

CITY OF PALM DESERT STAFF REPORT

MEETING DATE: August 24, 2023

PREPARED BY: Richard D. Cannone, AICP, Development Services Director

REQUEST: INTRODUCTION OF AN ORDINANCE UPDATING CHAPTER 8.20 OF THE PALM DESERT MUNICIPAL CODE UPDATING PUBLIC NUISANCE ABATEMENT AND COST RECOVERY PROCEDURES, AND MAKING A FINDING OF EXEMPTION UNDER CEQA

RECOMMENDATION:

Waive full reading and introduce Ordinance entitled “An Ordinance of the City Council of the City of Palm Desert, California Updating Chapter 8.20 of the Palm Desert Municipal Code Regarding Public Nuisance Abatement and Cost Recovery Procedures, and Making a Finding of Exemption Under CEQA”

BACKGROUND/ANALYSIS:

A recent code compliance matter regarding rodent infestation in Palm Desert Greens revealed challenges for abatement actions. Once staff serves a notice declaring a property a public nuisance, the owner has 10 days to file an appeal. City Council serves as the body (as opposed to a hearing examiner) for any public nuisance abatement appeals and cost recovery actions. That appeal hearing must be scheduled at a regular city council meeting no more than 30 days after receiving the appeal. This requirement poses a challenge by delaying the process if there is only one city council meeting scheduled for the month.

As a result, staff worked with the city attorney’s office to review Chapter 8.20, Public Nuisances and recommend changes based on current best practices, including delegating abatement appeals and cost recovery to a hearing examiner. Much of this chapter contains the original language from 1988. Notable changes include:

1. Organizes the code sections to provide a roadmap for nuisance abatement and cost recovery procedures.
 - a. Nuisance abatement
 - i. Procedure for inspections clarified.
 - ii. Enforcement official issues Notice to Abate – the proposed ordinance provides more detail on what is required to notify responsible party of the alleged nuisance conditions, what is required to remedy those conditions, and a reasonable time by which the responsible party must gain compliance.
 - iii. Responsible party can appeal Notice to Abate to an independent hearing officer, rather than City Council.
 - iv. The proposed ordinance requires the City Clerk to schedule hearing and notify appellant in writing and includes more detail on hearing procedures.
 - v. Hearing officer decision is final, further review is available in Superior Court.

- vi. If nuisance not abated within time required by hearing officer's order, City may commence abatement.
 - vii. The City retains the ability to file a Notice of Violation against a property if the nuisance is not abated in the time period listed in the Notice to Abate or hearing officer's decision/order.
 - viii. Exception for summary abatement – The proposed ordinance provides greater detail on how summary abatement may be conducted lawfully, including the requirement that a Notice of Summary Abatement must be served on the property owner following a summary abatement action by the City.
- b. Cost Recovery
- i. City must serve an itemized report of costs on responsible party. Costs are due in 45 days.
 - ii. Responsible party may appeal the report of abatement costs to a hearing officer, the report of costs does not automatically go to City Council for a hearing.
 - iii. The hearing procedures are substantially similar to those for Notice to Abate appeals.
 - iv. Upon expiration of 45 days after the report of abatement costs is served or 30 days after the hearing officer's decision is served, the City can collect costs through all the same methods available under the previous ordinance. Those methods include a nuisance abatement lien, a special assessment, or a civil action. In a civil action, attorney's fees may be recovered pursuant to state law. Other remedies include a criminal citation and administrative citation fines.
2. Combines enforcement/remedies provisions.
- a. Other than the sections specific to liens and special assessments, the proposed ordinance combines all other enforcement-related provisions and remedies into one section, rather than having these provisions in separate sections.
3. Updates list of property nuisances.
- a. Minor changes have been made to the list of nuisances. The definition of "refuse and waste matter" is incorporated into this section rather than being in its own section. Business-related nuisances are included (with examples provided) in this section rather than being in a separate section.
4. Adds definitions for clarity.

FINANCIAL IMPACT:

There is no fiscal impact associated with the adoption of this ordinance.

ATTACHMENTS:

- 1. Draft Ordinance