



MEETING DATE: 1/20/09

ITEM NO: 11

COUNCIL AGENDA REPORT

DATE: JANUARY 5, 2009

TO: MAYOR AND TOWN COUNCIL

FROM: GREG LARSON, 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 17, 2008, the Town Council passed a resolution declaring hazardous vegetation (weeds) a public nuisance and set January 20, 2009 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 1, 2008 to remove the hazardous vegetation from their property.



PREPARED BY: TODD CAPURSO
Director of Parks and Public Works

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Reviewed by: PSJ Assistant Town Manager OK Town Attorney
____ Clerk Administrator SO Finance ____ Community Development

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 2009.

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. Adopted 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 17, 2008, the Town Council of the Town of Los Gatos adopted Resolution 2008-126 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 20, 2009 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. 2008-126 by causing copies of the NOTICE TO DESTROY WEEDS (Exhibit A) in the same form as annexed to said Resolution No. 2008-126 to be published in the Los Gatos Weekly Times, a newspaper of general circulation published in the Town of Los Gatos on December 10, 2008 and December 17, 2008 respectively, and causing said notice to be posted on December 3, 2008, 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 20th day of January, 2009 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

County of Santa Clara

Department of Agriculture and Environmental Management
Weed Abatement Division

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



November 14, 2008

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.

If you do not complete the abatement work prior to the County inspection of your property, you will be responsible for the cost of the inspection and your property will be scheduled for abatement by the County contractor. If you complete the abatement work before the County contractor performs the abatement, you will not incur further charges other than the cost of inspection. Should the abatement work be completed by a County contractor, you will be assessed the contractor's charges plus a County administrative fee. The County will choose the least costly method of abatement considering the physical characteristics of your property and environmental concerns. 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. Parcels will be removed from the program after three (3) consecutive years of voluntary compliance (work completed prior to the deadline).

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:

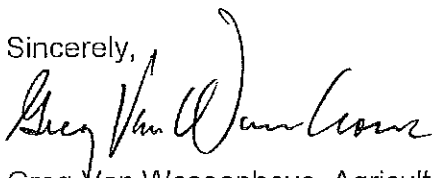
- ✓ A Reply Form specific to your property. Please complete and return promptly.
- ✓ A Notice to Destroy Weeds informing you of an upcoming public meeting that you must attend if you have any objections to the proposed removal of hazardous vegetation or debris from your property.
- ✓ A Weed Abatement 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

Notice to Destroy Weeds

NOTICE IS HEREBY GIVEN that on November 17, 2008, 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 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 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, Los Gatos, California, on **Tuesday, January 20th, 2008 at 7:00 p.m.**, or as soon thereafter as the matter can be heard, when their objections will be heard and given due consideration.

The language and format for this notice is required by California Health and Safety Code Sections 14891 Et. Seq.

LOS GATOS WEED ABATEMENT PROGRAM SCHEDULE

January 20, 2009

Public hearing to consider objection to Abatement List.

April 15, 2009

PARCEL ABATEMENT DEADLINE

Parcel must be free from hazardous vegetation by this date or Inspector will order abatement.

July-August, 2009

Assessment Hearing to protest abatement charges
(Date subject to change, please confirm with City Clerk)

2009 COUNTY WEED ABATEMENT FEES

Please be advised that the property owner of any parcel found to be non-compliant on or after the April 1st deadline will be charged an inspection fee of \$298.00 and the property will be scheduled for abatement by the County contractor. If you complete the abatement work before the County contractor performs the abatement, you will not incur further charges. Should the abatement work be performed by a County contractor, you will be assessed the contractor's charges plus a County administrative fee of 150%.

2009 COUNTY CONTRACTOR'S WEED ABATEMENT PRICE LIST

Prices INCLUDE a 150% County Administrative Fee

A) Disc Work**

PARCEL SIZE:	1 st Disc	+	2 nd Disc	= Total Discs
0-12,500 sq.ft.	<u>\$801.83</u>		<u>\$80.18</u>	<u>\$882.01</u>
12,501sq.ft.- 43,560sq.ft.	<u>\$801.83</u>		<u>\$106.90</u>	<u>\$908.73</u>
Larger than 1 Acre	<u>\$534.55</u>		<u>\$106.90</u>	<u>\$641.45</u> (PER ACRE)

** It is required that parcels be disced twice a year. The cost for the first discing is higher due to additional work normally required during the first discing.

B) HANDWORK \$113.60 PER PERSON, PER HOUR

C) FLAIL 6 Foot Mower \$192.43 PER HOUR

MOWING 12 Foot Mower \$384.88 PER HOUR

D) LOADER WORK \$334.10 PER HOUR

E) DUMP TRUCK \$334.10 PER HOUR

F) BRUSH WORK \$113.60 PER HOUR

G) BOOM MOWING \$441.00 PER HOUR

G) DUMP FEE 100%

Added to orders with debris
removal at 100% of the dump
site charge.

*Please note-this program does not offer herbicide application as a method of abatement

(over)