



## COMMUNITY DEVELOPMENT DEPARTMENT

CITY HALL  
10300 TORRE AVENUE • CUPERTINO, CA  
95014-3255 TELEPHONE: (408) 777-3308 • FAX: (408) 777-3333  
CUPERTINO.ORG

### CITY COUNCIL STAFF REPORT

Meeting: September 19, 2023

#### Subject

Adoption of amendments to the Cupertino Municipal Code, Chapter 9.22, expanding existing property maintenance requirements in accordance with California Health and Safety Code 17970.5.

#### Recommended Action

Conduct the first reading of Ordinance No. 23-XXX: "An Ordinance of the City Council of the City of Cupertino Amending City Code Chapter 9.22 of Title 9 (Health and Sanitation) to Prohibit Substandard Housing Conditions."

#### Discussion

This amendment is being brought before Council in response to a mandate from the State of California. On September 28, 2021, Governor Gavin Newsom approved Assembly Bill (AB) 838. The Bill expands existing State Housing Law related to buildings used for human occupancy with the addition of California Health and Safety Code section 17970.5 and imposes new duties on cities and counties. More specifically, it addresses substandard housing conditions. The Bill mandates that cities and counties must:

- Receive any complaint of substandard building or lead hazard violations;
- Investigate the complaint and make findings through a reasonably competent and diligent visual inspection of the property;
- Conduct an inspection at least as promptly as the agency's Building Department responds to requests for building permit final inspection;
- Produce an inspection report;
- Advise the property owner or operator of violations and of corrective actions required to remedy the violations; and
- Provide free, certified copies of an inspection report and citations issued to any involved or potentially affected party.

AB 838 precludes a city or county from collecting a fee from a property owner related to such an inspection or inspection report, unless the inspection reveals one or more lead hazards or deems the property substandard pursuant to

California Health and Safety Code sections 17920.3 and 17020.10. In addition, the statute prohibits a city or county from unreasonably refusing to communicate with any involved party. AB 838 became effective on July 1, 2022. Cupertino has continued to be in compliance with this State mandate.

Prior to the passing of AB 838, substandard housing inspections were not provided in many cities across the State. Cupertino was among those many cities statewide that did not provide this service to residents. The City previously only inspected on reports of life safety matters. This is an entirely new service provided to the City's residents for the first time. Santa Clara County Public Health will continue to provide services related to lead-based paint compliance based on program qualifications.

Staff recommends that Council adopt the proposed amendments to Chapter 9.22 to codify property owners' obligations to maintain housing stock free of substandard conditions and to allow the City to recover some of the costs of enforcement incurred as a result of AB 838 to the extent permitted by State law.

#### Sustainability Impact

No sustainability impacts.

#### Fiscal Impact

The projected impacts will be mostly absorbed by existing Code Enforcement Division resources. Some training may be necessary as this is an entirely new service provided to the City's residents for the first time. In the first year of implementation, Code Enforcement has addressed substandard housing conditions at 10 properties. This equates to 150+ staff hours of work.

Staff recommends closely monitoring impacts to existing staffing levels on an ongoing basis for proper resource management. Staff anticipates the need to purchase some new equipment in order to conduct accurate inspections. The total cost of the equipment is estimated to be \$500 at this time. The equipment includes outlet/receptacle testers, voltage tester pens, humidity/mold sensor, Personal Protective Equipment, and other such items for use during inspections.

The amendment to the municipal code will allow for some cost recovery. The City is precluded from charging fees for the initial inspection and the report created; however, the City may recover cost from repeat re-inspections caused by little or no progress with repairs or corrections. This can help offset some of the impacts to City resources. Staff will continue to work with all parties toward voluntary compliance while prioritizing healthy and safe living conditions.

---

Prepared by: Monica Diaz, Senior Code Enforcement Officer  
Reviewed by: Ben Fu, Community Development Director  
Approved for Submission by: Pamela Wu, City Manager

Attachments:

- A – Draft Ordinance amending Chapter 9.22
- B – Assembly Bill 838
- C – California Health and Safety Code section 17970.5
- D – California Health and Safety Code section 17920.3
- E – California Health and Safety Code section 17920.10