



DATE: April 8, 2024

TO: Honorable Mayor and Members of the City Council through City Manager

FROM: Jeff Schach, Fire Chief
Jessica Power, Fire Marshal

SUBJECT: Resolution Ordering Abatement of Nuisances Consisting of Hazardous Vegetation and Rubbish Growing Upon Public and Private Property in the City of Petaluma and Ordering the Fire Department to Abate Said Hazardous Vegetation and Rubbish by Contract if Property Owners Fail to Do So Pursuant to Chapter 10.70 of the Petaluma Municipal Code

RECOMMENDATION

It is recommended that the City Council conduct a public hearing and adopt the attached resolutions ordering abatement of nuisances consisting of hazardous vegetation and rubbish growing upon public and private property in the City of Petaluma and ordering the Fire Department to abate said hazardous vegetation and rubbish by contract if property owners fail to do so pursuant to Chapter 10.70 of the Petaluma Municipal Code.

BACKGROUND

From the mid-1980s until this year, the City of Petaluma conducted an aggressive program for abatement of hazardous vegetation for wildfire safety without having an explicit hazardous vegetation abatement ordinance. Each year, the Council declared that weeds growing upon parcels of public and private property were a public nuisance requiring abatement, ordered abatement of said hazardous vegetation, complete any abatement not done by private land owners ordered to do so, and finally ordered the unpaid bills be sent to the assessor.

On January 8, 2024, the City Council unanimously introduced Ordinance No. 2878 N.C.S. to establish a process for hazardous vegetation and rubbish inspection and abatement for wildfire safety. On January 22, 2024, the City Council adopted the ordinance with an effective date of February 21, 2024.

The purpose of hazardous vegetation and rubbish abatement is to reduce fuel loads in areas susceptible to grass or brush fires. This abatement program is a proactive fire prevention measure designed to:

1. Prevent ignition by reduction or removal of fuel;
2. Stop, slow, or confine the spread of a fire in areas with excessive grass or brush;
3. Allow time for fire suppression personnel to respond and extinguish a threatening fire;
4. Reduce the fire threat from properties that adjoin the city limits.

All grass and brush fires cannot be totally eradicated, but this type of hazardous vegetation and rubbish abatement goes a long way to accomplish the goals noted above.

Ordinance No. 2878 provides for the following process for hazardous vegetation and rubbish inspection and abatement for wildfire safety as codified in Chapter 10.70 of the Petaluma Municipal Code:

1. Staff send specific letters out to the properties identified as vacant lots and select residential lots identified by the Neighborhood Preservation Coordinator. This letter informs them of the City Council public hearing. Staff also publish notice of the public hearing in the Argus. The notice will also inform the property owners about the tentative date for the City Council hearing to lien the properties.
2. City Council conducts the public hearing that declares those specific property addresses are public nuisances and provides the City the jurisdiction to enter on to those properties and abate the fire hazards.
3. City performs the hazardous vegetation abatement on those properties that have not voluntarily removed their hazardous vegetation by the established compliance date.
4. Staff post the individualized property costs of the hazardous vegetation abatement on the City's agenda webpage and near Council chambers at least 3 days before the public hearing to lien the properties.
5. City Council conducts the public hearing to lien the properties for the costs of abatement.

In compliance with the ordinance, staff published notice of the public hearing in the Argus and sent a letter to affected property owners on April 8, 2024, alerting them of their right to attend the public hearing.

DISCUSSION

This public hearing, and subsequent resolution, meets the intent of the law which allows the Fire Department and its contractor to enter private property and force abatement of weed-related fire hazards, if property owners fail to abate. Property owners are highly encouraged to handle their own hazardous vegetation and rubbish abatement, and abatement by the City only takes place after non-compliance with the stated abatement deadline of May 31, 2024. Inspections for abatement by the City will begin June 1, 2024, depending on weather conditions, and will continue throughout the season.

In addition to the listed and known sites within the city, the Fire Department is also notified throughout the hazardous vegetation and rubbish abatement season (typically through complaints) of additional parcels which may require abatement, and which were not listed in advance of the initial public hearing. An inspection takes place and, if the parcel is deemed to

contain a weed-related fire hazard, the property owner(s) must be given the same right to due process and given an opportunity to be heard by Council. Therefore, for community-complaint driven properties in need of abatement that were not noticed for the April 8, 2024 hearing, a Public Hearing date has been set for July 1, 2024 to allow any property owner objections to be heard by Council prior to abatement by the City.

All work performed (such as disking, mowing, blading, or hand work) is charged at one-hour minimums unless listed otherwise in the rates. Additional work over one hour is prorated on quarter-hour increments at the same hourly base rate. The Contractor is permitted to charge a pulling (or towing) fee for each parcel where mowing, blading, disking or a combination thereof is performed. This fee is not applicable where only hand work is provided. Differences in size and type of terrain and method of abatement used are all variables for costs incurred.

Staff researched alternatives to disking utilized for this program. In 2018, it was found that two lots were abated utilizing the disking method. Portions, if not all, of these lots may not be able to be abated by other methods due to the terrain. For the 2019 season and beyond, the contractor was provided direction to utilize other methods wherever feasible. The 2024 contractors will follow the same direction. This may mean portions of lots are mowed, and portions are disked due to the terrain. Additionally, the City is now utilizing grazing to manage City-owned properties where feasible.

This program is consistent with the City's Integrated Pest Management policy, in which chemical treatment only is considered after biological, cultural, and mechanical control techniques are deemed infeasible to control a specific nuisance pest. In the case of the hazardous vegetation and rubbish abatement program, only mechanical control (cutting and/or root disruption) techniques are used; no herbicides are involved.

In addition, the Contractor agrees to honor any designated "Spare-the-Air Days" that occur during the hazardous vegetation and rubbish abatement season, as designated by the Bay Area Air Quality Management District ("BAAQMD"). They agree not to utilize any gas- or diesel-powered equipment on those designated days and all scheduled hazardous vegetation and rubbish abatement cutting will take place around those designated days, if any.

PUBLIC OUTREACH

This agenda item appeared on the City's tentative agenda document on March 18, 2024 which was a publicly noticed meeting. Additionally, affected properties were mailed notices of the public hearing.

COUNCIL GOAL ALIGNMENT

The proposed action supports the following City Council Goals, Objectives, and Workplan Items:

A Safe Community that Thrives

OBJECTIVE 1: maintain and enhance public safety and prepare for emergencies and disasters, through crime and fire prevention and traffic safety.

Workplan Item #74. Evaluate all City facilities, including Police and Fire stations and corporation yard facilities; and develop maintenance and replacement recommendations.

Workplan Item #78. Improve public safety through proactive crime and fire prevention activities.

CLIMATE ACTION/SUSTAINABILITY EFFORTS

The hazardous vegetation abatement program is designed to reduce the spread of wildfire, should one occur, by reducing the amount of combustible vegetation such as weeds on a parcel. This provides the Fire Department time to respond and put the fire out when it is smaller in size and spread, therefore doing less damage to the environment and property. In turn, it therefore also reduces the spread of wildfire and the carbon emissions produced by wildfire.

ENVIRONMENTAL REVIEW

This action is exempt under CEQA Guideline section 15304, “Class 4” – Minor Alterations to Land, because the project involves the minor alteration of the condition of land and/or vegetation, and there are no cumulative impacts, unusual circumstances or other factors that would make the exemption inapplicable pursuant to CEQA Guidelines section 15300.2.

FINANCIAL IMPACTS

The hazardous vegetation and rubbish abatement program is structured to be a 100% cost recovery program. Direct costs of abatement are charged based on actual costs to clear the parcels. A per-parcel administrative fee is added to each public and private parcel that is abated, to cover the cost of the abatement inspector, program management and administrative support. The current administrative fee for the 2024 hazardous vegetation and rubbish abatement season is \$250 per parcel and is based on the City’s actual and reasonable costs of administering the program. The fee is approved by City Council Resolution and is identified in the City’s adopted schedule of fees for services. This fee is part of the Citywide Fee Study and will be updated based on current costs and processes in the upcoming User Fee Update. All direct and administrative costs are recovered through payment by the individual property owner(s) and/or collection of special assessments against the specific parcels by the County Assessor in connection with property tax payments.

ALTERNATIVES

The alternative to the program would be to not conduct the public hearing and rely on property owners to complete the work without direction or enforcement options. The hazardous vegetation and rubbish abatement program is a proactive fire prevention measure designed to reduce fuel loads in areas susceptible to grass or brush fires. If property owners chose not to abate their lots, the City would have an increased fire risk.

ATTACHMENTS

1. Resolution - no recusals
2. Resolution - McDonnell recusal
3. Resolution - Nau recusal
4. Resolution - Pocekay recusal
5. Resolution - Shribbs recusal
6. Resolution - Barnacle recusal
7. Resolution - Barnacle and Healy recusal
8. Resolution - Healy recusal
9. Notice Published in Official Newspaper
10. Letter Mailed to Property Owners
11. Proof of Service by Mail
12. Memo to Petaluma City Council Listing Properties Within 500 Feet of Councilmembers' Properties