



Item No. 5 Town of Atherton

CITY COUNCIL STAFF REPORT – REGULAR AGENDA

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: GEORGE RODERICKS, CITY MANAGER

DATE: APRIL 22, 2020

**SUBJECT: DISCUSSION OF LANDSCAPE AND GARDENING ACTIVITY;
AND REVIEW AND APPROVAL OF CORRESPONDENCE TO
THE COUNTY OF SAN MATEO REGARDING THE
CONTINUATION OF LANDSCAPING AND GARDENING
ACTIVITY**

RECOMMENDATION

Discuss landscape and gardening activity; and review and approval of correspondence to the County of San Mateo regarding the continuation of landscaping and gardening activity.

BACKGROUND

On April 15, the City Council expressed concern regarding the broad prohibition on gardening and landscaping activity. A growing number of property owners continue to utilize the services of commercial landscapers and gardeners in violation of the Health Order and it is becoming more difficult for the Town to enforce. At the April 15 meeting, the City Council directed that a letter be sent to the County Supervisor, County Manager, and Health Officer expressing the Town's concerns on the issue.

On April 17, the Town hosted a Town Hall meeting. One of the concerns expressed by a number of Zoom attendees related to the continuation of landscaping and gardening activity. Concerns expressed related to the inability to perform the activity personally; vegetation that would quickly get out of control given the large nature of most of the properties in Town; and personal health issues related to either the activity or the impact of unmaintained vegetation.

ANALYSIS

The Shelter-in-Place Order provides that arborists, landscapers, gardeners, and similar service professionals are allowed, but only to the limited extent necessary to maintain the habitability, sanitation, operation of businesses or residences, or the safety of residents, employees, or the public (such as fire safety or tree trimming to prevent a dangerous condition), and not for cosmetic or other purposes (such as upkeep). This provision fails to address issues related to the length of

time properties may lay unmaintained and the resultant safety concerns or the inability of property owners to maintain their property on their own due to physical, health or other limitations.

There is an exemption for safety of residents, and while that exemption seems to be expressly limited to dangerous conditions of property or fire safety, it is unclear how it would apply to walkways that are covered with debris or lawns that are going to seed with residents who have asthma or allergies.

In addition to residents disregarding the prohibition for a variety of reasons, the prohibition also disproportionately impacts workers that could and would return to work with the imposition of reasonable restrictions. Many landscapers and gardeners work alone or in limited number when working on residential property. These workers are also almost always in open space areas that are at least, if not more, than 6 feet from others.

To prevent a continued disregard and to find a way to get workers back to work, the Town suggests that the County consider a compromise position through reasonable requirements on the work. For example, property owners can be limited to the following types of conditions:

- Property maintenance activity is limited to 2 workers or less on the property.
- Workers shall not congregate in any enclosed area.
- Workers shall not congregate together on the work site or in the public right-of-way and social distancing of 6 feet shall be maintained at all times.
- All worker vehicles shall have hand sanitizer or wash stations accessible to the workers.
- All workers shall be required to wear proper personal protective equipment (PPE), to include, disposable nitrile gloves and face coverings at all times while working on the property; and all PPE must be changed when moving between job sites.
- Workers shall not share equipment unless such equipment has been cleaned between uses.
- All equipment must be cleaned between uses on different job sites.
- Workers shall not work on any job site if they have symptoms of COVID-19.

One issue that the above conditions fail to address is the accessibility of public restrooms and hygiene facilities for workers. Prior to the imposition of the Shelter-in-Place Order, workers typically used public facilities at public parks, businesses or service stations. These facilities may be inaccessible during the Shelter-in-Place Order and thus would limit the ability of the workers to utilize proper hygiene or facilities. This could lead to unintended consequences in the field. A requirement that the companies providing the service provide such facilities for their workers, similar to construction site requirements, is not practical. Property owners could be required to provide such facilities for the workers if they have the work done; but that could lead to further spread of COVID-19. This particular concern may need to be addressed before full resumption is allowable.

ATTACHMENTS

1. Draft Correspondence to the County of San Mateo



**Town of Atherton
Office of the Mayor
150 Watkins Avenue
Atherton, California 94027
Phone: (650) 752-0500
Fax: (650) 614-1212**

SENT ELECTRONICALLY ONLY

April 22, 2020

Honorable Don Horsley, County Supervisor
Scott Morrow, County Health Officer
Mike Callagy, County Manager

SUBJECT: GARDENING AND LANDSCAPING PROVISIONS

On April 15, the Atherton City Council expressed continuing concern regarding the broad prohibition on gardening and landscaping activity. This concern has been echoed by numerous members of the public. A growing number of property owners continue to utilize the services of commercial landscapers and gardeners in violation of the Health Order and it is becoming more difficult for the Town to enforce. The City Council directed that a letter be sent to the County Supervisor, County Manager, and Health Officer expressing the Town's concerns on the issue.

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In addition to residents disregarding the prohibition for a variety of reasons, the prohibition also disproportionately impacts workers that could and would return to work with the imposition of reasonable restrictions. Many landscapers and gardeners work alone or in limited number when working on residential property. These workers are also almost always in open space areas that are at least, if not more, than 6 feet from others.

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These and similar types of restrictions can be used to move the region forward. Please feel free to contact me directly with any questions.

Sincerely,

Rick DeGolia
Mayor
Town of Atherton