



## Item No. 11 Town of Atherton

### **CITY COUNCIL STAFF REPORT – CONSENT AGENDA**

**TO:** HONORABLE MAYOR AND CITY COUNCIL  
GEORGE RODERICKS, CITY MANAGER

**FROM:** MONA G. EBRAHIMI, CITY ATTORNEY

**DATE:** MARCH 18, 2020

**SUBJECT:** WAIVE THE FINAL READING AND ADOPT ORDINANCE NO. 643, AN ORDINANCE TO AMEND TITLE 15 OF THE ATHERTON MUNICIPAL CODE TO UPDATE HOLIDAYS DURING WHICH CERTAIN CONSTRUCTION AND CONSTRUCTION-RELATED ACTIVITY IS PROHIBITED

#### **RECOMMENDATION**

Waive the final reading and adopt Ordinance No. 643 to amend title 15 of the Atherton Municipal Code to update holidays during which certain construction and construction-related activity is prohibited.

#### **BACKGROUND / ANALYSIS**

This is the final reading and adoption of an Ordinance of the City Council of the Town of Atherton amending title 15 of the Atherton Municipal Code to update holidays during which certain construction and construction-related activity is prohibited. Council waved the first reading and introduced by title only at the February 19, 2020, Regular Council meeting. If approved, this Ordinance will be effective thirty days (30) following adoption.

The Town has adopted regulations limiting construction and construction-related activities within the Town at certain times. These time limits are detailed in Section 15.40.120 of the Atherton Municipal code and include, but are not limited to Saturdays, Sundays, and holidays. Holidays are defined in Subsection C of Section 15.40.110 as follows:

“Holidays” mean and include those days declared as legal holidays by the Governor of the state of California and as set forth in Government Code Section 6700 with the exception of subsections (d), (f), (j), (k), (n) and (o) and further including the fourth Thursday in November. (Thanksgiving and the day after Thanksgiving).

In addition to these limitations imposed on construction and construction-related activities through the Atherton Municipal Code, for ease of reference for contractors and property owners, the Town

annually publishes a schedule of days when construction and construction-related activities are prohibited. The most recent such schedule is a one-page document called “Construction and Delivery Hours and Holidays for 2020” which is currently published on the Town’s website.

As currently enacted, there are two issues with the definition of holidays in Title 15. First, the references to Government Code Section 6700 are out of date because that section was renumbered by the legislature in 2015. Second, the definition of holidays does not match the holidays listed on the Construction and Delivery Hours and Holidays for 2020. Currently, the Atherton Municipal Code does not allow construction and construction-related activities on October 12<sup>th</sup> (Columbus Day) while the Construction and Delivery Hours and Holidays for 2020 lists that day as a day where construction may occur, despite Town offices being closed in observance of that day being a state holiday.

This ordinance would amend the Atherton Municipal Code to resolve both issues with the definition of holidays in Title 15 of the Code.

**FISCAL IMPACT**

None.

**PUBLIC NOTICE**

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town’s electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town’s electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire District, service providers (water, power, and sewer), and regional elected officials.

**COMMISSION/COMMITTEE FEEDBACK/REFERRAL**

This item  has or  has not been before a Town Committee or Commission.

- Audit/Finance Committee (meets every other month)
- Bicycle/Pedestrian Committee (meets as needed)
- Civic Center Advisory Committee (meets as needed)
- Environmental Programs Committee (meets every other month)
- Park and Recreation Committee (meets each month)
- Planning Commission (meets each month)
- Rail Committee (meets every other month)
- Transportation Committee (meets every other month)

**ATTACHMENTS**

1. Ordinance Amending Title 15 of the Atherton Municipal Code
2. Construction and Delivery Hours and Holidays for 2020

ORDINANCE 643

**ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF  
ATHERTON, STATE OF CALIFORNIA, AMENDING  
CHAPTER 15.40 OF THE ATHERTON MUNICIPAL CODE**

WHEREAS, the City Council has adopted various ordinances regulating construction within the Town as codified at Chapter 15.40 of the Atherton Municipal Code; and

WHEREAS, for ease of reference for contractors and property owners seeking to undertake construction within the Town, the Town annually publishes a schedule of days when certain construction and construction-related activities are prohibited in the Construction and Delivery Hours and Holidays (“Annual Schedule”); and

WHEREAS, the City Council wishes to harmonize the provisions of the Atherton Municipal Code with the Annual Schedule posted on the Town’s website for 2020; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meeting of the City Council identified herein, including any supporting reports by City Staff, and any information provided during public meetings.

THE CITY COUNCIL OF THE TOWN OF ATHERTON DOES ORDAIN AS FOLLOWS:

**SECTION 1: Amendment.** Atherton Municipal Code section 15.040.110 Definitions, subsection C is hereby amended to read as follows:

- C. “Holidays” means those days declared legal holidays by the Governor of the state of California, those days set forth in Government Code Section 6700(a)(1)-(5), (7)-(9), (13)-(14), and the fourth Thursday and Friday in November (Thanksgiving and the day after Thanksgiving).

**SECTION 2: Severability.** If any section, subsection, subdivision, paragraph, clause or phrase in this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases may be declared invalid or unconstitutional.

**ATTACHMENT 1**

**SECTION 3: Effective Date.** This Ordinance shall become effective thirty (30) days following adoption.

Town of Atherton, a municipal corporation

MAYOR: \_\_\_\_\_  
RICK DEGOLIA

ATTEST: \_\_\_\_\_  
ANTHONY SUBER, CITY CLERK

APPROVED AS TO FORM: \_\_\_\_\_  
MONA G. EBRAHIMI, CITY ATTORNEY

STATE OF CALIFORNIA }  
COUNTY OF SAN MATEO } SS:  
TOWN OF ATHERTON }

I, Anthony Suber, City Clerk of the Town of Atherton, do hereby certify that the foregoing Ordinance had its first reading and was introduced during the public meeting of the City Council on the 19<sup>th</sup> day of February, 2020, and had its second reading and was adopted and passed during the public meeting of the City Council on the 18<sup>th</sup> day of March, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: \_\_\_\_\_  
ANTHONY SUBER  
City Clerk



**CONSTRUCTION &  
DELIVERY  
HOURS and  
HOLIDAYS for 2020**

Town of Atherton  
Building Department  
150 Watkins Ave  
Atherton, California 94027  
Phone: (650) 752-0560  
Inspection requests:  
(650) 752-0542

Construction, deliveries, and or servicing of any item on site shall be prohibited as follows:

BEFORE 8:00 AM and AFTER 5:00 PM, WEEKDAYS

SATURDAYS, SUNDAYS, and the FOLLOWING HOLIDAYS

1. NEW YEARS DAY - JANUARY 1<sup>st</sup>, 2020
2. MARTIN LUTHER KING JR. DAY - JANUARY 20<sup>th</sup>, 2020
3. PRESIDENT'S DAY - FEBRUARY 17<sup>th</sup>, 2020
4. MEMORIAL DAY - MAY 25<sup>th</sup>, 2020
5. INDEPENDENCE DAY - JULY 4<sup>th</sup>, 2020
6. LABOR DAY - SEPTEMBER 7<sup>th</sup>, 2020
7. VETERAN'S DAY - NOVEMBER 11<sup>th</sup>, 2020
8. THANKSGIVING - NOVEMBER 26<sup>th</sup>, 2020
9. CHRISTMAS DAY - DECEMBER 25<sup>th</sup>, 2020

Town offices will be closed with no inspections on the following days but these are LEGAL work days: Columbus Day, October 12<sup>th</sup>, the Friday after Thanksgiving November 27<sup>th</sup>; and the entire week between Christmas and New Year's December 28<sup>th</sup>, 29<sup>th</sup>, 30<sup>th</sup> and 31<sup>st</sup>