



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 08/04/2020

ITEM NO: 15

DATE: August 4, 2020
TO: Mayor and Town Council
FROM: Lynne Lampros, Deputy Town Attorney
SUBJECT: Introduction by Title Only of an Ordinance of the Town of Los Gatos Amending Chapter 18, by Adding Article IX, Sections 18.90.010- 18.90.050 of the Los Gatos Town Code Entitled Drones and Unmanned Aircraft Systems

RECOMMENDATION:

Introduction by title only of an Ordinance of the Town of Los Gatos amending Chapter 18, by adding Article IX, Sections 18.90.010-18.90.050 of the Los Gatos Town Code entitled Drones and Unmanned Aircraft Systems.

BACKGROUND:

Unmanned Aircraft Systems, known commonly as “drones,” have historically been the province of small groups of hobbyists, kept few in number by the time-consuming construction of remote-controlled model airplanes that were limited in their scope of use. Recent technological advancements have increased the proliferation of drones that are preconstructed, affordable, and can be integrated with the use of camera technology that dramatically increase the potential uses from government to business applications such as real estate or insurance, to wide ranging recreational use such as amateur photography and videography.

With these greater numbers of drone users comes the need for local agencies to create a regulatory framework that provides for the appropriate uses of this technology, while also addressing important public safety, nuisance and other issues that arise as drones are increasingly used for recreational, business, and governmental purposes.

PREPARED BY: Lynne Lampros
Deputy Town Attorney

ATTACHMENT 1

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

DISCUSSION:

The Federal Aviation Administration (FAA) rules for small unmanned aircraft (UAS) operations other than model aircraft – Part 107 of FAA regulations – cover a broad spectrum of commercial and government uses for drones weighing more than 0.55 pounds. While the FAA regulates all airspace the FAA also states, “Laws traditionally related to state and local police power — including land use, zoning, privacy and law enforcement operations — generally are not subject to federal regulation.” This statement identifies a window for local regulation of drone activities.

Currently, the Los Gatos Monte Sereno Police Department lacks the ability to enforce federal law because the FAA claims jurisdiction over the airspace. For example, a resident who is being disturbed by a drone circling over their home would need to call the FAA. The League of California Cities adopted a drone policy in 2018 which articulates the need for local law enforcement to have the authority to enforce drone laws, so that a resident with a drone issue could call 911 and have the local Police Department respond rather than needing to contact the FAA. The elements of the accompanying draft Ordinance are predicated on the League policy and state and federal law.

The League of California Cities drone policy sets out suggested minimum rules for the state, including but not limited to, the following activities:

- Ensuring that drones are properly registered with the FAA;
- Upholding public safety standards for privacy and safety; and
- Granting immunity from liability for jurisdictions that establish drone areas or parks.

The policy advocates that local law enforcement should have the authority to enforce state and local drone laws to ensure that problems associated with drones can be addressed at the local level.

Finally, the League policy identifies the role that towns/cities should play including but not be limited to:

- Retaining the ability to impose time, place, and manner restrictions on drone operations under 400 feet in city airspace;
- Retaining the ability to enact and enforce rules of general applicability to address unsafe drone operations, such as trespassing, nuisance or noise issues;
- Ensuring that local drone ordinance information is readily available to drone operators;
- Establishing clear rules for hobbyists by adopting community-based safety guidelines;
- Adopting guidelines for how drones would be used within the city’s airspace; and
- Planning appropriately for the use of drones in public spaces and designating “no fly” zones around critical infrastructure.

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DISCUSSION (continued):

The proposed Ordinance incorporates the League guidance. The addition of this Ordinance to the Town Code would enable Police and Code Compliance staff to address these safety and land use considerations while establishing clear guidance for hobbyists and commercial users of drone technology.

CONCLUSION:

Staff recommends that Council accept public comment and then move for the introduction and first reading of an Ordinance, by title only, amending Chapter 18, by adding Article IX, Sections 18.90.010-18.90.050 of the Los Gatos Town Code Entitled Drones and Unmanned Aircraft Systems.

ALTERNATIVES:

Council could refer the matter back to staff for consideration of any issues raised.

COORDINATION:

This report was coordinated through the Town Attorney's Office and the Parks and Public Works Department, and the Police Department.

FISCAL IMPACT:

There are no significant fiscal impacts associated with the approval of these amendments. Potential enforcement costs may be offset by penalties levied.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Draft ordinance