



## OFFICE OF THE CITY CLERK

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### CITY COUNCIL STAFF REPORT

Meeting: January 21, 2020

#### Subject

Abatement of public nuisance from weeds or other fire hazards pursuant to provisions of Cupertino Municipal Code Chapter 9.08 and Resolution No. 19-141; hearing for impacted property owners to contest the matter of proposed abatement.

#### Recommended Action

Adopt the Draft Resolution ordering abatement of public nuisance from weeds or other fire hazards pursuant to provisions of Cupertino Municipal Code Chapter 9.08 and Resolution No. 19-141; and conduct hearing for impacted property owners to contest the matter of proposed abatement.

#### Discussion

The purpose of the Cupertino Weed Abatement Program is to prevent fire hazards and other nuisances posed by vegetative growth (weeds) and the accumulation of combustible materials. This program is managed by the Santa Clara County Department of Agriculture. Cupertino Municipal Code Chapter 9.08 requires property owners to remove or destroy weeds on their property for fire and public health protection. The weed abatement process is in place to notify the property owners of this responsibility, authorize the County to remove the hazards if the property owner does not, and allow the County to recover the costs of abatement.

On December 3, 2019 the Council adopted Resolution No. 19-141, declaring the growth of weeds, the accumulation of garden refuse, cuttings and other combustible trash upon private properties to be a potential fire hazard and public nuisance. These properties are identified on the Weed Abatement Program Commencement Report prepared by the County (Attachment B, Exhibit A in Resolution). If Council wishes to adopt the Draft Resolution (Attachment A) ordering abatement of public nuisance, property owners on the Report will have until April 30, 2020 to abate their property. On December 13, 2019, the County mailed a notice to property owners listed on the Report indicating that their property must be abated (Attachment C), and that the City Council would conduct a public hearing on January 21, 2020 in order to consider all property owners having any objections to the proposed removal.

### How Parcels are Added to the Program

Parcels are added to the program through service requests from members of the public, a jurisdictional representative request, or when an inspector finds a non-compliant parcel en route from one active parcel to another. The identified parcels undergo an “add year” process prior to being added to the Program. The add year is a buffer year, set aside for communications with the County and for property owners to gain an understanding of the program’s concerns, or to contest. All impacted parcels are expected to maintain Minimum Fire Safety Standards (Attachment E) for the three years following the add year. The maximum grass height standard is 6 inches. The Program will not apply any fees to the parcel tax roll on the add year, only on the monitoring years. An initial inspection fee will be applied as “pass” or “fail” during the monitoring years. If a parcel fails, the monitoring years start over, to ensure that “three consecutive years of voluntary compliance” is achieved. The inspection window for Cupertino runs annually from April 30th – October 31st. County field officers perform inspections a few times a year.

### Update on 10408 Menhart Lane, APN: 375-16-004

On December 3, 2019, the Council requested a status update on the parcel located 10408 Menhart Lane, APN: 375-16-004 which is listed on the Weed Abatement Program Commencement Report. Santa Clara County Weed Abatement Inspector Brian Rosa provided the following information.

The parcel was originally added in 2018, for grasses exceeding the maximum height standard of 6 inches (Attachment H - 10408 Menhart Lane 2018-19 photos). The comingled combustible debris within the vegetation is also noteworthy. The owner contacted Program representatives on 6/12/18 and 6/18/18. Due to internal database issues, the parcel failed to roll into an active state in 2019 and the monitoring process was not initiated. The parcel was seen again in poor condition in 2019 and added back to the Program. There are no 2019 communication notes on record with the owner. In the 2020 record, a Return Reply Form marked box “B” is on file (Attachment F - sample Return Reply Form), indicating the owner will maintain the property. In addition, there was a note: "All allegations denied. You must provide evidence + identify the precise location of any code violation re: weeds / confirmed on property. Signature (additional unknown text) is not admission of violation nor an admission to enter private property." The property owner avoided a \$495 non-compliance fee in 2019 due to the County error.

### Process for Weed Abatement Program Outlined

The process consists of eight steps that begin in November and go through August of each year, as shown on the following list. At this time the process is at Step No. 4.

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) (Attachment B, Exhibit A in Resolution)

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) (Attachment G).
3. County sends notice to the property owners on the report notifying them of the hearing date and explaining that they must remove weeds by the abatement deadline of April 30, 2020 or it will be done for them, and with cost of the abatement plus administrative costs assessed to their property (Dec). (Attachment D)
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-Feb).
5. 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).
6. After April 30, the properties are inspected by the County to verify that weeds were removed and proceeds with abatement if the inspection fails. County makes a report of all costs associated with the abatement and provides that report to the City (June-July).
7. City notifies the property owners listed on the assessment report, notifying them of the hearing date. (July-Aug).
8. City Council holds a hearing, notes 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).

Sustainability Impact

None

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.

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Prepared by: Kirsten Squarcia, Acting City Clerk

Reviewed by: Dianne Thompson, Assistant City Manager

Approved for Submission by: Deborah Feng, City Manager

Attachments:

A - Draft Resolution and Exhibit A

B - Weed Abatement Program Commencement Report (Exhibit A)

C - Letter to Property Owners to Abate Weeds

D - Hearing Notice to Destroy Weeds and Program Fees

E - Minimum Fire Safety Standards Program Brochure

F - Return Reply Form (RRF) Sample

G - Approved Resolution No. 19-141

H - 10408 Menhart Lane 2018-19 photos