existing parking delineation, if any.
5. Parklets and parklet elements may not extend more than six (6) feet from the curb
6. line.
7. Each proposed element of the parklet must be installed during construction.
8. Construction of the parklet must be completed within three months of encroachment permit approval.
9. Design elements that trigger a building permit are allowed, but must receive an approved building permit and may have additional dimensional, structural/engineering, and/or design requirements.
10. In order to serve alcohol in the parklet, the parklet must be located directly in front of the business with which it is associated.
11. No advertising signage is allowed without prior written approval of the Development Services Director.
12. Parklet owners shall secure a valid Encroachment Permit from the City.
13. Parklet owners shall secure and maintain Insurance at all times (as required in the Encroachment Permit).
14. Parklet owners shall maintain a current business license with the City at all times.
15. Parklet applications shall be accompanied by the Encroachment permit fee as set by Resolution of the City Council.
16. High quality, durable materials capable of withstanding year-round use in a marine environment are required (e.g. non-corrosive bolts) No bolts or anchors shall penetrate the pavement or sidewalk.
17. Parklet platform decking shall be at the same height as the curb to avoid tripping hazard and shall not have more than a ½ inch gap from the curb.

18. Parklet platforms shall be designed to allow for curb line storm water drainage using either:
  - Two four (4) inch diameter pipe; or
  - A gap of six (6) inches between the body of the deck and the curb; or
  - A comparable design to be approved by Public Works.
19. Parklet platform design shall allow for access and cleaning underneath the platform.
20. Parklet platforms shall be designed to accommodate the crown-and-cross slope of the street surface. Close attention must be paid to existing curb condition and height to ensure the platform is flush with the curb.
21. The parklet platform cross slope cannot exceed two (2) percent. Final design drawings shall show spot elevations for both the sidewalk and the platform areas.
22. All platforms and furnishings must comply with the Americans with Disabilities Act (ADA) and be accessible to all users, including people with physical disabilities, wheelchair users, and those with impaired vision.
23. Parklet design shall include a physical barrier along the street side of the parklet
24. in order to prevent pedestrians from entering the street from the parklet. This must be accomplished while maintaining clear visual sightlines to the street.
25. No wall or rail may be less than 36 inches, as measured from the platform.
26. Continuous opaque walls more than 42 inches above the platform that block views into the platform from the surrounding streetscape are prohibited.
27. If cable railing is used, the spacing between cables cannot exceed 6 inches.
28. The parklet platform must be designed so that it can be removed within 48 hours of notice from the City. The Public Works Department will determine if submitted designs meet this criteria.
29. All rails shall be capable of withstanding a 200 pound horizontal force. Parklet platforms must be able to support 100 pounds per square foot live load.
30. Reflective delineators, or other methods approved by the City, must be placed 1 foot from either end of the parklet (reflective delineators are to be provided by the parklet operator).

# Site Plan Requirements

Once you are ready to submit a draft concept, you can submit a conceptual site plan to the City. Your plan will be reviewed by the Planning and Building Divisions and will be evaluated for compliance with the requirements outlined in the Policy and Procedures Manual. Comments will be returned, and applicants will be invited to submit a final site plan.

Conceptual site plans must include plan view drawing(s) that include:

- Footprint of proposed parklet, including entrances, railings, built-in tables/chairs, etc.
- Streets and cross streets
- Sidewalk width
- Location of existing street trees, utility poles, utilities, painted curbs, etc.
- Location of proposed amenities within the Parklet
- Dimensions (feet and inches) of everything above
- Perspective/elevation drawing or profile view plan/drawing(s) that must include:
  - Curb height
  - Street grade and sidewalk cross slope
  - Profile of proposed parklet, including entrances, railings, built-in tables/chairs, etc.
  - Location of existing street trees, utility poles, etc.
  - Location of proposed amenities within the parklet
  - Dimensions (feet and inches) of everything above

# Operational Requirements

## **On a daily basis:**

- Lock up or stow all moveable tables and chairs prior to the close of business.
- Stow or remove all food and drink service equipment prior to the end of service hours.
- Sweep the parklet surface and the area surrounding the parklet.
- Water and maintain the parklet vegetation.
- Clean the parklet platform, seating, and other parklet elements.
- Remove any debris, litter, grime, or graffiti from the parklet.
- Replace any failing parklet elements or components.

## **On a weekly basis:**

- Rinse the area underneath the parklet surface.
- Remove any debris that is impeding drainage flow along the curb and gutter beneath the parklet surface.
- Provide pest control (if necessary).
- As needed:
- Replace all parklet components that have experienced significant wear and tear.

# Aesthetic Criteria

The primary intent of the aesthetic criteria is to ensure that each parklet in Eureka is unique and that each parklet stands out as a special public space that is cool, fun, and beneficial to the overall neighborhood. In other words, the City expects each parklet to provide positive aesthetic contributions to the block face on which they are installed. The secondary intent is to ensure that parklets are designed with community benefit and/or interaction in mind.

Each of the following aesthetic elements are worth a specific number of points. In order for a parklet to be approved, it must incorporate enough elements to total at least twelve points. All aesthetic design elements chosen will be reviewed by staff to ensure parklet operators are adequately meeting the expectations of the guidelines.

## Aesthetic Criteria:

1. A specific and clearly-identifiable theme: (5 POINTS)
  - Theme is based on a specific element(s) of Eureka culture/history, or
  - Theme stimulates interaction and/or is education-based, or
  - Theme matches the business with which it is associated, or
  - Theme is associated with some unique element of the surrounding neighborhood, or
  - Theme targets a specific user group such as teens, seniors, children, pets, etc.
2. Built-in permanent seating and table/counter, up to 4 points maximum (removable tables and chairs may also be included in parklet)
  - Built-in permanent seating; 1 point for every 2 feet of permanent seating
  - created, maximum of 4 points, (1-4 POINTS)
  - Built-in permanent table or counter (minimum of 18" wide) (2 POINTS)
3. Parklet matches the architectural or design style of the building and/or business (this does not count as a "theme;" see A above)
  - Matches exterior architecture style (3 POINTS)
  - Matches interior material and/or paint color and coordinated accents (3 POINTS)
  - Matches material of surrounding streetscape (e.g. brick, aggregate, stamped concrete, etc.) (3 POINTS)

4. Vertical elements (building permit may be required for vertical elements that are over three feet high; vertical elements may not obstruct driver views of sidewalk or street intersections)

- Trellises (4 POINTS) (plants growing on trellises are additional points; see below)
- Removable umbrellas; 2 points each, maximum of 4 points (2-4 POINTS)
- Small potted tree-5 gallon pot minimum (staff to ensure its hardiness and appropriate size) (1 POINT EACH, 3 POINTS MAX)
- Large potted tree-24" box maximum (staff to ensure hardiness and appropriate size of variety selected) (2 POINTS EACH, 4 POINTS MAX)
- Other approved vertical element(s) (2 POINTS)

5. Landscaping/greenery

- Trellised vines/plants (3 POINTS) (trellises are additional points; see above)
- Drought-resistant plants (1 POINT)
- Native plants (1 POINT)
- Large built-in planter boxes, landscaping, or potted plants (>10 square feet or >10 plants) (3 POINTS)
- Medium built-in planter boxes, landscaping, or potted plants (<10 square feet or <10 plants) (2 POINTS)
- Small built-in planter boxes, landscaping, or potted plants (<5 square feet or <5 plants) (1 POINT)
- Astro turf or other unique floor surfacing (1 POINT)

6. Artistically unique elements that enhance the beauty of the surrounding streetscape

- Murals painted onto parklet (3 POINTS)
- Sculpture incorporated into parklet (3 POINTS)
- Interpretive sign or plaque associated with the theme of the parklet, the history of the site, etc. (2 POINTS)
- Other approved artistic element(s) or enhancements (2 POINTS)

7. Lighting elements (all lighting must be intended for outdoor use, and must be permanently wired or connected without the use of extension cords; lighting may require additional permits)

- String lights (2 POINTS, 3 IF SOLAR POWERED)
- At least two individual "garden" lights or accent lights (1 POINT, 2 IF SOLAR POWERED)

8. Heat-related features

- Standing heaters; 2 points each; tabletop heaters; 1 point each, maximum
- of 4 points total (1-4 POINTS)
- Permanently-installed heating elements and/or other permitted heating source(s) (special permitting may be required; no open flames are allowed) (4 POINTS)

9. Bike/motorcycle parking on one or both ends of parklet with prior Engineering/Traffic approval (3 POINTS)

10. Recycled, reused, or sustainably-sourced materials for construction (2 POINTS)

11. Hydration station(s)

- For people (1 POINT)
- For pets (1 POINT)

# Aesthetic Criteria Checklist (attached)



**parklet** /pärklet/ *Now* 1. A parking space sized area used for recreational or beautification purposes, 2. A means to repurpose part of the street for community use to promote a safer, more comfortable public realm.

# City of San Leandro Parklet Program

## Guidelines & Application

Rev. March 2017



## City of San Leandro Parklet Program

**parklet** /pärklet/ *Noun* 1. A parking space sized area used for recreational or beautification purposes. 2. A means to repurpose part of a street for community use to promote a safer, more comfortable public realm.

A parklet is the temporary use of space in the dedicated public right-of-way (parking spaces, unused bus stops, and other types of vehicular and non-vehicular zones) for public uses such as seating or bicycle racks. Parklets are publicly accessible space for the enjoyment and use of all San Leandro citizens, and are privately constructed and maintained.

It is envisioned that the parklets will be located in areas with pedestrian activity, as additional seating areas for retail patrons, and in areas where there is a desire to create a more pedestrian-friendly environment. Parklets are intended to be seen as pieces of street furniture, providing aesthetic enhancements to the overall streetscape.

In place of car parking, a platform is built to extend the grade of the sidewalk into the street. Once the platform is installed, benches, tables, chairs, landscaping, and bike parking can all be placed on top in order to create a parklet. Parklets must remain publicly accessible and will require signage to this effect. Table service is not permitted and alcohol is not allowed in a parklet. Commercial signage and advertising are not permitted.

Building on momentum in neighboring cities, the City of San Leandro will launch a pilot program for parklets. During this pilot, two applications for parklet permits will be considered per the initial two year cycle.

Applicants should review the **PARKLET GUIDELINES & RESPONSIBILITIES**, **APPLICATION CHECKLIST**, **APPLICATION** and **LETTER of INTENT** prior to beginning the application.



City of San Leandro  
Parklet Program

**PARKLET GUIDELINES & RESPONSIBILITIES**

*Location:*

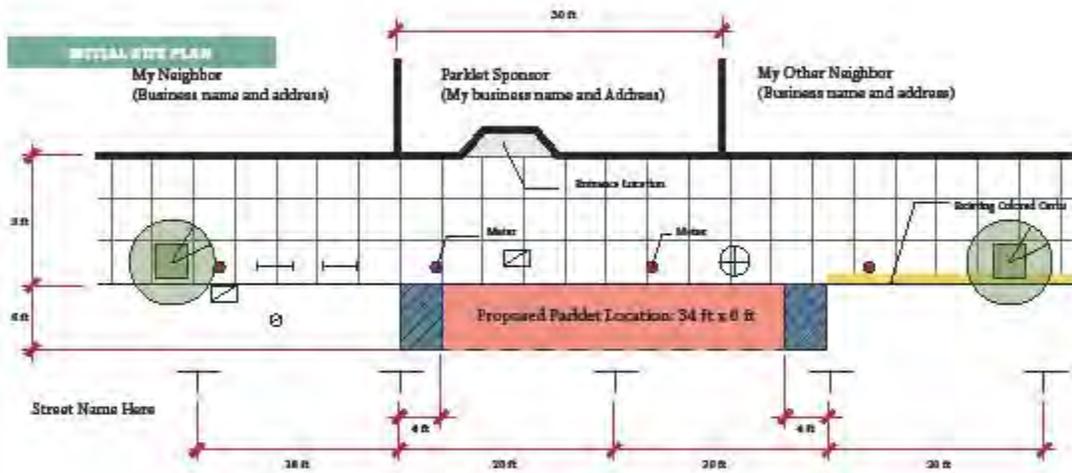
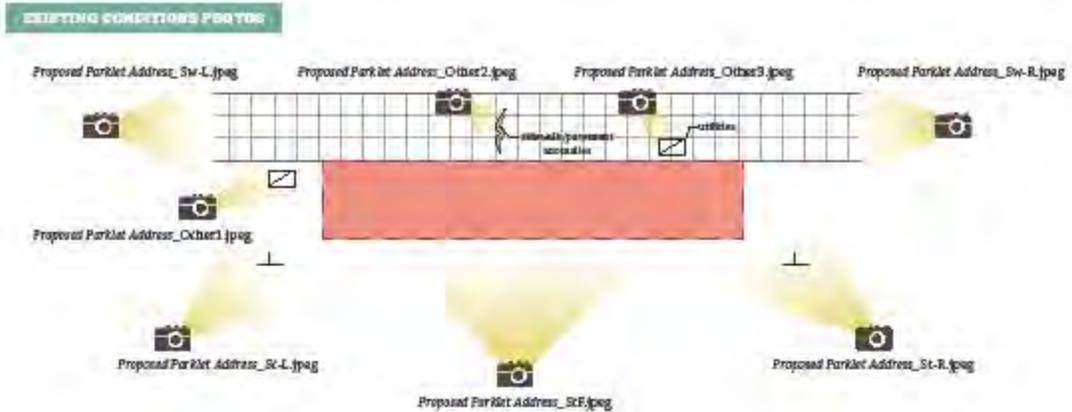
1. Parklet locations must be on a City street. This excludes any California State Routes such as East 14<sup>th</sup> Street, Doolittle Drive and Davis Street.
2. Parklets must be located on a street with a speed limit of 25 mph or less.
3. They may be allowed in white and green zones if the entity that originally requested the white or green zone agrees to repurpose that curb area.
4. Proposed parklet sites must be located on a street that has parking lanes, minimal cross slope and utilizes at least one parking space but not more than two.

*Design Parameters:*

1. Parklet plans must be designed and stamped by a licensed architect or civil engineer.
2. Adjacent to the roadway, a railing height of 42" minimum with openings that do not allow larger than a 4" sphere to pass is required. A visible edge to the parklet is required on all sides except for the sidewalk, which may consist of planters, railing, or cabling. The edges should be visually permeable or "see-through."
3. Parklets are intended to be aesthetic improvements to the streetscape, and materials will be required to be of high quality, durable, and attractive.
4. The width of the parklet must not extend beyond six (6) feet from the curb line.
5. Safe hit posts and wheel stops, or approved equals, are required.
6. Access panels must be included in the walking surface in order to maintain the gutter and area underneath the parklet and the design must allow for drainage along the gutter to pass underneath the parklet. See page 3 for additional design information.



# City of San Leandro Parklet Program



**Legend**

Existing Parking Meter	Existing Parking Space Marking	Existing Street Tree
Existing Utility (to show size and location)	4 ft Required Buffer setback (not to be located to parklet side)	Existing Street Light
Existing Utility (to show size and location)	Existing Street Light	North Arrow

- Things to include in your site plan:**
- + Your Building and neighboring Properties (include addresses)
  - + Proposed Parklet and dimensions (don't forget to leave a 4' buffer)
  - + Existing parking meters to be removed
  - + Any colored parking zones (green, white, yellow)
  - + Other utilities and sidewalk features adjacent to your parklet. (e.g: trees, utility access panels, bike racks, street lights. You can make up your own graphic symbols)
  - + Dimensions (you will probably have to measure with a tape measure)
- Hand Drawn images are fine. You may consider using graph paper to help scale streetscape features.



City of San Leandro  
Parklet Program

**PARKLET GUIDELINES & RESPONSIBILITIES (continued)**

7. If bike parking is provided, the bike racks can be at street grade.
8. Parklets must be accessible to individuals with disabilities per the Americans with Disabilities Act Accessibility Guidelines (ADAAG) and must follow guidelines included in **Attachment A – Accessibility Elements for Parklets**. Wheelchair users must be able to enter the parklet and access all the primary features of the parklet. Parklets shall not reduce the adjacent pedestrian travel way (sidewalk) width to less than 5 ½ feet clear. Parklets shall not interfere with the use of designated disabled parking zones; curb ramps; AC transit stops or other access features of the public right of way.
9. Where the parklet utilizes parking spaces, the parklet shall not exceed the length and width (6 ft width) of two (2)(20 ft. length) curb parallel parking spaces with a setback of a minimum of one (1) foot from either end of the parking space regardless of the length of the space. Parklets proposed for parking spaces that are either angled or perpendicular to the curb will be reviewed on a case-by-case basis.

*Fees*

1. There will be a non-refundable Application Fee of \$150 per Applicant made payable to City of San Leandro.
2. If a permit is issued the following fees are required:

Fee	When Due	Amount
Design Review Deposit	AFTER selection of initial application BEFORE any review begins	\$2,500*
Restoration Deposit	AFTER parklet plan is approved BEFORE any construction begins	\$2,500

Once design review is complete, any remaining funds from deposit will be refunded to applicant.



City of San Leandro  
Parklet Program

**PARKLET GUIDELINES & RESPONSIBILITIES (continued)**

*Responsibilities:*

The permit holder for each parklet will be required to:

1. Carry Insurance. Provide evidence of at least \$2 million per person/ \$4 million per incident in general liability insurance naming the City of San Leandro as additional insured. The insurance shall be endorsed to include the City of San Leandro as an additional insured.

2. Sign a Maintenance Agreement.

The Maintenance Agreement with the City of San Leandro will require the permit holder to do the following:

- a. Maintain all plants in good health.
- b. Keep the parklet free of debris and grime.
- c. Keep the parklet free of pests and vectors.
- d. Adequately maintain all surfaces of the parklet so they are not hazardous to parklet users.
- e. Sweep out debris from under the parklet on an as-needed basis.
- f. Keep any furniture such as tables, chairs and benches clean.
- g. Access panels must be included in order to maintain the gutter and area underneath the parklet.
- h. Once a year before the rainy season power wash under the parklet. Do not allow powerwash water to flow into the storm drain. Use appropriate storm drain inlet protection and storm water best management practices\*.
- i. Unsecured furniture is not permitted after business hours if the permit holder is a business. If the permit holder is not a business, the hours for unsecured furniture will need to be included in the Maintenance Agreement.

\*You can find Mobile Cleaners guidelines at:  
[cleanwaterprogram.org/resources/commercial](http://cleanwaterprogram.org/resources/commercial)



City of San Leandro  
Parklet Program

**APPLICATION CHECKLIST**

Below you will find a list of what **must be** included in your submission for your initial parklet application. Any submission missing any items listed below will not be considered for selection.

- 1. Application form.** This form is included at the end of this document. Please fill it out completely.
- 2. Application fee.** Make your check for \$150 payable to "City of San Leandro". Please write "Parklet Application" on the check. This fee is non-refundable.
- 3. Initial site plan.** *Refer to "PARKLET GUIDELINES & RESPONSIBILITIES" on pages 2-5 for further information about location.* Provide a plan that shows the footprint of the proposed parklet, including enough detailed information to understand what is happening on either end of the proposed parklet.

Show property lines, sidewalk width, parklet length and width, existing parking stalls, and all surface obstructions within 15 feet of the occupied area (e.g. fire hydrants, streetlights, parking meters, bicycle racks, street trees, etc.) on the plan. We encourage as much detail as possible to help us review your application. Applicants may submit a pdf file.

- 4. Parklet programming.** Write narrative including:
  - How the neighborhood will benefit from the parklet
  - How the community can participate in the create and/or stewardship of the parklet
  - Describe what type of elements you are proposing on the parklet (e.g. tables and chairs, benches, landscaping, bike parking, etc.)
  - Explain your project goals and vision for your parklet
- 5. Photos of existing site.** Photos shall be submitted of the location where you would like to install the parklet, including the parking



City of San Leandro  
Parklet Program

**APPLICATION CHECKLIST (continued)**

spaces, the sidewalk, and building facade in front of the proposed location. Applicants can submit .jpg files.

- 6. Construction schedule.** Who will build your parklet if you are selected, and how long after you receive the permit do you anticipate installation?
- 7. Demonstrate community support.** Letters of support from businesses on either side of your business. We also recommend you submit letters of support or petitions from your City Councilmember, other area businesses, organizations and/or residents.
- 8. Sign application.** By signing this application, you:
  - Acknowledge financial responsibility for design, construction, maintenance and removal of the parklet.
  - Acknowledge provision of liability insurance coverage of \$2,000,000/\$4,000,000 minimum, naming the City of San Leandro as additional insured.

***Completed steps 1 - 8? You're ready to submit your application!***

Once complete, submit application to the City of San Leandro Engineering and Transportation Department via email to Kirsten "Kurry" Foley at [kfoley@sanleandro.org](mailto:kfoley@sanleandro.org) or mail (on flash drive or printed copy) to:

City of San Leandro  
Engineering and Transportation Department  
835 E. 14<sup>th</sup> Street  
San Leandro, CA 94577

City staff will review submissions and make selection decisions after closure of parklet application submission period.



City of San Leandro  
Parklet Program

**PARKLET APPLICATION**

Address of Proposed Parklet: \_\_\_\_\_

Cross Street: \_\_\_\_\_ City Council District #: \_\_\_\_\_

Sponsoring Business or Organization Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Mailing Address (if different than above): \_\_\_\_\_

Cell phone: \_\_\_\_\_ Alternate phone: \_\_\_\_\_ Email: \_\_\_\_\_

San Leandro Business License No. \_\_\_\_\_ OR Driver's License # \_\_\_\_\_

Name(s) of Property Owner: \_\_\_\_\_

Property Owner Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Designer Firm: \_\_\_I don't know yet Name of Firm: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Anticipated Construction Schedule: \_\_\_\_\_

**Parking Information**

No. of parking spaces to be occupied: \_\_\_ Parallel \_\_\_ Angled/Perpendicular

No. of parking meters to be removed: \_\_\_ Colored curbs in proposed location? \_\_\_Yes \_\_\_No

Color: \_\_\_Yellow \_\_\_White \_\_\_Green Length: \_\_\_

**By signing below, I acknowledge the provided information is true and correct. Further, I acknowledge that I will be responsible for provision of liability insurance per the City's requirements and financing design, construction, maintenance, removal and restoration of this parklet.**

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Property Owner Signature\*: \_\_\_\_\_ Date: \_\_\_\_\_

\*Property owner signature required if applicant does not own property where business is located.



City of San Leandro  
Parklet Program

**NEXT STEPS – So your initial application was selected  
...what's next?**

If your proposal is selected, the steps below outline the parklet design and review process.

1. **YOU:** After working with an architect or other professional designer, submit:
  - a. Parklet design plan for review
  - b. Design Review fee
  - c. Evidence of liability insurance coverage, with an endorsement that names the City of San Leandro as an additional insured.
2. **CITY:** Reviews design; returns with comments.
3. **YOU:** Return plan with revisions.
4. **CITY:** Issues final design approval, grants parklet permit.
5. **YOU:** Pay Annual Encroachment Permit fee and Restoration Deposit fee. Sign Parklet Maintenance Agreement. Begin construction.

# ACCESSIBILITY ELEMENTS FOR PARKLETS


 The logo for the Pavement to Parks program, featuring the words "PAVEMENT TO PARKS" in a stylized font with a green and black color scheme.

CITY OF SAN FRANCISCO - PAVEMENT TO PARKS PROGRAM

[WWW.PAVEMENTTOPARKS.ORG](http://WWW.PAVEMENTTOPARKS.ORG)

The City and County of San Francisco seeks to make its public realm accessible to and usable by individuals with disabilities. This goal extends to Parklets, which become an extension of public sidewalks and pedestrian open space. All accessibility elements of the proposed Parklet shall be designed, constructed and/or conform to the applicable provisions, rules, regulations and guidelines of the: San Francisco Building Code (SFBC), Americans with Disabilities Act 2010 Standard's accessibility requirements (ADAAG), and other design criteria included in Public Works Order No. 183,392 for Temporary Sidewalk Extensions (Parklets). Additional information and references are located in paragraph.



Mayor's Office on  
Disability

San Francisco  
Planning



## A. REQUIRED ACCESSIBILITY FEATURES.

**A1. Sidewalk Condition and Maintenance.** The sidewalk abutting the Parklet shall be in a state of good repair and maintenance, with a grade of no more than 5% running slope at the Parklet Entry. Sidewalk flags or cracks shall not exceed ½ inches in vertical change of elevation or in horizontal separation. Vertical changes between ¼” and ½” high shall be beveled. Tree well areas shall be filled level to the sidewalk surface.

**A2. Parklet Path.** A Parklet Path is an accessible route that connects the sidewalk to the Parklet Entry, Deck Surface, Wheelchair Turning Space and Wheelchair Resting Space.

The Parklet Path shall be 48 inches wide minimum on the sidewalk and not pass over tree wells. Once on the parklet’s Deck Surface, the Parklet Path shall be 36 inches wide minimum.

The cross slope along any portion of the Path shall not exceed 1:48 (2%). Where this is technically infeasible due to existing conditions, the applicant shall follow the instructions in the attached document title Public Works REQUEST FOR DETERMINATION OF TECHNICAL INFEASIBILITY.

**A3. Parklet Entry and Deck Surface.** The Parklet Entry is where the Parklet Path joins the parklet’s Deck Surface. An ideal Parklet Entry should be located in an unobstructed area where there is the least amount of running slope along the sidewalk and curb.

Any openings between the sidewalk and the Deck Surface shall be flush, without a horizontal or vertical separation that would allow the passage of a 1/2 inch sphere.

Where the curb or a portion of the curb is damaged, has settled lower than the deck surface, or has a separation greater than 1/2 inches, a continuous threshold unit shall span from the deck to the

sidewalk surface over the curb. Changes in level from the top surface of the threshold material and the deck or the sidewalk shall not exceed 1/2 inches maximum. Vertical changes in level of 1/2 inches high maximum are permitted, and changes in level between 1/4 inches and 1/2 inches shall be beveled with a slope not steeper than 1:4 (25%).

Where the Deck Surface edge abuts existing driveways or curb ramps, the driveway area or curb ramp shall be temporarily filled-in for the duration of the Parklet’s installation.

Changes in level of 1/2 inches high maximum may be vertical. Changes in level 1/4 inches to 1/2 inches high maximum shall be beveled with a slope not steeper than 1:4 (25%).

**A4. Deck Surface.** The Parklet’s Deck Surface shall be firm, stable and slip resistant.

The Deck Surface’s maximum cross slope shall be no greater than 1:48 (2%) measured perpendicular to the sidewalk or curb.

The Deck Surface’s maximum running slope (parallel to the curb) is 1:48 (2%) for the Wheelchair Turning Space, the Wheelchair Resting Space and the routes that connect them. For other Deck Surfaces, the running slope may not exceed 1:20 (5%) unless otherwise permitted through one of the Exceptions discussed in a *Public Works Request for Determination of Technical Infeasibility*. The Deck Surface materials shall be installed with no gaps larger than would permit the passage of a 1/2 inch sphere. Elongated openings shall be placed so that the long dimensions are perpendicular to the dominant direction of travel.

The Deck Surface shall be one single level unless the change in level is served by a ramp, additional Parklet Entries, or otherwise permitted on a case by case basis. When stairs or ramps are permitted, they

must meet all building code requirements for rise, run, width, handrails, and contrasting stair striping for the visually impaired.

**A5. Wheelchair Turning Space.** A Wheelchair Turning Space is a circular area 60" minimum in diameter for use by a person with mobility aid to make a 360 degree turn. This space shall be located entirely within the Parklet, unless otherwise approved. The maximum encroachment shall be 12 inches over the curb and sidewalk unless otherwise permitted on a case by case basis. Within this space there shall be no cross slope in any direction that is greater than 1:48 (2%). Alternatively a "T" shaped Turning Space is permitted.

**A6. Wheelchair Resting Space.** A Wheelchair Resting Space has a 30 inch wide by 48 inch deep clear floor area. The space shall be located entirely on the Parklet deck. Within this space, there shall be no cross slope in any direction that is greater than 1:48 (2%). The Wheelchair Resting Space is permitted to overlap the Wheelchair Turning Space by 24 inch maximum in any orientation to one another. With the exception of knee clearance at tables and counters (see A.9), horizontal protrusions are not permitted at Wheelchair Resting Spaces.

**A7. Head Height Clearance.** An 80 inch minimum head height clearance is required for the Parklet Path, Parklet Entry, and Wheelchair Turning Space.

**A8. Parklet's Positive Edge at Perimeter of Deck Surface.** Parklets need a Positive Edge along the open sides the Deck Surface that is parallel to the vehicular traffic lane, to inhibit people who, while lingering, may inadvertently wander into vehicular traffic. Positive Edges serve to reduce potential tripping hazards at drop-offs along open sides of the Deck Surface.

a. A Positive Edge along vehicular traffic lanes may be achieved by providing a railing 36 to 42 inches

in height with openings of no more than 4 inches, or by other means as described in the next paragraph. All railings must be able to withstand a 250 lb. force anywhere and in any direction along the top of the rail from within the parklet. When using a horizontal cable rail or similar flexible design, the barrier shall have a solid cap rail at the top of the barrier, and a solid curb or barrier that is a minimum of 5 inch high at the bottom of the barrier to provide warning to the visually impaired. Top rail assemblies shall be designed to resist a load of 50 plf (0.73kN/m) applied in any direction at the top and to transfer this load through the supports to the structure.

b. Other means for achieving this Positive Edge can include raised planters no less than 17 inches high and 12 inches deep, built-in seating or other built-in furnishings no less than 17 inches high and no less than 12 inches deep, dense plantings that visually enclose the space and discourage pass through, bicycle parking arrangements that act to provide a Positive Edge, or some other such similar means. In some instances, such as residential streets, alleys, shared public ways or other non-arterial streets, other barriers may be considered on a case-by-case basis.

c. Other means for achieving the Positive Edge may considered on a case-by-case basis. This may include a tactile warning strip at the deck edge, level with the deck. The warning strip must provide sufficient color contrast with the adjacent decking material and roadbed material. Materials and profiles for the tactile warning strip will be considered on a case-by-case basis.

d. At other areas, for example where the edge is perpendicular to the vehicle traffic lane, where any portion of the Deck Surface's perimeter is 1/2 inch or more above the street, curb, or sidewalk level, the edge shall be positively marked by a vertical element or barrier that is 17 inches

minimum in height. These vertical elements shall have visual contrast with the Deck Surface material: either light on dark or dark on light.

- e. On streets of 30 mph or greater, streets with four or more auto lanes, or when parklets are installed along a city truck route, or the MUNI Rapid Network, the parklet edge of deck may necessitate a design intervention that exceeds the minimal thresholds cited above.
- f. In instances where a parklet houses bicycle-racks, gardens, or other such spaces where people are unlikely to linger, the elements described may not be needed. This and other unique conditions will be determined on a case by case basis.

#### **A9. Tables, Counters and Drink Rails and Benches.**

Where tables, counters, drink rails, or benches are provided, at least one of each feature shall be accessible.

- a. The top surface height of wheelchair accessible tables, counters and or drink rails shall be 28 inches to 34 inches above the Deck Surface or ground. A Wheelchair Resting Area shall be provided adjacent to the accessible tables, counters and drink rails, and the Wheelchair Resting Area shall be accessible by a Parklet Path and a Wheelchair Turning Space.
- b. Wheelchair accessible tables, counters, or drink rails shall be approachable from the front and provide an unobstructed knee clearance that is at least 27 inches high, 19 inches deep, and 30 inches wide. When movable tables, chairs, counters or drink rails are provided in lieu of fixed, at least one of the movable fixtures must also be accessible.

- c. A minimum of 36 inches clearance shall be provided between the edge of a table and another vertical obstruction, so that a wheelchair user can maneuver into the knee space.
- d. Where fixed counters are provided, a 60 inches long portion of a fixed counter shall provide the unobstructed knee clearance as listed in Paragraph 9b.
- e. Where drink rails are provided, a 60 inches long portion of a drink rail shall have 36 inches wide and level space adjacent to it for a side-approach by a wheelchair user.
- f. At fixed benches, a Wheelchair Resting Space shall be provided for a shoulder alignment adjacent to one side of the bench.

## B. TERRACED OR MULTI-LEVEL PARKLETS

For parklets proposed on streets with grades that exceed 5%, a terraced parklet with two or more habitable decks may be acceptable.

**B1. Equivalent Facilities.** At least one of these terraces must be wheelchair accessible and provide equivalent facilities to those found in other habitable terraces. Equivalent facilities can include integral seating (companion seating opportunities), tabletop and countertop features.

**B2. Wheelchair Accessible Entry.** The accessible terrace will require and wheelchair accessible entry from the sidewalk. The wheelchair accessible entry may be achieved with a structure on the sidewalk within the sidewalk furnishing zone that provides transition between the sidewalk and parklet deck.

**B.3 Ramps, Steps, and Stairs.** Communication between terrace levels or between habitable terrace levels and the sidewalk may be achieved with steps or stairs. Per California Building Code, Steps are defined as a change in grade between 4" and 7". Any transition greater than 7" is considered an Edge and will require a Positive Edge (as with the Parklet Perimeter, see section A8).

**B.4 Warning Strip.** Any step or stair will require a warning strip at the nose of the step, pursuant to California Building Code.

**B.5 Handrails.** Any step or stair will require handrails, pursuant to California Building Code.

## C. DESIGN AND CONSTRUCTION STANDARDS.

The Parklet shall meet current construction standards of both the SFBC and ADAAG. The pedestrian route to the Parklet shall meet the Alterations standard of the SFBC (Section 1127B.1 Exterior Route of Travel and 1133B.7.1.3 Walks and Sidewalks, Surface Cross Slopes) and ADAAG (Section 202 Existing buildings and Facilities).

Per Public Works Order No: 183,392 all elements of the above mentioned Parklet shall be constructed and/or installed to conform to the applicable provisions, rules, regulations and guidelines of the:

- a. San Francisco Building Code (SFBC), specifically Chapter 11B SFBC is available for inspection and the San Francisco Main Library or the Department of Building Inspection. <http://publicecodes.citation.com/st/ca/st/b200v10/index.htm?bu=CA-P-2010-000008>
- b. The Americans with Disabilities Act (ADA) [http://www.ada.gov/regs2010/titleII\\_2010/titleII\\_2010\\_withbold.htm](http://www.ada.gov/regs2010/titleII_2010/titleII_2010_withbold.htm) and,
- c. The Americans with Disabilities Act Accessibility Guidelines, 2010 Standard (ADAAG). [http://www.ada.gov/2010ADASTandards\\_index.htm](http://www.ada.gov/2010ADASTandards_index.htm).

*This Page  
Intentionally  
Left Blank*

# **CITY OF WEST HOLLYWOOD**

## Parklet Design Guidelines Manual

**February 2018**



Blank

# CONTENTS

<b>1</b>	<b>PROGRAM OVERVIEW</b> .....	4
	Goals	
	Stakeholders	
	Process	
<b>2</b>	<b>PARKLET PROPOSAL AND SELECTION</b> .....	6
	Eligibility	
	Parklet Proposal Form	
	Project Description	
	Photos of Existing Site	
	Initial Site Plan	
	Conceptual Rendering	
	Preliminary Budget and Maintenance Plan	
	Proof of Community Support	
	Proof of Notification	
	Selection Criteria	
	Decision Notification	
	Permit Fees	
<b>3</b>	<b>DESIGN DEVELOPMENT AND PERMITTING</b> .....	14
	Assembling a Project Team	
	Parklet Design Standards	
	Parklet Design Elements	
	Encroachment Permit	
<b>4</b>	<b>BUILDING THE PARKLET</b> .....	24
<b>5</b>	<b>POST INSTALLATION</b> .....	26

ADDITIONAL INFORMATION AVAILABLE AT  
**[WEHO.ORG/PARKLETS](http://WEHO.ORG/PARKLETS)**

# 1

# PROGRAM OVERVIEW

Parklets are extensions of the sidewalk, repurposing on-street parking spaces for the creation of new, publicly accessible open space. With countless successful programs worldwide, parklets have proven their ability to not only create greener, healthier communities, but also increase neighborhood character and sense of identity through creative and inspired design. Since parklets are designed, paid for and maintained by a non-city entity, this program represents a unique opportunity for community partnership to increase quality of life. This document serves as a guide to understand the goals, process, and policies for establishing a parklet in the City of West Hollywood (the “City”). Proposed parklets must comply with the requirements set forth in this manual and in Chapter 11.29 of the West Hollywood Municipal Code.

## GOALS

**REIMAGINE** the potential of City streets as venues for community gathering, events, and celebrations – improving day-to-day life of the street



Photo: WMBstudio

**SHOWCASE** the creativity and diversity of the West Hollywood community through the emphasis of streets as venues for social interaction



Photo: LoCO

**FOSTER** neighborhood liveliness through a high-quality streetscape experience accessible to all members of the community



Photo: Fábio-Arantes

**ENCOURAGE** pedestrian activity by providing green spaces and seating opportunities along commercial corridors, which in turn support local businesses



Photo: SF Planning

## STAKEHOLDERS



THE CITY



APPLICANT



COMMUNITY



DESIGNERS

## PROCESS



# 2

## PARKLET PROPOSAL & SELECTION



Photo: Yuzhu Zheng Photography

Proposals for the Parklet Program are accepted annually during the application period following the release of the call for proposals. To determine parklet feasibility and learn more about the applicant's creative concept, the City requires several pieces of information. Application components include:

- Parklet Proposal form
- Project Description
- Photos of Existing Site
- Initial Site Plan/Conceptual Rendering
- Preliminary Budget and Maintenance Plan
- Proof of Community Support
- Proof of Notification

Before submitting the application, interested applicants must contact the Parklet Program Coordinator to obtain pre-approval of the proposed location to ensure site feasibility. Please submit site proposal as soon as possible to [parklets@weho.org](mailto:parklets@weho.org).

Please review this chapter carefully to ensure submission of a complete proposal.

## ELIGIBILITY

**ELIGIBLE APPLICANTS**, also known as the Community Partner, should fall into one of three categories:

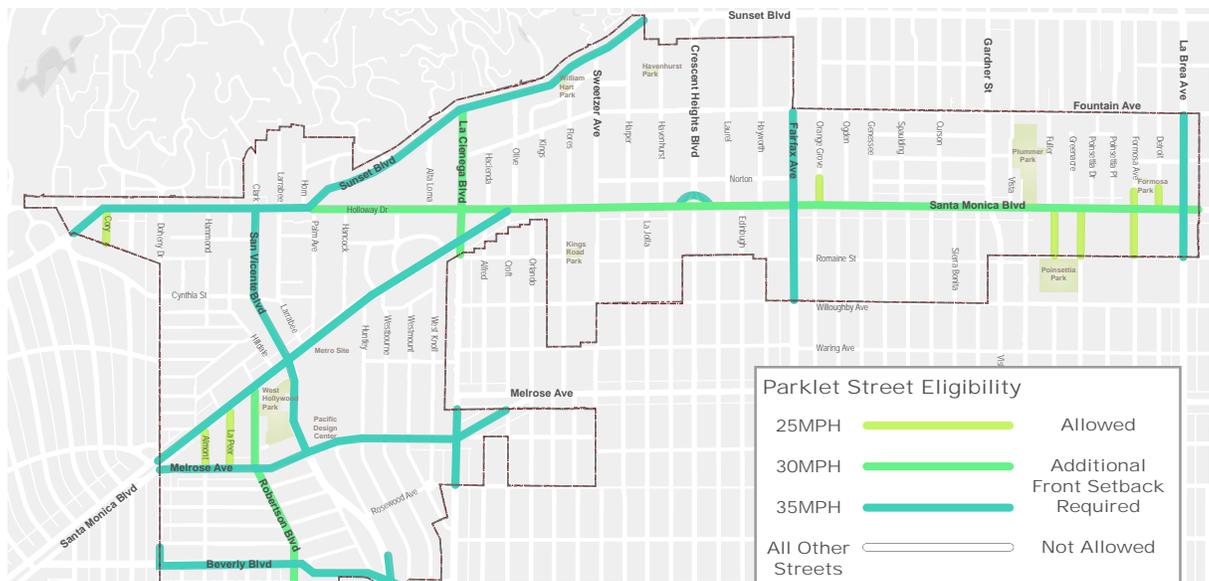
- Adjacent/fronting property owner
- Ground floor business owner
- Non-profit and community organizations
- Other applicants may be considered on a case-by-case basis

**Parklets are not allowed to be used for table service, retail sales or displaying/staging of merchandise and/or services and are to remain public during all hours of operation.**

**ELIGIBLE STREETS** must have posted speed limits of 35 mph or less. For roads with speed limits greater than 25mph, an additional setback along the roadway will be required. The map below highlights which roads would be subject to conditional approval due to speed limits. Additionally, parklets are allowed to be located on the sidewalk if a 4 foot unobstructed walkway is maintained for pedestrians. Note: No parklets will be permitted on Fountain Avenue at this time.

**PARKLET SIZE** must be 1-3 on-street parking spaces. If the parklet extends onto the sidewalk, it must not exceed the length equivalent to three on-street parking spaces. Larger parklets will be considered on a case-by-case basis. Parklets that extend from an on-street parking space into the sidewalk must ensure that there is a minimum 4 foot unobstructed clearance on the sidewalk for pedestrian traffic.

**PARKLET LOCATION** is only eligible in non-restricted on-street parking spaces and adjacent sidewalk spaces in commercial areas (no blue, green, red, yellow or white zones). Parklets at corner locations are only allowed where bulb outs currently exist, and are subject to additional design standards (see Chapter 3 for more details).



\* Residential areas are ineligible

Figure 1 - Parklet Street Eligibility

## **PARKLET PROPOSAL FORM**

All applicants must complete the Parklet Proposal form. This form details applicant contact information, high-level location characteristics of the proposed project, and a useful checklist of necessary documents needed for the application. This application can be found on [weho.org/parklets](http://weho.org/parklets). The following are required as part of the application:

### **PROJECT DESCRIPTION**

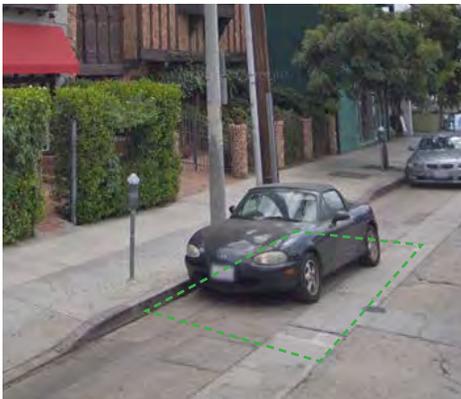
Applicants are required to complete a project description (maximum 250 words) of their conceptual parklet. Concise but thoughtful descriptions are encouraged and should address the following:

- General parklet concept
- How the parklet meets program's criteria
- How applicant intends to use the space
- How applicant intends to activate the space
- Any potential programming applicant envisions
- How applicant intends on making the parklet a welcoming public space for all users
- Relationship to nearby businesses/ residences
- Use of existing parking space

### **PHOTOS OF EXISTING SITE**

Applicants should include at least three photos showing the proposed parking space(s) to be converted into a parklet, along with the adjacent street and sidewalk. The three photos must show the parking space from across the street and one photo from each end of the proposed parklet.

Photos of unusual characteristics of the site and existing signage are also helpful.



**Left Side**



**Right Side**



**Across**

## INITIAL SITE PLAN

To help the City understand a proposed parklet would fit into the streetscape, applicants must submit an initial site plan. This measured drawing does not have to be professionally designed. Rather, it can be done by hand or on simple computer software.

The site plan must include features 20 feet on either side of the proposed parklet and must contain the following:

1. Parklet dimensions
2. Width of the adjacent sidewalk
3. Location of the Community Partner (if business)
4. Distance to the nearest crosswalk or intersection
5. Location of any above-ground street fixtures (trees, fire hydrants, poles, bike racks, street lights, etc.) (If available, City may be able to provide base maps upon request)
6. At-grade roadway markings (color curbs, lane striping, parking stall markings, etc.)
7. At-grade utilities (panels, storm-drains, manhole covers, etc.)
8. Building addresses at parking space

Please see example site plan below for reference.

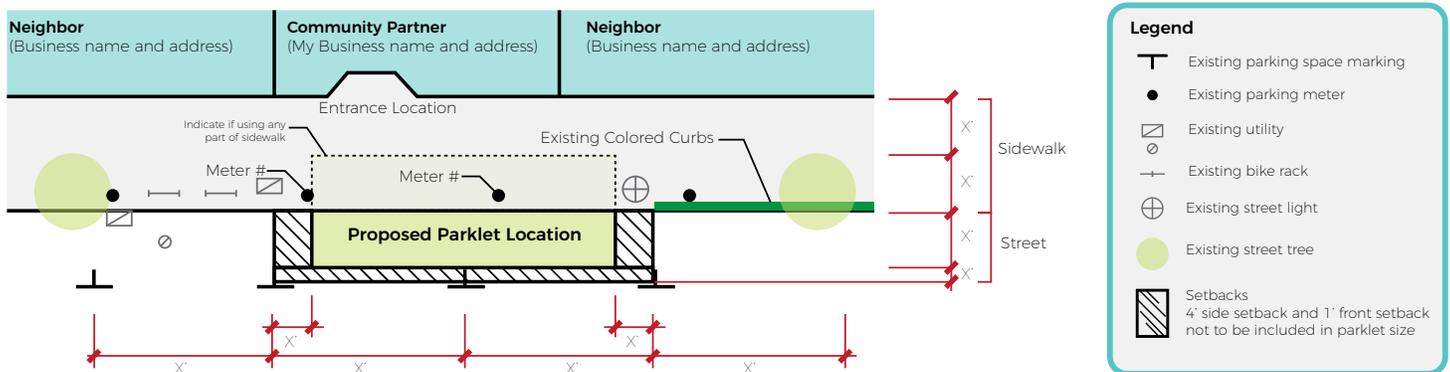


Figure 2 - Example Site Plan

## CONCEPTUAL RENDERING

Additionally, the applicant must submit a conceptual rendering of the proposed parklet. The rendering must show all of the parklet elements with its surrounding context. This conceptual rendering will be used primarily to determine parklet suitability for a street and should not be considered the final architectural renderings (like the photo below) required later in the process.



Figure 3 - Sample conceptual rendering.

Photo: RHAA

## PRELIMINARY BUDGET AND MAINTENANCE PLAN

**CAPITAL COSTS** for constructing a parklet range widely based on design and topography, with the most cost efficient starting around \$20,000 to the most expensive at nearly \$100,000. We do not expect applicants to have an itemized or concrete capital budget. However, the applicant should identify how they intend to fund their parklet. Some Community Partners choose to completely self fund, while others seek out grants, crowd-sourcing and other partnership opportunities as well.

**MAINTENANCE COSTS** are perhaps more important than the one time cost to construct the parklet. Maintenance embodies the Community Partner's ongoing commitment to provide quality open space to the public. Therefore we ask applicants to provide a plan for the regular cleaning of the parklet as well as a proposed maintenance plan and budget set aside for repairs, replacements, etc. Also, indicating how often certain maintenance items will occur.

Applicants will also need to include a proposal with how funding for the maintenance of the parklet will occur. Applicant should also indicate if grants or additional partners will be included in the proposal. Prior to submitting an application, applicants should ensure that sufficient resources and staff time are established in order to keep the parklet clean and in a state of good repair. Neighborhood groups proposing a parklet should work with nearby businesses or community members to ensure that the parklet is monitored on a regular basis, trash is picked up on a daily basis and that all cleaning and maintenance is covered.

## **PROOF OF COMMUNITY SUPPORT**

Outreach is an essential part of the parklet program. The best parklets not only have an enthusiastic sponsor, but a community welcoming of the new public space a parklet will provide. A minimum of 3 letters of support are required for the initial application. These letters can come from the following:

- Adjacent building property owner (required if not the property owner)
- Neighborhood organizations
- Nearby businesses
- Nearby property owners
- Nearby residents

A sample letter of support can be found at [weho.org/parklets](http://weho.org/parklets).

## **PROOF OF NOTIFICATION**

Applicants must provide written documentation that businesses/property owner in front of the proposed parklet and at least five businesses within the block and the block across the street have been notified by the Community Partner of their intent to submit a parklet proposal. Documentation should be in written form and should include the date of notification.

## **SELECTION CRITERIA**

Once the initial proposal period closes, the proposal will be reviewed by the Parklet Committee, consisting of staff from the Departments of Community Development, Public Works, Public Safety, and Economic Development.

These proposals will be evaluated on the in the 3 following areas:



**1. SITE CONDITION** that is optimal for a successful parklet. The site should adhere not only to site location requirements, but also have high impact potential to attract a large number of users to the space. Parklets located in park poor areas will also be looked at favorably. Metered parking demand for the proposed parklet area will also be taken into consideration.



**2. OUTREACH** that is of high quality and extensive. The most successful parklets have robust community support, helping make them iconic and well utilized open spaces.



**3. ALIGNMENT** with the program's goals (see Program Overview). Parklets will be judged by the evaluation criteria on the following page.

## **DESIGN**

- Provocative and creative submission
- Incorporates creative seating elements
- Use of durable materials, locally-sourced and sustainable materials
- Integration of landscaping and other green elements
- Responds to the unique characteristics of the site in which it is being proposed
- Transcends boundaries of gender, age, race, income and physical ability

## **ENGAGEMENT**

- Provides a creative, interactive and active use that draws in people into the space
- Creates an experience that does not already exist for pedestrians

## **UTILITIES**

- Allow gutter flow maintenance
- Allow for curb/gutter cleaning
- Provides access to and/or avoids utility covers/manholes

## **MAINTENANCE**

- Durable and cleanable materials
- Drought tolerant plants
- Parts are easily replaced/ maintained

## **STEWARDSHIP**

- Designated single, clear steward for the parklet
- Steward has time, resources and commitment

## **SAFETY, ACCESSIBILITY AND INCLUSION**

- Parklet contributes to traffic calming by putting more activity at the edges of the street
- Ease of maintenance and cleaning
- Speed limit and clearances near parklet create a safe environment for users
- Design creates no tipping/toppling/jumping hazards near traffic
- ADA accessibility throughout, and in transition to sidewalk
- Accessible/equivalent tables and amenities
- Accessible handling of steep grades and transitions

## DECISION NOTIFICATION

Applicants will be notified electronically of the Parklet Committee’s decision within 4 weeks from the closing date of the application period. Selected proposals will be invited to proceed with the parklet design development and permitting process established in Chapter 3 - Design, Development and Permitting of this manual.

## PERMIT FEES

Applicants will be required to pay any Encroachment Permit fees for the parklet prior to the design development and permitting process. Encroachment Permit fees will be established by the Department of Public Works and may change on an annual basis.



Photo: Yuzhu Zheng Photography

# 3

## Design, Development and Permitting



Photo: WMBstudio

Should a parklet project be selected to proceed, applicants will need to complete detailed designs of the proposed parklet. This section outlines the necessary design components, development process and permitting necessary before construction can begin. For additional design standards, please consult Chapter 11.29 of the West Hollywood Municipal Code (available at [weho.org/parklets](http://weho.org/parklets)).

### **ASSEMBLING A PROJECT TEAM**

Applicants will need to fill two different roles: a design team and a construction team. These teams can be filled by the applicant, volunteers, pro bono and/or paid professional services. The only requirement is that the individual(s) can complete the work required for each role.



**THE DESIGN TEAM** will turn the initial concept and preliminary drawings into detailed architectural drawings that meet the following Parklet Program standards in this chapter. The design team must be skilled at producing architectural drawings. They will be responsible for site plan, perspective view and section drawings.



**THE CONSTRUCTION TEAM** will take the design team's renderings and turn them into reality. This team should be familiar with interpreting detailed construction documents and know how to secure materials and construct with them. The construction team should also provide thoughts on best practices for maintenance to keep the parklet looking great under regular use and exposure to weather.

## PARKLET DESIGN STANDARDS

Please refer to Figure 6 and 7 on page 18-19 for an illustrated summary of standards.

### FOOTPRINT

Parklets can be proposed on on-street parking spaces and/or sidewalk areas. Parklets can take up between 1-3 on-street parking spaces. Parklets on the sidewalk cannot take up more than the length of three on-street parking spaces.

**Length:** The length of a standard parallel parking space is 24 feet for mid-block spaces and 20 feet for corner spaces. Parklet length, as determined from these measurements based on its size and location, cannot extend beyond these boundaries, including its required safety features.

**Width:** The width of a standard parallel parking space is 8 feet. The parklet, including all of its required safety features cannot extend beyond this width. The parklet may extend to the sidewalk only if a minimum 4 foot unobstructed walkway for pedestrians is maintained on the sidewalk.

Parklets that are near corners are only allowed where there is an existing “bulb-out” on the sidewalk.

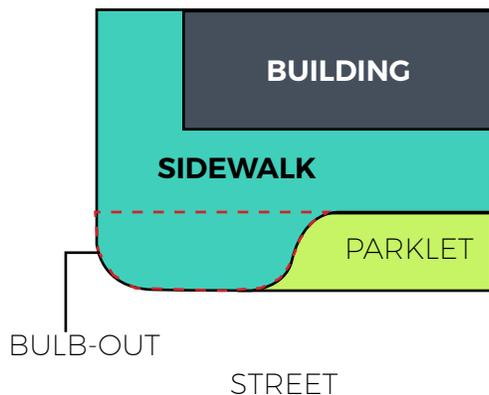


Figure 4 - Bulb-out condition

### BUFFER

#### Side

To ensure visibility and to protect the parklet from parking cars, the applicant will be required to maintain a minimum 4 foot buffer on both ends of the parklet. A buffer is not required adjacent to a bulb-out (see Figure 3).

Wheel stops must be installed at the back of the buffers to prevent people from parking too close to the parklet. Please see pg. 16-17 for illustrations of the standards.

The wheel stops must be mounted 4 feet back from the edge of the parklet and 1 foot out from the curb, although this distance may be increased to accommodate bike racks or other amenities. To enhance visibility, reflector posts are required at the outside corners of the buffers. The delineator posts must be placed 6 inches out from the corners of the wheel stops.

#### Along roadway

Parklets must maintain a minimum 1 foot buffer along the roadway. For parklets on streets with speed limits greater than 25 mph, a minimum 2 foot buffer is required. The buffer must be clear from any amenities.



Photo: Strata Architects

## VERTICAL ELEMENTS

Parklet must have a continuous edge along the vehicular travel lane, such as railings, planters, or seat walls. The vertical elements must be able to withstand a minimum of 500lbs of horizontal force. This edge helps to increase visibility for road users and must be a minimum of 36 inches and a maximum of 72 inches tall, as measured from the top of the parklet base.

If the parklet is located at a corner, opaque vertical elements must allow views through the parklet and may not exceed 36 inches in height (including plantings). This ensures that sight lines for pedestrians remain clear at crosswalks.

## ACTIVATION/ PROGRAMMING

How a parklet is programmed for events or other activities is an important part of the parklets design and an opportunity to get creative! A parklet may be a simple space for relaxation or it may have more interactive features, such as art, music, play games. Applicants are required to submit an Activation Plan during the submittal of construction documentation. The Activation Plan must include a list of proposed events/ activities at the parklet.

## ACCESSIBILITY AND ADA

Everyone should be able to use and enjoy the parklet, whether they are on foot, in a wheelchair, using a walker, or in a stroller. The sidewalk area around the parklet must be obstruction-free and clear, and the parklet must be accessible as required by the Americans with Disabilities Act (ADA).

The design should incorporate at least one ADA access point for each parking space used for the parklet. Seating must be accessible and meet ADA requirements for the turning movement (60" diameter turning circle) and the resting space of a wheelchair. The maximum vertical difference between the curb and the parklet decking is ¼ inch.

## SIDEWALK EXTENSION

Parklets are allowed to extend to the adjacent sidewalk as long as a minimum 4 foot unobstructed pedestrian walkway is maintained from the building property line to the edge of the parklet. The portion of the parklet extended on the sidewalk shall not obstruct any of the following:

- Bus and MTA zones
- Fire hydrants
- Emergency zones
- Public utilities
- Bike share stations
- Entrances of adjacent businesses

A minimum 2 foot setback around the entire perimeter of a public utility must be maintained. If the parklet extends on to the sidewalk, it must not exceed the length equivalent to two on-street parking spaces.

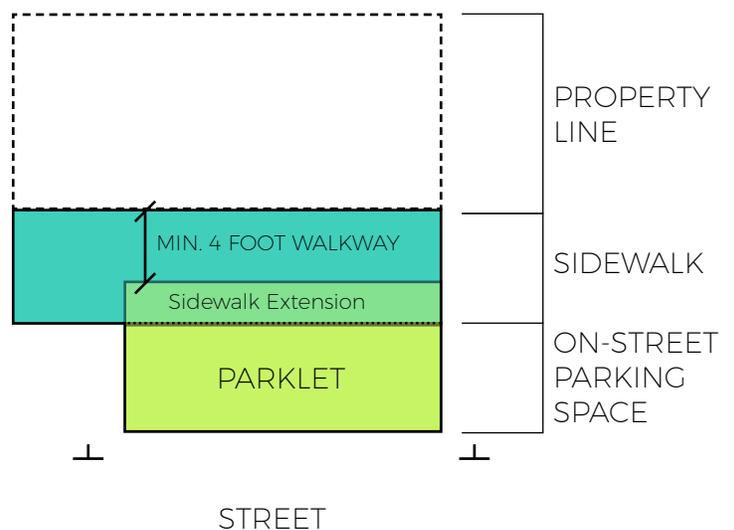


Figure 5 - Sidewalk Clearance

## PARKLET BASE

The parklet base should be a freestanding structural foundation that rests on the street surface. This frame should not be permanently attached to the street, curb, or adjacent planting strip. The applicant may, however, use small pin bolts to attach the parklet to the street.

The parklet must be designed to allow rainwater to flow along the curb without obstructions. The entire parklet structure should be built to allow for easy removal of the parklet if necessary.

Concrete bases are encouraged so long as the applicant can ensure that the concrete will not bind to the street. The weight of the deck should be less than 200 pounds per square foot.

The height of the base surface should be flush with the adjacent sidewalk. A maximum horizontal gap of ½ inch between the curb and the deck is allowed (exceptions can be made to address ADA requirements).



Photo: Youth Art Exchange



## SIGNAGE

All parklets must feature two 12" by 12" signs indicating “**Open to the Public**” in large lettering. These signs should be mounted to both ends of the parklet and should be highly visible from the adjacent sidewalk. Acknowledgment for sponsorship, sponsor logos (if a business), or designs that “brand” the parklet can be integrated, but not overshadow the sign. Commercial/advertising signage is not allowed under any circumstances.

A base template is available to download at [weho.org/parklets](http://weho.org/parklets).



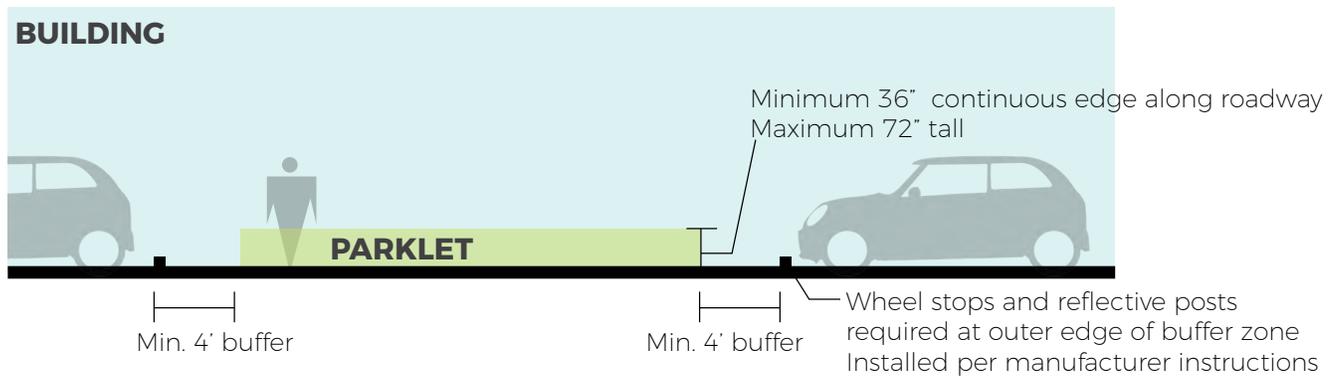
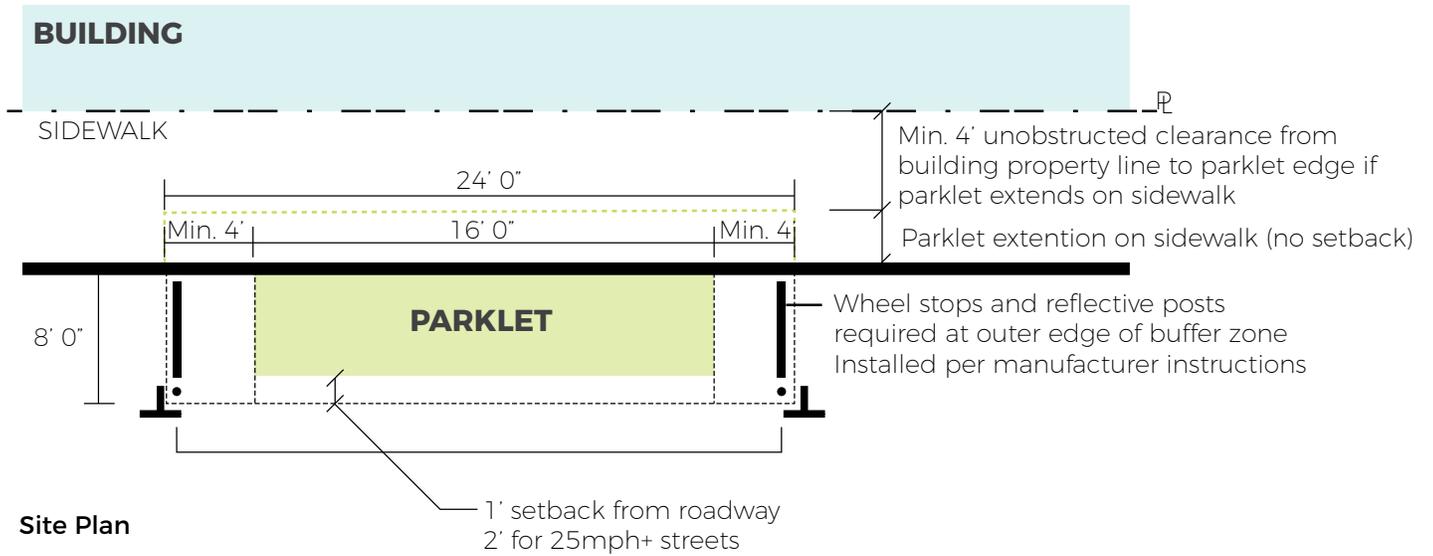
Photo: SF Planning



Photo: Maria Evans

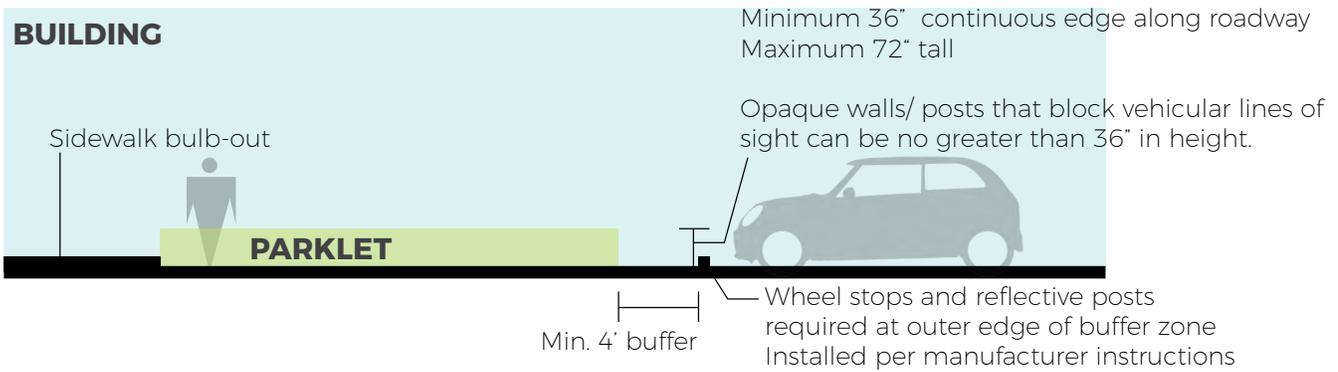
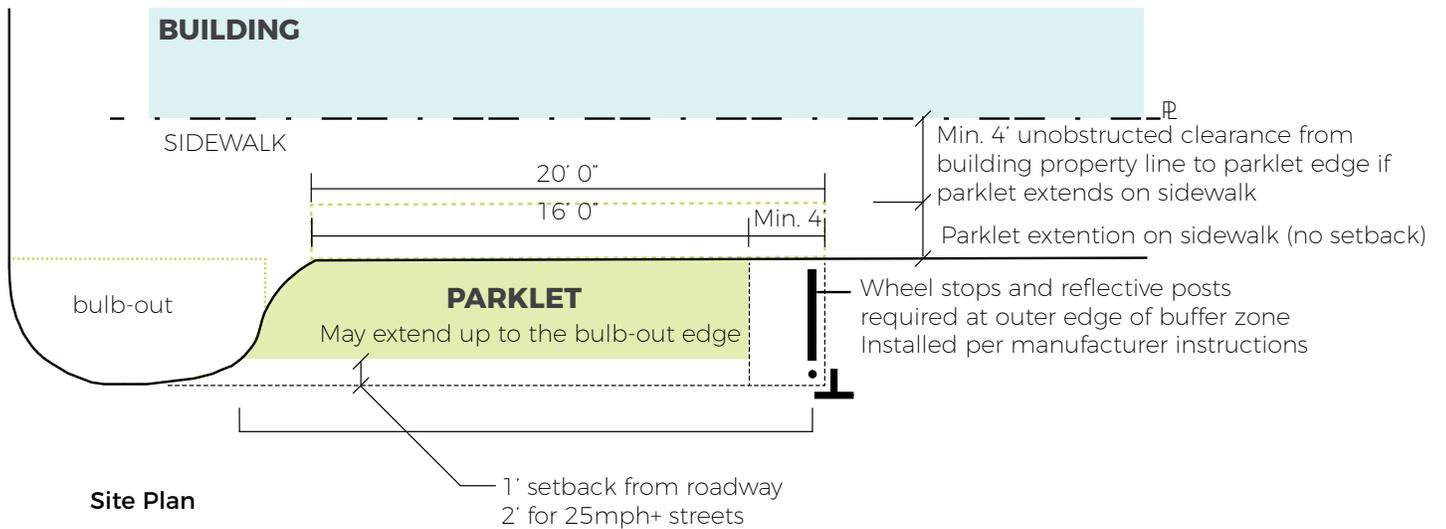
## ILLUSTRATION OF PARKLET STANDARDS

Figure 6 - Mid-block parklet standards



### Elevation

Figure 7 - Corner parklet standards



## **PARKLET DESIGN ELEMENTS**

The following are additional design guidelines for the development of a parklet and will be used as criteria for selection. Not every element is required, but their incorporation is encouraged by the City. Should a parklet include an element below, applicants must adhere to the requirements related to that feature. Please keep in mind that since a parklet is a public amenity, parklet furnishings should be distinct from any furnishings used by the hosting business or organization.

### **MATERIALS**

Parklets should be constructed of high-quality, durable, non-reflective, and aesthetically-pleasing materials. Steel, finished woods, salvaged building materials, and sustainably sourced materials are recommended. All walking surfaces should be non-slip and weather resilient to ensure safety and accessibility. Since parklets are intended to be temporary structures, it is also important to consider the ease of disassembly and potential for recycling or reuse of materials.

### **SEATING**

Parklets are encouraged to incorporate built-in seating. Seating can be part of the parklet structure, planters, or creative features within the parklet. Comfortable places to sit are important to creating welcoming and inviting public spaces. Additional movable seating is recommended as well. This seating can be removed and stored at the end of the day or locked with cables to the parklet structure.

If the parklet host is a business with a sidewalk café, the tables and chairs must be a different style from the ones used in the café. This helps reinforce the public nature of the parklet.

### **BICYCLE PARKING**

Whether integrated into the parklet structure or installed on the street next to the parklet, bike parking is encouraged. Bike racks may be creatively designed as a focal feature for the parklet.

### **LANDSCAPING**

Landscape plantings help soften the space and can serve as a pleasant buffer along the street-facing parklet edge. Landscape elements can include planter boxes, hanging planters, green walls, or ADA accessible raised beds, for example.

Drought-tolerant landscaping is strongly encouraged for ease of maintenance and less use of water. Edible plants and plants with fragrance, texture, and seasonal interest are also recommended.

### **PLAY EQUIPMENT**

Successful parklets include amenities that are comfortable, accessible, and enjoyable for people all ages. Applicants are encouraged to incorporate play elements in their parklet to make it a fun place for children (and adults) to spend time.

Play equipment may include integrated toys, games, or exercise equipment. These features can be creatively integrated into the parklet structure or can be movable.

## ARTWORK

Public art can enhance the attractiveness of and create identity for a parklet. There have been countless examples of parklets across the world that have integrated permanent artwork into the design of their parklets, while others have dedicated spaces in parklets for rotating installations.

The space for art installations should be clearly indicated in the applicant's concept drawings. Some art, depending on size, design, and placement may require additional review by the City's Arts Division.

## LIGHTING

Self-contained low-voltage lighting systems, such as solar or battery powered lights are encouraged. Flashing lights and cords that extend over the sidewalk (even if they're located overhead) are prohibited.

## SAFETY

Parklets should be designed to encourage public safety around the site. Elements such as lighting encourage nighttime use of the parklet and adequate buffers ensure that the parklet is visible to moving traffic.



Photo: Team Parklet



Photo: Jennifer Wieland



Photo: ESTUDIO HAA!



Photo: Luna Rienne Gallery

# ENCROACHMENT PERMIT

## CONSTRUCTION DOCUMENTS

Once the applicant has a good concept, a location that could use a parklet, and a community that's on board with the idea, the last step to getting an Encroachment Permit is upgrading the conceptual design drawings to a technical level for final review and approval by the City. The City will review this last set of drawings in detail to make sure that the parklet will look and function as intended throughout its life in the public right of way. All of the requirements set forth in this manual and Chapter 11.29 of the West Hollywood Municipal Code must be satisfied before an Encroachment Permit can be issued. Additional standards and information not included in this manual may be required by the City on a case by case basis, depending on the complexity of the parklet.

For the technical review, applicants need a complete set of construction documents that are drawn to scale, showing the dimensions, material specifications, assembly details, and landscape plan for the parklet. In certain instances, the construction documents may require the stamp of a licensed architect and/or engineer upon submittal. The approval of the applicant's Encroachment Permit is contingent upon approval from Planning and Public Works. Once the Encroachment Permit is approved by the City, the City may require the applicant to have a licensed contractor to pull the permit prior to installation.

For this review, we prefer PDF documents in tabloid (11" x 17") format. Construction documents must include:

### 1) LOCATION AND CONTEXT PLAN

This plan should show the parklet in relation to the surrounding context, including buildings, property lines, intersections, driveways, bike and traffic lanes, and street features (e.g., trees, utilities, fire hydrants). This plan should also display dimensions of the parklet footprint, the adjacent sidewalk, and surrounding parking spaces.

### 2) ACCESSIBILITY PLAN

The plan should show elevations on the sidewalk and street as well as wheelchair paths, rest areas, and turnaround spaces within and next to the parklet.

### 3) DETAILED SITE PLAN

This top-view drawing of the parklet should show the dimensions of the parklet and its various elements, along with the different plant species and materials included in the design.

### 4) ELEVATIONS

These side-view drawings of the parklet should display parklet dimensions (including height), materials, parklet elements, and buffers.

### 5) SECTION DIAGRAMS

These "cut-through" drawings clearly articulate complex design elements, such as how accessibility and drainage are accommodated.

### 6) CONSTRUCTION DETAILS

These drawings should highlight the hardware and fasteners that the parklet will require in the construction process, as well as how the maintenance of drainage flow along the curb will occur.

### 7) PERSPECTIVE RENDERINGS

Three-dimensional perspective drawings of the completed parklet are required.

### 8) ITEMIZED PROJECT COST

Itemized list of total project construction costs and funding plan for maintenance are required.

### **ACTIVATION PLAN**

Parklets shall not just be aesthetically pleasing, but also well utilized, active open spaces. Therefore the applicant must submit an Activation Plan for their parklet. This plan need not be long but should include a descriptive list of daily activities and proposed events envisioned for the parklet.

### **FINAL MAINTENANCE PLAN**

During the submittal of the parklet construction documents, Applicants must also submit a detailed maintenance plan to be reviewed by the City's Department of Public Works. As part of the Parklet Proposal, applicants will have submitted a Preliminary Maintenance Plan. This will be the time to finalize the maintenance plan based on comments from the City for review by the City.

As a reminder, applicants are required to manage all upkeep of a parklet. This means that the applicant is responsible for all maintenance duties and costs to keep the parklet in good condition. Applicants should clean the parklet and the surrounding area on a daily basis, tend to landscaping, clear the drainage channel, stow or lock movable furniture every night, and repair any damage to the parklet. Proper maintenance is a condition of the Encroachment Permit.

### **GENERAL LIABILITY INSURANCE & BOND**

Applicant must maintain general liability insurance and post bond with the City prior to construction of a parklet. Please see Chapter 11.29 of the West Hollywood Municipal Code for details.

# 4

## BUILDING THE PARKLET

### READY FOR INSTALLATION

#### PERMIT ISSUANCE

After the technical review of the construction documents and the Encroachment Permit application is complete, a permit can be issued for the parklet following payment of remaining fees. All fees must be paid in person at the Permit Counter on the 1st floor of West Hollywood City Hall.

#### SITE CONSTRUCTION STAGING

Upon issuance of the Encroachment Permit, the City will advise the applicant on site-specific considerations related to the permit.

Prior to starting construction, applicants will be responsible for placing temporary “No Parking” signs adjacent to the parking spaces that will be used for the parklet. The signs must be placed in the right of way 72 hours in advance of the installation date.

Applicants will also be responsible for ensuring all nearby trees in planting strips and tree pits are protected during parklet construction. The tree root zone shall not be used to stage equipment or stockpile materials. Tree protection fencing must be used to mark a minimum 4-foot tree protection root zone around the trunk.

#### OFF-SITE CONSTRUCTION

The City recommends that applicants spend as little time building in the right of way as possible by starting the parklet construction off site. Pre-fabricated parklet components are strongly encouraged. Contractors often find that they can prepare materials and build the parklet frame on private property before delivering it to the parklet site.



Photo: Aaron Bialick



Photo: Fiona Lee/Hoodline

### **PARKLET SAFETY ELEMENTS**

During construction, applicants must install wheel stops and reflective delineator posts at the outside edges of the parklet buffer. Wheel stops must be placed on each end of the parklet that borders a parking space.

Applicants must purchase wheel stops that are 4 feet long and bolt-mounted. Recycled rubber wheel stops are recommended. Delineator posts must be 36-inch tall, cylindrical, white flexible posts and must include reflective striping.

### **PARKLET SIGNAGE**

Applicants must create and install the required two “Public Parklet” signs on both ends of the parklet. These required signs should be installed in places that are highly visible to passing pedestrians. The signs must be affixed to the parklet.

Again, a base template is available to download at [weho.org/parklets](http://weho.org/parklets).

### **PARKLET OPENING**

It can take a lot of time, money and effort to realize a parklet vision. Applicants are encouraged to showcase this work by opening the parklet with great fanfare (i.e. ribbon cutting ceremony, music performance, dance party). This event will be a time to show off this new public space and thank all of the people who helped make it possible. Applicants should let the City know about opening plans so we can also do our best to get the word out through our social media outlets.

# 5

## POST INSTALLATION

### **PARKLET EVALUATION**

After the Applicant installs a parklet, we will want to know how it's doing. We may visit the parklet after it's installed to count the number of people in the parklet and record how it's being used. In addition to the observational data we collect, we may ask the applicant to respond to a few surveys and provide us with sales data (if applicant is a business) from before and after the parklet installation. This information will help us measure the impact of parklets on business success and evaluate how they increase quality of life in West Hollywood.

### **MAINTENANCE**

Proper maintenance is a condition of the Encroachment Permit. Community Partners manage the upkeep of a parklet. They are responsible for all maintenance duties and costs to keep the parklet in good condition. The applicant must clean the parklet and the surrounding area on a daily basis, clear the drainage channel, stow or lock movable furniture every night, and repair any damage to the parklet.

The Community Partner should be sure to have sufficient resources and staff available to keep the parklet clean and in a state of good repair. If a parklet is being hosted by a neighborhood group, the Community Partner may need to work with nearby businesses or community members to ensure the parklet is monitored on a regular basis and all cleaning and maintenance is covered.

### **CHANGE OF OWNERSHIP**

If a business changes ownership or the neighborhood group dissolves, applicants may choose to either transfer the Encroachment Permit to a new host or remove the parklet.

Please contact the City at [parklets@weho.org](mailto:parklets@weho.org) or (323) 848-6827 to transfer the Encroachment Permit.

### **PERMIT RENEWAL**

Parklets are permitted under an Encroachment Permit, which must be renewed once a year. The City will send applicants a renewal notice and invoice prior to the anniversary date of the permit. An inspector will visit the parklet around the time of permit renewal and will work with the applicant to ensure that any maintenance, safety, or accessibility issues get resolved. Also, applicants will need to make sure the liability insurance policy is up to date prior to the renewal of the permit. The City reserves the right to deny renewal of a permit application for any reason.

Renewal is conditional on following the requirements in this manual and in Chapter 11.29 of the West Hollywood Municipal Code. Please go to [weho.org/parklets](http://weho.org/parklets) for more information.

### **PARKLET REMOVAL**

A parklet must be constructed and installed in a way that allows for easy removal. In rare circumstances, the City may require the temporary or permanent removal of a parklet. Applicants must be able to do so within 30 days of our notice. The City reserves the right to remove a parklet if emergency street or utility work needs to be conducted. The applicant is responsible for all costs associated with the disassembly and removal of the parklet. For more information on removal, see Chapter 11.29 of the West Hollywood Municipal Code.

Again, parklets are to be intended to be a public amenity. The City retains the right to revoke a permit for any reason, including, but not limited to: if the space be consistently used for table service, retail sales or displaying/staging of merchandise and/or services, if the parklet is not being maintained or is determined unsafe or if individuals are turned away from the space without just cause.



**TOWN OF LOS GATOS  
POLICY COMMITTEE REPORT**

MEETING DATE: 11/15/2018

ITEM NO: 4

---

DATE: NOVEMBER 7, 2018

TO: POLICY COMMITTEE

FROM: LAUREL PREVETTI, TOWN MANAGER

SUBJECT: DISCUSS AND PROVIDE DIRECTION ON PROPOSED AMENDMENTS TO CHAPTER 6 (BUILDINGS AND BUILDING REGULATIONS) AND CHAPTER 29 (ZONING REGULATIONS) OF THE TOWN CODE REGARDING FENCES, HEDGES, AND WALLS.

**RECOMMENDATION:**

Discuss proposed amendments to Chapters 6 and 29 of the Town Code regarding fences, hedges, and walls and provide direction to staff for next steps.

**BACKGROUND:**

On January 31, 2017, the Town Council held a Study Session to identify strategic priorities for fiscal years 2017-2019. David Weissman requested that an Ordinance amendment regarding fences in the Hillside Areas of the Town be set as a strategic priority. At the Study Session, four Councilmembers identified hillside fences as a strategic priority.

The goals identified for amendments to the Town Code regarding hillside fences were:

- Make certain that fences do not interfere with wildlife corridors;
- Ensure fences do not impede movement of wildlife;
- Define an "open fence" as one that permits all animals, depending on their size, to either climb under, pass through, or jump over, regardless of the fence's location relative to the side, front, or rear yards;
- Specify that the installation of chicken wire, wire mesh, chain link, etc., over open slat fences, is not considered animal-movement friendly; and

**PREPARED BY:** SEAN MULLIN, AICP  
Associate Planner

---

Reviewed by: Community Development Director, Town Manager, Assistant Town Manager

---

BACKGROUND (continued):

- Clarify that the requirements for fences apply to all hillside fences, not just to fences associated with Architecture and Site applications.

In March 2017, David Weissman and Lee Quintana sent staff a draft Ordinance. Staff met with Dr. Weissman and Ms. Quintana in May and June of 2017 to discuss the proposed amendments. The Planning Commission reviewed a draft Ordinance on July 26, 2017, and September 13, 2017, ultimately approving a motion to forward the draft Ordinance to the Town Council for consideration without an up or down vote with consideration of comments from Commissioners and the public.

On December 5, 2017, the Town Council considered a draft Ordinance and during public testimony, Dr. Weissman suggested alternative Ordinance language addressing concerns heard from the Council and the public. The Council discussed the draft Ordinance and the alternative language. Following the discussion, the Council continued the matter to a date uncertain pending the outcome of the Strategic Priorities session, including the prioritization of this Ordinance and consideration of a Wildlife Corridor Study; and to evaluate input from Council and the public to determine if a compromise is possible.

On February 20, 2018, the Town Council adopted Strategic Priorities for 2018 – 2020, which included continuing work on Strategic Priorities that were already in progress, including fences in the hillside area. A Wildlife Corridor Study was not included as a Strategic Priority.

Following the Town Council meetings of December 5, 2017, and February 20, 2018, staff worked in an iterative process with two members of the public. On December 31, 2017, Dr. Weissman submitted revised Ordinance language to staff in response to the feedback received from the Council. In January and May of 2018, staff met with Dr. Weissman and Peter Donnelly, a community member who had expressed concern with the draft Ordinance presented to the Council on December 5, 2017. Additionally, staff reviewed and provided feedback on four drafts of revised Ordinance language proposed by community members through July 2018. The resulting draft Ordinance was considered by the Town Council at the October 16, 2018 meeting, at which time a motion was approved to continue the matter to December 4, 2018, and forward the draft hillside fence amendments to the Town Council Policy Committee for consideration of the following:

- Appropriate property size;
- Breakdown by zone versus property size;
- Appropriate materials;
- Number of properties the Ordinance would affect;
- Noticing requirements;

BACKGROUND (continued):

- Additional input from other groups; and
- Review of Ordinances in similar jurisdictions.

Additionally, during public testimony, Lee Quintana expressed concerns with the Town Code allowance of six-foot tall fencing and gates in the front yards of properties and requested that the Town Council Policy Committee consider whether this allowance is appropriate.

DISCUSSION:

The issues identified by the Council and Ms. Quintana are discussed below. Staff has prepared several exhibits to assist in the Committee consideration of these matters (Attachments 2 through 13). Staff looks forward to the discussion and direction of the Committee.

Appropriate Property Size

The draft Ordinance (Attachment 1) separates hillside properties into two areas based on property size: the unregulated fence area and the regulated fence area. For properties in the hillside area that are less than or equal to one (1) acre, the unregulated fence area extends to the property line. For properties greater than one (1) acre, the regulated fence area is between the property line and the unregulated fence area (Attachment 2). The width of this area is equivalent to the minimum required front, back, and side yards for the property's zone. Staff recognizes the difficulty in determining an appropriate property size to begin including regulated fence area. Attachments 2 through 5 provide data to aid in the discussion of appropriate property size.

Regulating by Zone versus Property Size

An early draft of the Ordinance utilized zoning designation as a basis for whether a hillside property included regulated fence area. Staff identified an equity issue where properties of similar size with different zoning would be regulated differently. The draft Ordinance was revised to utilize property size instead of zoning as the basis for whether a hillside property included regulated fence area to ensure equal application of zoning rules regarding fences.

Appropriate Materials

The draft Ordinance includes prohibited materials for the non-hillside properties as well as the unregulated and regulated areas of hillside properties. Additionally, in response to concerns expressed by the Committee for Green Foothills during the October 16, 2018 Town Council meeting, the Council directed staff to prohibit transparent fences such as

DISCUSSION (continued):

barriers of glass and clear plastic in the regulated area of hillside properties. The current draft Ordinance reflects this direction.

Number of Properties the Ordinance Would affect

Under the draft Ordinance, properties greater than one (1) acre would include regulated fence area (discussed above). As shown in the table below, the hillside area includes 1,429 properties that would be subject to the hillside fence regulations. Of these 1,429 properties, 726 (50.8 percent) are greater than one (1) acre and would be subject to the rules of the regulated and unregulated area; 703 properties (49.2 percent) are one (1) acre or less and would only be subject to the rules of the unregulated area under the draft Ordinance (Attachment 3). Attachment 4 includes examples of the percent of a property that would be regulated.

Hillside Area Lots

<b>Zone</b>	<b>Lots</b>
HR	939
HR-Prezone	201
R-1	289
<b>TOTAL</b>	<b>1,429</b>

Noticing requirements

The draft Ordinance separates hillside properties into two areas: the unregulated fence area and the regulated fence area. Under the draft Ordinance, all fencing in the regulated fence area would require a Planning permit. The primary objectives for requiring a Planning permit in the regulated fence area are to ensure that fencing adheres to the draft Ordinance and to allow for neighbor notification. Neighbor noticing requirements would be consistent with those for Minor Residential Development permits, which requires that notice be sent to immediately adjacent neighbors (Attachment 6). Given the noticing requirements of the draft Ordinance, permits could not be processed over-the-counter.

Additional input from other groups

Staff contacted the following organizations and requested input on the current draft Ordinance:

- Santa Clara Valley Chapter of the American Institute of Architects (AIASCV);
- Santa Clara County Association of Realtors (SCCAR);

DISCUSSION (continued):

- Silicon Valley Association of Realtors (SILVAR);
- The Committee for Green Foothills;
- Santa Clara Valley Audubon Society;
- Sierra Club Loma Prieta Chapter; and
- Architects and other professionals that regularly work in the Town.

In addition to reaching out to professional organizations, staff requested public input through the following media and social media resources:

- A poster posted at the Planning counter at Town Hall and the Library;
- On the Town's website home page and the "What's New" Friday email blast;
- On the Town's Facebook page;
- On the Town's Twitter account;
- On the Town's Instagram account; and
- On the Town's NextDoor page.

All feedback received by 11:00 a.m. on November 9, 2018 is included in Attachment 13.

Review of Ordinances in similar jurisdictions

Attachment 7 includes fence regulations for the following hillside communities to aid in the discussion of the Committee:

- Saratoga
- Los Altos Hills
- Portola Valley
- Woodside

Front yard fence heights

In addition to hillside fence regulations, the topic of fence and gate heights along the front property line of non-hillside properties was discussed at the Town Council meeting on October 16, 2018. Recently, several residents have contacted staff to inquire about these regulations, expressing safety concerns with tall fencing along the front property line related to sight lines. The current and draft Ordinance allows six-foot tall fencing along all property lines of non-hillside properties but does limit the height of fencing on corner properties and properties within a defined distance of an intersection (Attachment 8). The intent of these limitations is to provide sight lines for vehicles approaching a corner or intersection. The current and draft Ordinance does not address the impacts to sight lines

DISCUSSION (continued):

on vehicles exiting a driveway outside of these restricted areas. A six-foot tall fence at the front property line can significantly reduce sight distance from a driveway as a vehicle crosses a sidewalk and/or enters a street. Additionally, a tall fence along a front property line can impact the character of a neighborhood. Attachment 9 includes a summary of the regulations for fence heights in front yards for the following jurisdictions.

- Atherton
- Campbell
- Cupertino
- Los Altos
- Los Altos Hills
- Milpitas
- Monte Sereno
- Mountain View
- Palo Alto
- Portola Valley
- San Jose
- Santa Clara
- Santa Clara County
- Saratoga
- Sunnyvale
- Woodside

CONCLUSION:

Staff looks forward to the discussion and direction of the Committee for next steps.

COORDINATION:

The preparation of this report was coordinated with the Town Manager's Office.

Attachments received with this Staff Report:

1. Draft Ordinance Amending Town Code Chapter 6 and Chapter 29
2. Regulated Fence Area Exhibit
3. Maps Showing Distribution of Properties in the Hillside Area by Size
4. Impact of Proposed Ordinance Versus Lot Size Calculations
5. Scatter Plot of Property Sizes by Zone in Hillside Area
6. Noticing Requirements for Minor Residential Development Applications
7. Fence Regulations from Nearby Hillside Communities
8. Sight Triangle and Traffic View Area
9. Summary of Front Yard Fence Height Regulations of Area Jurisdictions
10. Hillside Development Standards and Guidelines Pertaining to Fences
11. General Plan Policies and Actions Pertaining to Fences, Wildlife Habitats, and Migration Corridors
12. Wildlife-Friendly Fence Exhibit
13. Comprehensive Public Comments, from July 26, 2017 through 11:00 a.m. on November 9, 2018

**~~Sec. 6.150.050. Work exempt from permit.~~**

~~CRC Section R105.2 Work exempt from permit.~~

~~Building: Item 2. is amended to read:~~

~~2. Fences not over 7 feet high.~~

~~(Ord. No. 2257, § 1, 11-15-16)~~

**Sec. 29.40.030. Fences, walls, gates, gateways, entry arbors, and hedges.**

**Sec. 29.40.031. Purpose and intent.**

The purpose of this Ordinance is to codify regulations for fences in all residential zones. This Ordinance is divided into two parts: non-hillside and hillside areas. The use of fences, walls, gates, gateways, entry arbors, and hedges in the hillside areas shall be minimized and located so that natural landforms appear to flow together and are not disconnected. The primary emphasis shall be on maintaining open views; protecting wildlife corridors and habitat connectivity; and maintaining the rural, open, and natural character of the hillsides. Additional details are available in the Hillside Development Standards and Guidelines.

**Sec. 29.40.032. Definitions.**

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section.

*Fence* means a man-made structure serving as a barrier or screen.

*Fence height* shall be measured from finished grade and shall be measured from either side of the property line which affords affected property owners the most buffering from noise, light, glare, or privacy impacts.

*Hedge* means a boundary formed by closely growing bushes or shrubs.

*Hillside lot* means a parcel of land subject to the Hillside Development Standards and Guidelines as shown on the Hillside Area Map in the Hillside Development Standards and Guidelines regardless of zoning district.

*Movement corridor* means a movement pathway that is typically independent of season and used by animals on a near daily basis for the acquisition of food, shelter, water, or mates.

*Open-view design* means a fence or other structure that permits views through it.

*Planting Zone 1* means that area within a 30-foot radius of the primary dwelling unit on a hillside lot.

*Regulated fence area* (which only applies to parcels greater than one (1) acre) means that area between the property line and the unregulated fence area. The width of this area is equivalent to the minimum required yards for the HR zones listed in Sec. 29.40.270.

*Retaining wall* means a man-made structure designed to retain soil.

*Riparian corridor* means an area comprised of habitat strongly influenced and delineated by the presence of perennial or intermittent streams.

*Stream* means a body of water that flows at least periodically or intermittently through a bed or channel having banks. The body of water may include watercourses having a surface or subsurface flow that supports or has supported riparian vegetation, fish, or aquatic life.

*Top of bank* means a stream boundary where a majority of normal discharges and channel forming activities take place. The top of bank will contain the active channel, active floodplain, and their associated banks. Where there are no distinguishable features to locate the top of bank, the local permitting agency will make a determination and document as appropriate. In the absence of this determination, the 100-year water surface will be used.

*Traffic view area* means that area, on corner lots, which is within fifteen (15) feet of a public street and within two hundred (200) feet of the right-of-way line of an intersection, or a distance of thirty (30) feet measured horizontally in any direction from the point of intersection of the property lines at street corners.

*Unregulated fence area* is that area of a parcel between the primary residence and the regulated fence area. The unregulated fence area plus the regulated fence area constitutes the entire parcel. For lots in the hillside area that are less than or equal to one (1) acre, the unregulated fence area extends to the property line.

*Wall* means a man-made structure that defines an area, carries a load, or provides shelter or security.

*Wildlife-friendly fence* means a fence or other structure that permits any animal, regardless of size, to easily climb under, pass through, or jump over. A wildlife-friendly fence shall not exceed forty-two (42) inches in height above natural grade. A split-rail fence shall be constructed of wood and be at least fifty (50) percent open in design. The minimum height above grade for the bottom rail shall be sixteen (16) inches and shall have spacing between rails of at least twelve (12) inches wherever feasible.

**Sec. 29.40.033. Non-hillside residential lots: Fences, walls, gates, gateways, entry arbors, and hedges.**

- (a) Height. In residential zones outside of the hillside area, a permit is not required for the repair, replacement, or construction of gateways, entry arbors, or hedges that are no more than six (6) feet high; or fences, walls, or gates that are no more than six (6) feet high, with one (1) foot of lattice on top (seven (7) feet high in total), and within all property lines.
- (b) Exceptions to height. The following height exceptions shall apply:
  - (1) Corner lot. In a traffic view area, no corner lot or premises in the Town shall have any fence, wall, gate, gateway, entry arbor, or hedge higher than three (3) feet above the curb unless permission is secured from the Town Engineer.
  - (2) Properties not on a street corner. At the discretion of the Director of Community Development, side yard and rear yard fences, walls, gates, gateways, entry arbors, or hedges, behind the front yard setback, may be a maximum of eight (8) feet high provided the property owner can provide written justification to the Planning Department that demonstrates either of the following conditions exist:
    - a. A special privacy concern exists that cannot be practically addressed by additional landscaping or tree screening.
    - b. A special wildlife/animal problem affects the property that cannot be practically addressed through alternatives. Documented instances of wildlife grazing on gardens or ornamental landscaping may be an example of such a problem.

- (3) Historic Districts and/or Landmark and Historic Preservation Overlay. The maximum height of fences in the front yard shall be three (3) feet and shall be of open-view design except as provided in subsection 29.40.033(b)(4).
  - (4) Gateways or entryway arbors. May be up to eight (8) feet high, including within Historic Districts or for properties with a Landmark and Historic Preservation Overlay, and shall be of open-view design. A gateway or entryway arbor shall have a maximum width of six (6) feet and a maximum depth of four (4) feet. No more than one (1) gateway or entryway arbor per street frontage is allowed.
  - (5) Adjacent to commercial property. Boundary line fences or walls adjacent to commercial property may be eight (8) feet high if requested or agreed upon by a majority of the adjacent residential property owners.
- (c) Materials. The type of fencing materials within the non-hillside zone are generally unrestricted, and fences can be a combination of materials, with the following exceptions:
- (1) Plastic fencing is discouraged everywhere and is prohibited in Historic Districts.
  - (2) Barbed wire or razor ribbon wire is prohibited in all zones.
- (d) Vehicular gates. Vehicular gates shall be setback a minimum of eighteen (18) feet as measured along the driveway's path of travel from the edge of the adjacent roadway to the gate(s) in the open position.

**Sec. 29.40.034. Hillside residential lots: Fences, walls, gates, gateways, entry arbors, and hedges.**

This section applies to any new fence, wall, gate, gateway, entry arbor, or hedge, and the replacement, modification, or repair of any existing fence, wall, gate, gateway, entry arbor, or hedge, whether the primary dwelling unit is new or existing. Guiding principles come from the Hillside Development Standards and Guidelines, which state that the primary emphasis for hillside fences shall be on maintaining open views; protecting wildlife corridors while allowing wildlife to pass through; and maintaining the rural, open, and natural character of the hillsides. Deer fencing shall be limited to areas around ornamental landscaping with larger areas not to be enclosed. For the purposes of this section, hillside lots are divided into two areas – the unregulated fence area, in which minimal fence restrictions are enforced; and the regulated fence area, which is regulated to be more wildlife-friendly.

- (a) Unregulated Fence Area. Fences, or changes to existing fences within the unregulated fence area of hillside lots, do not require a permit and are subject to Section 29.40.033, non-hillside residential lots above, and the following standards:
- (1) Height. Fence height is limited to six (6) feet high in total.
  - (2) Exceptions to height. The following height exceptions shall apply:
    - a. At the discretion of the Director of Community Development, deer fencing may be a maximum of eight (8) feet high provided the property owner can provide written justification to the Planning Department that demonstrates that the following conditions exist:
      - i. The fencing would be limited to areas around ornamental landscaping; and
      - ii. A special wildlife/animal problem affects the property that cannot be practically addressed through alternatives. Documented instances of wildlife

grazing on gardens or ornamental landscaping may be an example of such a problem.

- (3) Materials. Barbed wire or razor ribbon wire is prohibited in all zones.
  - (4) Siting. No fence, hedge, wall, or gate shall be constructed within a riparian corridor or within thirty (30) feet of its top of bank.
  - (5) Hedges. All new hedges within the unregulated fence area and greater than thirty (30) feet from the primary residence, are outside planting zone 1 and shall consist of only plant species listed in Appendix A of the Hillside Development Standards and Guidelines.
- (b) Regulated Fence Area. New or replacement fences within the regulated fence area on hillside lots require a permit, which shall be posted on site during construction. Fences in the regulated fence area are subject to the following standards:
- (1) Height. Fences shall be wildlife friendly and shall not exceed forty-two (42) inches in height above natural grade. A split-rail fence shall be constructed of wood and be at least 50 percent open in design. The minimum height above grade for the bottom rail shall be sixteen (16) inches and shall have spacing between rails of at least twelve (12) inches wherever feasible.
  - (2) Materials.
    - a. The following fence types and materials are not of wildlife-friendly design and are therefore prohibited for new or replacement fences in the regulated fence area:
      - i. Chain-link, chicken wire, welded wire, wire mesh, cyclone, or similar fence material.
      - ii. Buck and rail fences.
      - iii. Any fence with bare lengths of wire stretched between posts.
      - iv. Electric fences, including any fence designed to produce an electric shock.
      - v. Barbed or razor wire fences, including any fence with attached barbs, sharp points, razors.
      - vi. Double fences.
      - vii. All hedges.
      - viii. Transparent fences such as barriers of glass or clear plastic.
  - (3) Siting.
    - a. Fences shall be located to follow natural contours, whenever possible.
    - b. Fences and walls shall be located to avoid impacts to trees.
    - c. No fence, hedge, wall, or gate shall be constructed within a riparian corridor or within thirty (30) feet of its top of bank.
    - d. No fence, hedge, wall, or gate shall be constructed in the public or private right-of-way or within any trail easement or other easement precluding their construction unless allowed, in writing, by the Town Engineer.
    - e. Fencing located within twenty (20) feet of a property line adjacent to a street shall be open-view design fencing.
  - (4) Walls.

Draft Amendments to Chapters 6 and 29 of Town Code – Hillside Fences

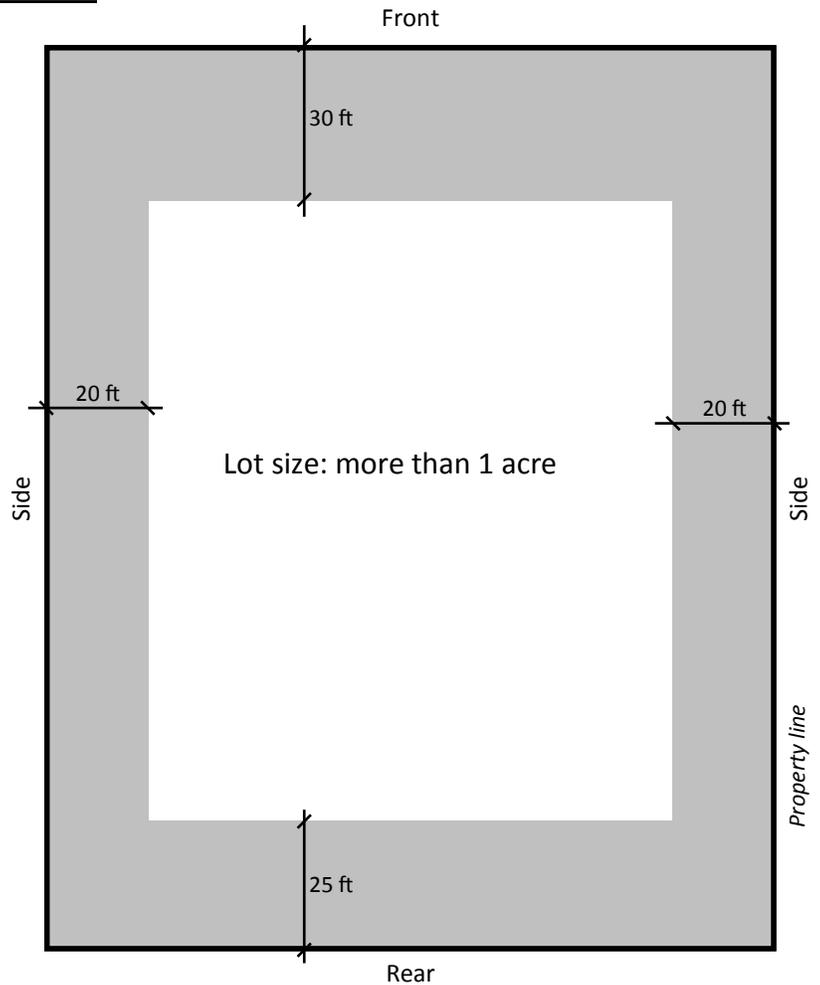
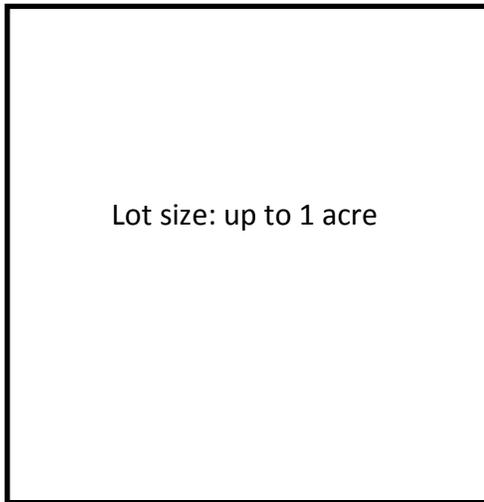
- a. Walls are prohibited unless needed for privacy as determined by the Director of Community Development.
  - b. Town approved retaining walls are permitted.
- (5) Gateways or entryway arbors. May be up to eight (8) feet high and shall be of open-view design. A gateway or entryway arbor shall have a maximum width of six (6) feet and a maximum depth of four (4) feet. No more than one gateway or entry arbor per street frontage is allowed.
- (6) Exemptions. All fences, hedges, gates, and walls existing when this Ordinance became effective, are exempt from these conditions, except as described in (7) and (8) below.
- (7) Repair. Repair of existing fences, walls, hedges or gates in the regulated fence area:
  - a. Does not require a permit.
  - b. Shall not convert a wildlife-friendly fence into a non-wildlife-friendly fence.
- (8) Modifications. Modification of existing fences in the regulated fence area:
  - a. Requires a permit which shall be posted on site during construction.
  - b. Are encouraged if such changes improve wildlife movement or animal corridors.
  - c. Shall not impede animal movements and shall not convert a wildlife-friendly fence into a non-wildlife-friendly fence; for example, wire mesh shall not be added to an existing, animal-friendly, split-rail fence.
  - d. Replacement, repair, or modification of any fence, wall, hedge or gate shall be prohibited if the Town Engineer determines that a public safety hazard exists.
- (9) Exceptions.
  - a. A temporary (one to three years), animal excluding, protective circular enclosing fence may be erected in regulated fence areas to protect a newly planted tree or shrub, until established, when that plant species is listed in Appendix A of the Hillside Development Standards and Guidelines
  - b. Security fencing required to protect a public utility installation.
  - c. Written exceptions may be granted when the Director of Community Development finds that the strict application of these requirements will result in a significant hardship for the property owner.
- (10) Cost. The cost of the application review will be borne by the applicant through a deposit pursuant to the adopted fee schedule.
- (11) Notices. Noticing shall comply with the public noticing procedures of Section 29.20.480 of the Town Code.
- (12) Penalties. A property owner who has unlawfully constructed, replaced, or modified any fence, wall, gate, gateway, entry arbor, or hedge without required approval, shall:
  - a. File the required Planning and Building Department applications and pay the required fees as established by resolution for new applications and for work unlawfully completed.
  - b. Be subject to a fine equal to double the cost of the permit, as determined by the Director of Community Development.
  - c. Remove any prohibited fence, wall, gate, gateway, entry arbor, or hedge.

Draft Amendments to Chapters 6 and 29 of Town Code – Hillside Fences

- (c) Vehicular gates. Vehicular gates shall be setback a minimum of eighteen (18) feet as measured along the driveway's path of travel from the edge of the adjacent roadway to the gate(s) in the open position.

(Ord. No.1316, § 4.10.020, 6-7-76; Ord. No. 1493, 3-17-81; Ord. No. 1873, § I, 10-7-91; Ord. No. 2049, § I, 10-5-98; Ord. No. 2062, § I, 6-21-99; Ord. No. XXXX, § )

## Unregulated and Regulated Fence Areas

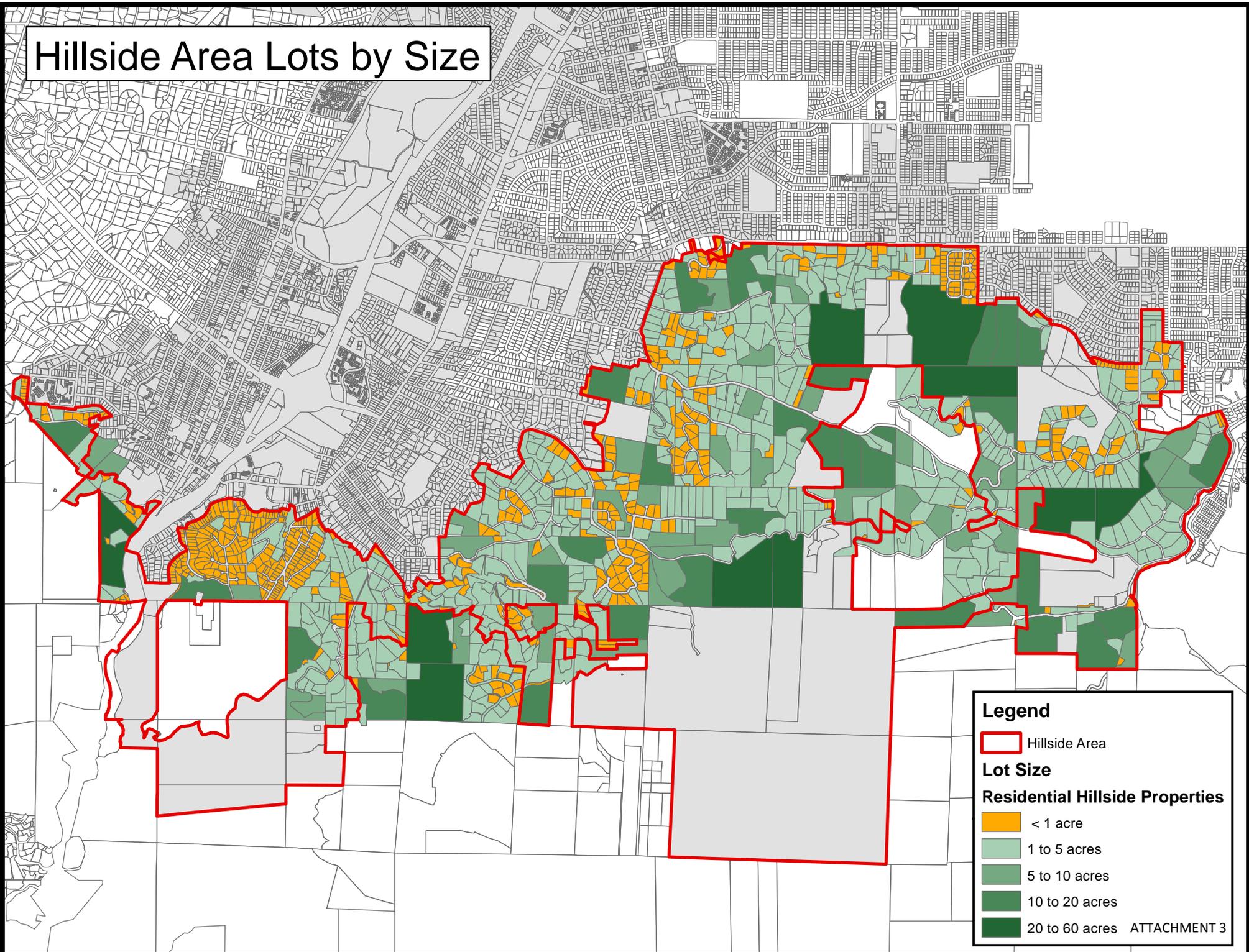


**Unregulated fence area** is that area of a parcel between the primary residence and the regulated fence area. The unregulated fence area plus the regulated fence area constitutes the entire parcel. For lots in the hillside area that are less than or equal to one (1) acre, the unregulated fence area extends to the property line.

**Regulated fence area** (which only applies to parcels greater than one (1) acre) means that area between the property line and the unregulated fence area. The width of this area is equivalent to the minimum required yards for the HR zones listed in Sec. 29.40.270.

***This Page  
Intentionally  
Left Blank***

# Hillside Area Lots by Size



**Legend**

 Hillside Area

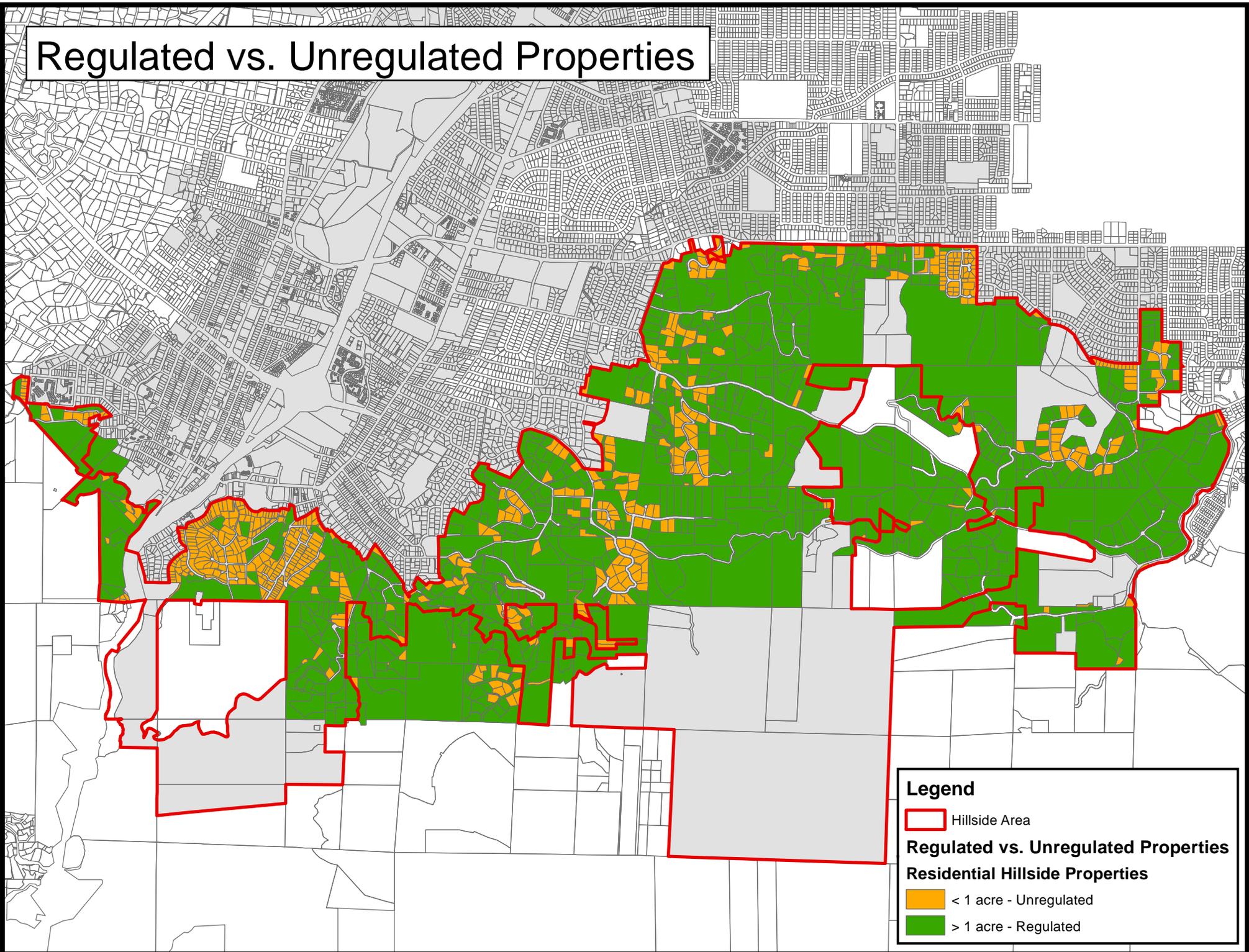
**Lot Size**

**Residential Hillside Properties**

-  < 1 acre
-  1 to 5 acres
-  5 to 10 acres
-  10 to 20 acres
-  20 to 60 acres

ATTACHMENT 3

# Regulated vs. Unregulated Properties



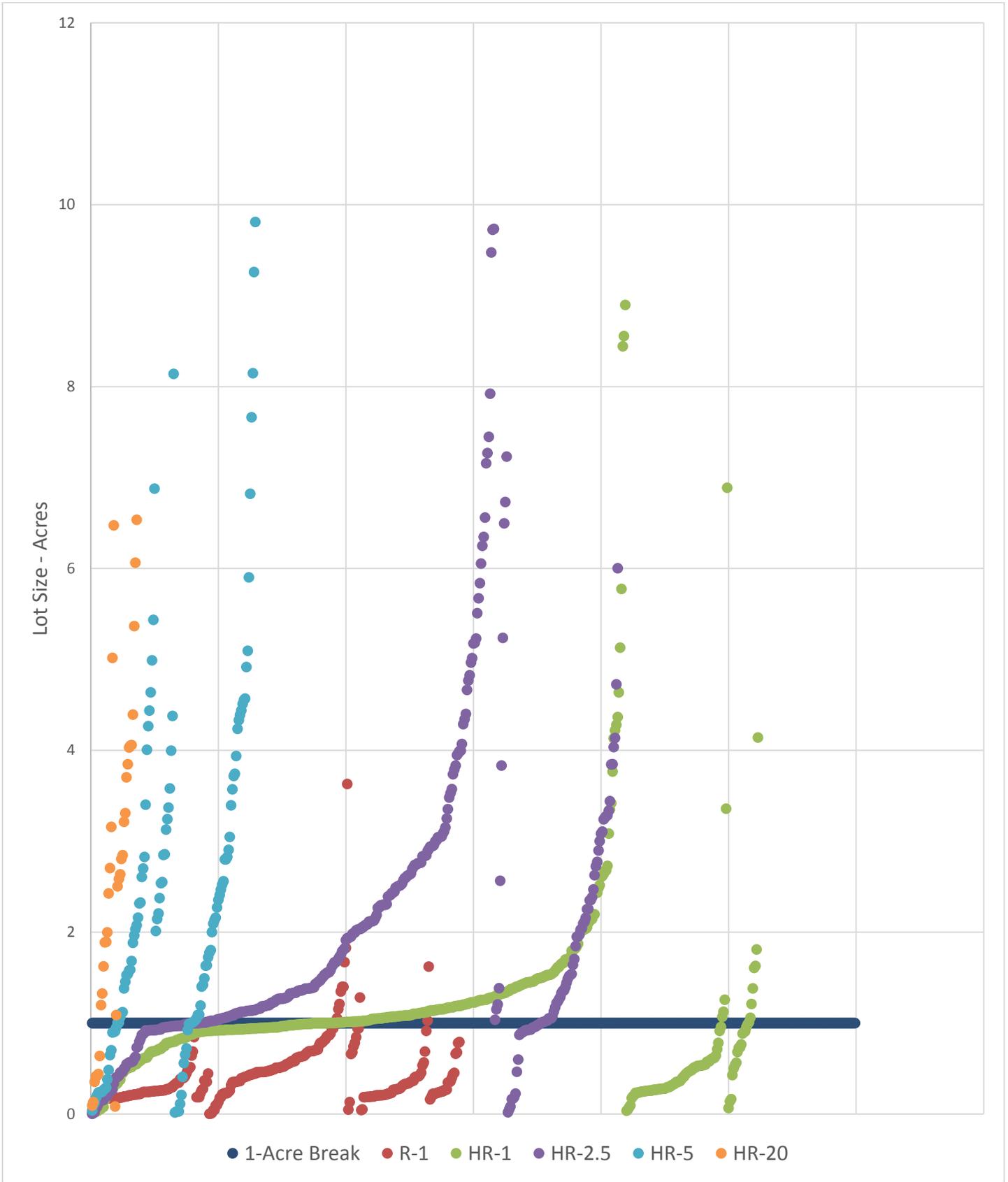
**Impact of Proposed Fence, Wall Hedge Ordinance  
VS Lot Size**

<b>Lot Area (Acres)</b>	<b>Lot Area (Sq Feet)</b>	<b>Property Line Length* (Feet)</b>	<b>Regulated Area (Sq Feet)</b>	<b>Regulated Area %</b>	<b>Unregulated Area (%)</b>	<b>Unregulated Area (Sq Feet)</b>	<b>Unregulated Area (Acres)</b>
1	43,560	209	17,627	40%	60%	25,933	0.60
2	87,120	295	25,840	30%	70%	61,280	1.41
3	130,680	361	32,142	25%	75%	98,538	2.26
4	174,240	417	37,455	21%	79%	136,785	3.14

\* Assumes square-shaped lot

***This Page  
Intentionally  
Left Blank***

# Property Sizes by Zone in Hillside Area



\*\* Parcels greater than 10 acres removed

*This Page  
Intentionally  
Left Blank*

Sec. 29.20.480. - Administrative procedure for minor residential projects.

- (1) This procedure is established for review of minor residential projects to provide for neighborhood review in a timely and streamlined process. This process shall be used by the Planning Director for projects listed in section 29.20.480(2) and by the Development Review Committee for reviewing projects identified in subsections 29.20.745(12) and (15).
  - (a) An application and fee is submitted. In addition to the standard application materials (application and plans), the applicant will be required to submit one set of stamped, addressed envelopes to neighboring residents and property owners. The Planning Department will assist the applicant in determining the properties to be notified (all properties abutting the applicant's parcel, properties directly across the street and the two parcels on each side of it).
  - (b) The deciding body reviews the application using the Town's Development Standards, as well as the Town Code requirements.
  - (c) If the Planning Director intends to approve the application, a "Notice of Pending Approval" will be mailed to neighboring residents and property owners including any applicable conditions, exactions or dedications as required. The notice will advise the residents and property owners of the applicant's plans, and that the application will be approved unless there is an objection. The residents and property owners have ten days from the date of the "Notice of Pending Approval" in which to review the application and to notify the Planning Director in writing of any concerns or problems.
  - (d) If a written objection to the project is not filed within the ten-day period, the application may be approved. If a written objection is filed but the differences in opinion can be worked out to the satisfaction of all objectors, then the application may also be approved. Once the zoning approval is granted, a building permit may be applied for and issued, subject to the conditions of the zoning approval.
  - (e) If an objection to the project is filed in a timely manner and the differences cannot be resolved at the staff level, the application is scheduled before the Planning Commission on the next available agenda for consideration at the applicant's cost. All property owners and residents notified originally shall be notified of the Planning Commission meeting.
  - (f) If the Planning Director determines that the application cannot be approved because it does not comply with the Town's Development Standards and the applicant is unwilling to revise the plans, then the applicant will be required to file an Architecture and Site Application (including the required fee) and the application shall be considered by the Planning Commission.
- (2) In addition to the projects identified in subsections 29.20.745(12) and (15), the following projects will be considered under this administrative procedure.
  - (a) New second-story additions to single and two-family dwellings.
  - (b) Additions to an existing second story where the additional area will exceed one hundred (100) square feet.
  - (c) Reconstruction to a portion of a single or two-family dwelling or an accessory structure with a nonconforming setback.
  - (d) Accessory structures exceeding a combined square footage of four hundred fifty (450) square feet.
  - (e) Additions to accessory structures resulting in the structures containing a combined square footage more than four hundred fifty (450) square feet.
  - (f) Request to reduce side and rear yard setback requirements for accessory structures.
  - (g) Sport court lighting and/or fencing over six (6) feet high enclosing court game areas.

(Ord. No. 1963, § IV, 11-15-93; Ord. No. 2100, § II, 7-1-02; Ord. No. 2149, § I, 5-1-06)

***This Page  
Intentionally  
Left Blank***

## CITY OF SARATOGA

### FENCES

The maximum height of a fence is three feet in the front setback area and/or the exterior side setback area of a reversed corner lot.

Outside of the front and exterior side setback areas, the maximum height of a solid fence is six feet. An additional two feet of lattice (or similar material) that is at least 25% open may be added to the top of a solid fence, outside of the front setback area. Likewise, an open fence (e.g., wrought iron, split rail) may be up to eight feet in height, outside of the front setback area. No slats are allowed in the opening. With the exception of chain link, open fencing shall have an open diameter of at least four inches. For chain link fencing, the opening shall be two inches at minimum.

### PILASTERS AND ATTACHED ARBORS

Notwithstanding the rules for driveway and street intersections, the maximum height of a pilaster is five feet in the front setback area and/or the exterior side setback area of a reversed corner lot.

Notwithstanding the rules for driveway and street intersections, you may attach a trellis or arbor to your fence, up to eight feet in height, five feet wide, and five feet deep.

### VEHICLE ACCESS GATES

Wrought iron vehicle access gates may be up to five feet in height and must be located a *minimum of 20 feet* from the edge of street pavement.

### STREET AND DRIVEWAY INTERSECTIONS

The maximum height of a fence, hedge, retaining wall, entryway element, pilaster, gate, or other similar element is three feet within fifty feet from a street intersection and/or within twelve feet from a driveway intersection. See diagrams on reverse

### RETAINING WALLS

The maximum height of a retaining wall in a front or exterior side setback area is three feet.  
The maximum height of a retaining wall outside of a front or exterior side setback area is five feet.

### OTHER

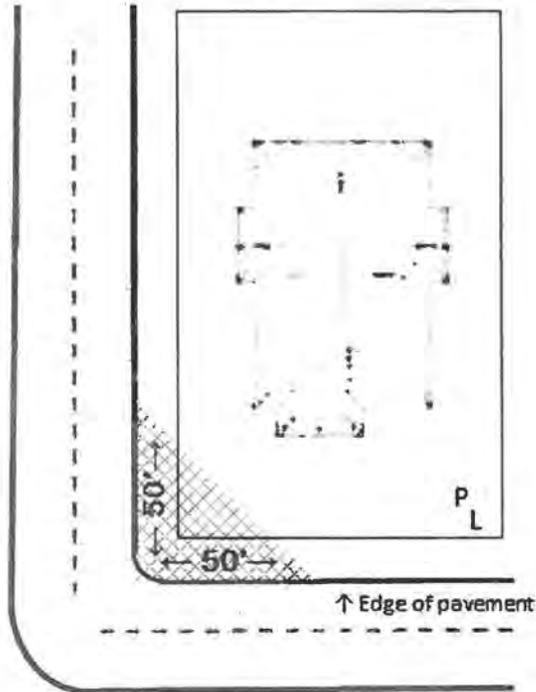
Please review the Fence Ordinance for more information, including swimming pool fences, fences on heritage lanes, fences in hillside districts, fences along major streets, and fence exceptions.

**\*\* Setbacks are determined by the zoning district in which the property is located \*\***  
A building permit is required for any solid fence more than six feet in height

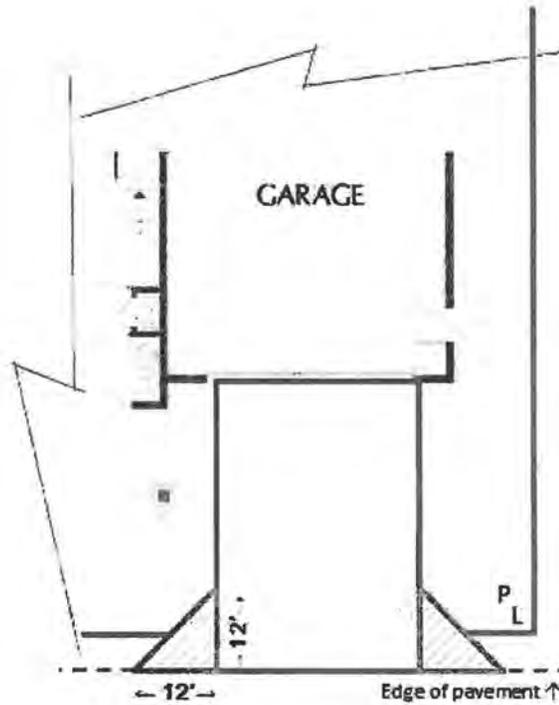
CITY OF SARATOGA

EXAMPLES

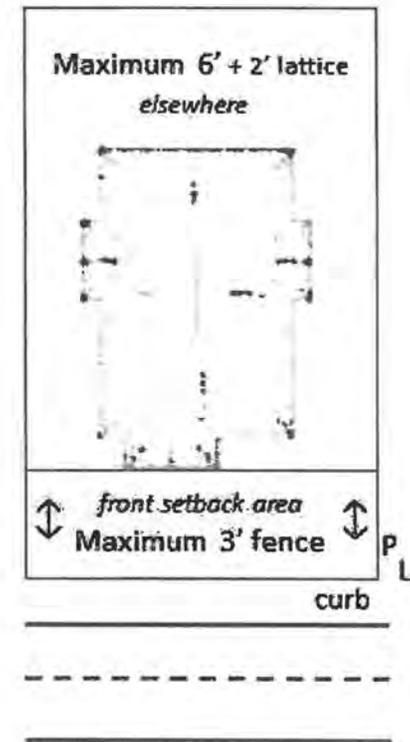
**Fences, Gates, Pillars, Retaining Walls**



Street Intersection Example



Driveway Intersection Example



Fence Setback Example

Please ask a planner if you need help determining your setbacks

## TOWN OF LOS ALTOS HILLS

26379 Fremont Road  
Los Altos Hills, CA 94022  
Phone: (650) 941-7222  
www.losaltoshills.ca.gov



---

## Fences, Walls, Gates, and Columns

---

Revised- 6/25/14

This application packet provides information necessary to apply for any of the items listed above. A building permit may also be necessary but will not be issued until a Zoning permit has been approved.

### ZONING PERMIT APPLICATION:

A Zoning Permit is required to place any fence, column, or wall on your property. Your application will be reviewed by the Planning Department for completeness and conformity with the Town's Zoning Ordinance. The zoning review will check three major aspects of your project.

1. Height
2. Setbacks
3. Openness (solid vs. 50% open)

### Requirements of a Zoning Permit

Fences, columns, and walls are *generally* not considered to be "lot coverage" therefore it is not necessary to calculate your lot's maximum development area (MDA) or building coverage allowances unless your application also includes some items that are considered lot coverage, such as patios or decks. If so, please pick up the appropriate information packets from Town Hall. You must provide the following information before your application will be reviewed. When the application is considered complete, it will be approved or denied based on whether or not it conforms to the Zoning Ordinance.

1. Completed and signed application.
2. Three (3) copies of a plot plan at a scale of 1" = 20' for lots less than 2 acres and 1" = 40' for lots over 2 acres; not to exceed 2' x 3' in dimension and folded individually into eighths, showing the following:
  - a. Location of fences, columns, walls, etc.
  - b. Location of all property lines and dimensions of the lot.
  - c. Location, dimension, and character of all existing easements.
3. Three copies of elevations indicating height of fence, columns, or wall from natural grade, materials and type of construction.

## Fences and Walls

Page 2

4. 10 Day Courtesy Notices: Courtesy Notices will be sent by the Town to adjoining property owners when new and replacement fences, gates, or walls are proposed within 10 feet of a shared property boundary. Fence Permits that are compliant with Section 10-1.507 will be approved after 10 calendar days.
5. Plans indicating landscaping or other measures proposed to screen the wall, fence, or columns.
6. Fee of \$440 (check or cash only).

The Town has permit history for many lots in the Town. If you have no information on your property, please come in and see what is available. You may review plans and other information without an appointment. Subdivision files, when available, will show most easement and other legal aspects of your property. Attached to this packet, please find the Zoning Ordinance Section regarding fences and setbacks.

## Los Altos Hills Municipal Code Title 10-Zoning

### Section 10-1.507. Fences, Walls, Gates, and Columns.

- a. **Purpose.** The following regulations were created to preserve the beauty and open rural quality of the Town while acknowledging that residents have the right to fence their properties in order to protect their children, contain their animals, and maintain privacy.
- b. **Permits required.** No fence, wall, gate, or column structure shall be erected or replaced without the prior issuance of a zoning or site development permit from the Town.
- c. **Definitions.** The following definitions are established for the purpose of this Article and the meaning and construction of words and phrases is as follows:

Legal Nonconforming Structure: Refer to Section 10-1.401(h) of the Zoning Ordinance.

Column: A round or square pillar, pole, or post flanking an entrance way constructed of such materials as brick, stone, concrete, or other materials. Includes mailbox columns.

Wall: An upright structure of wood, stone, brick, or other substance or combination of substances serving to enclose, divide, or support and usually having greater mass than a fence.

Fence: A structure serving as a barrier or screen constructed of wood, metal, wire, masonry, glass, plastic or any other material (not including graded berms or living hedges).

Gate: A movable frame or solid structure that swings, slides, or rolls controlling ingress and egress through an opening in a fence, wall, or vegetation.

Open Fence or Gate: A fence or gate constructed in such a way so that no more than fifty (50%) percent of the surface area obstructs a ground level view through the fence or gate.

Solid Fence or Gate: A fence or gate constructed in such a way so that more than fifty (50%) percent of the surface area obstructs a ground level view through the fence or gate.

- d. **Prohibited fences, walls, gates, columns types.** The following fences are prohibited:
  1. Chain-link or cyclone fences, including any fence with bare lengths of wire stretched between metal poles, with the exception of dark green, black, or brown vinyl-coated chain-link fences with matching vinyl-coated cross bars and caps.
  2. Barbed or razor wire fences, including any fence with attached barbs, sharp points, or razors.

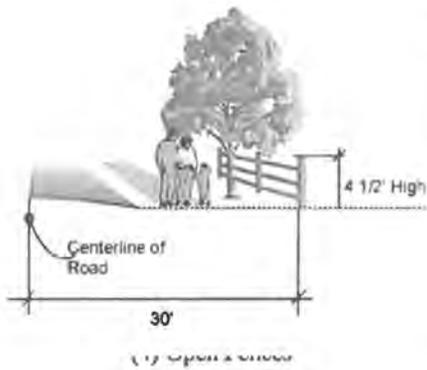
3. Electric fences, including any fence designed to produce an electric shock, except where necessary for animal husbandry operations.
  4. Any fence, wall, and/or gate that may cause harm to people, pets, and/or wildlife due to points, spikes, or sharpened edges on the top or bottom part of the fence, wall structure, and/or gates.
  5. Any perimeter fence, wall, gate, or column where the color reflectivity value exceeds 50%.
  6. Any fence, wall, gate, or column located within a public or private road right-of-way or pathway easement except for a mailbox column with an approved permit.
- e. Fences, Walls, Gates, and Columns Requiring Public Notice. Permit requests for the types of fences, walls, gates and columns identified below require notification of adjacent neighbors and neighbors across the street:
- (1) Fences, walls, gates and columns that require the removal of existing screening vegetation (trees and shrubs).
  - (2) Solid fences that impact neighbor views as defined by Section 5-9.02 of the View Ordinance.
  - (3) Any other proposal deemed appropriate by the Planning Director for a noticed hearing. Such proposals may include solid fences, as well as walls or vinyl-coated chain-link fences along any road right-of-way, and fences or walls longer than 1,000 linear feet.

Open fences using natural materials and colors, including unpainted or stained white, brown or gray wood; welded or woven wire and wood posts; and natural stone and/or brick construction are preferred and generally are not subject to public notice.

Staff shall notice a permit hearing and conduct the permit review hearing pursuant to Section 10-2.1305(b) except that only adjacent neighbors and neighbors across the street need to be notified. At or prior to the permit hearing, neighbors and the fence permit applicant shall be provided with notice that the approval or denial of any permit may be appealed pursuant to Section 10-1.1109.

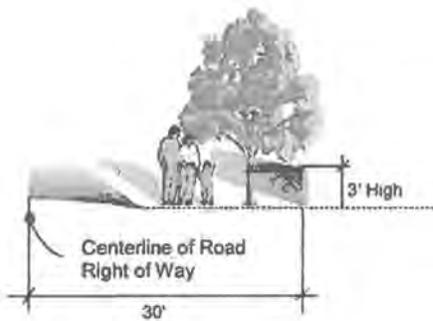
- f. Development Standards for Fences, Walls, Gates, and Columns.
1. Fences and walls located on property lines or in setback areas that are not adjacent to a road right-of-way shall not exceed a maximum height of 6 feet.
  2. Fences and walls located in setback areas that are adjacent to a road right-of-way shall comply with the standards established in subsections (4) through (9). Height may be proportionately increased 1 foot for every 10-foot increase in setback, up to a maximum of 6 feet in height.

3. Fences, walls, gates, and columns located behind setback lines are not subject to these development standards.



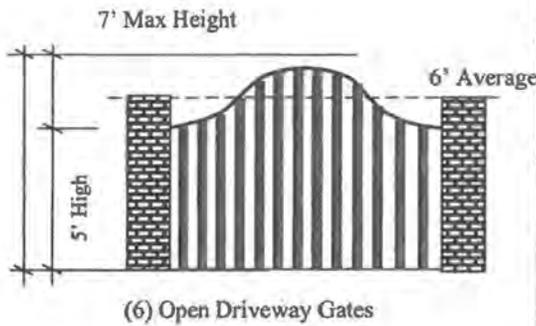
(4) Open Fences and Gates

(4) OPEN FENCES AND GATES	
Minimum setback from centerline of adjacent public or private road right-of-way.	30'
Maximum height of open fences and gates at the minimum setback from the centerline of adjacent public or private road right-of-way.	4 1/2'
Minimum setback from centerline of adjacent public or private road right-of-way for 6' tall open fences and gates located between adjacent public or private roadways and the structural setback line for the particular property.	45'

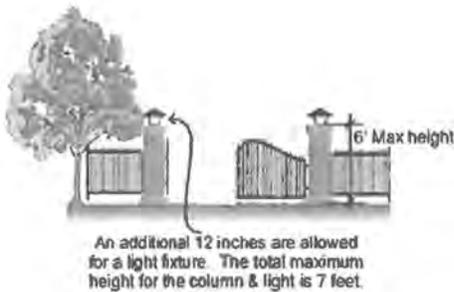


(5) Solid Fences, Gates, and Walls

(5) SOLID FENCES, GATES, AND WALLS	
Minimum setback from centerline of adjacent public or private road right-of-way.	30'
Maximum height of solid fences, gates, and walls at the minimum setback from the centerline of adjacent public or private road right-of-way.	3'
Minimum setback from centerline of adjacent public or private road right-of-way for 6' tall solid fences, gates, and walls located between adjacent public or private roadways and the structural setback line for the particular property.	60'



(6) OPEN DRIVEWAY GATES	
Minimum setback from centerline of adjacent public or private road right-of-way.	30'
Maximum height of open driveway gates at the minimum setback from the centerline of adjacent public or private road right-of-way.	4½' (average)
Minimum setback from centerline of adjacent public or private road right-of-way for open driveway gates with a 6' average height (7' maximum height) located between adjacent public or private roadways and the structural setback line for the particular property.	45'

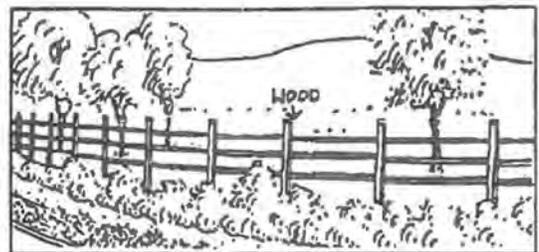


(7) COLUMNS	
Minimum setback from centerline of adjacent public or private road right-of-way.	30'
Maximum height of columns at the minimum setback from the centerline of adjacent public or private road right-of-way.	6' 7' (w/lights)
Maximum height of columns located between adjacent public or private road right-of-way and the structural setback line for the particular property.	6' 7' (w/lights)

(8) OUTDOOR ATHLETIC COURT FENCING	
Maximum height of outdoor athletic court fencing located beyond the structural setback line for the particular property.	10'

(9) OPEN SPACE/CONSERVATION EASEMENT PERIMETER FENCES	
Maximum height of open space/conservation easement perimeter fences.	6'
Minimum distance of lowest fence strand or rail from ground.	12" above grade

Open space/conservation easement perimeter fences shall provide openings sufficient to accommodate the free passage of wildlife through the easement. A split-rail wood fence (see exhibit) or equivalent design shall be required. Where a pathway is located within an open space/conservation easement, the perimeter

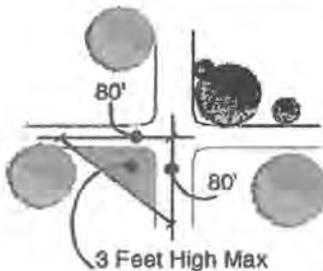


(9) Open space/conservation easement perimeter fencing

fence shall be required to have at least two openings at least as wide as the width of the pathway easement.

10. Any fence crossing or intersecting an officially designated wildlife corridor shall conform to the requirements specified above for an open space/conservation easement perimeter fence.
11. No fence, wall, gate, or column shall be located within a public or private road right-of-way or pathway easement. A four-foot (4') tall mailbox post or column may be granted an exception to be located within a road right-of-way. An encroachment permit from the Engineering Department is required to install a mailbox post or column within a road right-of-way easement. Any existing fence, wall, gate, or column located within any road right-of-way may be required to be removed at the owner's expense.

12. Solid walls, fences, or gates shall not exceed a maximum height of three (3') feet and all shrubs and plants shall be pruned to a height not to exceed three (3') feet above the road level at its nearest point in an area bounded by the center line of intersecting roads or easements for vehicular access, public or private and a straight line joining points on such center lines eighty (80') feet distant from their intersection (see exhibit). All side limbs of trees in such area shall be pruned to a height of not less than six (6') feet above the road surface. The purpose of the provisions of this section is to provide an unobstructed view of approaching traffic on the intersecting roads. The City Engineer may prescribe greater restrictions than the height set forth in this paragraph where unusual conditions make such additional restrictions desirable in the interests of the public safety.



13. Any fence or wall may be required to be landscaped. Screen plantings required as a condition of approval for any fence or wall shall be maintained in good condition by the property owner.
14. The vertical dimension of any fence, wall, gate, or column shall be measured from the finished grade on both sides of any such fence, wall, gate, or column to any point on top of the fence, wall, gate, or column, including post/column caps and any ornamental features.

g. Requirements for Nonconforming Fences, Walls, Gates, and Columns.

Replacement of existing legal nonconforming fences, walls, gates, and columns shall be subject to the requirements in this ordinance. Exceptions may be granted pursuant to subsection 10-1.507(h) of this ordinance, or where the strict application of these requirements will result in a hardship for the property owner. Repair of short sections of legal nonconforming fences, walls, gates, or columns (repair of less than 50 feet or repair of no greater than 25% of total fence or wall length) will not require a permit if no other work is done on the same structure over a 12-month period. The replacement of any nonconforming structure shall be prohibited if the City Engineer determines that a public safety hazard exists or that the structure encroaches in an easement or public right-of-way. Any fence, wall, gate, or column constructed without a

## Fences and Walls

Page 8

lawfully issued permit is a violation of the Municipal Code and shall be subject to the provisions of Title 1, Chapter 2 of the Municipal Code.

### h. Exceptions.

Exceptions may be granted subject to a noticed hearing and upon the Site Development Authority making all of the following findings:

1. The height and design of the proposed fence, wall, gate or column are compatible with other fences in the neighborhood;
2. The proposed removal of vegetation and trees and disturbance to natural terrain have been minimized; and
3. The proposed structure is otherwise in compliance with all regulations and policies set forth in the Municipal Code and the General Plan.

Any fence proposed to exceed a height of 6 feet in a setback area or to be located closer to the centerline of the road than required shall require a variance in accordance with the provisions of Article 11 of the Zoning Ordinance.



**Town of Portola Valley**  
 Planning & Building Department  
 765 Portola Road  
 Portola Valley, CA 94028  
 (650) 851-1700  
 Fax: (650) 851-4677

## FENCE REGULATIONS SUMMARY Zoning Ordinance 2005-360

Zoning District	<1 acre districts	1 acre districts	2+ acre districts
<b>Fence Location</b>	<ul style="list-style-type: none"> <li>• Domestic fences permitted on all property lines</li> <li>• Domestic fences in riparian corridors to be set back 20' from the top of the creek bank</li> <li>• Double fencing not permitted in setbacks</li> </ul>	<ul style="list-style-type: none"> <li>• Domestic fences to be set back at least 25' from the front property line and permitted on all other property lines</li> <li>• Horse fences permitted on all property lines</li> <li>• Fences not permitted on slopes exceeding 20%</li> <li>• Fences in riparian corridors to be set back 20' from the top of the creek bank</li> <li>• Double fencing not permitted in setbacks</li> </ul>	<ul style="list-style-type: none"> <li>• Domestic fences not permitted in required yards</li> <li>• Horse fences permitted on all property lines</li> <li>• Fences not permitted on slopes exceeding 20%</li> <li>• Fences in riparian corridors to be set back 20' from the top of the creek bank</li> <li>• Double fencing not permitted in setbacks</li> </ul>
<b>Height</b>	<ul style="list-style-type: none"> <li>• 4' in front yards</li> <li>• 6' in side and rear yards</li> <li>• 4' in side yards along streets</li> </ul>	<ul style="list-style-type: none"> <li>• 4' for all horse fences</li> <li>• 4' in front yards and 6' in side and rear yards for domestic fences</li> <li>• 4' in side yards along streets</li> <li>• 4' when adjacent to public trails and paths</li> </ul>	4' for all horse fences
<b>50% Opacity Limit</b>	<ul style="list-style-type: none"> <li>• Fences in front yards and fences in side yards along streets</li> </ul>	<ul style="list-style-type: none"> <li>• All horse fences</li> <li>• Fences in front yards</li> <li>• Fences adjacent to public trails and paths</li> <li>• Fences in side yards along streets</li> </ul>	All horse fences

**Opacity, continued:**

- Fence members not to exceed a 6" width when viewed perpendicular to the plane of the fence for fences subject to an opacity limit.
- Retaining walls are exempt from opacity limits.

**Color Reflectivity:**

- Fence colors not to exceed 40% reflectivity, except for naturally weathered wood.

**Horse Fence Standards:**

- No more than three horizontal wood members, each not to exceed 6" in width or no more than four horizontal wood or wire members, each wood member not to exceed 4.5" in width.
- The cross sections of posts must not exceed 6" x 6"; such posts not to exceed 4' in height and generally spaced no closer than 5' apart.
- 6" x 6" wire mesh may be attached to a horse fence but shall not exceed the height of the horse fence.
- Opacity not to exceed 50%.
- Height not to exceed 4'.
- Gates attached to horse fences must conform to the height and opacity standards for horse fences and be of a similar design.

**Entryway Features:** Entryway features, including gates, must be setback one-half of the required front yard in districts requiring a minimum parcel area of 1 acre or more.

**Permits and ASCC Review:** Permits will be required for most fences. Permits will not be required when a fence is no more than 2 feet in height and 20 feet in total length.

Staff to review and act on most applications. ASCC to review applications and existing fences when:

- (1) Referred from town planning staff;
- (2) A property undergoes ASCC review and there is a substantial modification to an existing residence or site improvements of the property;
- (3) The proposed fence cannot conform to the regulations given the conditions on the parcel; or,
- (4) The fence will be located in the M-R or O-A districts. Specific requirements for these districts will be determined on a case-by-case basis with input from the Conservation Committee.

**Repairs or Replacement to an Existing Fence:** When a portion of a fence exceeding twenty five percent of the total length of fencing within required yards is damaged or voluntarily removed, any replacement fencing of that portion shall conform to the fence regulations pursuant to a fence permit.

ORDINANCE NO. 2005- 360

ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PORTOLA VALLEY  
AMENDING TITLE 18 [ZONING] OF THE PORTOLA VALLEY MUNICIPAL CODE  
BY AMENDING CHAPTERS 18.04 [DEFINITIONS] AND SECTION 18.42.040  
[EXCEPTIONS TO REQUIREMENTS – FENCES AND WALLS] OF CHAPTER 18.42  
[ACCESSORY STRUCTURES], ADDING CHAPTER 18.43 [FENCES] AND  
REPEALING SECTION 18.54.020.C. [MEASUREMENT OF HEIGHT]

WHEREAS, the Town Council of the Town of Portola Valley wishes to revise its Zoning Ordinance to include new provisions for fences.

NOW, THEREFORE, the Town Council of the Town of Portola Valley ("Town") does ORDAIN as follows:

1. Amendment of Code. Chapter 18.04 [Definitions] of Title 18 [Zoning] of the Town's Municipal Code is hereby amended to add the following Sections:

**18.04.075 Building envelope.** "Building envelope" is the three-dimensional space on a parcel within which buildings and most other structures are required to be confined and which is defined by zoning ordinance regulations governing building setbacks and building heights.

**18.04.129 Domestic fence.** "Domestic fence" is a fence that is not a horse fence as defined in Section 18.04.215.

**18.04.155 Fence.** "Fence" is a structure made of wire, wood, metal, masonry or other man-made material, or combination thereof, including gates and posts, typically used as a screen, enclosure, retaining wall, or entryway feature, for a parcel of land or portion thereof.

**18.04.156 Fence opacity.** "Fence opacity" is the surface area of a fence that is impenetrable to light when viewed perpendicularly to the plane of the fence.

**18.04.215 Horse fence.** "Horse fence" is a fence that complies with the horse fence standards set forth in Section 18.43.060.

**18.04.555 Yard, required.** "Required yard" means an open space required by Subsections 18.52.010 A., B. or C. located between a parcel line and a building envelope.

2. Amendment of Code. Section 18.42.040 [Exceptions to Requirements – Fences and walls.] of Chapter 18.42 [Accessory Structures] of Title 18 [Zoning] of the Town of Portola Valley Municipal Code is hereby amended to read as follows:

**18.42.040 Exceptions to Requirements — Fences.** Fences may be located within required yard areas subject to the provisions set forth in Chapter 18.43.

3. Addition to Code. Chapter 18.43 [Fences] is hereby added to Title 18 [Zoning] of the Town of Portola Valley Municipal Code to read as follows:

#### **CHAPTER 18.43 FENCES**

**Sections:**

- 18.43.010 Purpose.**
- 18.43.020 Location.**
- 18.43.030 Height.**
- 18.43.040 Fence opacity.**
- 18.43.050 Color reflectivity and size.**
- 18.43.060 Horse fences.**
- 18.43.070 Entryway features.**
- 18.43.080 Fence permits and administration.**

**18.43.010 Purpose.** The purpose of the fence regulations is to ensure that fences in required yards in residential zoning districts conform to the following principles:

- Fences should be designed with consideration for the open space tradition of Portola Valley.
- Fences should be used sparingly in order to preserve a sense of the shared scenic resources of the community.
- Fences should be designed with respect for the movement of wildlife and the protection of views.
- Fence designs and materials should blend with the natural environment and maintain the natural and rural ambiance of the Town.

The above principles shall be followed by residents, Town Planning staff and the ASCC when designing or developing fences or considering fence permit applications.

**18.43.020 Location.**

A. In residential zoning districts fences may be erected in the following locations:

1. In districts requiring a minimum parcel area of less than one acre, domestic fences or fences consistent with the standards of a horse fence are allowed in required yards, including along property lines.

2. In districts requiring a minimum parcel area of one acre, domestic fences or horse fences are allowed in required yards, including along property lines, except that a domestic fence in a front yard must be set back at least twenty five feet from the front property line.

3. In districts requiring a minimum parcel area of two acres or more, only horse fences are allowed in required yards, including along property lines.

4. In addition to the above limitations, in districts requiring a minimum parcel area of one acre or more, domestic fences and horse fences in required yards shall be allowed only on slopes of twenty percent or less.

5. Along riparian corridors, fences shall be set back a minimum of twenty feet from the top of a creek bank. The top of the creek bank shall be determined on a case-by-case basis by Town Planning staff or the ASCC based on physical inspection of site conditions.

6. Double fencing (where two or more fences are placed parallel to one another often for the purpose of deterring deer or other animals) must be located within the building envelope of a parcel.

---

#### **18.43.030 Height.**

A. The height of a fence is the vertical distance measured from the surface of the actual adjoining ground to the top of the fence. For the purpose of applying height regulations, the average height of the fence along any unbroken run may be used, provided the height at any point is not more than ten percent greater than that normally permitted.

B. Fences in residential zoning districts are subject to the following height limits:

1. Fence heights shall not exceed four feet in front yards, six feet in side and rear yards, and four feet in side yards along road rights-of-way.

2. Horse fences shall not exceed four feet in height.

3. Fences adjacent to public trails and paths in districts requiring a minimum parcel area of one acre or more shall not exceed four feet in height.

C. A fence of normally permitted height under this section shall not be placed on top of fill designed so as to effectively increase the elevation of the top of the fence.

D. The height of a retaining wall, or a retaining wall with a fence erected on top of it, is measured from the exposed bottom of the wall to the top of the wall/fence.

E. The height of a fence placed on top of a fill supported by a retaining wall is measured from the top of the natural grade directly below the wall to the top of the fence.

**18.43.040 Opacity.**

A. Fences are subject to the following fence opacity limits:

1. In districts requiring a minimum parcel area of less than one acre, fences in front yards shall not exceed fifty percent opacity.

2. In districts requiring a minimum parcel area of one acre, domestic fences in front yards shall not exceed fifty percent opacity.

3. Fences in side yards adjacent to road rights-of-way shall not exceed fifty percent opacity.

4. Horse fences shall not exceed fifty percent opacity.

5. Fences adjacent to public trails and paths in districts requiring a minimum parcel area of one acre or more shall not exceed fifty percent opacity.

6. Fence members shall not exceed a six inch width when viewed perpendicularly to the plane of the fence for fences subject to an opacity limit.

7. Retaining walls are exempt from opacity limits.

**18.43.050 Color reflectivity.**

A. The reflectivity value for colors used on fences shall not exceed forty percent, except that naturally weathered wood may exceed such limit.

**18.43.060 Horse fences.**

A. Horse fences shall conform to the following standards:

1. There shall be no more than three horizontal wood members, each not to exceed six inches in width or no more than four horizontal wood or wire members, each wood member not to exceed four and a half inches in width.

2. The cross sections of posts must not exceed six inches by six inches; such posts shall not exceed four feet in height and shall be spaced no closer than five feet apart.

3. Six inch by six inch wire mesh may be attached to a horse fence but shall not exceed the height of the horse fence. Nothing else shall be attached to a horse fence that would violate the standards set forth in Section 18.43.060A and/or alter the visual characteristics of the horse fence.

4. Horse fence opacity shall not exceed fifty percent. See Section 18.43.040A4.

5. Horse fences shall not exceed four feet in height. See Section 18.43.030B2.

B. Gates attached to horse fences are exempted from Section 18.43.060.A1-3, but shall conform to height and opacity standards for horse fences and be of a similar design as a horse fence.

C. Horse fences that are also used as corral and pasture fences, must, in addition, comply with special requirements as set forth in the Town stable ordinance (Ord. 1988-242 Section 2 (Ex. A) (part), 1988; Ord. 1967-80 Section 1 (6207.4), 1967; Ord. 2001-338 Section 3 (part), 2001).

**18.43.070 Entryway features.** Entryway features, including gates, must adhere to the setback requirements set forth in Section 18.42.016.

**18.43.080 Fence permits and administration.**

A. Fence permits are required for construction of all fences built within required yards, except as otherwise specified in this section. Fence permit applications shall be made on a form provided by the Town Planning staff and shall be accompanied by plans demonstrating the design and materials of the proposed fence, the location of the proposed fence and any associated landscaping. A fee shall be paid to cover the cost of review by Town Planning staff, or on referral, by the Town Planner. Prior to approving a fence permit, Town Planning staff shall give written notice to owners of adjoining properties of the permit application. Prior to acting on a permit, Town Planning staff shall review the proposed design and location in the field, review the plans for conformance with the zoning ordinance and Design Guidelines, and consider comments from owner(s) of adjoining properties. Town Planning staff may take action on a permit or refer it to the ASCC. Written notification shall be given to owner(s) of adjoining properties at least six days prior to action by Town Planning staff or the ASCC. Any Town Planning staff decision may be appealed by an applicant or an owner of adjacent property to the ASCC. Any ASCC decision may be appealed by the applicant or an owner of adjacent property to the Board of Adjustment.

B. Fences within required yards that are no more than two feet in height, and no more than twenty feet in total length shall be exempt from this section but shall meet all other provisions of this chapter except Section 18.43.040 regarding Opacity.

C. The ASCC shall have the authority to review existing fences and fence permit applications under the following conditions:

1. Upon referral from Town Planning staff, pursuant to Section 18.43.080.A.

2. When acting on architectural review and site development permits, the ASCC shall consider and may require modifications to existing fencing on a property if the ASCC determines that there is a substantial modification to an existing residence or the site improvements of the property. If, in these situations, the ASCC determines that the existing fencing is not in conformity with current fencing standards, the ASCC may require conformity with the fencing regulations. In requiring conformity, the ASCC shall make the finding that the modified or replacement fencing will not result in an adverse effect on neighboring properties and reasonably adheres to the purposes of this chapter.

3. When a fence permit application demonstrates that the proposed fence cannot conform to the regulations given the conditions on the parcel, the ASCC may grant relief from the fence regulations. In making such determination, the ASCC shall as much as reasonably possible ensure the proposed fence achieves the purpose and principles of this chapter set forth in Section 18.43.010.

4. When a fence permit application is submitted for a proposed fence in the Mountainous-Residential (M-R) or Open-Area (O-A) zoning districts, the ASCC shall, with input from the Conservation Committee, make a determination of compliance based on the purposes of this chapter and the Fence Design Guidelines adopted by the Town Council.

D. When a portion of a fence exceeding twenty five percent of the total length of fencing within required yards on a property is damaged or voluntarily removed, any replacement fencing of that portion shall conform to the fence regulations pursuant to a fence permit.

4. Amendment of Code. Subsection C. of Section 18.54.020 [Measurement of height] of Chapter 18.54 [Building Bulk] of Title 18 [Zoning] of the Town of Portola Valley Municipal Code is hereby amended to read as follows:

C. Fence height measurement is subject to the provisions set forth in Section 18.43.030.A.

5. Repeal of Code. Subsections A and B of Section 18.42.040 [Exceptions to Requirements – Fences and walls] of Chapter 18.42 [Accessory Structures] of Title 18 [Zoning] of the Portola Valley Municipal Code is hereby repealed.

6. Repeal of Code. Subsection C of Section 18.54.020 [Measurement of height] of Chapter 18.54 [Building Bulk] of Title 18 [Zoning] of the Portola Valley Municipal Code is hereby repealed.

7. Environmental Review. This Ordinance is categorically exempt (Class 3) under the California Environmental Quality Act.

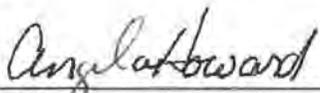
8. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or the applicability of this ordinance to other situations.

9. Effective Date; Posting. This ordinance shall become effective thirty (30) days after the date of its adoption and shall be posted within the Town of Portola Valley in three (3) public places.

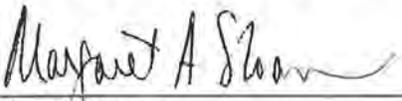
INTRODUCED:           October 26, 2005  
PASSED:               November 9, 2005  
AYES:                 Mayor Davis, Vice Mayor Toben, Councilmember Driscoll,  
                            Councilmember Comstock and Councilmember Merk  
NOES:                 None  
ABSTENTIONS:       None  
ABSENT:              None

By:   
Mayor

ATTEST

  
Town Clerk

APPROVED AS TO FORM:

  
Town Attorney

**§ 153.051 FENCES, WALLS, GATES, PYLONS, AND BERMS.**

*(A) Permits required.*

(1) No fence or wall shall be erected without the prior issuance of a permit from the Town. ('75 Code, § 9-2.207)

(2) A building permit and/or a fence permit shall be required for all fences, walls, gates, pylons, and berms. All vehicular gates and entry features require review by the Architectural and Site Review Administrator.

*(B) Residential zoning districts.* The following regulations and design guidelines were created to preserve the beauty and rural quality of the Town and ensure the safety of all residents. Open fencing and gates are strongly encouraged to maintain the rural atmosphere of the Town. In all residential and open space zones the following regulations and design standards shall apply to all fences, walls, gates, pylons, and berms.

(1) Open fences, which meet all of the provisions of divisions (4) through (13) below, may be approved by the Planning Director, without review by the Architectural and Site Review Administrator.

(2) Fences and walls located greater than 50 feet (30 feet in the R-1 zone) from the right-of-way of adjacent roadways and which meet all of the provisions of divisions (4) through (13) below, may be approved by the Planning Director unless an adjacent property owner requests review by the Architectural and Site Review Administrator. At least ten days prior to the decision, notice of the pending decision shall be provided to any owner of property adjacent to the proposed fence, including lots located across an abutting public or private roadway.

(3) All other fences, walls, gates, and berms which meet the provisions of divisions (4) through (13) below may be approved by the Architectural and Site Review Administrator. Exceptions to the standards set forth in this section may be granted by the Architectural and Site Review Administrator upon a finding that such fence, wall, gate, pylon, or berm would be consistent with the rural character of Woodside and with the existing fencing of the subject lot and neighboring properties. No exception may be granted, however, which allows a fence, wall, or berm to exceed six feet in height.

(4) The design of all fences, walls, gates, pylons, and berms shall be rural in character and shall emphasize the use of natural materials and colors. Open fencing is highly preferred. Open gates are required. Unpainted or stained white, brown or gray wood; welded or woven wire and wood posts; natural stone and/or brick construction are preferred. Chain link fencing, except for athletic sport fencing, is not permitted within 50 feet of the right-of-way of an adjacent roadway, unless specifically approved by the Architectural and Site Review Administrator.

(5) (a) All fences, walls, gates, and pylons shall meet the standards in the following chart. The maximum overall height limit for fencing and gates is six feet, except athletic court fencing, which may be 12 feet in height. Fences, walls, gates, and pylons may not be located in the public or private right-of-way or within any trail easement or other easement precluding their construction.

<i>Fencing Style</i>	<i>Minimum setback from edge of adjacent driving surface (public)</i>	<i>Minimum setback from edge of adjacent driving surface (private)</i>
Open fences, less than 4 feet tall	10 feet	5 feet
Open fences, between 4 feet and 6 feet tall	20 feet	10 feet
Solid fences and walls, less than 4 feet tall	10 feet	5 feet
Solid fences and walls, between 4 feet and 6 feet tall	50 feet (30 feet in R-1 zoning)	50 feet (30 feet in R-1 zoning)

Vehicular gates	25 feet, with gates in the open position	25 feet, with gates in the open position
Athletic court fencing, where allowed	50 feet	50 feet

(b) BERMS. Berms shall vary in height and width to create a natural appearance, consistent with surrounding natural contours, and must be planted with native drought tolerant plants. The top of the berm shall slope gradually to approximate natural slopes and to accommodate planting of vegetation. The slope of the berm must not exceed two feet horizontal to one foot vertical and fills in excess of three feet require certification of design by a civil engineer.

(6) Notwithstanding the standard set forth above, all fences, walls, gates, pylons or berms shall be located to accommodate existing equestrian trail usage such that a minimum of 15 feet of usable trail width remains, unless the Trails Committee concurs that a lesser width is adequate for safe equestrian movement.

(7) The vertical dimension of any fence or wall shall be measured from the average elevation of the finished lot grade on both sides of any such fence or wall. The maximum height at any point on a stepped fence shall not exceed the limitations contained in this section.

(8) Screen plantings required as a condition of approval for any fence or wall shall be maintained by the property owner in good condition.

(9) Corral and pasture fences shall not be less than four feet in height, unless other requirements are prescribed by Chapter 115 of this Code, relating to stables, or any other Town law applicable to the keeping of livestock, in which case such other height requirements shall prevail.

(10) No fence, wall, gate, pylon or berm shall be permitted where, in the opinion of the Town Engineer, the additional height would obstruct the sight distance or create a potential public safety hazard. Additionally, the Town Engineer may require that fences, walls, gates, pylons, or berms erected or planted prior to the effective date of this chapter be reduced in height or removed where the Town Engineer determines that a public safety hazard exists.

(11) No fence, wall, gate, pylon, or berm shall be constructed within a stream corridor, as defined in § 153.206, unless the Town Engineer finds that such fencing will not impede drainage flow and the Planning Director finds that adequate provision is made for the passage of wildlife.

(12) (a) Fences, gates, pylons, and berms shall not be constructed within any public right-of-way. Retaining walls may be constructed in a public right-of-way only if each of the following three conditions are met:

1. The wall is necessary for the construction and maintenance of the road, trails, paths, drainage, or public utilities, or the entire wall will be located below the driving surface of the adjacent roadway, or the wall is necessary for slope stability or to access a property; and

2. The Town Engineer finds that the wall will not negatively impact the safety and functionality of the right-of-way, recognizing that the purpose of the public right-of-way is for both travel and for utilities; and

3. Prior to issuance of a permit for the requested improvement, an encroachment agreement shall be recorded. The agreement shall contain language requiring the property owner benefiting from the improvement to indemnify and defend the Town from any claim that may arise in connection with the encroachment. The agreement shall also include language that authorizes the Town to require removal of the improvement at the benefiting property owner's sole cost and expense.

(b) Fences, walls and berms shall not be constructed within any private road right-of-way. Gates, pylons, and appurtenances, that run from such gates and pylons to the edge of private right-of-way, may be constructed in a private right-of-way provided a use permit is granted by the Planning Commission according to §§ 153.245 through 153.255, and provided the following findings are made (in addition to the findings required by § 153.251):

1. The private road right-of-way is not a through road;

2. The private road right-of-way does not serve more than ten residential lots;

3. An adequate turnaround will be provided;

4. The gate and/or gate appurtenances will not constitute a traffic safety hazard;
5. The private road right-of-way is privately owned by property owners adjacent to it,
6. All property owners who have the right to use the private road right-of-way have given their written consent to the use permit application;
7. Access will be provided for emergency vehicles;
8. The proposed gate and its appurtenances conform to applicable Town codes;
9. Maintenance of the gate and its appurtenances is provided for in a road maintenance agreement executed and recorded by all property owners who have joined in the use permit application; and
10. The gate apparatus will be operable from vehicles by handicapped persons.

(13) Notwithstanding other provisions of this chapter, replacement of existing fences or walls shall be permitted if the replacement is of a like material, no greater in height, and no closer to adjacent property lines than the existing fence or wall, or if replaced by an "open" fence meeting all of the provisions of this section, except that replacement with chain link fencing is subject to all provisions of this section. Repair of short sections (less than 100 feet, not to exceed 50% of that segment of fencing over a 12-month period) of existing fences and walls does not require a permit. Replacement of existing gates, pylons, and berms shall require a fence and/or building permit and are subject to all review provisions of this section, as are fences and walls which are replaced other than as specified above. Replacement of any of the above, however, shall be prohibited if the Town Engineer determines that a public safety hazard exists.

('75 Code, § 9-2.208)

(C) *Community Commercial District.* In the CC District fences and walls exceeding six feet in height shall be regarded as structures and shall not be erected without first obtaining the approval of the Planning Director and the issuance of a building permit from the Town.

('75 Code, § 9-2.209)

(Ord. 1980-291, effective 9-11-80; Am. Ord. 1986-334, effective 5-8-86; Am. Ord. 1989-391, effective 9-14-89; Am. Ord. 1992-454, effective 3-13-92; Am. Ord. 1999-494, effective 3-25-99; Am. Ord. 2006-530, effective 6-8-06; Am. Ord. 2012-554, effective 8-23-12; Am. Ord. 2015-569, effective 1-7-16)

## TOWN CODE AND DOCUMENT REFERENCES TO OPEN AND WILDLIFE FRIENDLY FENCING



### Town of Woodside

2955 Woodside Road  
Woodside, California 94062  
650 851.6790  
www.woodsidetown.org

#### **2012 General Plan:**

**General Plan Strategy OS1.1.b:** During the review of development proposals, ensure that impacts are minimized by: (1) Ensuring that fencing is wildlife friendly and that it does not impact or impede wildlife corridors.

**General Plan Strategy OS1.2.1:** Give special attention to preserving, protecting and enhancing wildlife corridors in the review of all applications for development, with special attention to riparian corridors and physically linking open spaces to form a network of open space.

**General Plan Strategy CV1.3.4:** Avoid impacts to habitat the wildlife corridors. Structures and fences should be sited to avoid fragmentation of habitat areas, obstructions to linear corridors, and other adverse impacts.

**General Plan Strategy CV1.9.d:** Promote and encourage individual initiative by local residents and property owners to carry out specific efforts for the protection of the environment, such as: use of wildlife friendly fencing.

#### **Woodside Municipal Code, Zoning Ordinance:**

**WMC, Section 153.051.B (Fences):** Open fencing and gates are strongly encouraged to maintain the rural atmosphere of the Town.

**WMC, Section 153.051.B. 11 (Fences):** No fence, wall gate, pylon, or berm shall be constructed within a stream corridor, as defined in Section 153.206, unless the Town Engineer finds that such fencing will not impede drainage flow and the Planning Director finds that adequate provision is made for the passage of wildlife.

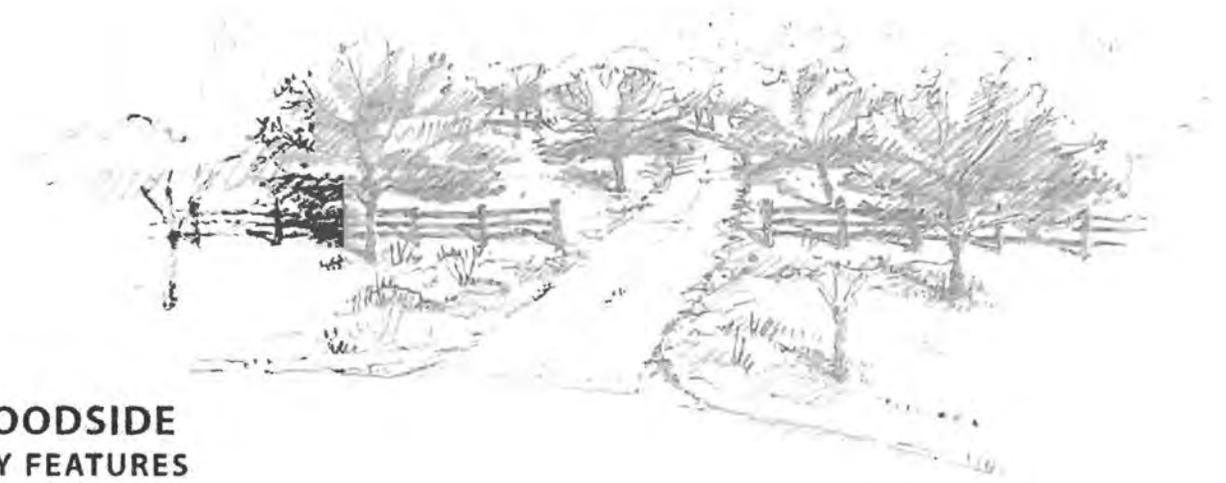
**WMC, Section 153.051, Section 4, Landscape Elements, Fences (Design Review Evaluation Criteria):** Whether the fencing is open in design and compatible with the rural character of Woodside.

#### **Residential Design Guidelines:**

**Residential Design Guidelines, Landscape Elements, Fences, 3.d (Design):** Open Design: Fencing should be visually open. Fencing that allows for wildlife migration, such as open rail, is preferred fencing that is visually open, such as wood posts and welded wire is encouraged is wildlife friendly fencing is not feasible.

**Residential Design Guidelines, Landscape Elements, Fences, 3.e (Perimeter Fencing):** Limit the use of perimeter fencing (fencing along property lines). Perimeter fencing, if used, should be low in height and wildlife friendly, such as open rail.

*This Page  
Intentionally  
Left Blank*



**TOWN OF WOODSIDE  
FENCES & ENTRY FEATURES**

Adopted, February 9, 2016

## **INTRODUCTION**

Fences & Entry Features is an excerpt of the Town of Woodside's Residential Design Guidelines, adopted July 10, 2012.

The goals of this document is to advise homeowners and designers about ways to locate and design fences and entry features that maintain the character of the community and the natural setting.

Woodside Municipal Code Section 153.051, Fences, Walls, Gates, Pylons, and Berms, describes the quantitative development standards and permitting processes for fences and entry features; while this publication guides the qualitative aspects: siting, intensity, design, scale, and protection of wildlife corridors.

This publication provides design guidelines and visual examples. The specific development standards for fences and entry features are contained in Woodside Municipal Code Section 153.051.

The Woodside community seeks to balance the quantitative and qualitative aspects of development in a way which acknowledges that protection of the natural environment is paramount.

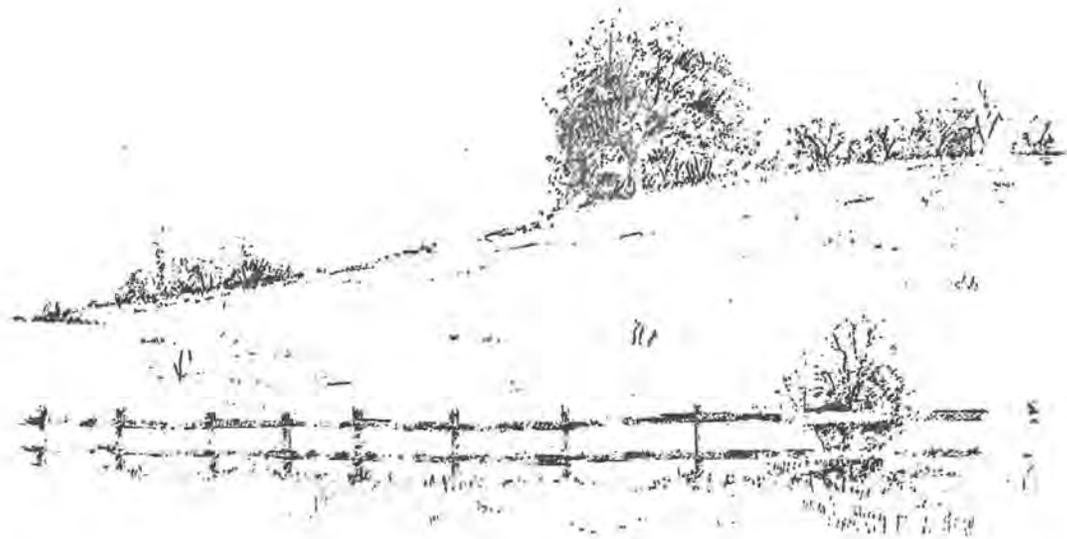
As with Town architectural style, the design of fences and entry features should strive for simplicity, restrain the use of excessive detail, and be compatible with the Town's rural vernacular.

## FENCES

*Fencing shall be open in design and compatible with the rural character of Woodside (ref. WMC 153.051).*

Woodside's rural character includes views of oak woodlands, mixed evergreen forests, meadows, the Western Hills, and the valley floor. The location and design of fencing is critical in maintaining these views. Fences also impact properties as seen from public roadways. Low, open design fences contribute to the rural experience of Woodside.

### 2 Fences



#### **a. Minimize fencing**

Minimize fencing to the greatest extent possible.

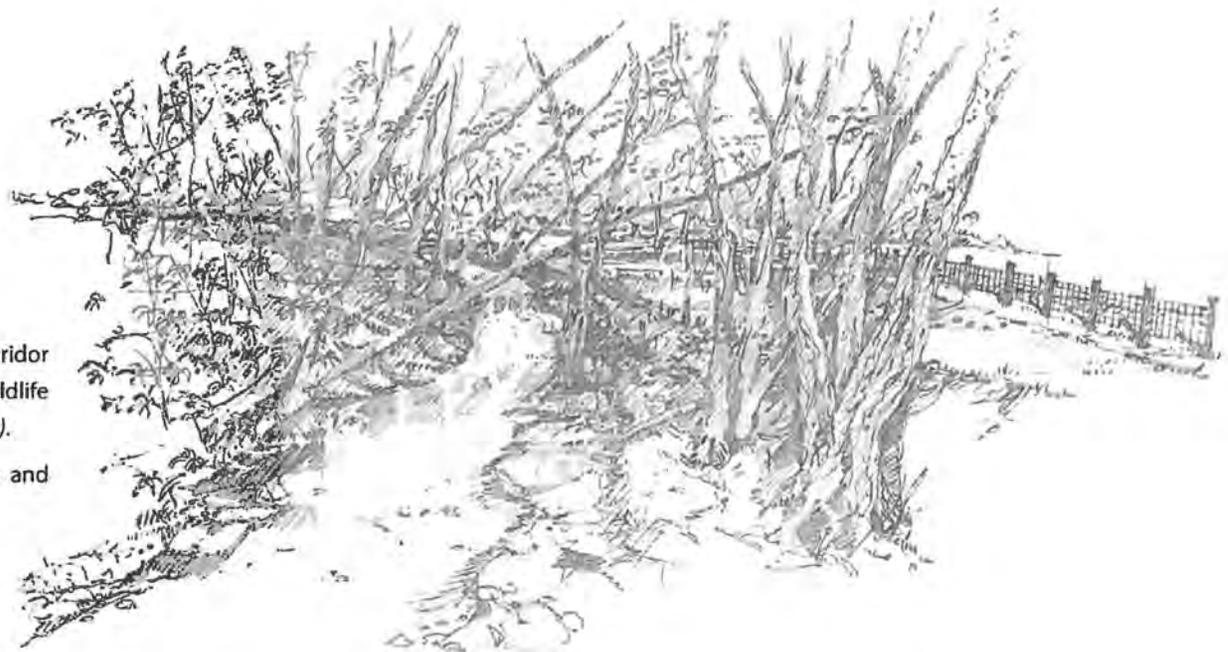


#### b. Fence siting

Locate fencing at least the required setback from the road and blend it into the existing landscape (ref. WMC 153.051). Avoid creating fenced “tunnels”, particularly along equestrian trails.

#### c. Natural feature protection

- i. Locate fencing outside of stream corridor setbacks, riparian areas, and any known wildlife habitats and migratory corridors (ref. GP 051.2).
- ii. Locate fencing to avoid impacts to trees and other natural features (ref. WMC 153.170).





**d. Design**

- i. Open design: Fencing should be visually open. Fencing that allows for wildlife migration, such as open rail, is preferred. Fencing that is visually open, such as wood posts and welded wire is encouraged if wildlife friendly fencing<sup>1</sup> is not feasible.
- ii. Fence materials: Rural styles, those that emphasize the use of natural materials such as wood, wood posts and welded wire, natural stone or brick, and which utilize natural colors, such as brown, grey, or green, are strongly encouraged. Other types of fencing, such as chain link, stucco, brick, and solid walls are strongly discouraged.

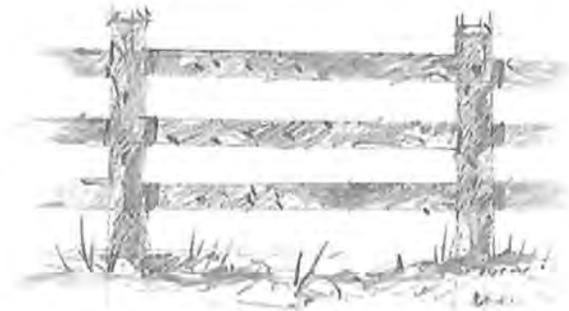
Figure 5



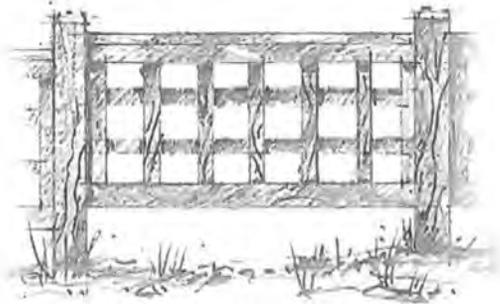
Wood "x" mesh



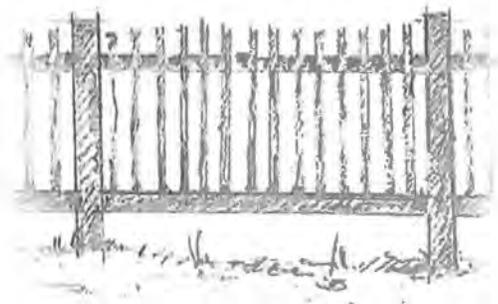
Wood post and wire



Split 3 rail



Wood post and grid



Vertical grape stake



Wood post and wire mesh

8 fences

**e. Perimeter fencing**

Limit the use of perimeter fencing (fencing along property lines). Perimeter fencing, if used, should be low in height and wildlife friendly, such as open rail (ref. GP OS1.2).





#### f. Enclosure fencing

- i. Locate security and garden enclosure fencing away from the property lines and minimize its visibility.
- ii. Screen sport courts from public view using landscape screening and/or fencing that blends with the natural color palette. Sport courts should be enclosed with wood and wire fencing, not chain link. Sport courts may be screened from public view with landscaping.

10 | PAGE

#### g. Deer fencing

The use of enclosure fencing, visually open but not wildlife friendly, may be considered for plant cultivation. This type of fencing should be limited to the area within the building setback envelope. Deer fencing around vineyards, orchards, and other agricultural uses may be appropriate outside of the building setback area (*ref. WMC 153.051*).





**h. Livestock fencing**

Livestock related facilities, within a portion of a property, lend themselves to the use of fencing that is simple, understated, and constructed of natural materials (ref. WMC 153.051).

**ENTRY FEATURES**

*The design of entry features shall be simple, modest, and understated.*

**a. Siting**

Locate entry features away from the road, and integrate them into the existing landscape. Locate gates and other entry features farther away from the road to reduce visibility (ref. WMC 153.051).





**b. Design**

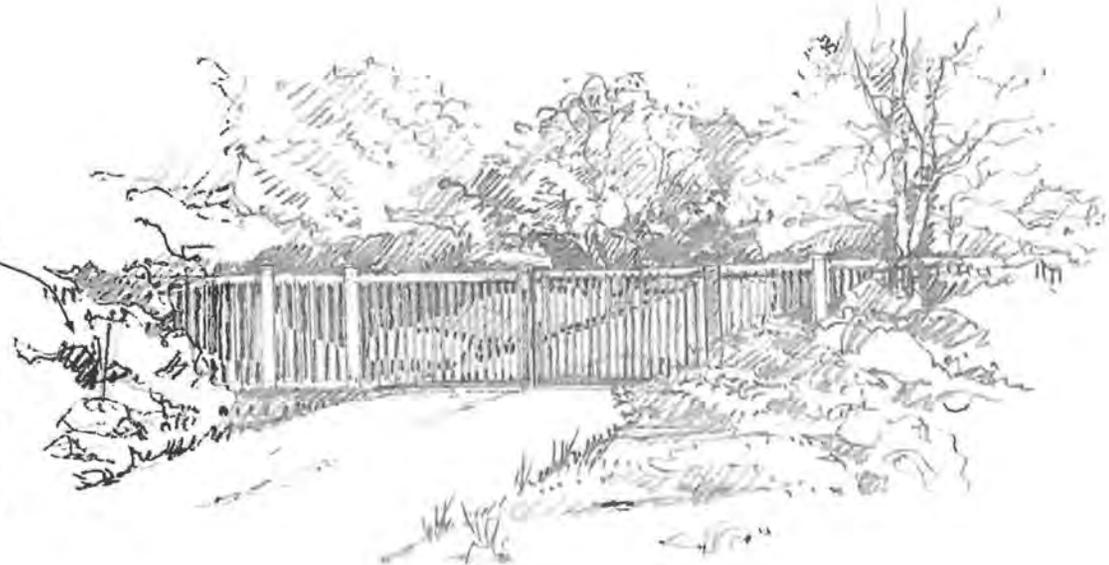
Design gates, pylons, and attached fencing as follows: (ref. WMC 153.051)

- i. Gates and wing walls should be open in appearance.
- ii. Rural styles, those which emphasize the use of natural materials such as wood, wood posts and welded wire, natural stone or brick, and utilize natural colors are strongly encouraged. Stucco and solid walls are discouraged.
- iii. Rural design should take precedence over elaborate entry features of a particular architectural style.
- iv. Pylons and wing walls should provide an unobtrusive transition between the adjacent fencing and the gate.
- v. Locate gate operating mechanisms to the inside of gates, whenever feasible.

**c. Landscape screening**

Screen mechanical and utility equipment by using natural groupings of native plantings. Screening is particularly important for up-sloping driveways where the view from the road has greater visual prominence (ref. WMC 153.051 & WMC 156.050.B.3).

Gate mechanical hidden by landscaping.





**1. WILDLIFE FRIENDLY FENCING DESIGNS:**

*Numerous citations in the Woodside General Plan and Municipal Code encourage wildlife friendly fencing. Some ways to accomplish this include:*

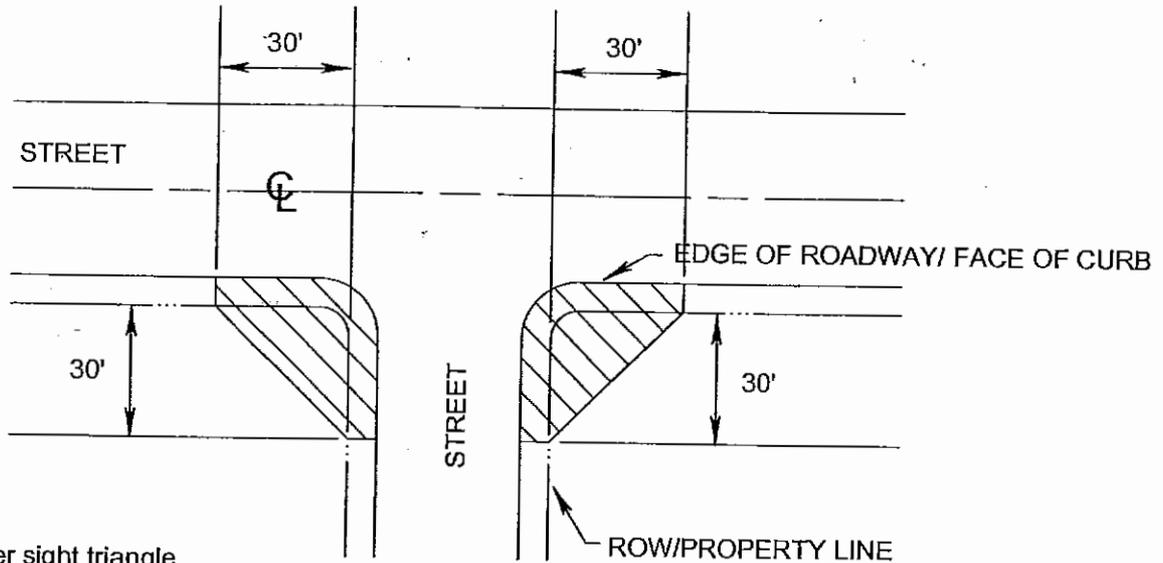
- a. Limiting fence height to 4 feet (which is low enough for deer & fawns to jump);
- b. Creating breaks in fencing; and,
- c. Creating periodic openings at the bottom of wood mesh fences, or installing subterranean, small diameter culverts (i.e., 6" minimum) which allow small wildlife to pass.

FENCE / WALL / GATE DEVELOPMENT STANDARDS

	Height	Minimum Setbacks from Driving Surface of Road		ASRA Review Required**
		Public Road	Private Road	
<b>Open Fences</b>	4 feet or under 4+ feet to 6 feet	10 feet 20 feet	5 feet 10 feet	
<b>Solid Fences***</b>	4 feet or under 4+ feet to 6 feet	10 feet 50 feet (30 feet in R-1 Zone)	5 feet 50 feet (30 feet in R-1 Zone)	X
<b>Walls***</b> (including retaining walls)	4 feet or under 4+ feet to 6 feet	10 feet 50 feet (30 feet in R-1 Zone)	5 feet 50 feet (30 feet in R-1 Zone)	X
<b>Entry Features</b> (gates must be 40% open)	Gates, 6 feet maximum	25 feet (plus length of gate if gates swing outward)	25 feet (plus length of gate if gates swing outward)	X
<b>Athletic Court Fences</b>	12 feet maximum	<b>Front</b> (or property line that is adjacent to a road): 50 feet <b>Side/Rear:</b> 15 feet	<b>Front</b> (or property line that is adjacent to a road): 50 feet <b>Side/Rear:</b> 15 feet	
<p>* All fences, walls, gates, pylons, and berms must be located on private property except as allowed per WMC 153.051.B1 12, and shall not be allowed within any trail easement or other easement precluding their construction.</p> <p>** Pursuant to WMC 153.221(B), the Town may send a project to ASRA or ASRB upon its judgment that the project may have a significant effect upon the aesthetic or functional character of the Town.</p> <p>*** Solid fences and walls located greater than 50 feet (30 feet in the R-1 zone) from the right-of-way of adjacent roadways. Adjacent neighbors, including across the adjacent roadways, will be notified and will have 10 days to request ASRA review.</p>				

*This Page  
Intentionally  
Left Blank*

# CORNER SIGHT TRIANGLE



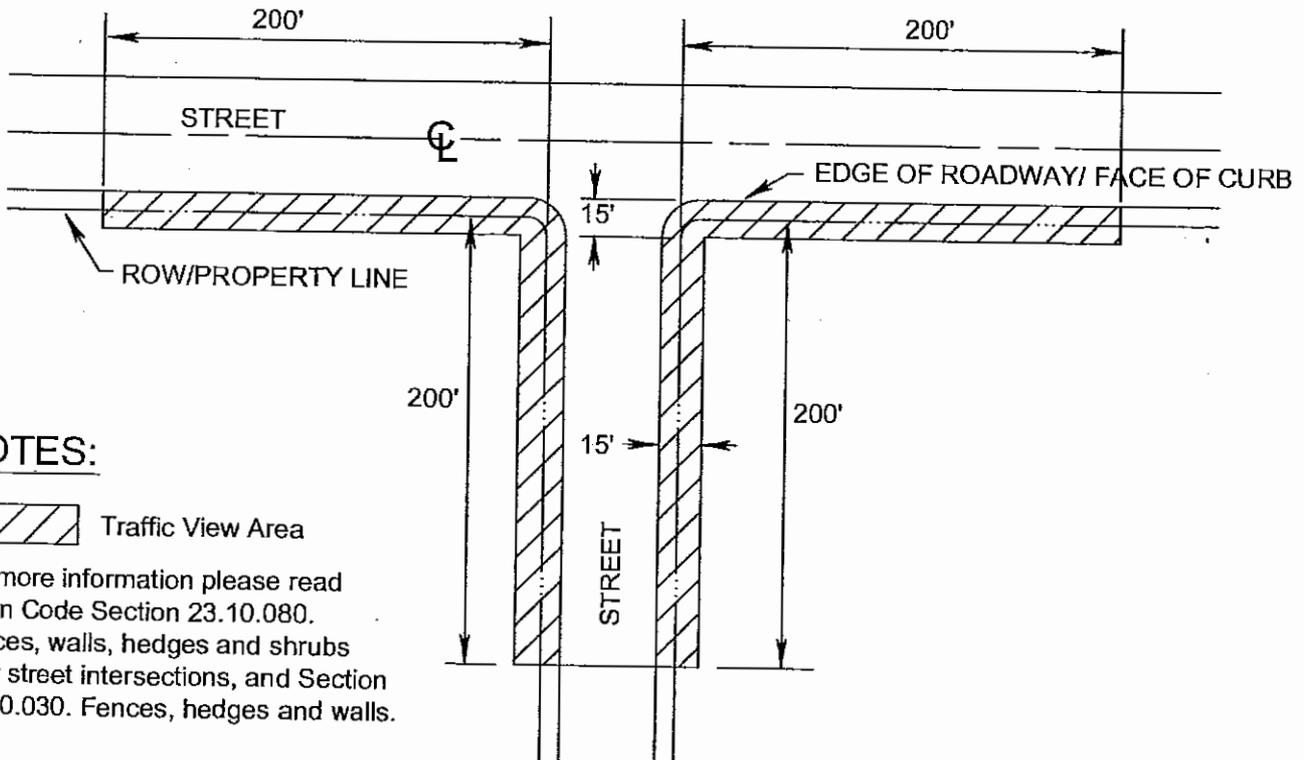
**NOTES:**

 Corner sight triangle

For more information please read Town Code Section 26.10.065. Obstruction at corners of intersecting streets.

NOT TO SCALE

# TRAFFIC VIEW AREA



**NOTES:**

 Traffic View Area

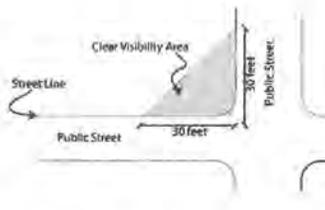
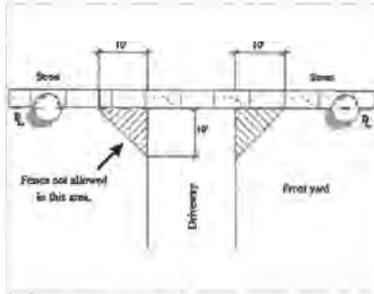
For more information please read Town Code Section 23.10.080. Fences, walls, hedges and shrubs near street intersections, and Section 29.40.030. Fences, hedges and walls.

NOT TO SCALE

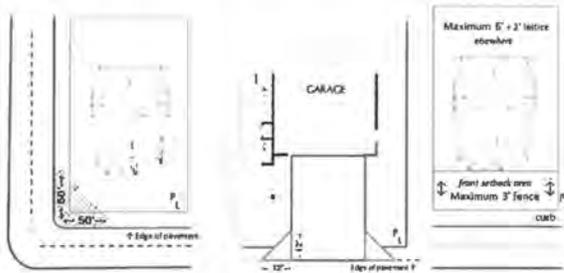
APPROVED BY <i>Kevin Refan</i>	DATE JUNE 2004		SIGHT TRIANGLE AND TRAFFIC VIEW AREA	STD. PLAN NO.
TOWN ENGINEER				232

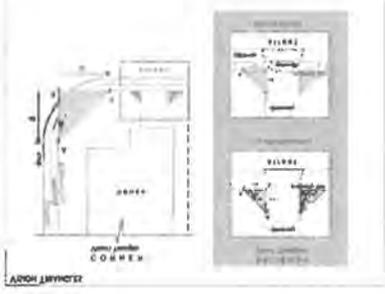
***This Page  
Intentionally  
Left Blank***

## Summary of Front Yard Fence Height Regulations of Area Jurisdictions

Jurisdiction	Regulation						
Atherton	<p>Section 17.46.030</p> <p>At front lot property line or along public streets: 6 feet At street intersections within clear visibility area: 3 feet</p> <p>“Clear visibility area” means a triangular area bounded on two sides by street lines extending a distance of thirty feet from any street corner measured along the curb, gutter, or edge of pavement.</p> 						
Campbell	<p>Section 21.18.060</p> <table border="1"> <thead> <tr> <th>Height</th> <th>Required Front Setback</th> </tr> </thead> <tbody> <tr> <td>&lt; 3.5 feet</td> <td>0 feet</td> </tr> <tr> <td>3.5 – 6 feet</td> <td>15 feet</td> </tr> </tbody> </table> <p><u>Driveways.</u> No fence wall, lattice or screen over three and a half feet shall be allowed within the triangular area formed by measuring ten feet along the street property line and ten feet along the driveway from their "extended" intersection and connecting these two points.</p> 	Height	Required Front Setback	< 3.5 feet	0 feet	3.5 – 6 feet	15 feet
Height	Required Front Setback						
< 3.5 feet	0 feet						
3.5 – 6 feet	15 feet						
Cupertino	<p>Section 19.48.030</p> <p>Maximum height in front setback area: 3 feet</p>						
Los Altos	<p>Section 10-2.2601(A)</p> <p>No fence located within the required front yard setback and no fence located within five feet of the exterior side property line of a corner lot shall exceed four feet in height.</p>						

Los Altos Hills	Section 10-1.507	
	Maximum height within front setback*: Open fence: 4.5 feet Solid Fence: 3.0 feet *Requires min 30' setback from centerline of adjacent right-of-way	Minimum setback for 6-foot fence: Open fence: 45 feet Solid fence: 60 feet
Milpitas	Section XI-10-54.10 Maximum height in front setback: 3.5 feet	
Monte Sereno	Section 10.06.130 Maximum height in front setback: 3 feet	
Mountain View	Maximum height in front 20 feet of property: 3 feet	
Palo Alto	Section 16.24.020 Maximum height in front and street-side setbacks: 4 feet	
Portola Valley	Section 18.43 Maximum height along front and street-side property line: 4 feet, with requirement to be at least 50% opacity  Front setback requirements based on minimum lot size requirement of zoning district: < 1 acre = 0 feet, domestic or horse fence 1 acre = 25 feet, domestic or horse fence 2 acres = 0 feet, only horse fences allowed in setbacks	
San Jose	Section 105.2 Maximum Height in front setback: 3 feet	
Santa Clara	Maximum Height within 15 feet of back of sidewalk: 3 feet	
Santa Clara County	4.20.050 Maximum Height within 20 feet of front property line based on zoning district. Urban Residential Districts: 3 feet Rural Districts: 6 feet, 3 feet within corner sight distance triangle at driveway	

Saratoga	<p>Maximum Height in front and street-side setbacks: 3 feet</p> 
----------	--

Sunnyvale	<p>Section 19.48 Maximum Height in front setback: 3.5 feet</p> 
-----------	--

Woodside	Section 153.051		
	Fencing Style	Minimum setback from edge of adjacent driving surface (public)	Minimum setback from edge of adjacent driving surface (private)
	Open fences, <4 feet	10 feet	5 feet
	Open fences, 4-6 feet	20 feet	10 feet
	Solid fence, < 4 feet	10 feet	5 feet
Solid fence, 4-6 feet	50 feet 30 feet in R-1 zone	50 feet 30 feet in R-1 zone	

***This Page  
Intentionally  
Left Blank***

**Hillside Development Standards and Guidelines Pertaining to Fences, Wildlife Habitats, and Migration Corridors**

Chapter	Section	Title	Description
6.A	Site Elements	Fences and Walls	<p>* The objective of the following standards and guidelines is to limit six-foot high fences and deer fencing to those areas where they are absolutely necessary. It is recognized that fencing around limited landscaped areas is sometimes necessary for security and to provide yard areas for and to protect children and pets. However, the cumulative impact of six-foot high chain link fences and solid fences and walls surrounding hillside properties has a significant impact on the movement pattern of wildlife and on the open rural character of the hillsides.                      PIC: Rural character allows wildlife to pass through.</p> <p><b>Standards:</b></p> <ol style="list-style-type: none"> <li>1. The use of fences and walls shall be minimized and located so that natural landforms appear to flow together and are not disconnected. The primary emphasis shall be on maintaining open views, protecting wildlife-corridors, and maintaining the rural, open, and natural character of the hillsides.</li> <li>2. Fences and walls shall not exceed a height of six feet measured from the highest side of the fence or wall and should be limited to those areas where fences and walls of this height are necessary for protection of ornamental landscaping, security, or play areas.</li> <li>3. Solid fencing materials shall not be used unless needed for privacy.</li> <li>4. Deer fencing up to a maximum height of eight feet shall be limited to areas around ornamental landscaping. Larger areas shall not be enclosed unless specific reasons for keeping deer out have been demonstrated to the satisfaction of the decision making body.</li> <li>5. Fences shall not be allowed in areas that would impede the movement of wildlife as determined by the decision making body.</li> <li>6. Temporary construction fencing shall be limited to the building envelope or shall be elevated to allow for movement of small animals.</li> </ol> <p><b>Guidelines:</b></p> <ol style="list-style-type: none"> <li>1. Wood rail-type fences and gates are preferred.</li> <li>2. Chain link fences are strongly discouraged.</li> <li>3. Chain link fencing should be coated with green, brown, or black vinyl or finish and shall be supported by a wood frame. Dark, painted metal poles may be required if deemed appropriate by the decision making body.</li> <li>4. Only open fencing should be located within 20 feet of a property line adjacent to a street.</li> <li>5. Fences should follow the topography.</li> </ol>
6.B	Site Elements	Driveway Entries	<p><b>Standards:</b></p> <ol style="list-style-type: none"> <li>1. Entryways shall be designed to blend with the natural environment and to maintain the rural character of the hillsides.</li> <li>2. Entry gates shall be set back from the edge of the adjacent street a minimum of 25 feet. A greater setback may be required when a gated entrance serves more than one house.</li> <li>3. Lighting fixtures at entryways shall direct light downwards and shall be designed so that no part of the light source is visible from the street.</li> <li>4. The property address shall be clearly displayed so that it is visible from the street at each driveway.</li> <li>5. Entry gates equipped with locking devices or electronic control switches shall be approved by the Santa Clara County Fire Department.</li> </ol> <p><b>Guidelines:</b></p> <ol style="list-style-type: none"> <li>1. Entryway gates and fencing should be of an open design.</li> <li>2. Entry gates that are monumental are strongly discouraged.</li> </ol>
6.C	Site Elements	Retaining Walls	<p><b>Standards:</b></p> <ol style="list-style-type: none"> <li>1. Retaining walls shall not be used to create large, flat yard areas. The limited use of retaining walls may be allowed when it can be demonstrated that their use will substantially reduce the amount of grading.</li> <li>2. Retaining walls that are visible from a public street shall have a veneer of natural stone, stained concrete, or textured surface to help blend the wall with the natural hillside environment and to promote a rural character.</li> </ol> <p><b>Guidelines:</b></p> <ol style="list-style-type: none"> <li>1. Retaining walls should not be higher than five feet. Where an additional retained portion is necessary due to unusual or extreme conditions (e.g., lot configuration, steep slope, or road design), the use of multiple-terraced, lower retaining structures is preferred.</li> <li>2. Terraced retaining walls should be separated by at least three feet and include appropriate landscaping.</li> <li>3. Retaining and planter walls should be provided with a landscaped setback or buffer of at least five feet adjacent to the street.</li> <li>4. Retaining walls should blend with the natural topography, follow existing contours, and be curvilinear to the greatest extent possible. Retaining walls should not run in a straight continuous direction for more than 50 feet without a break, offset, or planting pocket to break up the long flat horizontal surface.</li> <li>5. Landscaping should be provided adjacent to retaining walls and should include a combination of native trees and shrubs to screen the wall.</li> <li>6. Retaining walls should be constructed of permanent materials (stone, concrete, masonry block/brick) rather than wood.</li> </ol>



## VI. SITE ELEMENTS

### A. Fences and walls.

The objective of the following standards and guidelines is to limit six-foot high fences and walls and deer fencing to those areas where they are absolutely necessary. It is recognized that fencing around limited landscaped areas is sometimes necessary for security and to provide yard areas for and to protect children and pets. However, the cumulative impact of six-foot high chain link fences and solid fences and walls surrounding hillside properties has a significant impact on the movement pattern of wildlife and on the open rural character of the hillsides.



Rural character allows wildlife to pass through.  
**Do this**



Urban character  
**Don't do this**

### Standards:

1. The use of fences and walls shall be minimized and located so that natural landforms appear to flow together and are not disconnected. The primary emphasis shall be on maintaining open views, protecting wildlife corridors, and maintaining the rural, open, and natural character of the hillsides.
2. Fences and walls shall not exceed a height of six feet measured from the highest side of the fence or wall and should be limited to those areas where fences and walls of this height are necessary for protection of ornamental landscaping, security, or play areas.
3. Solid fencing materials shall not be used unless needed for privacy.



4. Deer fencing up to a maximum height of eight feet shall be limited to areas around ornamental landscaping. Larger areas shall not be enclosed unless specific reasons for keeping deer out have been demonstrated to the satisfaction of the decision making body.
5. Fences shall not be allowed in areas that would impede the movement of wildlife as determined by the decision making body.
6. Temporary construction fencing shall be limited to the building envelope or shall be elevated to allow for movement of small animals.

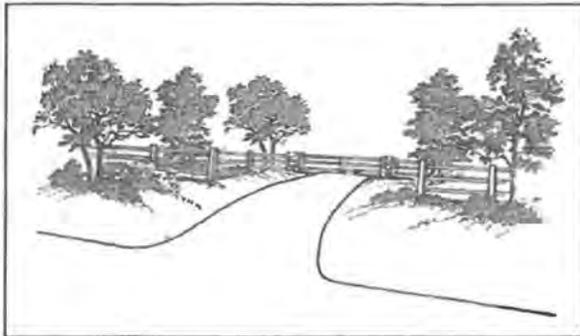
**Guidelines:**

1. Wood rail-type fences and gates are preferred.
2. Chain link fences are strongly discouraged.
3. Chain link fencing should be coated with green, brown, or black vinyl or finish and shall be supported by a wood frame. Dark, painted metal poles may be required if deemed appropriate by the decision making body.
4. Only open fencing should be located within 20 feet of a property line adjacent to a street.
5. Fences should follow the topography.

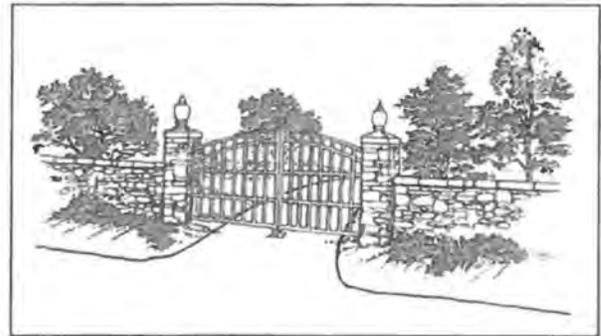
**B. Driveway entries.**

**Standards:**

1. Entryways shall be designed to blend with the natural environment and to maintain the rural character of the hillsides.
2. Entry gates shall be set back from the edge of the adjacent street a minimum of 25 feet. A greater setback may be required when a gated entrance serves more than one house.
3. Lighting fixtures at entryways shall direct light downwards and shall be designed so that no part of the light source is visible from the street.



Wood fences and gates are encouraged  
**Do this**



Monumental entry gates are strongly discouraged  
**Don't do this**

4. The property address shall be clearly displayed so that it is visible from the street at each driveway.



5. Entry gates equipped with locking devices or electronic control switches shall be approved by the Santa Clara County Fire Department.

**Guidelines:**

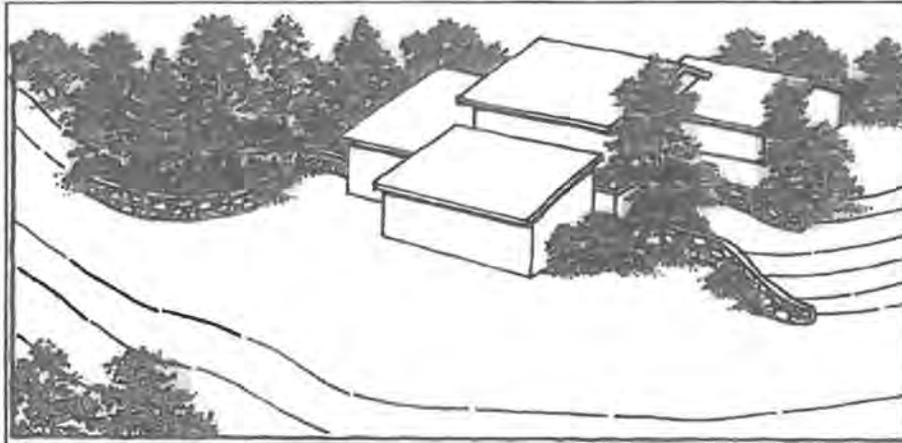
1. Entryway gates and fencing should be of an open design.
2. Entry gates that are monumental are strongly discouraged.



## **C. Retaining walls.**

### **Standards:**

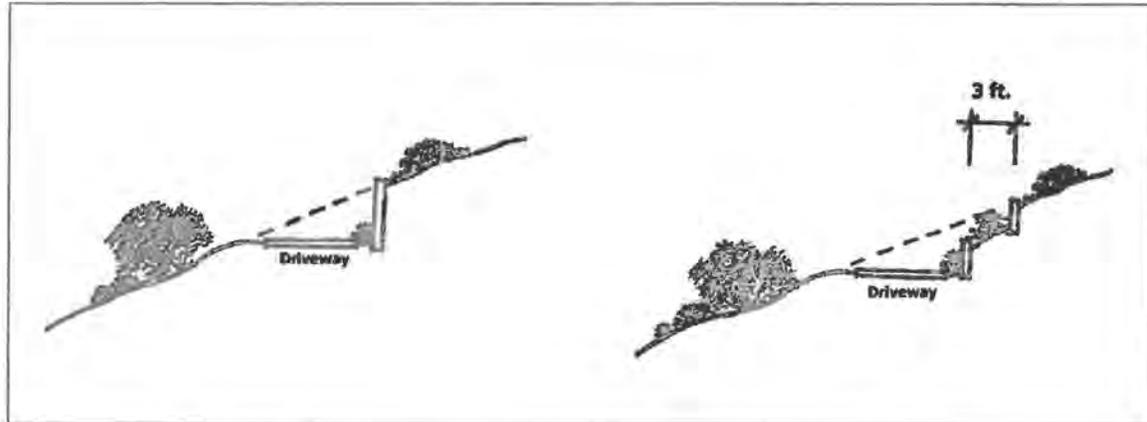
1. Retaining walls shall not be used to create large, flat yard areas. The limited use of retaining walls may be allowed when it can be demonstrated that their use will substantially reduce the amount of grading.
2. Retaining walls that are visible from a public street shall have a veneer of natural stone, stained concrete, or textured surface to help blend the wall with the natural hillside environment and to promote a rural character.



**Retaining walls blend with the natural topography**

### **Guidelines:**

1. Retaining walls should not be higher than five feet. Where an additional retained portion is necessary due to unusual or extreme conditions (e.g., lot configuration, steep slope, or road design), the use of multiple-terraced, lower retaining structures is preferred.
2. Terraced retaining walls should be separated by at least three feet and include appropriate landscaping.
3. Retaining and planter walls should be provided with a landscaped setback or buffer of at least five feet adjacent to the street.



**Don't do this**

**Do this**

4. Retaining walls should blend with the natural topography, follow existing contours, and be curvilinear to the greatest extent possible. Retaining walls should not run in a straight continuous direction for more than 50 feet without a break, offset, or planting pocket to break up the long flat horizontal surface.
5. Landscaping should be provided adjacent to retaining walls and should include a combination of native trees and shrubs to screen the wall.



**Landscaping used to screen and soften tall retaining wall**



4. Retaining walls should be constructed of permanent materials (stone, concrete, masonry block/brick) rather than wood.



**Retaining walls maintain rural character**



**Retaining walls maintain rural character**

## **D. Outdoor lighting.**

### **Standards:**

1. Outdoor lighting shall comply with the Town of Los Gatos Zoning Ordinance.
2. Lighting shall be the minimum needed for pedestrian safety, and shall be low level, directed downward, and shielded so that no bulb is visible and no light or glare encroaches onto neighboring properties.
4. Unshaded or nonrecessed spotlights are prohibited.
5. Lighting for purely decorative purposes is prohibited. Up-lighting of trees, lighting of facades and architectural features is prohibited.
6. Lighting for night use of outdoor game courts (e.g., tennis, paddle tennis, basketball, etc.) is prohibited.

Refer to the  
Town's  
Zoning  
Ordinance



**Inappropriate  
lighting fixture**

***This Page  
Intentionally  
Left Blank***

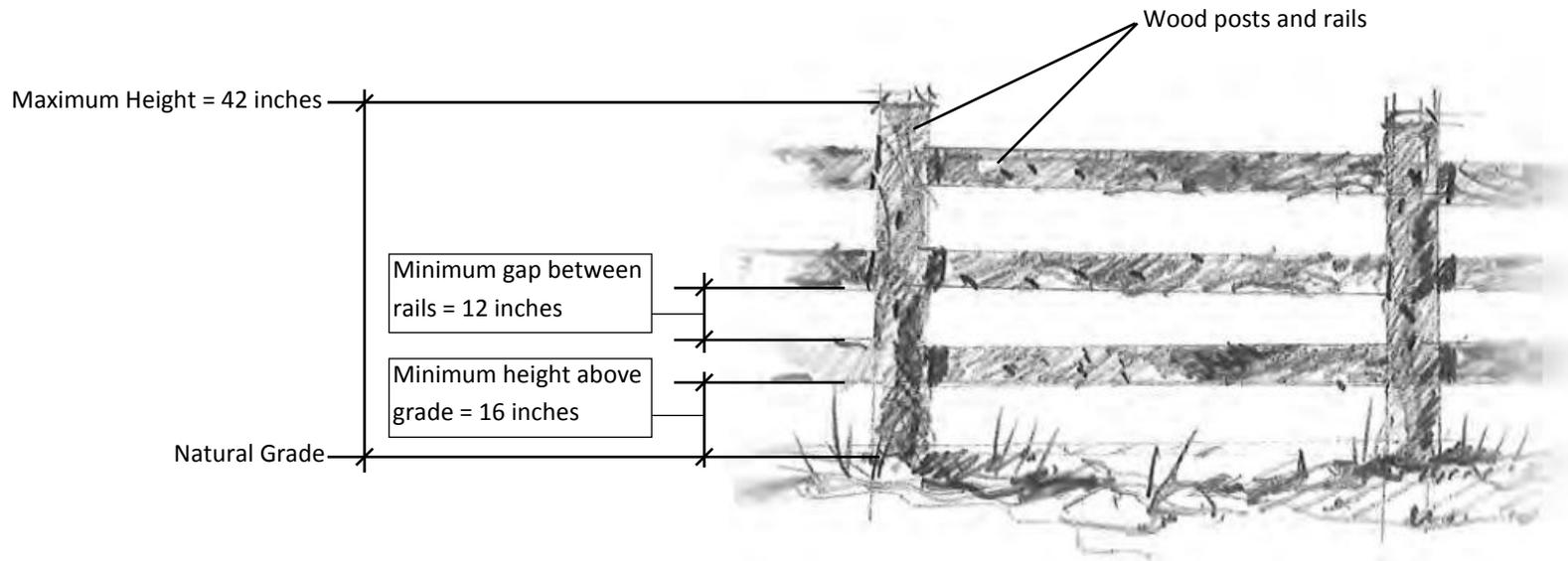
**General Plan Policies and Actions Pertaining to Fences, Wildlife Habitats, and Migration Corridors**

Element	Page	Theme	Under Goal	Title	Text
Land Use	LU-21	Wildlife Habitats		Policy LU-1.3	To preserve existing trees, natural vegetation, natural topography, riparian corridors and wildlife habitats, and promote high quality, well-designed, environmentally sensitive, and diverse landscaping in new and existing developments.
Land Use	LU-19	Conservation of Natural Environment		Hillside Specific Plan	Hillside Specific Plan The Hillside Specific Plan establishes land use policy for the Hillside Study Area, an area of mountainous terrain in the southeastern portion of the Town designated for Hillside Residential development. Adopted by Town Council in 1978, the Specific Plan establishes a series of policies and standards related to land use, facilities, services, circulation, fire protection, safety, and open space. These policies and standards are intended to prevent deficiencies in access to water and sewer services, ensure conservation of the sensitive natural environment, and address differences in Town and County land use regulations.
Community Design	CD-5	Fencing	Goal CD-3: To require utilities, landscaping and streetscapes to contribute to Los Gatos's high-quality character.	Policy CD-3.8	Solid fencing over 3 feet high shall be designed such that it does not isolate the structures from the street, or shall be set back and landscaped.
Community Design	CD-23	Fencing	Goal CD-15 To preserve the natural topography and ecosystems within the hillside area by regulating grading, landscaping, and lighting.	Policy CD-15.6	Fences shall be of open design unless required for privacy. A minimal amount of land shall be enclosed by fences over five feet high.
Community Design	CD-23	Wildlife Habitats	Goal CD-15 To preserve the natural topography and ecosystems within the hillside area by regulating grading, landscaping, and lighting.	Policy CD-15.4	Hillside landscaping shall be designed with the following goals in mind: a. Minimizing formal landscaping and hardscape. b. Siting formal landscaping and hardscape close to the house. c. Following the natural topography. d. Preserving native trees, native plant and wildlife habitats, and migration corridors.
Community Design	CD-23	Wildlife Habitats	Goal CD-15 To preserve the natural topography and ecosystems within the hillside area by regulating grading, landscaping, and lighting.	Policy CD-15.5	Review all development proposals to ensure appropriate grading and landscaping and minimal disruption of existing native plants and wildlife habitat.
Community Design	CD-28	Wildlife Habitats	Goal CD-17 To conduct careful review of new projects and provide clear direction to property owners, neighbors, and potential developers.	Action CD-17.6	Adopt guidelines for development review that protect: a. Rare plants and wildlife and their habitats. b. Natural watersheds. c. Historic sites. d. Aesthetically significant sites.
Community Design	CD-6	Wildlife Habitats	Goal CD-4 To preserve existing trees, natural vegetation, natural topography, riparian corridors and wildlife habitats, and promote high quality, well designed, environmentally sensitive, and diverse landscaping in new and existing developments.	Policy CD-4.1	Preserve the Town's distinctive and unique environment by preserving and maintaining the natural topography, wildlife, and native vegetation, and by mitigating and reversing the harmful effects of traffic congestion, pollution, and environmental degradation on the Town's urban landscape.
Community Design	CD-8	Wildlife Habitats	Goal CD-6 To promote and protect the physical and other distinctive qualities of residential neighborhoods.	Policy CD-6.4	New homes shall be sited to maximize privacy, livability, protection of natural plant and wildlife habitats and migration corridors, and adequate solar access and wind conditions. Siting should take advantage of scenic views but should not create significant ecological or visual impacts affecting open spaces, public places, or other properties.
Community Design	CD-21	Wildlife Habitats	Goal CD-14 To preserve the natural beauty and ecological integrity of the Santa Cruz Mountains and surrounding hillsides by regulating new homes.	Policy CD-14.1	Minimize development and preserve and enhance the rural atmosphere and natural plant and wildlife habitats in the hillsides.
Community Design	CD-22	Wildlife Habitats	Goal CD-14 To preserve the natural beauty and ecological integrity of the Santa Cruz Mountains and surrounding hillsides by regulating new homes.	Policy CD-14.5	Staff shall require adequate environmental analysis for projects in the hillside area to ensure appropriate consideration of potential environmental impacts associated with projects.
Community Design	CD-22	Wildlife Habitats	Goal CD-14 To preserve the natural beauty and ecological integrity of the Santa Cruz Mountains and surrounding hillsides by regulating new homes.	Policy CD-14.6	Preserve and protect the natural state of the Santa Cruz Mountains and surrounding hillsides by discouraging inappropriate development on and near the hillsides that significantly impacts viewsheds.
Community Design	CD-22	Wildlife Habitats	Goal CD-15 To preserve the natural topography and ecosystems within the hillside area by regulating grading, landscaping, and lighting.		
Opens Space, Park, and Recreation	DSP-11	Wildlife Habitats/ Migration Corridors	Goal OSP-2 To preserve open space in hillside areas as natural open space.	Policy DSP-2.1	Preserve the natural open space character of hillside lands, including natural topography, natural vegetation, wildlife habitats and migration corridors, and viewsheds.

**General Plan Policies and Actions Pertaining to Fences, Wildlife Habitats, and Migration Corridors**

Opens Space, Park, and Recreation	OSP-11	Wildlife Habitats/ Migration Corridors	Goal OSP-2 To preserve open space in hillside areas as natural open space.	Policy OSP-2.4	Adjacent parcels in the hillsides shall provide an uninterrupted band of useable segments for wildlife corridors and recreational use, if applicable.
Opens Space, Park, and Recreation	OSP-16	Wildlife Habitats/ Migration Corridors	Goal OSP-6 To consider the provision of open space in all development decisions within the Town.	Policy OSP-6.3	Consider effects on watershed areas, plant and wildlife habitats, and migration corridors before allowing development of any open space.
Environment and Sustainability	ENV-13	Wildlife Habitats	Goal ENV-4 To conserve wildlife populations.	Policy ENV-4.1	Public and private projects shall not significantly deplete, damage or alter existing wildlife habitat or populations.
Environment and Sustainability	ENV-13	Wildlife Habitats/ Migration Corridors	Goal ENV-4 To conserve wildlife populations.	Policy ENV-4.3	Maintain open space and native plant communities that provide habitat and migration corridors for native wildlife species.
Environment and Sustainability	ENV-13	Wildlife Habitats/ Migration Corridors	Goal ENV-4 To conserve wildlife populations.	Policy ENV-4.4	Identify and protect areas with significant habitat diversity or importance for wildlife, such as riparian corridors, wildlife movement corridors and large tracts of undeveloped land.
Environment and Sustainability	ENV-14	Wildlife Habitats/ Migration Corridors	Goal ENV-4 To conserve wildlife populations.	Policy ENV-4.11	Town staff shall review site plans to ensure that existing significant wildlife habitats and migration corridors are not adversely affected by either individual or cumulative development impacts.
Environment and Sustainability	ENV-14	Wildlife Habitats/ Migration Corridors	Goal ENV-4 To conserve wildlife populations.	Action ENV-4.1	Develop a Migration Corridor Plan for hillside areas in Los Gatos.

## Wildlife-friendly split-rail fence



**Wildlife-friendly fence** means a fence or other structure that permits any animal, regardless of size, to easily climb under, pass through, or jump over. A wildlife-friendly fence shall not exceed 42 inches in height above natural grade. A split-rail fence shall be constructed of wood and be at least 50% open in design. The minimum height above grade shall be 16 inches and shall have 12-inch spacing between rails wherever feasible.

***This Page  
Intentionally  
Left Blank***

## PLANNING COMMISSION

Received with July 26, 2017, Staff Report and Desk Item

## Sean Mullin

---

**From:** David Klinger <dave.klinger@sbcglobal.net>  
**Sent:** Friday, July 07, 2017 10:44 AM  
**To:** Sean Mullin  
**Subject:** Fence Heights

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

City of Los Gatos,

I am in the process of obtaining a fence height waiver from the Director of Community Development to replace an existing worn fence, sections of which are at six feet high, others at seven feet including a 1 foot lattice on top. I have obtained the approval of all adjacent neighbors and paid the \$233 waiver fee. I purchased the house two years ago, and was not advised at that time that the fence was non-compliant with city regulations.

I notice many of my neighbors in surrounding blocks have similar seven foot high fences. These seven foot fences are apparently very common. None of the neighbors I spoke with appear to have obtained a waiver or have a permit and would be required to pay the \$233 waiver application fee in order to become compliant with city regulations. I believe, without any proof, most of these neighbors would simply replace their seven foot fences without obtaining a permit when their old fence degrades. It would appear, again without proof, that it's wink, wink, nod, nod on code enforcement, or that the policy of the city is to enforce only when there is a complaint. City residents who wish to be compliant pay the fee, those who don't know the regulations or don't wish to pay the fee remain non-compliant. This doesn't seem fair.

Los Gatos should amend the fence ordinance to allow, without permit or waiver, replacement or new construction of privacy fences that allow six foot plus one foot of lattice fence heights, if all of their adjacent neighbors agree. If disagreements arose, the burden of proof would be on the owner to show that they have the approval of their immediate neighbors.

David Klinger  
141 Potomac Dr  
Los Gatos, CA 95032

## Sean Mullin

---

**From:** Pam Bond <pamabond@gmail.com>  
**Sent:** Monday, July 10, 2017 3:32 PM  
**To:** Sean Mullin  
**Subject:** Re: THE TOWN OF LOS GATOS IS SEEKING PUBLIC INPUT ON PROPOSED TOWN CODE AMENDMENTS REGARDING FENCES, HEDGES, AND WALLS.

Hi Sean,

I read the proposed code amendments. Our property is in the hillside zoning and so we did see some of the requirements when we were building our house. So I am somewhat familiar with the wording, etc.

My concerns with these proposed changed to hillside residences are that a 42" fence height is not great for people with kids. I know that the goal is to let wildlife pass through but this could be pretty scary for kids to encounter a coyote or basically any wildlife that can jump a 42" fence. We are always out with our kids and can generally see them but I would be nervous to have a shorter fence and feel comfortable letting the kids run around. The hedging option only partially solves this since there would still be periodic gaps.

Also, anyone with dogs will need to figure out what to do about their dogs if they want them to run around. I don't think 42" will keep larger dogs inside their property. I guess they'd need a dog run and I'm not sure how people will feel. We don't have a dog but I have been thankful on walks when we walk past a property with a dog and find a much higher fence (I'd assume maybe 5' for safety?).

I would imagine people would have concerns for security and safety with a 42" fence limit too. Much easier to just hope over and rob a place, I'd imagine.

We still get bobcats and foxes and smaller animals with our metal 6' fence. They can slip under or if they manage to dig a little, can get in as well. We had a coyote problem where the neighbor's chickens were being poached by a coyote and brought to our yard to eat them. We can keep the coyotes out when we plug holes under fences, and I'd prefer to keep it that way for our kids' safety.

If we let the deer in, there would be more limitations to what we could grow with our grey water irrigation system. We have mostly natives but even the natives are not deer proof. I would imagine people will have issues with more limited landscaping plants due to deer. I think we could adapt if our fence ever falls down. But I am not sure others would.

My main concerns are safety with the fencing height limit. Safety as relates to kids (keeping them in and keeping them safe), aggressive dogs (keeping them from jumping fences), and property safety (keeping criminals out). I do care about wildlife corridors and I am concerned that residential encroachment will harm wildlife movement and health. I think there may be another solution. Wildlife corridors are great. Fencing setbacks on property are great.

Thanks,

Pamela Bond  
17140 Mill Rise Way  
Los Gatos, CA 95030  
650-793-3844 cell

On Fri, Jul 7, 2017 at 11:24 AM, Pam Bond <[pamabond@gmail.com](mailto:pamabond@gmail.com)> wrote:

Hi,

It would be helpful to be able to see what the amendment actually is - what changes have been proposed. I can't tell from the document what is new or changed. It is a lot of text for people to read without knowing what has changed. I would be interested to be involved in submitting my input for such things.

Thanks

Pam Bond  
[650-793-3844](tel:650-793-3844) cell

## **Sean Mullin**

---

**From:** Christopher Kankel <ckankel@kkdesigngroup.com>  
**Sent:** Tuesday, July 18, 2017 2:59 PM  
**To:** Sean Mullin  
**Subject:** Re: Town of Los Gatos seeking public input - Hillside Fence Ordinance  
**Attachments:** LG fence ordinance revision.pages.pdf

Hello Sean,

Thank you for reaching out to residents and professionals and for the opportunity to provide feedback. I've attached a letter below with some comments and suggestions. Feel free to call me with any questions.

Thank you,  
Chris

**Christopher Kankel**  
**Kikuchi + Kankel Design Group**  
Landscape Architecture  
Site Planning  
Environmental Design  
[www.kkdesigngroup.com](http://www.kkdesigngroup.com)  
(408) 356-5980

July 18, 2017



**Kikuchi + Kankel  
Design Group**

Landscape Architecture  
Environmental Design  
Site Planning

Sean Mullin  
Town of Los Gatos Community Development Department  
110 E. Main Street  
Los Gatos, CA 95030

RE: Proposed changes to Los Gatos fencing ordinance

Dear Sean,

Thank you for the opportunity to provide feedback regarding the proposed changes to the Town of Los Gatos fencing ordinance. I have reviewed the proposed ordinance from the perspective of both a resident and a landscape architect and have several thoughts to share. While I appreciate the need to accommodate the wildlife whose territory we infringe upon, I also respect the need and right to privacy and security of my clients and fellow residents. Developing a fencing ordinance that accommodates both the wildlife and residents is a delicate balancing act. My comments listed below pertain solely to the proposed language regarding Hillside Fencing:

1. The proposed language effectively prevents corrals or any other type of fencing to contain or protect domestic animals when located more than 30' from the main residence.
2. The proposed language effectively prevents vegetable gardens more than 30' from the main residence.
3. The proposed language effectively prevents a secure automobile gate near the road.
4. The proposed language greatly inhibits flexibility in the installation of security fencing. Per the code, a security fence of sorts may be allowed within 30 feet of the house, but it will effectively create an arbitrary island of development within a larger property.

As a designer, I would suggest consider an ordinance that allows for a given percentage of a site area to be contained by six foot high secure fencing (for instance, one-third of the gross property size or a minimum of x square feet). This would allow residents and designers flexibility in choosing what portions and extents of their property are secure while insuring a greater portion of their property remains accessible to wildlife. It also allows residents and designers to ability to optimize the more usable portions of their properties. Each hillside property is vastly different in character and limiting the six foot high fencing to 30 feet proximate to the main residence is arbitrarily limiting usable space in many cases.

Again, thank you for the opportunity to offer my opinion on the matter.

Regards,

Christopher Kankel  
Kikuchi + Kankel Design Group

**RECEIVED**

**JUL 18 2017**

**TOWN OF LOS GATOS  
PLANNING DIVISION**

61 E. Main Street, Suite C  
Los Gatos, CA 95030  
(408) 355-5980

Steven T. Kikuchi, ASLA, Principal  
Christopher Kankel, ASLA, Principal  
Warren Daines, Associate  
Thomas Conroy, Associate  
Walter J. Dierz, ASLA, ISA, Associate

730 Hill Street, Hill Moss, Bay, CA  
(650) 726-7100  
www.kkdesigngroup.com

-----Original Message-----

From: Donnelly, Peter [mailto:Peter.Donnelly@dell.com]

Sent: Tuesday, July 18, 2017 9:59 AM

To: Joel Paulson

Cc: Donnelly, Peter

Subject: Proposed changes to hillside fencing standards & guidelines

Joel,

I hope all is well. I heard about the proposed changes to the hillside fencing standards & guidelines. I am unfortunately going to be out of town next week and will not be able to attend the public hearing. That said I did want to share a few comments for consideration as you work through the final language. While I am in general agreement with what is being proposed (we love to see the wildlife wandering across our property everyday) I do think there are a few practical considerations that need to be considered in the language as currently drafted.

- I believe 30' as a hard and fast rule is too restrictive. I think the Town should consider a longer distance of say 50' or preferably have a two part definition that takes into consideration the remaining space on an individual property i.e restricted to 30' from primary dwelling unless it can be demonstrated that a minimum X' (say 50' min) wildlife corridor can be established within the boundaries of the property to allow free passage of wildlife across the property.
- In situations where accessory structures such as pools, patios, BBQ areas are incorporated into a home design the 30' (or what ever is finalized) should be measured from those items and not simply the primary dwelling unit. In certain cases these structures may already be > 30' from the primary dwelling and therefore a fence around them would not be allowed
- For large properties a provision should be provided to allow for an entry gate to private driveways (to restrict vehicular access / improve security, etc. As I read the draft this would not be accommodated

Happy to discuss if you have any questions.

Thanks,

Peter

Anthony J. Badame, MD  
73 Mariposa Court  
Los Gatos, CA 95030

July 19, 2017

Town of Los Gatos  
110 E. Main Street  
Los Gatos, CA 95030  
Attn: Planning Commission

Re: Fence Policy

Dear Commissioners:

The proposed fence policy is a worthwhile endeavor in an effort to preserve the beauty and habitat of the hillside. I agree with nearly all the language short of two concerns which are as follows:

1. It appears that vegetable gardens greater than 30 feet from the primary dwelling cannot be enclosed. On the hillside, vegetable gardens are commonly greater than 30 feet from the primary dwelling. Without an enclosure, wildlife will certainly destroy every vegetable garden attempted. An additional exception under Sec. 2940.030xx E. to include vegetable gardens would be beneficial. The following is suggested language:

*Fences needed for edible food gardens do not have to be of wildlife-friendly design even if farther than 30 feet from the primary dwelling unit.*

2. The fence repair statements in (D) and (G) combine to generate an element of confusion:

*(D) Repair. A permit is not required for repair to sections of existing fences, walls, or hedges less than 50 feet in length and/or no greater than 25% of total fence, wall, or hedge length, provided no other repair work is done on the same structure over a 12-month period.*

*(G) Enforcement. Any fence, wall, gate, gateway, entry arbor, or hedge constructed, replaced, modified, or repaired without required approval, is a violation of this Code.*

If no permit is required for repair as described in (D), then what approval is required in (G)? Clarification would be helpful.

Sincerely,

*Anthony Badame, MD*

Anthony Badame, MD

RECEIVED

JUL 20 2017

TOWN OF LOS GATOS  
PLANNING DIVISION

**From:** Tanya Kurland [mailto:[ts@vkemail.crocodile.org](mailto:ts@vkemail.crocodile.org)] **On Behalf Of** Tanya Kurland ?  
**Sent:** Thursday, July 20, 2017 5:55 PM  
**To:** Donnelly, Peter <[peter.donnelly@emc.com](mailto:peter.donnelly@emc.com)>  
**Cc:** Vadim Kurland <[vadim@vk.crocodile.org](mailto:vadim@vk.crocodile.org)>  
**Subject:** Town' s proposal wrt fence height

Hi Peter,

I have noticed that town has changed a few things in their proposal since yesterday, but there still are some things that I believe should be added. I would like to run this by you before I submit this to the town. Could you please take a look? I wonder if it would be better if you sent the comments to the town instead of me since they know you so well?

1. I think it is important to list more specific examples of "similar structures" in Exceptions sections, E (1). The list clearly states pools and sport courts, but it is unclear what else might fall under "similar structures". The BBQ, picnic areas and playgrounds should be added. Deer passing through such areas present danger to the people because they carry teaks. Stanford research has determined widespread presence of Lyme disease carrying teaks in Santa Clara county in 2014

<http://www.mercurynews.com/2014/02/19/stanford-study-finds-lyme-disease-widespread-in-bay-area-open-spaces/>

Chronic Lyme disease can drastically shorten the life span

<http://www.sheamedical.com/the-overlooked%E2%80%93and-deadly%E2%80%93complications-of-lyme-disease-and-its-coinfections>

2. I think that the height of the hedges should not be restricted to 5' if they are needed as privacy screen between neighbors. Such hedges should be made an exception.

3. We should probably think about the gate we have down at the beginning of Suview dr. On the one hand, this gate is on easement and is maintained by whole community. On the other, technically it is located on our property and is farther away than 30' from the house. So it may be considered to fall under the proposed restrictions height-wise. It is probably ok right now since it has been built before restrictions come into effect, but the proposal says any future replacements and repairs must comply with new rules so we may have problems if we ever need to rebuild or replace it.

Thank you,  
Tanya

## Sean Mullin

---

**From:** Tanya Kurland <ts@vkgmail.crocodile.org> on behalf of Tanya Kurland ▼  
<ts@vk.crocodile.org>  
**Sent:** Friday, July 21, 2017 10:36 AM  
**To:** Sean Mullin  
**Subject:** town proposal and danger to public health

Dear Mr. Mullin,

I would like to bring your attention to the facts relating to free wildlife access to hillside properties (as it intended in a proposal to amend Town Code Section 29.40.030 (Fences, hedges, and walls)) and serious danger it presents for public health.

Stanford researchers say they have found ticks infected with the newer strain, called *Borrelia miyamotoi*, in open spaces in Santa Mateo and Santa Clara counties. The study, which was conducted by dragging white flannel blankets through 12 Bay Area recreational areas, found ticks with the new pathogen, but also ticks carrying *Borrelia burgdorferi*, the entity known for decades to cause Lyme disease.

<http://www.sfgate.com/health/article/Lyme-disease-more-common-in-Bay-Area-than-5267529.php>

*Borrelia miyamotoi* is a species of spiral-shaped bacteria that is closely related to the bacteria that cause tick-borne relapsing fever (TBRF). It is more distantly related to the bacteria that cause Lyme disease. The case series report was prepared by a research team led by Philip J. Molloy, MD about *Borrelia miyamotoi*, where authors wrote: "Patients presented with acute headache, fever, and chills ... Patients were commonly described as appearing 'toxic'; more than 50% were suspected of having sepsis, and 24% required hospitalization. The headaches were most commonly described as severe, resulting in head computed tomography scans and spinal taps in 5 patients."

<http://www.medscape.com/viewarticle/846337>

A lot of people, even some doctors mistakenly think that there is no Lyme disease in California and it goes undiagnosed and not properly treated. Chronic Lyme disease could severely shorten the life span.

<http://www.sheamedical.com/the-overlooked%E2%80%93and-deadly%E2%80%93complications-of-lyme-disease-and-its-coinfections>

Both diseases are spread by teaks that shed by deer. The only way to protect people from this terrible diseases is to limit deer access to hillside properties. I think that proposal should not limit the hight of fences and hedges, but require residents to provide corridors for wildlife to pass through on their properties instead.

I shall attend a hearing to bring awareness of the diseases related to deer.

Thank you,

Tanya Kurland

To: Los Gatos Planning Commission

Re: Fence Ordinance Revision, 7/26/2017

From: Dave Weissman and Lee Quintana

- A. There has been good citizen input, which is always useful since few people can think of everything. Assuming that the PC accepts the need for this fence revision, we list some areas from the public comment letters that we think have validity and that should be incorporated into the next draft. We ask the PC to discuss on 7/26/2017
1. Hillside (E) (1): Add vegetable and edible food gardens more than 30 feet from primary structure. Also consider BBQ, picnic and playground areas.
  2. Can Minor Residential Development permits fees be reduced? Presently some \$2,223. We are interested in getting people into CDD so that they can be up dated as to these new regulations – high fees could inhibit such compliance. Also, under Hillside Replacement and Modification, (C) (2), if the property owner is improving wildlife movement, can we charge just a waiver fee of \$233?
  3. We are mostly interested in side and back yard perimeter fences being wildlife friendly, not front yard fences. If you agree, we would like to make appropriate changes in the next draft.
- B. Here we show some specific wording that we suggest should be changed in the current draft (shown underlined)
1. Hillside areas, (B) (5) a. The minimum height above grade for new fence bottom rungs, shall be 16 inches to allow small animals to easily pass under.
  2. (B) (7) f. Vertical fence posts shall be at least 8 feet apart, since I understand that this is the standard board length and not 10 feet.
  3. In G, add after "...without required approval, except as provided in (D) and (E)..."

RECEIVED

JUL 26 2017

TOWN OF LOS GATOS  
PLANNING DIVISION

C. We reply to some public comments, since there is inadequate time to discuss during 3 minutes and there are some good suggestions in the 6 submitted letters.

1. David Klinger is concerned about his 6' high fence with a 1 foot lattice on top. Since he lives in a non-hillside area, the code doesn't change for him. Plus, he can get a waiver for the construction of a privacy fence.
2. Pamela Bond is concerned that a 42" tall fence is too short to keep in a dog and protect her kids from coyotes. We agree, as the code is mostly aimed at perimeter side and back yard fences. We propose to add playground areas to the (E) (1) Exceptions section. We don't support fencing in a large part of the back yard since such might increase coyote interactions with her children as the animals will have fewer ways to avoid people.
3. Christopher Kankel says that corral and domestic animal fencing will be prohibited >30' from the primary structure. This is wrong – see (E) (3). Mr. Kankel also worries about a secure automobile gate, which is already covered by HDS&G on pages 43 and 44. Mr. Kankel also asks for greater flexibility in placing a security fence. Again, the aim of this ordinance is to increase the amount of wildlife friendly habitat but he can always ask for an Exception under section (E) (4).
4. Peter Donnelly thinks that 30' is too hard a rule. He can always apply for a hardship exception (E) (4). He also wants 30' measured from accessory structure and not just from primary residence. If the owner can demonstrate a need for a fence around a patio, then he can apply for an Exception. The code already provides, and in fact, requires a fence around a pool. Lastly, entry gates are already permitted by the HDS&G.
5. Anthony Badame makes 2 suggestions and we agree with both.

6. Tanya Kurland is worried about deer and deer ticks and Lyme Disease. In fact, in California, the main hosts for deer ticks are western gray squirrels and woodrats, not deer. Plus, wooden fences are good habitats for western fence lizards, whose blood kills the Lyme Disease bacteria when the juvenile ticks feed on lizard blood. She would like to expand possible fenced areas to include certain activity sites like picnic and playground areas, probably because of her concern about ticks. Fence heights, if needed for privacy, can exceed 42 inches under non-hillsides (B) (2)(a) and can be added to the hillside Exceptions (E) section. There are no restrictions on her fixing her community gate if it needs repair.

## PLANNING COMMISSION

Received with September 13, 2017, Staff Report, Addendum,  
and Desk Item

**Sean Mullin**

---

**From:** Nancy Reyering <nanzo@me.com>  
**Sent:** Wednesday, July 26, 2017 12:08 PM  
**To:** Joel Paulson  
**Cc:** Sean Mullin; David Weissman  
**Subject:** Public comment to PC meeting 7/25: Code Amendment A-17-002

Dear Los Gatos Planning Commission:

I am writing to voice my strong support for code amendments that will preserve wildlife habitats, protect migration corridors, support the General Plan policies, and generally limit the impact of fences, walls, and gates.

Residents and wildlife will benefit by the direction given in clearly worded code amendments that limit the location and types of fencing to allow greater freedom of movement for wildlife. Our local fauna need to traverse both open space and private properties to find safety, forage, and mates with sufficient DNA variation to ensure survival of species.

The work of both staff and residents is to be applauded, as existing town codes do not sufficiently regulate fencing and other impediments to wildlife.

Thank you for your careful consideration of this very important issue.

Best regards,  
Nancy Reyering  
Board Member, Committee for Green Foothills

## **Sean Mullin**

---

**From:** David Weissman <gryllus@gmail.com>  
**Sent:** Thursday, July 27, 2017 11:37 AM  
**To:** Joel Paulson; Sean Mullin; Lee Quintana  
**Subject:** Lyme Disease

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

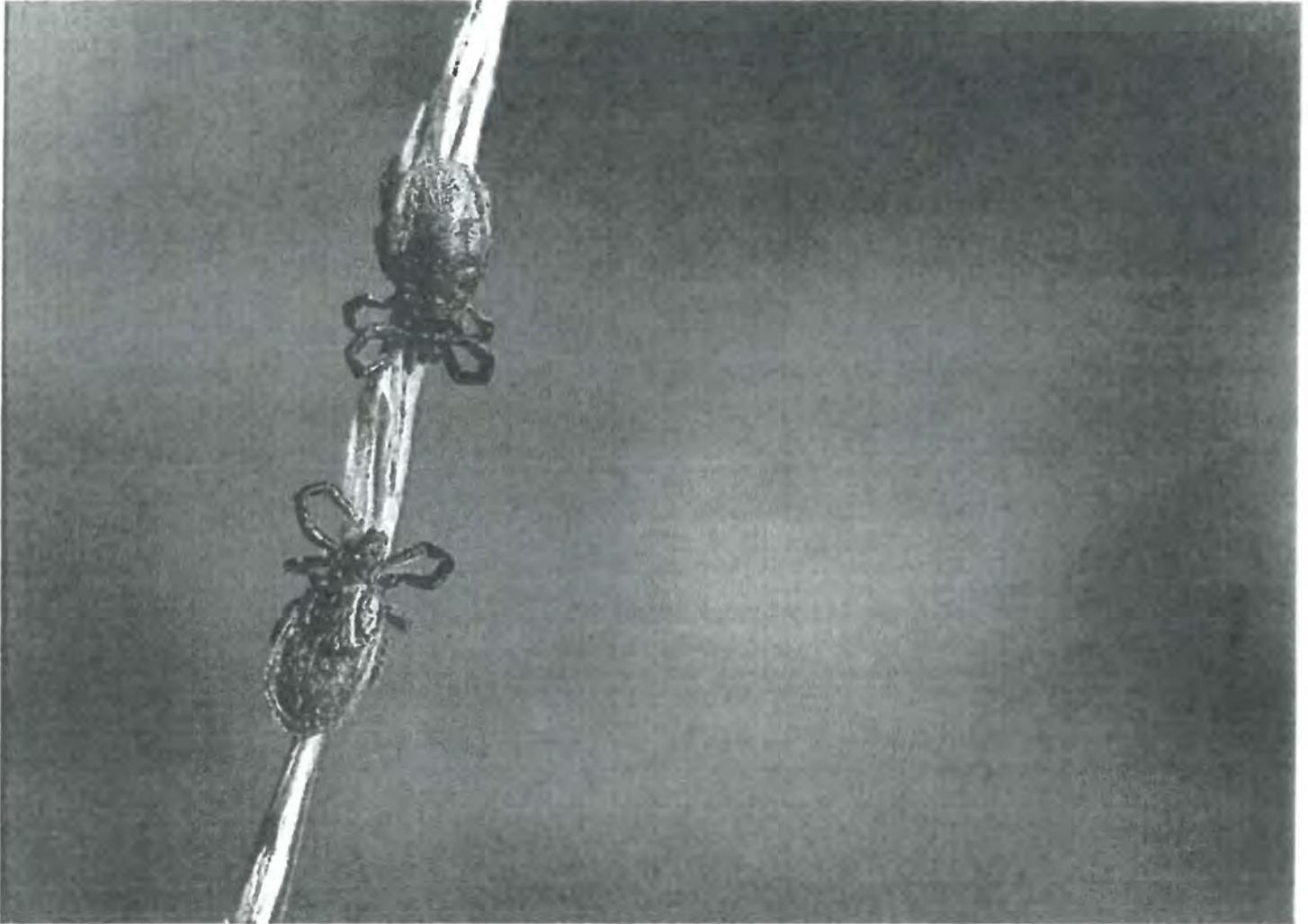
Almost on command, KQED has this article on today's website. Please pass this along to the Planning Commission.

<https://ww2.kqed.org/science/2017/07/27/lyme-disease-in-california-sorting-fact-from-myth/>

--  
Dave Weissman  
15431 Francis Oaks Way  
Los Gatos, CA 95032  
H: (408) 358-3556  
[gryllus@gmail.com](mailto:gryllus@gmail.com)

[NEWS \(HTTPS://WWW2.KQED.ORG/SCIENCE/CATEGORY/NEWS/\)](https://www2.kqed.org/science/category/news/)

## Lyme Disease in California? It's Here and It's Complicated.



Lyme-infected western blacklegged ticks have been found in 42 out of California's 58 counties. (Eric Aquino)

By [Anna Kusmer](https://www2.kqed.org/science/author/akusmer/) (<https://www2.kqed.org/science/author/akusmer/>) [TWITTER](http://twitter.com/askusmer) (<http://twitter.com/askusmer>)  
JULY 27, 2017



Northern California has many attractions, but the fact that it's prime tick habitat isn't one of them.

Adding to the angst surrounding outdoor activities is that tick hotspots are unevenly distributed on a patchy landscape. One moment you're strolling through redwood forests, the next through oak forests, and a couple of hours later you may come across scenic chaparral. While on this iconic hike, you probably don't realize that you've moved through both high- and low-risk Lyme disease areas. The question is, do you know where you are most at risk?

The answer is in the oak forest where layers of rich leaf litter are a kind of Club Med for ticks.

### It's Always Tick Season

"Tick season" exists year-round in northern California. The highest risk is in the spring and early summer due to an abundance of juvenile ticks, known as nymphs (the most virulent life-stage). However, peak diagnosis time extends into July, because it can take a few weeks to realize that you have the disease.



It's always tick season in Northern California. Peak season is spring and early summer. (Bay Area Lyme Foundation)

Summer is also particularly dangerous for Lyme disease because that's when people spend the most time outside, and many of the most beautiful hiking areas tend to be tick-ridden.

Most people associate Lyme disease with the Northeastern U.S. and the upper Midwest, and for good reason (<https://www.cdc.gov/lyme/stats/maps.html>); the vast majority of cases are reported there, due mostly to the fact that the landscape is blanketed with prime tick habitat. On the west coast, the risk is real, but it's different.

"There are definitely patches in California where the risk is just as high as the East –it's just not the same spatial extent," says Dan Salkeld, research scientist at Colorado State University.

The overall abundance of Lyme ticks is relatively low on the West Coast; however, the risk is spread unevenly. Hikers can move from high-risk area to a low-risk area and never know it.

***'Medicine has the tendency to want a vaccine or a clear antibiotic silver bullet, and I don't think the Lyme system gives us that luxury.'***

— Nate Nieto, University of Northern Arizona

In California, "You can be in one valley and rates of Lyme can be as high as in upstate New York, Connecticut or Rhode Island," says Nate Nieto, a microbiologist at Northern Arizona University in Flagstaff. "Then you go over one ridge, the habitat changes completely – and there's nothing."

Part of what puts Californians at risk is a lack of awareness — among the public and even among doctors. Much of the research and public health information is based on east coast ecology and may not apply to the West.

For many Californian physicians, Lyme disease is just not on the radar, even though according to the Bay Area Lyme Foundation (<http://www.bayarealyme.org/>), Lyme-infected ticks have been located in 42 of California's 58 counties. About 100 cases of Lyme disease are reported in California each year, but according to Supervising Public Health Biologist Kerry Padgett of the state Department of Public Health, the disease is likely more widespread.

"There is an under-diagnosis and under-reporting of Lyme disease in California," says Padgett.

## How Ticks Make us Sick

### WHAT TO DO IF YOU FIND A TICK ON YOU:



Adult (left) and nymph (right) western blacklegged ticks. (Bay Area Lyme Foundation)

If you find a tick on your body, don't panic! Remove the tick and keep track of what happens.

- Is the tick feeding? That is, is the tick embedded in the skin?
- If the tick is embedded, remove the entire tick carefully with a pair of tweezers. Then, if possible, save the tick in a jar or plastic bag. DO NOT try to kill the tick with oil or matches while it's feeding.
- How long did it feed? If it's less than 36 hours, there's a high probability that you are safe.
- Pay attention to your symptoms. If in 6-to-12 days, you have any kind of fever, go and see a doctor.
- A bulls-eye rash around the tick bite is a sure-fire way to know if you've contracted Lyme, but this symptom only shows up in 50-70 percent of cases. Other symptoms include headache, fatigue, and skin rash.

Lyme disease is caused by a microscopic spiral-shaped bacteria called *borrelia burgdorferi*. On the west coast, these Lyme disease-causing bacteria live inside the guts of the western blacklegged tick and can travel into the blood streams of bitten animals. Ticks generally live for two or three years. They are born Lyme-free, and will contract or transmit Lyme during feeding, once during each of their three life stages.

When a Lyme-infected tick bites, it typically takes 36-48 hours for the bacteria to make the journey from the tick's gut to their mouth and into the blood of their host. The process can take as little as 24 hours.

Only 15-20 percent of blacklegged ticks contain Lyme disease during their nymph stage, and that number is much lower, 1-2 percent, in adults.

### A Forest Full of Frenemies

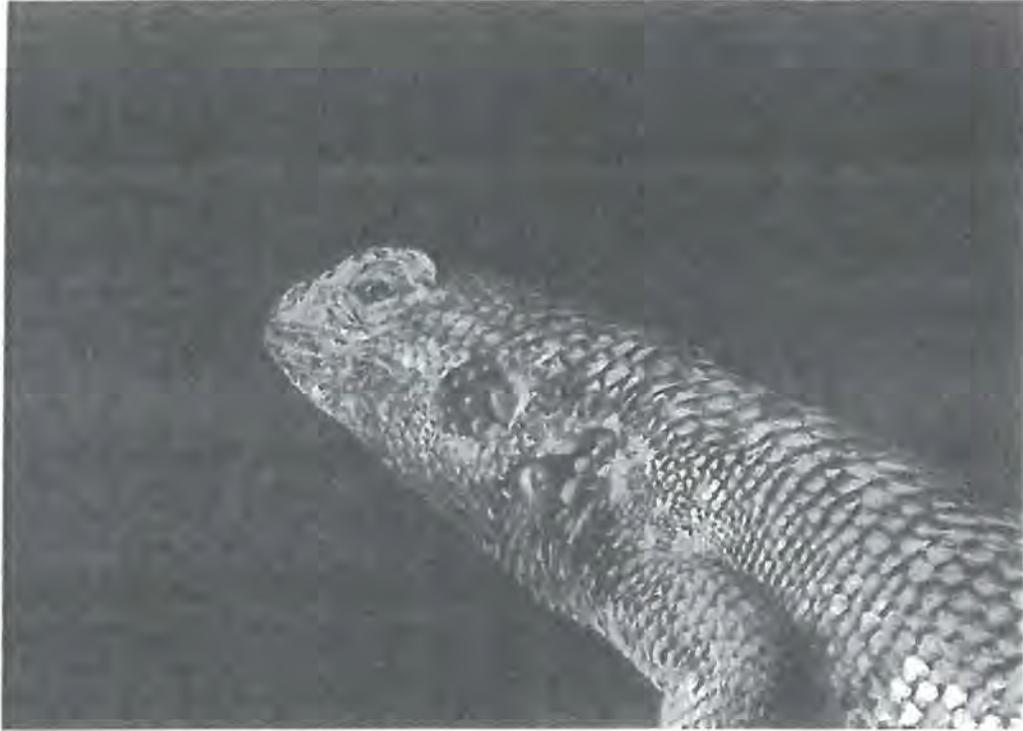
To determine disease risk of a particular place, researchers look to some of the tick's favorite foods.

The most common reservoir of Lyme disease — the species that initially infects ticks — is the western gray squirrel.

So avoid gray squirrel habitat and you're safe? Not so fast.

Enter the blue-bellied lizard (also known as the western fence lizard), which is naturally immune to Lyme disease, and has special proteins in its blood that will cleanse infected ticks of the pathogen.

So, a tick could feed on a squirrel and contract Lyme, which could then be neutralized when it bites a lizard.



Blue-bellied lizards are our friends. Their blood actually cures infected ticks of Lyme disease. The "grapes" in this lizard's ear are all feeding ticks. (Ervic Aquino)

"If you go into dense black oak woodland, which is prime habitat for ticks and squirrels, we find a higher proportion of infected ticks," explains Salkeld. "However, if you move into a broken clearing with more light, you're going to find more lizards, and the prevalence of Lyme goes down."

Lyme disease involves many different species and is ecologically complex, which makes it a notoriously difficult problem to solve for researchers and public health officials.

"Medicine has the tendency to want a vaccine or a clear antibiotic silver bullet, and I don't think the Lyme system gives us that luxury," says Nieto.

"Lyme disease is something that we call, in the science world, a complex system, meaning that there's a bunch going on here," he continues. "there's a bunch of hosts, there's a bunch of vectors, and there's a bunch of pathogens, and that makes things difficult."

### Mapping a Pathogen

California's diverse landscape and the complex interplay among species makes predicting Lyme tricky. However, the greatest risk posed to Californians might be a lack of awareness. Doctors here are less likely to suspect Lyme when patients come in with characteristic symptoms.

"I have talked to physicians who say that they are not aware of Lyme disease in California," says Salkeld.



Many are not aware of the Lyme disease risk in California. Researchers are trying to change that. (Anna Kusner / KQED)

Organizations, such as the Bay Area Lyme Foundation, along with researchers like Nieto and Salkeld, are working to change the narrative and build the necessary evidence to make doctors aware of the scale of the problem. The foundation has a [program](http://www.bayarealyme.org/blog/bay-area-lyme-foundation-offers-free-tick-testing-nationwide/) offering free tick testing nationwide, which aims to map tick-borne diseases across the country by encouraging concerned citizens to send in samples.

“We’re working on gathering real empirical data to show that Lyme is in the ecosystems of the West Coast,” says Nieto, “We’re getting clinical samples, ecological [tick] samples, and wildlife host samples...so we can change the educational paradigm within the medical schools and say, ‘It’s not just the Northeast and upper Midwest’—it’s in California too.”

“I think Californians should be aware of ticks, and the risks of tick-borne diseases, but the fear of disease should not keep them from enjoying the great outdoors,” adds Padgett. “I really do feel it’s possible to stay tick-safe while recreating and spending time outside.”

EXPLORE: [BIOLOGY](https://ww2.kqed.org/science/category/biology/) ([HTTPS://WW2.KQED.ORG/SCIENCE/CATEGORY/BIOLOGY/](https://ww2.kqed.org/science/category/biology/)), [ENVIRONMENT](https://ww2.kqed.org/science/category/environment/) ([HTTPS://WW2.KQED.ORG/SCIENCE/CATEGORY/ENVIRONMENT/](https://ww2.kqed.org/science/category/environment/)), [HEALTH](https://ww2.kqed.org/science/category/health/) ([HTTPS://WW2.KQED.ORG/SCIENCE/CATEGORY/HEALTH/](https://ww2.kqed.org/science/category/health/)), [NEWS](https://ww2.kqed.org/science/category/news/) ([HTTPS://WW2.KQED.ORG/SCIENCE/CATEGORY/NEWS/](https://ww2.kqed.org/science/category/news/)), [BAY AREA](https://ww2.kqed.org/science/tag/bay-area/) ([HTTPS://WW2.KQED.ORG/SCIENCE/TAG/BAY-AREA/](https://ww2.kqed.org/science/tag/bay-area/)), [HIKING](https://ww2.kqed.org/science/tag/hiking/) ([HTTPS://WW2.KQED.ORG/SCIENCE/TAG/HIKING/](https://ww2.kqed.org/science/tag/hiking/)), [LYME DISEASE](https://ww2.kqed.org/science/tag/lyme-disease/) ([HTTPS://WW2.KQED.ORG/SCIENCE/TAG/LYME-DISEASE/](https://ww2.kqed.org/science/tag/lyme-disease/)), [TICKS](https://ww2.kqed.org/science/tag/ticks/) ([HTTPS://WW2.KQED.ORG/SCIENCE/TAG/TICKS/](https://ww2.kqed.org/science/tag/ticks/))



(<https://ww2.kqed.org/science/2017/07/27/lyme-disease-in-california-sorting-fact-from-myth/?share=facebook&nb=1>)



(<https://ww2.kqed.org/science/2017/07/27/lyme-disease-in-california-sorting-fact-from-myth/?share=twitter&nb=1>)

## Sean Mullin

---

**From:** David Klinger <dave.klinger@sbcglobal.net>  
**Sent:** Wednesday, August 30, 2017 6:07 PM  
**To:** Council; manager@losgatossca.gov  
**Cc:** Sean Mullin  
**Subject:** Proposal for flatland fence height code changes

I am a resident Los Gatos. The Planning Commission is currently considering changes to the Los Gatos fence code for hillside properties to protect wildlife. I request the Council direct the Commission to expand the scope of these changes to include reconsideration of the flatland residential fence height restrictions.

I recently received approval by the Community Development Director to construct a replacement 7 foot high fence that includes a 1 ft lattice on top. I paid Los Gatos \$233 to process the exemption required by city code, after gaining approval of all my adjacent neighbors. A building permit was not required since the fence was not over 7 feet high.

I discovered by walking our dogs around extensively and talking with my fence contractor that 7 foot fence replacements are quite common. I met with Sean Mullin, of the Los Gatos planning staff to seek information about how many residents seek the formal exemption and pay the fee. I was advised by another planning staff member at that meeting that the number is "minimal", and that the city was unable to provide me the exact exemption application count since there is no tracking system in place. One can only conclude that many residents simply ignore the code and replace fences without seeking a formal exemption for those fences higher than 6 feet. Further, I talked with LG Code Compliance and was told that fence height compliance is not an issue, perhaps one or two calls per year, due to neighbors working it out themselves. Compliance actions do not take place unless there is a complaint..

San Jose, Sunnyvale, Cupertino, Santa Clara County, and Los Altos allow 7 foot fences with 1 foot lattice without exemptions or permits, some of these cities requiring adjoining neighbor approval.

Neighbor approval and "Special privacy concerns", without specific criteria, is the current Los Gatos basis for allowing fences over 6 feet high. Privacy is a subjective matter best left to the neighbors directly affected. Determination of whether or not a special privacy concern exists is at the discretion of the Community Development Director per current code.

**Proposal:** The flatland ordinance should be modified to allow 7 foot heights with 1 foot lattice without an exemption fee if all affected neighbors approve. The code should continue the 6 foot no-approval baseline. If a neighbor disapproves a fence higher than 6 feet, the resident desiring the increase could appeal, starting with the Community Development Director. Fences higher than 7 feet should continue to require a permit due to ensure safety. Front yard and corner lot low fence limitations should remain in force, again for safety and visibility reasons.

I believe this change would reconcile the fence height ordinance to the apparent current LG community consensus that 7 foot fences are often desired and are acceptable. Making this change would promote better respect for and compliance with Los Gatos codes, and immediately relieve many residents who are not currently code-compliant. However, this issue is not likely to result in demonstrations and demand for changes at future Council meetings. Rather, this issue falls more properly into the category of good city governance and respect for the ability of residents to work it out themselves.

In summary,

- 1) The fence height code is being ignored widely,
- 2) Many fences are higher than six feet, but are acceptable to the neighbors,
- 3) The current height exemption criteria of "special privacy concerns" is subjective and difficult to properly evaluate,
- 4) When neighbors already agree on a 7 foot high fence, gaining city approval and paying associated fees unnecessarily burdens the residents.

Respectfully,

David L. Klinger  
141 Potomac Dr

**From:** Mark Muser [mailto:lpspin@earthlink.net]  
**Sent:** Saturday, September 09, 2017 12:24 PM  
**To:** Joel Paulson  
**Subject:** Re: Fence Height Exception Request

Hello Again Mr. Paulson,

To follow up with our phone conversation in August, I have attached a purposed addition to the exceptions section of the Town of Los Gatos fence ordinance SEC. 26.10.065

My recommended addition is highlighted in red. Please review it and purpose this addition to our Towns fence regulations.

Thank You Kindly,

MarkMuser

Strathmore Pool Club

C# [REDACTED]

## Sec. 29.40.030. Fences, Hedges & Walls

- A. In residential zones, fences, hedges, and walls not over 6 feet high are allowed on or within all property lines, except that no owner or occupant of any corner lot or premises in the Town shall erect or maintain upon such lot or premises any fence, hedge or wall higher than 3 feet above the curb in a traffic view area unless a permit is secured from the Town Engineer. A traffic view area is the area which is within 15 feet of a public street and within 200 feet of the right-of-way line of an intersection. Barbed wire or razor ribbon wire is prohibited in all zones.
- B. The following exceptions shall apply:
  - 1. Properties within historic districts or have a Landmark and Historic Preservation Overlay shall not have fences, hedges, and walls higher than 3 feet in a front yard except as provided in subsection 29.40.030(b)(2). Any fence, hedge or wall erected in a front yard shall be of open design.
  - 2. Gateways or entryway arbors may be higher than 6 feet in any zone including historic districts and shall be of open design but in no case shall a gateway or entryway arbor be higher than 8 feet, have a width greater than 6 feet, or have a depth greater than 4 feet. All gateways and entryway arbors shall be constructed of open design. No more than 1 gateway or entry arbor per street frontage is allowed.
  - 3. Boundary line fences or walls adjacent to commercial property may be 8 feet high if requested or agreed upon by a majority of the residential property owners.
  - 4. Properties not on a street corner, may have side yard and rear yard fences, hedges, or walls behind the front yard setback that are 8 feet high if the property owner can demonstrate to the satisfaction of the Planning Director that the following conditions exist:
    - a. A special privacy concern exists that merits the need for the eight-foot height and that these concerns cannot be practically addressed by additional landscaping or tree screening. Written justification shall be provided to the Planning Department which documents the special privacy concern, and the higher fence height may only be approved at the discretion of the Planning Director.
    - b. A special wildlife/animal problem affects the property and merits the need for the higher eight-foot height because no practical alternatives exist to address the problem. Documented instances of wildlife grazing on gardens or domestic landscaping may be an example of such a problem. Fencing proposed for rural or hillside areas shall be of an open design that does not detract from the scenic nature or character of the surrounding area.
    - c. A special safety/security concern with Home Owner Association Private Swim Pool Clubs exists that merits the need for the eight-foot height and that these concerns cannot be practically addressed by additional landscaping or tree screening.

**Sean Mullin**

---

**From:** Joel Paulson  
**Sent:** Monday, September 11, 2017 9:16 PM  
**To:** Sean Mullin  
**Subject:** Fwd: Proposed fence ordinance

Sent from my iPhone

Begin forwarded message:

**From:** Marico Sayoc <[MSayoc@losgatosca.gov](mailto:MSayoc@losgatosca.gov)>  
**Date:** September 11, 2017 at 9:11:31 PM PDT  
**To:** Bonnie Payne <[bonnieapayne@comcast.net](mailto:bonnieapayne@comcast.net)>  
**Cc:** Laurel Prevetti <[LPrevetti@losgatosca.gov](mailto:LPrevetti@losgatosca.gov)>, Joel Paulson <[jpaulson@losgatosca.gov](mailto:jpaulson@losgatosca.gov)>  
**Subject:** Re: Proposed fence ordinance

Dear Mr. and Mrs. Payne —

Thank you for sharing your objections to the proposed fence ordinance. I am copying our town staff so that your email can be shared with the Planning Commissioners who will be reviewing this proposal during their Commission hearing this Wednesday.

Marico  
\*\*\*\*\*  
Marico Sayoc  
Mayor, Town of Los Gatos  
\*\*\*\*\*

On Sep 11, 2017, at 6:08 PM, Bonnie Payne <[bonnieapayne@comcast.net](mailto:bonnieapayne@comcast.net)> wrote:

September 11, 2017

Dear Mayor Sayoc,

I wish to go on record as objecting to the new fence ordinance proposal. It is hard to believe that the fence that surrounds our property could not be repaired or replaced in its current location, which includes the orchard we have been nurturing for 20 years and further from our house than 30 feet. Does that mean that our orchard needs to be abandoned if our fence ever needs to be repaired?

**Please reject this proposal!**

**Sincerely,**

**Bonnie and Richard Payne**

**16216 Kennedy Road, Los Gatos 95032**

**Sean Mullin**

---

**From:** Joel Paulson  
**Sent:** Monday, September 11, 2017 9:58 PM  
**To:** Sean Mullin  
**Subject:** Fwd: objection to Town Code Amendment A-17-002

Sent from my iPhone

Begin forwarded message:

**From:** Marico Sayoc <MSayoc@losgatosca.gov>  
**Date:** September 11, 2017 at 9:25:30 PM PDT  
**To:** Richard Payne <rkpayne1@mac.com>  
**Cc:** Laurel Prevetti <LPrevetti@losgatosca.gov>, Joel Paulson <jpaulson@losgatosca.gov>  
**Subject:** Re: objection to Town Code Amendment A-17-002

Hello Mr. Payne —

I am sharing your email (and your wife's email) to our town staff so that they may share your concerns with the Planning Commission. They will review this proposed change on Wednesday and your emails will be included in public comments for their consideration.

Marico

\*\*\*\*\*

Marico Sayoc

Mayor, Town of Los Gatos

\*\*\*\*\*

On Sep 11, 2017, at 8:01 PM, Richard Payne <rkpayne1@mac.com> wrote:

Dear Mayor Sayoc,

The proposed ordinance amendment would very negatively effect our quality of life. We have invested a great deal in developing an orchard on land that was orchard when the house was built in 1949. And in which we have lived for over 25 years, developing an orchard on our property. The only way that we can protect our investment from being destroyed by deer is to have it fenced. While I understand that the goal is to allow animals opportunities to move through the town, a goal of which I approve, there is a difference between mandating something like openings that enable coyotes, raccoons, foxes and so on freedom of movement, and not being able to protect from deer.

As described I strongly object to the amendment,

yours,

Richard Payne  
16216 Kennedy Road  
Los Gatos, CA 95032  
408.358.3332

## **Sean Mullin**

---

**From:** David Weissman <gryllus@gmail.com>  
**Sent:** Tuesday, September 12, 2017 9:07 AM  
**To:** Sean Mullin; Joel Paulson  
**Subject:** Fence Ordinance revision  
**Attachments:** Fence. 9-13-2017.To.docx

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Sean and Joel,  
Please send the attached document to the PC members for the PC meeting on Wednesday, Sept 13th.

Thank you.  
Dave

--  
Dave Weissman  
15431 Francis Oaks Way  
Los Gatos, CA 95032  
H: (408) 358-3556  
[gryllus@gmail.com](mailto:gryllus@gmail.com)

To: Planning Commission, meeting of 9/13/2017

Re: Fence Ordinance

From: Dave Weissman, 9/12/2017

At the prior meeting of 7/26/2017, Commissioner Hanssen asked why there is a need for this ordinance revision? The Town needs this new language because the 2020 General Plan Policy, LU-1.3, says that a Town policy and goal is to "Preserve ...wildlife habitats in new and existing developments" and the HDS&G require that hillside open views be maintained and that wildlife corridors be protected. The current fence ordinance does neither. Additionally, at the last meeting, the PC heard from 3 local experts, from the Loma Prieta Chapter of the Sierra Club, Santa Clara County Audubon Society, and Committee for Green Foothills, as to why animal-friendly movement hillsides are important to the integrity of our urban forests. We need to protect the animals within our hillsides as much as we protect our trees.

With these considerations in mind, I propose the following 5 changes/additions to staff's draft, shown below in ***bold, italics, and underlined***.

I urge that you approve Staff's draft, with my proposed changes (of course), and send this document onto the TC with the recommendation for adoption.

Sec. 29.40.030. Fences, walls, gates, gateways, entry arbors, and hedges.

Sec. 29.40.030xx. - Purpose and intent. The Fence Ordinance is divided into two parts: non-hillside and hillside areas. The use of fences, walls, gates, gateways, entry arbors, and hedges in the hillside areas shall be minimized and located so that natural landforms appear to flow together and are not disconnected. The primary emphasis shall be on maintaining open views, protecting wildlife corridors, and maintaining the rural, open, and natural character of the hillsides. Additional details are available in the Town's Hillside Development Standards and Guidelines, ***including the statement on page 43: "Fences shall not be allowed in areas that would impede the movement of wildlife..." Additionally from photo caption on page 42, "Rural character allows wildlife to pass through."***

Sec. 29.40.030xx. - Definitions. The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section. Fence means a man-made structure serving as a barrier or screen constructed of wood, metal, wire, masonry, glass, plastic,

stone or any material. Fence height means measured from finished grade and shall be measured from either side of the property line which affords affected property owners the most buffering from noise, light, glare, or privacy impacts. Hedge means a boundary formed by closely growing deciduous or evergreen bushes or shrubs. Hillside lot means a parcel of land that is shown on the Hillside Area Map in the Hillside Development Standards and Guidelines regardless of zoning district. Movement corridor means a movement pathway that is typically independent of season and used by animals on a near daily basis for the acquisition of food, shelter, water, and mates. Open-view design means a fence or other structure that permits views through it. Planting Zone 1 means that area within a 30-foot radius of the primary dwelling unit on a hillside lot. Retaining wall means a man-made structure designed to retain soil. Riparian corridor means an area comprised of habitat strongly influenced and delineated by the presence of perennial or intermittent streams. Page 2 of 6 Draft 9/8/17 Draft Amendments to Chapter 29 of Town Code - Hillside Fences Stream means a body of water that flows at least periodically or intermittently through a bed or channel having banks. The body of water may include watercourses having a surface or subsurface flow that supports or has supported riparian vegetation, fish, or aquatic life. Top of bank means a stream boundary where a majority of normal discharges and channel forming activities take place. The top of bank will contain the active channel, active floodplain, and their associated banks. Where there are no distinguishable features to locate the top of bank, the local permitting agency will make a determination and document as appropriate. In the absence of this determination, the 100-year water surface will be used. Traffic view area means that area, on corner lots, which is within fifteen (15) feet of a public street and within two hundred (200) feet of the right-of-way line of an intersection, or a distance of thirty (30) feet measured horizontally in any direction from the point of intersection of the property lines at street corners. Wall means a man-made structure that defines an area, carries a load, or provides shelter or security. Wildlife-friendly design means a fence, wall, hedge, or other structure that permits any animal, regardless of size, to easily climb under, pass through, or jump over.

Sec. 29.40.030xx. - Non-hillside lots: Proposed new fences, walls, gates, gateways, entry arbors, and hedges.

(A) In residential zones, no permits are required for the repair, replacement, or construction of fences, walls, gates, gateways, entry arbors, or hedges that are less than six (6) feet high on, or within all property lines.

(B) The following height exceptions shall apply: (1) Corner lot: In a traffic view area, no corner lot or premises in the Town shall have any fence, wall, gate, gateway, entry arbor, or hedge higher than three (3) feet above the curb unless permission is secured from the Town Engineer. (2) Properties not on a street corner: At the discretion of the Director of Community Development, side yard and rear yard fences, walls, gate, gateways, entry arbors, or hedges, behind the front yard setback, may be a maximum of eight (8) feet high provided the property owner can provide written justification to the Planning Department that demonstrates either of the following conditions exists: a. A special privacy concern exists that cannot be practically addressed by additional landscaping or tree screening. b. A special wildlife/animal problem affects the property that cannot be practically addressed through alternatives. Documented instances of wildlife grazing on gardens or ornamental landscaping may be an example of such a problem. (3) Historic Districts and/or Landmark and Historic Preservation Overlay: The

maximum height of fences in the front yard shall be three (3) feet and shall be of open-view design. (4) Gateways or entryway arbors: May be up to eight (8) feet high, including within Historic Districts or for properties with a Landmark and Historic Preservation Overlay, and shall be of open-view design. A gateway or entryway arbor shall have a maximum width of six (6) feet and a maximum depth of four (4) feet. No more than one (1) gateway or entryway arbor per street frontage is allowed. Page 3 of 6 Draft 9/8/17 Draft Amendments to Chapter 29 of Town Code - Hillside Fences (5) Adjacent to commercial property: Boundary line fences or walls adjacent to commercial property may be eight (8) feet high if requested or agreed upon by a majority of the adjacent residential property owners.

(C) Materials. The type of fencing materials within the non-hillside zone are generally unrestricted, and fences can be a combination of materials, with the following exceptions: (1) Plastic fencing is discouraged everywhere and is prohibited in Historic Districts. (2) Barbed wire or razor ribbon wire is prohibited in all zones.

Sec. 29.40.030xx. - Hillside lots: Proposed new fences, walls, gates, gateways, entry arbors, and hedges. This division section covers any new fence, wall, gate, gateway, entry arbor, or hedge, and the replacement, modification, and/or repair of any existing fence, wall, gate, gateway, entry arbor, or hedge whether the primary dwelling unit is new or existing. In the absence of a primary dwelling unit, an entire hillside lot, including any accessory structures such as a barn, storage shed, stable, or similar structure, shall be covered by the conditions of this Section.

(A) Within 30 feet of primary dwelling unit (Planting Zone 1): (1) Approvals: Minor Residential Development approval is required pursuant to Section 29.20.480(2)(h). The permit shall be posted on site during construction. (2) Are subject to the provisions of Sec. 29.40.030, Non-hillside residential lots above. (3) Riparian corridor. No fence, wall, gate or hedge shall be constructed within a riparian corridor or within 30 feet of its top of bank. (4) Prohibited materials. Barbed or razor wire fences, including any fence with attached barbs, sharp points, or razors, are prohibited.

(B) Greater than 30 feet from primary dwelling unit (outside Planting Zone 1): (1) Approvals: Minor Residential Development approval is required pursuant to Section 29.20.480(2)(h). The permit shall be posted on site during construction. (2) Accessory structures. Fences associated with accessory structures, if located farther than 30 feet from the primary dwelling unit, shall be governed by this section. (3) Wildlife friendly. All fences, walls, gates, and hedges shall be of wildlife-friendly design. If a new hillside fence is, in part, closer than 30 feet to the primary dwelling unit and, elsewhere, farther than 30 feet from the primary dwelling unit, the portion that is farther than 30 feet shall be of wildlife-friendly design. (4) Maximum height: a. New fences. The maximum height of new fences shall be 42 inches. b. Hedges. Hedges shall be maintained at a maximum height of 60 inches (5 feet). c. Hedges shall have two- to four-foot-wide gaps at least every 25 feet. (5) Minimum height above grade: a. New Fences. The minimum height above grade of new fences shall be 16 inches. (6) The following fence types are not of wildlife-friendly design and are therefore prohibited: a. Chain-link, chicken wire, welded wire, wire mesh, cyclone or similar fence material Page 4 of 6 Draft 9/8/17 Draft Amendments to Chapter 29 of Town Code - Hillside Fences b. Buck and rail fences. c. Any fence with bare lengths of wire stretched between posts. d. Electric fences, including any fence designed to produce an electric shock, except where necessary for animal husbandry operations. e. Barbed or razor wire fences,

including any fence with attached barbs, sharp points, or razors. (7) Fence design. a. Fences shall be of an open-view design that does not detract from the scenic nature or character of the surrounding area. b. Traditional split-rail fences are encouraged. Rural styles shall emphasize natural colors such as brown, grey or green. c. Fences shall have a top level of wood (or similar material) rail rather than wire. d. Split rail fences shall include a minimum 12-inch spacing between rails wherever feasible. e. Hedge plant species shall consist of those listed in Appendix A of the Hillside Development Standards and Guidelines. f. The spacing of vertical fence posts shall be at least 8 feet apart, unless physically impossible due to terrain or other conditions. (from HDS&G, page 43) g. "Only open fencing shall be located within 20 feet of a property line adjacent to a street." (8) Fence, wall, gate, and hedge siting: a. Fences and hedges shall be located to follow natural contours, whenever possible. b. Fences and hedges shall be located to avoid impacts to trees, animal movement corridors, and other natural features. (from HDS&G, page 43) "Fences shall not be allowed in areas that would impede the movement of wildlife...". No fence, wall, gate or hedge shall be constructed within a riparian corridor, stream, or within 30 feet of its top of bank. d. No fence, wall, gate, or hedge shall be constructed in the public or private right-of-way or within any trail easement or other easement precluding their construction unless allowed, in writing, by the Town Engineer. (9) Walls: a. Walls are prohibited unless needed for privacy as determined by the Director of Community Development. b. Town approved retaining walls are permitted.

(C) Replacement or modification of existing fences, walls, hedges or gates: (1) Shall be subject to the requirements in this Ordinance. The permit will be posted on site during construction. (2) Are encouraged if such changes improve wildlife movement or animal corridors. (3) Replacement or modification of any fence, wall, hedge or gate shall be prohibited if the Town Engineer determines that a public safety hazard exists.

(D) Repair. A permit is not required for repair of short sections of existing fences, walls, or hedges no greater than 50 percent of fence, wall, or hedge provided no other repair work is done on the same structure over a 12- month period.

(E) Exceptions: (1) Fences around swimming pools, outdoor sports courts, and similar structures are not required to be of wildlife-friendly design, even if farther than 30 feet from the primary dwelling unit (see Sec. 29.10.09020 for other swimming pool requirements). Sport court fencing may be 12 feet in height. (2) A temporary (1 to 3 year), animal excluding, circular enclosing fence may be erected to protect a newly planted tree or shrub. (3) Enclosure fencing around vineyards, orchards, and vegetable gardens shall be limited to those areas requiring enclosure and does not have to be wildlife friendly even if farther than 30 feet from the primary dwelling unit. (from HDS&G, page 43) "Deer fencing shall be limited to areas around ornamental landscaping. Larger areas shall not be enclosed..." (The HDS&G already limits ornamental landscaping to planting zone 1, within 30' of the primary dwelling). (4) Fences needed for livestock control do not have to be of wildlife-friendly design even if farther than 30 feet from the primary dwelling unit. (5) Security fencing required to protect a public utility installation does not have to be wildlife friendly. (6) Written exceptions may be granted when the Director of Community Development finds that the strict application of these requirements will result in an extreme hardship for the property owner.

**(F) Fees.** The fee, as adopted by Town Resolution for Minor Residential development, prescribed therefore in the municipal fee schedule, shall accompany any application for a fence in the Hillside area submitted to the Town for review and evaluation pursuant to this division.

**(G) Enforcement.** Any fence, wall, gate, gateway, entry arbor, or hedge constructed, replaced, modified, or repaired without required approval, is a violation of this Code.

**(H)** Where a conflict exists between the Covenants, Conditions, and Restrictions (CC&Rs) of a hillside Planned Development (PD) and this document, the requirements of this document shall prevail.

**(I) Notices.** Noticing shall comply with the public noticing procedures of section 29.20.480 of the Town Code. (Ord. No.1316, § 4.10.020, 6-7-76; Ord. No. 1493, 3-17-81; Ord. No. 1873, §1, 10-7-91; Ord. No. 2049, § 1, 10-5-98; Ord. No. 2062, §1, 6-21-99; Ord. No. XXXX, §)

## Sean Mullin

---

**From:** Janette Judd  
**Sent:** Tuesday, September 12, 2017 10:34 AM  
**To:** adonkathy@aol.com  
**Cc:** Sean Mullin; Joel Paulson  
**Subject:** FW: Fence Ordinance

cc: Town Council  
Town Manager  
CDD Director J. Paulson  
Associate Planner S. Mullin

Good morning,

Thank you for your e-mail, received by the Town Council and Town Manager. This matter is currently scheduled for discussion at the September 13 Planning Commission meeting. Your communication was received after the Planning Commission agenda was finalized and after initial public submittal deadlines. However, your comments will be included (along with all Public Comment) in supplemental materials distributed for tomorrow's meeting, as well as any subsequent Town Council meeting discussion.

By copy of this message your comments are referred to Associate Planner Sean Mullin, staff liaison for matter. Should you have additional questions or comments, Sean can be reached at (408) 354-6823 or by email, [SMullin@LosGatosCA.gov](mailto:SMullin@LosGatosCA.gov).

Thank you once again for contacting the Town of Los Gatos and voicing your comments.  
Best regards,



**Janette Judd • Executive Assistant**

Town Council and Town Manager • 110 E. Main St., Los Gatos CA 95030  
Ph: 408.354.6832 • [JJudd@LosGatosCA.gov](mailto:JJudd@LosGatosCA.gov)  
[www.LosGatosCA.gov](http://www.LosGatosCA.gov) • <https://www.facebook.com/losgatosca>

-----Original Message-----

**From:** Don & Kathy [<mailto:adonkathy@aol.com>]  
**Sent:** Monday, September 11, 2017 6:30 PM  
**To:** Council  
**Subject:** Fence Ordinance

I was shocked to read the facts concerning the new fence ordinance. At first I thought it was "fake news". I cannot understand the reasoning behind such an ordinance. I ask the Town Council to use good judgment and vote against such an abusive home owner's ordinance. I would also wonder what the thinking was that went into even coming up with such regulations.

I think more time should be spent on trying to solve the horrific traffic problems.

Kathy Anderson  
Foster Rd.  
95030

Sent from my iPad

## Sean Mullin

---

**From:** Janette Judd  
**Sent:** Tuesday, September 12, 2017 10:36 AM  
**To:** dr\_jkim@verizon.net  
**Cc:** Joel Paulson; Sean Mullin  
**Subject:** FW: comments regarding fence ordinance  
**Attachments:** FenceOrdinance\_DrKim.pdf

cc: Town Council  
Town Manager  
CDD Director J. Paulson  
Associate Planner S. Mullin

Good morning,

Thank you for your e-mail and attached letter, received by the Town Council and Town Manager. This matter is currently scheduled for discussion at the September 13 Planning Commission meeting. Your communication was received after the Planning Commission agenda was finalized and after initial public submittal deadlines. However, your comments will be included (along with all Public Comment) in supplemental materials distributed for tomorrow's meeting, as well as any subsequent Town Council meeting discussion.

By copy of this message your comments are referred to Associate Planner Sean Mullin, staff liaison for matter. Should you have additional questions or comments, Sean can be reached at (408) 354-6823 or by email, [SMullin@LosGatosCA.gov](mailto:SMullin@LosGatosCA.gov).

Thank you once again for contacting the Town of Los Gatos and voicing your comments.  
Best regards,



**Janette Judd • Executive Assistant**

Town Council and Town Manager • 110 E. Main St., Los Gatos CA 95030

Ph: 408.354.6832 • [JJudd@LosGatosCA.gov](mailto:JJudd@LosGatosCA.gov)

[www.LosGatosCA.gov](http://www.LosGatosCA.gov) • <https://www.facebook.com/losgatosca>

**From:** Julie Kurkchubasche [mailto:dr\_jkim@verizon.net]  
**Sent:** Monday, September 11, 2017 9:09 PM  
**To:** Council; Town Manager  
**Subject:** comments regarding fence ordinance

Dear Council Members,

Please see my letter addressing the upcoming fencing ordinance in the attachment.

Thank You,

Julie Kim, MD  
[dr\\_jkim@verizon.net](mailto:dr_jkim@verizon.net)

-----Original Message-----

To: Julie Kim <[dr\\_jkim@verizon.net](mailto:dr_jkim@verizon.net)>

Sent: Mon, Sep 11, 2017 9:04 pm

9/1/17

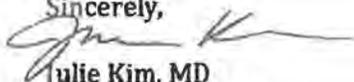
Dear Members of the Los Gatos Planning Commission,

I am a proud resident of Los Gatos and your local Pediatrician for 25 years. I am vested in our town and look forward to residing here for many years to come. We have a lovely home in the hills that we work VERY hard to maintain with beautiful trees and vineyard (permitted). I'm writing to voice (along with many residents like me who spend many hours and many dollars to keep their properties beautiful), how disappointed we are at the new pending fence ordinance.

First of all, we don't need another ordinance to dictate how we should maintain our property. I think we have enough. We have existing guidelines on fencing that work very well. We see wildlife all around us, including many family of deers, coyotes, wild turkeys, bobcats and more. I could hardly keep up with plants being eaten by our wildlife in front of my house. There are no deer resistant plants-not really. The cost to replace them just in the front of the house is tremendous. If we don't have a decent fence to keep some of the wildlife from devouring plants in our backyard, what's the use of all the hard work of maintaining our land? It will be replaced by ugly weed, thistle and poison oak. Before our fence was erected near our property line, everything beautiful was devoured even in our immediate backyard. For instance, our family went on a short vacation overseas. On the last day of our trip, at the airport, one of our neighbors called and informed us that 2 deers had gotten into our immediate backyard and devastated our yard. All the hard work of planting and beautifying our yard, not to mention the cost, all went down the drain. It was heartbreaking. We had to start all over again. We have not had this problem since the peripheral fence was installed. Also, one of our major reason for purchasing our house was for our land. I will not be able to enjoy a view of any other tree beside an oak on our property because it will get devoured.

With current existing regulations, we and our neighbors can work together on our own and figure out and create passageways for wildlife. We did just that. We carved out passageways for wildlife to roam and it must be working because I can give you pictures of many wildlife that pass through our property. Finally, I and many of my neighbors do not wish to pay thousands of dollars to have to get a permit to fix our fence, let alone the time and additional work which it will entail. The cost of living in our town is tremendous and we work long hours at our jobs to be able to afford the pleasure of living here. Please don't burden us with yet another cost to live in Los Gatos.

Sincerely,



Julie Kim, MD  
RAMBLC Pediatrics  
14880 Los Gatos Blvd.  
Los Gatos, CA 95032

**From:** kdeloumi [mailto:kdeloumi@yahoo.com]  
**Sent:** Tuesday, September 12, 2017 8:58 PM  
**To:** Council  
**Subject:** Proposed fence ordinance input

Please consider modifying or adding to whatever ordinance or existing ordinance is to be altered the following:

Restrict building of fencing across watersheds and creeks. whether dry or wet during dry season. My reason-

-These are natural highways, food supplies and habitat for our deer etc... I have seen over the years people building fences across these watersheds and waterways, blocking off natural habitat little by little, over and over.

-I have also seen people building these fences and not maintaining growth over time they backing up the flow of water causing issues for those upstream and alter of the water flow and actual waterway layout /infrastructure.

I find it sad as natural pathways are slowly cut off one house at a time. However a standard 30ft ordinance does not seem fitting as each property is unique and should be addressed against guidelines that take into consideration the lay of the land and other factors. It's a nice idea but it needs great revamping. 30ft seems unreasonable.

I find the fencing off of waterway and watershed sad and unnecessary as fencing can easily be built along the waterway or dry watershed allowing the homeowner to close off their yard but still leaving access for wildlife. I was dumbfounded when I had an issue of my own and found that there is not anything in the town code that staff can use to remove fencing across these various waterways. All they can do he is talk to those who put up fences and put them on notice if they do not maintain the growth. Unfortunately not old neighbors are so neighborly when these issues come up. It becomes the neighbor upstream being affected by the neighbor downstreams maintenance abilities . The neighbor Upstream has no legal authority to touch the fence or easy access to deal with in an emergency. There should be some town code that makes the situation easier to remedy. It took working with the town who would that time was hiring contractors in this area and then a few more changes of staff before my situation got some what resolved. I had to beg for an email to be sent to me noting that if there was a problem the town has the authority to cut open the fence. If I didn't push for that I would have gotten nothing. It took over 2 years to remedy as many of the neighbors involved chose to ignore request when the town tried to do it by talking to individuals. Those with the fences were far from the creek. My house is built very close to the creek so I was getting the Major Impact in those with the control of the fencing had no impact at all in perspective.

Thank you for listening. I prefer those on the Planning Commission not read my letter out loud but take into consideration the frustrations and anguish I went through dealing with my specific issue. I felt this was the appropriate time to give feedback as it is clearly related. I am in town limits and not sure if this ordinance applies to my property or not as I did not receive this notice but saw talked about on Nextdoor.

Level of frustration and anguish was quite high and was completely unnecessary. If an ordinance that existed it could have been cleared up quite quickly. A little bit more definition on fencing - across- watersheds whether wet or dry during the summer would be greatly appreciated.

Karen

Sent via mobile device.



Comments re: Proposed fencing restrictions

Commissioners,

My name is David Fox and I am a practicing landscape architect with my office in town. The majority of my practice revolves around the design and construction of landscapes for hillside homes in Los Gatos, Monte Sereno, and Saratoga.

In regards to fencing I find that my client have their greatest concerns in three areas:

Security: From both two legged and four legged predators. Protecting their family and property.

Containment: Most of clients have children, many of them young children. There is a strong desire to provide a safe area for their children to play in outside the home that will allow for general play and sports activities. Just keeping a ball from rolling all the way down the hill becomes important in day to day life.

Safety: Keeping the dog in the lot. Keeping the kids from rolling all the way down the hill. Keeping the children and pets away from the street and on the property. And separating those that use the yard from animals that can be aggressive and destructive.

There are four exhibits.

**Exhibit A** shows that even a modest outdoor design proposal that takes up a very small percentage of the yard could not be fenced under the current proposed standard.

**Exhibit B** shows the current scenic easement overlay on the example lot which is part of the Highlands of Los Gatos subdivision. This approach could be done on any future subdivision proposed in the town and would provide linked space throughout the development. At the Highlands the scenic easements were roughly based on the LRDA of the lot.

**Exhibit C** shows what designated setbacks for fences would look like and this could be applied to any hillside lot in town. For lots with existing fences the standard could be written such that any proposed development that requires planning approval would require that the existing fences be brought to the designated setbacks.

**Exhibit D** illustrates setting the fences back a designated distance from the approved landscape development on the property. This would create a yard and still leave the vast majority of the lot open. The designated setback could be anywhere from 30' to 50' (40' is shown in the exhibit) and still keep large open areas on most hillside lots. On lots where this would interfere with established easements or other considerations, the staff could work with the applicant on the final fence line.

I believe that any of these proposals achieve the aim of keeping the hillside properties with open space and wildlife corridors and still provide the owners of these properties areas that are contained and can provide security and safety for their families and pets.

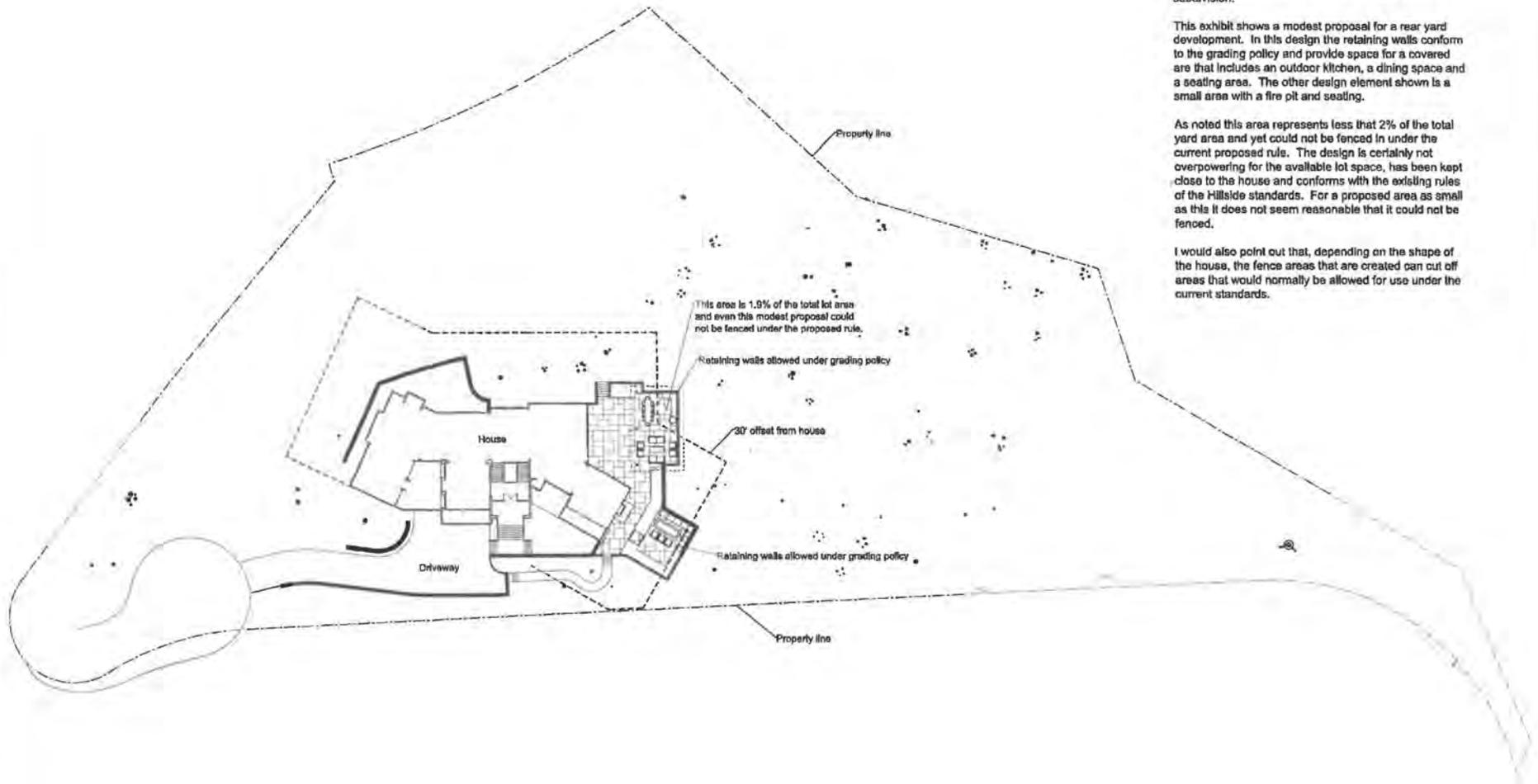
*This Page  
Intentionally  
Left Blank*

Notes:  
This is an actual lot in the Highlands of Los Gatos subdivision.

This exhibit shows a modest proposal for a rear yard development. In this design the retaining walls conform to the grading policy and provide space for a covered area that includes an outdoor kitchen, a dining space and a seating area. The other design element shown is a small area with a fire pit and seating.

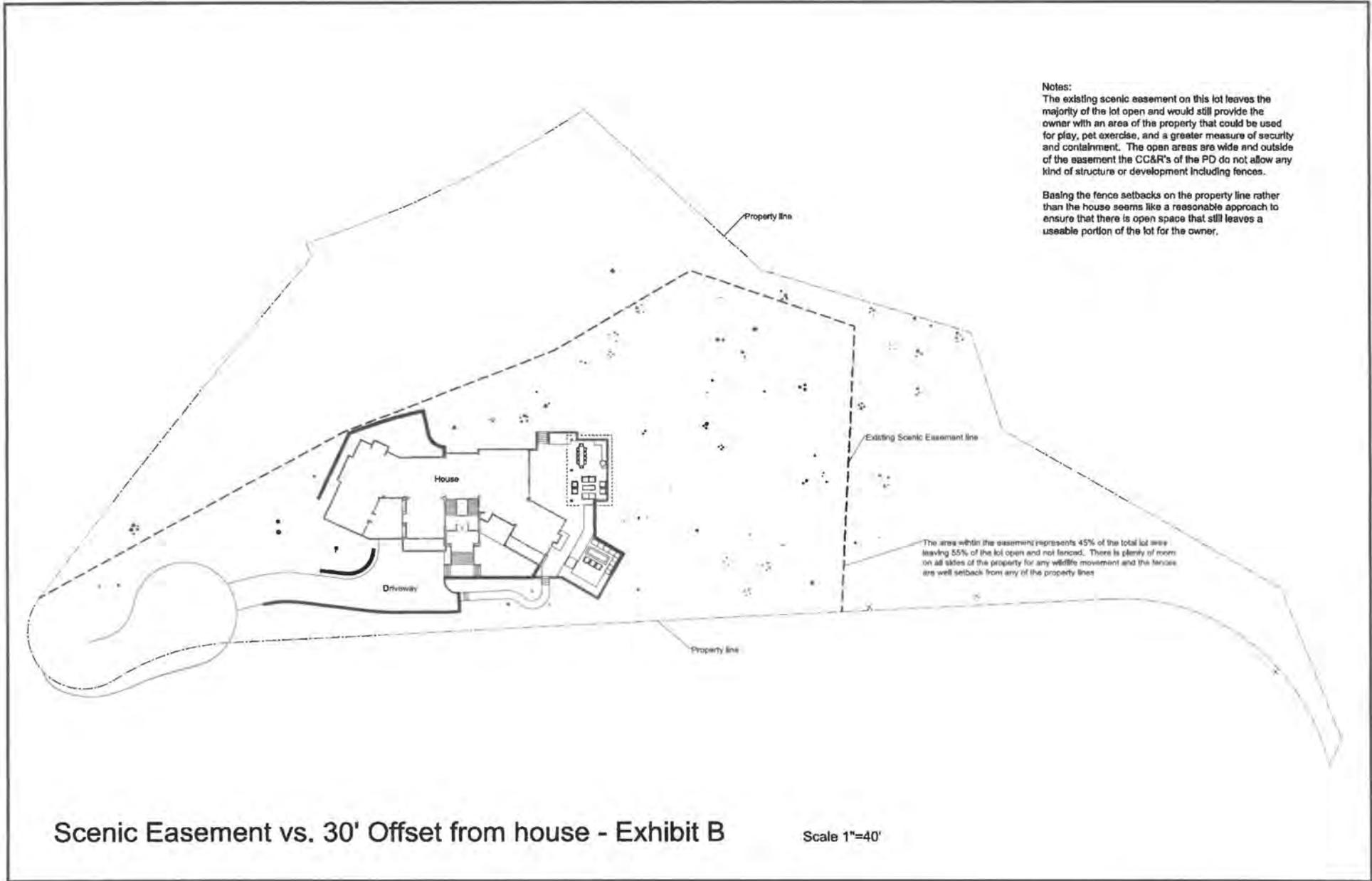
As noted this area represents less than 2% of the total yard area and yet could not be fenced in under the current proposed rules. The design is certainly not overpowering for the available lot space, has been kept close to the house and conforms with the existing rules of the Hillside standards. For a proposed area as small as this it does not seem reasonable that it could not be fenced.

I would also point out that, depending on the shape of the house, the fence areas that are created can cut off areas that would normally be allowed for use under the current standards.



Scenic Easement vs. 30' Offset from house - Exhibit A

Scale 1"=40'



**Notes:**  
The existing scenic easement on this lot leaves the majority of the lot open and would still provide the owner with an area of the property that could be used for play, pet exercise, and a greater measure of security and containment. The open areas are wide and outside of the easement the CC&R's of the PD do not allow any kind of structure or development including fences.

Basing the fence setbacks on the property line rather than the house seems like a reasonable approach to ensure that there is open space that still leaves a useable portion of the lot for the owner.

The area within the easement represents 45% of the total lot area leaving 55% of the lot open and not fenced. There is plenty of room on all sides of the property for any wildlife movement and the fences are well setback from any of the property lines

Scenic Easement vs. 30' Offset from house - Exhibit B

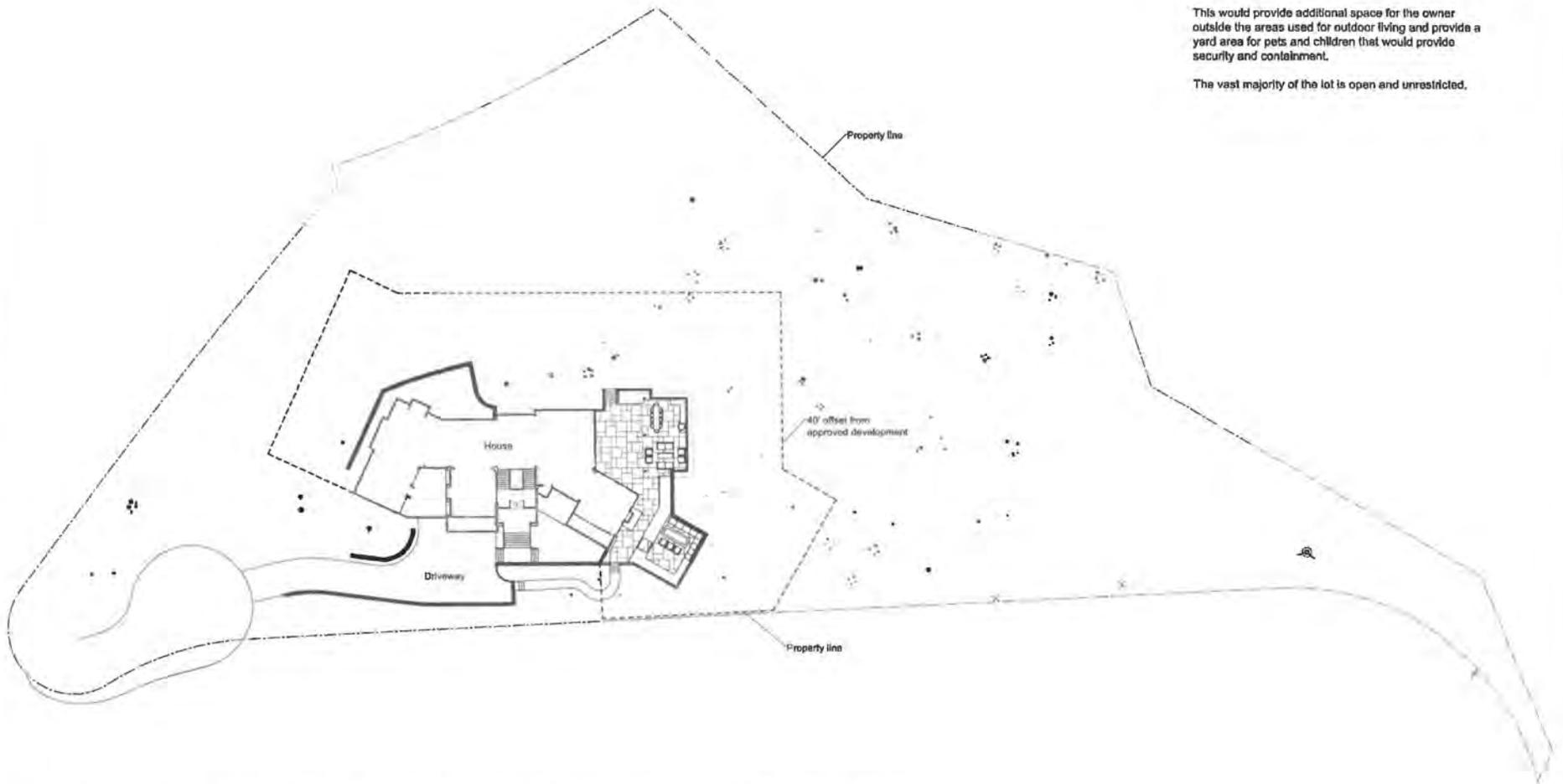
Scale 1"=40'

**Notes:**

An alternative to measuring from the property line could be to measure from the outside of any approved development on the lot.

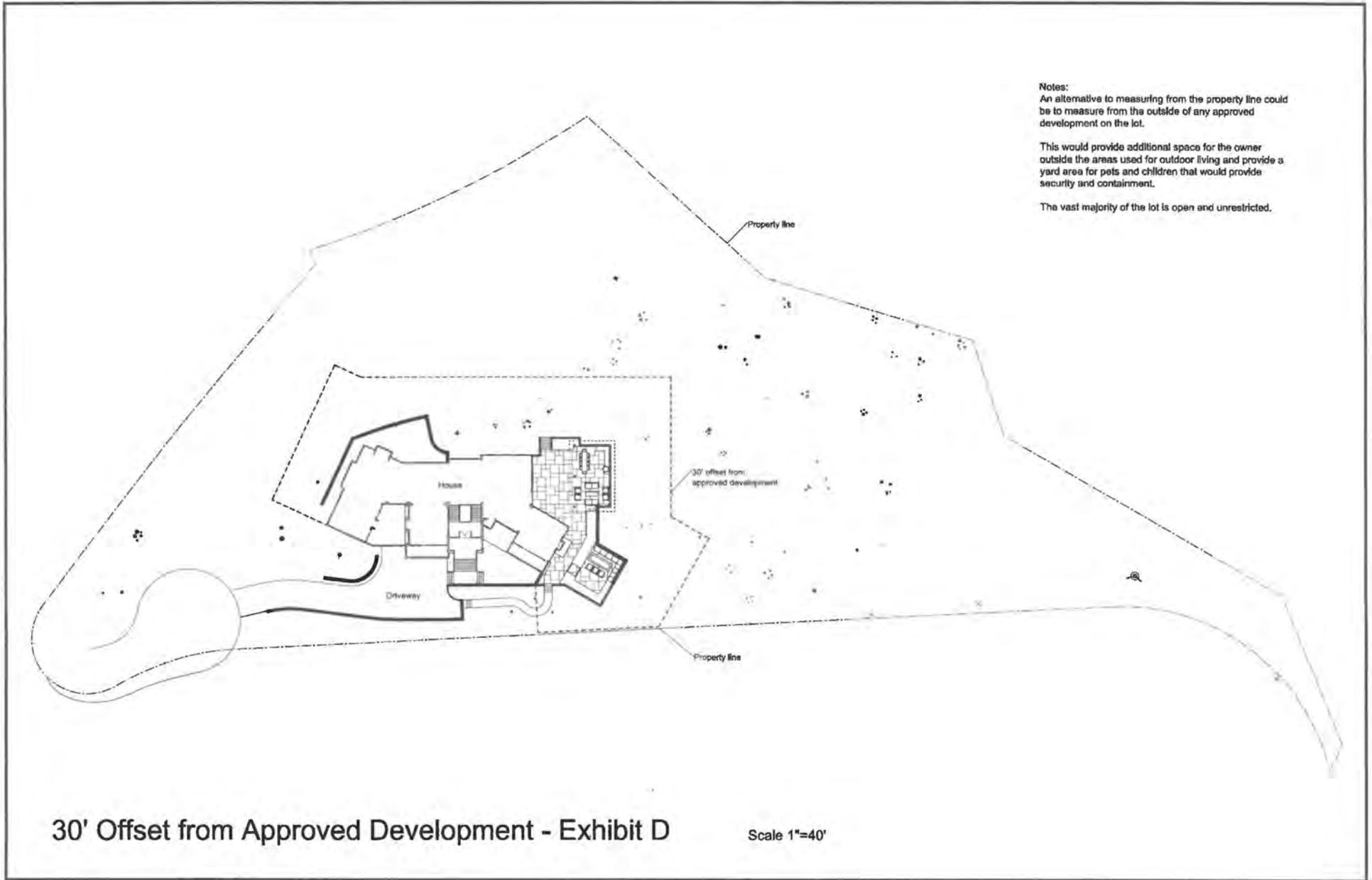
This would provide additional space for the owner outside the areas used for outdoor living and provide a yard area for pets and children that would provide security and containment.

The vast majority of the lot is open and unrestricted.



**Designated Offset from Approved Development - Exhibit D**

Scale 1"=40'



Notes:  
An alternative to measuring from the property line could be to measure from the outside of any approved development on the lot.  
This would provide additional space for the owner outside the areas used for outdoor living and provide a yard area for pets and children that would provide security and containment.  
The vast majority of the lot is open and unrestricted.

30' Offset from Approved Development - Exhibit D

Scale 1"=40'

TOWN COUNCIL

Received with December 5, 2017, Staff Report

## Sean Mullin

---

**From:** Erin M. Walters  
**Sent:** Thursday, September 14, 2017 9:01 AM  
**To:** Jeffrey Casale  
**Cc:** Sean Mullin  
**Subject:** RE: Amendment A-17-002

Good Morning Jeffery,  
Thank you for your email.

I will forward your comment to Sean Mullin, the project planner for hillside fences. Your comment will be included in the next report to Town Council.

Last night the Planning Commission forwarded the proposed amendments to the Town Council with Planning Commissioner comments and no recommendation.

Please keep in contact with Sean regarding the upcoming Town Council meeting on this matter.

Best,

Erin Walters • Associate Planner  
Community Development Department • 110 E. Main Street, Los Gatos CA 95030  
Ph: 408.354.6867 • 408-354-6872  
[www.losgatosca.gov](http://www.losgatosca.gov) • [ewalters@losgatosca.gov](mailto:ewalters@losgatosca.gov)

Erin's Office Hours: 9:00 AM – 1:00 PM, Monday – Friday

Community Development Counter Hours: 8:00 AM – 1:00 PM, Monday – Friday  
Please note the upcoming Town closure: November 23 & 24 – Thanksgiving Holiday

### CONFIDENTIALITY DISCLAIMER

This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.

Think Green, please consider the environment before printing this e-mail.

-----Original Message-----

**From:** Casale, Jeffrey [<mailto:Jeffrey.Casale@dell.com>]  
**Sent:** Wednesday, September 13, 2017 6:45 PM  
**To:** Planning  
**Subject:** Amendment A-17-002

I am a resident in the hillsides. 17400 Phillips Ave. I am against the proposed amendment.

All fences deteriorate and this will require costly changes to existing fences while exposing my children to an increase in ticks and Lyme disease.

Jeff Casale.

Dear Los Gatos Planning Commission,

In reading through the proposed new regulations for hillside area fencing it is clear that much thought and care gone into balancing the needs of the residents with the needs of the wildlife and the open space feel of the hillside areas. The exceptions put in the proposal for orchards, vineyards, gardens, and the protection of livestock go a long way in ensuring that the residents' usage of the land is not unduly limited by the new proposed fencing regulations. That being said, there is one aspect of the new regulation that could pose a major impediment to raising livestock responsibly in this area of Los Gatos.

Rotational grazing is considered best practice for raising livestock in order to limit the environmental impact of the animals on the landscape. That means that animals graze in a limited area for pasture for a short period of time. They are then rotated onto another part of the pasture. The animals are usually rotated through four or more sections of pasture, being moved as often as weekly depending on the size of the pasture and the number of animals. This is most often done using moveable fencing that is moved to enclose the area containing the animals. This method of rotational grazing allows the grasses to regrow between grazing periods, reducing erosion and increasing the fertility of the soil rather than depleting it. This also helps increase the soil's water storage capacity, which makes the area more drought resistant.

The proposed permitting fee of more than \$2000 in new fencing proposal would make rotational grazing cost prohibitive. It would be impossible for people to apply for weekly, or even monthly, permits to move fences. As a result it could encourage people to use less sustainable agriculture practices, thereby increasing erosion. Alternatively, it might encourage people to permanently enclose the entire pasture area with a fence and add fences within the area to subdivide it into multiple pastures. This would result in a larger permanently fenced area than might be necessary, just to avoid the fees associated with permits to move the fences. This is opposite desired effect of the proposed fencing ordinance, which is designed to reduce the fencing that limits wildlife throughways and access. I urge the Planning Commission to consider adding an exception to the required permitting fee for temporary moveable fences used for livestock pasturing. That would help ensure that there is not undue burden on the residents while at the same time maximizing the environmental benefits of reducing erosion and leaving unobstructed passage for wildlife. Thank you for your consideration.

Sincerely,  
Rabbi Shoshana Ohrienr  
14320 Americh Rd  
Los Gatos, CA 95070

RECEIVED

SEP 13 2017

TOWN OF LOS GATOS  
PLANNING DIVISION

## Sean Mullin

---

**From:** Janette Judd  
**Sent:** Thursday, September 14, 2017 9:23 AM  
**To:** toddgummow@gmail.com  
**Cc:** Joel Paulson; Sean Mullin  
**Subject:** FW: proposed Hillside Fencing ordinance A-17-220

cc: Town Council  
Town Manager  
CDD Director J. Paulson  
Associate Planner S. Mullin

Good morning,

Thank you for your e-mail, received by the Town Council and Town Manager. Your communication was received after the Planning Commission agenda public submittal deadlines and after the meeting occurred. However, your comments will be included (along with all Public Comment) in the project file as well as any subsequent Town Council meeting materials.

By copy of this message your comments are referred to Associate Planner Sean Mullin, staff liaison for matter. Should you have additional questions or comments, Sean can be reached at (408) 354-6823 or by email, [SMullin@LosGatosCA.gov](mailto:SMullin@LosGatosCA.gov).

Thank you once again for contacting the Town of Los Gatos and voicing your comments.  
Best regards,



**Janette Judd • Executive Assistant**

Town Council and Town Manager • 110 E. Main St., Los Gatos CA 95030

Ph: 408.354.6832 • [JJudd@LosGatosCA.gov](mailto:JJudd@LosGatosCA.gov)

[www.LosGatosCA.gov](http://www.LosGatosCA.gov) • <https://www.facebook.com/losgatosca>

**From:** Todd Gummow [<mailto:toddgummow@gmail.com>]  
**Sent:** Wednesday, September 13, 2017 5:24 PM  
**To:** Council  
**Subject:** proposed Hillside Fencing ordinance A-17-220

Dear Council members,

I am writing concerning the proposed Fence Ordinance for Hillside homes, A-17-002. My wife and I will be attending the planning commission meeting tonight to strongly oppose the proposed ordinance. We have lived at 17144 Mill Rise Way in Los Gatos for over 25 years. Our lot is a flat one acre parcel that is fully fenced and designed for use. We would not have bought the property if it was not fully fenced, as this was necessary to protect our children, their friends and our pets, as our property is very close to Kennedy Road. We have our young Grand-nieces & nephews over regularly, ages 2 – 7, and hope to have Grandchildren some day.

Because our parcel is large, all of the fencing is further than 30' from the residence. In fact we have a brick wall at the entry to our property that is over 30' away. Under the proposed ordinance if more than 50' or 25% of any fence or wall needs repair it would have to meet the new ordinance. In our case, should a truck or earthquake damage our front wall (which is approximately two 20' walls with a driveway gate) we would have to put a 42" high split rail fence to replace. Ridiculous

Should a large portion of our yard fencing be damaged, we would have to comply with the new ordinance, which means we would have to put a safety fence (to protect our pets and young children) within 30' of our home, and a separate compliant fence outside that one. Again, ridiculous

I could go on and on, but I think you see some of the problems with this proposed ordinance. If for some reason the Planning commission allows it to move forward, I would hope you would see fit to deny.

Thank you,  
Todd & Gwen Gummow  
408-529-9632  
17144 Mill Rise Way  
Los Gatos, CA 95030

## Sean Mullin

---

**From:** Janette Judd  
**Sent:** Friday, October 06, 2017 10:08 AM  
**To:** rnt97@yahoo.com  
**Cc:** Sean Mullin  
**Subject:** FW: Proposed amendment to fencing regulations

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

cc: Town Council  
Town Manager  
CDD Director J. Paulson  
Associate Planner S. Mullin

Good morning,

Thank you for your e-mail, received by the Town Council and Town Manager. Following the September 13 Planning Commission meeting, this matter is currently scheduled for discussion at the October 17 Town Council meeting. Your communication will be included (along with all Public Comment) in materials distributed for the October 17 meeting.

By copy of this message your comments are referred to Associate Planner Sean Mullin, staff liaison for the matter. Should you have additional questions or comments, Sean can be reached at (408) 354-6823 or by email, [SMullin@LosGatosCA.gov](mailto:SMullin@LosGatosCA.gov).

Thank you once again for contacting the Town of Los Gatos and voicing your comments.  
Best regards,



**Janette Judd • Executive Assistant**

Town Council and Town Manager • 110 E. Main St., Los Gatos CA 95030

Ph: 408.354.6832 • [JJudd@LosGatosCA.gov](mailto:JJudd@LosGatosCA.gov)

[www.LosGatosCA.gov](http://www.LosGatosCA.gov) • <https://www.facebook.com/losgatosca>

---

**From:** Rick Tinsley [<mailto:rnt97@yahoo.com>]  
**Sent:** Friday, October 06, 2017 8:42 AM  
**To:** Council  
**Cc:** Rick Tinsley; Carol Tinsley  
**Subject:** Proposed amendment to fencing regulations

To: Los Gatos Town Council Members

Fr: Rick Tinsley, 16555 S. Kennedy Rd

Re: Town Code Amendment A-17-002 Applicant: Town of Los Gatos Project Planner: Sean Mullin  
Consider amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding fences,

hedges, and walls; and includes new regulations and requirements for fences, hedges, and walls in the Hillside Area.

As a long time resident of Los Gatos, my family and I love observing and being close to our local wildlife. It is one of the reasons we bought our property and is a great source of enjoyment. Having said that, the proposed amendment to current fencing regulations for hillside properties is an extremely flawed and misguided for the following reasons:

1. The proposed ordinance is burdensome and impractical. During the 16 years that I have lived at the above address, I have at times grown grapes, blueberries, blackberries, figs, lemons, nectarines, pomegranates, all sorts of vegetables, flowers and ornamental plants. None of these would have been possible without a deer fence in distinct violation of the proposed ordinance.

Note that I do not have "an orchard" but rather have established trees, berry bushes and raised veggie beds in various small spots around my property where there is sufficient sun exposure in between the many large native oak trees. To comply with the proposed ordinance I would have to construct at least 8 or 10 separate fenced enclosures on my 1.1 acre lot. This would create an extraordinary eyesore and be far more expensive than the normal common sense solution of a perimeter fence around my back yard. Hillside properties often have very limited planting zones. Slopes, trees, sun exposure and irregular lot shapes limit where various items can be planted. The proposed ordinance completely ignores this practical reality of hillside properties.

During the Sept 13, 2017 Planning Commission meeting, one of the two proponents of the Amendment suggested it was simply "codifying what was already in the Hillside Guidelines" however several Commissioners pointed out problems with this blanket justification since the Amendment goes far beyond what is specified or even contemplated in the Hillside Guidelines.

2. The deer population is thriving despite the explosion in development including many noncompliant fences over the past few decades. At the Sept 13 Planning Commission meeting on this topic, multiple long-time residents provided testimony supporting this. Our local black tail deer populations adapt quite readily to human development and the notion that our fences have hurt the deer is simply naive and not supported by facts. I would challenge the proponents of the proposed amendment to provide any empirical evidence that the local deer population is in decline or otherwise suffering. On the contrary, fences are normally used to restrict the deer from feeding on various irrigated and non-native plants (fruits, vegetables, berries, flowers, etc) that would never be part of the deer's natural and healthy ecosystem.

3. Fleas and ticks are a serious problem. Many people have commented on ticks and the diseases they vector but fleas are also a concern. One summer several years ago when my children were smaller, they were unable to use their trampoline and swing set due to a flea infestation. Our local herd of deer liked to lie down in the play yard during the afternoon which was very cute but resulted in the area being overrun with fleas. We were all covered with flea bites that summer and I had to hire a professional exterminator to deal with the problem.

4. Fences have a finite life and need to be replaced from time to time. In 16 years on my property I am now on my third fence. When it ages out and needs to be replaced again, I will be unable to replace it with a fence that will protect my pets, fruit trees, berry bushes, vegetable gardens, etc. Similarly, any future owner of my home will effectively be prohibited from enjoying the property as I have.

5. The Town has neither the capability nor the intention of enforcing the proposed regulations which means this entire effort is a colossal waste of time and taxpayers' money. During the Sept 13, 2017

Planning Commission meeting, testimony was provided that many fences both in the downtown area and in the hillsides do not comply with the CURRENT fence regulations. This was readily acknowledged by the Commissioners, some of whom admitted to having such noncompliant fences themselves and Town Staff agreed that the current fence regulations are NOT ENFORCED and there are countless examples of illegal fences that can be readily observed throughout our town. Town Staff also indicated very few people ever apply for a fence permit as required by our current regulations. Several builders have indicated there is never a need to get a permit for a (noncompliant) fence since the Town of Los Gatos does not police or enforce fence regulations. Since the proposed amendment raises the fence permit fee to an exorbitant \$2200 (five times as much as Los Altos Hills) we can expect that virtually no one will apply for such a permit or otherwise comply with the increasingly onerous regulations.

A sound and effective government does not pass laws that it has neither the capacity nor the intention of enforcing. Why are we wasting our time with this ridiculous proposal?

Our town faces numerous challenges with traffic, parking, school crowding, decreasing school quality, a \$50M unfunded pension liability, etc. In light of these very real and evident problems, WHY IS OUR TOWN GOVERNMENT CHOOSING TO PICK THIS FIGHT? WHAT EXACTLY IS THE PROBLEM THAT THE PROPOSED AMENDMENT SOLVES? Please reject this naive and misguided proposal and get back to addressing the real challenges that our town faces.

Thank you,

Rick Tinsley

RECEIVED

OCT 06 2017

RE: Proposed Hillside Fence Ordinance, Town Code Amendment A-17-002

TOWN OF LOS GATOS  
PLANNING DIVISION

Dear Los Gatos Town Council,

The September 13, 2017 meeting of the Planning Commission of the Town of Los Gatos addressed Proposed Amendment(s) to the Hillside Fence Ordinance. The stated objective of the amendment is to insure free movement of wildlife in the area. Apparently, there is a perception that improved properties in the hillsides are somehow restricting this movement, and forcing wildlife out of their natural habitat.

Many, if not most, of the public attendees were only made aware of this meeting and its agenda by way of an alert the day before from a concerned hillside resident. On that short notice, approximately 30 to 40 Los Gatos residents attended. Of the 24 attendees who offered public comment, 22 spoke in opposition to the proposed ordinance, recognizing it as an overreach, while only 2 speakers, 1 of which was involved in authoring the amendment, spoke in support.

During the meeting, over 90% of those speaking indicated that the proposed amendment was a "solution in search a problem." All of the commissioners voiced serious concerns with the amendment as it is written, more than half openly stating that they would not support it. It is clear to those who live in the hillsides and stand witness to it on a daily basis, that wildlife travels with relative freedom, as evidenced by their increased presence in and around hillside properties. In fact, this has placed an increased burden upon the residents to protect themselves from property damage, as well as health and safety hazards posed by the increase in wildlife. Limiting multi-acre parcels to a 30 ft perimeter around the primary dwelling, together with permitting restrictions and expense, places an undue burden upon these owners in their efforts to simply protect themselves, let alone to realize full use and enjoyment of their property.

Hillside residents choose to live there because the rural, less congested environment allows for larger parcels, which provide greater privacy and increased enjoyment for their families. The proposed amendment would represent a material intrusion upon their property rights, affecting residents' security, safety, health, property value, privacy and quiet, economic enjoyment of their property. As such it may constitute a compensable regulatory "taking" of these properties, and could even create a future liability for the town, were an incident to occur that could have been avoided, but for the restriction on the property owner's ability to protect themselves, as a result of such an amendment.

The comments heard at the September 13th meeting represented an impassioned plea for the Town Council to reject the proposed amendment, thereby placing no further restrictions upon the property rights of hillside residents. It also served as an example of why the Town Council must make a more concerted effort to solicit input from those that would be most directly, and significantly, affected by such changes. Rather than the "one-size-fits-all," overly restrictive, approach of the proposed ordinance, several reasonable alternatives were offered by hillside residents to address any case wherein an actual problem might exist. These should be considered as a necessary element of informed decision-making.

Finally, one can only surmise how many residents might have attended and offered comment, had the meeting and its subject matter been better communicated. The town frequently mails notices to residents in proximity to proposed developments, soliciting input. At the very least, the Town Council should make the same effort, ensuring that those living in the hillsides are fully alerted to proposed changes such as these, and afford them the opportunity to comment, before making unilateral decisions with such broad affect. The hillside residents are tax paying citizens, equal in every way to in-town residents. They deserve to be afforded all the same considerations, and the Town Council should act accordingly to protect their rights.

Michael Michaelis

**From:** Pam Bond [mailto:pamabond@gmail.com]  
**Sent:** Friday, November 24, 2017 9:22 PM  
**To:** Council  
**Subject:** Proposed Code Amendments regarding hillside property fences

Dear Councilmembers,

I read the proposed code amendments. Our property is in the hillside zoning and so we did see some of the requirements when we were building our house 5 years ago. So I am somewhat familiar with the wording, etc.

My concerns with these proposed changes to hillside residences are that a 42" fence height is not great for people with kids. I know that the goal is to let wildlife pass through but this could be pretty scary for kids to encounter a coyote or basically any wildlife that can jump a 42" fence. We are always out with our kids and can generally see them but I would be nervous to have a shorter fence and feel comfortable letting the kids run around. The hedging option only partially solves this since there would still be periodic gaps.

Also, anyone with dogs will need to figure out what to do about their dogs if they want them to run around. I don't think 42" will keep larger dogs inside their property. I guess they'd need a dog run and I'm not sure how people will feel. We don't have a dog but I have been thankful on walks when we walk past a property with a dog and find a much higher fence (I'd assume maybe 5' for safety?).

I would imagine people would have concerns for security and safety with a 42" fence limit too.

We still get bobcats and foxes and smaller animals with our metal 6' fence. Bobcats hop our fence easily. Foxes can slip under and coyotes, if they manage to dig a little, can get in as well. We had a coyote problem where the neighbor's chickens were being poached by a coyote and brought to our yard to eat them. We can keep the coyotes out when we plug holes under fences, and I'd prefer to keep it that way for our kids' safety.

If we let the deer in, there would be more limitations to what we could grow with our grey water irrigation system. We have mostly natives but even the natives are not deer proof. I would imagine people will have issues with more limited landscaping plants due to deer. I think we could adapt if our fence ever falls down. But I am not sure others would.

My main concerns are safety with the fencing height limit. Safety as relates to kids (keeping them in and keeping them safe), aggressive dogs (keeping them from jumping fences), and property safety (keeping criminals out). I do care about wildlife corridors and I am concerned that residential encroachment will harm wildlife movement and health. I think there may be another solution.

Wildlife corridors are great. Fencing setbacks on property are great. This proposal is seriously flawed and I think it would benefit from more research. Talking to other towns with similar hillside property and wildlife who have had success in creating wildlife corridors would be helpful. I didn't read anywhere with this proposal what they based their solution on.

I'd like to know how wildlife is truly impacted and whether creating property set backs so that there are effective corridors either between properties or along roads would be helpful. We have deer that have a regular route where they walk along our fence on a small hill. There are regular tracks there. I am fairly certain that, at least in my neighborhood, the deer are the only somewhat restricted animals. All others have ways to get around any possible fence barriers. Even at that, if a deer really wants to, it can jump a 6' fence. They just don't seem to need to.

Thanks,

Pamela Bond  
17140 Mill Rise Way  
Los Gatos, CA 95030

My name is Peter Donnelly and I live in a new residence at 15305 Suviev Drive in Los Gatos. My wife and I worked hand in hand with the Planning Department to design and build a home that met the wide ranging conditions outlined in the Hillside Standards and Guidelines. While this was a lengthy and at times painful process I think our home and the neighborhood are better for the diligence and effort that went in to making it work for our 4.3 acre hillside property.

I made comments on this topic at the last Planning Commission meeting which I assume are part of the record and are included in the materials you have reviewed in preparation for this meeting so I am not going to repeat those. Instead I wanted to raise three specific comments for your consideration

- We have lots of rules in place today to govern development activity in the Hillside area. The Los Gatos Hillside Standards and Guidelines is a lengthy and wide ranging document that covers many topics including fencing (specifically chapter six: Site Elements). In fact there are six standards and a further five guidelines on fencing alone. I'm not going to document each of these to you as no doubt you are familiar with them. Needless to say they are comprehensive and designed to balance the needs of the property owners as well as ensure the free flow of wildlife in the hillsides. In Chapter 1 Standards are defined as "mandatory nondiscretionary regulations that must be followed". It seems pretty clear to me that we don't need any more rules
- At the previous Planning Meeting where this topic was discussed the sponsor of the document stated that the proposed ordinance simply codified what already exists in the Hillside Standards and Guidelines. This is simply not true. For example nowhere in the Hillside Standards and Guidelines does it call for taller fencing to be limited to within 30' of a primary residence (which by the way is not even defined in the document itself ... does it only include the house; what about an attached garage; or a detached garage; what about an in-laws quarters). There is language referring to ornamental landscaping to be restricted to within 30' of a primary residence (Chapter 7, Landscape Design) but that is not the only reason one might want to have taller fencing. What about a playground, an outdoor entertaining space, a guest cottage, detached garages, a fruit orchard, a utility area, an area for wild stock like goats or for domestic animals. All legitimate uses for the land and in most cases these development are governed by rules in the Hillside Standards and Guidelines. If you can build these elements per existing development rules then you ought to have the right to use and protect them. While the author of the document has subsequently tried to include exceptions for items such as a pool, sports court, livestock areas and orchards that are outside the 30' area this is very much a band-aid approach. If the document had been written properly there would not be a need for a long list of exceptions. Also if these exceptions are deemed acceptable by the author even though they could very well impact wildlife migration pathways why just these exceptions. Why not others? Surely if securing wildlife corridors

**RECEIVED**

NOV 28 2017

TOWN OF LOS GATOS  
PLANNING DIVISION

is a primary objective then that is what ought to be focused on as the outcome ... see next bullet point below

- The language for the proposed ordinance makes the assumption that a problem exists everywhere as opposed to trying to address those situations where a problem may be created by introducing taller fencing. Rather than severely restrict a property owners use of their property to within 30' of a primary residence why not take an approach that requires minimum wildlife corridors. If it can be demonstrated that sufficient wildlife corridors exist then there isn't a problem and if there isn't a problem then we don't need any new rules.

I personally don't think we need a new ordinance. If the Town Council concludes that we need to have something in place over and above what exists today in the Hillside Standards and Guidelines then it ought to be designed to solve the problem or achieve the desired outcome (the free flow of wildlife within the Hillsides) as opposed to penalizing everyone even though a problem doesn't exist across the majority of parcels. You can do better than what has been presented and I urge you to listen to the concerns raised by many residents around this topic and ensure whatever is implemented doesn't create unnecessary bureaucracy and further limit the rights of the property owners who pay dearly to live in this wonderful part of the Bay Area.

**Sean Mullin**

---

**From:** Cassandra Joseph <cjsmail2me@gmail.com>  
**Sent:** Tuesday, November 28, 2017 6:56 PM  
**To:** Sean Mullin  
**Subject:** Proposed town code amendment for fence heights

Hello Sean,

I would like you to know that I fully support the proposed town code amendment for fence heights, and to increase it to 7 feet. The 6 foot fence with 1 foot of lattice is what seems to be standard, as far as what I see pretty much all through Los Gatos. I think it would make sense to heighten the limit. People want and need privacy and escape from possibly noisy neighbors. I am in full support of this proposition. Thank you for your time in researching and making these proposed amendments. I think they would be beneficial to all.

Sincerely,

Cassandra Joseph

**From:** Maud Gleason [mailto:[maudgleason@gmail.com](mailto:maudgleason@gmail.com)]  
**Sent:** Wednesday, November 29, 2017 8:31 AM  
**To:** Planning  
**Subject:** Hillside Fence Ordinance

Ladies and Gentlemen,  
Here is my husband's perspective on the proposed ordinance. I have signed the petition against it.  
Sincerely,  
Maud Gleason  
15298 Kennedy Road  
Los Gatos, 95032

15298 Kennedy Road  
Los Gatos, CA 95032

The proposed new fence ordinance, although well meaning, betrays a lack of understanding of the predator – prey behavior in our wonderful northern California ecosystem.

We have lived on our property in Los Gatos, at the top of Kennedy Rd and adjacent to 20,000 acres of Mid Pen Open Space, for nearly 30 years, and have observed all of the species native to this area.

We know by personal experience that a 6 foot fence does little to deter smaller predators, such as raccoons, coyotes, and bobcats, at least when there is a chicken dinner on the other side of the fence. However, a 6 foot fence does deter deer.

Deer are the principal food of the apex predator in our hills. Each adult mountain lion kills one every 3 or 4 days, approximately 100 per year. This town wasn't named for house cats! The only times that mountain lions have been sighted on our property is when they have been hunting – in one case stalking a dog, in another, killing our goats.

By reducing fence heights and making it easier for wildlife to travel, we will be inviting deer into our yards. And their predator will follow. Inevitably, mountain lions will have interactions with people and pets. The ones that persist in these behaviors will need to be seriously relocated or euthanized. This will be the unintended consequence of a "wildlife friendly" fence policy, which is therefore a bad idea!

We have a local resource, if we need further information on mountain lion behavior. The UC Santa Cruz Puma Project has studied our local cats, and tracked them with radio collars. They would certainly be able to provide expert advice.

Sincerely Yours,  
Frederick Holley MD

## Sean Mullin

---

**From:** David Weissman <gryllus@gmail.com>  
**Sent:** Thursday, November 30, 2017 8:04 AM  
**To:** Sean Mullin; Joel Paulson  
**Subject:** For TC 12/5 fence ordinance meeting  
**Attachments:** PV. FenceSketch (1).pdf; 11-28-2017. DBW draft. Fences.docx

Please distribute the attached draft, and figure, to the TC members, and place them in the staff report and online. My changes from the staff draft presented to the PC on 9/17/2017, are shown in red type.

Also, please distribute these articles to the TC members and place online:

1. <http://www.mcclatchydc.com/news/nation-world/national/article24727537.html>
2. <https://ww2.kaed.org/science/2017/07/27/lyme-disease-in-california-sorting-fact-from-myth/>

Thank you.  
Dave

--  
Dave Weissman  
15431 Francis Oaks Way  
Los Gatos, CA 95032  
H: (408) 358-3556  
[gryllus@gmail.com](mailto:gryllus@gmail.com)

1 My changes to staff draft presented at PC meeting of 9/17/2017, are shown in red type

2  
3 **Sec. 29.40.030xx. – Purpose and Intent.**

4 The Fence Ordinance is divided into two parts: non-hillside and hillside areas. The use of fences, walls,  
5 gates, gateways, entry arbors, and hedges in the hillside areas shall be minimized and located so that  
6 natural landforms appear to flow together and are not disconnected. The primary emphasis shall be on  
7 maintaining open views, protecting wildlife corridors and **habitat connectivity**, and maintaining the rural,  
8 open, and natural character of the hillsides. Additional details are available in the HDS&G.

9 **Sec. 29.40.030xx. – Definitions.**

10 The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to  
11 them in this section.

12 ***Building envelope*** is the three-dimensional space on a parcel, excluding the required yard areas. The  
13 ***building envelope area plus the required yard area constitutes the entire parcel.***

14 ***Domestic fence*** is any fence that does not conform to the conditions of a horse fence.

15 ***Fence*** means a man-made structure serving as a barrier or screen ~~constructed of wood, metal, wire,~~  
16 ~~masonry, glass, plastic, stone or any material.~~

17 ***Fence height*** means measured from finished grade and shall be measured from either side of the  
18 property line which affords affected property owners the most buffering from noise, light, glare, or  
19 privacy impacts.

20 ***Hedge*** means a boundary formed by closely growing deciduous or evergreen bushes or shrubs.

21 ***Hillside lot*** means a parcel of land that is shown on the Hillside Area Map in the Hillside Development  
22 Standards and Guidelines regardless of zoning district.

23 ***Horse fence*** means a fence not exceeding 48 inches in height above natural grade. It shall be of split rail  
24 ***design, constructed of wood, and be at least 50% open in design. The minimum height above grade shall***  
25 ***be 16 inches and shall have 12-inch spacing between rails wherever feasible.***

26 ***Movement corridor*** means a movement pathway that is typically independent of season and used by  
27 animals on a near daily basis for the acquisition of food, shelter, water, and mates.

28 ***Open-view design*** means a fence or other structure that permits views through it.

29 ***Planting Zone 1*** means that area within a 30-foot radius of the primary dwelling unit on a hillside lot.

30 ***Required yard*** means that area of open space between the parcel line and the building envelope. The  
31 ***minimum width of this yard is equivalent to the setbacks listed in Sec. 29.40.270, except for rear***  
32 ***setbacks on parcels located in HR-20 (see below).***

33 ***Retaining wall*** means a man-made structure designed to retain soil.

34 ***Riparian corridor*** means an area comprised of habitat strongly influenced and delineated by the  
35 presence of perennial or intermittent streams.

36 ***Stream*** means a body of water that flows at least periodically or intermittently through a bed or channel  
37 having banks. The body of water may include watercourses having a surface or subsurface flow that  
38 supports or has supported riparian vegetation, fish, or aquatic life.

RECEIVED

NOV 30 2017

TOWN OF LOS GATOS  
PLANNING DIVISION

39 Top of bank means a stream boundary where a majority of normal discharges and channel forming  
40 activities take place. The top of bank will contain the active channel, active floodplain, and their  
41 associated banks. Where there are no distinguishable features to locate the top of bank, the local  
42 permitting agency will make a determination and document as appropriate. In the absence of this  
43 determination, the 100-year water surface will be used.

44 Traffic view area means that area, on corner lots, which is within fifteen (15) feet of a public street and  
45 within two hundred (200) feet of the right-of-way line of an intersection, or a distance of thirty (30) feet  
46 measured horizontally in any direction from the point of intersection of the property lines at street  
47 corners.

48 Wall means a man-made structure that defines an area, carries a load, or provides shelter or security.

49 Wildlife-friendly design means a fence, wall, hedge, or other structure that permits any animal,  
50 regardless of size, to easily climb under, pass through, or jump over.

51 Sec. 29.40.030 or. – Non-hillside lots; Proposed new fences, walls, gates, gateways, entry arbors, and  
52 hedges.

53 (A) In residential zones, no permits are required for the repair, replacement, or construction of  
54 fences, walls, gates, gateways, entry arbors, or hedges that are less no more than six (6) feet  
55 high; or fences, walls, or gates that are no more than six (6) feet high, with one (1) foot of lattice  
56 on top (seven (7) feet high in total) on, or within all property lines.

57 (B) The following height exceptions shall apply:

58 (1) Corner lot: In a traffic view area, no corner lot or premises in the Town shall have any fence,  
59 wall, gate, gateway, entry arbor, or hedge higher than three (3) feet above the curb unless  
60 permission is secured from the Town Engineer.

61 (2) Properties not on a street corner: At the discretion of the Director of Community  
62 Development, side yard and rear yard fences, walls, gates, gateways, entry arbors, or  
63 hedges, behind the front yard setback, may be a maximum of eight (8) feet high provided  
64 the property owner can provide written justification to the Planning Department that  
65 demonstrates either of the following conditions exists:

66 a. A special privacy concern exists that cannot be practically addressed by additional  
67 landscaping or tree screening.

68 b. A special wildlife/animal problem affects the property that cannot be practically  
69 addressed through alternatives. Documented instances of wildlife grazing on  
70 gardens or ornamental landscaping may be an example of such a problem.

71 (3) Historic Districts and/or Landmark and Historic Preservation Overlay: The maximum height  
72 of fences in the front yard shall be three (3) feet and shall be of open-view design.

73 (4) Gateways or entryway arbors: May be up to eight (8) feet high, including within Historic  
74 Districts or for properties with a Landmark and Historic Preservation Overlay, and shall be of  
75 open-view design. A gateway or entryway arbor shall have a maximum width of six (6) feet  
76 and a maximum depth of four (4) feet. No more than one (1) gateway or entryway arbor  
77 per street frontage is allowed.

78 (5) Adjacent to commercial property: Boundary line fences or walls adjacent to commercial  
79 property may be eight (8) feet high if requested or agreed upon by a majority of the  
80 adjacent residential property owners.

81 (C) Materials. The type of fencing materials within the non-hillside zone are generally unrestricted,  
82 and fences can be a combination of materials, with the following exceptions:

83 (1) Plastic fencing is discouraged everywhere and is prohibited in Historic Districts.

84 (2) Barbed wire or razor ribbon wire is prohibited in all zones.

85  
86 Sec. 29.40.030xx. – Hillside lots: Proposed new fences, walls, gates, gateways, entry arbors, and  
87 hedges.

88 This division section covers any new fence, wall, gate, gateway, entry arbor, or hedge, and the  
89 replacement, modification, and/or repair of any existing fence, wall, gate, gateway, entry arbor, or  
90 hedge whether the primary dwelling unit is new or existing. Guiding principles come from the HDS&G  
91 which state that rural-character fences shall allow wildlife to pass through, that fences shall not be  
92 allowed in areas that would impede the movement of wildlife, and that deer fencing shall be limited to  
93 areas around ornamental landscaping with larger areas not to be enclosed. In the absence of a primary  
94 dwelling unit, an entire hillside lot, including any accessory structures such as a barn, storage shed,  
95 stable, or similar structure, shall be covered by the conditions of this Section. For purposes of this  
96 division, hillside lots are divided into 2 sections – the building envelope, in which minimal fence  
97 restrictions are enforced; and the required yard, which is regulated to be more wildlife-friendly.

98  
99 Fences within the building envelope of hillside lots do not require a permit and are subject to Section  
100 29.40.030, Non-hillside residential lots above; however, fencing is limited to six (6) feet high in total.  
101 Deer fencing up to eight feet in height shall be limited to areas around ornamental landscaping.

102  
103 Fences within the required yards on hillside lots require a permit and are subject to the following  
104 standards:

105 (1) HR-1 (one (1) to five (5) acres for each dwelling unit). Domestic fences or fences consistent  
106 with the standards of a horse fence are allowed in required yards, including along property lines.

107  
108 (2) HR-2½ (two and one-half (2½) to ten (10) acres for each dwelling unit). Only horse fences are  
109 allowed in required yards, including along property lines, and shall be allowed only on slopes of  
110 twenty percent (20%) or less.

111  
112 (3) HR-5 (five (5) to forty (40) acres for each dwelling unit). Only horse fences are allowed in required  
113 yards, including along property lines, and shall be allowed only on slopes of twenty percent (20%) or  
114 less.

115  
116 (4) HR-20 (twenty (20) to one hundred sixty (160) acres for each dwelling unit). Only horse fences are  
117 allowed in required yards, including along property lines, and shall be allowed only on slopes of twenty  
118 percent (20%) or less. Rear yard setbacks shall be 35 feet minimum width.

119  
120 The following fence types and materials are not of wildlife-friendly design and are therefore prohibited  
121 in the required yard:

122 (a) Chain-link, chicken wire, welded wire, wire mesh, cyclone or similar fence material.

123 (b) Buck and rail fences.

- 124 (c) Any fence with bare lengths of wire stretched between posts.
- 125 (d) Electric fences, including any fence designed to produce an electric shock.
- 126 (e) Barbed or razor wire fences, including any fence with attached barbs, sharp points, or razors.
- 127 (f) Double fences.
- 128 (g) All hedges

129  
130

131 All new hillside fences, hedges, and walls are subject to the following restrictions:

- 132 (1) Open-view design fences, that do not detract from the scenic nature or character of the
- 133 surrounding area, are encouraged everywhere within the hillsides. Only open fencing should
- 134 be located within 20 feet of the property line adjacent to a street.
- 135 (2) Traditional split-rail fences are encouraged. Rural styles shall emphasize natural colors such
- 136 as brown, grey or green.
- 137 (3) Fences and hedges shall be located to follow natural contours, whenever possible.
- 138 (4) Fences and hedges shall be located to avoid impacts to trees, animal movement corridors,
- 139 and other natural features.
- 140 (5) Riparian corridor. No domestic or horse fence, wall, gate or hedge shall be constructed
- 141 within a riparian corridor or within 30 feet of its top of bank.
- 142 (6) Prohibited materials. Barbed or razor wire fences, including any fence with attached barbs,
- 143 sharp points, or razors, are prohibited.
- 144 (7) No fence, wall, gate, or hedge shall be constructed in the public or private right-of-way or
- 145 within any trail easement or other easement precluding their construction unless allowed, in
- 146 writing, by the Town Engineer.

147 (8) All domestic yard hedges, greater than 30 feet from the primary residence, and outside

148 planting zone 1, shall consist of only plant species listed in Appendix A of the HDS&G.

- 149 (9) Walls
- 150 (A) Walls are prohibited unless needed for privacy as determined by the Director of
- 151 Community Development.
- 152 (B) Town approved retaining walls are permitted.

153 (10) Fences existing when this ordinance takes effect, are exempt from these conditions, except

154 as described below under repair, replacement or modification.

- 155 (F) Repair, replacement or modification of existing fences, walls, hedges or gates:
- 156 (1) When a portion of a fence exceeding twenty-five percent of the total length (a straight
- 157 run) of fencing within required yards on a property is damaged or voluntarily removed,
- 158 any replacement fencing of that portion shall conform to the fence regulations pursuant
- 159 to a fence permit. The permit shall be posted on site during construction.
- 160 (2) Are encouraged if such changes improve wildlife movement or animal corridors.
- 161 (3) Replacement or modification of any fence, wall, hedge or gate shall be prohibited if the
- 162 Town Engineer determines that a public safety hazard exists.

163 (G) Exceptions:

164 (1) A temporary (1 to 3 year), animal excluding, protective circular enclosing fence may be erected  
165 in required yards to protect, until established, a newly planted tree or shrub, when that plant  
166 species is listed in Appendix A of the HDS&G.

167 (2) Enclosure fencing around vineyards, orchards, and vegetable gardens shall be limited to those  
168 areas requiring enclosure and does not have to be wildlife friendly. Such fencing is prohibited in  
169 required yards except for HR-1 zoning.

170 (3) Security fencing required to protect a public utility installation.

171 (4) Written exceptions may be granted when the Director of Community Development finds that  
172 the strict application of these requirements will result in a significant hardship for the property  
173 owner.

174 (H) Fees. The fee, as adopted by ~~Town Resolution for Minor Residential development~~, prescribed  
175 therefore in the municipal fee schedule, shall accompany any application for a fence in the  
176 Hillside area submitted to the Town for review and evaluation pursuant to this division. (NOTE:  
177 Portola Valley charges \$110 for a horse fence permits and \$225 for all other fence permits).

178 (I) Enforcement. Any fence, wall, gate, gateway, entry arbor, or hedge constructed, replaced,  
179 modified, or repaired without required approval, is a violation of this Code.

180 (J) Where a conflict exists between the Covenants, Conditions, and Restrictions (CC&Rs) of a hillside  
181 Planned Development (PD) and this document, the requirements of this document shall prevail.

182 (K) Notices. Noticing shall comply with the public noticing procedures of Section 29.20.480 of the  
183 Town Code.

184 (Ord. No.1316, § 4.10.020, 6-7-76; Ord. No. 1493, 3-17-81; Ord. No. 1873, § I, 10-7-91; Ord. No.  
185 2049, § I, 10-5-98; Ord. No. 2062, § I, 6-21-99; Ord. No. XXXX, § I)  
186

187

188

189

190

191

192

193

194

195

196

197

RUN - CONSIDERED LEGALITY OF FENCE UNTIL IT CHALLENGES PRECEDENT

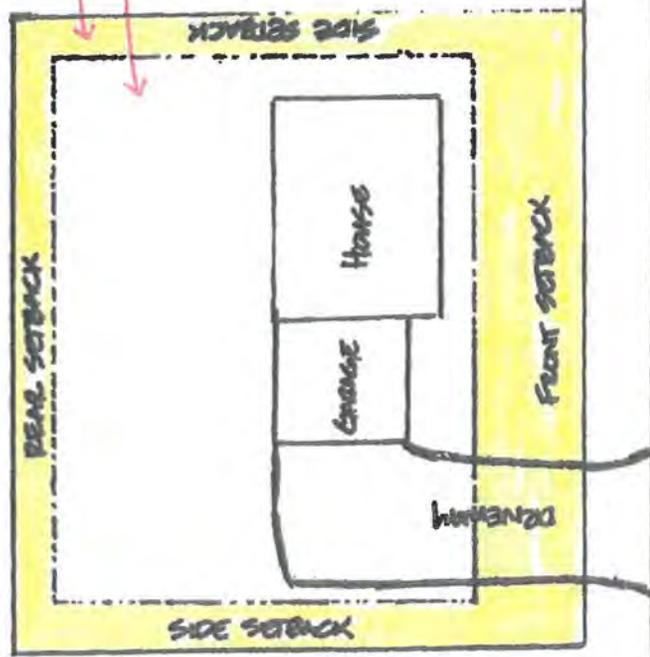


25% ← ONLY THIS PORTION OF THE RUN CAN BE REPLACED IN KIND. ANYTHING MORE MUST CONFORM TO TOWN REQUIREMENTS.

ANY FENCE PROPOSED IN THE HIGHLIGHTED SETBACK AREAS REQUIRES A FENCE PERMIT FROM THE TOWN AND MUST FOLLOW THE FENCING REQUIREMENTS.

FENCES LOCATED ANYWHERE ELSE DO NOT REQUIRE A FENCE PERMIT AND DO NOT HAVE TO FOLLOW THE FENCE REQUIREMENT.

SETBACKS = REQUIRED YARDS



RECEIVED

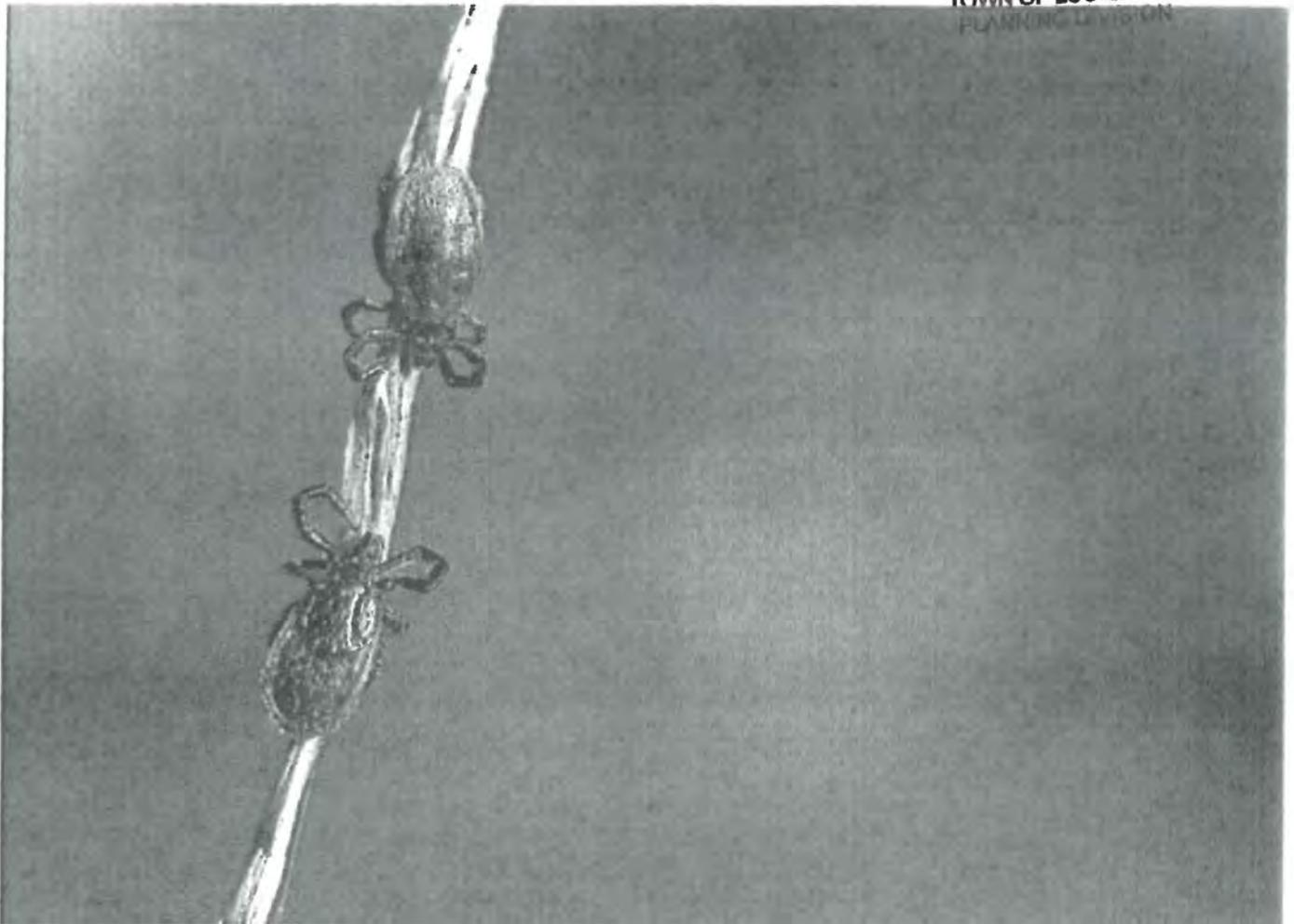
NOV 30 2017

TOWN OF LOS GATOS PLANNING DIVISION



## Know How to Protect Yourself From Lyme Disease on Bay Area Hikes

TOWN OF LOS GATOS  
PLANNING DIVISION



Lyme-infected western blacklegged ticks have been found in 42 out of California's 58 counties. (Eric Aquino)

By [Anna Kusmer](https://www.kqed.org/science/author/akusmer/)

JULY 27, 2017

SHARE

Northern California has many attractions, but the fact that it's prime tick habitat isn't one of them.

Adding to the angst surrounding outdoor activities is that tick hotspots are unevenly distributed on a patchy landscape.

***'Medicine has the tendency to want a vaccine or a clear antibiotic silver bullet, and I don't think the Lyme system gives us that luxury.'***

— Nate Nieto, University of Northern Arizona

One moment you're strolling through redwood forests, the next through oak forests, and a couple of hours later you may come across scenic chaparral. While on this iconic hike, you probably don't realize that you've moved through both high- and low-risk Lyme disease areas. The question is, do you know where you are most at risk?

The answer is in the oak forest where layers of rich leaf litter are a kind of Club Med for ticks.

## It's Always Tick Season

"Tick season" exists year-round in northern California. The highest risk is in the spring and early summer due to an abundance of juvenile ticks, known as nymphs (the most virulent life-stage). However, peak diagnosis time extends into July, because it can take a few weeks to realize that you have the disease.

Summer is also particularly dangerous for Lyme disease because that's when people spend the most time outside, and many of the most beautiful hiking areas tend to be tick-ridden.



It's always tick season in Northern California. Peak season is spring and early summer. (Bay Area Lyme Foundation)

Most people associate Lyme disease with the Northeastern U.S. and the upper Midwest, and for good reason (<https://www.cdc.gov/lyme/stats/maps.html>); the vast majority of cases are reported there, due mostly to the fact that the landscape is blanketed with prime tick habitat. On the west coast, the risk is real, but it's different.

---

### How to prevent a tick bite in the first place.

- **Dress the part:** Ticks tend to like to climb upwards, so wear full-length pants, tucked into your socks, and a full length shirt, tucked into your pants
- **Pesticide options:** Chemical tick-repellents or acaricides can be very effective at low dosages. Be sure to read manufacturer's instructions carefully.
- **Clean your body and clothes:** Take a shower once you get home from a hike and throw your clothes in a hot dryer for a 1-hour cycle.
- **Check your pets and yourself:** Perform a thorough tick check when you get home. Ticks can travel into your house on dogs and cats.

"There are definitely patches in California where the risk is just as high as the East –it's just not the same spatial extent," says Dan Salkeld, research scientist at Colorado State University.

The overall abundance of Lyme ticks is relatively low on the West Coast; however, the risk is spread unevenly. Hikers can move from high-risk area to a low-risk area and never know it.

In California, "You can be in one valley and rates of Lyme can be as high as in upstate New York, Connecticut or Rhode Island," says Nate Nieto, a microbiologist at Northern Arizona University in Flagstaff. "Then you go over one ridge, the habitat changes completely – and there's nothing,"

Part of what puts Californians at risk is a lack of awareness — among the public and even among doctors. Much of the research and public health information is based on east coast ecology and may not apply to the West.

For many Californian physicians, Lyme disease is just not on the radar, even though according to the [Bay Area Lyme Foundation](http://www.bayarealyme.org/) (<http://www.bayarealyme.org/>), Lyme-infected ticks have been located in 42 of California's 58 counties (highest incidence were in Trinity, Humboldt and Mendocino as of 2014). About 100 cases of Lyme disease are reported in California each year, but according to Supervising Public Health Biologist Kerry Padgett of the state Department of Public Health, the disease is likely more widespread.

"There is an under-diagnosis and under-reporting of Lyme disease in California," says Padgett.

### How Ticks Make Us Sick

Lyme disease is caused by a microscopic spiral-shaped bacteria called *Borrelia burgdorferi*. On the west coast, these Lyme disease-causing bacteria live inside the guts of the western blacklegged tick and can travel into the blood streams of bitten animals. Ticks generally live for two or three years. They are born Lyme-free, and will contract or transmit Lyme during feeding, once during each of their three life stages.



Blue-bellied lizards are our friends. Their blood actually cures infected ticks of Lyme disease. The "grapes" in this lizard's ear are all feeding ticks. (Eric Aquino)

When a Lyme-infected tick bites, it typically takes 36-48 hours for the bacteria to make the journey from the tick's gut to their mouth and into the blood of their host. The process can take as little as 24 hours.

Only 15-20 percent of blacklegged ticks contain Lyme disease during their nymph stage, and that number is much lower, 1-2 percent, in adults.

### A Forest Full of Frenemies

To determine disease risk of a particular place, researchers look to some of the tick's favorite foods.

The most common reservoir of Lyme disease — the species that initially infects ticks — is the western gray squirrel.

So avoid gray squirrel habitat and you're safe? Not so fast.

Enter the blue-bellied lizard (also known as the western fence lizard), which is naturally immune to Lyme disease, and has special proteins in its blood that will cleanse infected ticks of the pathogen.

---

**WHAT TO DO IF YOU FIND A TICK ON YOU:**



Adult (left) and nymph (right) western blacklegged ticks. (Bay Area Lyme Foundation)

**If you find a tick on your body, don't panic! Remove the tick and keep track of what happens.**

- Is the tick feeding? That is, is the tick embedded in the skin?
- If the tick is embedded, slowly and steadily, with even pressure, remove the entire tick by pulling it straight out with a pair of tweezers. Do not jerk or twist the tick. Remove any mouthparts that break off during removal. Then, if possible, save the tick in a jar or plastic bag. DO NOT try to kill the tick with oil or matches while it's feeding. (If you do, it will release the contents of its gut into you.)
- Clean the bite area with rubbing alcohol or soap and warm water.
- How long did it feed? If it's less than 36 hours, there's a high probability that you are safe.
- Pay attention to your symptoms. If in 6-to-12 days, you have any kind of fever, go and see a doctor.
- A bulls-eye rash around the tick bite is a sure-fire way to know if you've contracted Lyme, but this symptom only shows up in 50-70 percent of cases. Other symptoms include headache, fatigue, and skin rash.

So, a tick could feed on a squirrel and contract Lyme, which could then be neutralized when it bites a lizard.

"If you go into dense black oak woodland, which is prime habitat for ticks and squirrels, we find a higher proportion of infected ticks," explains Salkeld. "However, if you move into a broken clearing with more light, you're going to find more lizards, and the prevalence of Lyme goes down."

Lyme disease involves many different species and is ecologically complex, which makes it a notoriously difficult problem to solve for researchers and public health officials.

"Medicine has the tendency to want a vaccine or a clear antibiotic silver bullet, and I don't think the Lyme system gives us that luxury," says Nieto.

"Lyme disease is something that we call, in the science world, a complex system, meaning that there's a bunch going on here," he continues. "there's a bunch of hosts, there's a bunch of vectors, and there's a bunch of pathogens, and that makes things difficult."

### Mapping a Pathogen

California's diverse landscape and the complex interplay among species makes predicting Lyme tricky. However, the greatest risk posed to Californians might be a lack of awareness. Doctors here are less likely to suspect Lyme when patients come in with characteristic symptoms.

"I have talked to physicians who say that they are not aware of Lyme disease in California," says Salkeld.

Organizations, such as the Bay Area Lyme Foundation, along with researchers like Nieto and Salkeld, are working to change the narrative and build the necessary evidence to make doctors aware of the scale of the problem. The foundation has a [program](http://www.bayarealyme.org/blog/bay-area-lyme-foundation-offers-free-tick-testing-nationwide/) offering free tick testing nationwide, which aims to map tick-borne diseases across the country by encouraging concerned citizens to send in samples.

"We're working on gathering real empirical data to show that Lyme is in the ecosystems of the West Coast," says Nieto, "We're getting clinical samples, ecological [tick] samples, and wildlife host samples...so we can change the educational paradigm within the medical schools and say, 'It's not just the Northeast and upper Midwest'—it's in California too."

"I think Californians should be aware of ticks, and the risks of tick-borne diseases, but the fear of disease should not keep them from enjoying the great outdoors," adds Padgett. "I really do feel it's possible to stay tick-safe while recreating and spending time outside."

**EXPLORE: BIOLOGY ([HTTPS://WWW.KQED.ORG/SCIENCE/CATEGORY/BIOLOGY/](https://www.kqed.org/science/category/biology/)), ENVIRONMENT ([HTTPS://WWW.KQED.ORG/SCIENCE/CATEGORY/ENVIRONMENT/](https://www.kqed.org/science/category/environment/)), HEALTH ([HTTPS://WWW.KQED.ORG/SCIENCE/CATEGORY/HEALTH/](https://www.kqed.org/science/category/health/)), NEWS ([HTTPS://WWW.KQED.ORG/SCIENCE/CATEGORY/NEWS/](https://www.kqed.org/science/category/news/)), BAY AREA ([HTTPS://WWW.KQED.ORG/SCIENCE/TAG/BAY-AREA/](https://www.kqed.org/science/tag/bay-area/)), HIKING ([HTTPS://WWW.KQED.ORG/SCIENCE/TAG/HIKING/](https://www.kqed.org/science/tag/hiking/)), LYME DISEASE ([HTTPS://WWW.KQED.ORG/SCIENCE/TAG/LYME-DISEASE/](https://www.kqed.org/science/tag/lyme-disease/)), TICKS ([HTTPS://WWW.KQED.ORG/SCIENCE/TAG/TICKS/](https://www.kqed.org/science/tag/ticks/))**

(<https://www.kqed.org/science/2017/07/27/lyme-disease-in-california-sorting-fact-from-myth/?share=facebook&nb=1>)

(<https://www.kqed.org/science/2017/07/27/lyme-disease-in-california-sorting-fact-from-myth/?share=twitter&nb=1>)

(<https://www.kqed.org/science/2017/07/27/lyme-disease-in-california-sorting-fact-from-myth/?share=pinterest&nb=1>)

(<https://www.kqed.org/science/2017/07/27/lyme-disease-in-california-sorting-fact-from-myth/#share=google-plus&nb=1>)

7 Comments ([https://www.kqed.org/science/2017/07/27/lyme-disease-in-california-sorting-fact-from-myth/#disqus\\_thread](https://www.kqed.org/science/2017/07/27/lyme-disease-in-california-sorting-fact-from-myth/#disqus_thread))

**AUTHOR**



**ANNA KUSMER**

Anna Kusmer joins the KQED Science team as the 2017 AAAS Mass Media Fellow. She has recently completed a MSc at McGill University in natural resource science in Montreal, Canada. Her interests range from sustainable and resilient agriculture to inclusive narratives of conservation and sustainability. Anna believes that stories can change the world.

[VIEW ALL POSTS BY THIS AUTHOR](#)

---

SPONSORED BY

[Become a KQED sponsor »](#)

**ABOUT KQED SCIENCE**

Support of KQED Science is provided by [FOLLOW KQED SCIENCE](#), the [Robertson Foundation](#), the [Dirk and Charlene Kabcenell Foundation](#), the [John S. and James L. Knight Foundation](#), [Gordon and Betty Moore Foundation](#), [Smart Family Foundation](#) and the [Bay Area Foundation](#) and the [KQED Science Award](#) brings you award-winning science and environment coverage from the Bay Area and beyond, the flagship Northern California PBS and NPR affiliate. [Meet the KQED Science Staff \(/science/about/#staff\)](#) and [learn more about our 19 Community Partners. \(/science/about/#partners\)](#)

[KQED Science \(https://www.kqed.org/science/\)](https://www.kqed.org/science/)

NATIONAL

## As habitat disappears, so does California's deer population

Matt Weiser - The Sacramento Bee

APRIL 09, 2012 06:41 AM

UPDATED APRIL 09, 2012 06:46 AM

An estimated 445,000 deer live in California, or about equal to the city of Sacramento's human population. Which sounds like a lot, until you realize the deer are spread over the entire state: 99 million acres.

If there were only 445,000 people in California, how long would it take you to find somebody you really wanted to hang out with?

Such is the plight of the state's deer population, our most iconic emblem of the forest. Without much notice, the species has declined slowly but relentlessly in virtually every corner of the state.

The decline has been almost too small to see on an annual basis. But since 1990, California has lost nearly half its deer population, according to the state Department of Fish and Game.

"Our deer are surviving, they're not thriving," said Craig Stowers, deer program manager at Fish and Game. "Quite frankly, until people start taking this seriously, we're going to continue to experience these types of declines."

This forest icon is on the wane mainly for one simple reason: habitat loss.

Between 1990 and 2000, according to the U.S. Environmental Protection Agency, 75,000 acres per year were converted to low-density housing across California. A recent Bee analysis of housing data showed a similar trend over the past decade, at least until the recession began. The rate was even greater before 1990.

This land conversion eliminated food and migratory corridors vital to deer.

"You can't have a good migratory deer population when their wintering ground is covered in residential development for humans," Stowers said. "They're competing for the same resources we need, and they're losing."

The species in question are mule deer and blacktail deer. Both species are lumped together in Fish and Game's 2011 population estimate of about 445,000 deer statewide, a drop from 850,000 in 1990.

The state manages its deer herds according to zones defined by habitat and deer behavior. Of the 45 zones, only about six have deer populations that held steady or increased slightly since 1990. These are generally found in some of the least-populated areas of the state.

All the other zones declined significantly.

Rural residents might tell a different story. They see deer frequently around their yards, in their gardens, and as roadkill. Indeed, deer in these areas are often considered a pest.

Deer require a particular type of forest habitat called "early seral." This means they prefer to eat the tender, nutritious, young vegetation that surges for several years after a forest fire or other land disturbance.

The problem for rural residents, these days, is that deer primarily find this kind of food in the vigorous growth of gardens and landscaping that tend to go with rural housing development.

The natural sources of this deer food have been largely eliminated by a century of fire suppression in forests - the same problem that has caused forests to become overstocked with small, young trees that now pose an enormous fire risk.

Land management agencies such as the U.S. Forest Service now understand this error of excessive fire suppression. The problem is that allowing more fire is difficult because the overly dense forests pose a massive wildfire risk, and because so many people and homes have cropped up in and near forests.

It's a "double whammy" for deer, Stowers said. Much of their habitat has been eliminated by rural development. And the habitat that remains is poor quality.

**RECEIVED**

NOV 30 2017

TOWN OF LOS GATOS  
PLANNING DIVISION

"If deer numbers are poor, they are a real canary in the coal mine, so to speak," said Randy Morrison, California regional director at the Mule Deer Foundation, a conservation and hunting organization. "They are a real bellwether species for a given habitat. And our habitat is not healthy, no question about it."

Complicating the problem is that, when a wildland fire does occur, there is often a rush to remove the burned trees and replant with seedlings. Often this comes with herbicide spraying to prevent other plants from competing with the seedlings. This impulse eliminates the natural forest regeneration that would support deer populations.

And it's not just deer. A study last year by PRBO Conservation Science, which examined conditions after fires on the Plumas and Lassen national forests, found that dozens of songbird species benefit from the same kind of post-fire habitat that emerges when a burned area is left alone.

"It's a hard sell," said Craig Thomas, executive director of the environmental group Sierra Forest Legacy. "People look at burned trees and they say, 'Oh God, let's get the green ones back.' The early seral habitat could be really diverse and beautiful if we thought about it as a valuable thing. Deer suffer when we don't think that way."

Deer are also an iconic species for hunters, and the population decline has not gone unnoticed in their circles. Mule and blacktail deer are California's primary big-game hunting species. Yet it has become increasingly difficult to harvest one.

The statewide hunter success ratio for deer hunters in 2010 was 15 percent, according to Fish and Game data. That means about four out of five hunters who purchased a license and deer tag from the state and attempted to harvest venison for their family failed to bring any home.

In Colorado, by comparison, the hunter success rate for deer in 2011 was 43 percent, according to that state's Department of Wildlife.

"Our deer numbers are down to a point where success is definitely limited, which has been very discouraging to many hunters," Morrison said.

Because deer are a popular hunting species, they are intensively managed by Fish and Game and vast quantities of data are gathered when a hunter reports a kill. As a result, Fish and Game knows there are problems with the demographics of the remaining deer population.

The leading concern is that the species is now dominated by older females, Stowers said, which do not have the same breeding success as younger females. This makes it more difficult to rebuild the population.

Going back to the habitat problem, many of the fawns that do get born don't make it to adulthood - apparently because there just isn't enough to eat. Fish and Game grades deer on a health scale from zero to 100, and most get a rating of 50 or below.

"We have yet to find a doe in this state that we would rate above a medium to poor condition," Stowers said.

In contrast, bucks are generally healthy. Being larger, they are able to outcompete other deer for whatever food there is.

Complicating matters is the fact that hunting regulations - and many hunters - are focused on harvesting bucks. Only male deer have the showy antlers that make a good take-home trophy.

In 2010, the most recent data available, California hunters harvested 25,956 bucks and just 469 does.

This means the older does, instead of getting culled from the population, are just growing older.

Stowers said regulations need to be adjusted to encourage a larger doe harvest.

Morrison agreed. He said it would be appropriate in some areas - and hunters would support it - if the doe harvest was carefully monitored to avoid harming breeding success.

Many hunters blame the deer decline on mountain lions, which primarily feed on deer. The claim is that a state law that banned mountain lion hunting, passed by voters in 1990, allowed the deer-hungry mountain lion population to grow unchecked.

There has not been a thorough study of the state's mountain lion population in many years, and there are no formal monitoring programs in place. Fish and Game estimates the population at between 4,000 and 6,000 lions, but even this estimate is dated.

There are hints, however, that even mountain lions are running out of deer to eat and turning to other food instead.

Recent evidence of a decline in porcupines across the state could be attributed to mountain lions, one of the few predators known to eat the prickly rodent. There also have been reports of mountain lions eating feral pigs in the state's coastal regions.

Morrison, however, doesn't buy the mountain lion argument.

"I believe it's habitat, habitat, habitat," he said. "So far, I don't believe we're turning the tide at all. I'm concerned. Very concerned."

*To read more, visit [www.sacbee.com](http://www.sacbee.com).*

**From:** Tanya Kurland [mailto:ts@vkqmail.crocodile.org] **On Behalf Of** Tanya Kurland ?  
**Sent:** Thursday, November 30, 2017 9:34 AM  
**To:** Council  
**Cc:** Town Manager  
**Subject:** regarding Town Code Amendment A-17-002

Hello,

My name is Tanya Kurland and I live at 15275 Suview Dr., Los Gatos. I am writing to you to express my disagreement with the proposed Town Code Amendment A-17-002 "Draft Amendments to Chapter 29 of Town Code – Hillside Fences."

My feedback focuses on one of the aspects related to the proposed restrictions on fence height in the hillside areas of the town. Restricting the height of the fences to 42" and bringing them as close as 30' from homes allows deer and other wild animals to come close to, and possibly in contact with, people. This brings potentially lethal Lyme disease closer to the townspeople and unnecessarily elevates the risk of the infection.

The chronic forms of tick-borne infections have left many patients mentally and physically debilitated. New reports suggest Lyme disease and its co-infections may be life-threatening. Many patients go undiagnosed for years. Most never recall being bitten, less than half ever show the telltale "bullseye rash," and as many as 20% continue to experience symptoms even after treatment. Current diagnostics miss up to 60% of cases of early-stage Lyme disease, as it can take weeks for the body to develop measurable antibodies against the infection.

<http://www.sheamedical.com/the-overlooked%E2%80%93and-deadly%E2%80%93complications-of-lyme-disease-and-its-coinfections>

The author of the proposed Amendment, Dr. David Weissman, wrote to me in an email that "keeping habitats open that support good numbers of western fence lizards, is the best way to combat Lyme Disease since the young ticks that feed on lizards, are cleansed of the bacteria." While some other studies do show that ticks feeding on western lizards stop carrying Lyme disease bacteria, a prominent UC Berkley study published in 2011 found evidence to contradict that conclusion. The study showed that areas where lizards had been removed actually saw a subsequent drop in the population of the ticks that transmit Lyme disease. Ticks could not find substitute hosts and died.

<http://news.berkeley.edu/2011/02/15/ticks-lizard-lyme-disease/>

In addition, it would be false to assume that the presence of western lizards in our area means that we don't have Lyme disease carrying ticks. In fact, Stanford research determined widespread presence of Lyme disease carrying ticks in Santa Clara county in 2014. According to Dan Salkeld, a disease ecologist at the Stanford Woods Institute for the Environment, the study also found a second tick-related bacteria, previously undetected in the region, that can bring on flu-like symptoms such as relapsing fever and severe aches and pains in infected humans.

<http://www.mercurynews.com/2014/02/19/stanford-study-finds-lyme-disease-widespread-in-bay-area-open-spaces/>

Deer and other wild animals carry the ticks that spread Lyme disease. Tick larvae and nymphs feed on small animals, like squirrels and lizards, but adult ticks feed on big mammals such as deer and coyotes. These wild mammals carry the infected ticks and, without fences to restrict them, bring ticks

closer to people. The Bay Area Lyme Foundation, in a website page titled, "Manage your property" advises that individuals should "build fences to keep out deer" to prevent Lyme disease.

<http://www.bayarealyme.org/lyme-disease-prevention/manage-property/>

The Bay Area Lyme Foundation has a very impressive Scientific advisory board with such names on it as John N. Aucott, MD, Johns Hopkins University School of Medicine, Charles Chiu, MD, PhD, University of California, San Francisco, Monica Embers, PhD, Tulane University Health Sciences, Christine Green, MD, Board Member, LymeDisease.org & ILADS, Robert S. Lane, PhD, University of California, Berkeley, William Robinson, MD, PhD, Stanford University School of Medicine, Neil Spector, MD, Duke University School of Medicine, Irving Weissman, MD, Stanford University School of Medicine.

I think that we should listen to the expert advice and not lower our fences.

I would like to bring your attention to Chapter 30 - NEIGHBORHOOD PRESERVATION of Town Code, sec 30.10.010 -Purpose, it says: "This chapter is adopted to promote the health, safety, and welfare of the residents of the Town of Los Gatos". I believe that passing of the proposed Amendment would increase the odds of people getting sick and therefore its passing would contradict the very core of Town Code.

Thank you,

Tanya Kurland

**From:** Handel Jones [mailto:gatoscath@gmail.com]  
**Sent:** Friday, December 01, 2017 12:25 PM  
**To:** Joel Paulson  
**Cc:** Marico Sayoc  
**Subject:** Proposed Restrictive Fence Amendment-Town Code Amendment A-17-002

Dear Joel:

The proposed amendment should be rejected for the following reasons:

1. ***Safety and security of residents.*** In the past there have been a number of incidents where people have approached houses (specifically off Shannon Rd) claiming that they were lost, but in reality, to check if residents were home. The real reason was to see if the house could be robbed. A number of residents put up gates to protect themselves and the number of incidents has declined.

If your new regulation passes, the potential for home invasion will increase. Do you want to take this responsibility?

It is a personal decision that you have to make. The safety of people versus the ability of wild animals to have more roaming places. The reality is that deer are the most common wild animals that are impacted by fences, and there are already many open spaces where they can roam.

2. ***While the intention of allowing animals to roam is considered environmentally good by some, the reality is that this is the first step of allowing people to roam because low fences will not deter trespassers.***

There is a potential violation of people's rights, and as mentioned, safety.

The buying of property and being allowed to use this property for reasonable use is a part of the constitution. You are clearly trying to take away people's rights.

3. ***Deer damage fruit trees and other vegetation.*** Not only do they eat the leaves, they also chew on the bark killing the trees.

This has happened to me and it has caused me thousands of dollars of losses. If you remove the fences, Los Gatos will be liable for these losses.

There is also a new disease among deer that is emerging which is similar to mad cow disease (called Chronic Wasting Disease), which can affect humans. This disease is not in California at the present time, but is likely to come to California in the future.

4. ***There is a large amount of open space around Los Gatos, and I have contributed to make this happen.*** There is plenty of space for animals to roam. More

**animals in residential areas means more road kill of animals, which is very bad for animals but also dangerous for people.**

**Why this amendment is being considered does not indicate consideration of the safety of people and the well-being of animals. We should try to make our community more safe, and the reality is that fences and gates provide more security.**

**Why more regulations and costs to the community? More people will need to be hired by the Town of Los Gatos to enforce the regulations which will increase costs.**

**We should be giving the money to the local police, firefighters, and educators, not to people that will reduce the ability of people to have better safety.**

**Please vote against this amendment because it will reduce the safety of the people in the rural areas.**

**You are making this personal decision to limit the rights of people that have bought property and pay taxes and where they will live with higher risk of burglary and potentially bodily harm in the future.**

***You are also increasing the costs of living in Los Gatos which is already a high-cost town. For what? So animals can roam more freely?***

**It does not meet the common sense metric.**

**Sincerely,**

**Dr. H. H. Jones  
632 Industrial Way**

**From:** Alice Kaufman [<mailto:alice@greenfoothills.org>]  
**Sent:** Friday, December 01, 2017 4:39 PM  
**To:** Rob Rennie; Steven Leonardis; Marcia Jensen; Marico Sayoc; BSpector; Council  
**Cc:** shari kleinhaus; Mike Ferreira; Mackenzie Mossing; Kit Gordon; Town Manager; David Weissman  
**Subject:** Agenda Item #14, December 5 Town Council meeting (Hillside Fence Ordinance)

Dear Mayor Rennie and Town Councilmembers,

Please find attached the comments of Committee for Green Foothills, Santa Clara Valley Audubon Society, and Sierra Club Loma Prieta Chapter on the above-referenced agenda item.

Please contact me with any questions on this matter. Thank you for your consideration of these comments.

*Alice Kaufman*

Legislative Advocacy Director, Committee for Green Foothills  
650-968-7243 x. 313  
3921 East Bayshore Road  
Palo Alto, CA 94303  
[www.greenfoothills.org](http://www.greenfoothills.org)

Join Committee for Green Foothills as a member and help support our work!



December 1, 2017

Los Gatos Town Council  
110 E. Main St.  
Los Gatos, CA 95030

Re: Agenda item #14: Amendments to Town Code regarding fences, hedges and walls  
(Hillside Fencing Ordinance)

Dear Mayor Rennie and Town Councilmembers,

Committee for Green Foothills, Santa Clara Valley Audubon Society, and Sierra Club Loma Prieta Chapter urge the Town Council to adopt the amendments to the Town Code as recommended by staff. Alternatively, the Town Council can consider adopting the compromise draft submitted by Dr. David Weissman (included in Attachment 11 to the staff report, pages 15-21).

This ordinance is critically needed for both wildlife protection and public safety. As other hillside cities such as Woodside and Portola Valley that have enacted fencing guidelines and ordinances have discovered, when homeowners put up perimeter fences that force animals into roads and highways, that causes a hazard for motorists. Vehicle collisions with large animals such as deer can result in fatalities, especially on narrow, winding hillside roads. Allowing animals a little more room to travel avoids this unnecessary consequence.

The expansion of our area's population has resulted in residential areas pushing out into what was formerly undisturbed wildlife habitat, blocking established wildlife movement corridors. Animals must migrate to find food, water and mates. Fences will not turn them back; they merely force them into roadways.

Many homeowners choose to live in the hillside areas precisely because they value being close to nature and seeing the wildlife around them. If we allow those animals room to roam, we are preserving the wild landscape and the beauty that makes our area famous, as well as reducing the risk of human/animal conflicts.

We urge the Town Council to adopt the amendments proposed by staff. Thank you for your consideration of these comments.

Sincerely,

Alice Kaufman, Legislative Advocacy Director  
Committee for Green Foothills

Shani Kleinhaus, Environmental Advocate  
Santa Clara Valley Audubon Society

Michael Ferreira, Conservation Committee Chair  
Sierra Club Loma Prieta Chapter

-----Original Message-----

**From:** Eric Hansen [<mailto:erichansen11@comcast.net>]

**Sent:** Monday, December 04, 2017 8:03 AM

**To:** Council

**Subject:** Fence

**Dear Members of the Los Gatos Town Council:**

**We strongly oppose the new fence plan as ineffective and unnecessary.**

**Deer jump over 6 ft. fences; wild turkeys fly over them; mountain lions climb trees and go over ; coyotes, bobcats; skunks; opossums; rabbits, mice, rats, gophers, snakes, etc. slither thru or under them.**

**We have seen all this during our 40 years on Foster Road.**

**Our 6 ft. fence only keeps our 3 dogs from being a neighborhood nuisance.**

**We respect all wildlife supporters, but fences don't work.**

**Example: a mountain lion jumped over fence into corral and scared our horse into our neighbors swimming pool.**

**We respectfully ask the Council not pass this new ordinance.**

**Thanking you, we are,**

**Eric A Hansen  
Alice H Hansen  
17611 Foster Road  
Los Gatos, CA  
95030**

**408-354-1831**

**Sent from my iPhone**

**From:** Nancy Reyerling <nanzo@me.com>  
**Sent:** Monday, December 4, 2017 1:36 PM  
**To:** Rob Rennie  
**Subject:** Misconceptions about Ticks, Wildlife, and Lyme Disease

Dear Mayor Rennie,

There is a proliferation of misinformation out there about ticks and Lyme Disease. The following information comes from The Lyme Foundation in Portola Valley\*, from physicians at the cutting edge Lyme treatment clinic Pacific Frontier Medical in Redwood City, and from local expert biologist Philippe Cohen, former Executive Director of the Jasper Ridge Biological Preserve.

1. Ticks are on all animals, not just mammals. Keeping deer out of your garden will not have any effect on the presence of ticks. Ticks arrive through the passage of raccoons, rodents, our own pets, lizards, and even birds. There is no animal out there that doesn't have ticks.

The concern about deer bringing ticks to our yards is exactly backwards: deer get the ticks from the same vegetation we do. When ticks find their way to people, it is from vegetation. Ticks hang out on sticks, leaves, grass, and branches. When deer travel through the brush, the ticks come off the vegetation and cling to them, actually reducing the number of ticks on foliage that may be available to cling onto us. In other words, as long as a tick is on a deer, it is no threat to us.

So, keeping deer out will not reduce exposure to ticks. They will be every bit as much there as if there were no deer.

2. Encouraging Western Fence Lizards will help reduce the presence of Lyme on ticks. Lyme disease is much less frequent in the West than on the East coast, because of the Western Fence Lizard, the most common lizard in our area. Western Fence Lizards have a protein in their blood that, when the tick bites them, neutralizes the Lyme. When the tick falls off, the tick remains neutralized.

\*From the Bay Area Lyme site: It's definitely the rodents, not the deer that are the proliferators of Lyme.

---  
What About the Deer?

The role played by deer in spreading Lyme disease is overestimated or misconstrued. Deers do infect a tick with the Bb bacteria but they do so far less "efficiently" than say the grey squirrel (out West) or the white-footed mouse (on the East coast)

For example, deer have been shown to only infect about 1% of the larval ticks that feed on them (Telford et al, 1988) whereas the more efficient white-footed mice were shown to infect 75-95% of the larval ticks (Ostfeld, Lyme Disease, The Ecology of a Complex System, page 43-44) and the Western grey squirrel 86% (Salkeld et al, 2008).

Interestingly the same article, "Lyme Disease, the Ecology of a Complex System" which is one of the definitive works on the subject, draws the seemingly counterintuitive conclusion that the years after the deer population of an area is reduced either by hunting or by excluding through fencing 'finds an increase in the number of immature ticks that are infected with Lyme Disease spirochetes' (p32). It goes on to speculate that as deer are not available the ticks now must feed on smaller mammals "Because deer are highly unlikely to transmit a spirochete infection to feeding ticks, but many small animals are quite likely to transmit infection....the result is an increase in tick infection rates. Taking away deer, at least initially, removes the protective role they play in reducing tick infection."

Sincerely,  
Nancy Reyerling

## **Sean Mullin**

---

**From:** Lee Quintana <leeandpaul@earthlink.net>  
**Sent:** Monday, December 04, 2017 1:48 PM  
**To:** Sean Mullin; Joel Paulson  
**Cc:** Quintana Lee  
**Subject:** Comments on Fence Ordinance  
**Attachments:** Fence comments.pdf

Sean:

Attached are my comments on the fence ordinance to replace the ones for the accessory dwelling ordinance that I attached earlier this morning in error.

In addition I am adding some brief comments on to support keeping the 30' from dwelling for fences in the hillsides.

I support of keeping the 30' from dwelling standard as the best current alternative.

Other alternatives:

1. Use the 30%average slope/LRDA line (identified building site consistent with the HDS&G) or a setback from the LRDA, however either could be potentially more restrictive than the 30' from residence.
2. Use of the parcel setback line or increase the required parcel setbacks. This could potentially reduce the area available as movement corridors and potentially limit foraging area.
3. Establishing some other line to delineate wildlife friendly from non wildlife friendly such as a setback from the LRDA, increasing the further from the proposed building, or a 15 or 20% slope line. This might require topographic surveys which would increase costs and the time needed to process a fence permit i the hillsides.

Any of the other alternatives would result in a major change to the existing HDSG and should be undertaken only within the context of a review of the entire HDSG including fences, maximum allowable floor area, animal corridors, grading quantities maintaining the rural open quality of the hillsides etc..

Lee

December 4, 2017

To Mayor Rennie and Town Council,  
Re: Proposed Fence Ordinance.  
From: Lee Quintana

Below are my comments and suggested modifications to the proposed Fence Ordinance (Exhibit A ) for your consideration. Suggested changes are in red and notes are in purple.

Thank you for your consideration.  
Lee Quintana

## DRAFT ORDINANCE

### ORDINANCE OF THE TOWN OF LOS GATOS AMENDING CHAPTER 29 (ZONING REGULATIONS) OF THE TOWN CODE REGARDING FENCES, HEDGES, AND WALLS

#### PROPOSED SECTIONS:

**Sec. 29.40.030. Fences, walls, gates, gateways, entry arbors, and hedges.**

**Sec. 29.40.031. - Purpose and intent.**

The Fence Ordinance is divided into two parts: non-hillside and hillside areas. The use of fences, walls, gates, gateways, entry arbors, and hedges in the hillside areas shall be minimized and located so that natural landforms appear to flow together and are not disconnected. The primary emphasis shall be on maintaining open views, protecting wildlife corridors, and maintaining the rural, open, and natural character of the hillsides. Additional details are available in the Town's Hillside Development Standards and Guidelines.

**Sec. 29.40.032. - Definitions.**

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section.

Fence means a man-made structure serving as a barrier or screen.

Fence height means measured from finished grade and shall be measured from either side of the property line which affords affected property owners the most buffering from noise, light, glare, or privacy impacts.

Hedge means a boundary formed by closely growing deciduous or evergreen bushes or shrubs.

Hillside lot means a parcel of land that is shown on the Hillside Area Map in the Hillside Development Standards and Guidelines regardless of zoning district.

Movement corridor means a movement pathway that is typically independent of season and used by animals on a near daily basis for the acquisition of food, shelter, water, and mates.

Open-view design means a fence or other structure that permits views through it. Note: What is the difference between an open-view fence and a wildlife friendly fence?

Planting Zone 1 means that area within a 30-foot radius of the primary dwelling unit on a hillside lot.

Retaining wall means a man-made structure designed to retain soil.

Riparian corridor means an area comprised of habitat strongly influenced and delineated by the presence of perennial or intermittent streams.

Stream means a body of water that flows at least periodically or intermittently through a bed or channel having banks. The body of water may include watercourses having a surface or subsurface flow that supports or has supported riparian vegetation, fish, or aquatic life.

Top of bank means a stream boundary where a majority of normal discharges and channel forming activities take place. The top of bank will contain the active channel, active floodplain, and their associated banks. Where there are no distinguishable features to locate the top of bank, the local permitting agency will make a determination and document as appropriate. In the absence of this determination, the 100-year water surface will be used.

Traffic view area means that area, on corner lots, which is within fifteen (15) feet of a public street and within two hundred (200) feet of the right-of-way line of an intersection, or a distance of thirty (30) feet measured horizontally in any direction from the point of intersection of the property lines at street corners.

Wall means a man-made structure that defines an area, carries a load, or provides shelter or security.

Wildlife-friendly design means a fence, wall, hedge, or other structure that permits any animal, regardless of size, to easily climb under, pass through, or jump over.

Note: See Open View Fence

**Sec. 29.40.033. – Non-hillside lots: Proposed new fences, walls, gates, gateways, entry arbors, and hedges.**

(A) In residential zones, no permits are required for the repair, replacement, or construction of gateways, entry arbors, or hedges that are no more than six (6) feet high; or fences, walls, or gates that are no more than six (6) feet high, with one (1) foot of lattice on top (seven (7) feet high in total) on, or within all property lines.

(B) The following height exceptions shall apply:

- (1) Corner lot: In a traffic view area, no corner lot or premises in the Town shall have any fence, wall, gate, gateway, entry arbor, or hedge higher than three (3) feet above the curb unless permission is secured from the Town Engineer.
- (2) Properties not on a street corner: At the discretion of the Director of Community Development, side yard and rear yard fences, walls, gate, gateways, entry arbors, or hedges, behind the front yard setback, may be a maximum of eight (8) feet high provided the property owner can provide written justification to the Planning Department that demonstrates either of the following conditions exists:
  - a. A special privacy concern exists that cannot be practically addressed by additional landscaping or tree screening.
  - b. A special wildlife/animal problem affects the property that cannot be practically addressed through alternatives. Documented instances of wildlife grazing on gardens or ornamental landscaping may be an example of such a problem.
- (3) Historic Districts and/or Landmark and Historic Preservation Overlay: The maximum height of fences in the front yard shall be three (3) feet and shall be of open-view design.
- (4) Gateways or entryway arbors: ~~May~~ be up to eight (8) feet high, including within Historic Districts or for properties with a Landmark and Historic Preservation Overlay, and shall be of open-view design. A gateway or entryway arbor shall have a maximum width of six (6) feet and a maximum depth of four (4) feet. No more than one (1) gateway or entryway arbor per street frontage is allowed.
- (5) Adjacent to commercial property: Boundary line fences or walls adjacent to commercial property may be eight (8) high tall if requested or agreed upon by a majority of the adjacent residential property owners.

**(C) Materials. The type of fencing materials within the non-hillside zone are generally unrestricted, and fences can be a combination of materials, with the following exceptions:**

**(6) Plastic fencing is discouraged everywhere and is prohibited in Historic Districts.**

**(7) Barbed wire or razor ribbon wire is prohibited in all zones.**

**Sec. 29.40.034. - Hillside lots: Proposed new fences, walls, gates, gateways, entry arbors, and hedges.**

**This section covers any new fence, wall, gate, gateway, entry arbor, or hedge, and the replacement, modification, and/or repair of any existing fence, wall, gate, gateway, entry arbor, or hedge whether the primary dwelling unit is new or existing. In the absence of a primary dwelling unit, an entire hillside lot, including any accessory structures such as a barn, storage shed, stable, or similar structure, shall be covered by the conditions of this Section.**

**(D) Within 30 feet of primary dwelling unit:**

Note: Support using 30'

**(8) Approvals: Minor Residential Development approval is required pursuant to Section 29.20.480(2)(h). The permit shall be posted on site during construction.**

Note: Support staff recommendation that TC to consider a new Hillside Fencing permit rather than requiring a Minor Residential Development approval.

**(9) Are subject to the provisions of Sec. 29.40.030, Non-hillside residential lots above; however, fencing is limited to six (6) feet high in total, or unless otherwise noted in this section (Sec. 29.40.034).**

**(10) Riparian corridor. No fence, wall, gate or hedge shall be constructed within a riparian corridor or within 30 feet of its top of bank, whichever is greater.**

Note: Shouldn't this be a requirement in non-hillside residential zones as well?

**(11) Prohibited materials. Barbed or razor wire fences, including any fence with attached barbs, sharp points, or razors, are prohibited.**

**(D) Greater than 30 feet from primary dwelling unit (outside Planting Zone 1):**

**(12) Approvals: Minor Residential Development approval is required pursuant to Section 29.20.480(2)(h). The permit shall be posted on site during construction.**

Note: See (8) above.

(13)Accessory structures. Fences associated with accessory structures, if located farther than 30 feet from the primary dwelling unit, shall be governed by this section.

(14)Wildlife friendly. All fences, walls, gates, and hedges shall be of wildlife-friendly design. If a new hillside fence is, in part, closer than 30 feet to the primary dwelling unit and, elsewhere, farther than 30 feet from the primary dwelling unit, the portion that is farther than 30 feet shall be of wildlife-friendly design.

(15)Maximum height:

c. New fences. The maximum height of new fences shall be 42 inches.

Note: Four feet ("48 ") would be ok, but 42" preferred.

d. Hedges. Hedges shall be maintained at a maximum height of 60 inches (5 feet).

e. Hedges shall have two- to four-foot-wide gaps at least every 25 feet.

(16)Minimum height above grade:

f. New Fences. The minimum height above grade of the first rail of new fences shall be 16 inches.

(17)The following fence types are not of wildlife-friendly design and are therefore prohibited:

g. Chain-link, chicken wire, welded wire, wire mesh, cyclone or similar fence material.

h. Buck and rail fences.

i. Any fence with bare lengths of wire stretched between posts.

j. Electric fences, including any fence designed to produce an electric shock, except where necessary for animal husbandry operations.

k. Barbed or razor wire fences, including any fence with attached barbs, sharp points, or razors.

(18)Fence design.

l. Fences shall be of an open-view design that does not detract from the scenic nature or character of the surrounding area.

m. Traditional split-rail fences are encouraged. Rural styles shall emphasize natural colors such as brown, grey, or green.

n. Fences shall have a top level of wood (or similar material) rail rather than wire.

- o. Split rail fences shall include a minimum 12-inch spacing between rails wherever feasible.
- p. Hedge plant species shall consist of those listed in Appendix A of the Hillside Development Standards and Guidelines.
- q. The spacing of vertical fence posts shall be at least 8 feet apart, unless physically impossible due to terrain or other conditions.

(19) Fence, wall, gate, and hedge siting:

- r. Fences and hedges shall be located to follow natural contours, whenever possible.
- s. Fences and hedges shall be located to avoid impacts to trees, animal movement corridors, and other natural features.
- t. No fence, wall, gate or hedge shall be constructed within a riparian corridor, stream, or within 30 feet of its top of bank, whichever distance is greatest.
- u. No fence, wall, gate, or hedge shall be constructed in the public or private right-of-way or within any trail easement or other easement precluding their construction unless allowed, in writing, by the Town Engineer.

(20) Walls:

- v. Walls are prohibited unless needed for privacy as determined by the Director of Community Development.
- w. Town approved retaining walls are permitted.

(E) Replacement or modification of existing fences, walls, hedges or gates:

(21) Shall be subject to the requirements in this Ordinance. The permit will be posted on site during construction.

(22) Replacement or modification of existing fences, walls, hedges or gates are encouraged if such changes improve wildlife movement or animal corridors.

(23) Replacement or modification of any fence, wall, hedge or gate shall be prohibited if the Town Engineer determines that a public safety hazard exists.

(F) Repair. A permit is not required for repair of short sections of existing fences, walls, or hedges no greater than 50 percent of each fence, wall, or hedge section, provided no other repair work is done on the same structure over a 12-month period.

(G) Exceptions to Section 29.40.034 Hillside lots:

(24) Fences around swimming pools, outdoor sports courts, play areas and similar structures are not required to be of wildlife-friendly

design, even if farther than 30 feet from the primary dwelling unit (see Sec. 29.10.09020 for other swimming pool requirements). Sport court fencing may be 12 feet in height.

Note: Are any of the fences under (24), (25), or (26) required to be open design? or encouraged to be open design even if they are not wildlife friendly?

- (25) A temporary (1 to 3 year), animal excluding, circular enclosing fence may be erected to protect a newly planted tree or shrub.
- (26) Enclosure fencing around vineyards, orchards, and vegetable gardens shall be limited to those areas requiring enclosure and shall be of open design but does not have to be wildlife friendly even if farther than 30 feet from the primary dwelling unit.
- (27) Fences needed for livestock control do not have to be of wildlife-friendly design even if farther than 30 feet from the primary dwelling unit. For movable fences used for rotation grazing only an initial permit shall be required.
  
- (28) Security fencing required to protect a public utility installation does not have to be wildlife friendly.
- (29) Temporary construction fencing up to 6-feet tall may be installed when associate with an approved building or grading permit. Temporary construction fencing shall be elevated a minimum of 16 inches above grade to allow for passage of small animals. Temporary construction fencing shall be removed prior to final inspection.
- (30) Written exceptions may be granted when the Director of Community Development finds that the strict application of these requirements will result in a hardship for the property owner.
  
- (H) Fees. The fee, as adopted by Town Resolution for Minor Residential development, prescribed therefore in the municipal fee schedule, shall accompany any application for a fence in the Hillside Area submitted to the Town for review and evaluation pursuant to this division.
- (I) Enforcement. Any fence, wall, gate, gateway, entry arbor, or hedge constructed, replaced, modified, or repaired without required approval, is a violation of this Code.
- (J) Notices. Noticing shall comply with the public noticing procedures of section 29.20.480 of the Town Code.

.....

## Sean Mullin

---

**From:** David Klinger <dave.klinger@sbcglobal.net>  
**Sent:** Monday, December 04, 2017 11:31 PM  
**To:** Sean Mullin  
**Subject:** Proposal for non-hillside fence height code changes Update for Dec 5, 2017 Council Meeting

Los Gatos Town Council Members,

I wish to commend the Planning Commission and Planning staff for addressing and responding to the concerns I raised in a letter to the Town Council on August 30, 2017 and also during Verbal Communications on Sep 5, 2017. The proposal included in that letter recommended allowing, without city approval if affected neighbors agreed, a six foot fence with one foot lattice for a total of seven feet for side and back yards. The Planning Commission discussed the proposal and recommended proceeding to Council to allow six foot plus one foot lattice fences.

Based on the discussion at the Planning Commission meeting on 9/13/2017, Planning staff developed a proposed amendment to the non-hillside fence ordinance. The proposed change in ordinance 29.40.033 being considered would allow six foot fences with one foot lattice on top, but without requiring formal neighbor approval. I believe the proposed amendment, if approved, adequately addresses the concerns of code non-compliance and unnecessary fee burden on compliant residents. I hope that neighbors will be able to work together courteously and respectfully in building, repairing and upgrading their fences to the new standard.

While writing this letter, I thought I'd go back and see what insight I could gain from Robert Frost in his poem "Mending Wall":

"Something there is that doesn't love a wall"

and

"Before I built a wall I'd ask to know  
What I was walling in or walling out,  
And to whom I was like to give offense."

But the neighbor, who each spring works across the wall from the narrator as they replace the boulders that have fallen, asserts:

"Good fences make good neighbors"

As for me, I'm not sure good fences make good neighbors,  
but I am confident that bad fences do not make good neighbors.

In the interest of promoting good fences, good neighbors and a harmonious community, please approve the proposed ordinance amendment.

Respectfully,

David L. Klinger  
141 Potomac Dr  
Los Gatos, CA 95032

On Monday, December 4, 2017 4:36 PM, David Klinger <dave.klinger@sbcglobal.net> wrote:

Sent from my iPhone

Begin forwarded message:

**From:** David Klinger <dave.klinger@sbcglobal.net>  
**Date:** August 30, 2017 at 6:07:07 PM PDT  
**To:** "council@losgatosca.gov"  
<council@losgatosca.gov>, "manager@losgatosca.gov"  
<manager@losgatosca.gov>  
**Cc:** Mullin Sean <SMullin@losgatosca.gov>  
**Subject:** Proposal for flatland fence height code changes  
**Reply-To:** David Klinger <dave.klinger@sbcglobal.net>

I am a resident Los Gatos. The Planning Commission is currently considering changes to the Los Gatos fence code for hillside properties to protect wildlife. I request the Council direct the Commission to expand the scope of these changes to include reconsideration of the flatland residential fence height restrictions.

I recently received approval by the Community Development Director to construct a replacement 7 foot high fence that includes a 1 ft lattice on top. I paid Los Gatos \$233 to process the exemption required by city code, after gaining approval of all my adjacent neighbors. A building permit was not required since the fence was not over 7 feet high.

I discovered by walking our dogs around extensively and talking with my fence contractor that 7 foot fence replacements are quite common. I met with Sean Mullin, of the Los Gatos planning staff to seek information about how many residents seek the formal exemption and pay the fee. I was advised by another planning staff member at that meeting that the number is "minimal", and that the city was unable to provide me the exact exemption application count since there is no tracking system in place. One can only conclude that many residents simply ignore the code and replace fences without seeking a formal exemption for those fences higher than 6 feet. Further, I talked with LG Code Compliance and was told that fence height compliance is not an issue, perhaps one or two calls per year, due to neighbors working it out themselves. Compliance actions do not take place unless there is a complaint.

San Jose, Sunnyvale, Cupertino, Santa Clara County, and Los Altos allow 7 foot fences with 1 foot lattice without exemptions or permits, some of these cities requiring adjoining neighbor approval.

Neighbor approval and "Special privacy concerns", without specific criteria, is the current Los Gatos basis for allowing fences over 6 feet high. Privacy is a subjective matter best left to the neighbors directly affected. Determination of whether or not a special privacy concern exists is at the discretion of the Community Development Director per current code.

**Proposal:** The flatland ordinance should be modified to allow 7 foot heights with 1 foot lattice without an exemption fee if all affected neighbors approve. The code should continue the 6 foot no-approval baseline. If a neighbor disapproves a fence higher than 6 feet, the resident desiring the increase could appeal, starting with the Community Development Director. Fences higher than 7 feet should continue to

require a permit due to ensure safety. Front yard and corner lot low fence limitations should remain in force, again for safety and visibility reasons.

I believe this change would reconcile the fence height ordinance to the apparent current LG community consensus that 7 foot fences are often desired and are acceptable. Making this change would promote better respect for and compliance with Los Gatos codes, and immediately relieve many residents who are not currently code-compliant. However, this issue is not likely to result in demonstrations and demand for changes at future Council meetings. Rather, this issue falls more properly into the category of good city governance and respect for the ability of residents to work it out themselves.

In summary,

- 1) The fence height code is being ignored widely,
- 2) Many fences are higher than six feet, but are acceptable to the neighbors,
- 3) The current height exemption criteria of "special privacy concerns" is subjective and difficult to properly evaluate,
- 4) When neighbors already agree on a 7 foot high fence, gaining city approval and paying associated fees unnecessarily burdens the residents.

Respectfully,

David L. Klinger  
141 Potomac Dr  
Los Gatos, CA 95032

# ATTENTION NEIGHBORS! IMPORTANT UPDATE!



**A New Fence Ordinance Proposal is scheduled to be heard by the Town Council of the Town of Los Gatos at 7 p.m. on Tuesday December 5.**

**Town Code Amendment A-17-002 - considers amendment to Chapter 29 (Zoning Regulations) of the Town Code regarding fences, hedges, and walls; and includes new regulations and requirements for fences, hedges, and walls in the Hillside area.**

**The proposed rule change calls for a 30' max. distance from a primary residence for any new (or replacement) fence greater than 42" high. The primary driver for this proposed change is to minimize the impact on wildlife corridors and to maintain the rural character of the hillside area. Whether you agree or disagree with the intent of the proposal it is clear the approach used in the proposal is both arbitrary and very punitive. Rather than focus on situations where a problem actually exists and wildlife are actually restricted from passage the author took the approach of assuming a problem exists on every parcel of property in the hillside area. In doing so every property owner in the hillside area will be impacted regardless of parcel size and regardless of whether a problem exists or not.**

**Having the new ordinance implemented as written today will have a negative impact in how we live and how we get to use the land that we own and pay taxes on.**

**As a result of significant negative feedback in prior public forums the author of the proposal has made accommodations for certain unique situations such as securing livestock and the protection of vineyards, orchards or vegetable gardens that are outside of the 30' perimeter from a primary dwelling. These changes, however, are merely a band-aid trying to fix a fundamentally flawed document. A re-write focusing on situations where a real problem exists is the only logical way forward.**

**The proposed ordinance can be found at:**

**<http://www.losgatosca.gov/DocumentCenter/View/19736>**

**Please join us at the next Town Hall Meeting to voice your concerns and help us protect our property rights.**

**Alternatively if you are unable to attend the meeting but would still like to voice your opinion an on-line petition can be found at: <https://goo.gl/aAtL9K>**

**Simply enter your information and click the "SIGN" button. Please speak to your neighbors and make sure they are aware of this matter. If we collectively share our voice against this proposal we will either get the proposal thrown out or significantly re-written to something more logical and acceptable.**

# **STOP new RESTRICTIVE fence ordinance from IMPACTING ALL Los Gatos Hillside properties**

Town Code Amendment A-17-002 - considers amendment to Chapter 29 (Zoning Regulations) of the Town Code regarding fences, hedges, and walls; and includes new regulations and requirements for fences, hedges, and walls in the Hillside area.

The proposed rule change calls for a 30' max. distance from a primary residence for any new (or replacement) fence greater than 42" high.

The primary driver for this proposed change is to minimize the impact on wildlife corridors and to maintain the rural character of the hillside area. Whether you agree or disagree with the intent of the proposal it is clear the approach used in the proposal is both arbitrary and very punitive. Rather than focus on situations where a problem actually exists and wildlife are actually restricted from passage the author took the approach of assuming a problem exists on every parcel of property in the hillside area. In doing so every property owner in the hillside area will be impacted regardless of parcel size and regardless of whether a problem exists or not.

Examples of potential impact include:

- Restricting a home owner's right to fully use the land that is within 30' of their home regardless of the size of their lot will have a negative impact on property values
- Health concerns (such as Lyme disease) due to wildlife in close proximity of personal property and family members
- Damage to expensive landscaping due to wildlife
- Costly modifications / removal of existing fencing that does not meet the new ordinance at the time any repairs are needed.

Having the new ordinance implemented as written today will have a negative impact in how we live and how we get to use the land that we own and pay taxes on. As a result of significant negative feedback in prior public forums the author of the proposal has made accommodations for certain unique situations such as securing livestock and the protection of vineyards, orchards or vegetable gardens that are outside of the 30' perimeter from a primary dwelling. These changes, however, are merely a band-aid trying to fix a fundamentally flawed document. A re-write focusing on situations where a real problem exists is the only logical way forward.

The proposed ordinance can be found at: <http://www.losgatosca.gov/DocumentCenter/View/19736>

**This petition will be delivered to:**

Los Gatos Town Council

Signatures:

See following five pages ...

#	Name	Date Signed	#	Name	Date Signed
1	Peter Donnelly	11/20/2017	26	Gina Lewis	11/23/2017
2	Julia Donnelly	11/20/2017	27	John De Santis	11/23/2017
3	Vadim Kurland	11/20/2017	28	Maureen Griffin	11/23/2017
4	S R	11/23/2017	29	Zoila Rollins	11/23/2017
5	Katherine Raft	11/23/2017	30	Gwen Gummow	11/23/2017
6	Sean Raft	11/23/2017	31	Max Quilici	11/23/2017
7	Brian Raft	11/23/2017	32	Troy Boser	11/23/2017
8	Penelope O'Neill	11/23/2017	33	Jen Cantrell	11/23/2017
9	Thomas Steipp	11/23/2017	34	Robert Perez	11/23/2017
10	JM Leon	11/23/2017	35	Fevzi Karavelioglu	11/23/2017
11	Harris Lisa	11/23/2017	36	Audrey McGrath	11/23/2017
12	Gary Ashford	11/23/2017	37	Rick Tinsley	11/24/2017
13	Todd Martin	11/23/2017	38	Linda Caplinger	11/24/2017
14	May Raft	11/23/2017	39	Hugh Walsh	11/24/2017
15	Pamela Bond	11/23/2017	40	erica lamont	11/24/2017
16	Kathy Truog	11/23/2017	41	Jack Pacheco	11/24/2017
17	Tim Harris	11/23/2017	42	Keith Wooten	11/24/2017
18	Glen Raft	11/23/2017	43	Helene Dahl	11/24/2017
19	Diane Michaelis	11/23/2017	44	Yvonne Quilici	11/24/2017
20	Laura Douglas	11/23/2017	45	Cynthia Cindy@De Santis	11/24/2017
21	Holly Vergara	11/23/2017	46	Jed Keller	11/24/2017
22	Kayla Lindsey	11/23/2017	47	Paul Kelley	11/24/2017
23	Cheryl Jensen	11/23/2017	48	Antonio Acevedo	11/24/2017
24	Linnea Sheehy	11/23/2017	49	Louella Zavalla	11/24/2017
25	Delina Pulliam	11/23/2017	50	Pamela LaPine	11/24/2017

#	Name	Date Signed	#	Name	Date Signed
51	Brian Doerger	11/25/2017	76	Nicole Napier	11/27/2017
52	Michael Michaelis	11/25/2017	77	Ashleen Quirke	11/27/2017
53	Chonna Delaney	11/25/2017	78	Isabelle Athearn	11/27/2017
54	Rebecca Mih	11/25/2017	79	Vladimir Starov	11/27/2017
55	Diane C. Ryan	11/25/2017	80	Gerald Luiz	11/27/2017
56	Christilla Leon	11/25/2017	81	Justin Benning	11/27/2017
57	Tim Kinslow	11/26/2017	82	Janie McNay	11/28/2017
58	JoAnna Cavallaro	11/26/2017	83	Lily Starov	11/28/2017
59	Julianne Albert	11/26/2017	84	John Salcido	11/28/2017
60	Louis Poulos	11/26/2017	85	Ryan Donnelly	11/28/2017
61	Maria Evangelho-Poulos	11/26/2017	86	Ashley Hendrix	11/28/2017
62	Rachel Donnelly	11/26/2017	87	Grant Messinger	11/28/2017
63	Willa Gorman	11/26/2017	88	Landon Gottlieb	11/28/2017
64	Paige Harrison	11/26/2017	89	John Malish	11/28/2017
65	Zane Marte	11/26/2017	90	Nick Gummow	11/28/2017
66	Virginia Tapia	11/27/2017	91	Shari Boxer Baker	11/28/2017
67	Nazzi Shishido	11/27/2017	92	Lauren Battisti	11/28/2017
68	Sammy Stephens	11/27/2017	93	McKenna Everett	11/28/2017
69	Vernon Plaskett	11/27/2017	94	Dani Platt	11/28/2017
70	Hershel Abelman	11/27/2017	95	Joey Brajkovich	11/28/2017
71	Stephanie Robinson	11/27/2017	96	Lindsay Barnett	11/28/2017
72	Karyn Gramling	11/27/2017	97	Richard Daniel	11/28/2017
73	Cathy Olson	11/27/2017	98	Ann Rice	11/28/2017
74	Rosemarie Campos	11/27/2017	99	Kaetlyn Boyle	11/28/2017
75	Morgan Bennett	11/27/2017	100	Ross Foti	11/28/2017

#	Name	Date Signed	#	Name	Date Signed
101	Paul Prouty	11/29/2017	126	Huntley Huntley	11/30/2017
102	Victoria Copeland	11/29/2017	127	Steven Gordon	11/30/2017
103	Greg Martin	11/29/2017	128	Rick Ardizzone	11/30/2017
104	Jack Cuthbert	11/29/2017	129	Easen Ho	11/30/2017
105	Kenneth Ogle	11/29/2017	130	Gene Lennon	11/30/2017
106	Bob Bower	11/29/2017	131	Sara Tavakoli	11/30/2017
107	Ajit Manocha	11/29/2017	132	Kasey Harnish	11/30/2017
108	Monica Manocha	11/29/2017	133	Joshua LoBue	11/30/2017
109	Serg maslovski	11/29/2017	134	Gilbert Meyer	11/30/2017
110	Ann Manocha	11/29/2017	135	Thomas Beck	11/30/2017
111	Maud Gleason	11/29/2017	136	Dan Douglas	11/30/2017
112	Chris Fink	11/29/2017	137	Chris Davis	11/30/2017
113	Todd Gummow	11/29/2017	138	Jolanta Marcorelle	12/1/2017
114	Julie Kim	11/29/2017	139	Vic LoBue	12/1/2017
115	Lindsay Trolan	11/29/2017	140	Tessa Hayes	12/1/2017
116	DONALD HEALY	11/30/2017	141	Ali Szady	12/1/2017
117	Jennifer Bower	11/30/2017	142	Wendy Yost	12/1/2017
118	Stephen Davis	11/30/2017	143	Jana Barsten	12/1/2017
119	Allyson Synstad	11/30/2017	144	Kira Dales	12/1/2017
120	Evan Synstad	11/30/2017	145	Hilary Orr	12/1/2017
121	Steven Tan	11/30/2017	146	Subrah Iyar	12/1/2017
122	Albert Kurkchubasche	11/30/2017	147	Nikhita Iyar	12/1/2017
123	Mark Russell	11/30/2017	148	Handel Jones	12/1/2017
124	William Rex	11/30/2017	149	Tim McNeil McNeil	12/1/2017
125	Richard Gullen	11/30/2017	150	Marta Dulaney	12/1/2017

#	Name	Date Signed	#	Name	Date Signed
151	Terri G	12/1/2017	176	Darlene Galbreath	12/2/2017
152	Leena Iyar	12/1/2017	177	Sue Nystrom Walsh	12/2/2017
153	Song Ding	12/1/2017	178	Veronica Talantova	12/2/2017
154	Phil Chandler	12/1/2017	179	Eric Bahr	12/2/2017
155	Jeff Barnett	12/1/2017	180	John Katsoudas	12/2/2017
156	Karen Trolan	12/1/2017	181	Steve Hotelling	12/2/2017
157	Benjamin Guilardi	12/1/2017	182	Connie Hamrah	12/3/2017
158	matthew Swenson	12/1/2017	183	Bruce Entin	12/3/2017
159	Wendy Marioni	12/1/2017	184	Judith Levin	12/3/2017
160	Cindy Cockcroft	12/1/2017	185	jennifer snyder	12/3/2017
161	Ian Felix	12/2/2017	186	Clifford Witt	12/3/2017
162	Keith Goodwin	12/2/2017	187	Tiffany Le	12/3/2017
163	Caitlin Cintas	12/2/2017	188	Melvin Snyder	12/3/2017
164	Sam Schaevitz	12/2/2017	189	Richard Reed	12/3/2017
165	Laura Schaevitz	12/2/2017	190	Channing Flynn	12/3/2017
166	Patrice Carper	12/2/2017	191	Beth Rasmussen	12/3/2017
167	Susanne Hotelling	12/2/2017	192	Chris Scholl	12/3/2017
168	Ed Dee	12/2/2017	193	Cameron Dales	12/3/2017
169	john catalana	12/2/2017	194	Kira Dales	12/3/2017
170	Jill Elmore	12/2/2017	195	Brendon Zeidler	12/4/2017
171	Mark Timm	12/2/2017	196	Stephanie Raney	12/4/2017
172	Geoffrey Elmore	12/2/2017	197	Susan Lam	12/4/2017
173	Andrew Perrucci	12/2/2017	198	Don & Cheryl Wimberly	12/4/2017
174	Rick Ardizzone	12/2/2017	199	Mary & Greg Lucia	12/4/2017
175	John Galbreath	12/2/2017	200	Jill Martin	12/4/2017

#	Name	Date Signed	#	Name	Date Signed
201	Lee Lee	12/4/2017			
202	David Bruni	12/4/2017			
203	Rupar Iyar	12/4/2017			
204	Jeffrey Prince	12/4/2017			
205	Hailey Larison	12/4/2017			
206	MARITA Quint	12/4/2017			
207	Heidi Herz	12/4/2017			
208	Tanya Kurland	12/4/2017			

Comments:

Name	Comment
Penelope O'Neill	This proposed ordinance effectively limits your enjoyment of the property you own and pay taxes on!! Sounds like it may not be a violation of my rights as a property owner. Back to the drawing board/ vote no on this!
Harris Lisa	Hillside properties are unique and a one size fits all approach is a grossly misinformed way to maintain the rural character. Just like the homeowners that live in the valley, foothill owners have the right to use their property to it's fullest potential.
Gary Ashford	About the only type of wildlife which can't deal with the current fencing is coyotes and we don't need them prancing through our backyard. This is a gross violation of private property rights.
Todd Martin	The proposed hillside fence ordinance is arbitrary, punitive, and irrational. It is unclear as to the impetus and expected outcome of this initiative. Given the restrictive specifics of the ordinance, it needs to be trashed and reconsidered with more involvement of the hillside residents. The grandfather clause tied to the durability of your existing fence is an example of the some hasty authoring. Residents who follow guidelines and ordinances deserve a far more considerate and mindful approach.
Holly Vergara	I am a hillside homeowner and live up Shannon road. If this fence ordinance passes, it will prevent my children from playing in their playground within a safe distance from our home. In addition their playground and our property will not be protected by the wildlife. This is a safety issue as there are many coyotes, wild boar and other animals that walk around here. We continue to have animals eat our plants, gardens and make a mess on our property. We realize we live in the hills, however, we have paid a premium to protect what we own. Thank you!
Gwen Gummow	I do not agree with the proposed fencing ordinance because it unfairly imposes restrictions on all properties and the properties are all different. The fencing ordinance needs to be rewritten to make sense for many varieties of properties in the hillside designated area. The reasons for fencing are to protect property, pets and children. This is a safety element that has been completely disregarded.
Gwen Gummow	The fencing proposal does not provide for safety of property, pets and children. It needs to be rewritten or completely eliminated.
Linda Caplinger	Completely disagree with this blanket policy. We are newer to our property but plan on replacing existing fences. A max of 30' from our structure means that a large portion of our 1/2 acre will be open/insecure. How about our chickens (more than 30' from our house) and dogs that we would like to be able to access our property securely? How about being able to keep out deer that carry Lyme's bearing ticks? This is a one size fits all proposal and imposing hefty a fee on folks to build fences amounts to nothing more than a tax.
Paul Kelley	Bad ordinance and I vote NO on it in any form!
Brian Doerger	This ordinance puts children's lives in danger in favor of ... what, ancient wild animal
Michael Michaelis	This proposal represents a complete over-reach and a misdirected priority for the town council. As expressed by many hillside residents, the wildlife around Los Gatos already move freely. As such, this proposal represents a "solution in search of a problem." It should be tossed or at the very least rewritten from a reasonable and logical perspective, that protects the property rights of hillside residents. The town council has a responsibility to act in an equitable manner on their behalf.
JoAnna Cavallaro	The Los Gatos Town Council is arbitrarily taking away our property rights. They are not a part of a democracy, they are a Facist Regime
JoAnna Cavallaro	Except. we don't get to vote on it; only the Facist Los Gatos Town Council
JoAnna Cavallaro	The town council forgets that we are living in hillside RESIDENTIAL, as in for humans, not hillside wild animal park!~!!

JoAnna Cavallaro There does not need to be any fencing ordinance! Those jerks in LG Town Council have way too much free time and power. Maybe we don't need them at all.

JoAnna Cavallaro Do you think they really care?

JoAnna Cavallaro One arrogant idiot on the Town Council already answered someone's concern re Lyme disease. He said Lyme disease was not a concern in California. He was lying, of course, as the Los Gatos Weekly reported on a LG family contracting Lyme Disease a few years ago; and the teenagers that were suffering from the disease were denied medical treatment, because the doctor also said Lyme disease was not a problem in Ca.

Holly Vergara That's the purpose of this initiative.

Sammy Stephens Sam Stephens

McKenna Everett Justtd can't see the logic

DONALD HEALY I maintain and pay taxes on my hillside property and have the right to protect and use our property in a reasonable manner. The wild boar, coyotes, mountain lions and bobcats present a real threat to my grandchildren. Our fence provides some level of protection.

Steven Tan My security camera captured 2 coyotes lying right below my front door all night long just a week ago. My wife is expecting and she got a fright when she opened the door in the morning. We are not against wildlife. We have a mother deer and her baby hanging out below our deck most afternoons. However, this is after all our residence, not a wildlife reserve. So protection for my family comes first, and we do intend to fence up in the coming year for the safety of my family and especially my highly vulnerable babies.

Albert Kurkchubasche We all love the wild life in the hills. At the last town council meeting many neighbors argued against and presented better solutions, such as providing corridors rather than limiting us 30 feet max from main structure. The current regulation will have a worse visual impact, since you can have many fenced areas (i.e. 30' adjacent to house, tennis court, swimming pool, vegetable yards and orchards, etc.). The rules are arbitrary, they lower our property values and take away our property rights. We have plenty deer and wildlife that co-exist on our property. I do not see a need to amend the fence rules. P.S. Besides listing all the fences that are not allowed, could the town just list the type of fence which they allow (which seem to be split rail fence).

William Rex What is reasonable for open wildlife pathways? We have coyotes, mountain lions, and rutting deer Johnson Ave at Cypress Ave. (less than a mile from Town Hall) We have a neighbor on Johnson Ave who has had some twenty of their hens killed by suspected wildlife. Let's get reasonable with changes - make them to support property fights and protection of our families and neighbors!!!!

Dan Douglas Don't turn our yards into "open space preserves"! I don't get a special tax rate for the portion of my property more than 30 ft from my house, so don't change how I can use it.

Chris Davis The proposed ordinance is ridiculous.

Tessa Hayes This is a ridiculous ordinance and waste of taxpayer money. Worry more about the homeless situation, the fact that Lexington Reservoir hasn't had a seismic upgrade, worry about things that matter - not fence heights. If fences are what our politicians are most worried about than maybe it's time to get new people to run our town!

Jana Barsten Health safety

Hilary Orr I live in the Los Gatos Hills and this is a ridiculous idea. It would make my garden unusable!

terri g this is unconstitutional, therefore null, void and without effect.

Michael Michaelis Everyone that feels passionately about the inappropriateness of this proposed ordinance should plan to attend the 7:00pm Los Gatos Town Council meeting on December 5th. Make sure that the council members hear your voice on this matter and are guided towards an informed decision!

Andrew Perrucci I would like to see the scientific data that the authors used in drafting the proposed ordinance that says there is a problem with wildlife mobility within the Town hillside areas. I seriously doubt that there is a widespread problem.

Connie Hamrah  
Richard Reed

We don't need this ordinance , it's too restrictive.

The proposed ordinance is a hazard to safety. Where animal habitat is cut off by freeways a corridor requirement is a good idea. Private property back yards do not significantly cut off corridors. This is just a bad idea and must be stopped. Our government representatives must represent the will of the people they represent not a chosen vocal few.

Stephanie Raney

I have a number of issues with this proposed ordinance. 1. Nowhere in the proposal does it provide research/data on the supposed impact on wildlife. As I walk through my neighborhood I regularly see deer and coyotes who are roaming through existing natural corridors. Without data, we cannot make informed decisions about if this proposal is actually justified. 2. Other cities in California have much more resident-friendly guidelines to achieve the goal of maintaining wildlife corridors. See the guidelines of Woodside for an example that maintains natural corridors while respecting property owners rights. 3. This proposal will have an immediate negative impact on my home. I have done extensive landscaping over much of my property. Were this proposal to go into effect, I would not be able to maintain my current fence (which keeps out the deer) and would then lose most of these plants. Prior to putting up my current fence I tried to use deer-resistant plants in my landscaping. Didn't work--the deer a

Don & Cheryl  
Wimberly  
Lee Lee

Only wildlife that would gain access to our property would be dog walkers relieving their pets and local vandals. Stick to the basics TLG.

This is too restrictive and take away property rights without compensation. As it is wild animal is coming near the house. A few year ago a fox almost attack me, in panic I throw some rocks at him with a bit of luck he ran off. Otherwise it would have been a sad story.

**TOWN COUNCIL**

**Received with October 16, 2018, Staff Report and Addendum**

## Sean Mullin

---

**From:** Clerk  
**Sent:** Thursday, December 07, 2017 9:35 AM  
**To:** Sean Mullin; Joel Paulson; Sally Zarnowitz  
**Cc:** Cindie Gonzales; Jessica Atilano; Dorrie Romero  
**Subject:** FW: New request received  
**Attachments:** ATT00001.bin

Public comment received through the online public records request portal regarding the fencing ordinance.

*Shelley*

---

**From:** Clerk Administrator [mailto:do\_not\_reply@civicplus.com]  
**Sent:** Thursday, December 07, 2017 8:59 AM  
**To:** Clerk  
**Subject:** New request received

**Category Clerk Department has received a new request.**

*Here is what we have on file:*

### Public Records Request

#1861

Category Clerk Department  
Priority 1  
Assigned To: Clerk Town  
Submitted 12/7/2017 8:58 AM  
Source Website 73.162.13.133

**SUBMITTER**  
**Kim Halley**  
15769 Shady Lane  
Los Gatos, CA 95032  
**CONTACT**  
[kimh@santolina.com](mailto:kimh@santolina.com)  
408 499 8884

[View Request](#)

---

#### REQUEST DETAILS

##### Description

I am concerned about the hillside fence proposal. We live on 20 acres and host 10-20 deer. Our fence along Shady Lane helps keep the deer out of the roadway. Most of the deer that die are the result of being hit. I see deer along Short Road and even Blossom Hill Road. The fences actually protect the deer and impede their interaction with civilization. I do not think the proposed fence ordinance will have the desired outcome. Thanks, Kim Halley

---

Your Information

**From:** Wallis and Wallis Insurance Brokers <[dwallisjr@aol.com](mailto:dwallisjr@aol.com)>  
**Sent:** Tuesday, September 18, 2018 11:44 AM  
**To:** Jocelyn Shoopman <[jshoopman@osgatosca.gov](mailto:jshoopman@osgatosca.gov)>  
**Subject:** I need help

Hi Jocelyn,

I want to send you a email in support of the proposed approval of the 7 foot high fences, should I referred to a specific vote???

Thanks!!

Marcia  
Partner & Broker

Wallis and Wallis Insurance Brokers  
**STRENGTH IN PERFORMANCE**  
Agency of the Year, Northern California  
1249 Park Ave  
San Jose, California 95126

408-293-3336  
408-293-6054 Fax  
[www.wawib.com](http://www.wawib.com)

## Sean Mullin

---

**From:** David Klinger <dave.klinger@sbcglobal.net>  
**Sent:** Sunday, October 07, 2018 9:59 PM  
**To:** Sean Mullin  
**Subject:** Support for Non-Hillside Fence Ordinance 29.40.033

10/7/2018

Los Gatos Town Council Members,

The Town Council will be considering on October 16, 2018 changes to the Ordinance governing both Non-hillside residential lots and Hillside residential lots fences. This letter urges your support of the non-hillside fence height change 29.40.033, even if the Council decides not to change the Hill-side fence ordinance 29.40.034

On Sep 13, 2017, I presented to the Planning Commission the case for allowing seven foot high fences (six feet solid with one foot lattice on top) for non-hillside residential lots. Following an in-depth discussion, the minutes show that the Planning Commission supported the change to seven foot height including one foot lattice within property lines, with lower heights for corner lots and front yards.

I presented the same case for change to the Town Council on Dec 5, 2017. However the public testimony was almost entirely on the hillside fencing and occurred late in the evening after the Veterans Memorial was discussed and approved. Although I provided both written and verbal testimony on the non-hillside changes, the council did not discuss the non-hillside fence height proposed changes and deferred both hillside and non-hillside fence consideration to a later date, now October 16, 2018.

I urge you to approve the Ordinance Sec. 29.40.033. Non-hillside residential lots: Fences, walls, gates, gateways, entry arbors, and hedges.

1.

(a) Height. In residential zones outside of the hillside area, a permit is not required for the repair, replacement, or construction of gateways, entry arbors, or hedges that are no more than six (6) feet high; or fences, walls, or gates that are no more than six (6) feet high, with one (1) foot of lattice on top (seven (7) feet high in total), and within all property lines.

- (b) Exceptions to height
- (c) Materials
- (d) Vehicular gates

My original letter to the Town Council, presenting the case that was included in the formal package for the Council meeting on Dec 5, 2017, is included below for your reference. To summarize, the primary reasons for change are the following:

- 1) The existing six foot height limit is widely ignored
- 2) Allowing residents to build seven foot fences with one foot lattice, (the de facto city standard), will eliminate widespread non-compliance to the code.
- 3) Many fences are higher than six feet, but are acceptable to the neighbors, based on nearly zero complaints to Code Compliance
- 4) No effective enforcement of the exiting six foot limit is taking place.
- 5) Los Gatos does not track applications for height waiver, but the number of applications is "minimal" according to a planning staff member.
- 5) Charging a \$233 fee for a waiver is not uniformly applied, is burdensome, and is unfair to those who wish to be compliant, since very few residents apply for a waiver
- 6) The existing height exemption criteria of "special privacy concerns" is subjective and difficult to properly evaluate.
- 7) San Jose, Sunnyvale, Cupertino, Santa Clara County, and Los Altos allow such seven foot fences without exemptions or permits.

Again, I urge you to consider non-hillside lots and hillside lot ordinance changes separately, and to accept the seven foot height with lattice for non-hillside residential lots.

Respectfully,

David L. Klinger  
141 Potomac Dr  
Los Gatos, CA 95032

Reference: 8/30/2017 Initial letter to Los Gatos Town Council

I am a resident Los Gatos. The Planning Commission is currently considering changes to the Los Gatos fence code for hillside properties to protect wildlife. I request the Council direct the Commission to expand the scope of these changes to include reconsideration of the flatland residential fence height restrictions.

I recently received approval by the Community Development Director to construct a replacement 7 foot high fence that includes a 1 ft lattice on top. I paid Los Gatos \$233 to process the exemption required by city code, after gaining approval of all my adjacent neighbors. A building permit was not required since the fence was not over 7 feet high.

I discovered by walking our dogs around extensively and talking with my fence contractor that 7 foot fence replacements are quite common. I met with Sean Mullin, of the Los Gatos planning staff to seek information about how many residents seek the formal exemption and pay the fee. I was advised by another planning staff member at that meeting that the number is "minimal", and that the city was unable to provide me the exact exemption application count since there is no tracking system in place. One can only conclude that many residents simply ignore the code and replace fences without seeking a formal exemption for those fences higher than 6 feet. Further, I talked with LG Code Compliance and was told that fence height compliance is not an issue, perhaps one or two calls per year, due to neighbors working it out themselves. Compliance actions do not take place unless there is a complaint..

San Jose, Sunnyvale, Cupertino, Santa Clara County, and Los Altos allow 7 foot fences with 1 foot lattice without exemptions or permits, some of these cities requiring adjoining neighbor approval.

Neighbor approval and "Special privacy concerns", without specific criteria, is the current Los Gatos basis for allowing fences over 6 feet high. Privacy is a subjective matter best left to the neighbors directly affected. Determination of whether or not a special privacy concern exists is at the discretion of the Community Development Director per current code.

**Proposal:** The flatland ordinance should be modified to allow 7 foot heights with 1 foot lattice without an exemption fee if all affected neighbors approve. The code should continue the 6 foot no-approval baseline. If a neighbor disapproves a fence higher than 6 feet, the resident desiring the increase could appeal, starting with the Community Development Director. Fences higher than 7 feet should continue to require a permit due to ensure safety. Front yard and corner lot low fence limitations should remain in force, again for safety and visibility reasons.

I believe this change would reconcile the fence height ordinance to the apparent current LG community consensus that 7 foot fences are often desired and are acceptable. Making this change would promote better respect for and compliance with Los Gatos codes, and immediately relieve many residents who are not currently code-compliant. However, this issue is not likely to result in demonstrations and demand for changes at future Council meetings. Rather, this issue falls more properly into the category of good city governance and respect for the ability of residents to work it out themselves.

In summary,

- 1) The fence height code is being ignored widely,
- 2) Many fences are higher than six feet, but are acceptable to the neighbors,
- 3) The current height exemption criteria of "special privacy concerns" is subjective and difficult to properly evaluate,

4) When neighbors already agree on a 7 foot high fence, gaining city approval and paying associated fees unnecessarily burdens the residents.

Respectfully,

David L. Klinger  
141 Potomac Dr  
Los Gatos, CA 95032

RECEIVED

OCT 09 2018

TOWN OF LOS GATOS  
PLANNING DIVISION

To: Town Council

Re: Revised Fence Ordinance, meeting of TC October 16, 2018

From Peter Donnelly, Dave Weissman, October 9, 2018

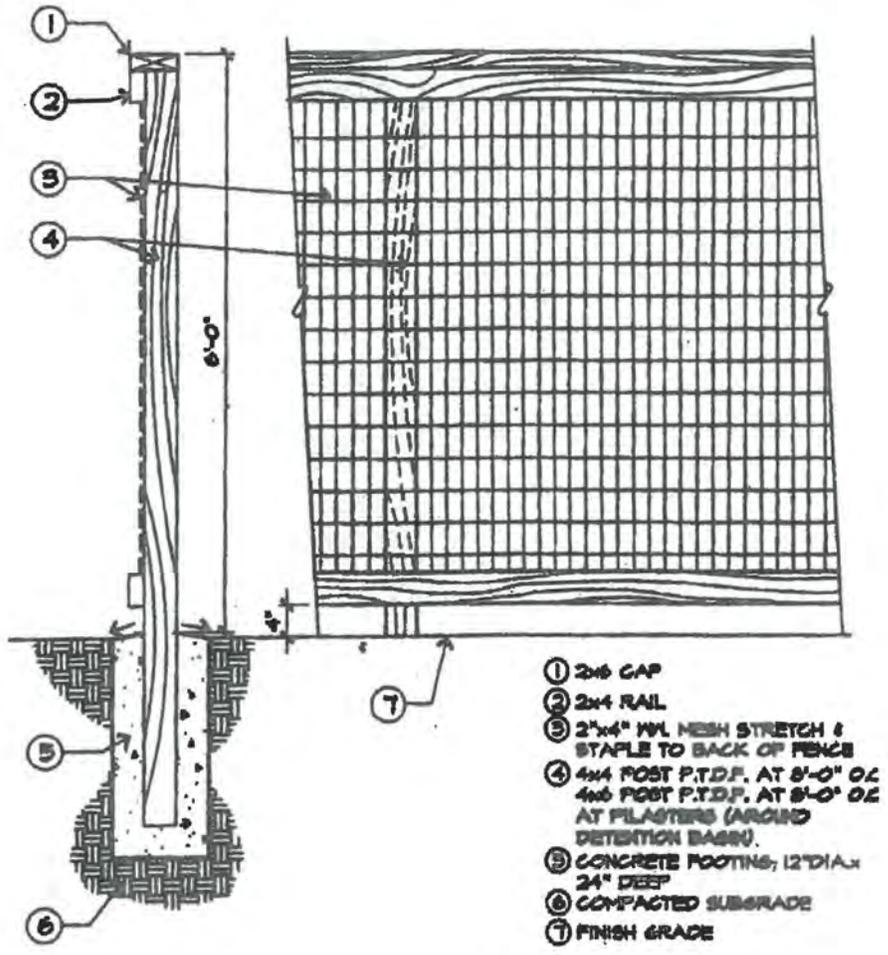
After a considerable amount of time working with staff and the various interests within the Town, we now support the draft before you as a compromise that achieves the main interests and goals of the HDS&G.

There is one short sentence that we recommend you add to this draft to make the code clearer and as unambiguous as possible: **Where a conflict exists between the CC&Rs of a hillside PD and this document, the requirements of this document shall prevail.**

Our concern is not about some unrealistic, hypothetical situation because such a potential conflict may be illustrated by the following example. The Town approved CC&Rs of the Highlands PD say, in Section 6.11.2, that "Generally, fences should be constructed in such a fashion to be open that will allow the migration of native animals through the project." Those CC&Rs continue that "Open fencing as suggested by the Hillside Development Standards and Guidelines and as appended herein as Exhibit D is encouraged." Yet in Exhibit D-2 of that very same Highlands document, a "permitted" fence (see attached) shows a fence that is clearly not wildlife-friendly because of the obvious wire mesh.

Additionally, the Highlands CC&R "Fence and Wall" section anticipates that Town codes can subsequently change and says that homeowners are "...subject to applicable governmental regulations and requirements of governmental agencies, and ...**as may be amended from time to time...**" (our emphasis).

Incorporating the above proposed sentence into the Town's fence ordinance insures that Homeowner's Associations will continue to advise their members and update their internal CC&Rs since, at least in the case of the Highlands, any proposed fence or wall construction must be approved by the Highlands' internal governing board. We also believe the addition of the above highlighted wording would remove any ambiguity and prevent any unintended loopholes that result in fencing that does not comply with the intended outcome of the HDS&G.



- ① 2x6 CAP
- ② 2x4 RAIL
- ③ 2"x4" W/L MESH STRETCH & STAPLE TO BACK OF FENCE
- ④ 4x4 POST P.T.D.P. AT 8'-0" O.C. AND POST P.T.D.P. AT 8'-0" O.C. AT PLASTERS (AROUND DETENTION BASIN)
- ⑤ CONCRETE FOOTING, 12" DIA. x 24" DEEP
- ⑥ COMPACTED SUBGRADE
- ⑦ FINISH GRADE

NOTES:  
 1. ALL WOOD SHALL BE CONST. COMMON ROAD. ROUGH, UNLESS OTHERWISE NOTED.

**VIEW FENCE**

SCALE 3/4" = 1'-0"



***This Page  
Intentionally  
Left Blank***

October 13, 2018

Dear Mayor and Town Council

As residents of the HR Zone, we ask you please not adopt the proposed fence and wall ordinance. Following are reasons why we believe you should not adopt it:

1. The proposed ordinance's requirements infringe on rights of private property owners, turning control of private property over to Town Officials and the Community Development Director.
2. The scope of the ordinance is not health and safety, but if adopted, would be an imposition of the personal preferences of Town Officials, staff and ordinance proponents. The Town should concentrate its resources and energies on issues of the health and safety of its citizens, public service to its residents and visitors, and on providing quality public infrastructure, not harassment of residents and property owners. Council should avoid adopting regulations that force citizens into unnecessary disputes with Town staff and Officials over the rightful use of private property.
3. The proposed Ordinance ignores the fact that landscaping, pets, personal property and family members need protection from wildlife and unauthorized intruders that should be designed by the property owner, not Town officials. Coyotes, raccoons, deer, skunks, to name a few can be a threat. An absence of such protections as provided by walls and fences can prevent property owner from using their own property as they choose.
4. Wildlife is very capable of creating their own corridors, nesting and resting areas, and finding their own food sources, particularly in the Hillside Zone. It does not hesitate to use roads and other public spaces.
5. The location of fences and walls is a lot design decision rightfully made by individual property owners. The shape, features, topography and natural vegetation of each lot differ, and are not reasonably controlled by government and/or ordinance formulas.
6. Ordinance proponents should feel free to donate their time, resources and opinions regarding wildlife management to the region's open space district where conservation and wildlife take a rightful priority. They should limit their efforts to make fencing and wall decisions for their own property.
7. Finally, this ordinance could be interpreted as a "wildlife easement", representing a taking and, if adopted, should be litigated.

Don & Cheryl Wimberly  
PO Box 800  
Los Gatos, CA 95031

RECEIVED

OCT 15 2018

CITY OF LOS GATOS  
PLANNING DIVISION

RECEIVED

OCT 16 2018

TOWN OF LOS GATOS  
PLANNING DIVISION

To Mayor Renni and Town Council  
From Lee Quintana  
Re Draft Fence Ordinance  
Date October 15, 2018

I ask that the Council refer the amendments to the Town's Fence Ordinance to the Town Council Policy Committee to discuss the following:

- Balance between wildlife and residents
- Best and/or common practices - flexibility vs one size fits all
- Organization and clarity
- Consistency with General Plan, Hillside Development Standards and Guidelines (HDS&G)

**Attachments:**

- I. Comment Letter from Christopher Kankel, dated July 18, 2017.
- II. Saratoga Zoning Code: Sec15-29.020 - Fencing within hillside districts.
- III. Monte Sereno Fence Regulations
- IV. Monte Sereno Zoning Code: Zoning Code designations and Zoning district standards (setbacks and minimum lot size).

**Balance**

Christopher Kankel, in his letter dated July 18, 2017, he recognizes the need to balance the needs of wildlife and hillside residents and the challenge creating that presents when drafting regulations for hillside fencing (See Attachment I.). Mr. Kankel states:

"While I appreciate the need to accommodate the wildlife whose territory we infringe upon, I also respect the need and right to privacy and security of my clients and fellow residents. Developing a fencing ordinance that accommodates both the wildlife and residents is a delicate balancing act."....

Mr. Kankel further suggests a balance that would allow residents and designers flexibility in choosing what portion of their property to secure while insuring a greater portion of their property remains accessible to wildlife.

However, neither the first draft nor the currently proposed draft would provide balance or flexibility as he suggests.

**The first fence ordinance draft:**

- **Areas:** Divides the town into two areas, non-hillside areas and hillside areas. Treats each area as "one size fits all.
- **Balance:** Regulations are balanced to favor the protecting wildlife habitat, wildlife movement corridors preserving continuous open space and the rural open character of the town's hillside areas.
- **Flexibility:** While the first draft, allowed exceptions for privacy where required, protection for pets, gardens and play areas, as well as for security around pools

areas and sports courts, the 30' requirement did not allow much flexibility to locate these activities within one continuous security fencing.

#### Current fence ordinance draft:

- **Area:** The current draft divides the town into two areas based on size without regard to zone. The town is divided into lot which are less than one acre and lots one acre or more. However, in effect, regulations for animal-friendly fences are only required yard setback of their zone. Any area located outside the required yard setbacks is subject to the regulations for lots that are less than one acre.
- **HR zones and RC zones:** Yard setback requirements: Front-30', Sides- 20' and Rear-25'. Size or specific zone is not taken into account.
- **Balance:** Moves the balance in the opposite direction by reducing the number of lots that are required to meet minimum front yard setbacks and are allowed to have fences along their property lines and increasing areas not required to have animal-friendly fences. The current draft may create movement corridors in some areas, but it also has the potential to allow enclosing large area, to recreate discontinuous movement corridors, reduce wildlife habitat and to reduce the open rural feeling of the hillsides.

#### **Best and or common practices <sup>1</sup>**

##### General:

- Most provide tables and/or figures to illustrate setbacks and heights.
- Most regulations are base on zoning districts, some are based on minimum size of zoning districts. (example Portola Valley)
- Most require permits
- Most limit the height of fences in front yard setback to 3 or 3 1/2 feet.
- All require restriction of height of fence in a traffic view area at street intersections
- Some restriction height of fences on side yards adjacent to streets or require increased side setbacks on side yards adjacent to streets.
- Most also require fence height restrictions triangles at driveway intersections with streets.
- Most have regulations regarding driveway/vehicular gates setbacks (most in open position) and height and/or design of driveway gates
- Most have provisions for exceptions to height greater than 6' (either 7' with 6' solid fence + 1' lattice or open fencing or 8' maximum with 2 feet lattice) and exceptions for to 8 feet for privacy and wildlife protection of landscaping and vegetables.
- To varying degrees reference regulations pertaining to fences found in other sections of the zoning code, municipal code or building code (examples: traffic visibility areas, building permit regulations for fences around pools, regulations for sport court fencing, or for horse fencing
- Setbacks from streams and riparian habitat to all areas not just hillside locations.

##### Saratoga:

---

<sup>1</sup> Based on review of fence regulations from Los Altos Hills, Campbell, Cupertino, Monte Sereno, Portola Valley, Saratoga and Woodside.

- Saratoga has a zoning code section specific to hillside districts (Sec. 15.29.020 . Fencing within hillside districts).<sup>2</sup> These regulations are in addition to the general regulations in Sec. 15.29.10.
- The hillside regulations provides for an “area of enclosure”. Either 6000 sf maximum area of enclosure or 15 percent of gross site area, which ever is greater. (some exceptions). This provides some flexibility as to placement of the enclosed area within the lot but leaves areas of continuous open space
- Not based on size, however provides some flexibility in choice of enclosed fence locations. This is similar to the suggestion in Attachment I. which states:

“.....consider an ordinance that allows for a given percentage of a site area to be contained by a six foot high secure fence.....or a minimum of x square feet). This would allow residents and designers flexibility in choosing what portion and extent of their property to secure while assuring a greater amount of their property remains accessible to wildlife”

#### **Monte Sereno:**

- City of Monte Sereno Fence Regulations, (See Attachment III that was included in a previous staff report) in part states:

“Height of Fences: No portion of any fence shall exceed a height of three (3) feet in any part of any front yard unless a site development permit has been approved...., or a height of six (6) feet in any side or rear yard. In no event shall any fence height exceed six (6) feet in any point of the lot.”

- To fully understand the above regulation it is also necessary to also look at Chapter 10.05 - Zoning District Regulations, Sec. 10.05.010 - Zoning district designations. and Sections c. Development Standards for 1. Minimum lot area, 2 .Front Yard, 3. Side Yard, 4. Rear Yard and 4.1 Increases in setbacks each Zoning districts R-1-44, R-1-20, R-1-8. (See Attachment IV).
- In Monte Sereno fence setbacks and fence height maximums are determined by a combination of the zoning of a lot, the minimum lot size adjusted for slope density, and the area that each lot exceeds the minimum square footage. While this may not provide as much flexibility as the Saratoga example this is not a “one size fits all” approach.

#### **Organization, Intent and clarity**

- The first draft fence regulations divided by into two sections: Non-hillside areas and Hillside areas.
- The current draft is also divided the into two sections, however the sections are based on lot size regardless of zone, rather than Non-hillside and Hillside location.

---

<sup>2</sup> Saratoga Sec. 15-29-020. Fencing within hillside districts. See Attachment II - not previously included in staff report.

- This change, however, is not reflected in the organization of the ordinance. It may also affect some definitions.
- Re-organizing the chapter to reflect the new divisions based on size could simplify the organization provide, increase clarity and reduce the opportunity for subjective interpretations.
- Suggest reorganizing the ordinance to be consistent with the proposed changes. One possibility:
  - Purpose and Intent: Purpose to codify. General overall intent with more specific intent for HDSG.
  - General regulations that apply to all lots (example, view triangles, entry arbors, driveway gate setbacks, with references to swimming pool fences, sports court enclosures, stables and horse fences and any other pertinent fence requirements
  - Regulations that apply, in addition to general fence regulations, to lots less than one acre
  - Regulations that apply, in addition to general fence regulations, for lots one acre or more
  - Other necessary Sections.

### **Consistency with General Plan, HDS&G, and Zoning Code**

I have run out of time to address consistency in detail. Just a partial list of inconsistencies with General Plan listed in Exhibit 4.

- Policy CD 15.6: In hillsides fencing shall be open design unless needed for privacy. A minimal amount of land shall be enclosed by fencing over 5 feet high. *Revised draft provides minimal regulation other than for yard setbacks for lots one acre or more.*
- Policy CD 3.8: Solid fencing over three feet shall be designed such that it does not isolate structures from the street, or shall be set back and landscaped. *The revised draft allows solid fencing within front yard setbacks for lots that are less than an acre.*
- There are numerous goals and policies in the General Plan that address preserving wildlife habitat, continuous open space and preserving the open rural character of the hillsides. Limiting animal friendly fencing to required yard setbacks only for lots that are one acre or more is not consistent with this goal.

I will not be able to attend the October 16th Town Council Meeting. If you have questions or would like clarifications please call me at (408) 354-7808.

Thank you for your consideration.

Lee Quintana

Att: # 1



Kikuchi + Kankel  
Design Group

Landscape Architecture  
Environmental Design  
Site Planning

July 18, 2017

Sean Mullin  
Town of Los Gatos Community Development Department  
110 E. Main Street  
Los Gatos, CA 95030

RE: Proposed changes to Los Gatos fencing ordinance

Dear Sean,

Thank you for the opportunity to provide feedback regarding the proposed changes to the Town of Los Gatos fencing ordinance. I have reviewed the proposed ordinance from the perspective of both a resident and a landscape architect and have several thoughts to share. While I appreciate the need to accommodate the wildlife whose territory we infringe upon, I also respect the need and right to privacy and security of my clients and fellow residents. Developing a fencing ordinance that accommodates both the wildlife and residents is a delicate balancing act. My comments listed below pertain solely to the proposed language regarding Hillside Fencing:

1. The proposed language effectively prevents corrals or any other type of fencing to contain or protect domestic animals when located more than 30' from the main residence.
2. The proposed language effectively prevents vegetable gardens more than 30' from the main residence.
3. The proposed language effectively prevents a secure automobile gate near the road.
4. The proposed language greatly inhibits flexibility in the installation of security fencing. Per the code, a security fence of sorts may be allowed within 30 feet of the house, but it will effectively create an arbitrary island of development within a larger property.

As a designer, I would suggest consider an ordinance that allows for a given percentage of a site area to be contained by six foot high secure fencing (for instance, one-third of the gross property size or a minimum of x square feet). This would allow residents and designers flexibility in choosing what portions and extents of their property are secure while insuring a greater portion of their property remains accessible to wildlife. It also allows residents and designers to ability to optimize the more usable portions of their properties. Each hillside property is vastly different in character and limiting the six foot high fencing to 30 feet proximate to the main residence is arbitrarily limiting usable space in many cases.

Again, thank you for the opportunity to offer my opinion on the matter.

Regards,

Christopher Kankel  
Kikuchi + Kankel Design Group

RECEIVED

JUL 18 2017

TOWN OF LOS GATOS  
PLANNING DIVISION

61 E. Main Street, Suite C  
Los Gatos, CA 95030  
408.356.5986

Steven T. Kikuchi, ASLA, Principal  
Christopher Kankel, ASLA, Principal  
Warren Barnes, Associate  
Thomas Cheney, Associate  
Lydia J. Dietz, ASLA, ISA, Associate

730 Hill Street, Hillside Bldg. #2  
650.726.7400  
www.wkdesigngroup.com

Lee Quintana

Town Council 10/16/2018

AH: # II

**15-29.020 - Fencing within hillside districts.**

Saratoga Hillside

1

In addition to the regulations set forth in Section 15-29.010 of this Article, fences located within an HR or R-OS district shall comply with the following regulations:

AH: # II

- (a) **Area of enclosure.** Except for fencing which constitutes part of a corral, no fencing on a single site shall encompass or enclose an area in excess of six thousand square feet or 15 percent of the gross site area, whichever is greater, unless approved by the Planning Commission. The fencing shall meet the requirements stipulated in [Section] 15-29.010 of this Article. "Encompass and enclose," as used in this section, shall mean to surround an area with a continuous fence or a fence.
- (b) **Fencing outside area of enclosure.** Except for fencing which constitutes part of a corral or fencing required by the Building Code for swimming pools, fencing outside the area of enclosure shall not exceed three feet in height, and shall be split rail fencing, stone wall, or stucco.
- (c) **Parallel retaining walls.** Parallel retaining walls shall be separated by a horizontal distance of not less than five feet. Where two or more retaining walls are approximately parallel to each other and separated by a horizontal distance of thirty feet or less, the combined height of such walls shall not exceed ten feet.
- (d) **Wildlife trails.** No fence shall unreasonably impede the movement of wildlife animals utilizing an established trail or migratory route which crosses the site.
- (e) **Swimming pool fences within hillside districts.** When a fence already encompasses or encloses six thousand square feet or more on a single site, and a swimming pool fence is required for a swimming pool that is not located within the area of enclosure as described in Article [Section] 15-29.020(a), an additional area around the swimming pool may be enclosed with a fence, provided the swimming pool fence follows the contour of the pool with no more than ten feet of distance located between the fence and edge of water.
- (f) **[Exemptions.]** The provisions of this Section shall not apply to any property located within and constituting a part of Tract 7763, as shown on the subdivision map thereof recorded in the office of the County Recorder.
- (g) **[Stipulations.]** Any property located within and constituting a part of Tracts 6526 and 6528 (Parker Ranch Subdivision), as shown on the subdivision map

From Lee Quintana

Town Council 10/16/2018

ATT # III



# CITY OF MONTE SERENO

18041 SARATOGA-LOS GATOS ROAD, MONTE SERENO, CA 95030  
(408) 354-7635 • FAX (408) 395-7653 • WWW.CITYOFMONTESERENO.ORG

zoning re yards

## FENCE REGULATIONS

Height of fences: (10.06.130)

No portion of any fence shall exceed a height of three (3) feet in any part of any front yard unless a site development permit has been approved in accordance with Chapter 8 of this Title, or a height of six (6) feet in any side or rear yard. In no event shall any fence height exceed six (6) feet at any point on the lot.

The term "fence" shall include any open or solid barrier using, but not limited to brick, stone, concrete, steel, iron, wood, and/or plastic for its construction.

Any fence not more than six (6) feet in height in existence on August 19, 1977, in any front yard is exempted from the Provisions of this Section, provided, however that said fence is not located within the public right-of-way and shall not block the sight distance at a street intersection.

### Site distance requirement:

No obstruction over three (3) feet in height shall be permitted within a triangle delineated by sides forty (40) feet long on the right of way lines of intersecting streets.

Visibility and safety of vehicular and pedestrian traffic shall be a primary consideration.

Prior to construction of any fence, please contact the Building Department at (408) 354-2805 to inquire if your proposed fence requires any permit.

(See other side of handout for intersection angles and return radii information)

## DRIVEWAY GATES

Driveway gates are required to meet all of the height regulations for fences described above. Additionally, driveway (entrance) gates shall be no less than twenty (20) feet from the edge of any public improvement i.e., pavement or sidewalk. Electric gates and related improvements require a building permit from the City.

CONTINUED ON OTHER SIDE

AST: III

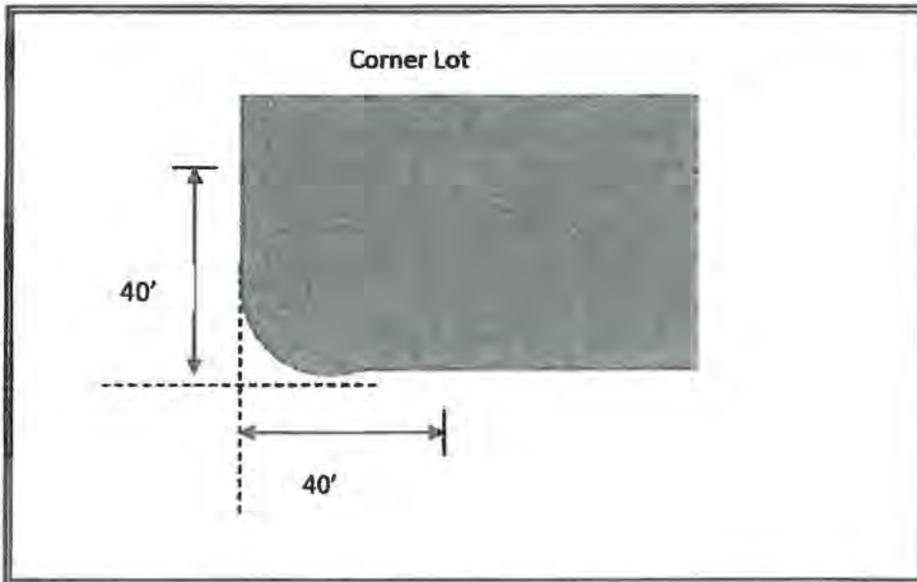
**SECTION 13.02.080 INTERSECTING ANGLES AND RETURN RADII**

Streets will be required to intersect one another at an angle as near to a right angle as practicable in each specific case, unless otherwise necessitated by topographic conditions.

Rounded returns with a minimum radius of twenty (20) feet, or equivalent diagonal cut-offs, shall be required in all cases. The right-of-way line radius of return may vary upwards in relation to the width of roadway, angle of intersection, intersection design and type of land use.

Visibility and safety of vehicular and pedestrian traffic shall be a primary consideration. —

No obstruction over three (3) feet and less than six (6) feet in height shall be permitted within a triangle delineated by sides forty (40) feet long on the right-of-way lines of intersecting streets, measured from the point of intersection of said lines or their extensions, and the hypotenuse connecting the ends of said sides when such obstruction would interfere with a clear view of passing traffic on either street (Ordinance 42 E, Article 7, Section 1.7 – 4.5)



From Lee Quintana

Town Council 10/16/18

could not find ref. to fences in Title 8

~~Att # IV~~

Town Council  
10/16/18

~~Att # IV~~

- > Chapter 10.19 - REGULATION OF SPECIAL EVENTS
- > Chapter 10.20 - LIMITATIONS ON WOODBURNING FIREPLACES
- > Chapter 10.21 - FLOODPLAIN MAINTENANCE
- > Chapter 10.23 - REQUESTS FOR REASONABLE ACCOMMODATIONS
- > Chapter 10.24 - DENSITY BONUS AND OTHER INCENTIVES
- > Chapter 10.26 - MEDICAL MARIJUANA AND CULTIVATION modified
- > Title 11 - FRANCHISES
- > Title 12 - CITY COMMISSIONS\* modified
- > Title 13 - SUBDIVISIONS modified
- STATUTORY REFERENCES FOR CALIFORNIA CITIES
- ORDINANCE LIST AND DISPOSITION TABLE
- CODE COMPARATIVE TABLE AND DISPOSITION LIST modified

Monte Sereno  
Zoning Districts  
Development  
Standards -  
lot area &  
yard setbacks

< 10.04.030 - Interpretation of district boundaries.

Chapter 10.06 - GENERAL PROVISIONS >

## Chapter 10.05 - ZONING DISTRICT REGULATIONS

modified

### 10.05.010 - Zoning district designations.

modified

The following zoning districts are hereby established in the City:

R 1-44 Residential District, 43,560 sq. ft. or more.

R 1-20 Residential District, 20,000 sq. ft. lot size or more.

R 1-8 Residential District, 8,000 sq. ft. lot size or more.

RM Residential Multi-Family District, 14,520 sq. ft. lot size or more.

P Public District, 8,000 sq. ft. lot size or more.

P/RM Public/Residential Multi-Family District, 8,000 sq. ft. lot size or more.

From  
Lae Quintana

7.

One (1) private stable for not more than the permitted number of domestic animals, provided that the stable is not used for rental or other commercial purposes.

8. Two (2) medium size animals consisting of sheep or goats (but excluding swine or adult unneutered male goats) for each twenty thousand (20,000) square feet of land, and one (1) more medium size animal for each additional ten thousand (10,000) square feet of land. Provided, however, the total number of medium size animals on any parcel of land shall not exceed four (4), and they shall be penned or kept in a corral on the rear one-half of the property. One (1) litter produced by the medium size animals during each calendar year may be kept on the property for which the use permit was issued for not more than a total of four (4) months, provided they are not kept for sale or resale nor for commercial breeding, boarding, nor veterinary care. At the expiration of four (4) months, the animals in the litter shall be considered to be adult animals and subject to the limitation as to the number of animals which may be kept on the property set forth herein.

R-1-44

**C. Development standards. The following development standards shall apply in R-1-44 Districts.**

1. **Minimum lot area** — The minimum lot area shall be forty-three thousand five hundred sixty (43,560) square feet or the minimum as required by the slope density formula as set forth in the Subdivision Title of this Code.
2. **Front yard** — The minimum front yard shall be as follows:
  - a. Single-story building — thirty (30) feet.
  - b. Second-story portion of building — forty-five (45) feet.
  - c. Detached accessory buildings are not allowed in the front yard.
3. **Side yard** — The minimum side yard shall be as follows:
  - a. Single-story building — twenty (20) feet.
  - b. Second-story portion of building — forty (40) feet.
  - c. Accessory building — six (6) feet, but must be located only upon the rear one-half of the lot.
4. **Rear yard** — The minimum rear yard shall be as follows:
  - a. Single-story building — thirty (30) feet.

- b. Second-story portion of building — forty (40) feet.
    - c. Accessory building — ten (10) feet.
  - 4.1. Each of the minimum front, side, and rear yards shall be increased by five (5) feet for each twenty-one thousand seven hundred eighty (21,780) square feet by which the area of a parcel of property or lot exceeds the minimum lot area required in this residential zoning district, but does not exceed maximum area of two (2) acres.
  - 4.2. The waterline of a spa, tub, and/or swimming pool, or any structure related thereto, located in the ground, or any portion of which is in the ground shall be located not less than twelve (12) feet from any property line and not less than eight (8) feet from any structure. Any spa, tub, or swimming pool which is located entirely above ground shall be located not less than twelve (12) feet from any property line.
5. Maximum building height.
  - a. The maximum building height shall be as follows:
    - (1) Single-story building — fourteen (14) feet.
    - (2) Second-story portion of building — twenty-one (21) feet.
    - (3) Accessory building — twelve (12) feet.
6. The maximum height of a building may be increased by an additional one (1) foot for each two (2) feet that portion of the structure is further distanced from the minimum applicable setback; provided, however, at no time shall the maximum height exceed the following:
  - a. Twenty-one (21) feet for any single-story structure, or single-story portion of a two (2) story building or any detached accessory building.
  - b. Thirty (30) feet for any two (2) story structure.
  - c. The height of any building shall not exceed two (2) stories. Detached structures shall not exceed one (1) story.
  - d. The overall plate height shall not exceed twenty (20) feet for any structure.
7. Maximum building size — The maximum size of a main building including required covered parking shall be as follows:
  - a. Single-story building — six thousand six hundred (6,600) square feet.

C. Revised Ordinance Standards R-1-20 District

1. **Minimum lot area** — The minimum lot area shall be twenty-one thousand seven hundred eighty (21,780) square feet or the minimum as required by the slope density formula as set forth in the Subdivision Title of this Code.
  2. **Front yard** — The minimum front yard shall be as follows:
    - a. Single-story building — Thirty (30) feet.
    - b. Second-story portion of building — Forty (40) feet.
    - c. Accessory buildings are not allowed in the front yard.
  3. **Side yard** — The minimum side yard shall be as follows:
    - a. Single-story building — Fifteen (15) feet.
    - b. Second-story portion of building — Twenty (20) feet.
    - c. Accessory building — Six (6) feet, but must be located only upon the rear half of the lot.
  4. **Rear yard** — The minimum rear yard shall be as follows:
    - a. Single-story building — Thirty (30) feet.
    - b. Second-story portion of building — Forty (40) feet.
    - c. Accessory building — Six (6) feet.
  - 4.1. Each of the minimum front, side and rear yards shall be increased by five (5) feet for each ten thousand (10,000) square feet by which the area of a parcel of property or lot exceeds the minimum lot area required in this residential zoning district.
  - 4.2. The waterline of a spa, tub, and/or swimming pool, or any structure related thereto, located in the ground, or any portion of which is in the ground shall be located not less than twelve (12) feet from any property line and not less than eight (8) feet from any structure. Any spa, tub, or swimming pool which is located entirely aboveground shall be located not less than twelve (12) feet from any property line.
5. **Maximum building height:**
  - a. The maximum building height at the setback line shall be as follows:
    - (1) Single-story building — Fourteen (14) feet.
    - (2) Two-story building — Twenty-one (21) feet.
    - (3) Accessory building — Twelve (12) feet.

~~however, the total number of medium size animals on any parcel of land shall not exceed four (4), and they shall be penned or kept in a corral on the rear one-half of the property. One (1) litter produced by the medium size animals during each calendar year may be kept on the property for which the use permit was issued for not more than a total of four (4) months, provided they are not kept for sale or resale, nor for commercial breeding, boarding, nor veterinary care. At the expiration of four (4) months, the animals in the litter shall be considered to be adult animals and subject to the limitations as to the number of animals which may be kept on the property set forth herein.~~

R-1-8

**C. Development standards. The following development standards shall apply in R-1-8 Districts.**

1. **Minimum lot area** — The minimum lot area shall be eight thousand (8,000) square feet or the minimum as required by the slope density formula as set forth in the Subdivision Title of this Code.
2. **Front yard** — The minimum front yard shall be as follows:
  - a. **Single-story building** — Twenty-five (25) feet.
  - b. **Second-story portion of building** — Thirty (30) feet.
  - c. **Accessory buildings** are not allowed in the front yard.
  - d. **Side yard** — The minimum side yard shall be as follows:
    - a. **Single-story building** — Six (6) feet.
    - b. **Second-story portion of building** — Ten (10) feet.
    - c. **Accessory building** — Six (6) feet, but must be located only upon the rear one-half of the lot.
4. **Rear yard** — The minimum rear yard shall be as follows:
  - a. **Single-story building** — Thirty (30) feet.
  - b. **Second-story portion of building** — Thirty (30) feet.
  - c. **Accessory building** — Six (6) feet.
- 4.1. **Each of the minimum front, side, and rear yard setbacks shall be increased by two and one-half (2½) feet for single story portion and by five (5) feet for second story portion for each six thousand (6,000) square feet that the lot exceeds the minimum lot size. In the case of a lot line adjustment, when a lot with an existing conforming structure**

increases in size, no increases in setbacks are required for the existing structure. However, if the floor area of the structure is increased at any time after the lot line adjustment, the increased setbacks shall apply.

- 4.2. **The waterline of a spa, tub, and/or swimming pool, or any structure related thereto, located in the ground, or any portion of which is in the ground shall be located not less than ten (10) feet from any property line and not less than six (6) feet from any structure. Any spa, tub, or swimming pool which is located entirely aboveground shall be located not less than ten (10) feet from any property line.**
5. **Maximum building height.**
  - a. **The maximum building height at the setback line shall be as follows:**
    - (1) **Single-story building — Fourteen (14) feet.**
    - (2) **Two-story building — Twenty-one (21) feet.**
    - (3) **Accessory building — Twelve (12) feet.**
  - b. **The maximum height of a building may be increased by an additional one (1) foot for each foot that portion of the structure is further distanced from the minimum applicable setback; provided, however, at no time shall the maximum height exceed the following:**
    - (1) **Twenty-one (21) feet for any single-story structure or single-story portion of a two-story building.**
    - (2) **The maximum height of any detached accessory building shall not exceed twelve (12) feet.**
    - (3) **Thirty (30) feet for any two-story structure.**
  - c. **The height of any building shall not exceed two (2) stories. Detached structures shall not exceed one (1) story.**
6. **Maximum building size — The maximum size of a building including required covered parking and excluding detached accessory buildings, is as follows:**
  - a. **Single-story building — Three thousand three hundred (3,300) square feet.**
  - b. **Two-story building — Three thousand (3,000) square feet.**
  - c. **Accessory building — Six hundred (600) square feet.**



COMMITTEE FOR  
GREEN FOOTHILLS



October 14, 2018

Los Gatos Town Council  
110 E. Main St.  
Los Gatos, CA 95030

Re: Hillside fencing ordinance (Agenda Item No. 9, 10/16/18)

Dear Mayor Rennie and Councilmembers,

The Committee for Green Foothills, Santa Clara Valley Audubon Society, and Sierra Club Loma Prieta Chapter urge the Council to adopt the proposed Hillside Fences ordinance. Our organizations represent thousands of members in Silicon Valley, including in Los Gatos. We have a strong interest in protecting wildlife and wildlife movement corridors.

As scientific research has increasingly shown, animals will travel however they can to get to the resources they need: food, water, nesting habitat, and mates. When communities begin to expand into the hillsides and other areas where animals have historically been free to roam, barriers to movement can have unexpected consequences. Homeowners might believe that if they put up an impermeable fence, animals will simply "go around" or find other pathways, but often this means animals traveling down roadways where they are a hazard to motorists. This is especially true when homeowners put up impassable fences along the very edge of their property, essentially forcing animals into the road.

The proposed ordinance requires wildlife-friendly fencing only on hillside lots larger than 1 acre, and only in the area within 20 to 30 feet of the edge of the property. This targeted approach ensures that the problem of deer, coyote and other animals being forced into traffic is greatly reduced, while still allowing homeowners to erect wildlife-excluding fencing closer to their homes.

We suggest one minor edit to the draft ordinance: adding "transparent fences such as barriers of glass or clear plastic" to the list of fence types that are prohibited under section 29.40.034(b)(2)(a). Transparent barriers such as large windows and glass walls are hazardous for birds, which often collide with such barriers due to either not seeing the barrier at all or only seeing a reflection of sky or trees. Bird strikes are a major problem in the wildland-urban edge and are causing a significant reduction in bird populations, especially of migratory birds.

Thank you for your consideration of these comments.

Sincerely,

Alice Kaufman, Legislative Advocacy Director  
Committee for Green Foothills

Shani Kleinhaus, Environmental Advocate  
Santa Clara Valley Audubon Society

Katja Irvin, Conservation Committee Co-Chair  
Sierra Club Loma Prieta Chapter

RECEIVED

OCT 15 2018

TOWN OF LOS GATOS  
PLANNING DIVISION

TOWN COUNCIL POLICY COMMITTEE

Received with November 15, 2018, Staff Report

## Sean Mullin

---

**From:** William Hirschman <whirschman@lexorbuilders.com>  
**Sent:** Tuesday, October 30, 2018 3:31 PM  
**To:** Sean Mullin  
**Cc:** William LeClerc; Liz Dodson; Ali Dodson LeClerc; Donald C Wimberly  
**Subject:** RE: fence ordinance

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Thanks for your response I'm curious as to what the response was from the three organizations you contacted. Were there any responses?

As to the noticing, I will ask Don Wimberly to forward to you the information he had on the prior meeting where some 250 plus individuals signed a petition objecting to the proposed ordinance. Were any of these people contacted for this current proposal? I just don't know a lot of people that make it a regular practice to follow the Town's Instagram, Facebook, and Twitter accounts and I would suggest that no one goes to the planning counter unless they have some business with the Town. I believe there needs to be a real effort to notify hillside impacted property owners. I can use the requirement for the orange netting as an example. Rarely do you see any neighbor response on a project until the netting goes up. Why is that? Because they know nothing about it until they can see it. Same thing applies with this ordinance. Everyone including me believed this had be defeated the last time it was presented.

Please let us know if any additional information becomes available prior to the Nov 15<sup>th</sup> meeting

Bill

**From:** Sean Mullin <SMullin@logatosca.gov>  
**Sent:** Monday, October 29, 2018 11:00 AM  
**To:** William Hirschman <whirschman@lexorbuilders.com>  
**Cc:** William LeClerc <wleclerc@lexorbuilders.com>; Liz Dodson <ldodson@lexorbuilders.com>; Ali Dodson LeClerc <aliadodson@gmail.com>; Donald C Wimberly <dwimberly@aimscorp.com>  
**Subject:** RE: fence ordinance

Bill,

Due to the costs involved, the Town does not send notices in mass for Ordinance revisions. We contact applicable professional organizations that may have interest in the proposed revision and utilize traditional and social media for outreach to residents. Our outreach efforts have included the following and we will continue to utilize these channels for future meetings:

Staff reached out to the following organizations and requested input on the current draft Ordinance:

- Santa Clara Valley Chapter of the American Institute of Architects (AIASCV)
- Santa Clara County Association of Realtors (SCCAR)
- Silicon Valley Association of Realtors (SILVAR)

In addition to reaching out to professional organizations, staff requested public input through the following media and social media resources:

- An eighth-page public notice in the newspaper;
- A poster posted at the Planning counter at Town Hall;
- On the Town's website home page, What's New;
- On the Town's Facebook page;
- On the Town's Twitter account;
- On the Town's Instagram account; and
- On the Town's NextDoor page.

Regards,



**Sean Mullin, AICP • Associate Planner**

Community Development Department • 110 E. Main Street, Los Gatos CA 95030

Ph: 408.354.6823 • [smullin@losgatosca.gov](mailto:smullin@losgatosca.gov)

[www.losgatosca.gov](http://www.losgatosca.gov) • <https://www.facebook.com/losgatosca>

**Community Development Counter Hours:** 8:00 AM – 1:00 PM, Monday – Friday  
**Please note the upcoming Town closure:** November 22-23, 2018 – Thanksgiving Holiday



General Plan update, learn more at [www.losgatos2040.com](http://www.losgatos2040.com)

#### CONFIDENTIALITY DISCLAIMER

*This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.*

Think Green, please consider the environment before printing this e-mail.

**From:** William Hirschman <[whirschman@lexorbuilders.com](mailto:whirschman@lexorbuilders.com)>  
**Sent:** Monday, October 29, 2018 9:45 AM  
**To:** Sean Mullin <[SMullin@losgatosca.gov](mailto:SMullin@losgatosca.gov)>  
**Cc:** William LeClerc <[wleclerc@lexorbuilders.com](mailto:wleclerc@lexorbuilders.com)>; Liz Dodson <[ldodson@lexorbuilders.com](mailto:ldodson@lexorbuilders.com)>; Ali Dodson LeClerc <[aliadodson@gmail.com](mailto:aliadodson@gmail.com)>; Donald C Wimberly <[dwimberly@aimscorp.com](mailto:dwimberly@aimscorp.com)>  
**Subject:** RE: fence ordinance

Thanks for your response. Do you intend to have any kind of notice sent out to Hillside property owners prior to that meeting date

Bill

**From:** Sean Mullin <[SMullin@losgatosca.gov](mailto:SMullin@losgatosca.gov)>  
**Sent:** Monday, October 29, 2018 9:40 AM  
**To:** William Hirschman <[whirschman@lexorbuilders.com](mailto:whirschman@lexorbuilders.com)>  
**Cc:** William LeClerc <[wleclerc@lexorbuilders.com](mailto:wleclerc@lexorbuilders.com)>; Liz Dodson <[ldodson@lexorbuilders.com](mailto:ldodson@lexorbuilders.com)>; Ali Dodson LeClerc <[aliadodson@gmail.com](mailto:aliadodson@gmail.com)>; Donald C Wimberly <[dwimberly@aimscorp.com](mailto:dwimberly@aimscorp.com)>  
**Subject:** RE: fence ordinance

Bill,

Thank you for reaching out and I appreciate your willingness to be involved in the discussion. The next step for the Ordinance is a review and discussion at the Town Council Policy Committee on Thursday, November 15<sup>th</sup> at 1:30 PM. The meeting will be held in Town Council Chambers located at 110 E. Main Street.

Please let me know if you have any questions.

Regards,



**Sean Mullin, AICP ♦ Associate Planner**

Community Development Department ♦ 110 E. Main Street, Los Gatos CA 95030

Ph: 408.354.6823 ♦ [smullin@losgatosca.gov](mailto:smullin@losgatosca.gov)

[www.losgatosca.gov](http://www.losgatosca.gov) ♦ <https://www.facebook.com/losgatosca>

**Community Development Counter Hours:** 8:00 AM – 1:00 PM, Monday – Friday

**Please note the upcoming Town closure:** November 22-23, 2018 – Thanksgiving Holiday



General Plan update, learn more at [www.losgatos2040.com](http://www.losgatos2040.com)

#### **CONFIDENTIALITY DISCLAIMER**

*This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.*

 Think Green, please consider the environment before printing this e-mail.

**From:** William Hirschman <[whirschman@lexorbuilders.com](mailto:whirschman@lexorbuilders.com)>

**Sent:** Monday, October 22, 2018 3:45 PM

**To:** Sean Mullin <[SMullin@losgatosca.gov](mailto:SMullin@losgatosca.gov)>

**Cc:** William LeClerc <[wleclerc@lexorbuilders.com](mailto:wleclerc@lexorbuilders.com)>; Liz Dodson <[ldodson@lexorbuilders.com](mailto:ldodson@lexorbuilders.com)>; Ali Dodson LeClerc <[aliadodson@gmail.com](mailto:aliadodson@gmail.com)>; Donald C Wimberly <[dwimberly@aimscorp.com](mailto:dwimberly@aimscorp.com)>

**Subject:** fence ordinance

Good afternoon Sean. I am Bill Hirschman and I spoke at the last council meeting regarding the proposed fence ordinance. I was clear from the meeting that there had been many discussions regarding the ordinance with little input from people in the Hillside join with the exception it appeared of one couple. I am writing you to make sure that we are notified and we will be happy to attend the future discussion. Can you please make sure that I and the people that I have copied are included if there are to be future discussions. If the plan is to not have additional formal meetings to discuss possible changes, then I would ask for a time that we can schedule so that the hillside people I have contacted to date can express their concerns.

Thanks for your anticipated cooperation.

## Sean Mullin

---

**From:** Don Wimberly <dwimberly@aimscorp.com>  
**Sent:** Wednesday, October 31, 2018 10:01 AM  
**To:** Sean Mullin  
**Cc:** 'William LeClerc'; 'Liz Dodson'; 'Ali Dodson LeClerc'; 'William Hirschman'; sahad@sahadi.net; Laurel Prevetti; Clerk; robrennie3@aol.com; rastump@verizon.net; Jim Mongiello; Arvin Khosravi; Brad Krouskup; Brad Snyder  
**Subject:** RE: proposed fence ordinance  
**Attachments:** 12\_7\_17 Fence Petition update.doc; 12\_5\_2017 Change.com Petition to STOP new RESTRICTIVE fence ordinance.doc; 10\_30\_18 Email re TLG noticing.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Sean

As suggested by Bill Hirschman, I am forwarding information to you regarding the petition circulated in November 2017 expressing opposition to the proposed fence, wall and hedge ordinance.

- As of the 12/5/17 Town Council Meeting, at the hearing, the petition initiator indicated there were over 260 signatories to the petition. A copy of the original petition is attached. We were signatories to that petition.
- At the 12/5/17 meeting, the petition initiator had a hard copy and asked to how he could submit the petition. He was told to give it to the Town Clerk. (Observable on the meeting video)
- The minutes of the 12/5/17 Council meeting contain no mention of the petition.
- At the 12/5/17 hearing, the meeting minutes indicate there were 24 speakers to matter. 15 were opposed, 5 supported and were 4 outside group representatives who spoke in support.
- The 12/7/17 petition update showed 314 signers of the petition opposing the proposed ordinance. Copy of the petition update is attached.
- The Council packet prepared for the 10/16/18 Council hearing on the revised ordinance **contained no mention of the petition** even though you and all Council members were aware of the petition from 2017 because you were there.

*I have serious concerns about how the Town is handling communications from its citizens, and would ask that the Town Clerk and Town Manager comment on the Town policy for documenting petitions submitted to the Town.*

I have additional concerns about how the Planning Department has handled this matter since the 12/5/17 meeting:

- During the 10+ months following the 12/5/17 meeting, a small group of mostly ordinance supporters and Town staff evidently spent significant time evaluating how to modify the ordinance. No notice of that process was given to most if not all of those who testified in opposition to the ordinance at the 12/5/17 meeting, nor any that signed the petition.
- At the 10/16/18 meeting, in response to Ms. Spector's question, you stated only one person opposing the petition participated in the rewrite in spite of the above expressions of opposition.

- Further, Ms. Spector asked why only one person in opposition and you responded that only one such person asked to participate. I suspect that had the 300+ who opposed the petition been informed or invited, there would have been more than one opposing participant in the working group.

To compound the above problems with process, it is important to note:

- The Town's practice regarding noticing as you state to Mr. Hirschman in your 10/30/18 email (attached) is unacceptable given that, as a practical matter, very few citizens regularly check those sources.
- The use of the "Weekly" for noticing is increasingly of limited or no value as that paper increases its coverage of San Jose, Cupertino and Campbell, and almost no "news" of Los Gatos issues. It is essentially a real estate advertisement journal. The last two editions showed no sign of a Los Gatos reporter with any interest in affairs of the Town.
- The problem with reliance on the Weekly is even more problematic for an issue that has significant effect on the HR zone properties. The Weekly is not delivered to most HR properties. On our street, only the two of seven properties occasionally get the Weekly, the ones at the bottom of the hill.
- For the Town's noticing policy to be constrained by the cost no matter the history or impact of the issue gives question to the Town's priorities and the intent of policy makers. I respectfully suggest the Council re-examine its policies and practices for impactful issues.

Given the potential significant impacts of the proposed ordinance on hillside properties, we suggest and request:

- That Council and staff table the process for amending the proposed ordinance until owners of HR parcels are properly informed and noticed of the Council's intent to prepare such an ordinance and given opportunity to participate.
- That fencing regulations for non-HR zones be considered separately from any proposal for such regulations in the HR zone given disparate impacts of the most recent ordinance proposal between those two areas.
- That, at such time as an ordinance regarding fencing, walls or hedges in the HR zones is to be considered, that a mailed notice of that hearing be sent to all HR properties. I believe there are fewer than 1000 HR parcels, so this would be consistent with Town Code Section 29.20.565 for notices to less than 1,000 properties, not to mention good faith with its citizens.

Thank you

Don & Cheryl Wimberly

**From:** William Hirschman [mailto:whirschman@lexorbuilders.com]  
**Sent:** Tuesday, October 30, 2018 3:31 PM  
**To:** Sean Mullin

**Petition update**

# **Town Council Meeting Update**

**Los Gatos Hillside Property Owners**  
United States

Dec 7, 2017 — On Tuesday December 5th the Town Council of Los Gatos discussed the proposed Fence Ordinance and heard comments from the public ... the majority of which were against the proposal. The status of this petition (with now close to 300 supporters) was also shared. After further deliberation the Town Council agreed to place the proposal on hold to consider a) where it fits within the Town Council's priorities for next year; and b) engaging with an independent consultant to study the matter further. No new dates have been communicated as of yet. I will continue to work with the Director of the Town's Planning Department and will provide further updates as and when they are made available. I'd like to thank each and every one of you for your support. We will keep pushing to ensure an amicable outcome.

# **STOP new RESTRICTIVE fence ordinance from IMPACTING ALL Los Gatos Hillside properties**



**314 have signed.** Let's get to 500!

---

**[Los Gatos Hillside Property Owners](#) started this petition to [Los Gatos Town Council](#)**

Town Code Amendment A-17-002 - considers amendment to Chapter 29 (Zoning Regulations) of the Town Code regarding fences, hedges, and walls; and includes new regulations and requirements for fences, hedges, and walls in the Hillside area.

The proposed rule change calls for a 30' max. distance from a primary residence for any new (or replacement) fence greater than 42" high.

The primary driver for this proposed change is to minimize the impact on wildlife corridors and to maintain the rural character of the hillside area. Whether you agree or disagree with the intent of the proposal it is clear the approach used in the proposal is both arbitrary and very punitive. Rather than focus on situations where a problem actually exists and wildlife are actually restricted from passage the author took the approach of assuming a problem exists on every parcel of property in the hillside area. In doing so every property owner in the hillside area will be impacted regardless of parcel size and regardless of whether a problem exists or not.

Examples of potential impact include:

## Sean Mullin

---

**From:** Donald C Wimberly <dwimberly@aimscorp.com>  
**Sent:** Thursday, November 01, 2018 12:21 PM  
**To:** Sean Mullin  
**Cc:** Maria Lopez  
**Subject:** RE: Number of Parcels in HR Zone

Thank you.

**From:** Sean Mullin [mailto:SMullin@losgatosca.gov]  
**Sent:** Thursday, November 01, 2018 9:57 AM  
**To:** dwimberly@aimscorp.com  
**Subject:** RE: Number of Parcels in HR Zone

Don,

Per your request, my last email included the number of parcels zoned HR. I should also mention that the Hillside Area includes some parcels that are not zoned HR. These parcels, zoned R-1, total 289. Below is a more thorough breakdown of the parcels within the Hillside Area. I hope this information is useful.

Zone	Parcels
HR	939
HR-Prezone	201
R-1	289
<b>TOTAL</b>	<b>1,429</b>

Thank you,  
Sean



**Sean Mullin, AICP • Associate Planner**

Community Development Department • 110 E. Main Street, Los Gatos CA 95030

Ph: 408.354.6823 • [smullin@losgatosca.gov](mailto:smullin@losgatosca.gov)

[www.losgatosca.gov](http://www.losgatosca.gov) • <https://www.facebook.com/losgatosca>

**Community Development Counter Hours:** 8:00 AM – 1:00 PM, Monday – Friday  
**Please note the upcoming Town closure:** November 22-23, 2018 – Thanksgiving Holiday



General Plan update, learn more at [www.losgatos2040.com](http://www.losgatos2040.com)

### CONFIDENTIALITY DISCLAIMER

*This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.*



Think Green, please consider the environment before printing this e-mail.

**From:** Sean Mullin  
**Sent:** Thursday, November 01, 2018 9:09 AM  
**To:** [dwimberly@aimscorp.com](mailto:dwimberly@aimscorp.com)  
**Subject:** RE: Number of Parcels in HR Zone

Don,

There are approximately 939 parcels zoned HR. There are an additional 201 parcels that are prezoned HR, but have not yet been annexed into the Town.

Please let me know if you have additional questions.

Regards,



**Sean Mullin, AICP • Associate Planner**

Community Development Department • 110 E. Main Street, Los Gatos CA 95030

Ph: 408.354.6823 • [smullin@losgatosca.gov](mailto:smullin@losgatosca.gov)

[www.losgatosca.gov](http://www.losgatosca.gov) • <https://www.facebook.com/losgatosca>

**Community Development Counter Hours:** 8:00 AM – 1:00 PM, Monday – Friday

**Please note the upcoming Town closure:** November 22-23, 2018 – Thanksgiving Holiday



General Plan update, learn more at [www.losgatos2040.com](http://www.losgatos2040.com)

#### **CONFIDENTIALITY DISCLAIMER**

*This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.*

 Think Green, please consider the environment before printing this e-mail.

**From:** Maria Lopez  
**Sent:** Wednesday, October 31, 2018 8:35 AM  
**To:** [dwimberly@aimscorp.com](mailto:dwimberly@aimscorp.com)  
**Cc:** Sean Mullin <[SMullin@losgatosca.gov](mailto:SMullin@losgatosca.gov)>  
**Subject:** FW: Number of Parcels in HR Zone

Good morning Don:

This e-mail has been forwarded to Associate Planner, Sean Mullin for further assistance.

Thank you,



**Maria Lopez-Chavarin • Planning Technician**

Community Development Department • 110 E. Main Street, Los Gatos CA 95030

Ph: 408.354.6807 • [mlopez@LosGatosCA.gov](mailto:mlopez@LosGatosCA.gov)

[www.losgatosca.gov](http://www.losgatosca.gov) • <https://www.facebook.com/losgatosca>

**Community Development Counter Hours:** 8:00 AM – 1:00 PM, Monday – Friday

**Please note the upcoming Town closure:** November 22-23, 2018

General Plan update, learn more at [www.losgatos2040.com](http://www.losgatos2040.com)

**CONFIDENTIALITY DISCLAIMER**

*This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.*

 Think Green, please consider the environment before printing this e-mail.

**From:** Donald C Wimberly <[dwimberly@aimscorp.com](mailto:dwimberly@aimscorp.com)>  
**Sent:** Tuesday, October 30, 2018 9:02 PM  
**To:** Planning <[Planning@losgatosca.gov](mailto:Planning@losgatosca.gov)>  
**Cc:** Maria Lopez <[MLopez@losgatosca.gov](mailto:MLopez@losgatosca.gov)>  
**Subject:** RE: Number of Parcels in HR Zone

Dorrie; Maria

When might I expect a response?

Don

**From:** Planning [<mailto:Planning@losgatosca.gov>]  
**Sent:** Monday, October 22, 2018 10:28 AM  
**To:** [dwimberly@aimscorp.com](mailto:dwimberly@aimscorp.com)  
**Cc:** Maria Lopez  
**Subject:** Fwd: Number of Parcels in HR Zone

Hello Don,

Thank you for your email. It is being forwarded to our Planning Technician Maria Lopez for response. Maria replies to her email inquiries in the order that they are received, but no later than the end of the next business day.

Best Regards,



**Dorrie Romero • Executive Assistant**

Community Development Department • 110 E. Main Street, Los Gatos CA 95030

Ph: 408.354.6882 • [DRomero@LosGatosCA.gov](mailto:DRomero@LosGatosCA.gov)

[www.losgatosca.gov](http://www.losgatosca.gov) • <https://www.facebook.com/losgatosca>

**Community Development Counter Hours:** 8:00 AM – 1:00 PM, Monday – Friday  
**Please note the upcoming Town closure:** November 22-23, 2018 – Thanksgiving Holiday

**CONFIDENTIALITY DISCLAIMER**

*This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.*

General Plan update, learn more at [www.losgatos2040.com](http://www.losgatos2040.com)

*This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.*



Think Green, please consider the environment before printing this e-mail.

**From:** Donald C Wimberly <[dwimberly@aimscorp.com](mailto:dwimberly@aimscorp.com)>

**Sent:** Friday, October 19, 2018 7:41 PM

**To:** Planning <[Planning@losgatosca.gov](mailto:Planning@losgatosca.gov)>

**Subject:** Number of Parcels in HR Zone

Can you provide me with the number of parcels within the Town HR zoning district?

Don Wimberly  
P.O. Box 800  
Los Gatos, CA 95031  
Cell phone: 408-930-4066

## Sean Mullin

---

**From:** Donald C Wimberly <[dwimberly@aimscorp.com](mailto:dwimberly@aimscorp.com)>  
**Sent:** Friday, November 02, 2018 9:42 AM  
**To:** Sean Mullin  
**Cc:** 'William Hirschman'; FRED SAHADI  
**Subject:** RE: proposed fence ordinance - petition

Thanks Sean. For now this gives me what I need.

Don

**From:** Sean Mullin [<mailto:SMullin@losgatosca.gov>]  
**Sent:** Friday, November 02, 2018 9:31 AM  
**To:** Donald C Wimberly  
**Cc:** 'William Hirschman'; FRED SAHADI  
**Subject:** RE: proposed fence ordinance - petition

Don,

I am happy to meet with you. For your convenience, I have attached a scan of the petition received at the December 5, 2017 Town Council Hearing. If you would still like to schedule a meeting, please let me know.

Regards,



**Sean Mullin, AICP • Associate Planner**

Community Development Department • 110 E. Main Street, Los Gatos CA 95030

Ph: 408.354.6823 • [smullin@losgatosca.gov](mailto:smullin@losgatosca.gov)

[www.losgatosca.gov](http://www.losgatosca.gov) • <https://www.facebook.com/losgatosca>

**Community Development Counter Hours:** 8:00 AM – 1:00 PM, Monday – Friday  
**Please note the upcoming Town closure:** November 22-23, 2018 – Thanksgiving Holiday



General Plan update, learn more at [www.losgatos2040.com](http://www.losgatos2040.com)

### CONFIDENTIALITY DISCLAIMER

*This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.*

 Think Green, please consider the environment before printing this e-mail.

**From:** Donald C Wimberly <[dwimberly@aimscorp.com](mailto:dwimberly@aimscorp.com)>  
**Sent:** Friday, November 02, 2018 9:25 AM  
**To:** Sean Mullin <[SMullin@losgatosca.gov](mailto:SMullin@losgatosca.gov)>  
**Cc:** 'William Hirschman' <[whirschman@lexorbuilders.com](mailto:whirschman@lexorbuilders.com)>; FRED SAHADI <[sahadi@sahadi.net](mailto:sahadi@sahadi.net)>  
**Subject:** RE: proposed fence ordinance - petition

Sean

Thank you for your email.

I would like to look at the petition. Do I need to make an appointment with you?

Don

**From:** Sean Mullin [<mailto:SMullin@losgatosca.gov>]

**Sent:** Thursday, November 01, 2018 2:08 PM

**To:** Don Wimberly

**Cc:** 'William LeClerc'; 'Liz Dodson'; 'Ali Dodson LeClerc'; 'William Hirschman'; [sahadi@sahadi.net](mailto:sahadi@sahadi.net); Laurel Prevetti; Clerk; [robrennie3@aol.com](mailto:robrennie3@aol.com); [rastump@verizon.net](mailto:rastump@verizon.net); Jim Mongiello; Arvin Khosravi; Brad Krouskup; Brad Snyder; Joel Paulson

**Subject:** RE: proposed fence ordinance

Dear Don,

Thank you for your email. The Town Council received the petition at its December 5, 2017 meeting. The petition was added to the Town Council record and the record kept with the Planning Division. I will ensure that your email and the updated petition received with your email are included in the upcoming reports to the Town Council Policy Committee (November 15<sup>th</sup>) and Town Council (December 4<sup>th</sup>).

Regards,



**Sean Mullin, AICP • Associate Planner**

Community Development Department • 110 E. Main Street, Los Gatos CA 95030

Ph: 408.354.6823 • [smullin@losgatosca.gov](mailto:smullin@losgatosca.gov)

[www.losgatosca.gov](http://www.losgatosca.gov) • <https://www.facebook.com/losgatosca>

**Community Development Counter Hours:** 8:00 AM – 1:00 PM, Monday – Friday

**Please note the upcoming Town closure:** November 22-23, 2018 – Thanksgiving Holiday



General Plan update, learn more at [www.losgatos2040.com](http://www.losgatos2040.com)

#### CONFIDENTIALITY DISCLAIMER

*This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.*



Think Green, please consider the environment before printing this e-mail.

**From:** Don Wimberly <[dwimberly@aimscorp.com](mailto:dwimberly@aimscorp.com)>

**Sent:** Wednesday, October 31, 2018 10:01 AM

**To:** Sean Mullin <[SMullin@losgatosca.gov](mailto:SMullin@losgatosca.gov)>

**Cc:** 'William LeClerc' <[wleclerc@lexorbuilders.com](mailto:wleclerc@lexorbuilders.com)>; 'Liz Dodson' <[ldodson@lexorbuilders.com](mailto:ldodson@lexorbuilders.com)>; 'Ali Dodson LeClerc' <[aliadodson@gmail.com](mailto:aliadodson@gmail.com)>; 'William Hirschman' <[whirschman@lexorbuilders.com](mailto:whirschman@lexorbuilders.com)>; [sahadi@sahadi.net](mailto:sahadi@sahadi.net); Laurel Prevetti <[LPrevetti@losgatosca.gov](mailto:LPrevetti@losgatosca.gov)>; Clerk <[Clerk@losgatosca.gov](mailto:Clerk@losgatosca.gov)>; [robrennie3@aol.com](mailto:robrennie3@aol.com); [rastump@verizon.net](mailto:rastump@verizon.net); Jim Mongiello <[jjm.mongiello@gmail.com](mailto:jjm.mongiello@gmail.com)>; Arvin Khosravi <[arvin.khosravi@gmail.com](mailto:arvin.khosravi@gmail.com)>; Brad Krouskup <[brad@toeniskoetter.com](mailto:brad@toeniskoetter.com)>;

Brad Snyder <[brad@thesnyders.net](mailto:brad@thesnyders.net)>  
Subject: RE: proposed fence ordinance

Sean

As suggested by Bill Hirschman, I am forwarding information to you regarding the petition circulated in November 2017 expressing opposition to the proposed fence, wall and hedge ordinance.

- As of the 12/5/17 Town Council Meeting, at the hearing, the petition initiator indicated there were over 260 signatories to the petition. A copy of the original petition is attached. We were signatories to that petition.
- At the 12/5/17 meeting, the petition initiator had a hard copy and asked to how he could submit the petition. He was told to give it to the Town Clerk. (Observable on the meeting video)
- The minutes of the 12/5/17 Council meeting contain no mention of the petition.
- At the 12/5/17 hearing, the meeting minutes indicate there were 24 speakers to matter. 15 were opposed, 5 supported and were 4 outside group representatives who spoke in support.
- The 12/7/17 petition update showed 314 signers of the petition opposing the proposed ordinance. Copy of the petition update is attached.
- The Council packet prepared for the 10/16/18 Council hearing on the revised ordinance **contained no mention of the petition** even though you and all Council members were aware of the petition from 2017 because you were there.

*I have serious concerns about how the Town is handling communications from its citizens, and would ask that the Town Clerk and Town Manager comment on the Town policy for documenting petitions submitted to the Town.*

I have additional concerns about how the Planning Department has handled this matter since the 12/5/17 meeting:

- During the 10+ months following the 12/5/17 meeting, a small group of mostly ordinance supporters and Town staff evidently spent significant time evaluating how to modify the ordinance. No notice of that process was given to most if not all of those who testified in opposition to the ordinance at the 12/5/17 meeting, nor any that signed the petition.
- At the 10/16/18 meeting, in response to Ms. Spector's question, you stated only one person opposing the petition participated in the rewrite in spite of the above expressions of opposition.
- Further, Ms. Spector asked why only one person in opposition and you responded that only one such person asked to participate. I suspect that had the 300+ who opposed the petition been informed or invited, there would have been more than one opposing participant in the working group.

To compound the above problems with process, it is important to note:

- The Town's practice regarding noticing as you state to Mr. Hirschman in your 10/30/18 email (attached) is unacceptable given that, as a practical matter, very few citizens regularly check those sources.
- The use of the "Weekly" for noticing is increasingly of limited or no value as that paper increases its coverage of San Jose, Cupertino and Campbell, and almost no "news" of Los Gatos issues. It is essentially a real estate advertisement journal. The last two editions showed no sign of a Los Gatos reporter with any interest in affairs of the Town.

- The problem with reliance on the Weekly is even more problematic for an issue that has significant effect on the HR zone properties. The Weekly is not delivered to most HR properties. On our street, only the two of seven properties occasionally get the Weekly, the ones at the bottom of the hill.
- For the Town's noticing policy to be constrained by the cost no matter the history or impact of the issue gives question to the Town's priorities and the intent of policy makers. I respectfully suggest the Council re-examine its policies and practices for impactful issues.

Given the potential significant impacts of the proposed ordinance on hillside properties, we suggest and request:

- That Council and staff table the process for amending the proposed ordinance until owners of HR parcels are properly informed and noticed of the Council's intent to prepare such an ordinance and given opportunity to participate.
- That fencing regulations for non-HR zones be considered separately from any proposal for such regulations in the HR zone given disparate impacts of the most recent ordinance proposal between those two areas.
- That, at such time as an ordinance regarding fencing, walls or hedges in the HR zones is to be considered, that a mailed notice of that hearing be sent to all HR properties. I believe there are fewer than 1000 HR parcels, so this would be consistent with Town Code Section 29.20.565 for notices to less than 1,000 properties, not to mention good faith with its citizens.

Thank you

Don & Cheryl Wimberly

**From:** William Hirschman [<mailto:whirschman@lexorbuilders.com>]  
**Sent:** Tuesday, October 30, 2018 3:31 PM  
**To:** Sean Mullin  
**Cc:** William LeClerc; Liz Dodson; Ali Dodson LeClerc; Donald C Wimberly  
**Subject:** RE: fence ordinance

Thanks for your response I'm curious as to what the response was from the three organizations you contacted. Were there any responses?

As to the noticing, I will ask Don Wimberly to forward to you the information he had on the prior meeting where some 250 plus individuals signed a petition objecting to the proposed ordinance. Were any of these people contacted for this current proposal? I just don't know a lot of people that make it a regular practice to follow the Town's Instagram, Facebook, and Twitter accounts and I would suggest that no one goes to the planning counter unless they have some business with the Town. I believe there needs to be a real effort to notify hillside impacted property owners. I can use the requirement for the orange netting as an example. Rarely do you see any neighbor response on a project until the netting goes up. Why is that? Because they know nothing about it until they can see it. Same thing applies with this ordinance. Everyone including me believed this had be defeated the last time it was presented.

Please let us know if any additional information becomes available prior to the Nov 15<sup>th</sup> meeting

Bill

**From:** Sean Mullin <[SMullin@losgatosca.gov](mailto:SMullin@losgatosca.gov)>  
**Sent:** Monday, October 29, 2018 11:00 AM  
**To:** William Hirschman <[whirschman@lexorbuilders.com](mailto:whirschman@lexorbuilders.com)>  
**Cc:** William LeClerc <[wleclerc@lexorbuilders.com](mailto:wleclerc@lexorbuilders.com)>; Liz Dodson <[ldodson@lexorbuilders.com](mailto:ldodson@lexorbuilders.com)>; Ali Dodson LeClerc <[aliadodson@gmail.com](mailto:aliadodson@gmail.com)>; Donald C Wimberly <[dwimberly@aimscorp.com](mailto:dwimberly@aimscorp.com)>  
**Subject:** RE: fence ordinance

Bill,

Due to the costs involved, the Town does not send notices in mass for Ordinance revisions. We contact applicable professional organizations that may have interest in the proposed revision and utilize traditional and social media for outreach to residents. Our outreach efforts have included the following and we will continue to utilize these channels for future meetings:

Staff reached out to the following organizations and requested input on the current draft Ordinance:

- Santa Clara Valley Chapter of the American Institute of Architects (AIASCV)
- Santa Clara County Association of Realtors (SCCAR)
- Silicon Valley Association of Realtors (SILVAR)

In addition to reaching out to professional organizations, staff requested public input through the following media and social media resources:

- An eighth-page public notice in the newspaper;
- A poster posted at the Planning counter at Town Hall;
- On the Town's website home page, What's New;
- On the Town's Facebook page;
- On the Town's Twitter account;
- On the Town's Instagram account; and
- On the Town's NextDoor page.

Regards,



**Sean Mullin, AICP • Associate Planner**

Community Development Department • 110 E. Main Street, Los Gatos CA 95030

Ph: 408.354.6823 • [smullin@losgatosca.gov](mailto:smullin@losgatosca.gov)

[www.losgatosca.gov](http://www.losgatosca.gov) • <https://www.facebook.com/losgatosca>

**Community Development Counter Hours:** 8:00 AM – 1:00 PM, Monday – Friday  
**Please note the upcoming Town closure:** November 22-23, 2018 – Thanksgiving Holiday



General Plan update, learn more at [www.losgatos2040.com](http://www.losgatos2040.com)

**CONFIDENTIALITY DISCLAIMER**

*This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.*

 Think Green, please consider the environment before printing this e-mail.

**From:** William Hirschman <[whirschman@lexorbuilders.com](mailto:whirschman@lexorbuilders.com)>  
**Sent:** Monday, October 29, 2018 9:45 AM  
**To:** Sean Mullin <[SMullin@losgatosca.gov](mailto:SMullin@losgatosca.gov)>  
**Cc:** William LeClerc <[wleclerc@lexorbuilders.com](mailto:wleclerc@lexorbuilders.com)>; Liz Dodson <[ldodson@lexorbuilders.com](mailto:ldodson@lexorbuilders.com)>; Ali Dodson LeClerc <[aliadodson@gmail.com](mailto:aliadodson@gmail.com)>; Donald C Wimberly <[dwimberly@aimscorp.com](mailto:dwimberly@aimscorp.com)>  
**Subject:** RE: fence ordinance

Thanks for your response. Do you intend to have any kind of notice sent out to Hillside property owners prior to that meeting date

Bill

**From:** Sean Mullin <[SMullin@losgatosca.gov](mailto:SMullin@losgatosca.gov)>  
**Sent:** Monday, October 29, 2018 9:40 AM  
**To:** William Hirschman <[whirschman@lexorbuilders.com](mailto:whirschman@lexorbuilders.com)>  
**Cc:** William LeClerc <[wleclerc@lexorbuilders.com](mailto:wleclerc@lexorbuilders.com)>; Liz Dodson <[ldodson@lexorbuilders.com](mailto:ldodson@lexorbuilders.com)>; Ali Dodson LeClerc <[aliadodson@gmail.com](mailto:aliadodson@gmail.com)>; Donald C Wimberly <[dwimberly@aimscorp.com](mailto:dwimberly@aimscorp.com)>  
**Subject:** RE: fence ordinance

Bill,

Thank you for reaching out and I appreciate your willingness to be involved in the discussion. The next step for the Ordinance is a review and discussion at the Town Council Policy Committee on Thursday, November 15<sup>th</sup> at 1:30 PM. The meeting will be held in Town Council Chambers located at 110 E. Main Street.

Please let me know if you have any questions.

Regards,



**Sean Mullin, AICP • Associate Planner**

Community Development Department • 110 E. Main Street, Los Gatos CA 95030

Ph: 408.354.6823 • [smullin@losgatosca.gov](mailto:smullin@losgatosca.gov)

[www.losgatosca.gov](http://www.losgatosca.gov) • <https://www.facebook.com/losgatosca>

**Community Development Counter Hours:** 8:00 AM – 1:00 PM, Monday – Friday  
**Please note the upcoming Town closure:** November 22-23, 2018 – Thanksgiving Holiday



General Plan update, learn more at [www.losgatos2040.com](http://www.losgatos2040.com)

#### **CONFIDENTIALITY DISCLAIMER**

*This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.*



Think Green, please consider the environment before printing this e-mail.

**From:** William Hirschman <[whirschman@lexorbuilders.com](mailto:whirschman@lexorbuilders.com)>

**Sent:** Monday, October 22, 2018 3:45 PM

**To:** Sean Mullin <[SMullin@osgatosca.gov](mailto:SMullin@osgatosca.gov)>

**Cc:** William LeClerc <[wleclerc@lexorbuilders.com](mailto:wleclerc@lexorbuilders.com)>; Liz Dodson <[ldodson@lexorbuilders.com](mailto:ldodson@lexorbuilders.com)>; Ali Dodson LeClerc <[aliadodson@gmail.com](mailto:aliadodson@gmail.com)>; Donald C Wimberly <[dwimberly@aimscorp.com](mailto:dwimberly@aimscorp.com)>

**Subject:** fence ordinance

Good afternoon Sean. I am Bill Hirschman and I spoke at the last council meeting regarding the proposed fence ordinance. I was clear from the meeting that there had been many discussions regarding the ordinance with little input from people in the Hillside join with the exception it appeared of one couple. I am writing you to make sure that we are notified and we will be happy to attend the future discussion. Can you please make sure that I and the people that I have copied are included if there are to be future discussions. If the plan is to not have additional formal meetings to discuss possible changes, then I would ask for a time that we can schedule so that the hillside people I have contacted to date can express their concerns.

Thanks for your anticipated cooperation.

## Sean Mullin

---

**From:** vnunes@talentquo.com  
**Sent:** Friday, November 02, 2018 3:32 PM  
**To:** Sean Mullin  
**Subject:** RE: [FWD: Hillside Fencing]

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Thank you. I'm sorry, but, I don't see the link to report a violation to the Code Compliance Officer.

----- Original Message -----

**Subject:** RE: [FWD: Hillside Fencing]  
**From:** Sean Mullin <[SMullin@losqatosca.gov](mailto:SMullin@losqatosca.gov)>  
**Date:** Fri, November 02, 2018 2:21 pm  
**To:** "vnunes@talentquo.com" <[vnunes@talentquo.com](mailto:vnunes@talentquo.com)>

Vicky,

Your property is well outside of the Hillside Area.

Regarding the fencing your neighbor erected, under current code (pasted below) fence heights are limit to a maximum of 6 feet, unless an exception is granted by the Director of Community Development. A permit is not required for fences less than 6 feet tall. Additionally, the Town Code prohibits barbed wire and razor ribbon. You can report a potential Town Code Violation to the Code Compliance Officer via the following link. The Officer will visit the location and follow up with the property owner on any cod violations.

### **Sec. 29.40.030. - Fences, hedges and walls.**

(a) In residential zones, fences, hedges, and walls not over six (6) feet high are allowed on or within all property lines, except that no owner or occupant of any corner lot or premises in the Town shall erect or maintain upon such lot or premises any fence, hedge or wall higher than three (3) feet above the curb in a traffic view area unless a permit is secured from the Town Engineer. A traffic view area is the area which is within fifteen (15) feet of a public street and within two hundred (200) feet of the right-of-way line of an intersection. **Barbed wire or razor ribbon wire is prohibited in all zones.**

(b) The following exceptions shall apply:

(1) Properties within historic districts or have a Landmark and Historic Preservation Overlay shall not have fences, hedges, and walls higher than three (3) feet in a front yard except as provided in subsection 29.40.030(b)(2). Any fence, hedge or wall erected in a front yard shall be of open design.

(2) Gateways or entryway arbors may be higher than six (6) feet in any zone including historic districts and shall be of open design but in no case shall a gateway or entryway arbor be higher than eight (8) feet, have a width greater than six (6) feet, or have a depth greater than four (4) feet. All gateways and entryway arbors shall be constructed of open design. No more than one (1) gateway or entry arbor per street frontage is allowed.

(3) Boundary line fences or walls adjacent to commercial property may be eight (8) feet high if requested or agreed upon by a majority of the residential property owners.

(4) Properties not on a street corner, may have side yard and rear yard fences, hedges, or walls behind the front yard setback that are eight (8) feet high if the property owner can demonstrate to the satisfaction of the Planning Director that the following conditions exist:

a. A special privacy concern exists that merits the need for the eight-foot height and that these concerns cannot be practically addressed by additional landscaping or tree screening. Written justification shall be provided to the Planning Department which documents the special privacy concern, and the higher fence height may only be approved at the discretion of the Planning Director.

b. A special wildlife/animal problem affects the property and merits the need for the higher eight-foot height because no practical alternative exists to address the problem. Documented instances of wildlife grazing on gardens or domestic landscaping may be an example of such a problem. Fencing proposed for rural or hillside areas shall be of an open design that does not detract from the scenic nature or character of the surrounding area.

(Ord. No. 1316, § 4.10.020, 6-7-76; Ord. No. 1493, 3-17-81; Ord. No. 1873, § I, 10-7-91; Ord. No. 2049, § I, 10-5-98; Ord. No. 2062, § I, 6-21-99)

Thank you,



**Sean Mullin, AICP • Associate Planner**

Community Development Department • 110 E. Main Street, Los Gatos CA 95030

Ph: 408.354.6823 • [smullin@losgatosca.gov](mailto:smullin@losgatosca.gov)

[www.losgatosca.gov](http://www.losgatosca.gov) • <https://www.facebook.com/losgatosca>

**Community Development Counter Hours:** 8:00 AM – 1:00 PM, Monday – Friday

**Please note the upcoming Town closure:** November 22-23, 2018 – Thanksgiving Holiday



General Plan update, learn more at [www.losgatos2040.com](http://www.losgatos2040.com)

### **CONFIDENTIALITY DISCLAIMER**

*This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.*

Think Green, please consider the environment before printing this e-mail.

**From:** [vnunes@talentquo.com](mailto:vnunes@talentquo.com) <[vnunes@talentquo.com](mailto:vnunes@talentquo.com)>

**Sent:** Friday, November 02, 2018 1:19 PM

**To:** Sean Mullin <[SMullin@losgatosca.gov](mailto:SMullin@losgatosca.gov)>

**Subject:** RE: [FWD: Hillside Fencing]

Sean,

Thank you so much. My address is 106 Casa Grande, which is in the Arroyo Rinconada townhome complex. Our neighbor is the Rinconada Hills property. There is some open space on our property which borders the creek on one side and the Rinconada Hills property (their RV parking lot) on the other side. I'm concerned that the Rinconada Hills property has put up deer-proof fencing, with barbed razor wire. I'm concerned about the impact on wildlife as well as the aesthetic issue. Is this allowed in the town of Los Gatos?

Vicky

----- Original Message -----

Subject: RE: [FWD: Hillside Fencing]

From: Sean Mullin <[SMullin@losgatosca.gov](mailto:SMullin@losgatosca.gov)>

Date: Fri, November 02, 2018 12:58 pm

To: "vnunes@talentquo.com" <[vnunes@talentquo.com](mailto:vnunes@talentquo.com)>

Vicky,

I am happy to assist you. The Hillside Area Map (linked [here](#) and below) shows the properties that are included in the Hillside Area and subject to the Hillside Development Standards and Guidelines. The proposed amendments would primarily impact new fencing on the properties within the Hillside Area. If you would like to provide me with your address, I would be happy to confirm whether your property is within the Hillside Area.

Hillside Development Standards and Guidelines:

<https://www.losgatosca.gov/1117/Hillside-Development-Standards-Guideline>

Hillside Area Map:

<https://www.losgatosca.gov/DocumentCenter/View/176/Hillside-Area-Map?bidId=>

Please let me know if you have any other questions.

Regards,



**Sean Mullin, AICP • Associate Planner**

Community Development Department • 110 E. Main Street, Los Gatos CA 95030

Ph: 408.354.6823 • [smullin@losgatosca.gov](mailto:smullin@losgatosca.gov)

[www.losgatosca.gov](http://www.losgatosca.gov) • <https://www.facebook.com/losgatosca>

**Community Development Counter Hours:** 8:00 AM – 1:00 PM, Monday – Friday

**Please note the upcoming Town closure:** November 22-23, 2018 – Thanksgiving Holiday



General Plan update, learn more at [www.losgatos2040.com](http://www.losgatos2040.com)

### **CONFIDENTIALITY DISCLAIMER**

*This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.*



Think Green, please consider the environment before printing this e-mail.

**From:** [vnunes@talentquo.com](mailto:vnunes@talentquo.com) <[vnunes@talentquo.com](mailto:vnunes@talentquo.com)>

**Sent:** Friday, November 02, 2018 12:52 PM

**To:** Sean Mullin <[SMullin@losgatosca.gov](mailto:SMullin@losgatosca.gov)>

**Subject:** [FWD: Hillside Fencing]

Hi Sean,

I'm trying to understand whether the open space between my property and the neighbors property is consider hillside or nonhillside. The definition in the document refers to another document that I don't have. Could you please point me in the right direction to understand whether the fence in question is in a hillside or nonhillside area?

Vicky

----- Original Message -----

Subject: Hillside Fencing

From: "Nextdoor Arroyo Rinconada" <[reply@rs.email.nextdoor.com](mailto:reply@rs.email.nextdoor.com)>

Date: Fri, November 02, 2018 12:01 pm

To: [vnunes@talentquo.com](mailto:vnunes@talentquo.com)

The Town Policy Committee will meet to discuss amendments to the Town Code regarding fences, hedges, and walls. The meeting will...



[View on Nextdoor](#)



[Management Analyst Holly Zappala, Town of Los Gatos](#) AGENCY

The Town Policy Committee will meet to discuss amendments to the Town Code regarding fences, hedges, and walls. The meeting will occur on November 15, 2018 at 1:30 p.m. in the Town Council Chambers at 110 E. Main Street, Los Gatos. At the October 16, 2018 Town Council meeting, Council directed staff to refer potential amendments to the Town Code regarding fences, hedges and walls to the November 15th Policy Committee meeting for further discussion. The item was also continued to the December 4th Town Council meeting. The proposed amendments would revise... [See more](#)



General · Nov 2 to subscribers of Town of Los Gatos

[Thank](#)  [Private message](#)

[View or Reply on Nextdoor](#)

This message is intended for [ynunes@talentquo.com](mailto:ynunes@talentquo.com). [Unsubscribe here](#). Nextdoor, 875 Stevenson Street, Suite 700, San Francisco, CA 94103



## Sean Mullin

---

**From:** Donald C Wimberly <[dwimberly@aimscorp.com](mailto:dwimberly@aimscorp.com)>  
**Sent:** Saturday, November 03, 2018 10:56 AM  
**To:** Laurel Prevetti  
**Cc:** 'William Hirschman'; 'FRED SAHADI'; [robrennie3@aol.com](mailto:robrennie3@aol.com); Rob Rennie; Sean Mullin; Joel Paulson  
**Subject:** RE: proposed fence ordinance

Thank you for your prompt response.

Unfortunately I have an unchangeable, out of town commitment on Thursday so will be unable to attend.

**From:** Laurel Prevetti [<mailto:LPrevetti@losgatosca.gov>]  
**Sent:** Friday, November 02, 2018 4:47 PM  
**To:** Don Wimberly  
**Cc:** 'William Hirschman'; 'FRED SAHADI'; [robrennie3@aol.com](mailto:robrennie3@aol.com); Rob Rennie; Sean Mullin; Joel Paulson  
**Subject:** RE: proposed fence ordinance

Good afternoon,

Thank you for sharing your views regarding the Los Gatos Weekly. I share your frustration with the loss of local reporting for our community.

While the Council was open to the idea of separating out the non-hillside portion of the ordinance, it was not contained in the motion. Staff will bring the entire proposed ordinance to the Policy Committee for its direction. At that time, we expect to get confirmation to create a separate ordinance to address fences in the non-hillside areas for Council consideration on Dec. 4. For this reason, the Town currently views the proposed fence ordinance as a Town-wide issue, exceeding 1,000 properties. As a continued hearing to a date certain of Dec. 4, the published notice meets local and state law requirements.

I appreciate your request for a mailed notice to the hillside property owners. Even if there becomes a separate hillside fence ordinance, based on the Town's calculations, we would need to notice the entire area subject to the Town's Hillside Development Standards and Guidelines which includes properties zoned HR as well as other zoning designations (over 1,400 parcels) plus all parcels within 300 feet of the immediately affected area. Together, the number well exceeds 1,000 feet. For this reason, the Town will not be noticing to individual property owners.

We look forward to seeing you at the Policy Committee meeting.

Thank you,  
Laurel

**From:** Don Wimberly [<mailto:dwimberly@aimscorp.com>]  
**Sent:** Friday, November 02, 2018 12:29 PM  
**To:** Laurel Prevetti  
**Cc:** 'William Hirschman'; 'FRED SAHADI'; [robrennie3@aol.com](mailto:robrennie3@aol.com); Rob Rennie; Sean Mullin  
**Subject:** RE: proposed fence ordinance

Ms. Prevetti

Thank you for your prompt response to my email.

I am glad to hear about "What's New" and will sign up shortly. Town residents need some objective media for keeping up on what is going on in and with the Town. No offense, but preferably this would be a non-Town media, since it is clear from my 42 years of residency that a check & balance on what is going on in the Town is needed on at least some issues - an ombudsman if you will.

In the olden days, the Weekly actually accomplished that, with local reporters (unbiased for the most part), local news stories, and an active letters-to-the-editor section.

No more. I just looked through this week's Weekly Times, and, as you are likely aware, the owners/publisher have adopted a new approach to content. I'm sure their intent is to minimize costs and maximize revenue. Real Estate ads are clearly the primary function and revenue generator, with general advertising and classified's adding to the coffers.

To minimize costs, the "news" in the paper now comes from sources apparently accessible from their San Jose office chairs. In this week's paper:

- There is NO news of Los Gatos-Monte Sereno – only Saratoga (2), San Jose (5), Campbell (1). Same pattern exists in past papers.
- There are NO letters to the editor; either because they stopped publishing this section or no one puts any value on sending letters to the editor of an out-of-town paper.

As I previously mentioned, for purposes of informing hillside residents of the fence ordinance, the Weekly is a poor choice. It is not delivered to 90% of the hillside areas; and read by only real-estate shoppers.

For that reason, I repeat my request that a mailed notice of any hearing on HR zone issues be sent to the owners of the 939 parcels in the HR zone. This is the morally right thing to do, and perhaps a legal requirement per Town Code section 29.20.565. And such sites as the Town Bulletin Board just don't get to residents living their normal busy lives.

To conclude, I was very pleased to hear from Sean Mullin that a decision was made to separate consideration of changes to the fencing ordinance affecting non-HR zones from those affecting the HR zone. However, the draft minutes of the 10/16/18 Town Council meeting do not contain such direction. *Can you please clarify how the issues will handled.*

Thank you.

Don Wimberly

**From:** Laurel Prevetti [<mailto:L.Prevetti@losgatosca.gov>]

**Sent:** Friday, November 02, 2018 11:11 AM

**To:** Donald C Wimberly

**Cc:** 'William Hirschman'; FRED SAHADI; [robrennie3@aol.com](mailto:robrennie3@aol.com); Rob Rennie; Sean Mullin

**Subject:** RE: proposed fence ordinance -

Good morning,

Thank you for asking about the Policy Committee meeting. On November 15, the Council Policy Committee will be discussing the proposed Fence Ordinance at 1:30 p.m. in the Town Council Chambers. This is a public meeting and public comments are welcome. We have been encouraging the public to participate in this Policy Committee meeting and the Dec. 4 Town Council meeting through the Town's social media accounts, including Facebook, Twitter, and Nextdoor. In addition, we have been featuring these opportunities as we push out our weekly What's New to people who have signed up for this service. You can sign up for What's New as well as any Committee or Commissions of interest, project updates, and the Town Council meetings through Notify Me: <https://www.losgatosca.gov/list.aspx>

We will be posting the same Fence Ordinance information on the home page of the Town's website under What's New to reach others who may not be signed up on any of these platforms. In addition, posters are going up in the Town Library and Community Development front counter to further promote the Policy Committee meeting given the numbers of people that visit both places.

Feel free to share this information with others of interest as well.

Thank you,  
Laurel



**Laurel Prevetti • Town Manager**

110 East Main Street, Los Gatos CA 95030

Ph: 408.354.6832 • [lprevetti@losgatosca.gov](mailto:lprevetti@losgatosca.gov)

[www.losgatosca.gov](http://www.losgatosca.gov) • <https://www.facebook.com/losgatosca>

*This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.*

**From:** Donald C Wimberly [<mailto:dwwimberly@aimscorp.com>]

**Sent:** Friday, November 02, 2018 9:49 AM

**To:** [robrennie3@aol.com](mailto:robrennie3@aol.com)

**Cc:** 'William Hirschman'; FRED SAHADI; Laurel Prevetti

**Subject:** FW: proposed fence ordinance -

Mr. Mayor

Sean Mullin has clarified the Council schedule for addressing the fence ordinance. May I ask is the November 15 Town Council Committee meeting open to the public? Does the Committee desire public input or is this only for Council discussion of the issue? Where is the meeting held?

I understand this is not a public hearing.

Don Wimberly  
408-930-4066

**From:** Sean Mullin [<mailto:SMullin@losgatosca.gov>]

**Sent:** Friday, November 02, 2018 9:37 AM

**To:** Donald C Wimberly

**Cc:** 'William Hirschman'; FRED SAHADI

**Subject:** RE: proposed fence ordinance - December 4 Town Council

At the October 16<sup>th</sup> Town Council hearing, the Council continued the matter to December 4<sup>th</sup> to allow the Town Council Policy Committee to discuss the proposed amendments at its November 15<sup>th</sup> meeting. The item will return to the

Council for consideration on December 4<sup>th</sup> with the feedback from the Policy Committee. Additionally, as directed by the Council, staff will be separating out the proposed changes affecting the non-hillside area properties to allow the Council to act independently on this portion of the proposed amendments.

Regards,



**Sean Mullin, AICP • Associate Planner**

Community Development Department • 110 E. Main Street, Los Gatos CA 95030

Ph: 408.354.6823 • [smullin@losgatosca.gov](mailto:smullin@losgatosca.gov)

[www.losgatosca.gov](http://www.losgatosca.gov) • <https://www.facebook.com/losgatosca>

**Community Development Counter Hours:** 8:00 AM – 1:00 PM, Monday – Friday

**Please note the upcoming Town closure:** November 22-23, 2018 – Thanksgiving Holiday



General Plan update, learn more at [www.losgatos2040.com](http://www.losgatos2040.com)

### CONFIDENTIALITY DISCLAIMER

*This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.*



Think Green, please consider the environment before printing this e-mail.

**From:** Donald C Wimberly <[dwimberly@aimscorp.com](mailto:dwimberly@aimscorp.com)>

**Sent:** Friday, November 02, 2018 9:31 AM

**To:** Sean Mullin <[SMullin@losgatosca.gov](mailto:SMullin@losgatosca.gov)>

**Cc:** 'William Hirschman' <[whirschman@lexorbuilders.com](mailto:whirschman@lexorbuilders.com)>; FRED SAHADI <[sahadi@sahadi.net](mailto:sahadi@sahadi.net)>

**Subject:** RE: proposed fence ordinance - December 4 Town Council

Sean

Please clarify what will occur at the December 4, 2018 Town Council in regards to the fence ordinance. Will this be a continued public hearing?

Don

**From:** Sean Mullin [<mailto:SMullin@losgatosca.gov>]

**Sent:** Thursday, November 01, 2018 2:08 PM

**To:** Don Wimberly

**Cc:** 'William LeClerc'; 'Liz Dodson'; 'Ali Dodson LeClerc'; 'William Hirschman'; [sahadi@sahadi.net](mailto:sahadi@sahadi.net); Laurel Prevetti; Clerk; [robrennie3@aol.com](mailto:robrennie3@aol.com); [rastump@verizon.net](mailto:rastump@verizon.net); Jim Mongiello; Arvin Khosravi; Brad Krouskup; Brad Snyder; Joel Paulson

**Subject:** RE: proposed fence ordinance

Dear Don,

Thank you for your email. The Town Council received the petition at its December 5, 2017 meeting. The petition was added to the Town Council record and the record kept with the Planning Division. I will ensure that your email and the updated petition received with your email are included in the upcoming reports to the Town Council Policy Committee (November 15<sup>th</sup>) and Town Council (December 4<sup>th</sup>).

Regards,



**Sean Mullin, AICP • Associate Planner**

Community Development Department • 110 E. Main Street, Los Gatos CA 95030

Ph: 408.354.6823 • [smullin@losgatosca.gov](mailto:smullin@losgatosca.gov)

[www.losgatosca.gov](http://www.losgatosca.gov) • <https://www.facebook.com/losgatosca>

**Community Development Counter Hours:** 8:00 AM – 1:00 PM, Monday – Friday

**Please note the upcoming Town closure:** November 22-23, 2018 – Thanksgiving Holiday



General Plan update, learn more at [www.losgatos2040.com](http://www.losgatos2040.com)

### **CONFIDENTIALITY DISCLAIMER**

*This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.*



Think Green, please consider the environment before printing this e-mail.

## Sean Mullin

---

**From:** Don Wimberly <dwimberly@aimscorp.com>  
**Sent:** Monday, November 05, 2018 2:42 PM  
**To:** Sean Mullin  
**Cc:** Laurel Prevetti; Rob Rennie; Attorney; sahad@sahadi.net; Bill Hirschman; Clerk  
**Subject:** RE: Town Council Policy Committee, Nov. 15, 2018 - Proposed amendments to the Los Gatos Town Code regarding fences, hedges, and walls

Sean

Neither this notice nor the Town's "What's New" emailer appear to have a link to the revised and currently proposed ordinance. I believe it is important to at least make it easy for property owners to access the ordinance without having to go through the Council meeting agenda which can be confusing.

As you know, I believe the right thing to do is for the Council to decide to send a mailed notice to all 939 HR properties informing them of what is proposed. I understand the Town Manager's statement that she does not believe such a notice is required. That does not stop the Town Council for sending such a notice before again considering the ordinance.

Can you please provide me with a link to the currently proposed ordinance.

Thanks

Don Wimberly

**From:** Sean Mullin [mailto:SMullin@losgatosca.gov]  
**Sent:** Monday, November 05, 2018 10:35 AM  
**Subject:** Town Council Policy Committee, Nov. 15, 2018 - Proposed amendments to the Los Gatos Town Code regarding fences, hedges, and walls

## **Town Council Policy Committee Meeting**

**Subject:** Proposal to amend the Town Code regarding hillside fencing  
**Date:** November 15, 2018  
**Time:** 1:30 P.M.  
**Location:** Town Council Chambers  
110 E. Main Street

**THE TOWN OF LOS GATOS SEEKS PUBLIC INPUT ON PROPOSED TOWN CODE  
AMENDMENTS REGARDING  
FENCES, HEDGES, AND WALLS.**

On Thursday, November 15, 2018, the Town Council Policy Committee will meet to discuss proposed amendments to Chapter 6 (Buildings and Building Regulations) and Chapter 29 (Zoning Regulations) of the Town Code regarding fences, hedges, and walls. The proposal includes new regulations and requirements for fencing, hedges, and walls in the Hillside area.

The Town seeks public input on the proposed amendments. The Town encourages written comments to be provided before the staff report comment deadline, Friday, November 9, 2018 at 11:00 A.M. The public is also encouraged to attend the November 15, 2018, Town Council Policy Committee meeting to provide comments.

The community is welcome to submit written comments to Sean Mullin at [smullin@losgatosca.gov](mailto:smullin@losgatosca.gov) for inclusion in the Town Council Policy Committee Staff Report/Addendum/Desk Item. Deadline for all written correspondence is 5:00 p.m. on Wednesday, November 14, 2018.



**Sean Mullin, AICP • Associate Planner**

Community Development Department • 110 E. Main Street, Los Gatos CA 95030

Ph: 408.354.6823 • [smullin@losgatosca.gov](mailto:smullin@losgatosca.gov)

[www.losgatosca.gov](http://www.losgatosca.gov) • <https://www.facebook.com/losgatosca>

**Community Development Counter Hours:** 8:00 AM – 1:00 PM, Monday – Friday

**Please note the upcoming Town closure:** November 22-23, 2018 – Thanksgiving Holiday



General Plan update, learn more at [www.losgatos2040.com](http://www.losgatos2040.com)

**CONFIDENTIALITY DISCLAIMER**

*This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.*

Think Green, please consider the environment before printing this e-mail.

## Sean Mullin

---

**From:** Donald C Wimberly <[dwimberly@aimscorp.com](mailto:dwimberly@aimscorp.com)>  
**Sent:** Tuesday, November 06, 2018 10:37 AM  
**To:** Sean Mullin  
**Subject:** RE: Town Council Policy Committee, Nov. 15, 2018 - Proposed amendments to the Los Gatos Town Code regarding fences, hedges, and walls

Thanks

**From:** Sean Mullin [<mailto:SMullin@losgatosca.gov>]  
**Sent:** Tuesday, November 06, 2018 10:14 AM  
**To:** Don Wimberly  
**Cc:** Bill Hirschman; [sahadi@sahadi.net](mailto:sahadi@sahadi.net); Joel Paulson; Laurel Prevetti  
**Subject:** RE: Town Council Policy Committee, Nov. 15, 2018 - Proposed amendments to the Los Gatos Town Code regarding fences, hedges, and walls

Dear Don,

The residents that I met with between December 2017 and October 2018 to discuss the revised Ordinance included David Weissman and Peter Donnelly. While not present at the December 5, 2017 Town Council meeting, Mr. and Mrs. Donnelly's opposition to the Ordinance was communicated through their son Austin, who spoke to the Council.

Thank you,



**Sean Mullin, AICP • Associate Planner**

Community Development Department • 110 E. Main Street, Los Gatos CA 95030

Ph: 408.354.6823 • [smullin@losgatosca.gov](mailto:smullin@losgatosca.gov)

[www.losgatosca.gov](http://www.losgatosca.gov) • <https://www.facebook.com/losgatosca>

**Community Development Counter Hours:** 8:00 AM – 1:00 PM, Monday – Friday

**Please note the upcoming Town closure:** November 22-23, 2018 – Thanksgiving Holiday



General Plan update, learn more at [www.losgatos2040.com](http://www.losgatos2040.com)

### CONFIDENTIALITY DISCLAIMER

*This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.*

 Think Green, please consider the environment before printing this e-mail.

**From:** Don Wimberly <[dwimberly@aimscorp.com](mailto:dwimberly@aimscorp.com)>  
**Sent:** Monday, November 05, 2018 4:18 PM  
**To:** Sean Mullin <[SMullin@losgatosca.gov](mailto:SMullin@losgatosca.gov)>  
**Cc:** Bill Hirschman <[whirschman@lexorbuilders.com](mailto:whirschman@lexorbuilders.com)>; [sahadi@sahadi.net](mailto:sahadi@sahadi.net)  
**Subject:** RE: Town Council Policy Committee, Nov. 15, 2018 - Proposed amendments to the Los Gatos Town Code regarding fences, hedges, and walls

Sean

At the 10/16/18 meeting, Ms. Spector asked you how many people who opposed the petition were on the "working group" that worked on the new ordinance. Please provide/confirm for me the names of those who worked on the revision of the ordinance between December, 2017 & October 2018; in particular, the one person you said was originally an opponent of the ordinance.

The position and viewpoint of that "oppose" is important to understanding what the working group did or did not do.

Thank you

Don Wimberly

**From:** Sean Mullin [<mailto:SMullin@losgatosca.gov>]

**Sent:** Monday, November 05, 2018 10:35 AM

**Subject:** Town Council Policy Committee, Nov. 15, 2018 - Proposed amendments to the Los Gatos Town Code regarding fences, hedges, and walls

## **Town Council Policy Committee Meeting**

**Subject:** Proposal to amend the Town Code regarding hillside fencing

**Date:** November 15, 2018

**Time:** 1:30 P.M.

**Location:** Town Council Chambers  
110 E. Main Street

### **THE TOWN OF LOS GATOS SEEKS PUBLIC INPUT ON PROPOSED TOWN CODE AMENDMENTS REGARDING FENCES, HEDGES, AND WALLS.**

On Thursday, November 15, 2018, the Town Council Policy Committee will meet to discuss proposed amendments to Chapter 6 (Buildings and Building Regulations) and Chapter 29 (Zoning Regulations) of the Town Code regarding fences, hedges, and walls. The proposal includes new regulations and requirements for fencing, hedges, and walls in the Hillside area.

The Town seeks public input on the proposed amendments. The Town encourages written comments to be provided before the staff report comment deadline, Friday, November 9, 2018 at 11:00 A.M. The public is also encouraged to attend the November 15, 2018, Town Council Policy Committee meeting to provide comments.

The community is welcome to submit written comments to Sean Mullin at [smullin@losgatosca.gov](mailto:smullin@losgatosca.gov) for inclusion in the Town Council Policy Committee Staff Report/Addendum/Desk Item. Deadline for all written correspondence is 5:00 p.m. on Wednesday, November 14, 2018.



**Sean Mullin, AICP ♦ Associate Planner**

Community Development Department ♦ 110 E. Main Street, Los Gatos CA 95030

Ph: 408.354.6823 ♦ [smullin@losgatosca.gov](mailto:smullin@losgatosca.gov)

[www.losgatosca.gov](http://www.losgatosca.gov) ♦ <https://www.facebook.com/losgatosca>

**Community Development Counter Hours:** 8:00 AM – 1:00 PM, Monday – Friday

**Please note the upcoming Town closure:** November 22-23, 2018 – Thanksgiving Holiday



General Plan update, learn more at [www.losgatos2040.com](http://www.losgatos2040.com)

**CONFIDENTIALITY DISCLAIMER**

*This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.*



Think Green, please consider the environment before printing this e-mail.

## Sean Mullin

---

**From:** Lee Quintana <leeandpaul@earthlink.net>  
**Sent:** Wednesday, November 07, 2018 3:35 PM  
**To:** Sean Mullin  
**Subject:** Fences/mountain lions

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Sean,

I have been looking at the SCVWD's Land Use Development Near Streams, and the Town's resolution which adopted it and am not sure how or if it affects the proposed fence draft.

FYI

The following links are from the California Department of Fish and Game, an article in the Mercury News regarding verified attacks and fatalities and a posting by Patch regarding a sighting along LG Creek Trail

There has been a verified case in California since, of which two were fatalities. Of these one non-fatal attack occurred in Santa Clara Co, on a hiking trail, near Cupertino in 2014.

<https://www.wildlife.ca.gov/Conservation/Mammals/Mountain-Lion/Attacks> (1986-2014)

<https://www.wildlife.ca.gov/Conservation/Mammals/Mountain-Lion/FAQ#359951252-are-mountain-lion-attacks-on->

Among the questions asked are the following:

Where are mountain lions found in California? (anywhere there are deer)

How many mountain lions are found in California? (4000-6000 estimated)

This is a list of commonly asked questions regarding mountain lions. The last two questions are

If I live in mountain lion habitat how concerned should I be for my safety? (1000 more times likely to be struck by lightning than attacked by a mountain lion.)

Are mountain lion attacks on humans common? (16 verified attacks between 1890 and 2014, six of which were fatal)

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83544&inline> (A Gardeners Guide to Preventing Deer Damage. Page 5-9 contains a list of Deer-resistant plants)

<https://www.wildlife.ca.gov/Conservation/Mammals/Mountain-Lion/Trends>

<https://www.wildlife.ca.gov/Keep-Me-Wild/Lion>

<https://patch.com/california/los-gatos/los-gatos-mountain-lion-sighting-residents-should-avoid-area-police-warn>  
Sighting Aug. 2017 in culvert along LG Creek Trail between Charter Oaks and Knowles.



[Home \(/\)](#) | [Conservation \(https://www.wildlife.ca.gov/Conservation\)](https://www.wildlife.ca.gov/Conservation) | [Mammals \(https://www.wildlife.ca.gov/Conservation/Mammals\)](https://www.wildlife.ca.gov/Conservation/Mammals) | [Mountain Lion \(https://www.wildlife.ca.gov/Conservation/Mammals/Mountain-Lion\)](https://www.wildlife.ca.gov/Conservation/Mammals/Mountain-Lion) | [FAQ \(#\)](#)

[Login](#)

## Commonly Asked Questions About Mountain Lions

**Are mountain lions listed as a threatened or endangered species? (#la-359951240-are-mountains-lions-listed-as-a-threatened-or-endangered-species)**

**How many mountain lions are in California? (#la-359951241-how-many-mountain-lions-are-in-california)**

**Where are mountain lions found in California? (#la-359951242-where-are-mountain-lions-found-in-california)**

**Are mountain lion numbers increasing or decreasing in California? (#la-359951243-are-mountain-lion-numbers-increasing-or-decreasing-in-california)**

**Why can't mountain lions be hunted in California? (#la-359951244-why-cant-mountain-lions-be-hunted-in-california)**

**What constitutes a public safety threat? (#la-359951245-what-constitutes-a-public-safety-threat)**

**How often are mountain lions declared public safety threats in California? (#la-359951249-how-often-are-mountain-lions-declared-public-safety-threats-in-california)**

**Why can't the animal be captured and moved to suitable habitat that is more remote? (#la-359951247-why-cant-the-animal-be-captured-and-moved-to-suitable-habitat-that-is-more-remote)**

**What causes a mountain lion to display unusually bold behavior toward humans? (#la-359951250-what-causes-a-mountain-lion-to-display-unusually-bold-behavior-toward-humans)**

**If I live in mountain lion habitat, how concerned should I be for my safety? (#la-359951251-if-i-live-in-mountain-lion-habitat-how-concerned-should-i-be-for-my-safety)**

**Are mountain lion attacks on humans common? (#la-359951252-are-mountain-lion-attacks-on-humans-common)**

Mountain lion attacks on humans are rare. There have been only 16 verified mountain lion attacks on humans in California since 1890, six of them fatal. The last documented attack occurred in September, 2014, in Santa Clara County.

Updated July 2018

**Wildlife Investigations Lab** (<https://www.wildlife.ca.gov/Explore/Organization/WLB/WIL>)

1701 Nimbus Road Suite D, Rancho Cordova, CA 95670

(916) 358-2790 | [WILAB@wildlife.ca.gov](mailto:WILAB@wildlife.ca.gov) (<mailto:WILAB@wildlife.ca.gov>)



## Mountain Lions in California

[Frequently Asked Questions \(/Conservation/Mammals/Mountain-Lion/FAQ\)](#)

[Verified Mountain Lion Attacks on Humans in California \(/Conservation/Mammals/Mountain-Lion/Attacks\)](#) (from 1986)

[Trends in Mountain Lion Encounters \(/Conservation/Mammals/Mountain-Lion/Trends\)](#)

[Mountain Lion Depredation Statistics \(Excel\) \(https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=154745\)](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=154745)

## Contact

[Email the Mountain Lion Program \(mailto:Justin.Dellinger@wildlife.ca.gov\)](mailto:Justin.Dellinger@wildlife.ca.gov)

## Related Information

## ACKNOWLEDGMENTS

This booklet was prepared by the California Department of Fish and Game's Wildlife Programs Branch, with assistance from the Minnesota Department of Natural Resources, Farmland Wildlife Resource Unit.

**Principal Authors:** Bob Coey and Kenneth Mayer

**Layout and Graphic Design:** Lorna Bernard

**Plant Illustrations:** Bob Hare

**Deer Illustrations:** Paul B. Johnson

**THE STATE OF CALIFORNIA**  
**Arnold Schwarzenegger, Governor**

**RESOURCES AGENCY**  
**Mike Chrisman, Secretary for Resources**

**DEPARTMENT OF FISH AND GAME**  
**L. Ryan Broddrick, Director**



**FRONT COVER:**  
**Mule deer buck, Auburn, California.**  
**Photo by Peggy Mattison.**



## TABLE OF CONTENTS

INTRODUCTION .....	4
“DEER-RESISTANT” PLANTS .....	5
AQUATIC PLANT .....	5
CROP/ORCHARD PLANTS .....	5
GRASSES/FORBS .....	6
SHRUBS .....	9
TREES .....	12
DEER REPELLENTS .....	15
FENCING APPLICATIONS .....	16
HIGH-TENSILE WIRE FENCE .....	16
ELECTRIFIED HIGH-TENSILE WIRE FENCE .....	16
MODIFIED ELECTRIC HIGH-TENSILE WIRE FENCE .....	17
SQUARE-MESH WOVEN-WIRE GAME FENCE .....	17
V-MESH FENCE .....	17
CONSTRUCTION .....	18
REFERENCES .....	19
FENCE CONSTRUCTION DIAGRAMS .....	20

## INTRODUCTION

Part of the appeal of living in rural or semi-rural California is the ability to watch wildlife in your own back yard. Deer are especially fascinating to observe, but many homeowners are dismayed to discover that deer can be very destructive to gardens.

In some areas the damage can be seasonal, peaking in the winter when food sources for deer are at their lowest. Other areas, where deer habitat is heavily affected by residential development, may experience problems year-round. Drought, wildfires, livestock grazing and other habitat-altering events also play a role because they affect food sources for deer.

Rural dwellers frequently ask the California Department of Fish and Game how to minimize landscape damage caused by hungry deer. This booklet details three methods:

- the use of landscape plants that deer don't seem to like;
- application of commercial deer repellents;
- construction of deer-proof fencing.

All of the techniques are considered harmless to deer and other wild and domestic animals.



## "DEER-RESISTANT" PLANTS

Deer are attracted to many popular garden and landscape plants but avoid others. The following list of deer-resistant plants should be considered a guide rather than the final word. Certain plants may not suffer deer damage in some gardens and landscapes, yet might be completely destroyed in others. This is due in part to the availability of natural food sources and the taste preferences of individual deer. If there is a severe shortage of natural deer browse, deer-resistant landscape plants may suffer damage.

Some of the plants listed are, in addition to being deer-resistant, considered noxious weeds. For example, bamboo is a pervasive grower and can become a significant problem because of its

tendency to escape. Alternatively, native plants are better-adapted to the local climate than their exotic counterparts, and should be considered first in landscape planning.

Both native and introduced plants are listed in this booklet. The designation "some native" means some subspecies of the plant are native to California. Always consult a local nursery to select species which best fit your needs and your local climate. The Department of Fish and Game encourages use of native plant species where feasible. For example, most native perennial bunchgrasses would be suitable candidates for deer-resistant landscaping as well as being drought-resistant.

## AQUATIC PLANT

*Bamboo* (noxious)  
Bamboo

## CROP/ORCHARD PLANTS

*Asparagus falcatus*  
Sickle-thorn asparagus

*Clivia miniata*  
Kaffir lily

*Diospyros virginiana*  
Persimmon

*Ficus* sp.  
Fig

*Gymnocladus dioica*  
Kentucky coffee tree

*Helianthus* spp. (some native)  
Sunflower

*Leptospermum* sp.  
Tea tree

*Olea europaea*  
Olive

*Punica granatum* 'Nana'  
Pomegranate

*Rhubarb* sp.  
(poisonous to livestock and humans)  
Rhubarb

## GRASSES/FORBS

<i>Acanthus mollis</i> Bear's breech	<i>Catharanthus roseus (Vinca rosea)</i> Madagascar periwinkle
<i>Achillea sp.</i> (some native) Yarrow	<i>Cerastium tomentosum</i> Snow-in-summer
<i>Aconitum sp.</i> (native) Monkshood	<i>Chives sp.</i> Chives
<i>Agapanthus sp.</i> Lily-of-the-Nile	<i>Chrysanthemum frutescens</i> Marguerite, Paris Daisy
<i>Ageratum houstonianum</i> Floss flower	<i>Chrysanthemum maximum</i> Shasta daisy
<i>Ajuga sp.</i> Bugle weed, Carpet bugle	<i>Clarkia</i> Godetia, Mountain garland, Farewell to spring
<i>Amaryllis belladonna</i> Belladonna lily, Naked lady	<i>Coreopsis grandiflora</i> Coreopsis
<i>Aquilegia</i> (some native) Columbine	<i>Coronilla varia</i> Crown vetch
<i>Arabis sp.</i> Rockcress	<i>Crinum sp.</i> Crinum
<i>Arctostis sp.</i> African daisy	<i>Crococsmia sp.</i> Crococsmia
<i>Arum sp.</i> Arum	<i>Cyclamen</i> Cyclamen
<i>Asarum caudatum</i> (some native) Wild-ginger	<i>Cymbalaria muralis</i> <i>California</i> Kenilworth ivy <i>poppy</i>
<i>Aster alpinus</i> Aster	<i>Cyperus</i> Cyperus
<i>Begonia tuberhybrida</i> Tuberous begonia	<i>Delphinium spp.</i> (some native) Larkspur
<i>Calendula officinalis</i> Pot marigold	<i>Dendromecon</i> Bush poppy
<i>Campanula medium</i> Bellflower	<i>Dicentra</i> (native) Bleeding heart



GRASSES/FORBS CONTINUED

*Dietes vegeta*  
Fortnight lily

*Digitalis* (native)  
Foxglove

*Duchesnea indica*  
Indian mock strawberry

*Epimedium* (native)  
Epimedium

*Eschscholzia californica* (native)  
California poppy

*Festuca ovina* (native)  
Sheep fescue

*Fragaria chiloensis* (native)  
Wild strawberry, Sand strawberry

*Freesia*  
Freesia

*Galium odoratum* (*Asperula odorata*)  
Sweet woodruff

*Gamolepis chrysanthemoides*  
Gamolepis

*Gerbera jamesonii*  
African or Transvaal daisy

*Helichrysum* spp.  
Strawflower

*Helleborus* spp.  
Hellebore

*Hemerocallis*  
Daylily

Herbs, except Basil

*Hippophae rhamnoides*  
Sea buckthorn

*Hosta* (*Funkia*)  
Plantain lily

*Hypericum*  
St. Johnswort

*Iris* spp. (some native)  
Iris

*Ixia maculata*  
African corn lily

*Jasminum* spp.  
Jasmine

*Kniphofia uvaria*  
Redhot poker, Torch-lily, Poker plant

*Lamium maculatum* (noxious)  
Dead nettle

*Laurentia fluviatilis*  
Blue star creeper

*Leucojum* spp.  
Snowflake

*Liriop*  
Lily turf

*Lobelia* (native)  
Lobelia

*Lychnis coronaria*  
Crown-pink, Mullein-pink

*Lysimachia nummularia*  
Moneywort, Creeping jennie

*Mentha*  
Mint

*Mirabilis jalapa*  
Four o'clock

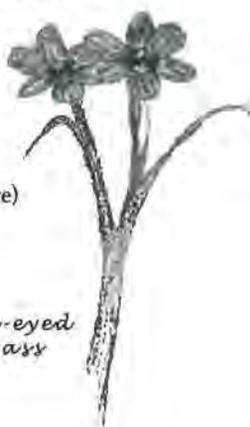
*Moluccella laevis*  
Bells-of-Ireland

*Monarda*  
Bee balm, Oswego tea



## GRASSES/FORBS CONTINUED

<i>Myosotis</i> spp. Forget-me-not	<i>Soleirolia soleirolii</i> Baby's tears, Angel's tears
<i>Narcissus</i> spp. Narcissus, Daffodil, Jonquil	<i>Sparaxis tricolor</i> Harlequin flower
<i>Nepeta</i> Catnip	<i>Stachys byzantina</i> Lamb's ears
<i>Ophiopogon japonicus</i> Lily turf	<i>Strelitzia reginae</i> Bird of paradise
<i>Paeonia suffruticosa</i> Tree peony	<i>Teucrium fruticans</i> Bush germander
<i>Papaver rhoeas</i> Flanders field poppy, Shirley poppy	<i>Tolmiea menziesii</i> (native) Piggy-back plant
<i>Papaver orientale</i> Oriental poppy	<i>Tradescantia</i> spp. Spiderwort, Wandering Jew
<i>Papaver nudicaule</i> Iceland poppy	<i>Trillium</i> spp. (some native) Trillium, Wake-robin
<i>Penstemon</i> spp. (some native) Penstemon, Beard tongue	<i>Tulipa</i> spp. Tulip
<i>Phormium tenax</i> New Zealand flax	<i>Valeriana officinalis</i> Valerian, Garden heliotrope
<i>Romneya coulteri</i> (native and rare) Matilija poppy	<i>Vallota speciosa</i> Scarborough lily
<i>Rudbeckia hirta</i> Gloriosa daisy, Black-eyed Susan	<i>Verbena</i> (native) Verbena
<i>Scabiosa</i> spp. Pincushion flower	<i>Vinca</i> spp. (some native) Periwinkle
<i>Scilla peruviana</i> Peruvian scilla	<i>Zantedeschia</i> spp. Calla lily
<i>Silene acaulis</i> Cushion pink, Moss campion	<i>Zinnia</i> Zinnia
<i>Sisyrinchium</i> (native) Blue-eyed grass	<i>Abutilon</i> (native) Flowering maple, Chinese lantern



Blue-eyed  
grassy

## SHRUBS

*Acer circinatum* (native)  
Vine maple

*Agave* spp. (some native)  
Century plant

*Alcea rosea*  
Hollyhock

*Aloe*  
Aloe

*Aralia spinosa*  
Devil's walking stick, Hercules' club,  
Angelic tree

*Arctostaphylos uva-ursi*, and other species  
(some native)  
Bearberry, Kinnikinnick

*Baccharis pilularis* (native, also noxious)  
Coyote brush, Dwarf chaparral broom

*Berberis* (some native)  
Barberry

*Bragmansia (Datura)*  
Angel's trumpet

*Brodiaea* (native)  
Brodiaea

*Buddleia davidii*  
Butterfly bush, Summer lilac

*Buxus* spp.  
Boxwood

*Cactaceae* (some native)  
Cactus, many species and varieties

*Calliandra tweedii*  
Trinidad female bush,  
Brazilian flame bush

*Callistemon*  
Bottlebrush

*Calycanthus occidentalis* (native)  
Spice bush

*Caragana arborescens*  
Siberian peashrub



*Bush anemone*

*Carpenteria californica* (native)  
Bush anemone

*Cassia* (some native)  
Senna

*Ceanothus gloriosus* (native)  
Wild lilac

*Choisya ternate*  
Mexican orange

*Cissus rhombifolia*  
Grape ivy

*Cistus*  
Rockrose

*Clematis* (some native)  
Clematis

SHRUBS CONTINUED

<i>Clanthus puniceus</i> Parrot-beak	<i>Euonymus japonica</i> Evergreen euonymus
<i>Coleonema pulchrum</i> Pink breath of heaven	<i>Euphorbia</i> Spurge
<i>Coprosma repens</i> Mirror plant	<i>Euryops pectinatus</i> Euryops
<i>Corokia cotoneaster</i> Corokia cotoneaster	<i>Fatsyhedera lizei</i> Fatsyhedera
<i>Correa spp.</i> Australian fuchsia	<i>Fern, except Pellaea</i> (some native) Fern
<i>Cotoneaster buxifolius</i> Cotoneaster	<i>Forsythia</i> Forsythia
<i>Cycas revoluta</i> Sago palm	<i>Gaultheria shallon</i> (native) Salal, Lemon leaf
<i>Daphne spp.</i> Daphne	<i>Gelsemium sempervirens</i> Carolina jessamine
<i>Datura</i> Jimson Weed	<i>Genista monosperma</i> Bridal veil broom
<i>Diosma</i> Coleonema	<i>Grevillea</i> Grevillea
<i>Dodonaea viscosa</i> Hop bush, Hopseed bush	<i>Griselinia lucida</i> Griselinia
<i>Echium fastuosum</i> Pride of Madeira	<i>Gunnera</i> Gunnera
<i>Elaeagnus pungens</i> Silverberry	<i>Halimium</i> (native) Halimium
<i>Erica</i> Heath	<i>Hedera helix</i> (noxious) English ivy
<i>Eriogonum</i> (some native) Wild buckwheat	<i>Heteromeles arbutifolia</i> (native) Toyon, Christmas berry, California holly
<i>Escallonia spp.</i> Escallonia	<i>Hibbertia scandens</i> Guinea gold vine

## SHRUBS CONTINUED

<i>Impatiens wallerana</i> Busy Lizzie	<i>Nolina parryi</i> (native) Nolina
<i>Iochroma cyaneum</i> Iochroma	<i>Osteospermum fruticosum</i> Trailing african daisy, Freeway daisy
<i>Kerria japonica</i> Japanese rose	<i>Oxalis oregana</i> Oregon Oxalis, Redwood sorrel
<i>Lantana montevidensis</i> Trailing lantana	<i>Pandorea pandorana</i> Wonga-wonga vine
<i>Lavandula</i> Lavender	<i>Phaedranthus buccinatorius</i> Blood red trumpet vine
<i>Leonotis leonurus</i> Lion's tail	<i>Phlomis fruticosa</i> Jerusalem sage
<i>Loropetalum chinense</i> Loropetalum	<i>Plumbago auriculata</i> Cape plumbago
<i>Lupinus</i> (some native) Lupine	<i>Potentilla fruticosa</i> (native) Shrubby cinquefoil
<i>Mahonia spp.</i> (some native) Mahonia, Oregon grape	<i>Raoulia australis</i> Raoulia
<i>Melianthus major</i> Honey bush	<i>Rhododendron</i> —except azaleas (native) <i>R. macrophyllum</i> , <i>R. occidentale</i>
<i>Mimulus</i> Monkey flower	<i>Rhus ovata</i> (native) Sugar bush
<i>Muehlenbeckia complexa</i> Mattress vine, Wire vine	<i>Ribes</i> (native) Currant, Gooseberry
<i>Myoporum laetum</i> Myoporum	<i>Rosmarinus officinalis</i> Rosemary
<i>Myrtus californica</i> Wax myrtle	<i>Ruscus aculeatus</i> Butcher's broom
<i>Nandina domestica</i> Heavenly bamboo	<i>Sambucus</i> (native) Elderberry
<i>Nerium oleander</i> Oleander	<i>Santolina</i> Santolina

## SHRUBS CONTINUED

*Senecio cineraria*  
Dusty miller

*Symphoricarpos albus* (native)  
Common snowberry

*Syringa vulgaris*  
Common lilac

*Syzygium paniculatum*  
Bush cherry, Australian brush cherry

*Tecomaria capensis*  
Cape honeysuckle

*Trachelospermum jasminoides*  
Star jasmine

*Yucca* spp. (some native)  
Yucca, Spanish bayonet

*Zauschneria* spp. (some native)  
California fuchsia,  
Hummingbird flower



*Common snowberry*

## TREES

*Abies* (some native)  
Fir

*Acer macrophyllum* (native)  
Bigleaf maple

*Acer palmatum*  
Japanese maple

*Acer negundo* (native)  
Box elder

*Agonis flexuosa*  
Peppermint tree

*Albizia*  
Silk tree, Plume acacia

*Angophora costata* (*A. lanceolata*)  
Gum myrtle

*Araucaria* spp.  
Araucaria

*Arbutus unedo*  
Strawberry tree

*Arbutus menziesii* (native)  
Madrone, Madrono

*Beaucarnea recurvata*  
Ponytail, Bottle palm

*Brachychiton populneus*  
Bottle tree

*Calocedrus decurrens* (native)  
Incense cedar

*Casuarina stricta*  
Mountain or Drooping she-oak,  
Coast beefwood

## TREES CONTINUED

<i>Catalpa bignonioides</i> Common catalpa, Indian bean	<i>Fraxinus velutina</i> (native) Arizona ash
<i>Cedrus</i> Cedar	<i>Gaetes spp.</i> Marigold
<i>Celtis australis</i> European hackberry	<i>Ginkgo biloba</i> Maidenhair tree
<i>Ceratonia siliqua</i> Carob, St. John's bread	<i>Hakea suaveolens</i> Sweet hakea
<i>Cercis occidentalis</i> (native) Western redbud	<i>Ilex</i> (except thornless) Holly
<i>Chamaecyparis sp.</i> (native) False cypress	<i>Jubaea chilensis</i> ( <i>J. spectabilis</i> ) Chilean wine palm
<i>Chamaerops humilis</i> Mediterranean fan palm	<i>Juniperus</i> (some native) Juniper
<i>Cordyline australis</i> Dracaena palm	<i>Larix decidua</i> European larch
<i>Cornus capitata</i> Evergreen or Himalayan dogwood	<i>Liquidambar styraciflua</i> American sweet gum
<i>Corylus cornuta californica</i> (native) Western hazelnut	<i>Lithocarpus densiflorus</i> (native) Tanbark oak
<i>Cotinus coggygria</i> Smoke tree	<i>Lyonothamnus floribundus</i> (native) Catalina ironwood
<i>Crataegus spp.</i> (some native) Hawthorn	<i>Maclura pomifera</i> Osage orange
<i>Cupressus spp.</i> (some native) Cypress	<i>Magnolia spp.</i> Magnolia
<i>Erythea edulis</i> Guadalupe palm	<i>Maytenus boaria</i> Mayten tree
<i>Erythea armata</i> Mexican blue palm	<i>Melaleuca leucadendra</i> Cajeput tree
<i>Eucalyptus spp.</i> Eucalyptus, Gum	<i>Melia azedarach</i> China-berry

## TREES CONTINUED

*Metrosideros excelsus*  
New Zealand Christmas tree

*Michelia figo*  
Banana shrub

*Myrtus communis*  
True myrtle

*Parkinsonia aculeata*  
Jerusalem thorn, Mexican palo verde

*Paulownia tomentosa*  
Empress tree

*Phoenix spp.*  
Date palm

*Picea spp.* (some native)  
Spruce

*Pinus spp.* (some native)  
Pine

*Pittosporum spp.*  
Pittosporum

*Platanus racemosa* (native)  
California sycamore

*Podocarpus*  
Fern pine

*Prunus caroliniana* and other spp.  
(some native)  
Carolina laurel cherry

*Quillaga saponaria*  
Soapbark tree

*Robinia pseudoacacia*  
Black locust

*Sabal*  
Palmetto

*Schinus molle*  
California pepper tree

*Thuja spp.* (some native)  
Arborvitae

*Trachycarpus fortunei*  
Windmill palm

*Umbellularia californica* (native)  
California laurel, California bay,  
Oregon myrtle, Pepperwood

*Washingtonia spp.*  
Washington palm



*California  
bay laurel*

## DEER REPELLENTS

Various types of devices and chemicals have been used to repel deer including scare devices, over-the-counter repellent sprays and powder, and home remedies. Scare devices such as exploders, radios, lights, and even a dog on a leash have short-term limited effectiveness at best. Home remedies such as hanging bags of hair, soap, rotten eggs or animal urine are not trustworthy, long-term repellents. Over-the-counter repellents have been the most successful deterrent for non-commercial users experiencing

light to moderate damage. However, repellents must be applied frequently and vigilantly prior to and during the period of anticipated damage in order to be effective. For example, repellents should be applied to plants prior to planting and reapplied during the growing season.\* 'Hinder,' which is a mixture of ammonium soaps, and 'Deer Away,' made from putrescent whole egg solids have been the most widely used and effective repellent sprays. Other repellents available are:

### REPEL ANIMAL REPELLENT

Farnam Co. Inc.  
301 W. Osborn Rd.  
Phoenix, AZ 85013  
(800) 825-2555

### HOT SAUCE ANIMAL REPELLENT

Miller Chemical & Fertilizer Corp.  
P.O. Box 333  
Hanover, PA 17331

### HINDER

Crompton Chemical  
UAP Great Lakes  
La Crescent, MN  
(507) 895-2103

### \*\*DEER AWAY

Intagra, Inc.  
8500 Pillsbury Ave. South  
Minneapolis, MN 55420  
(612) 881-5535

### NATIONAL DEER REPELLANT

National Scent  
P.O. Box 667  
San Jacinto, CA 92581  
(909) 654-2442

\* Consult individual manufacturers for proper spray concentration and application.

\*\* *Deer Away* is not approved for application on edible crops.

## FENCING APPLICATIONS

For nurseries, orchards, pastures, and large gardens, fencing is often the only way to prevent damage from animals. Many of the fencing options discussed on the following pages also work well for small gardens because they are easy to

build and very cost-effective. The following fencing designs are the primary methods being used by professional game managers and many state and federal agencies to control damage from both livestock and wild animals.

### HIGH-TENSILE WIRE FENCE

By far, the most effective and most maintainable new fencing used are the New Zealand-designed high-tensile wire fences (See FIGURE A, page 19). Although the initial cost is high, this type of fence requires the least maintenance, and thus the cost per ft/yr is the lowest of all discussed. The fence uses smooth wire instead of barbed wire which is tensioned using a 'strainer' device. The strength of this type of fencing is in the tension applied. Animals cannot "squeeze" through the fence.

Although construction is somewhat technical, the fence actually takes less labor to install because line posts are

only needed every 25-50 ft. Proper construction of the "H-brace" corners is critical since the twelve wires used exert tremendous pressure on the corners (See FIGURE B, page 20). The horizontal wires can be spaced varying distances apart (usually from 4-6 inches) and separated by fiberglass or wooden 'droppers' (similar to stays) every five feet. The bottom wire is placed 6 in. off the ground. Tension is applied using a ratchet tool and must be periodically adjusted for the fence to function effectively. Because construction is highly specialized, the manufacturer should supply instructions when purchasing materials.

### ELECTRIFIED HIGH-TENSILE WIRE FENCE

In areas experiencing persistent and severe deer damage, the same fence discussed above can be electrified using AC current (See FIGURE C, page 21). DC battery or solar/battery chargers are used where electricity is unavailable. The modern-type fence chargers currently available have a strong shocking power (up to 8000 volts) but low impedance. Thus, they are extremely effective but safer than older-type chargers because they don't cause a burning effect. Construction is similar although insulators are used in lieu of staples, fewer wires are needed, and wires are

alternating negative and positively charged (with a positive wire on the bottom and top). This is important in that the animal will always be in contact with the ground-wire even when standing in deep snow or in a mid-air jump. The fence functions as more of a psychological barrier than a physical one after animals have experienced the shock, thus even a low fence (+ or - 24") can be effective in keeping the majority of animals out. The fence can be baited by tying aluminum foil flags covered with peanut butter on to the charged wire to aid in training animals to the fence.

## MODIFIED ELECTRIC HIGH-TENSILE WIRE FENCE

A nice feature of the above design is that it can be used with an existing fence in a variety of applications, and can be utilized even on a small scale for the average garden grower. The electric high-tensile fence discussed above can actually be constructed on top of an existing fence (such as a square or v-mesh wire or wood fence) using extensions, such as stand-off insulators for a single wire, or a 2" x 4" board attached to the existing post with lag screws for multiple wires. High-tensile fencing manufacturers do not recommend combining electric fencing with barbed wire however as severe injury and fatalities to animals have resulted. With the multiple wire design, positive wires should be alternated with grounded wires.

An advantage to this type of fencing over the completely electrified high-tensile fence is that this one will not often ground out due to vegetation growth and thus will require less maintenance. Much of this equipment can also easily be erected on a temporary basis during the height of the growing season if the problem is only a seasonal one. A disadvantage is that it will probably not be 100% effective in keeping out all animals. 'Polywire,' which is basically an electrified plastic tape can also be used for higher visibility (a bright orange color) and doesn't require tensioning.

## SQUARE-MESH WOVEN-WIRE GAME FENCE

Square-mesh fence has been used primarily to control damage to orchards and nurseries (See FIGURE D, page 22). The fence is constructed similar to the high-tensile design, is considerably lighter than the V-mesh wire fence and is easier to construct. The fence is constructed using 10 ft. posts set 4 ft. in the

ground and spaced 20 ft. apart. Wire fencing is available in 6-ft. and 8-ft. heights. This fence design has been proven to repel deer and elk. The fence is also effective against coyotes, pigs and rabbits when the wire is buried one foot in the ground.

## V-MESH

The V-mesh wire fences have been used primarily to control damage to haystacks. The V-mesh wire fence is constructed using 10 ft. wood posts set 4 ft. in the ground at 12 ft intervals. The V-

mesh wire comes in heights of 42 in. to 96 in. with the 72 in. being the most commonly used to control deer. This fence is difficult to build because of the heavy wire.

## CONSTRUCTION

All fence designs utilize double braced corner posts set in concrete or 'tamped' in gravel, with line-posts in between corners and fence-stays in between line-posts to maintain wire position. A construction manual or the fence manufacturer should be consulted on how to build particular fence types. Several are listed on page 25. Cost per foot and fence lengths may vary

depending on the manufacturer (See "PLANNING," page 23). Manufacturers and other pertinent regulatory agencies should be contacted when using any treated wood products, particularly around groundwater. Except where noted, longer posts and taller wire can be used with each design with minor modifications to control elk effectively as well.

## REFERENCES

### FENCE CONSTRUCTION:

*Fences For Controlling Deer Damage.* California Agricultural Experiment Station Extension Service Circular 514.

*How to Design and Build Gates and Fences.* Ortho Books.

*How to Build Fences and Gates.* Sunset Books.

*How to Build Fences With High-Tensile Fence Wire.* U.S. Steel Cat. T-111575. U.S. Steel, Pittsburgh, Pa. 75pp.

*Control Big Game Damage in Northwest Colorado.* E.A. Byrne, Biologist, Colorado Div. of Wildlife, 1989. A paper presented at the Ninth Great Plains Wildlife Damage Control Work Shop, Fort Collins, Colorado.

*Wildlife Pest Control Around Gardens and Homes.* Salmon, T.P. and R.E. Licklitter, 1984. Division of Agriculture and Natural Resources, University of California, Cooperative Extension, Publication #21385.

Fence diagrams provided by Minnesota Department of Natural Resources.

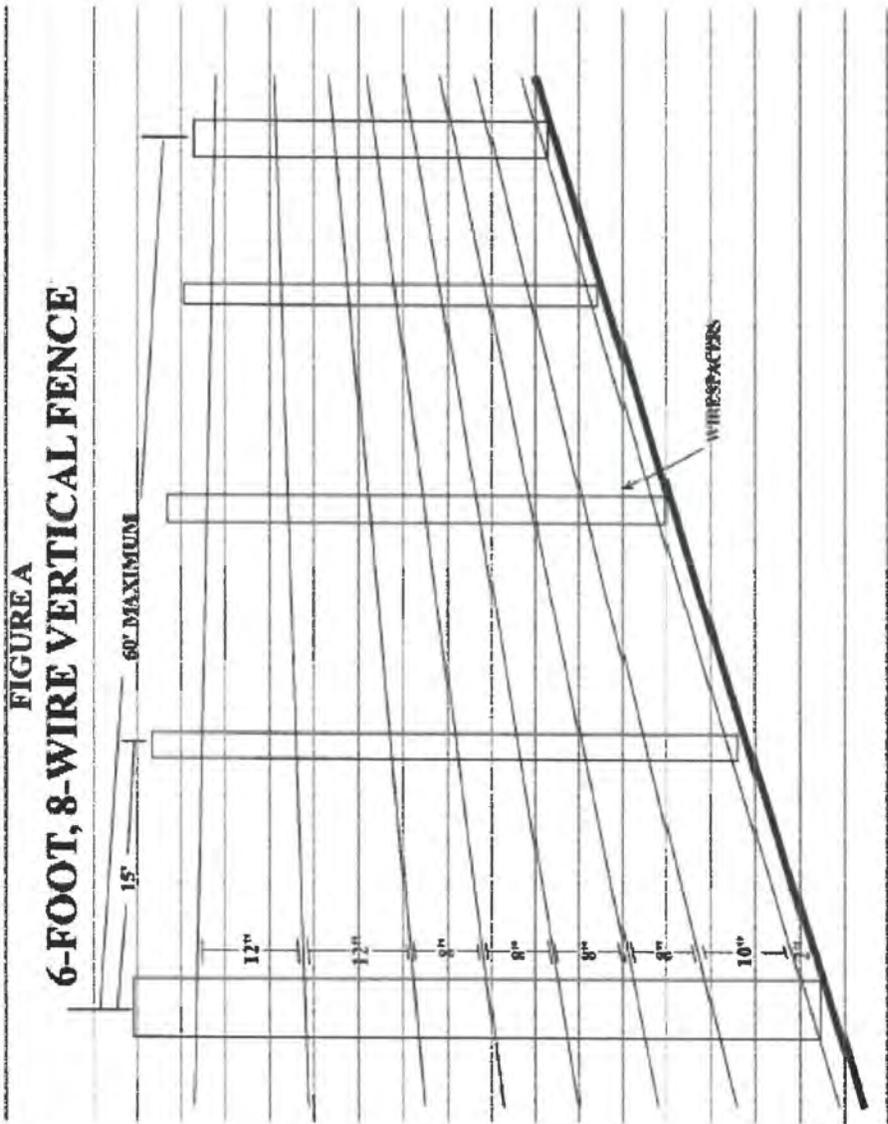
### PLANTS:

*The Standard Encyclopedia of Horticulture.* Bailey, L. H. 1949. The MacMillan Company, New York, 3 vols., II, pg. 1786.

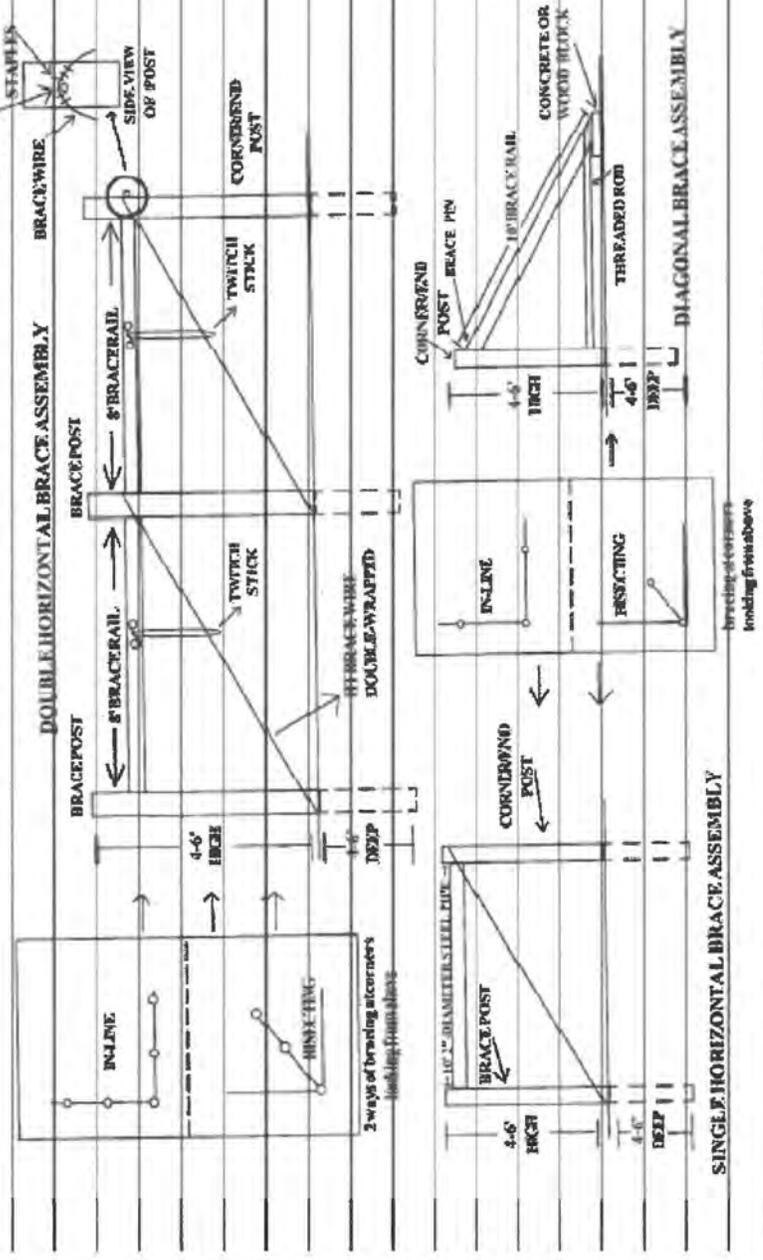
*A New List of Deer Resistant Plants for the Garden.* Pacific Horticulture, November 1990.

*Deer-Resistant Plants for Ornamental Use.* University of California Cooperative Extension. 1980. Leaflet 2167.

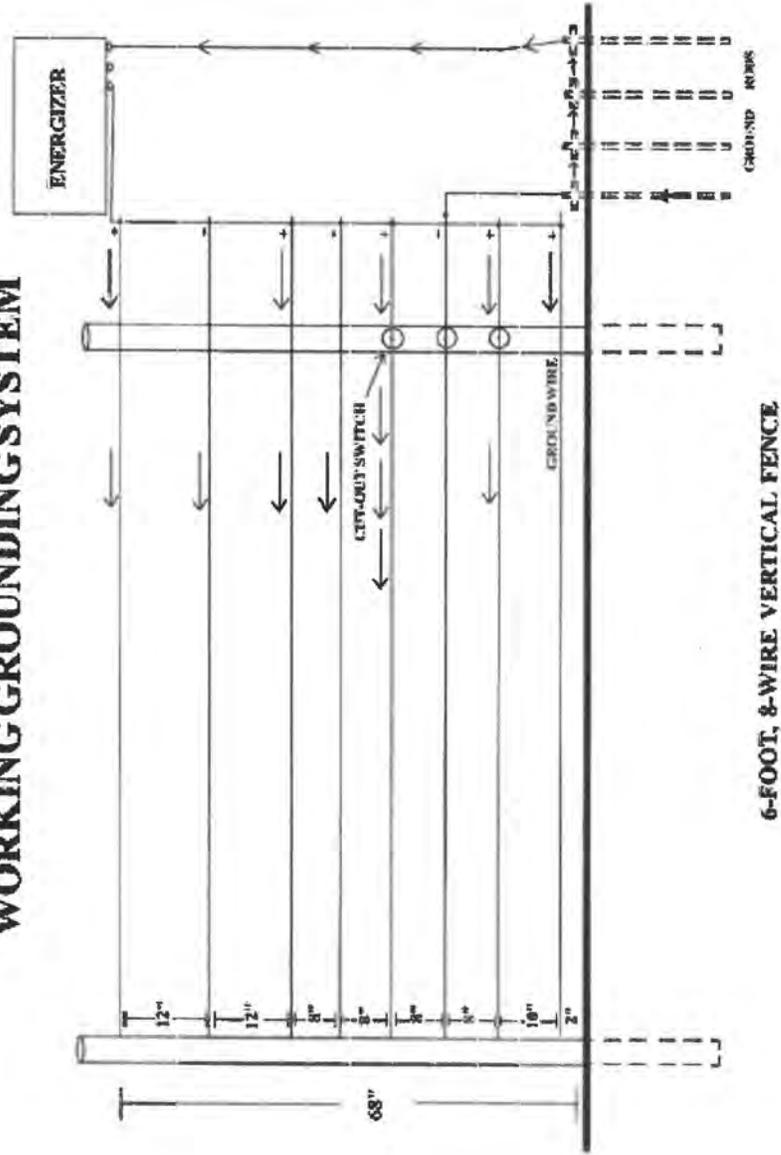
*Sunset Western Garden Book.* Fifth Edition. Lane Publishing Company, California.



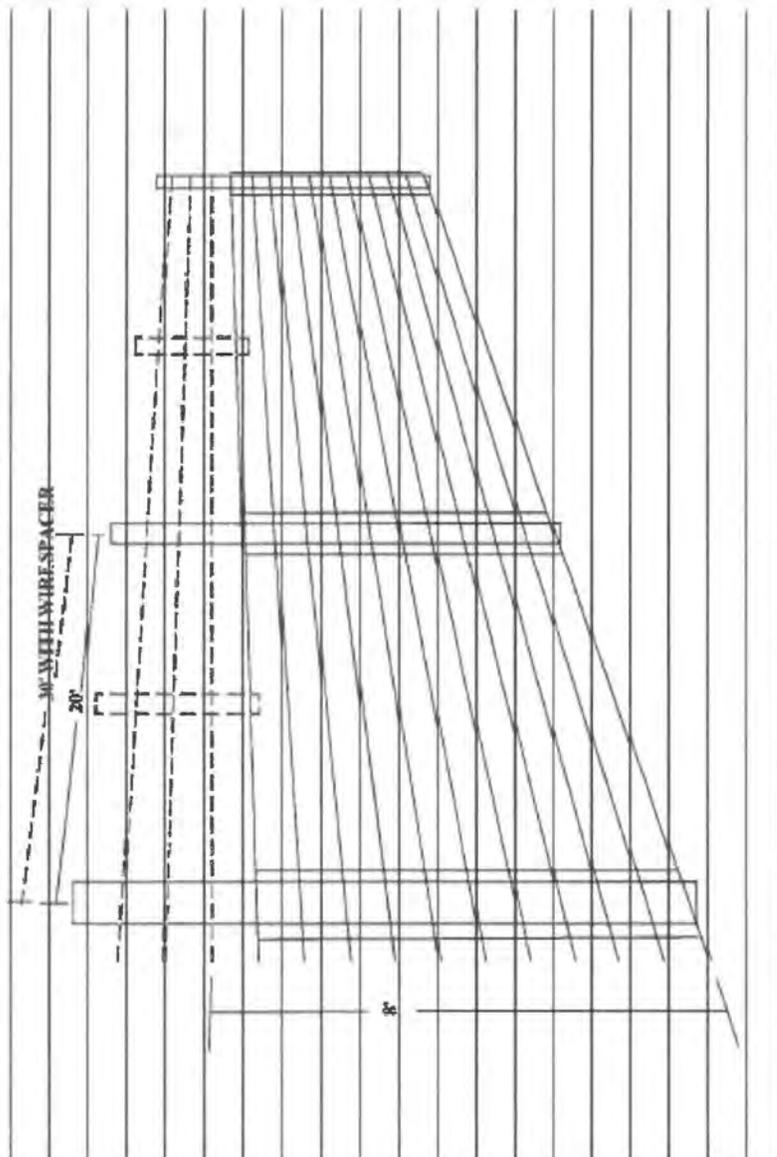
**FIGURE B  
BRACE SYSTEMS**



**FIGURE C**  
**WORKING GROUNDING SYSTEM**



**FIGURED**  
**8-FOOT WOVEN WIRE FENCE**



## PLANNING

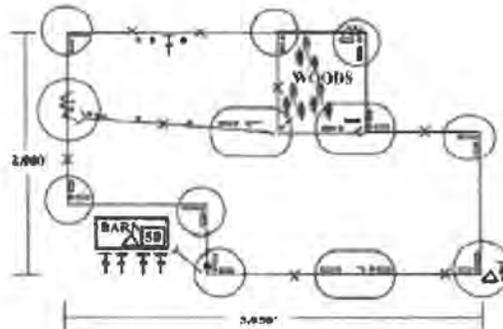
\* CHECK LOCAL LAWS AND ZONING REGULATIONS REGARDING FENCES AND ELECTRICITY, ESPECIALLY IN URBAN AREAS

\* LOCATE HAZARDS AND OBSTACLES SUCH AS POWER LINES, HILLS, DIPS AND WATER

\* USE AS FEW CORNERS AS POSSIBLE



\* PREPARE A SKETCH OF THE FENCE



KEY	BASIC FENCE COMPONENTS
☐	CONTROLLER
⊥	GROUND ROD
•	STANDARD DUTY POSTS- END CORNER RISE OR DIP
—	STANDARD DUTY RAIL
•	HEAVY DUTY POSTS- END CORNER RISE OR DIP
—	HEAVY DUTY RAIL
X	WIRE TENSIONERS
⊕	CURL ON CONNECTORS
↔	GATE HANDLES
△	LIGHTNING DIVERTERS

\* PREPARE A LIST OF MATERIALS

\* A WELL-PREPARED FENCE LINE SAVES TIME AND MATERIALS

\* INCLUDE SPACE FOR EASY FENCE CONSTRUCTION AND VEHICLE ACCESS

\* BUILD THE FENCE AT LEAST FIVE FEET FROM OLD FENCE ROWS, BRUSH LINES OR WOODS

\* A CHARGER MUST BE READY BEFORE CONSTRUCTION BEGINS



[Home \(/\)](#) | [Conservation \(https://www.wildlife.ca.gov/Conservation\)](https://www.wildlife.ca.gov/Conservation) | [Mammals \(https://www.wildlife.ca.gov/Conservation/Mammals\)](https://www.wildlife.ca.gov/Conservation/Mammals) | [Mountain Lion \(https://www.wildlife.ca.gov/Conservation/Mammals/Mountain-Lion\)](https://www.wildlife.ca.gov/Conservation/Mammals/Mountain-Lion) | [Trends \(#\)](#)

[Login](#)

## Trends in Mountain Lion Encounters

The California Department of Fish & Wildlife logs hundreds of Wildlife Incident Reports annually related to mountain lion sightings. On average, fewer than three percent of these reports result in a mountain lion being identified as an imminent threat to public safety and killed under the CDFW's Wildlife Public Safety Guidelines.

Many of these reports are resolved by providing information about the natural history and behavior of mountain lions. Other reports are legitimate threats posed by mountain lions that can be resolved by modifying human behavior.

Below is a breakdown of reported mountain lion incidents where the presence of a mountain lion was verified by responding personnel (incidents) and situations where the mountain lions killed for public safety reasons (safety) from January 1, 2009 through December 31, 2013.

### 2013 – 95 incidents / 2 Safety

- Tehama 1 female
- Inyo 1 male

### 2012 – 162 incidents / 7 Safety

- Butte 1 not reported
- Modoc 1 female
- San Mateo 2 unknown
- Los Angeles 1 male
- Orange 1 male
- Stanislaus 1 female

### 2011 – 214 incidents / 3 Safety

- San Bernardino 1 female
- San Bernardino 1 male
- Tulare 1 female

## 2010 – 127 incidents / 7 Safety

- Kern 1 female
- San Joaquin 1 female
- Fresno 1 male
- San Bernardino 1 male
- Alameda 1 not reported
- San Bernardino 1 male
- San Luis Obispo 1 male

## 2009 – 141 incidents / 1 Safety

- San Diego 1 male

---

**Wildlife Investigations Lab** (<https://www.wildlife.ca.gov/Explore/Organization/WLB/WIL>)  
1701 Nimbus Road Suite D, Rancho Cordova, CA 95670  
(916) 358-2790 | [WILAB@wildlife.ca.gov](mailto:WILAB@wildlife.ca.gov) (<mailto:WILAB@wildlife.ca.gov>)



### Mountain Lions in California

[Frequently Asked Questions \(/Conservation/Mammals/Mountain-Lion/FAQ\)](#)

[Verified Mountain Lion Attacks on Humans in California \(/Conservation/Mammals/Mountain-Lion/Attacks\)](#) (from 1986)

[Trends in Mountain Lion Encounters \(/Conservation/Mammals/Mountain-Lion/Trends\)](#)



[Home \(/\)](#) | [Keep Me Wild \(https://www.wildlife.ca.gov/Keep-Me-Wild\)](https://www.wildlife.ca.gov/Keep-Me-Wild) | [Lion \(#\)](#)

[Login](#)

## Keep Me Wild: Mountain Lion

### California Mountain Lions

More than half of California is mountain lion habitat. Mountain lions generally exist wherever deer are found. They are solitary and elusive, and their nature is to avoid humans.

Mountain lions primarily eat deer, but, if allowed, they will prey on vulnerable pets and livestock. In extremely rare cases, even people have fallen prey to mountain lions.

Mountain lions that threaten people are immediately killed. Those that prey on pets or livestock can be killed by a property owner after the required permit is secured. Moving problem mountain lions is not an option. It causes deadly territorial conflicts with other mountain lions already there. Or the relocated mountain lion returns.

Help prevent unwanted conflicts with these beautiful wild animals. Do your part, keep them wild.

### Living in Mountain Lion Country

- Acknowledge that you live in mountain lion country and make a commitment to educate yourself. Talk to your neighbors and work together.
- Never feed deer or other wildlife; it is illegal to feed deer and other big game in California and it will attract mountain lions.
- Deer-proof your landscaping by avoiding plants that deer like to eat. For tips, request A Gardener's Guide to Preventing Deer Damage from CDFW offices.
- Trim brush to reduce hiding places for mountain lions.
- Don't leave small children or pets outside unattended.
- Install motion-sensitive lighting around the house.
- Provide sturdy, covered shelters for sheep, goats, and other vulnerable animals.
- Don't allow pets outside when mountain lions are most active—dawn, dusk, and at night.
- Bring pet food inside to avoid attracting raccoons, opossums and other potential mountain lion prey.

### What to do if you Encounter a Mountain Lion

Mountain lions are quiet, solitary and elusive, and typically avoid people by nature. However, as human population expands into mountain lion habitat, more frequent sightings may occur and human/mountain lion encounters may increase.

Mountain lion attacks on humans are extremely rare. However, attacks have occurred in California. Understanding mountain lion behavior and how to act responsibly in mountain lion country may greatly reduce potential conflict with these majestic animals.

The following safety information is a compilation taken from wildlife managers, wildlife officers and scientists that study mountain lion behavior. Although no strategy in the event of an encounter is guaranteed to be successful in every situation, these tips will help keep you safe in lion country.

- Do not hike, bike, or jog alone. Stay alert on trails.
- Avoid hiking or jogging when mountain lions are most active – dawn, dusk, and at night.
- Keep a close watch on small children.
- Off leash dogs on trails are at increased risk of becoming prey for a mountain lion.
- Never approach a mountain lion. Give them an escape route.
- **DO NOT RUN.** Stay calm. Running may trigger chase, catch and kill response. Do not turn your back. Face the animal, make noise and try to look bigger by waving your arms, or opening your jacket if wearing one; throw rocks or other objects. Pick up small children.
- Do not crouch down or bend over. Squatting puts you in a vulnerable position of appearing much like a 4-legged prey animal.
- Be vocal; however, speak calmly and do not use high pitched tones or high pitch screams.
- Teach others how to behave during an encounter. Anyone who runs may initiate an attack.
- Carry and know how to use bear spray to deter a mountain lion. Bear spray has been shown to be successful in emergency situations with mountain lions. Have the spray readily accessible. Carry in a holster belt or attach to a mountain bike. Talk to the folks at your local outdoor store. Make sure you know how to properly use bear spray. People have been known to spray their own faces when attempting to use it.
- If a lion attacks, fight back. Research on mountain lion attacks suggests that many potential victims have fought back successfully with rocks, sticks, garden tools, even an ink pen or bare hands. Try to stay on your feet. If knocked down, try to protect head and neck.
- If a mountain lion attacks a person, immediately call 911.
- Report unusual mountain lion behavior to your local CDFW regional office.



(<https://www.wildlife.ca.gov/Keep-Me-Wild>)

SOURCE: <https://patch.com/california/losgatos/los-gatos-mountain-lion-sighting-residents-should-avoid-area-police-warn>

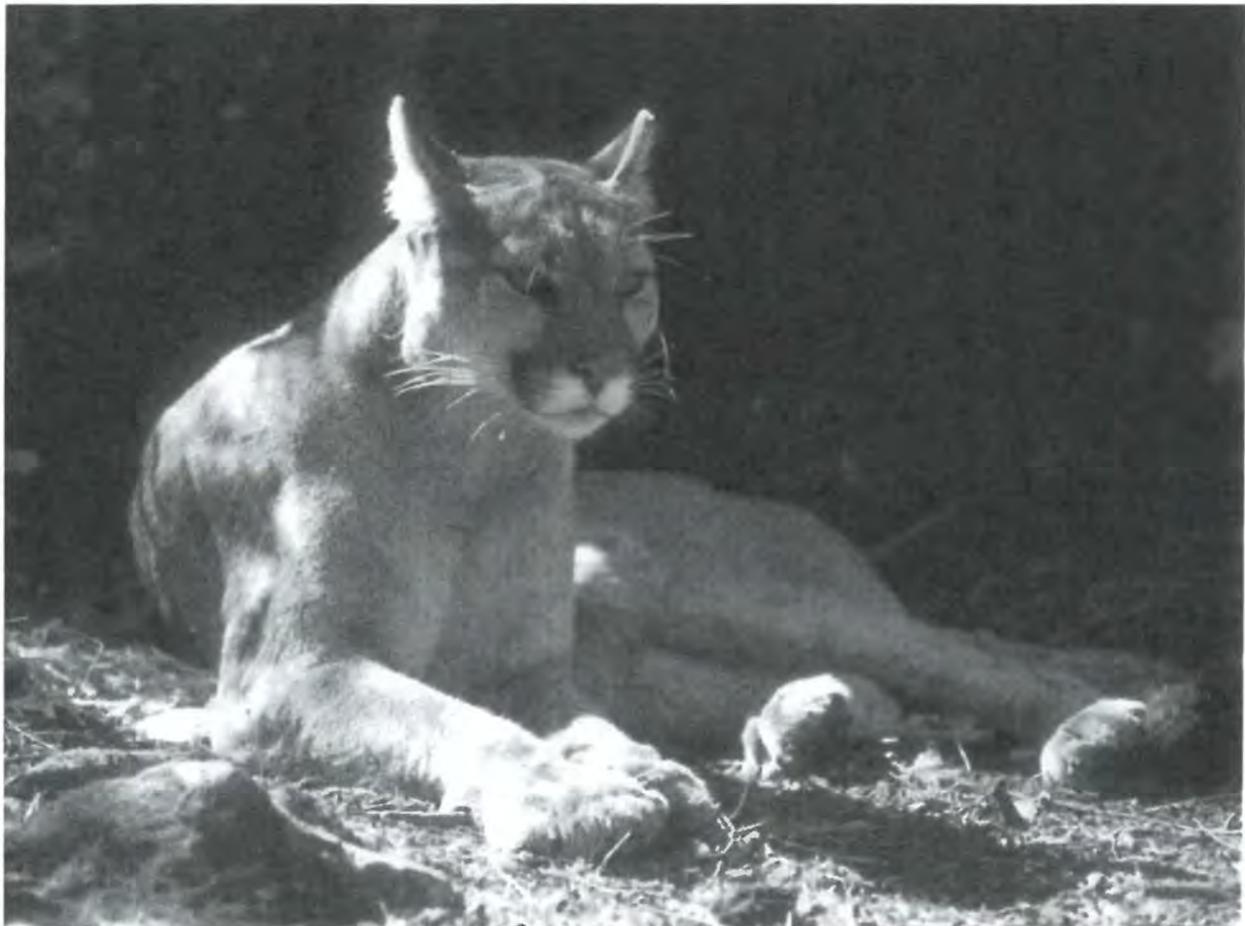
Los Gatos Patch

Police & Fire

# Los Gatos Mountain Lion Sighting: Residents Should Avoid Area, Police Warn

**BREAKING:** Businesses and residences in the immediate area have been advised of the sighting, police said.

By [Maggie Avants](#), Patch Staff | Aug 2, 2017 2:09 pm ET | Updated Aug 2, 2017 2:13 pm ET



LOS GATOS, CA -- A recent mountain lion sighting along Los Gatos Creek Trail has prompted authorities to cordon off the area and post mountain lion sighting advisories.

The Los Gatos-Monte Sereno Police Department said Tuesday afternoon that the sighting was along the west side of Los Gatos Creek, north of Charter Oaks Circle.

A citizen reported the sighting to police, who responded to the area and observed a non-distressed mountain lion seated inside a large water drain culvert, positioned along the east embankment of the Los Gatos Creek, police said in a statement. After monitoring the area for an hour, the mountain lion was last seen running east inside the culvert pipe which has numerous outlets at various drainage points in the county, police said.

The general area is in close proximity to a known mountain lion habitat, police said, and the California Department of Fish and Wildlife has been notified of the sighting.

As police and state wildlife personnel work to ensure the safety of the area, the community is asked to stay away from the vicinity. Police noted that the trail was already closed to public access between Charter Oaks Circle and Knowles Drive because of previous damage.

"Businesses and residences in the immediate area have been advised by police of the sighting," police said. "Please stay out of the immediate area, do not access the closed sections of the Los Gatos Creek Trail (north of Charter Oaks Circle), and call 911 if there is an emergency or immediate threat."



**TOWN OF LOS GATOS  
POLICY COMMITTEE REPORT**

MEETING DATE: 11/15/2018

ITEM NO: 4

ADDENDUM

---

DATE: NOVEMBER 14, 2018

TO: MAYOR AND TOWN COUNCIL

FROM: LAUREL PREVETTI, TOWN MANAGER

SUBJECT: DISCUSS AND PROVIDE DIRECTION ON PROPOSED AMENDMENTS TO CHAPTER 6 (BUILDINGS AND BUILDING REGULATIONS) AND CHAPTER 29 (ZONING REGULATIONS) OF THE TOWN CODE REGARDING FENCES, HEDGES, AND WALLS.

REMARKS:

Attachment 14 contains additional public comment received after distribution of the report.

ATTACHMENTS:

Attachments previously received with the November 7, 2018 Staff Report:

1. Draft Ordinance Amending Town Code Chapter 6 and Chapter 29
2. Regulated Fence Area Exhibit
3. Maps Showing Distribution of Properties in the Hillside Area by Size
4. Impact of Proposed Ordinance Versus Lot Size Calculations
5. Scatter Plot of Property Sizes by Zone in Hillside Area
6. Noticing Requirements for Minor Residential Development Applications
7. Fence Regulations from Nearby Hillside Communities
8. Sight Triangle and Traffic View Area
9. Summary of Front Yard Fence Height Regulations of Area Jurisdictions
10. Hillside Development Standards and Guidelines Pertaining to Fences
11. General Plan Policies and Actions Pertaining to Fences, Wildlife Habitats, and Migration Corridors
12. Wildlife-Friendly Fence Exhibit
13. Comprehensive Public Comments, from July 26, 2017 through 11:00 a.m. on November 9, 2018

PREPARED BY: SEAN MULLIN, AICP  
Associate Planner

---

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Community Development Department Director

---

PAGE 2 OF 2

SUBJECT: CONSIDER AMENDMENTS TO THE TOWN CODE REGARDING FENCES, HEDGES,  
AND WALLS/A-17-002

NOVEMBER 14, 2018

Attachments received with this Addendum:

14. Public Comments received between 11:01 a.m., Friday, November 9, 2018 and 11:00 a.m., Wednesday, November 14, 2018

RECEIVED

NOV 09 2018

November 9, 2018

Los Gatos Town Council Policy Committee  
C/O Sean Mullin, Associate Planner

TOWN OF LOS GATOS  
PLANNING DIVISION

**Comments concerning Proposed Fence, Wall and Hedge Ordinance for 11/15/18**

As you know, we have concerns about the content of the proposed ordinance and the process of its re-writing and consideration by the Council since 12/5/17.

We strongly urge Town Council to take the following actions:

- 1. Terminate further consideration of a new fence, wall and hedge ordinance for the hillside zones. Leave existing regulations as they are.**
- 2. Use existing Town hillside regulations and processes to pursue goals regarding wildlife when reviewing property that has applied for subdivision or development. Restrictions imposed will therefore be based on physical facts of the specific property being considered for development, and not be an exercise in general theories and the imposition of personal philosophy.**
- 3. Approve the changes to the fencing ordinance as proposed for the non-hillside areas for the entire Town; i.e., allow the lattice extension.**
- 4. Reconsider the practice for meeting minutes to note when petitions are submitted and to mail notices of impactful issues to affected properties.**

Reasons we believe the Council should take the above action are as follows:

- The goals of the new fence, wall and hedge ordinance are vague, poorly defined, and ignore the physical reality of hillside properties, hillside roads, and the very nature of wildlife and its behavior. No real evidence of significant impacts of fencing on existing properties has been established; just feelings and opinions of proponents. Property owners are free to adapt the fences, walls and hedges on their own property to adapt to their family and wildlife as it is on their property.
- The method the ordinance uses to achieve its utopian goals is flawed in several regards as follows:
  - As Sean Mullin has stated to the Council, the variations in size, shape, and topography of hillside properties are infinite. The one-solution-fits-all method of the proposed ordinance unnecessarily impacts property owners' rights to use their property, and achieves essentially nothing for wildlife.
  - The impact of existing fences, walls and hedges on wildlife as related to each developed property is unquantified. Anecdotally, I suggest the impact is minimal. The Council would be taking away property owner rights by universally applying a blunt instrument with little benefit for wildlife.

11/9/18 Comments to Council Policy Committee re Proposed Fence, Wall and Hedge Ordinance

- o The new permitting process alone has a significant impact on property owners. Confusion, delay, cost, and added neighborhood feuds are created, for almost no gain for wildlife. The Town's strategic goal to streamline and simplify regulatory impacts argues against adoption of the new ordinance.
  - o By applying these proposed rules to already-developed property, Council will create a hidden snare for property owners improving and maintaining their property with no knowledge of the proposed rules. An intrusive neighbor's call to the Town will spring months of hassle, cost and delay on an unsuspecting property owner.
  - o Transparent, barbed wire, razor-wire fences wire do not seem a real issue.
  - o The vague, unspecified and unquantified goal of "protecting" wildlife from vehicles is specious. The setting, terrain, dimensions, traffic volumes and speeds of roads in the hillsides vary significantly. Blossom Hill Road, Shannon Road and Kennedy Road create potential hazard to wildlife because of traffic volume, speeds and sight distance issues. Most other roads in the hillside do not. On those roads, traffic volumes are low, speeds low, and the threat to wildlife is nil.
  - o Wildlife makes its own decision when to occupy and/or cross roads, no matter the Town's rules. It finds its own paths on private property and on, across, and along roads. We have several wildlife trails across our property and see them used daily by the full spectrum of local wildlife. Wildlife uses our narrow quiet, low volume road regularly. No change to our existing fencing will change that. In the 42-years we have lived in the hillsides, there has not been one wildlife injury or fatality on our road other than one snake, many years ago. That snake was not affected by fences, walls or hedges of any kind in any place. If a car meets a critter on our road, and the many other hillside roads like it, the critters tend to scurry out of the way and the cars always slow or stop – mutual respect! It works just fine. **The Council and ordinance advocates cannot control wildlife and its choice when to use roads. The Town should not regulate private property in a vain attempt to protect wildlife.**
- The proposed ordinance is equivalent to using a shotgun to kill a fly in your home. It may not even kill the fly, but its use will certainly have significantly side-effects. The proposed ordinance would significantly impact many hillside properties without making any real difference to 99% of wildlife – precisely the kind of low-benefit, high-cost regulation to avoid.

**Process.** We are deeply concerned about the process that was used to develop and bring forward this proposed ordinance to Council. Relevant history is as follows:

- At the Council's 12/5/17 meeting, the first incarnation of the fence ordinance was presented. 24 people spoke at the meeting. Four were non-residents, representing special interest groups; five speakers supported the new restrictions; fifteen speakers opposed the ordinance.

## 11/9/18 Comments to Council Policy Committee re Proposed Fence, Wall and Hedge Ordinance

- At the 12/5/17 meeting, a petition signed by over 260 people was submitted to the Council via the Town Clerk. We were signers of that petition but did not attend.
- The Minutes of the 12/5/17 Town Council meeting contained no mention of the above petition – see the attached copy of those minutes. We consulted with City Clerks of two larger Santa Clara County cities and they both stated their practice would be to include mention of the presentation of all such petitions.
- Following the 12/5/17 meeting, we understand that two citizens began a process of working extensively with Town staff for almost a year. There was no public notice of this process. From watching the tape of the 12/5/17 meeting, it appears ONE activist citizen was awarded the privilege of preparing and arguing for HIS solution to a problem as HE decided existed; a solution that impacts 939 HR properties. 300 other citizens on record as opposing such regulations were left out of the process; afforded no notice of an opportunity to participate. The discussion between staff and Council of this issue 10/16/18 is revealing, omitting the fact no other persons opposed knew about the process.
- None of the 260+ petition signers (the petition grew to 314 signers within a week) or speakers at the 12/5/17 meeting were notified or invited to participate in the ordinance revision working group.
- None of the materials made available to the public in advance of the 10/16/18 Town Council meeting, including the staff report, made mention of the petition.
- Public noticing of Council business for the 10/16/18 hearing was ineffective, unless the goal was to avoid controversy and public involvement.
  - Other than Town Council electronic media sites, the only notice of the 10/16/18 meeting was in the Los Gatos Weekly Times. This paper has a low readership, particularly since it no longer contains Town news, no longer has a local reporter, and now primarily publishes news of San Jose, Cupertino, and Campbell; infrequently, news of Los Gatos.
  - The Weekly Times is generally not delivered in the hillside areas.
  - In spite of the significant impact of the ordinance on private property and lifestyle of its owners, the Town maintains a position of not sending mailed notices of this impending and impactful ordinance. The 939 hillside parcels within the Town received no notice of the proposed ordinance. One would think the story poles history would make clear the need for better noticing.
  - If WVSD wants to raise its rates, it sends a mailed notice to all affected properties. Given the financial and other impacts of this ordinance, one would think the Town would do the same.
- In spite of the above reality, two Council members wanted to adopt the new ordinance on 10/16/19. One Council member stated “the first interest are the animals in the hillsides”. Many property owners, voters and tax payers might be surprised at their ranking.

Thank you for the opportunity to provide these comments. Town staff has been very responsive to our requests for information since the 10/16/18 meeting.

Don & Cheryl Wimberly

PRINTED 10/22/17

**Petition update**

## **Town Council Meeting Update**

**Los Gatos Hillside Property Owners**  
United States

Dec 7, 2017 — On Tuesday December 5th the Town Council of Los Gatos discussed the proposed Fence Ordinance and heard comments from the public ... the majority of which were against the proposal. The status of this petition (with now close to 300 supporters) was also shared. After further deliberation the Town Council agreed to place the proposal on hold to consider a) where it fits within the Town Council's priorities for next year; and b) engaging with an independent consultant to study the matter further. No new dates have been communicated as of yet. I will continue to work with the Director of the Town's Planning Department and will provide further updates as and when they are made available. I'd like to thank each and every one of you for your support. We will keep pushing to ensure an amicable outcome.

Public Hearing Item #13 – continued

**MOTION:** Motion by Council Member Barbara Spector to return the draft ordinance to staff to consider the language as proposed with the following potential modifications: 1) none of the buildings need to be owner occupied; 2) allow ADU's in the RD zone; 3) provide some information regarding an increase to FAR and lot coverage; 4) provide wording to include the two stories when there is already a building with two stories; and 5) provide information on items such as setbacks. **AMENDMENT:** provide report on lot coverage when there is an ADU as opposed to FAR. **AMENDMENT:** to continue the item to January 16, 2018. **Seconded by Council Member Marcia Jensen.**

**VOTE:** Motion passed unanimously.

Recess at 9:14 p.m.

Reconvene at 9:24 p.m.

14. Town Code Amendment Application A-17-002. Project Location: Town Wide. Applicant: Town of Los Gatos.

Consider amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding Fences, Hedges, and Walls (continued from October 17, 2017).

Sean Mullin, Associate Planner, presented the staff report.

Opened Public Comment.

David Weissman

- Provided clarification on his proposed amendments.

Alice Kaufman, Legislative Advocate for the Committee for Green Foothills

- Commented in support of the proposed ordinance.

Kamilah Najieb-Wachob, Intern for the Committee for Green Foothills

- Commented in support of the proposed ordinance.

Jim Vergara

- Commented in **opposition** of the proposed ordinance.

Sam Schaevitz

- Commented in **opposition** of the proposed ordinance.

Public Hearing Item #14 – continued

Richard Reed

- Commented in opposition of the proposed ordinance.

Joanne Chayut

- Commented in opposition of the proposed ordinance.

Lisa Doughty

- Commented in opposition of the proposed ordinance.

Ty Doughty

- Commented in opposition of the proposed ordinance.

Alan Young

- Commented in opposition of the proposed ordinance.

Austin Donnelly

- Commented in opposition of the proposed ordinance.

Kasey Harnish

- Commented in opposition of the proposed ordinance.

Kit Gordon, Sierra Club Loma Prieta Chapter

- Commented in support of the proposed ordinance.

Mackenzie Mossing, Santa Clara County Audubon Society

- Commented in support of the ordinance.

Anik Manocha

- Commented in opposition of the proposed ordinance.

John Bourgeois

- Commented in support of the proposed ordinance.

David Klinger

- Commented in support of a seven foot height including lattice in the non-hillside area.

Bill Kraus

- Commented in opposition of the proposed ordinance.

Public Hearing Item #14 – continued

Bruce McCombs

- Commented in support of the proposed ordinance.

Deborah Acosta

- Commented in **opposition** of the proposed ordinance.

Rupor Iyar

- Commented in support of the proposed ordinance.

Paul Lacey

- Commented in **opposition** of the proposed ordinance.

Linda Caplinger

- Commented in **opposition** of the proposed ordinance.

Steve Doughty

- Commented in **opposition** of the proposed ordinance.

Closed Public Comment.

Council discussed the matter.

**MOTION:**

Motion by Council Member Marcia Jensen to continue the item to a date uncertain pending the outcome of the strategic priorities session, including the prioritization of this ordinance and consideration of a Wildlife Corridor Study; and evaluate input from Council and the public to determine if a compromise is possible. **Seconded by Council Member Marico Sayoc.**

**VOTE:**

Motion passed unanimously.

15. Veteran's Memorial - Architecture and Site Application S-17-033. Project Location: 110 E. Main Street. Applicant: Patrick Flanders. Property Owner: Town of Los Gatos. Consider a request for approval to construct a new Veterans Memorial on property zoned C-1:PD. APN 529-34-108. **RESOLUTION 2017-064**

Sean Mullin, Associate Planner, presented the staff report.

Opened Public Comment.

**From:** Tiffany Douglass <tiffany.douglass@gmail.com>

**Sent:** Monday, November 12, 2018 8:42 AM

**To:** Council

**Subject:** Please support the currently proposed Wildlife Friendly Fencing Ordinance.

Dear Los Gatos Town Council -

**Please support the currently proposed Wildlife Friendly Fencing Ordinance.** I stand with Sierra Club's Loma Prieta Chapter Wildlife Committee for this ordinance.

I am a resident of Los Gatos who loves running and spending time with my family along Los Gatos Creek. I also work in Los Gatos for a renewable energy company. The wildlife & environmental wellbeing of this community is very important to me.

Last month, an effort that the Loma Prieta Wildlife Committee has been involved in for over a year suffered an unexpected setback as the Los Gatos Town Council again refused (3:2) to move forward a vetted, collaborative and important Wildlife Friendly Fencing ordinance. This is the second time Council considered this issue. The ordinance was delayed/returned for "more information" in December 2017. At the time, many residents expressed concerns. This time, the same residents came up in support of the new draft, which provided a compromise that works for both wildlife and property owners. I support for the currently proposed Wildlife Friendly Fencing ordinance.

--

-----

Sincerely,

Tiffany Douglass

(508) 498-8597

**From:** Jane Doe <[letyourvoicebhd@gmail.com](mailto:letyourvoicebhd@gmail.com)>

**Sent:** Monday, November 12, 2018 9:27 AM

**To:** Council

**Subject:** Wildlife Fencing ordinance

I am in support of this ordinance, and would like to understand the reluctance to move forward?

Is it property owner driven?

Pam

## Sean Mullin

---

**From:** Ruth Van Sciver <ruthvansciver@gmail.com>  
**Sent:** Monday, November 12, 2018 2:00 PM  
**To:** Sean Mullin  
**Subject:** supporting wildlife friendly fencing

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Officials,

I'm writing today in support of the proposed ordinance which sets standards for wildlife friendly fencing. I believe that this ordinance provides needed protection for wildlife in Los Gatos, which will have a positive ripple effect in neighboring ecosystems. I urge you to consider creative solutions to allowing homeowners to make their fences wildlife friendly. I also urge the city to address the many cyclone fences that are city and government established.

Animals should be free to move along wildlife corridors without hazards such as razor wire or chain link fencing impeding them. Riparian corridors especially are in need of protection because of their importance to migratory bird populations (which are in decline). Transparent barriers such as see-through plastic and glass are also hazardous to birds, and I support the inclusion of a transparent materials ban in the ordinance. Although I think frosted and other means of blocking the transparency should be an exception.

This ordinance is short, straightforward, and beneficial. I believe it should be passed!

--

Regards,

Ruth Van Sciver



**TOWN OF LOS GATOS  
POLICY COMMITTEE REPORT**

MEETING DATE: 11/15/2018

ITEM NO: 4

DESK ITEM

---

DATE: NOVEMBER 15, 2018

TO: MAYOR AND TOWN COUNCIL

FROM: LAUREL PREVETTI, TOWN MANAGER

SUBJECT: DISCUSS AND PROVIDE DIRECTION ON PROPOSED AMENDMENTS TO CHAPTER 6 (BUILDINGS AND BUILDING REGULATIONS) AND CHAPTER 29 (ZONING REGULATIONS) OF THE TOWN CODE REGARDING FENCES, HEDGES, AND WALLS.

REMARKS:

Attachment 15 contains a table showing lot sizes by zone within the Hillside Area to complement the scatterplot included with Attachment 5. Attachment 16 includes additional public comment received after distribution of the Addendum.

ATTACHMENTS:

Attachments previously received with the November 7, 2018 Staff Report:

1. Draft Ordinance Amending Town Code Chapter 6 and Chapter 29
2. Regulated Fence Area Exhibit
3. Maps Showing Distribution of Properties in the Hillside Area by Size
4. Impact of Proposed Ordinance Versus Lot Size Calculations
5. Scatter Plot of Property Sizes by Zone in Hillside Area
6. Noticing Requirements for Minor Residential Development Applications
7. Fence Regulations from Nearby Hillside Communities
8. Sight Triangle and Traffic View Area
9. Summary of Front Yard Fence Height Regulations of Area Jurisdictions
10. Hillside Development Standards and Guidelines Pertaining to Fences
11. General Plan Policies and Actions Pertaining to Fences, Wildlife Habitats, and Migration Corridors

PREPARED BY: SEAN MULLIN, AICP  
Associate Planner

---

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Community Development Department Director

---

PAGE 2 OF 2

SUBJECT: CONSIDER AMENDMENTS TO THE TOWN CODE REGARDING FENCES, HEDGES,  
AND WALLS/A-17-002  
NOVEMBER 15, 2018

12. Wildlife-Friendly Fence Exhibit

13. Comprehensive Public Comments, from July 26, 2017 through 11:00 a.m. on November 9, 2018

Attachments previously received with the November 14, 2018 Addendum:

14. Public Comments received between 11:01 a.m., Friday, November 9, 2018 and 11:00 a.m., Wednesday, November 14, 2018

Attachments received with this Desk Item:

15. Table of Property Sizes by Zone in Hillside Area

16. Public Comments received between 11:01 a.m., Wednesday, November 14, 2018 and 11:00 a.m., Thursday, November 15, 2018

## Property Sizes within the Hillside Area

	Zone					
Acres	R-1	HR-1	HR-2.5	HR-5	HR-20	TOTAL
<b>0 - 1</b>	275	275	107	33	8	698
<b>1 - 2</b>	13	209	161	30	7	420
<b>2 - 3</b>	0	22	80	30	7	139
<b>3 - 4</b>	1	5	31	12	5	54
<b>4 - 5</b>	0	6	11	14	4	35
<b>5+</b>	0	10	42	21	10	83
<b>TOTAL</b>	289	527	432	140	41	<b>1429</b>

*This Page  
Intentionally  
Left Blank*

## Sean Mullin

---

**From:** agroecology@aol.com  
**Sent:** Wednesday, November 14, 2018 3:53 PM  
**To:** Sean Mullin  
**Subject:** Wildlife Friendly Fencing ordinance .

Hello Sean can you include this in the papers for tomorrow's meeting ?

Dear Two Council

Please support the currently proposed Wildlife Friendly Fencing ordinance . A lot of work has gone into this compromise by folks of different opinions and backgrounds.

Thanks !

Les and Susan Kishler  
48 year residents of Los Gatos

## Sean Mullin

---

**From:** David Fox <david@foxla.net>  
**Sent:** Wednesday, November 14, 2018 4:01 PM  
**To:** Sean Mullin  
**Subject:** Re: Draft Ordinance now available. Town Council Policy Committee, Nov. 15, 2018  
**Attachments:** Current proposal.pdf; Fence narrative.pdf; Fences at setbacks.pdf; From approved project.pdf; Using scenic easements.pdf; Using setbacks.pdf

Mr. Mullin,

Please excuse the lateness of this submittal. I was out of the country when I got your last email and have just now had the chance to send this to you.

This is a response and alternate set of proposals to the current fence ordinance under consideration. I have many clients in the with hillside properties and in my discussions with them they are universally opposed to this draft ordinance. Please accept the letter and exhibits for consideration. All of the exhibits are formatted at 11x17 for printing.

Please let me know if I can provide any additional documents and I will see you at the meeting tomorrow.

Regards,  
David Fox



Comments re: Proposed fencing restrictions

Commissioners,

My name is David Fox and I am a practicing landscape architect with my office in town. The majority of my practice revolves around the design and construction of landscapes for hillside homes in Los Gatos, Monte Sereno, and Saratoga.

Opening narrative:

The following sections outline concerns and practical considerations regarding the fencing of property.

**Concerns of residents:**

In my practice I am confronted with how to fence a property on every project. My clients over the years have expressed the following concerns most often when talking about the placement of fencing on their properties.

Security: For both their children and animals inside the fences and for keeping animals outside of the fences and away from the house, landscape and occupants.

Containment: Most of clients have children, many of them young children. There is a strong desire to provide a safe area for their children to play in outside the home that will allow for general play and sports activities. Just keeping a ball from rolling all the way down the hill becomes important in day to day life. Most outdoor activities take more room than could be afforded with the fences limited to within 30' of the main house.

Safety: Keeping the dog in the lot. Keeping the kids in a contained area. Keeping the children and pets away from the street and on the property. And separating those that use the yard from animals that can be aggressive and destructive. In hillside areas that have path systems the fences also insure that users of the trails would be mostly kept off of private property.

**Site considerations:**

Outdoor living areas and swimming pools

The owners of hillside homes desire the same outdoor amenities that most homeowners do. Entertainment areas, swimming pools, trellises, patios and other structures for shade, BBQ, and social events. These different elements are combined to create the outdoor living areas that are commonly seen and that most clients desire. The current proposal is so severely limiting that many conforming and approved designs could not be fenced and that becomes a problematic especially when a swimming pool is involved.

In regards to pools, a standard pool is 20' x 40'. An owner would be very hard pressed to fit this within the proposed 30' zone of fencing even with the most minimum paving around pool. Pools are required by the state to have two safety measures. Often one of those is an automatic cover, but the most common is a fence. The fence serves two purposes. It keeps the general public and animals from gaining access and provides a measure of privacy for the owners. An overwhelming percentage of my clients find a fence to be vital to a pool area.

### Surrounding fenced properties

If a new project comes to the town unless it is a newly created lot there will likely be existing fences on the property. And those fences are very often shared with neighbors. If the current proposal is adopted the new project would be required to keep the fences 30' from the house and would create a fenced island within the already fenced adjacent properties. The neighbors cannot be forced to take down their fences as part of the new project and thus a situation would be created where an animal could enter the property and not have an exit other than the way it came in. This hardly seems to serve the purpose. And it cannot be depended that the surrounding properties will ever redevelop.

### Repair of existing fences

Again, unless the lot is newly created it would be to the owners great advantage to continuously repair any existing fences forever. Faced with the prospect of having to comply with the current proposal there would be an overwhelming advantage to keep whatever fences the owner and their neighbors have. This would almost ensure that the fences within the town would see little change unless a property was redeveloped and if the neighboring properties are fenced the new owner could rely on those fences for enclosure and share in the cost of repairs.

### **Ending observations:**

Most of the hillside lots are large by nature, 1-5 acres and above for most zonings. The owners of these properties would not be unreasonable in asking that conforming projects be fenced. This could be achieved in any of the ways illustrated in the exhibits and still provide corridors for wildlife movement. the current proposal is not a balance of the needs of people and animal movement. Residents should be able to enjoy their properties and feel secure, be afforded some privacy and to have security for their own animals and families. I believe it would benefit the entire community for the commission and council to take a balanced approach that makes the best compromise for all parties human and animal.

There are five exhibits.

**Exhibit A** shows how scenic easements could be used to create corridors for animal movement and still provide the owners of lots flexibility on how their property is used. The easements shown are the actual easements on the Highlands of Los Gatos subdivision.

**Exhibit B** shows what designated setbacks for fences would look like and this could be applied to any hillside lot in town. For lots with existing fences the standard could be written such that any proposed development that requires planning approval would require that the existing fences be brought to the designated setbacks.

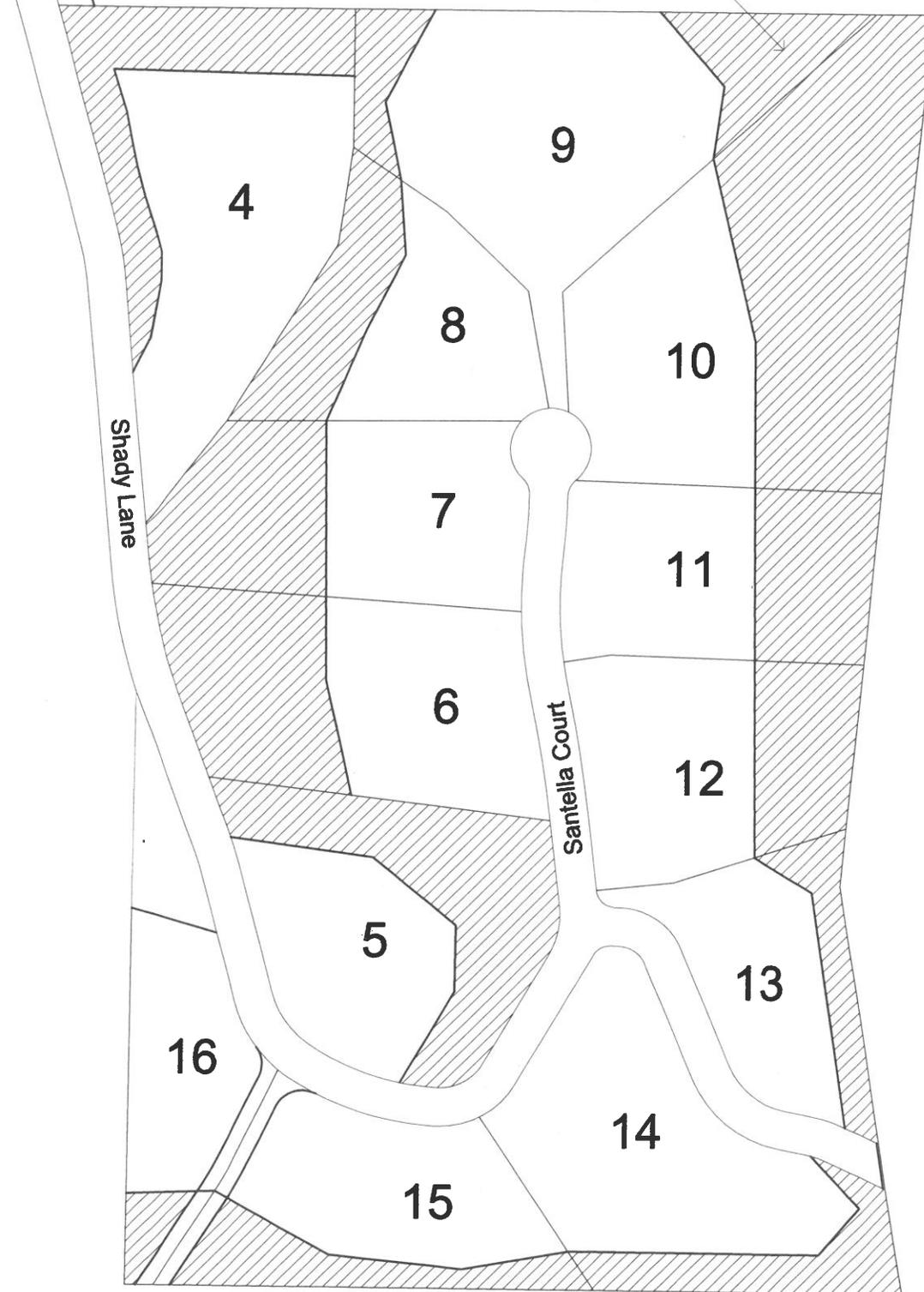
**Exhibit C** shows what the current proposal would look like over an actual project here in town. The approved project could not be enclosed including the pool. There would be a lack of privacy around the pool and most of the outdoor space would be open to intrusion and the pool would be accessible to anyone passing by or animals.

**Exhibit D** shows what designated setbacks for fences would look like on an individual lot. Any of the setbacks could be increased for a larger corridor. For lots with existing fences the standard could be written such that any proposed development that requires planning approval would require that the existing fences be brought to the designated setbacks.

**Exhibit E** illustrates setting the fences back a designated distance from the approved landscape development on the property. This would create a yard and still leave the vast majority of the lot open. The designated setback could be anywhere from 30' to 50' (40' is shown in the exhibit) and still keep large open areas on most hillside lots. On lots where this would interfere with established easements or other existing setbacks, those lines could be used or the staff could work with the applicant on the final fence line.

**Exhibit A**

Scenic easement



Using scenic easements as a means of limiting fences.  
The above are the existing scenic easements on lots  
4-16 of the Highlands of Los Gatos subdivision

**Exhibit B**

Easement added to adjacent property at time of redevelopment

40' rear easement creates up to an 80' wide corridor

20' side yard easement for a combined 40' corridor

25' front yard setback per existing code

Shady Lane

Santella Court

4

9

10

8

7

11

6

12

5

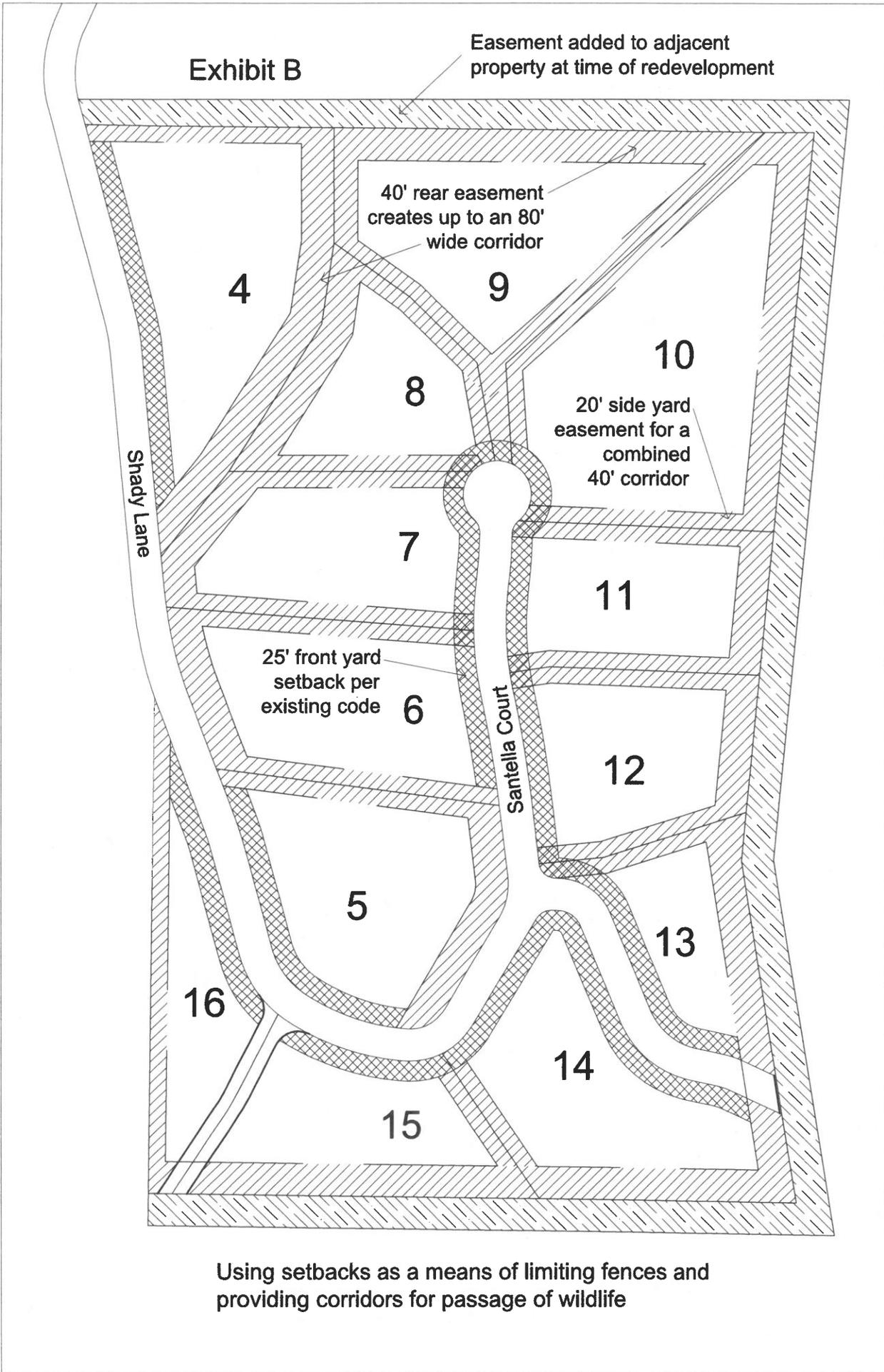
13

16

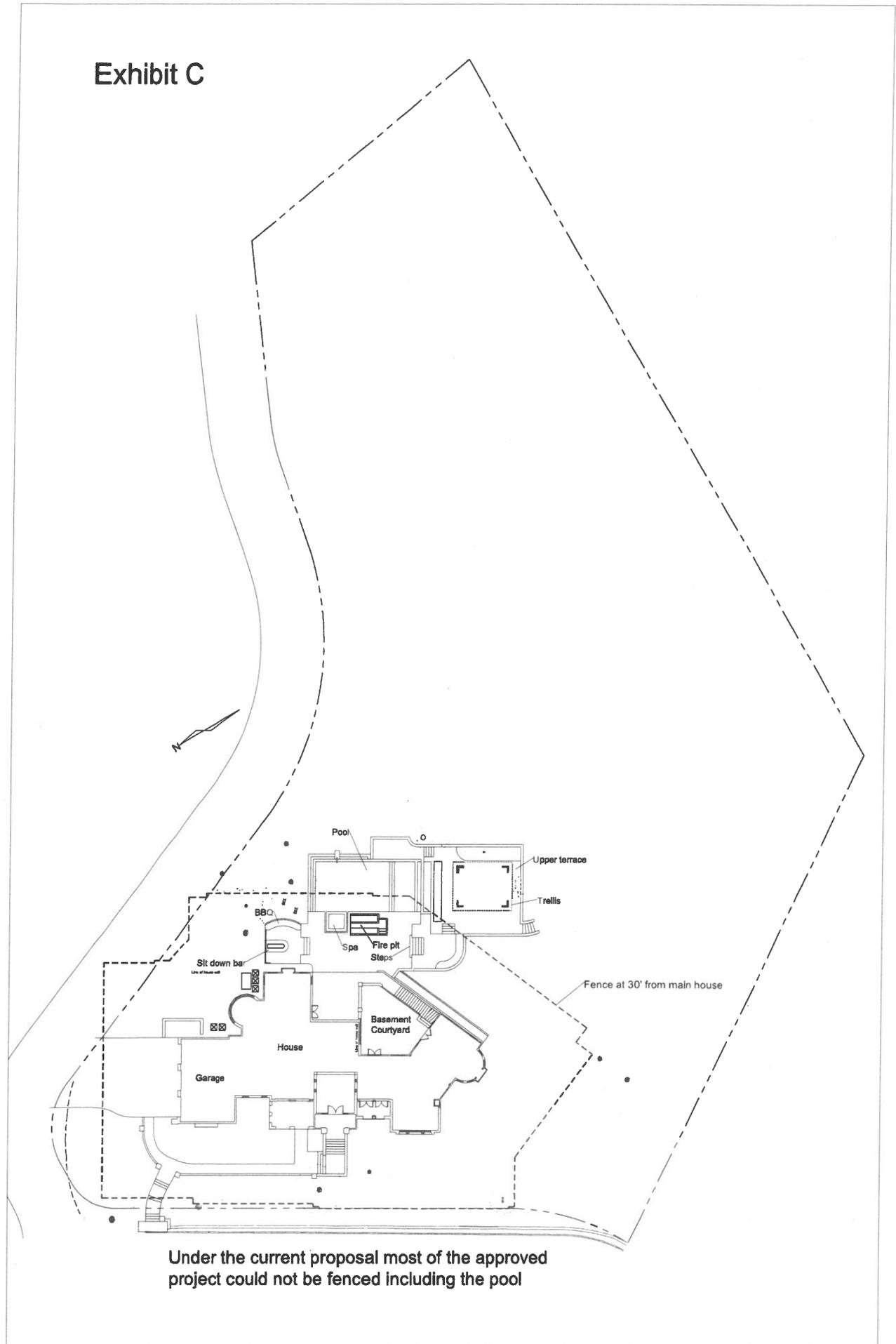
14

15

Using setbacks as a means of limiting fences and providing corridors for passage of wildlife

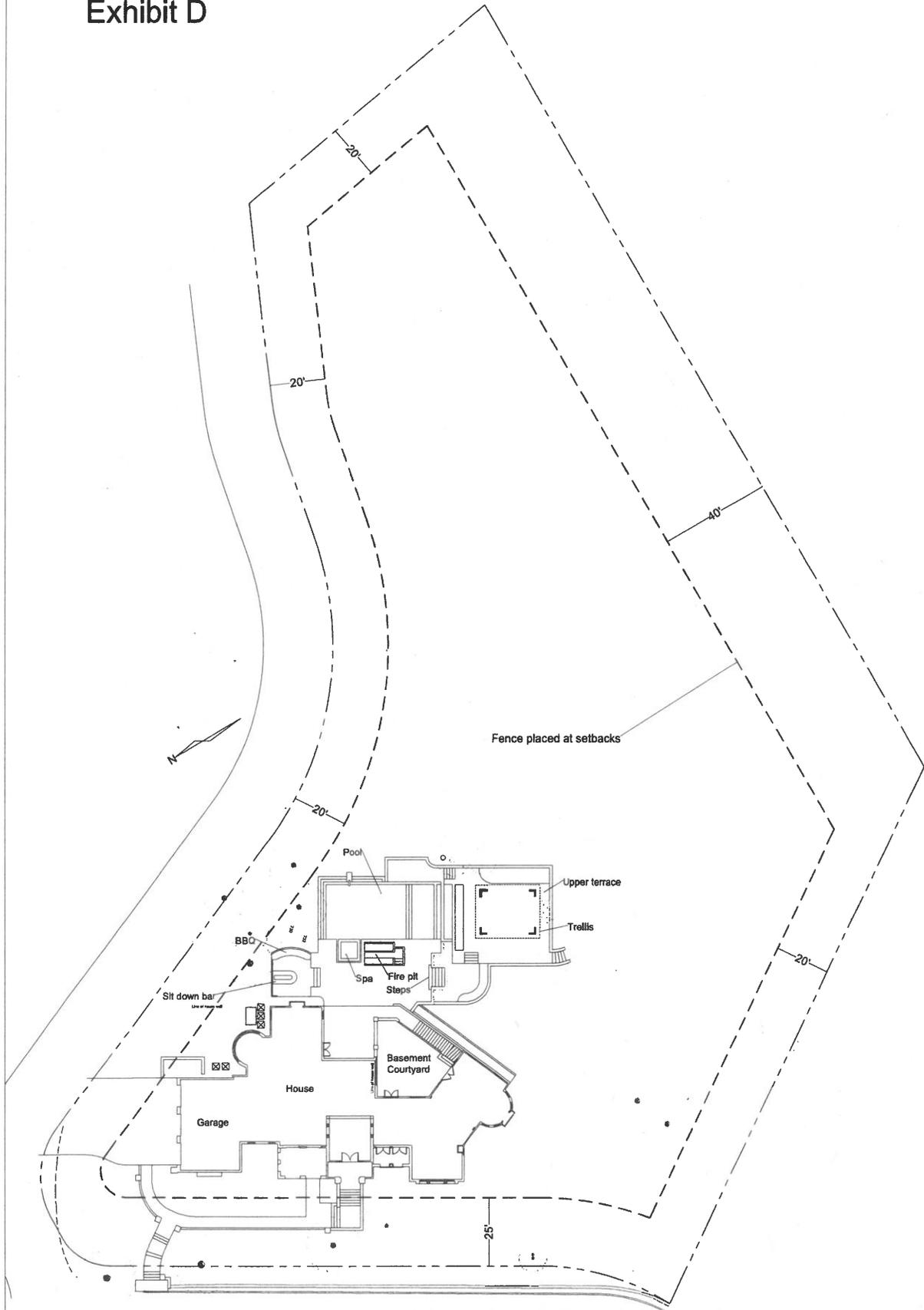


# Exhibit C



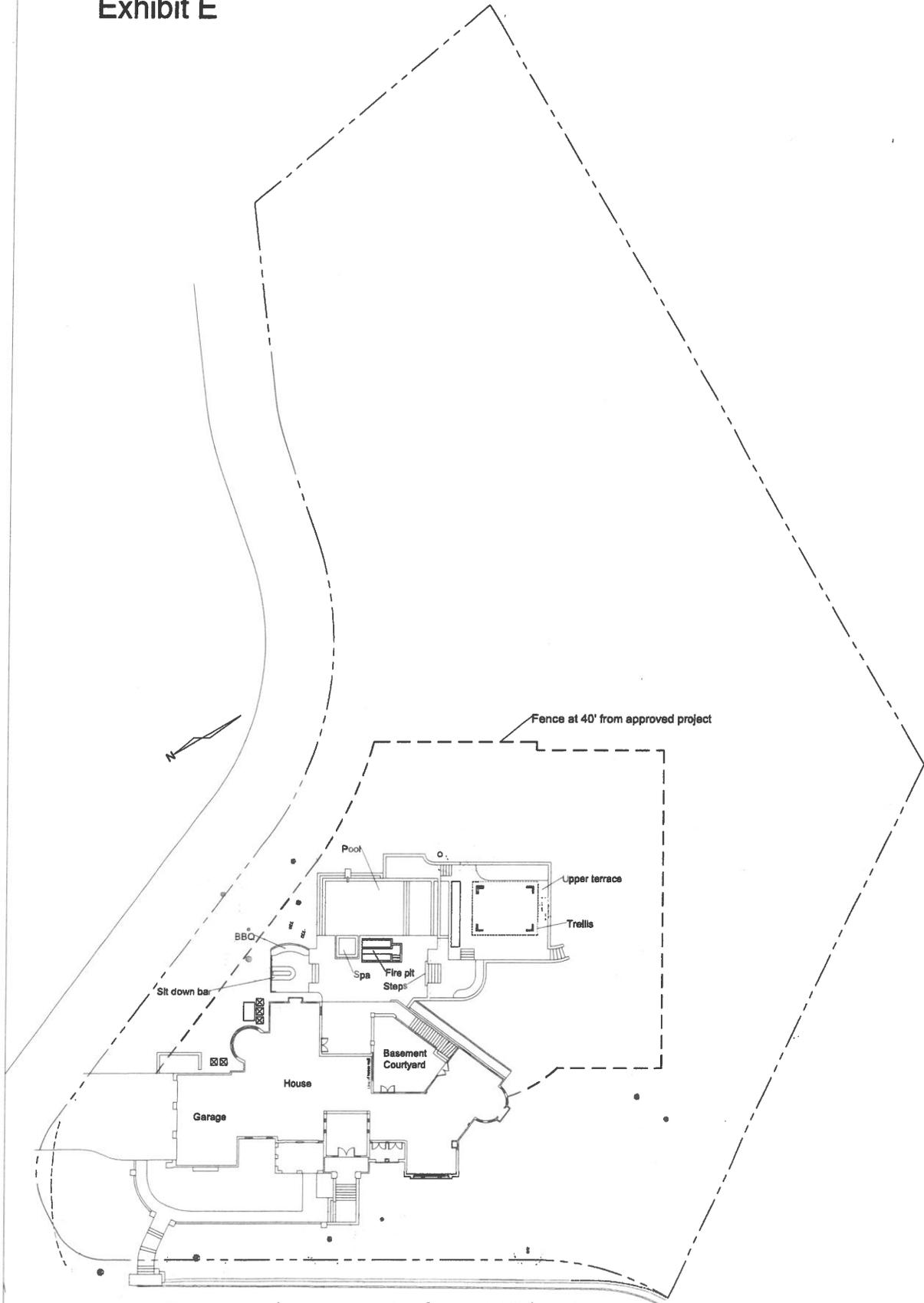
**Under the current proposal most of the approved project could not be fenced including the pool**

# Exhibit D



This proposal would place the fence at the setback lines the town already has in place. The rear setback would be increased from 30' to 40'.

# Exhibit E



This proposal would place the fence at 40' from the approved project and would provide enclosure to all elements and still leave the majority of the lot open

*This Page  
Intentionally  
Left Blank*