



MEETING DATE: 1/16/07

ITEM NO:

17

## COUNCIL AGENDA REPORT

DATE: JANUARY 4, 2007  
TO: MAYOR AND TOWN COUNCIL  
FROM: DEBRA J. FIGONE, TOWN MANAGER

SUBJECT: PUBLIC HEARING - HAZARDOUS VEGETATION ABATEMENT (WEEDS)  
ADOPT RESOLUTION ORDERING ABATEMENT OF HAZARDOUS  
VEGETATION (WEEDS)

### RECOMMENDATION:

1. Open and hold the public hearing.
2. Close the public hearing.
3. Adopt resolution ordering abatement of hazardous vegetation (weeds).

### BACKGROUND:

The Council annually adopts a Hazardous Vegetation (Weed) Abatement Resolution in coordination with the County Agricultural Commissioner's Office. This program is regulated by the Health and Safety Code and has been in place for over 25 years. The purpose of this program is locating annual herbaceous vegetation, noxious weeds, and combustible debris for removal. The County Agricultural Commissioner's Office will conduct annual site reviews prior to the fire season and will maintain a listing of properties where removal has been identified.

On November 20, 2006, the Town Council passed a resolution declaring hazardous vegetation (weeds) a public nuisance and set January 16, 2007 as the date for public hearing. The required posting and publishing has been done. The property owners have also received a notice and guidelines from the County Agricultural Commissioner's Office dated December 6, 2006 to remove the hazardous vegetation from their property.

PREPARED BY: KEVIN ROHANI  
Interim Director of Parks and Public Works

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Reviewed by: PS Assistant Town Manager OK Town Attorney  
\_\_\_\_ Clerk Administrator \_\_\_\_ Finance \_\_\_\_ Community Development

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MAYOR AND TOWN COUNCIL

SUBJECT: PUBLIC HEARING - HAZARDOUS VEGETATION ABATEMENT (WEEDS)  
JANUARY 4, 2007

DISCUSSION:

In addition to the Hazardous Vegetation Abatement Program, the County Fire Department created a Brush Abatement Program in 1995, after the Oakland Hills fire. In this program, properties are inspected in April and property owners receive abatement notices from this program also. This is a separate program from the County Agricultural Commissioner's Office. The focus of this program is the identification of perennial vegetation, brush, trees, and shrubs in designated high fire hazard areas. The report for the Brush Abatement program will be brought to the Council in May 2007.

The Hazardous Weed and Brush Abatement are two programs that are operated by the County to identify hazardous vegetation locations and to notify property owners about the possibility of fire hazards. The two County departments are effectively working together to coordinate these programs. The time table for the Brush Abatement Program is consistent with the generally accepted procedures throughout Santa Clara County as recommended by the County Agricultural Commissioner's Office.

CONCLUSION:

The Town annually declares hazardous vegetation (weeds) a nuisance due to fire danger and enters into a contract (along with other municipalities) with the County to abate the hazardous vegetation (weeds) not removed by property owners.

FISCAL IMPACT:

There is no fiscal impact.

Attachments:

1. Resolution overruling objections and ordering abatement (with Exhibit A - Notice of Public Hearing)
2. Letter to Property Owners (with attachments) prepared by the Office of the County Agricultural Commissioner

Distribution:

Greg Van Wassenhove, Agricultural Commissioner, County of Santa Clara, Department of Agriculture and Environmental Management, 1553 Berger Drive, Building #1, San Jose, CA 95112

Moe Kumre, Program Coordinator, Agricultural Commissioner, County of Santa Clara, Department of Agriculture and Environmental Management, 1553 Berger Drive, Building #1, San Jose, CA 95112

## **RESOLUTION**

### **RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS OVERRULING OBJECTIONS AND ORDERING ABATEMENT OF HAZARDOUS VEGETATION (WEEDS) AS A PUBLIC NUISANCE**

**WHEREAS**, on November 20, 2006, the Town Council of the Town of Los Gatos adopted Resolution 2006-118 entitled, "A RESOLUTION DECLARING HAZARDOUS VEGETATION (WEEDS) A PUBLIC NUISANCE AND PROVIDING FOR THEIR ABATEMENT," directing the giving of notice that hazardous vegetation (weeds) will be abated by the Town and the cost thereof made a lien upon the private properties from which they are removed if the owners thereof fail to do so, and establishing the January 16, 2007 meeting, as the time for a public hearing by the Town Council, during which all property owners having any objections to the proposed destruction or removal of such hazardous vegetation (weeds) might be heard and given due consideration; and

**WHEREAS**, that the Director of Parks and Public Works of the Town of Los Gatos gave notice of the passage of said Resolution No. 2006-118 by causing copies of the NOTICE TO DESTROY WEEDS (Exhibit A) in the same form as annexed to said Resolution No. 2006-118 to be published in the Los Gatos Weekly Times, a newspaper of general circulation published in the Town of Los Gatos on December 13, 2006 and December 20, 2006 respectively, and causing said notice to be posted on December 6, 2006, in three (3) prominent places in the Town of Los Gatos; and

**WHEREAS**, pursuant to said resolution and notice, the Town Council conducted a public hearing this date with respect thereto, at which time all property owners having any objections to the proposed destruction or removal of such hazardous vegetation (weeds) were heard.

**NOW THEREFORE, BE IT RESOLVED AND IT IS HEREBY RESOLVED** by the Town Council of the Town of Los Gatos, County of Santa Clara, State of California, that all objections, if any, to the proposed destruction or removal of such hazardous vegetation (weeds) are hereby overruled, and the Director of Parks and Public Works, or his representative, is hereby ordered to abate such nuisance, or cause the same to be abated, by having the hazardous vegetation (weeds) referred to destroyed or removed by cutting, dicing, chemical spraying, or any other method which may hereafter be determined by the Town Council.

**FINALLY RESOLVED**, that the Director of Parks and Public Works of the Town of Los Gatos, or his authorized agent or representative, and the Clerk Administrator are directed to proceed with the matters set forth in Section 11.20.020 through Section 11.20.045 of the Los Gatos Town Code.

**PASSED AND ADOPTED** at a regular meeting of the Town Council held on the 16th day of January, 2007 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

**TOWN OF LOS GATOS**

**OFFICE OF THE CLERK ADMINISTRATOR**

**NOTICE OF PUBLIC HEARING  
TO DESTROY WEEDS**

**NOTICE IS HEREBY GIVEN** that on November 20, 2006, pursuant to the provisions of Section 11.20.020 of the Town Code of the Town of Los Gatos, the Town Council of said Town adopted a Resolution (2006-118) declaring that all weeds growing upon any private property or in any street, sidewalk or alley, as defined in Section 11.20.020 of such Code, constitute a public nuisance, which nuisance must be abated by the destruction or removal thereof.

**NOTICE IS FURTHER GIVEN** that property owners shall, within thirty (30) days after the adoption of such resolution, or within the time specified in a written agreement with the Director of Parks and Public Works of the Town of Los Gatos, or the Director of Parks and Public Works' representative, whichever time shall be later, remove all such weeds from their property, the abutting sidewalks, and the abutting half of the street in front, and alleys, if any, behind such property, and between the lot lines thereof as extended, or such weeds will be destroyed or removed and such nuisance abated by the Town of Los Gatos, in which case the cost of such destruction or removal will be assessed upon the lots and lands from which, or from the front or rear of which, such weeds shall have been destroyed or removed, and such cost will constitute a lien upon such lots or lands until paid; and will be collected upon the next tax roll upon which general municipal taxes are collected. All property owners having any objections to the proposed destruction or removal of such weeds are hereby notified to attend a meeting of the Town Council of such Town to be held in the Council Chambers of said Town, **at 110 East Main Street, TUESDAY, JANUARY 16, 2007, AT 7:00 P.M.** or as soon thereafter as the matter can be heard, when and where their objections will be heard and given due consideration.

**A COMPLETE RECORD OF THE ABOVE IS ON FILE IN THE OFFICE  
OF THE CLERK ADMINISTRATOR**

/s/ Jackie Rose

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS

PUB: December 13, 2006 and December 20, 2006

EXHIBIT A

# County of Santa Clara

Department of Agriculture and Environmental Management  
Weed Abatement Division

1553 Berger Drive  
Building 1  
San Jose, CA 95112  
(408) 282-3145  
Fax (408) 286-2460



December 6<sup>th</sup>, 2006

## IMPORTANT NOTICE TO ABATE WEEDS

Dear Property Owner,

Your jurisdiction, contracts with the County of Santa Clara to operate a Weed Abatement Program to protect your property and the area surrounding it from possible fire. The County is providing this information and notice packet to you as part of the Program. We encourage you to read the information carefully, and do not hesitate to call us for clarification or other information.

Your jurisdiction has or will adopt a resolution declaring your property as one that may contain potential fire hazards from weeds or other debris. In addition, your jurisdiction will be conducting a public hearing to consider an abatement order to require you to remove any hazardous vegetation or combustible debris. The public hearing will be held on the date and at the place stated in the attached notice to destroy weeds. The public hearing provides an opportunity for you to raise any objections to the requirement that you remove fire-hazardous vegetation/debris from your property prior to the deadline provided in the attached abatement schedule.

If the Weed Abatement Program is approved for your property during the public hearing, the County will be authorized by its contract with the cities, and by state law, to perform an inspection of your property to determine whether or not the property has been cleared of hazards according to Minimum Fire Safety Standards (see enclosed brochure). Inspections will begin after the abatement deadline for your jurisdiction. This notice does not relieve you of your responsibility to complete the necessary work prior to the deadline for your jurisdiction. After the inspection, the County will order necessary abatement work, and have that work completed by a County contractor. The County will choose the least costly method of abatement considering the physical characteristics of your property and environmental concerns. Added to the cost of abatement is a County administrative fee. These fees are detailed in the attached price list. The total amount will be included as a special assessment on your property tax bill following confirmation of the charges by your jurisdiction. Notice of the date of that meeting will be posted at a location prescribed by your jurisdiction (typically at the Civic Center) at least three days prior to the meeting.

**You can avoid all costs by completing the abatement work yourself according to Minimum Fire Safety Standards (see enclosed brochure) prior to the abatement deadline for your jurisdiction and maintaining the Minimum Fire Safety Standards for the duration of fire season, which typically runs through October.**

In preparation for this program, please take the time to complete and return the enclosed Reply Form so that we understand your intentions regarding maintenance of your property. Unless you contact this office to indicate otherwise, you will have consented to the entry of authorized personnel on your property for inspection purposes and for any necessary abatement; and, in

the case of locked properties, you are consenting to county contractors accessing your property using whatever reasonable means are necessary.

If you designate in your reply that you intend to abate the weeds yourself, you are expected to complete the abatement before the deadline listed on the abatement schedule and maintain fire safe conditions for the duration of fire season. Responding that you intend to provide maintenance yourself does not release you from this responsibility to have the maintenance *completed* before your deadline and *repeated* as necessary to maintain Minimum Fire Safe Standards. County contractors will proceed to abate hazardous vegetation as necessary after the deadline for your jurisdiction.

Enclosed you will find the following information:

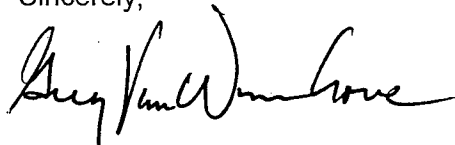
- ✓ A Reply Form specific to your property. Please complete and return promptly.
- ✓ A Notice to Destroy Weeds informing you of an upcoming public meeting that you must attend if you have any objections to the proposed removal of hazardous vegetation or debris from your property.
- ✓ A Weed Abatement Program Schedule for your city and a current County price list.
- ✓ A Brochure about the Santa Clara County Weed Abatement Program.

Please be aware that any abatement performed by the County contractor must be in compliance with all applicable environmental protection regulations. If your property falls within an area designated as possible habitat for burrowing owls or any other protected species of bird or animal, the methods of vegetation clearing may be regulated by specific laws or local ordinances.

If you are no longer the owner of the property identified by this mailing, please notify the County immediately. If you sell your property after the date of this letter, it is your responsibility to notify the new owner and to include the obligation to pay any abatement costs in your agreement of sale. Without taking this action, you will be liable for all hazard abatement charges assessed to the property.

Our goal is voluntary compliance with the Minimum Fire Safety Standards, and it is our objective to ensure that all properties are safe from fire at all times during the year. If you have any questions about your property or need on-site advice to help you achieve compliance with the Minimum Fire Standards, please call the Santa Clara County Weed Abatement Program at (408) 282-3145.

Sincerely,



Greg Van Wassenhove  
Agricultural Commissioner  
County of Santa Clara

## The Santa Clara County Weed Abatement Program

The Santa Clara County Department of Agriculture and Environmental Management and your city are working together to protect your community from fire. We need your help. Please read and follow the directions provided in this brochure regarding fire prevention on your property. The purpose of the Weed Abatement Program is to prevent fire hazards posed by vegetative growth and the accumulation of combustible materials.

Program staff inspects parcels that have been included in the Program throughout the year. Work is ordered by program Inspectors and completed by the County contractor on any parcel where such work is requested, or on parcels where the Minimum Fire Safety Standards (MFSS) have not been met at the time of the inspection. If the County contractor provides abatement services, the contractor's charges plus a County administrative fee is included in your property tax bill.

### Our Goal Is Voluntary Compliance

#### Property Owner's Responsibilities

- Do not allow a fire hazard to exist on your property. The Minimum Fire Safety Standards (MFSS) in this brochure give you guidelines to follow in order to maintain your property and protect against a fire hazard. **Please contact our office if you need guidance or have any questions regarding the requirements!**
- Make arrangements to have your property maintained throughout the year. Contractors can be found in the yellow pages. You may choose to have the County contractor maintain your property. A current price list is included in your packet.
- Please complete and return the Reply Form provided in your mailing packet by the date on the form. Indicate your preference regarding performance of weed abatement services. Be sure to note any specific conditions on your property such as new buildings, piping, irrigation, boundary and surveyor markers, crops and plantings so that we may avoid damage to your property.

## Program Staff Responsibilities

- Weed Abatement Inspectors will perform periodic inspections on all parcels included in the Santa Clara County Weed Abatement Program.
- Inspectors will order the County contractor to perform all necessary abatement work on any parcel where the MFSS are not met. An attempt will be made to give the owner a courtesy notice prior to initial abatement.
- On properties where the MFSS have been met, but a fire hazard still exists, the Agricultural Commissioner's Office will send a letter to the owner specifying additional work that needs to be performed.
- If this work is not done within ten days of the additional notice, the County contractor will perform the work.
- The County contractor uses several methods of abatement including discing and handwork. The property owner is free to select whatever method they choose, provided the MFSS of all federal, state and local laws are met.
- The Agricultural Commissioner's Office will place charges for County contractor services plus a County administrative fee on the property owner's tax bill during the next fiscal year.

## Burrowing Owls

These small owls nest in abandoned ground squirrel burrows. Discing collapses the burrows and kills the young. These owls are listed as a state Species of Special Concern and are protected by the federal Migratory Bird Treaty Act. If you suspect burrowing owls on your property you **must** use another form of weed abatement such as mowing or weed eating. If you request the County perform abatement services, please notify program staff or your City if burrowing owls are known to exist on your property.

## Frequently Asked Questions

### Q. Why have I received an Abatement Notice?

A. Typically, a property is placed on the program if a Weed Abatement Inspector identified a potential fire hazard on the property. Fire Departments and other agencies also submit complaints to the Agricultural Commissioner's Office.

### Q. What is required of me now that I am on the Program?

A. All property owners are required to maintain their property free of fire hazards throughout the year.

## More FAQ:

### Q. What is the SC County Weed Abatement Program?

A. This is a monitoring program and our primary objective is voluntary compliance. See first two paragraphs of this brochure for further specifics.

### Q. How long will I be on the Program?

A. Your property will remain on the Program for three years. If no hazards are found during that time your property may be removed from the program.

### Q. How much will this cost me?

A. There will be no cost to you if the Minimum Fire Safety Standards (MFSS) are met by the given deadline and maintained through the fire season. If work is required by the County contractor you will be charged for the contractor's services plus a County administrative fee. Our goal is to ensure that the MFSS are met at the lowest possible cost to the property owner.

### Q. How will I be billed?

A. If the County contractor performs abatement work on your property, the charges will appear as a special assessment on your next property tax bill.

### Q. Why have you performed work on my property while the vegetation is still green?

A. Grass, weeds or piles of combustible debris have been declared a public nuisance by your jurisdiction. Abating hazards in the spring to minimize volume of combustible material helps us to be more effective during the peak fire season.

### Q. Will you notify me prior to beginning abatement work?

A. Property owners are responsible for preventing fire hazards on their property. If the MFSS have been met, but further work is necessary, you will receive notice prior to the County contractor performing the work. If the MFSS have not been met, an attempt will be made to give the owner a courtesy notice prior to initial abatement.

### Q. Where can I find someone to provide abatement services?

A. Weed Abatement contractors can be found in the Yellow Pages under "Weed Control Services" or "Discing Services". You may have the County contractor perform the necessary work; see your mailing packet for a current price list.

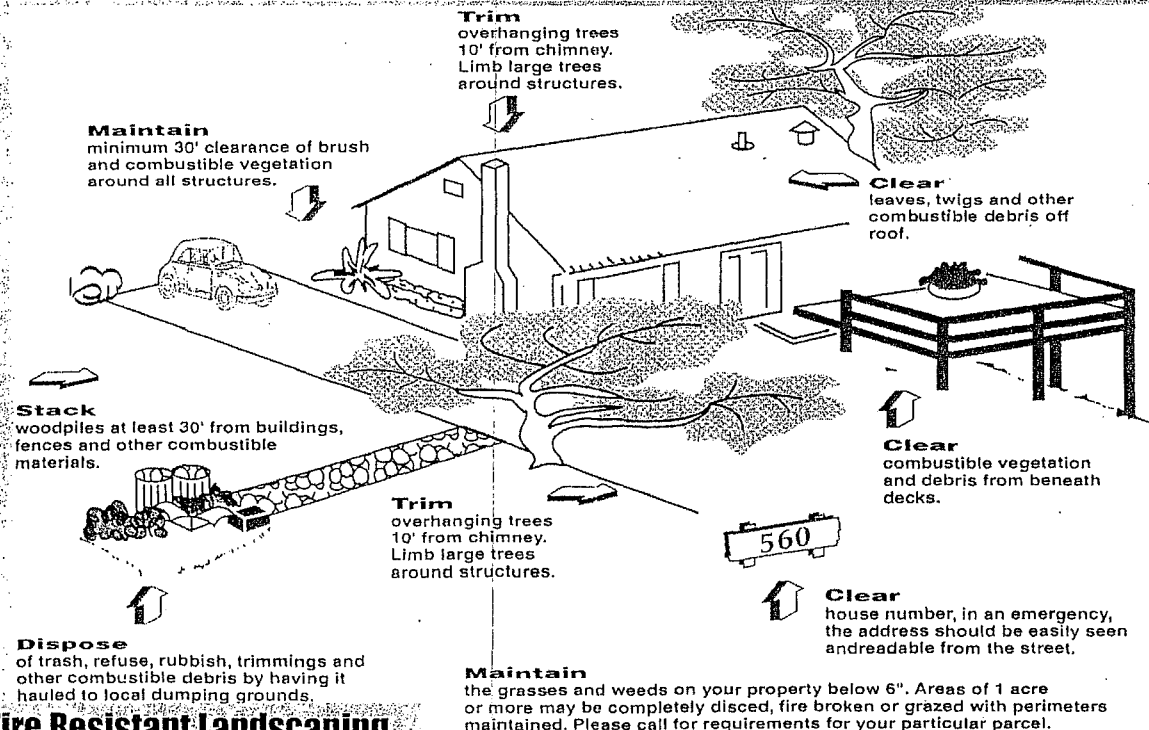
### Q. How can I get additional information or assistance regarding the specific requirements for my property?

A. Weed Abatement Inspectors are available to assist you and answer your questions. Please call our Customer Service line at (408) 282-3145 to schedule a consultation with program staff or to obtain additional information.



## MINIMUM FIRE SAFETY STANDARDS

1. Vegetation must not exceed 6 inches in height any time after the compliance deadline.
2. Maintain grasses and weeds below six inches for ten feet horizontally on both sides of all roadways, including driveways and access routes.
3. Clear flammable vegetation a minimum of thirty feet around any structure, occupied or not. Ornamental vegetation should be kept clear of dead material. Some conditions, such as slopes, may require up to 100ft of clearance.
4. Parcels up to one acre shall be completely abated. Parcels one to five acres require 30-foot clearance around structures and perimeter property lines. Additional 30-foot cross fuel breaks may also be required.
5. Parcels larger than five acres require 30-foot clearance around structures and perimeter property lines in addition to 30-foot cross breaks as needed to separate the remaining vegetation into sections no larger than five acres.
6. Keep property clear of accumulation of combustible debris, such as trash, wood, and dead vegetation. Stacked firewood and neatly piled yard waste is not considered to be combustible debris.
7. Keep vegetation cleared from under the eaves of houses.
8. Trim tree branches to at least ten feet from chimney.
9. Clear leaves, pine needles and debris from roof and gutters.



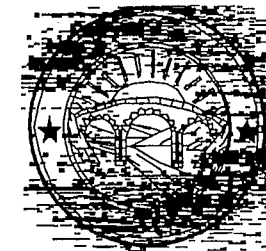
## Fire Resistant Landscaping

The following is a partial list of fire resistant plants that you may choose to use around your home to reduce the risk of fire. Contact your local nursery for selections appropriate to your area.

Trees:	Shrubs:	Escallonia	Groundcover:	Freeway Daisy
African Sumac	Bearberry	Hopséed Bush	Aaron's Beard	Ice Plant
Brazilian Pepper	Carmel Creeper	Italian Buckthorn	Australian Daisy	Ivy
California Pepper	Carolina Cherry	Lemonade Berry	Candytuft	Morning Glory Bush
	Catalina Cherry	Texas Privet	Capeweed	Rock rose

## Fire Safety Through Vegetation Management

**Santa Clara County**  
Agricultural Commissioner's Office  
Weed Abatement Program



1553 Berger Drive #1  
San Jose, CA 95112  
Phone: (408) 282-3145  
Fax: (408) 286-2460

# 2007 Return Reply Form

**IMPORTANT:** Please complete this form and mail back to the Agricultural Commissioner's Office no later than **JANUARY 15, 2007**. Thank you.

TRA:

Please check the box that  
applies for each parcel  
(see explanations below):

Parcel Number      Site Address

A      B      C

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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- A** I am no longer the owner of this property, and the new owner information is listed below. Please return Reply Form immediately.
- B** I intend to maintain this parcel in a manner consistent with the Minimum Fire Safety Standards from **through the end of the fire season**. All parcels on the abatement list remain subject to inspection to ascertain compliance. Non-compliance will result in the abatement of weeds by the County contractor and the resulting charges added to the property tax.
- C** I request that the County Contractor perform weed abatement work on this parcel. Charges for this work will be added to my property tax bill. Work may commence on or about March 1st, 2007.

Please provide any additional information such as new owners, presence of piping, irrigation, crops or other improvement. If your property is fenced/locked, please provide instructions on how to enter the property. If you are no longer the owner of the property identified by this mailing, please notify the County immediately. If you sell your property after December 1st, 2006, it is your responsibility to notify the new owner and to include the obligation to pay any abatement costs in your agreement of sale. Without taking this action, you will be liable for all hazard abatement charges assessed to the property. Thank you.

Signature

Name (please print)

Date

(      )  
Day time phone