



**OFFICE OF THE CITY CLERK**

CITY HALL  
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255  
TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366  
CUPERTINO.ORG

**CITY COUNCIL STAFF REPORT**

Meeting: July 18, 2023

Subject

Hearing to consider approval of lien assessment and collection of fees on private parcels resulting from abatement of public nuisance (weeds and/or brush) for the annual Weed and Brush Abatement Programs and accompanying budget appropriation request

Recommended Action

1. Conduct public hearing to consider objections from any property owners listed on the assessment report;
2. Adopt the Resolution No. 23-\_\_\_ approving the lien assessment and collection of fees on private parcels for the annual Weed and Brush Abatement Programs; and
3. Approve budget appropriations of \$7,454 in the General Fund (100-13-133 480-401) to fund properties that passed the initial inspection

Reasons for Recommendation

The lien assessment and collection process includes both the Weed Abatement Program and the Brush Abatement Program. The primary function of these programs is to work with property owners to ensure that brush, dry weeds and dead vegetation are cleared before the start of the fire season. Only properties that have not met the requirements of the two programs are listed in the assessment report.

*Weed Abatement Program*

The Weed Abatement Program is conducted in partnership with the Santa Clara County Department of Agriculture. Chapter 9.08 of the Cupertino Municipal Code and requires property owners to remove or destroy hazardous weeds on their property for fire protection. Properties that are not in compliance with the program requirements are required to correct the conditions within a set deadline. If the property owner does not remove the weeds by the deadline, then the County is authorized to do so and to recover the cost of abatement from the property owner. If a property listed is abated before the April 30 deadline, then the County administrative fee (initial inspection fee) is waived.

*Weed Abatement Program Process for Initial Inspection Fees*

Every property in the Weed Abatement Program receives an initial inspection by the County after April 30 to determine if weeds have been properly abated. The County's inspection fee for the 2023 season is \$92. The City pays the initial inspection cost if a property passes the initial inspection by the April 30 deadline. In November 2020, The City Council approved an ongoing budget appropriation to cover these costs (Attachment F - November 2, 2020 Minutes). This year 82 properties were found to be compliant and passed the initial inspection (Attachment C – Passed Inspection Report). The total cost for those properties was \$7,452, which is within the \$8,886 in budget appropriation. Accordingly, the inspection costs will be paid by the City and those properties are not included for consideration at this hearing. This hearing will consider approval of a lien assessment and collection of fees on properties that did not pass the initial inspection and thus incurred costs for the County to abate the nuisance (Attachment B – Assessment Report).

*Brush Abatement Program*

The Brush Abatement Program is managed by the Santa Clara County Fire Department and is separate from the Weed Abatement Program. Section 16.40.200 of the Cupertino Municipal Code requires property owners in the locally adopted Wildland-Urban Interface Fire Area (WUI) to maintain effective defensible space by removing brush, flammable vegetation and combustible growth as required by the fire code official due to steepness of terrain or other conditions. The County is authorized to remove the brush if the property owner does not do so and to recover the cost of abatement from the property owner. This year there were no parcels from the Brush Abatement Program on the assessment report.

*Process for Weed and Brush Abatement Programs Outlined*

The process consists of eight steps that begin in November and go through August of each year. At this time the process is at Step No. 8. On July 6, 2023, the County filed with the City the report and assessment list of all costs associated with the abatement of weeds, brush, and/or combustible debris (Attachment B - Assessment Report). The County also filed a report of properties that passed inspection and the costs associated with the initial inspection for payment by the City (Attachment C – Passed Inspection Report). On July 7, 2023, the City Clerk's Office mailed notification letters to the property owners on the list that did not pass inspection, informing them of the hearing date (Attachment E – City Mailed Hearing Notice).

1. County prepares a report of all properties that have been non-compliant in removing weeds in the last three years and provides that report to the City (Nov)
2. City Council adopts a resolution declaring properties as having potential fire hazards or other potential nuisances from weeds and sets hearing to declare public nuisance and to consider objections for proposed removal (Nov-Dec).

- 3 County sends notice to the property owners on the report notifying them of the hearing date and explaining that they must remove or destroy weeds by the abatement deadline of April 30, 2023 or it will be done for them, with cost of the abatement plus administrative costs assessed to their property (Dec).
- 4 City sends a courtesy letter to property owners listed on the report, notifying them of the hearing and the abatement deadline. If a property is abated before the April 30 deadline then the initial inspection fee will be waived. (Jan).
4. City Council holds the hearing to consider objections by property owners and adopts a resolution declaring weeds a public nuisance and ordering abatement (Jan) (Attachment D - Adopted Resolution Ordering Abatement).
- 6 County sends a courtesy letter to property owners listed on the report, notifying them again of the abatement deadline, and noting that they will work with the property owner to be sure the weeds are removed (Jan-Feb).
7. City sends a courtesy letter to property owners listed on the report, reminding them of the abatement deadline and that the initial inspection fee will be waived if the property is abated before the deadline (Mar).
8. After April 30, the properties are inspected by the County to verify that weeds were removed and proceeds with abatement if the property fails the inspection. The County makes a report of costs associated with the abatement and proposed to be assessed and provides that report to the City (June-July) (Attachment B – Assessment Report). The County also provides a report of costs associated with the initial inspection fee for compliant properties, for payment by the City (Attachment C – Passed Inspection Report).
9. City notifies the property owners listed on the assessment report, notifying them of the hearing date. (July-Aug) (Attachment E – City Mailed Hearing Notice).
10. City Council holds a hearing, considers any disputes, and adopts a resolution placing a lien assessment on the properties to allow the County to recover the cost of weed and/or brush abatement (July-Aug).

#### Fiscal Impact

Any fees waived by the Council will be billed to the City by the County to cover their cost of servicing the property. The initial inspections costs amount for compliant properties are \$7,452 (Attachment C). These costs are funded by the General Fund. Material costs for supplemental mailings by the City are approximately \$300. Since the initiation of the supplemental program in 2020, the City has funded \$27,247 to cover the fees for properties that passed the initial inspection. The costs were \$10,465 in 2022, \$7,896 in 2021, and \$8,886 in 2020.

Sustainability Impact

No sustainability impact.

California Environmental Quality Act

The weed abatement program is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines section 15304 (minor alterations to land).

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Prepared by: Kirsten Squarcia, City Clerk

Approved for Submission by: Pamela Wu, City Manager

Attachments:

- A - Draft Resolution and Exhibit A
- B - Assessment Report (Exhibit A)
- C - Passed Inspection Report
- D - Adopted Resolution Ordering Abatement
- E - City Mailed Hearing Notice
- F - November 2, 2020 Minutes