



AGENDA

REGULAR CITY COUNCIL MEETING NOVEMBER 2, 2021 – 7:00 p.m.

Members:

Mayor Paul Fadelli

Mayor Pro Tem Gabe Quinto • Councilmember Janet Abelson
Councilmember Lisa Motoyama • Councilmember Tessa Rudnick

Join Via Zoom:

<https://us06web.zoom.us/j/87016725087?pwd=V3Q4bDYvMS91S1ZRMFV5cjB5TEtOUT09>

Meeting ID: 870 1672 5087 Password: 582825
or Dial in: 1-408-638-0968

The City Council may continue to meet by teleconference, consistent with the Brown Act as amended by AB 361 (2021). Under the amended rules, the City will not provide a physical location for members of the public to participate in the teleconference meeting.

Members of the public can watch or listen to City Council meetings as follows:

1. Cable T.V. Broadcast on KCRT Channel 28
2. Radio Broadcast on FM 88.1 Or 97.7
3. Livestream Online at www.el-cerrito.org/CouncilMeetingMaterials
4. Via Zoom using the meeting information listed above.

Each period for public comment will be announced. Public Comments may be submitted one of two ways:

- Via Zoom using the “[Raise Hand](#)” icon to request to speak. If joining by phone, dial *9 to "raise your hand", and when prompted by the host, *6 to unmute/mute.
- Via email to cityclerk@ci.el-cerrito.ca.us. Email must contain in the subject line **Public Comments – Not on the Agenda** or **Public Comments – agenda item #.**

To ensure City Council receives your written comments prior to taking action, they must be received by **4:00 p.m. the day of the meeting**. All written comments received by this deadline will be provided to the City Council and posted online in advance of the meeting.

Comments received after the deadline will be provided to the City Council and included with supplemental materials **after the meeting. No written comments will be read into the record.**

7:00 P.M. ROLL CALL – CONVENE REGULAR CITY COUNCIL MEETING

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF A MOMENT OF SILENCE

2. TELECONFERENCE AND PUBLIC COMMENT INSTRUCTIONS

3. COUNCIL/STAFF COMMUNICATIONS

Reports of closed session, commission appointments and informational reports on matters of general interest which are announced by the City Council and staff.

4. ORAL COMMUNICATIONS FROM THE PUBLIC

Remarks are typically limited to 3 minutes per person. The Mayor may reduce the time limit per speaker depending upon the number of speakers and may limit the total time for public comment to facilitate the completion of business on the agenda. Comments regarding non-agenda, presentation and consent calendar items will be heard first. Comments related to items appearing on the Public Hearing or Policy Matter portions of the Agenda will be heard prior to the City Council taking action on each item.

5. ADOPTION OF THE CONSENT CALENDAR

All items on the consent calendar shall be acted upon in one motion, unless a member of the City Council or staff request separate consideration.

A. Approval of Minutes

Action Proposed: Pass a motion to approve the minutes from the meetings of October 19 and 25, 2021.

Contact: Holly M. Charléty, City Clerk, City Management

B. Shelter in Place Education Day Proclamation

Action Proposed: Pass a motion to approve a proclamation recognizing November 3, 2021 as Shelter in Place Education Day in El Cerrito.

Contact: Holly M. Charléty, City Clerk, City Management

C. United Against Hate Week

Action Proposed: Pass a motion to approve a proclamation declaring November 14 - 20, 2021 as United Against Hate Week in the City of El Cerrito.

Contact: Alexandra Orologas, Assistant City Manager, City Management

D. Proclamation Recognizing Chris Treadway

Action Proposed: Pass a motion to approve a proclamation recognizing Chris Treadway.

Contact: Holly M. Charléty, City Clerk, City Management

E. Authorize City Council and City Advisory Body Meetings to be Held Via Teleconference Pursuant to Assembly Bill 361 (AB 361)

Action Proposed: Adopt a resolution authorizing City Council and City Advisory Body meetings to be held via teleconference for a period of 30 days, and making related findings pursuant to AB 361.

Contact: Holly M. Charléty, City Clerk, City Management

F. Extension of the Contra Costa County Abandoned Vehicle Abatement Program

Action Proposed: Adopt a resolution to extend the Contra Costa County Abandoned Vehicle Abatement Program and associated Fee for an additional ten years, subject to voter approval.

Contact: Karen Pinkos, City Manager, City Management

6. PRESENTATIONS

A. Update from Pacific Gas and Electric

Action Proposed: Report back from Pacific Gas and Electric (PG&E) on recent power outages in El Cerrito and response/planned modifications to address the affected areas.

Contact: Nkiruka C. Ohaegbu, Local Government Affairs, Pacific Gas and Electric Company

7. PUBLIC HEARINGS

A. Fire Hazard Abatement

*Exempt from CEQA review pursuant to Sections 15304 and 15308.
Notice published on 10/23/2021*

Action Proposed: 1) Adopt a resolution declaring weeds, rubbish, litter, or other flammable material on certain real property identified in the resolution constitutes a public nuisance; and 2) Conduct a public hearing and upon conclusion, adopt a resolution overriding objections by property owners and ordering the City Manager or their designee to abate certain

public nuisances pursuant to El Cerrito Municipal Code Chapter 16.26.

Contact: David Yun, Fire Prevention Officer; Michael Pigoni, Fire Chief, Fire Department

B. Accessory Dwelling Unit Regulations Ordinance

Exempt from CEQA pursuant to section 15282(h). Notice published on 10/23/2021

Action Proposed: Conduct a public hearing and upon conclusion, introduce by title and waive any further reading of an Ordinance to repeal and replace Section 19.20.190 (Accessory Dwelling Units); add Section 19.20.195 (Junior Accessory Dwelling Units); and approve amendments to Section 19.46.030 (Residential Use Classifications), Chapter 19.47 (Terms and Definitions), and Section 19.24.040 (Required Off-Street Parking Spaces) of the El Cerrito Municipal Code.

Contact: Sean Moss, Planning Manager; Diego Romero, Assistant Planner, Community Development Department

C. Amended Foodware Ordinance Requiring Foodware to be Reusable or Compostable and Prohibiting the Use, Distribution, or Sale of Plastic Straws and Plastic Stirrers

Exempt from CEQA review pursuant to section 15061(b)(3) and 15308. Notice published on 10/23/2021

Action Proposed: Conduct a public hearing, and upon conclusion, introduce by title and waive any further reading of an Ordinance amending Chapter 8.24 Foodware Regulations of the El Cerrito Municipal Code.

Contact: Will Provost, Operations + Environmental Services Division Manager; Yvetteh Ortiz, Public Works Director/City Engineer, Public Works Department

8. POLICY MATTERS

A. FY 2021-22 General Fund Budget Quarterly Update through September 2021

Action Proposed: Receive and file an update on City General Fund revenues and expenses for FY 2021-22 through September 2021.

Contact: Karen Pinkos, City Manager, City Management

9. CITY COUNCIL LOCAL & REGIONAL LIAISON ASSIGNMENTS

Mayor and City Council communications regarding local and regional liaison assignments and committee reports.

10. ADJOURN REGULAR CITY COUNCIL MEETING

The next regularly scheduled City Council meeting is Tuesday, November 16, 2021 at 7:00 p.m. via teleconference.

The City of El Cerrito serves, leads and supports our diverse community by providing exemplary and innovative services, public places and infrastructure, ensuring public safety and creating an economically and environmentally sustainable future.

- Council Meetings can be heard live on FM Radio, KECG – 88.1 and 97.7 FM and viewed live on Cable TV - KCRT- Channel 28. The meetings are rebroadcast on Channel 28 the following Thursday and Monday at 12 noon, except on holidays. Live and On-Demand Webcast of the Council Meetings can be accessed from the City's website <http://www.el-cerrito.org/CouncilMeetingMaterials> and is streamed with closed caption. Copies of the agenda bills and other written documentation relating to items of business referred to on the agenda are on file and available for public inspection in the Office of the City Clerk, at the El Cerrito Library and posted on the City's website at www.el-cerrito.org prior to the meeting.
- In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk, 510-215-4305. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title I).
- ***The Deadline for agenda items and communications*** is eight days prior to the next meeting by 12 noon, City Clerk's Office, 10890 San Pablo Avenue, El Cerrito, CA. Tel: 510-215-4305, email cityclerk@ci.el-cerrito.ca.us
- IF YOU CHALLENGE A DECISION OF THE CITY COUNCIL IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE COUNCIL MEETING. ACTIONS CHALLENGING CITY COUNCIL DECISIONS SHALL BE SUBJECT TO THE TIME LIMITATIONS CONTAINED IN CODE OF CIVIL PROCEDURE SECTION 1094.6.
- The City Council believes that late night meetings deter public participation, can affect the Council's decision-making ability, and can be a burden to staff. City Council Meetings shall be adjourned by 11:00 p.m., unless extended to a specific time determined by a majority of the Council.

EL CERRITO CITY COUNCIL DRAFT MINUTES

REGULAR CITY COUNCIL MEETING OCTOBER 19, 2021 – 7:00 p.m.

Members:

Mayor Paul Fadelli

Mayor Pro Tem Gabe Quinto • Councilmember Janet Abelson Councilmember Lisa
Motoyama • Councilmember Tessa Rudnick

Join Via Zoom:

<https://us06web.zoom.us/j/85078161244?pwd=VFFkT0RvSmp4WFFTWXIMUXIZczRTdz09>

Meeting ID: 850 7816 1244 **Password:** 929196
or Dial in: 1-408-638-0968

The City Council may continue to meet by teleconference, consistent with the Brown Act as amended by AB 361 (2021). Under the amended rules, the City will not provide a physical location for members of the public to participate in the teleconference meeting.

Members of the public can watch or listen to City Council meetings as follows:

1. Cable T.V. Broadcast on KCRT Channel 28
2. Radio Broadcast on FM 88.1 Or 97.7
3. Livestream Online at www.el-cerrito.org/CouncilMeetingMaterials
4. Via Zoom using the meeting information listed above.

Each period for public comment will be announced. Public Comments may be submitted one of two ways:

- Via Zoom using the "[Raise Hand](#)" icon to request to speak. If joining by phone, dial *9 to "raise your hand", and when prompted by the host, *6 to unmute/mute.
- Via email to cityclerk@ci.el-cerrito.ca.us. Email must contain in the subject line **Public Comments – Not on the Agenda or Public Comments – agenda item #.**

To ensure City Council receives your written comments prior to taking action, they must be received by **4:00 p.m. the day of the meeting**. All written comments received by this deadline will be provided to the City Council and posted online in advance of the meeting.

Comments received after the deadline will be provided to the City Council and included with supplemental materials **after the meeting. No written comments will be read into the record.**

7:00 P.M. ROLL CALL – CONVENE REGULAR CITY COUNCIL MEETING

Mayor Fadelli called the meeting to order at 7:00 PM.

Present: Mayor Fadelli, Mayor Pro Tem Quinto, Councilmember Abelson, Councilmember Motoyama, Councilmember Rudnick **Absent:** None

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF A MOMENT OF SILENCE

2. TELECONFERENCE AND PUBLIC COMMENT INSTRUCTIONS

3. COUNCIL/STAFF COMMUNICATIONS

Reports of closed session, commission appointments and informational reports on matters of general interest which are announced by the City Council and staff.

City manager Pinkos - provided an update on local health emergency, mask requirement modifications as of November 1, accessing vaccine records electronically; announced the resignation of Finance Director Mark Rasiah, Unity Day on October 20th (wear orange), Spirit Day on October 21st (wear purple), and International Shakeout Day on October 21st (earthquake drill).

Mayor Pro Tem Quinto - reported attendance at Trail Trekkers event.

Councilmember Rudnick - reported attendance at BART public meeting for parking at El Cerrito Plaza project.

Mayor Fadelli - reported attendance at Environmental Quality Committee cleanup event on the Ohlone Greenway, signed a letter in support of Seamless Bay area; announced Mayoral Certificate of Recognition for The Glenn Custom Framing Store's 50th anniversary, November 1 opening of the application process for annual term expirations for advisory bodies.

4. ORAL COMMUNICATIONS FROM THE PUBLIC

Remarks are typically limited to 3 minutes per person. The Mayor may reduce the time limit per speaker depending upon the number of speakers and may limit the total time for public comment to facilitate the completion of business on the agenda. Comments regarding non-agenda, presentation and consent calendar items will be heard first. Comments related to items appearing on the Public Hearing or Policy Matter portions of the Agenda will be heard prior to the City Council taking action on each item.

All written comments submitted prior to and during the meeting were posted online as supplemental materials and incorporated into the official meeting record. Written public comments for matters not on the agenda were received from Cordell Hindler, Tomi Nagai-Rothe, and William Ktsanes.

Oral Public Comments:

Greg Lyman - announced the upcoming Shadi Holiday display from December 12 - December 27.

Diana Cantu-Reyna - spoke regarding concerns on modifications to the mask mandates and meeting access.

Dan Schulman - commented on recent BART meeting regarding parking and asked for council action regarding an on-street parking program.

Indy Rishi Singh - commented on non-violence, approach to leadership and spirituality.

5. ADOPTION OF THE CONSENT CALENDAR

All items on the consent calendar shall be acted upon in one motion, unless a member of the City Council or staff request separate consideration.

Moved/Seconded: Councilmember Motoyama/Councilmember Abelson **Action:** Approved the consent calendar as indicated below. **Ayes:** Mayor Fadelli, Mayor Pro Tem Quinto, Councilmember Abelson, Councilmember Motoyama, Councilmember Rudnick **Noes:** None

A. Approval of Minutes

Action Proposed: Pass a motion to approve City Council Meeting minutes from September 21, and October 5, 2021.

Contact: Holly M. Charl  ty, City Clerk, City Management

Action: Approved minutes.

B. Filipino American History Month Proclamation

Action Proposed: Pass a motion to approve a proclamation recognizing October 2021 as Filipino American History Month in El Cerrito.

Contact: Holly M. Charl  ty, City Clerk, City Management

Action: Approved proclamation.

C. FY 2021-22 First Quarter Cash and Investment Report

Action Proposed: Receive and file the City's Quarterly Investment Report for the Quarter ending September 30, 2021.

Contact: Mark R. Rasiah, Finance Director/City Treasurer, Finance Department

Action: Received and filed.

D. Construction Contract Award for 2021 Sidewalk Repair Project, City Project No. C3024.6

Action Proposed: Adopt a resolution approving plans and specifications for the 2021 Sidewalk Repair Project, City Project No. C3024.6 (Project); rejecting bids submitted by FJ&I Engineering, Inc., SYL Construction, Inc., and US Engineering, Inc. as non-responsive and accepting the other eight (8) bids submitted for the Project; and authorizing the City Manager to execute a contract in the amount of \$123,377.00 with J J R Construction Inc. and to approve change orders in an amount not to exceed \$60,000.00 for the construction of the Project.

Contact: Ana Bernardes, Engineering Manager/Senior Engineer, Public Works Department; Yvetteh Ortiz, Public Works Director/City Engineer, Public Works Department

Action: Approved Resolution 2021-52

E. Amendment of Professional Services Agreement with Peckham & McKenney

Action Proposed: Adopt a resolution to authorize the City Manager to amend the professional services agreement with Peckham & McKenney, an executive search firm, to include recruitment for the position of Finance Director/City Treasurer.

Contact: Alexandra Orologas, Assistant City Manager, City Management

Action: Approved Resolution 2021-53

6. PRESENTATIONS

A. Park and Recreation Commission Work Plan

Action Proposed: Receive and file a presentation from the Park and Recreation Commission on their 2019-2021 accomplishments and Fiscal Year 2021-2022 Work Plan.

Contact: Ben Chuaqui, Chair, Park and Recreation Commission; Chris Jones, Recreation Director, Recreation Department

Presentation and Discussion: Presenters and staff responded to comments and questions raised by members of the council regarding Arlington Park amenities, Canyon Trail Park improvements, status of fixing broken play structures, and partnership with the West Contra Costa School District, Hillside Natural Area plan, and budget and fees monitoring.

Oral Public Comments

Indy Rishi Singh - thanked the commission Chair for his work.

Action: Received and filed.

7. PUBLIC HEARINGS

8. POLICY MATTERS

A. Revisions to City Board, Commission, and Committee Regulations

Action Proposed: 1) Adopt a resolution modifying term limits for City Committees; 2) Adopt a resolution modifying the application and appointment process for all Boards, Commissions, and Committees; and 3) Adopt a resolution requiring ethics training and orientation/handbook training for all Board, Commission, and Committee members.

Contact: Holly M. Charl  ty, City Clerk, City Management

Presentation and Discussion: Presenters and staff responded to comments and questions raised by members of the council regarding timing for pre-meeting requirements, status of current applications, reason for background check requirement, applicability of removal process and notification to council.

Public Comments:

All written comments submitted prior to and during the meeting were posted online as supplemental materials and incorporated into the official meeting record. Written public comments for this item were received from Susan Duncan.

Oral Public Comments:

William Ktsanes - spoke regarding concern of the length of the Financial Advisory Board vacancy.

Moved/Seconded: Councilmember Rudnick/Councilmember Abelson

Action: Approved Resolution 2021-54 (committee terms); Resolution 2021-55 (Appointment process), modifying the first resolved clause to read "shall attend two of the last three meetings of the advisory body applied for within prior to submitting an application of interest to the City Clerk;" and Resolution 2021-56 (training requirements). **Ayes:** Mayor Fadelli, Mayor Pro Tem Quinto, Councilmember Abelson, Councilmember Motoyama, Councilmember Rudnick **Noes:** None

9. CITY COUNCIL LOCAL & REGIONAL LIAISON ASSIGNMENTS

Mayor and City Council communications regarding local and regional liaison assignments and committee reports.

Mayor Pro Tem Quinto - reported attendance at Environmental Quality roundtable with Cal Cities, and Board retreat for MCE Clean Energy.

Councilmember Motoyama - reported attendance at East Bay Economic Development Alliance meeting.

Councilmember Rudnick - announced new website for RecycleMore.

10. ADJOURN REGULAR CITY COUNCIL MEETING

The regular meeting adjourned at 08:33 PM in honor of General Colin Powell.

Paul Fadelli, Mayor

This is to certify that the foregoing is a true and correct copy of the minutes of the Regular City Council meeting of October 19, 2021 as approved by the El Cerrito City Council.

Holly M. Charléty, MMC, City Clerk

EL CERRITO CITY COUNCIL DRAFT MINUTES

SPECIAL CITY COUNCIL MEETING MONDAY, OCTOBER 25, 2021 – 5:30 p.m.

Members:
Mayor Paul Fadelli

Mayor Pro Tem Gabe Quinto · Councilmember Janet Abelson Councilmember Lisa
Motoyama · Councilmember Tessa Rudnick

Join Via Zoom:

<https://us06web.zoom.us/j/85658740356?pwd=TGQxR3YvdGcyK2Yrb0VmOHMrQ0MvZz09>

Meeting ID: 856 5874 0356 **Password:** 940634
or Dial in: 1-408-638-0968

The City Council may continue to meet by teleconference, consistent with the Brown Act as amended by AB 361 (2021). Under the amended rules, the City will not provide a physical location for members of the public to participate in the teleconference meeting.

This meeting will not be broadcast or livestreamed online. Members of the public may join to provide public comment using the Zoom meeting information listed above. Following public comments, the City Council will convene to closed session and the meeting will be closed to the public.

Public Comments may be submitted one of two ways and are **limited to items on the special meeting agenda only:**

- Via Zoom using the “[Raise Hand](#)” icon to request to speak. If joining by phone, dial *9 to "raise your hand", and when prompted by the host, *6 to unmute/mute.
- Via email to cityclerk@ci.el-cerrito.ca.us. Email must contain in the subject line **Public Comments – agenda item #.**

To ensure City Council receives your written comments prior to taking action, they must be received by **2:30 p.m. the day of the meeting**. All written comments received by this deadline will be provided to the City Council and posted online in advance of the meeting.

Comments received after the deadline will be provided to the City Council and included with supplemental materials **after the meeting**. **No written comments will be read into the record.**

5:30 PM ROLL CALL - CONVENE SPECIAL CITY COUNCIL MEETING
Mayor Fadelli called the meeting to order at 5:31 PM.
Present: Mayor Fadelli, Mayor Pro Tem Quinto, Councilmember Abelson, Councilmember Motoyama, Councilmember Rudnick **Absent:** None

1. ORAL COMMUNICATIONS FROM THE PUBLIC

All persons wishing to speak should sign up with the City Clerk. Remarks are typically limited to 3 minutes per person and to items on the special meeting agenda only.

All written comments submitted prior to and during the meeting were posted online as supplemental materials and incorporated into the official meeting record. Written public comments for closed session items were received from Sandra Chapek, Monica Kortz, Lisa Hirayama, Larry Carr, Bruce H. Nelson, Steve Bonini, Scott C. Kirkland, John F. Dougery, Shawn Maples, David R. Gibson, Chery Mosby, Robert De La Campa, Michael J. Bond, Joseph Grupalo, Candice Emert, Kathryn Halligan, and Donald Crumpacker.

Oral Public Comments:

Larry Carr - spoke against an increase to retiree health care costs.

Lance Maples - spoke against an increase to retiree health care costs, and reconsideration of approach.

Dave Gibson - spoke against an increase to retiree health care costs and impacts.

Vincent Wells - Union President for United Professional Firefighters Local 1230, spoke regarding good faith negotiations, reconsideration of approach, and delaying action until further discussion with unions and retirees.

2. CLOSED SESSION CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency Designated Representatives: Karen Pinkos, City Manager; Glenn Berkheimer, Labor Negotiator; Sky Woodruff, City Attorney; and Alexandra Orologas, Assistant City Manager.

Employee Organizations: Service Employees International Union (SEIU) Local 1021; El Cerrito Police Employees Association; United Professional Firefighters Local 1230; Public Safety Management Association - Battalion Chief, Fire Chief, Police Chief, and Police Management; and Management and Confidential Employees.

Contact: Sky Woodruff, City Attorney, City Management

City Council convened to closed session at 5:40 PM. No reportable action.

3. CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL- POTENTIAL LITIGATION

Significant Exposure to Litigation Pursuant to Government Code Section 54956.9(d)(2)

No reportable action.

4. ADJOURN SPECIAL CITY COUNCIL MEETING

The special meeting adjourned at 8:28 PM.

Paul Fadelli, Mayor

This is to certify that the foregoing is a true and correct copy of the minutes of the Special City Council meeting of October 25, 2021 as approved by the El Cerrito City Council.

Holly M. Charléty, MMC, City Clerk

EL CERRITO CITY COUNCIL PROCLAMATION
Proclaiming November 3, 2021 as Shelter-in-Place Education Day in El Cerrito

WHEREAS public and private schools and childcare centers throughout Contra Costa County will be participating in the Shelter-in-Place Drill on November 3rd; and

WHEREAS Contra Costa Community Awareness Emergency Response Group (CAER) is sponsoring the 20th Annual Shelter-in-Place Drill and assisting schools and childcare centers with their emergency preparedness; and

WHEREAS emergency response agencies including fire, sheriff and health officials all recommend Shelter-in-Place as the immediate action to take in case of a hazardous release; and

WHEREAS the Shelter-in-Place Drill increases public awareness about Shelter-in-Place as a protective action and gives students and teachers practice in implementing this important procedure; and

WHEREAS the County Office of Education has endorsed the Shelter-in-Place Drill and encouraged all sites to participate; and

WHEREAS the City Council of the City of El Cerrito recognizes the importance of preparing for emergencies and encourages participation in the Contra Costa CAER Group's public education efforts.

NOW THEREFORE, the City Council of the City of El Cerrito, in support of the parents, teachers, students and staff that will be participating with hundreds of other schools and childcare centers in the Shelter-in-Place Drill, does hereby proclaim November 3, 2021, as "Shelter-in-Place Education Day."

Dated: November 2, 2021

Paul Fadelli, Mayor

EL CERRITO CITY COUNCIL PROCLAMATION
Designating November 14, 2021 – November 20, 2021 as
“United Against Hate Week”

WHEREAS, the United States is a nation of immigrants, whose strength comes from its diversity; and

WHEREAS, the Constitution enshrines equality on all individuals, regardless of race, gender, orientation, religion, or political views; and

WHEREAS, recent federal policies and rhetoric have generated a toxic environment that encourages the propagation of racist, xenophobic, sexist, homophobic, Islamophobic, and other bigoted views by emboldened hate groups and individuals; and

WHEREAS, deep divisions within our country allow for the festering of extreme ideology, further strengthening a cycle of mistrust and suspicion fueled by fear, anxiety, and insecurity; and

WHEREAS, the number of hate crimes across the United States has increased dramatically over the past couple of years; and

WHEREAS, white nationalist groups have held violent rallies in cities across the country, instilling fear across many diverse communities; and

WHEREAS, the City of El Cerrito is deeply committed to inclusivity; and

WHEREAS, the City of El Cerrito was declared a Sanctuary City on March 21, 2017 further affirming the City's commitment to the values of dignity, inclusivity, and respect for all individuals regardless of ethnic or national origin, gender identity, race, religious affiliation, sexual orientation, age, disability, or immigration status; and

WHEREAS, the community launched a Stop Hate Together campaign to further state our shared values and reiterate our commitment to inclusivity; and

WHEREAS, education, compassion, and cooperation are key to understanding and embracing differences between people; and

WHEREAS, sponsoring a United Against Hate Week is an important step in bridging divisions and healing communities.

NOW THEREFORE, the City Council of the City of El Cerrito does hereby declares the week of November 14, 2021 through November 20, 2021 as United Against Hate Week in the City of El Cerrito.

Dated: November 2, 2021

Paul Fadelli, Mayor

EL CERRITO CITY COUNCIL PROCLAMATION
Recognizing Chris Treadway for His Decades of Journalism and Memorializing
the City of El Cerrito

WHEREAS, Chris Treadway began his professional journalistic career in the East Bay 35 years ago, as a reporter, editor and columnist for the El Cerrito Journal, The Montclairian, and the Berkeley Voice from 1986 to 2002; and

WHEREAS, as a reporter for the Contra Costa Times, West County Times, and East Bay Times from 2002 to 2018, and an editor for the West County Times from 2012 to 2015, a major focus of Chris' work was the City of El Cerrito; and

WHEREAS, Chris wrote a popular column, "Our Neighbors", for the West County Times from 2005 to 2016 where many articles focused on El Cerrito community groups and issues facing El Cerrito which did much to boost community knowledge and involvement here; and

WHEREAS, Chris Treadway first began his journalistic career at an early age in the Bay Area attending public schools in Oakland, publishing his first newspaper while he was still in the fourth grade, graduating from Skyline High School in 1973, and earning a degree in journalism at San Francisco State University in 1989; and

WHEREAS, Chris' service as a Board Member and Vice-President of the El Cerrito Historical Society has helped broaden historical knowledge of El Cerrito for residents by co-administrating the society's Facebook page and increasing its social media presence; and

WHEREAS, Chris has assembled a collection of El Cerrito historical documents and ephemera of permanent interest to historians, and has researched and written in-depth articles about our City's history for the El Cerrito Historical Society's publications *Sparks* and the *Forge*; and

WHEREAS, Chris has accumulated and publicized much information pertaining to the history of El Cerrito and has been working on a much anticipated book on the city's history for more than a decade; and

WHEREAS, to the Richmond Museum of History and Culture, Chris has donated the archives he acquired of George Johnson, a remarkable Richmond man who was the state's oldest living resident and last World War I veteran when he died at age of 112; and

WHEREAS, more than a decade ago, Chris created a Facebook page called "Lost Mastheads" that has more than 2,000 followers and deals with the East Bay, including significant content about El Cerrito's history; and

WHEREAS, Chris Treadway has given presentations hosted by the Rotary Club of El Cerrito on the topic of El Cerrito and its gambling era and was in charge of promoting the City's July 4th celebration for several years as a member of the Club; and

WHEREAS, Chris Treadway has profiled many local businesses and merchants for the Chamber of Commerce's Byline newsletter; and

WHEREAS, Chris Treadway and his wife Diana have lived in El Cerrito since 1985, and since 1991 with their son Henry who graduated with honors from El Cerrito High School, earned the rank of Eagle Scout through the Boy Scouts of America, and attended the University of California Berkeley before his passing in 2012.

NOW THEREFORE, the City Council of the City of El Cerrito does hereby salute Chris Treadway for his efforts and writings over the past many decades that have commemorated our City, questioned our elected officials, and educated our residents in ways that have made us all proud to be El Cerritans.

Dated: November 2, 2021

Paul Fadelli, Mayor



AGENDA BILL

Agenda Item No. 5.E.

Date: November 2, 2021
To: El Cerrito City Council
From: Holly M. Charléty, City Clerk, City Management
Subject: Authorize City Council and City Advisory Body Meetings to be Held Via Teleconference Pursuant to Assembly Bill 361 (AB 361)

ACTION PROPOSED

Adopt a resolution authorizing City Council and City Advisory Body meetings to be held via teleconference for a period of 30 days, and making related findings pursuant to AB 361.

BACKGROUND/ANALYSIS

All meetings of the City Council and the City's other legislative bodies are open and public, as required by the Brown Act, so that any member of the public may attend, participate, and watch the City's legislative bodies conduct their business. On March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20 suspending certain provisions of the Brown Act in order to allow local legislative bodies to conduct meetings telephonically or by other means in order to slow the spread of COVID-19. As a result of Executive Order N-29-20, staff set up virtual meetings for all City Council meetings and other City legislative bodies. On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which, effective September 30, 2021, ended the provisions of Executive Order N-29-20 that allowed local legislative bodies to conduct meetings telephonically or by other means.

On September 16, 2021, the Governor signed Assembly Bill 361 ("AB 361") into law which provides the ability for legislative bodies to continue meetings via teleconferencing under specified conditions and includes a requirement that the legislative body make specified findings. AB 361 took effect upon the expiration of Executive Order N-29-20 on October 1, 2021. AB 361 allows a local agency legislative body to hold a meeting utilizing teleconferencing without complying with the standard teleconferencing requirements if the Governor has proclaimed a State of Emergency and if state or local officials have imposed or recommended measures to promote social distancing. These conditions continue to exist. AB 361 further states that a local agency must make certain findings by a majority vote in order to use the bill's exemptions to the Brown Act teleconferencing rules. Any such findings are effective for a period of 30 days, after which such findings must again be declared in order to continue meeting under the provisions of AB 361.

The City Council adopted a resolution making the aforementioned findings for the 30 day period between October 5 through November 4, 2021. Staff is requesting that the City Council again adopt the proposed resolution, directing staff to continue facilitating all meetings of the City of El Cerrito and City Advisory Bodies pursuant to the

requirements of AB 361 in order to better ensure the health and safety of the public. If adopted, this resolution would be in effect for the 30 day period of November 5 - December 5, 2021. The attached resolution makes the findings to confirm the current conditions to allow teleconference meetings pursuant to AB 361 for the City Council and on behalf of all of the commissions and committees created by the City Council pursuant to Government Code section 54952(b). The attached resolution also authorizes hybrid meetings held both via teleconference and in-person. This resolution will allow members of the public to safely observe and participate in local government teleconference meetings during the continued pandemic.

If a meeting is held via teleconference, including a hybrid meeting, the following requirements apply under AB 361:

1. Notices and agenda requirements remain the same under the Brown Act;
2. No physical location is required for public attendance or public comment. However, the public must be able to access and participate in the meeting through a call-in or an internet-based service, and instructions for how to participate must appear in the posted notices or agenda;
3. Teleconference meetings must protect the statutory and constitutional rights of the parties and the public;
4. If there is any disruption of the call-in or internet-based service, the agency must suspend the meeting until the problem is fixed;
5. Legislative bodies may allow public comments to be submitted prior to a meeting but must also allow the public to participate in real time through call-in or internet-based service;
6. If an internet-based service requires registration through a third-party, individuals can be required to register with the third-party to participate in the meeting; and
7. When providing a public comment period, whether after each item or during a general comment period, a legislative body must allow reasonable time for members of the public to comment and must also include reasonable time for members to register with a third-party host if applicable.

In order to continue to hold teleconference or hybrid meetings, the City Council must continue to declare every 30 days that either (i) the state of emergency continues to directly impact the ability of the members to meet safely in person, or (ii) State or local officials continue to impose or recommend measures to promote social distancing.

STRATEGIC PLAN CONSIDERATIONS

This action is aligned with Goal E: Ensure the Public's Health and Safety.

ENVIRONMENTAL CONSIDERATIONS

This section is not applicable to this agenda item.

FINANCIAL CONSIDERATIONS

This section is not applicable to this agenda item.

LEGAL CONSIDERATIONS

The City Attorney has reviewed and legal considerations have been addressed.

Reviewed by:

A handwritten signature in blue ink, appearing to read "Karen Pinkos".

Karen Pinkos, City Manager

Attachments:

1. Resolution

RESOLUTION 2021-XX

A RESOLUTION AUTHORIZING CITY COUNCIL AND CITY ADVISORY BODY MEETINGS TO BE HELD VIA TELECONFERENCE FOR THE 30-DAY PERIOD BEGINNING NOVEMBER 5, 2021 AND MAKING RELATED FINDINGS PURSUANT TO AB 361

WHEREAS, all meetings of the City of El Cerrito's legislative bodies are open and public, as required by the Brown Act, so that any member of the public may attend, participate, and watch the City's legislative bodies conduct their business; and

WHEREAS, in addition to the City Council, the City's legislative bodies include all boards, commissions, and committees created by the City Council pursuant to Government Code section 54952(b) (hereafter "Advisory Bodies"); and

WHEREAS, on March 4, 2020, the State of California declared a statewide emergency over the COVID-19 pandemic; and

WHEREAS, on March 10, 2020, the County of Contra Costa adopted Resolution 2020-92 declared a countywide emergency over the COVID-19 pandemic; and

WHEREAS, on March 13, 2020, the City Council adopted Resolution 2020-12 declaring a citywide emergency over the COVID-19 pandemic; and

WHEREAS, on March 17, 2020, the Governor signed Executive Order N-29-20 suspending certain provisions of the Brown Act in order to allow local legislative bodies to conduct meetings telephonically or by other means; and

WHEREAS, as a result of Executive Order N-29-20, staff set up teleconference meetings for all City Council meetings and all Advisory Body meetings; and

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21 which ended the applicable provisions of Executive Order N-29-20 on September 30, 2021; and

WHEREAS, the Contra Costa County Health Department issued a Health Order requiring masks indoors in public places, regardless of vaccination status, starting August 3, 2021; and

WHEREAS, on September 16, 2021, the Governor signed AB 361 (2021) into law allowing legislative bodies to continue to conduct meetings via teleconferencing under specified conditions, including the requirement that the legislative body make specified findings. AB 361 (2021) took effect immediately; and

WHEREAS, AB 361 (2021) requires that the Governor declare a State of Emergency pursuant to Government Code section 8625; and

WHEREAS, AB 361 (2021) further requires that state or local officials have imposed or recommended measures to promote social distancing, or, requires that the legislative body determines that meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, such conditions now exist in the City, specifically, Governor Newsom has declared a State of Emergency due to COVID-19 and on September 20, 2021, the Contra Costa County Health Officer issued recommendations for safely holding public meetings; and

WHEREAS, the Contra Costa County Health Officer's recommendations for safely holding public meetings include, but are not limited to, holding online meetings, as they present the lowest risk of virus transmission, and imposing social distancing measures for in-person meetings; and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") continues to recommend physical distancing of at least 6 feet from others outside of the household; and

WHEREAS, since issuance of Executive Order N-08-21, the highly contagious Delta variant of COVID-19 has emerged, causing an increase in COVID-19 cases throughout the State; and

WHEREAS, because of the rise in cases due to the Delta variant of COVID-19, the City is concerned about the health and safety of all individuals who intend to attend City Council and Advisory Body meetings; and

WHEREAS, the City Council hereby finds, acting as a legislative body pursuant to Government Code section 54952(a) and for the benefit of City Advisory Body created by the City Council pursuant to Government Code section 54952(b), that the presence of COVID-19 and the increase of cases due to the Delta variant would present imminent risks to the health or safety of attendees, staff, and members of the City Council and Advisory Bodies, should those bodies hold entirely in-person meetings; and

WHEREAS, teleconference meetings may include hybrid meetings, in which all or some members of the City Council or Advisory Body meet in person while others attend by teleconference, and members of the public are either allowed to participate only by teleconference or both in person and by teleconference ("hybrid meetings"). The purpose of hybrid meetings is to allow for multiple modes of attending meetings while reducing the risks of COVID-19, including the Delta variant; and

WHEREAS, the City shall ensure that all City Council and City Advisory Body meetings subject to AB 361 (2021), including hybrid meetings, comply with the provisions required by AB 361 (2021) for holding teleconferenced meetings.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby makes the following findings:

1. The above recitals are true and correct, and incorporated into this resolution.
2. In compliance with AB 361 (2021), and in order to continue to conduct teleconference meetings pursuant thereto, the City Council hereby finds that:
 - a. The City Council has considered the circumstances of the state of emergency; and
 - b. The state of emergency, as declared by the Governor, and the local emergency proclaimed by the City Council, continue to directly impact the ability of the City Council and the Advisory Bodies, as well as staff and members of the public, from meeting safely in person; and
 - c. The CDC and the Contra Costa County Health Officer continue to recommend social distancing due to COVID-19 and as a result of the presence of COVID-19 and the Delta variant, meeting in person would present imminent risks to the health or safety of attendees, the members of City Council and the City's Advisory Bodies, and staff.

BE IT FURTHER RESOLVED that city staff is directed to facilitate any teleconference meetings of the City Council and City Advisory Bodies subject to AB 361 (2021), including any hybrid meetings, pursuant to the requirements of AB 361 (2021) in order to better ensure the health and safety of the public.

BE IT FURTHER RESOLVED that this resolution shall be in effect for the 30 day period of November 5, 2021 through December 5, 2021. The City Council may reconsider the circumstances necessitating this resolution within 30 days of the adoption of this resolution.

I CERTIFY that at a regular meeting on November 2, 2021, the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on November _____, 2021.

Holly M. Charléty, City Clerk

APPROVED:

Paul Fadelli, Mayor



AGENDA BILL

Agenda Item No. 5.F.

Date: November 2, 2021
To: El Cerrito City Council
From: Karen Pinkos, City Manager, City Management
Subject: Extension of the Contra Costa County Abandoned Vehicle Abatement Program

ACTION PROPOSED

Adopt a resolution to extend the Contra Costa County Abandoned Vehicle Abatement Program and associated Fee for an additional ten years, subject to voter approval.

BACKGROUND/ANALYSIS

In 1991, Contra Costa County and the cities within the County created the Contra Costa County Abandoned Vehicle Abatement Service Authority (Authority). The purpose of creating the Authority was to collect revenue from the State to remove abandoned vehicles from the community. All cities within the County participate in the Authority and are represented by City staff. The County is represented by the County Department of Conservation and Development, which also provides administrative support to the Authority.

For the past 30 years, this partnership between the County and the cities has generated millions of dollars in revenue to remove abandoned vehicles from communities in Contra Costa County. In the fiscal year ending June 30, 2021, the Authority received approximately \$1.1 million and facilitated the removal of 1,472 abandoned vehicles within Contra Costa County.

Revenue received by the Authority from the State comes from a \$1 fee (Fee) collected for each vehicle, and an additional \$2 collected for certain commercial vehicles, registered in the County. State law requires this Fee be reauthorized at the local level every ten (10) years. Reauthorization requires approval by the County Board of Supervisors, by a two-thirds vote, and approval by a majority of the cities having a majority of the incorporated population within the county. The Fee is set to expire on April 30, 2022. This resolution would authorize the extension of the Fee until April 30, 2032.

The Fee also needs to be reauthorized by the voters of Contra Costa County. In 2010, the voters of California approved Proposition 26, which amended the definition of a "tax." The Fee collected to fund the Authority's activities is a special tax under Prop 26, and that extension of the Fee requires an election and approval by two-thirds of County voters. Therefore, this resolution would authorize the Authority to submit a ballot measure to the County for inclusion on the June 7, 2022 election ballot, which is the next available election date. The cost of the election will be paid for from the revenues of the Authority.

To date, at least seven (7) other counties have proposed similar tax measures for abandoned vehicle abatement programs. Five measures have passed (Amador, Butte, Calaveras, Humboldt, Mendocino), and two measures have failed (Fresno and San Benito) resulting in program termination. At least five counties have voluntarily terminated their programs (Orange, Napa, San Diego, San Mateo, Shasta). Several more counties are considering ballot measures during the current the 10-year reauthorization period. In the event a local measure to extend the Fee is not passed on the June 7, 2022 ballot, the Authority will cease to operate and will be discontinued.

Staff recommends that the City Council adopt a resolution to extend the Contra Costa County Abandoned Vehicle Abatement Program and associated Fee for an additional ten years, subject to voter approval.

STRATEGIC PLAN CONSIDERATIONS

This item is consistent with Strategic Plan Goal A: Deliver exemplary government services and Goal E: Ensure the public's health and safety.

ENVIRONMENTAL CONSIDERATIONS

This section is not applicable to this agenda item.

FINANCIAL CONSIDERATIONS

The cost of the election will be paid for from the revenues of the Contra Costa County Abandoned Vehicle Abatement Service Authority.

LEGAL CONSIDERATIONS

This section is not applicable to this agenda item.

Reviewed by:

A handwritten signature in blue ink, reading "Alexandra Orologas".

Alexandra Orologas, Assistant City Manager

Attachments:

1. Resolution

RESOLUTION NO. 2021-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO EXTENDING
THE ABANDONED VEHICLE ABATEMENT PROGRAM AND ASSOCIATED FEE
SUBJECT TO VOTER APPROVAL

WHEREAS, California Vehicle Code Sections 22710 and 9250.7 authorized the establishment of the Contra Costa County Abandoned Vehicle Abatement Service Authority ("Authority"), which was formed in 1991, and authorized the imposition of a fee on vehicles registered in Contra Costa County ("AVA Fee"); and

WHEREAS, collected AVA Fees are used exclusively in the Contra Costa County Abandoned Vehicle Abatement Program ("Program"), to abate, remove, and dispose of any abandoned, wrecked, dismantled, or inoperative vehicles or vehicle parts as public nuisances, whether on public or private property, and to combat neighborhood blight and decay; and

WHEREAS, California Vehicle Code Sections 22710 and 9250.7 allow an extension of the AVA Fee in increments of up to 10 years; and

WHEREAS, California Vehicle Code Sections 22710 and 9250.7 require a county's board of supervisors, by a two-thirds vote, and a majority of the cities having a majority of the incorporated population within the county, to adopt resolutions approving the extension of the AVA Fee; and

WHEREAS, Proposition 26, adopted by the voters of California in 2010, defined "tax" in a manner resulting in the classification of the AVA Fee as a special tax subject to voter approval; and

WHEREAS, the current AVA Fee sunsets on April 30, 2022, and without an extension of the AVA Fee, the County and cities within the County will be unable to recover a significant portion of the costs of abating nuisance vehicles.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito, the following:

1. The City Council hereby extends the AVA Fee and extends the authorization for the Authority to collect the AVA Fee, for a period of 10 years, subject to approval by the electors of the County.
2. The City Council hereby authorizes the Authority to order an election for Tuesday, June 7, 2022, and submit to the electors of Contra Costa County the question of whether the Program and AVA Fee, as authorized by Vehicle Code sections 9250.7 and 22710, shall be renewed for 10 years, as set forth more fully in the ballot measure as follows:

Measure __. Extension of the Abandoned Vehicle Abatement Program.

Shall the measure extending the Contra Costa County Abandoned Vehicle Abatement Program and associated annual fee, at a rate of one dollar per vehicle registered in Contra Costa County and an additional two dollars for certain commercial vehicles registered in Contra Costa County, which is estimated to generate \$1,100,000 annually for removing and disposing of abandoned and wrecked vehicles, until April 30, 2032, be adopted?

3. Upon approval of the above measure by at least two-thirds of the registered voters voting on the measure, the Authority will be authorized to impose the AVA Fee.
4. The City Council hereby authorizes the Authority to take all administrative actions necessary in furtherance of ordering an election for the purpose of extending the Abandoned Vehicle Abatement Program and the AVA Fee.

BE IT FURTHER RESOLVED that this resolution shall become effective immediately upon passage and adoption.

I CERTIFY that at a regular meeting on November 2, 2021 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on November _____, 2021.

Holly M. Charléty, City Clerk

APPROVED:

Paul Fadelli, Mayor

PG&E's Insulator Washing Program

CITY OF EL CERRITO

November 2, 2021



Safety

General Safety Tips



Identify two exit routes from your current work area in the event of a fire or other emergency.



“Drop, cover and hold” in the event of an earthquake.



Notify emergency services if you are in danger. You can also ask for help by putting a message in the chat function of this meeting.

What Is Insulator Washing?

Contaminants can build up on the insulators of PG&E's electric power poles. This could potentially lead to ignitions if they are not washed away.

Insulator Washing Program

Why it's necessary

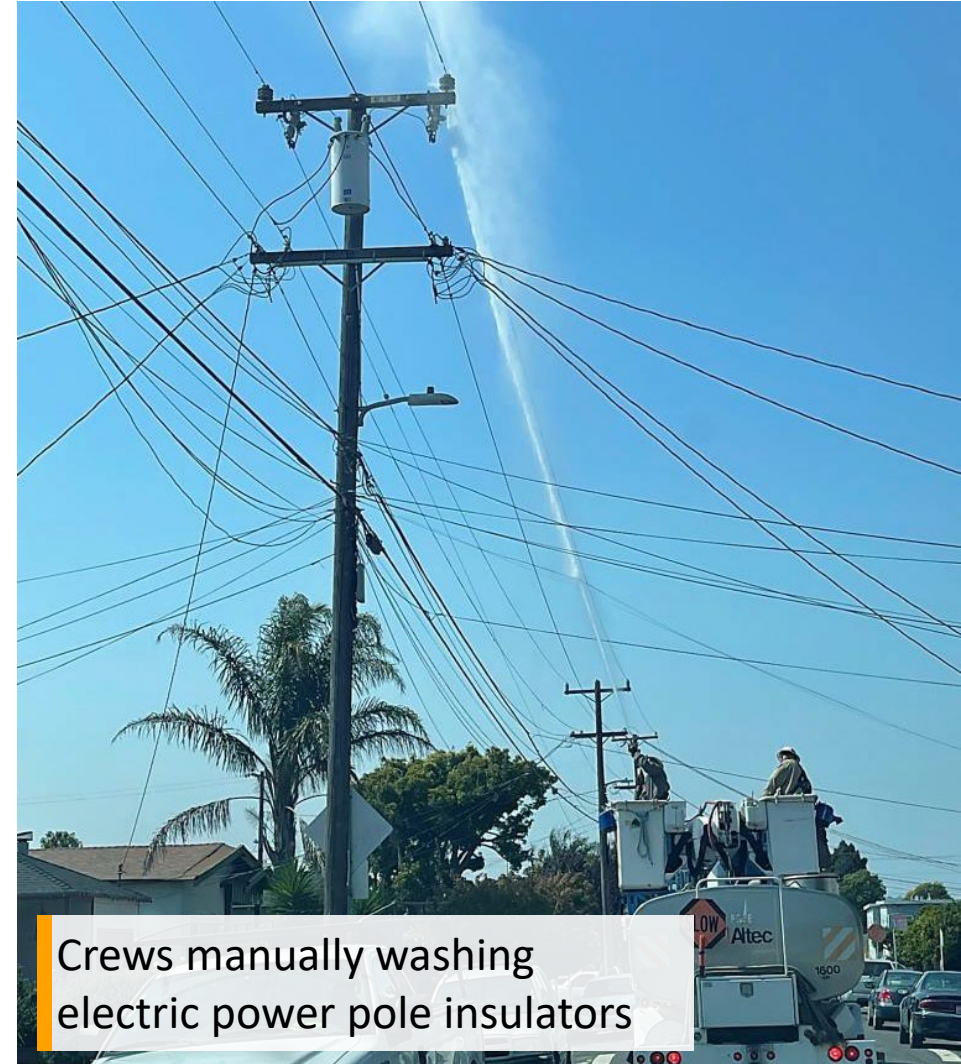
If built-up contaminants come into contact with certain moisture sources, such as fog or light rain, they can cause a fire on the electric pole.

Why now

Under normal circumstances, rainfall can clean contaminants from insulators. Recent dry winters and drought conditions have increased contaminant build-up.

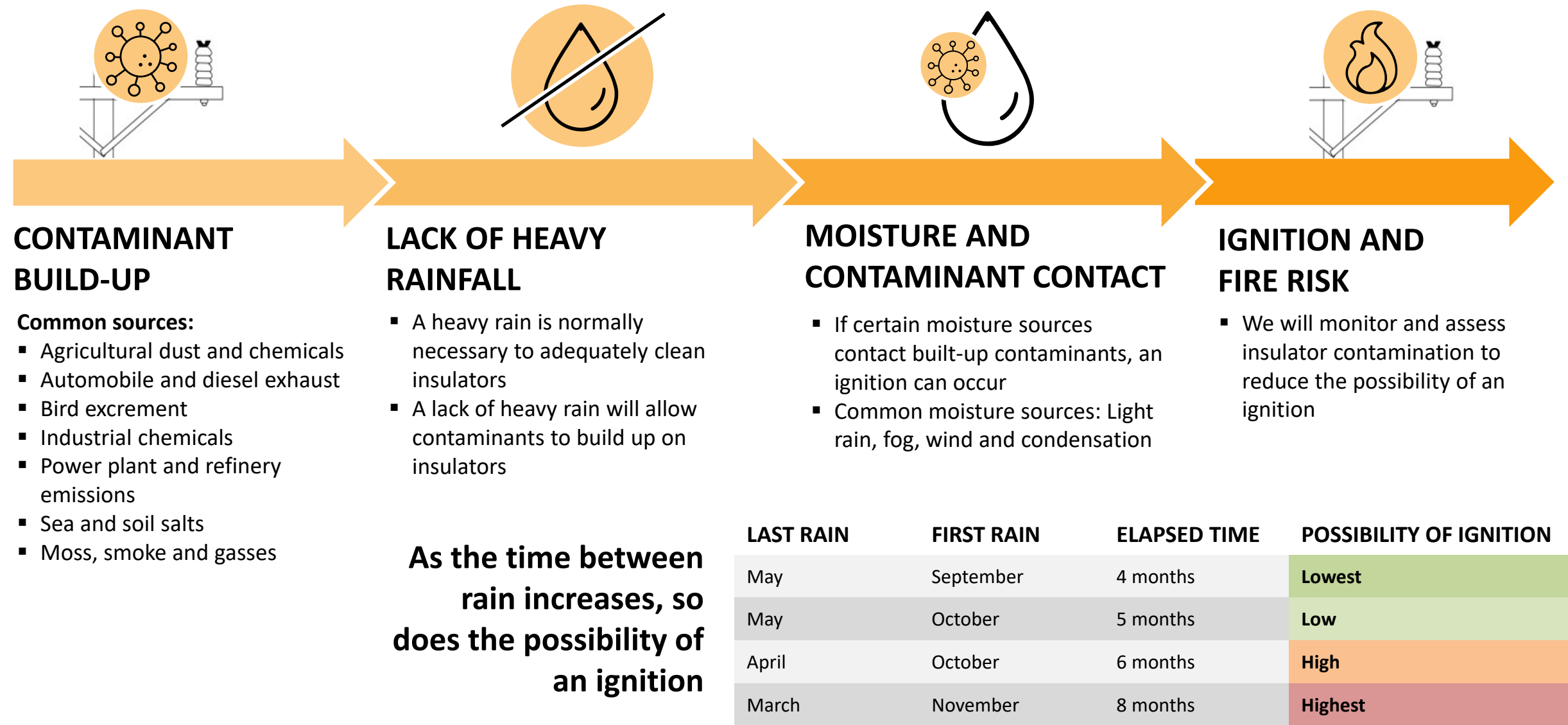
What we are doing

We are expediting efforts to manually wash electric power pole insulators to reduce the risk of ignitions.



Crews manually washing electric power pole insulators

Why Is Insulator Washing Needed?



Yearly and Monthly Rainfall In The City of El Cerrito

Below are monthly and yearly observed and normal rainfall totals for the City of El Cerrito.

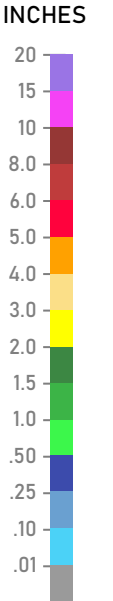
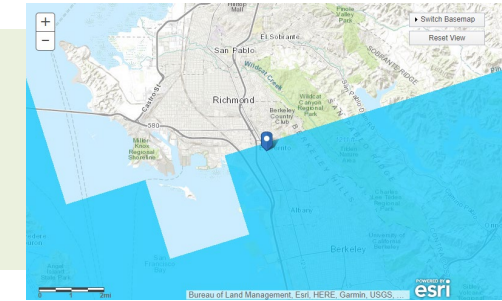
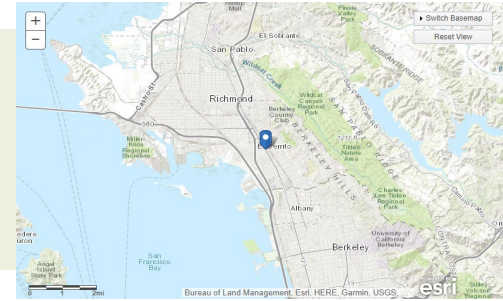
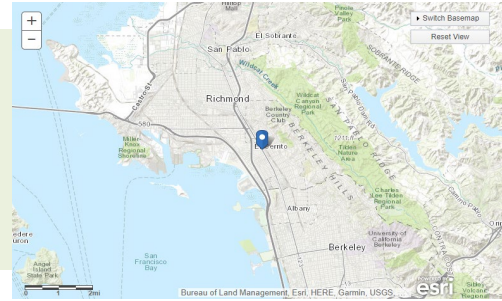
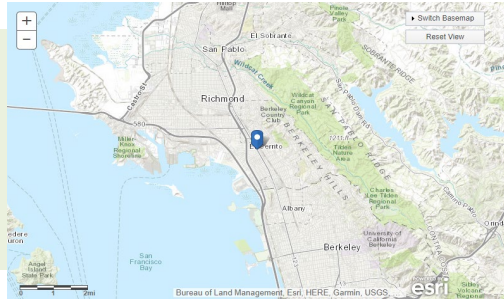
JUN 2021

JUL 2021

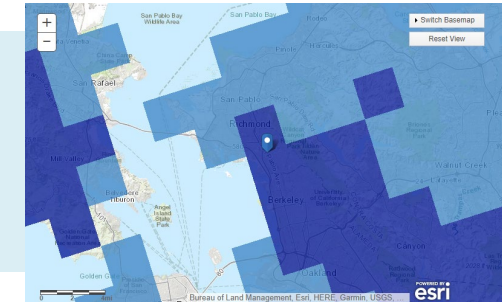
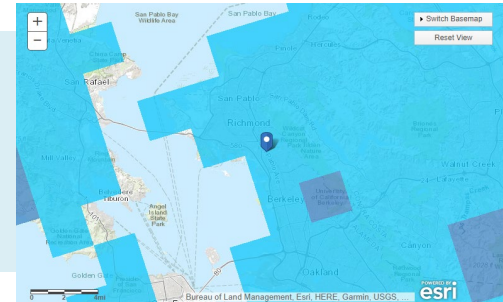
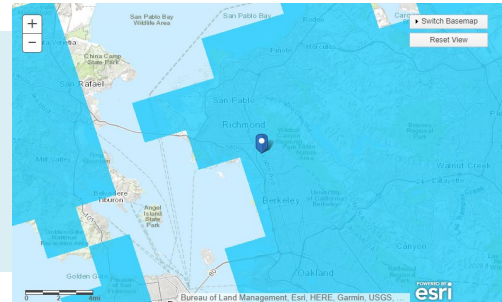
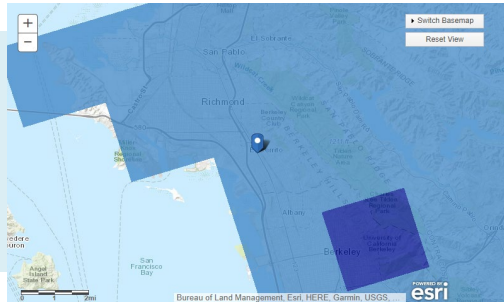
AUG 2021

SEP 2021

OBSERVED



NORMAL

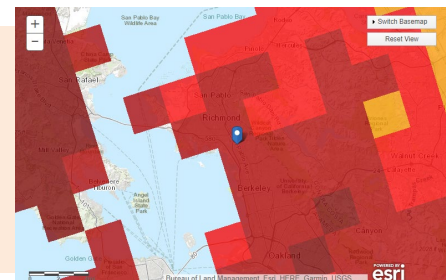
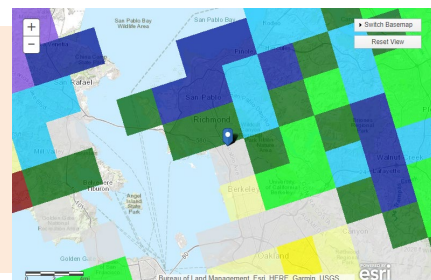
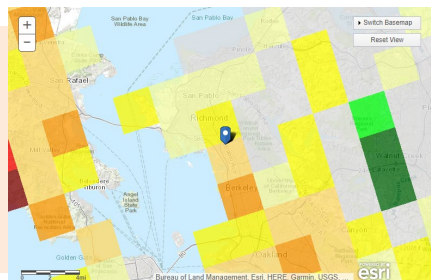


2018

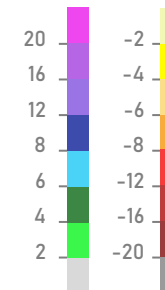
2019

2020

DEPARTURE FROM NORMAL



INCHES



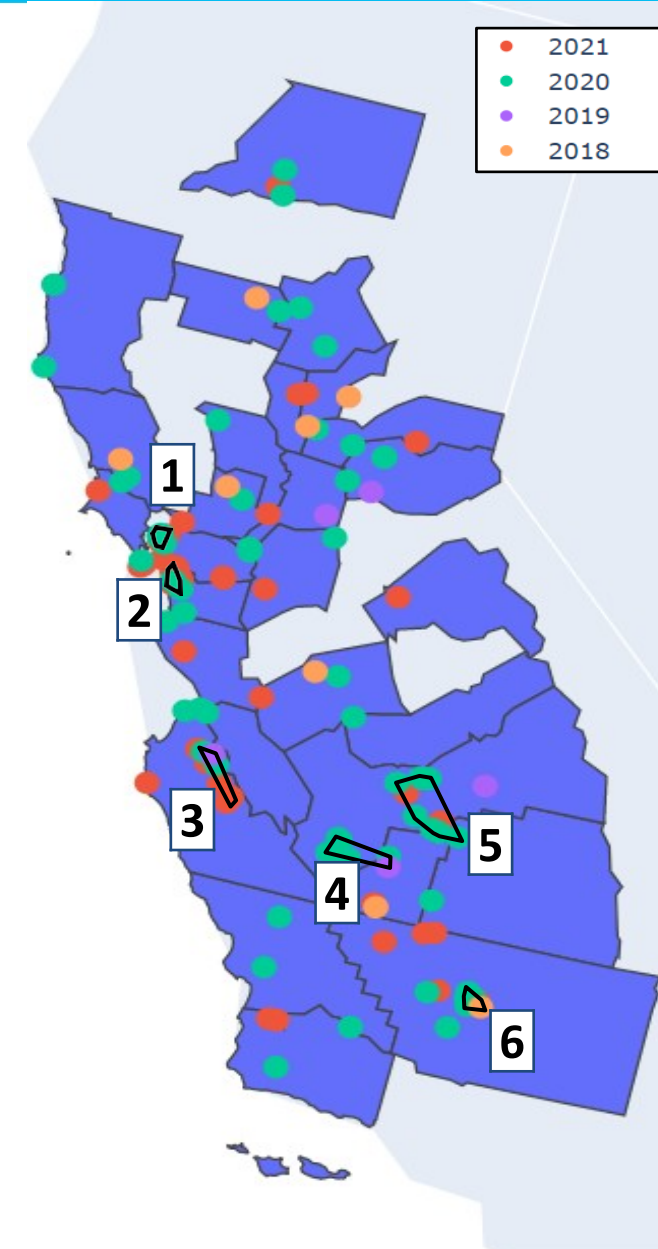
Source: National Oceanic and Atmospheric Administration, National Weather Service
Data as of 10/26/2021, 12:00 UTC

Where Are We Conducting Insulator Washing?

We plan to conduct insulator washing each year before heavy fog or rainfall. In dry years, we may conduct washing twice. In coastal areas, monthly washing may be necessary. Throughout the year, we monitor weather forecasts and will adjust our schedules and resources as needed.

Through an analysis of weather conditions and contaminants across our entire service area, we identified six priority areas:

1	City of Richmond
2	City of San Leandro/City of Hayward
3	Salinas Valley
4	Fresno/Kings County
5	Fresno/Kings/Tulare County
6	Kern County



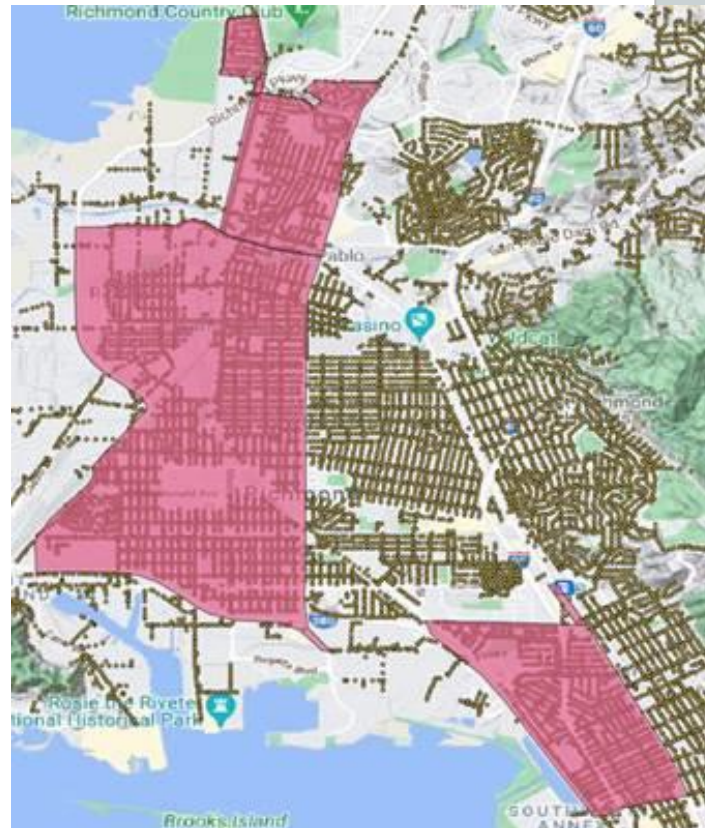
What To Expect in Contra Costa County

Our insulator washing crews are currently conducting work in Contra Costa County in critical areas.

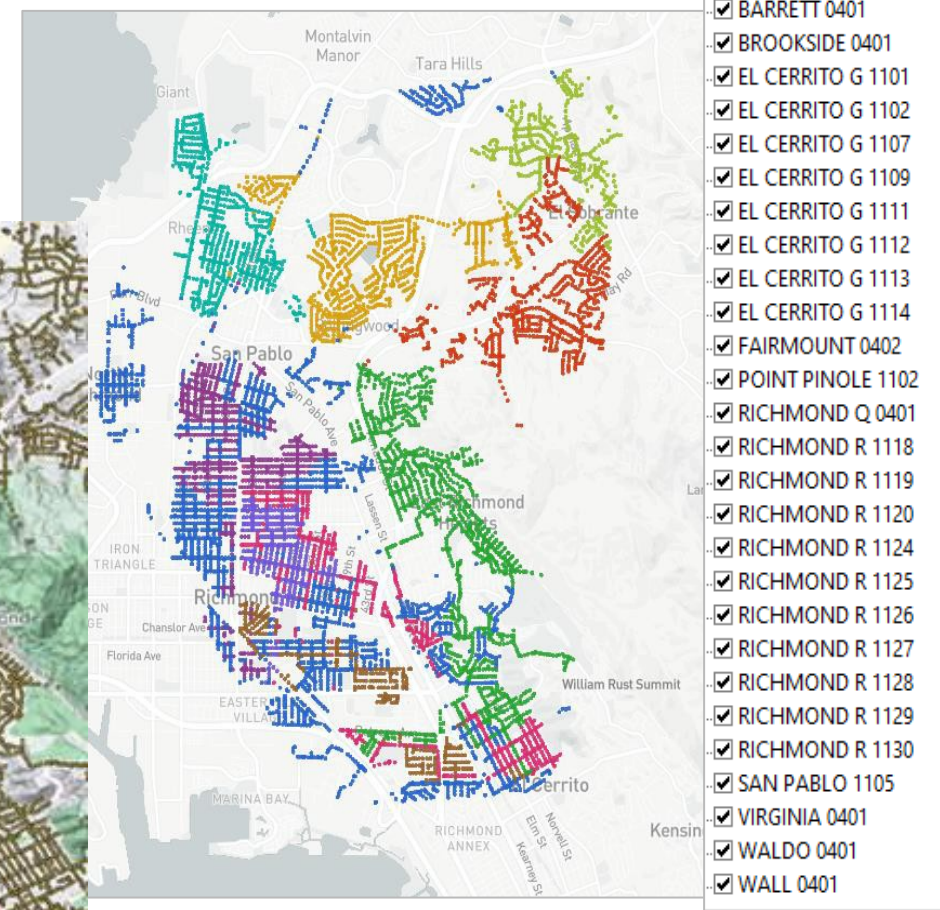
We are targeting:

- **1,000** electric power poles washed per crew, per week
- **6,000** electric power pole locations in critical areas with recent fire incidents
- **Completion** of all work by November 15, 2021 (unless heavy rainfall occurs prior)

CURRENT FOCUS AREA IN THE EAST BAY

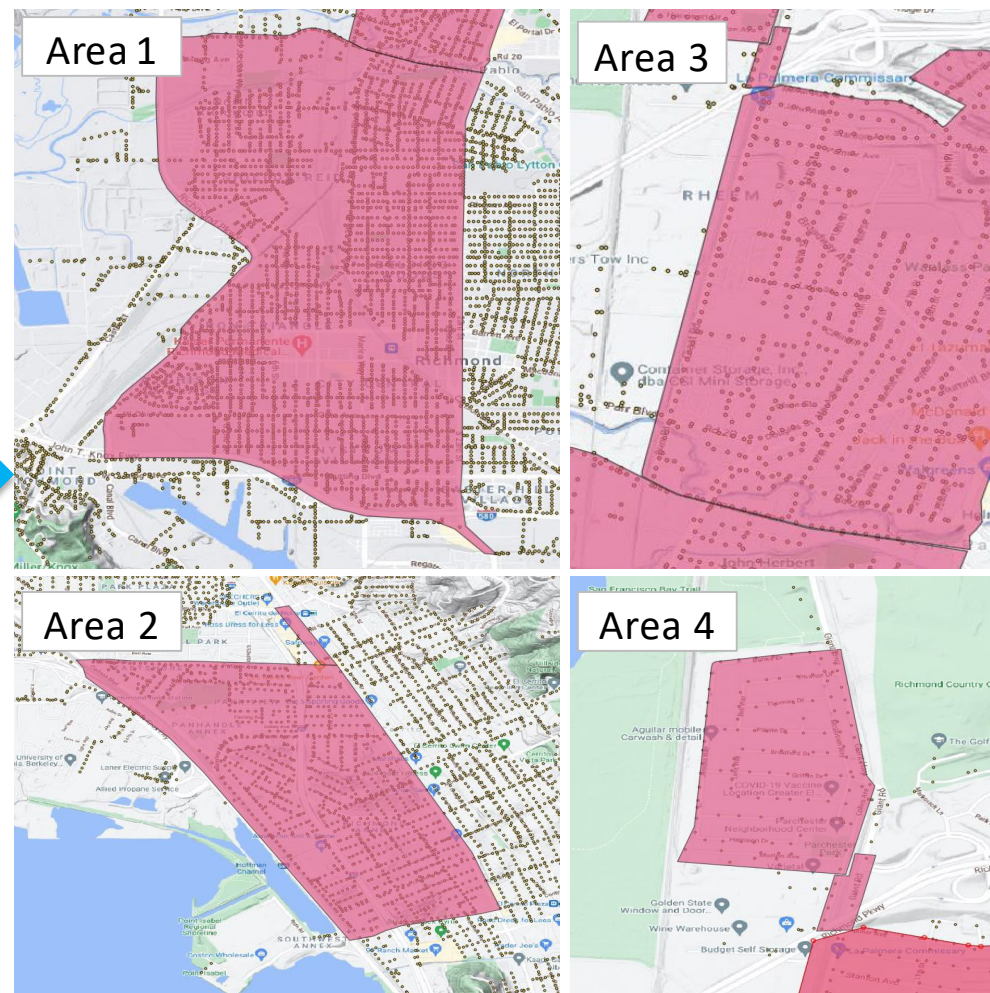
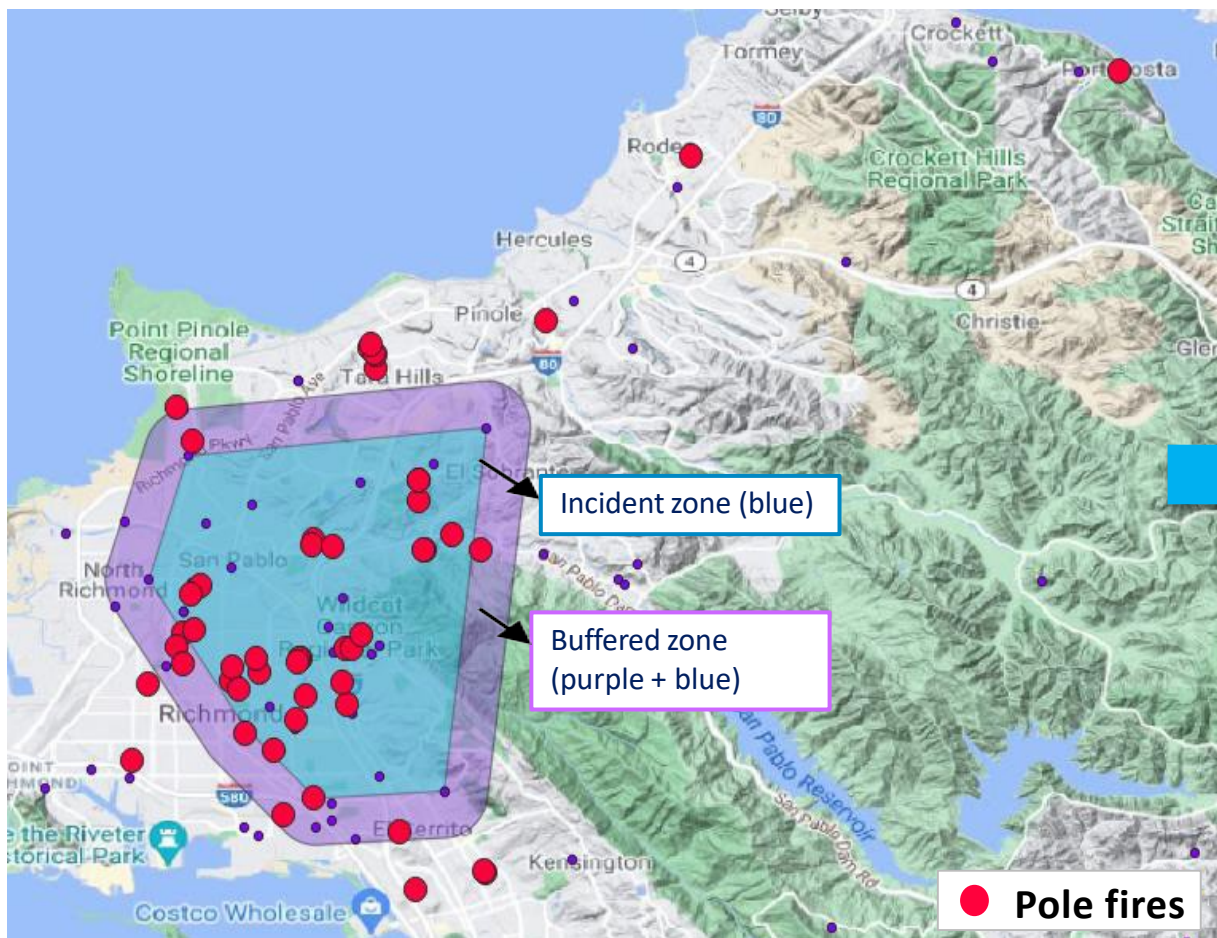


TARGETED CIRCUITS



Targeting Our Work In Critical Areas

We are analyzing electric pole fire data to target our insulator washing in critical areas.



What Makes Up An Insulator Washing Crew?

- ✓ 4-person crew
- ✓ 2-person flagging crew
- ✓ Wash rig

We are currently training additional crew members to make sure we can address critical areas during the current drought.



Thank You





AGENDA BILL

Agenda Item No. 7.A.

Date: November 2, 2021
To: El Cerrito City Council
From: David Yun, Fire Prevention Officer; Michael Pigoni, Fire Chief, Fire Department
Subject: Fire Hazard Abatement

ACTION PROPOSED

1) Adopt a resolution declaring weeds, rubbish, litter, or other flammable material on certain real property identified in the resolution constitutes a public nuisance; and 2) Conduct a public hearing and upon conclusion, adopt a resolution overriding objections by property owners and ordering the City Manager or their designee to abate certain public nuisances pursuant to El Cerrito Municipal Code Chapter 16.26.

BACKGROUND

The Fire Hazard Abatement Program is designed to reduce fire hazards on a large number of private properties during the spring and early summer months. A process of advance notice and hearings for property owners is coupled with a public education program involving the promulgation of standards for vegetation management in residents' yards and vacant lots. This program seeks to remove weeds, rubbish, litter or other flammable material from private properties where such flammable material endangers the public safety by creating a public nuisance and a fire hazard. Most property owners voluntarily abate these hazards without Fire Department involvement. Ideally, 100% of the property owners would do so. We anticipate that a small number of owners are content to have the City do the work and place the costs on their tax bill. For over 20 years, the City's annual Fire Hazard Abatement Program has been very successful in reducing fire hazards throughout the hill neighborhoods of El Cerrito. Indeed, this program has become a model program which other fire jurisdictions have borrowed from.

The City Council held a public hearing on July 20, 2021 and adopted resolutions that 1) declared weeds, rubbish, litter, or other flammable material on certain real property identified in the resolution constituted a public nuisance; and 2) overrode objections by property owners and ordered the City Manager or their designee to abate certain public nuisances pursuant to El Cerrito Municipal Code Chapter 16.26. This public hearing requests that the City Council conduct the same public hearing process for additional identified properties as shown in Attachment 2.

ANALYSIS

Since May of this year, the Fire Department has conducted citywide fire hazard inspections of all properties. Inspections began May 10, 2021 and were conducted through August. As a result of these inspections, a list of properties containing public nuisances was generated which continues to be amended as additional properties are

identified, as with this public hearing. On September 14, 2021 the property determined to be in violation of El Cerrito Municipal Code Chapter 16.26 was notified in writing of the hazards on their property to abate hazardous conditions, and the El Cerrito Vegetation Management Standards Checklist was included with the notification (Attachments 4, 5, & 6). Additionally, this property owner was informed in the Letter from the Fire Marshal (Attachment 4) of the time, date and location of the upcoming City Council meeting where their property would be declared a public nuisance and abatement would be ordered. The property owner was directed to complete the necessary measures to bring their property into compliance prior to the re-inspection process done on a rotating basis dependent upon the initial notice. Since the property was not voluntarily abated with the first notice, it is contained within the Master Abatement List, Exhibit A to the proposed Resolution (Declaring Public Nuisance.)

This public hearing is the next step in the process to eliminate hazards on the additional private properties that were identified as a public nuisance and have not voluntarily abated said violations. In order to achieve full compliance, the City Council is asked to declare the properties to be a public nuisance and direct the City Manager or their designee to abate such public nuisance conditions. Actual City-ordered abatement of fire hazards occurs only after all efforts at providing notice, information, and a public hearing have failed to induce voluntary compliance by the property owner.

The Fire Hazard Abatement process, under the direction of the Fire Department, should proceed according to El Cerrito Municipal Code Chapter 16.26, which specifies the following:

1. The Fire Department determines that hazards must be abated. Pursuant to these code sections, "hazards" are defined as weeds, rubbish, litter, or other flammable materials which create a fire hazard or are otherwise noxious or dangerous and which exist on specific parcels of property within the City.
2. The Fire Department shall post notice on each property or send notice by mail that the El Cerrito Fire Department has determined the existence of a public nuisance which must be abated and that a hearing will be held to consider any objections prior to the City Council declaring the properties to be a public nuisance and ordering the City Manager or their designee to perform abatement.
3. At the November 2, 2021 City Council meeting, the City Council shall first adopt a resolution Declaring that Weeds, Rubbish, Litter, or Other Flammable Material on Certain Real Property Constitutes a Public Nuisance (Attachment 1 and 2).
4. At the same hearing, but after adoption of the first resolution, the City Council shall hear and consider all objections to declaration of public nuisances or the procedures proposed for abatement of the same. After the hearing, the Council shall adopt a resolution Overriding Objections by Property Owners and Ordering the City Manager or their Designee to Abate Certain Public Nuisances Pursuant to Chapter 16.26 (Attachment 3).
5. At the conclusion of the November 2, 2021 hearing, a second and final notice shall be sent to the property owner prior to abatement (Attachment 8). This notice will order the immediate abatement of nuisance conditions. This notice will clearly

state that if nuisance conditions are ignored, the City shall cause abatement and costs for removal will be assessed against the property as a lien and special assessment. It will also indicate that if the conditions are voluntarily abated, the property shall be removed from the process.

6. If the nuisance is not abated between November 8, 2021 and November 19, 2021 prior to the arrival of the hazard abatement crew, the City of El Cerrito shall cause the weeds, rubbish, refuse, and other flammable material to be removed and shall keep an account of the cost of abatement for each parcel of land where such work is performed according to the City Council adopted Fire Department Master Fee Schedule.
7. At the December 7, 2021 City Council Meeting the City Manager or their designee shall submit to the City Council for confirmation an itemized written report showing the cost of abatement work performed. A copy of this report shall be posted for at least ten (10) days prior to its submission to the City Council. Each property owner upon whose property abatement work was performed shall be sent written notice by mail of a hearing by the City Council to consider the cost of abatement work performed on their property.
8. At the City Council Meeting on December 7, 2021, the City Council shall receive and consider the written staff report on abatement actions taken by the City and shall hear any objections from the property owners liable to be assessed for the abatement. The City Council may modify the staff report if deemed appropriate and then confirm the report by motion or resolution.
9. After City Council confirmation of the report, a certified copy of the report shall be filed with the county auditor who shall add the amount of the assessment to the next regular tax bill levied against the parcel.

STRATEGIC PLAN CONSIDERATIONS

This item is consistent with Strategic Plan Goal E: Ensure the public's health and safety.

ENVIRONMENTAL CONSIDERATIONS

The Fire Hazard Abatement Program is exempt from California Environmental Quality Act (CEQA) pursuant to Sections 15304 and 15308 of the CEQA Guidelines. Therefore, no further CEQA review is required.

FINANCIAL CONSIDERATIONS

The abatement program will be administered by Fire Department staff with minimum costs expended for printing and mailing. Abatement work will be completed by City maintenance staff or private contract labor as appropriate. Program costs will be recovered through the special assessment and lien process.

LEGAL CONSIDERATIONS

The City Attorney has reviewed and approved the process.

Reviewed by:

A handwritten signature in blue ink, appearing to read "Karen Pinkos".

Karen Pinkos, City Manager

Attachments:

1. Resolution (Declaring Public Nuisance)
2. Exhibit A to Resolution (List of Properties)
3. Resolution (Overriding Objections)
4. 1st Letter - Fire Marshal (El Cerrito)
5. Abatement Inspection Form
6. Vegetation Management Standards Checklist EC
7. Correction Letter - El Cerrito
8. 2nd Letter - Fire Marshal's Letter of Declared Fire Hazard
9. Vegetation Management Standards El Cerrito

RESOLUTION NO. 2021 - XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO DECLARING THAT WEEDS, RUBBISH, LITTER OR OTHER FLAMMABLE MATERIAL ON CERTAIN REAL PROPERTY CONSTITUTES A PUBLIC NUISANCE

WHEREAS, El Cerrito Municipal Code Chapter 16.26 provides a method by which a local legislative body may abate on private property public nuisance conditions relating to weeds, rubbish, litter or other flammable material that creates a fire hazard, a menace to the public health or which is otherwise noxious or dangerous; and

WHEREAS, the City of El Cerrito Fire Marshal has identified certain real property, by street name, lot and block number, on which the presence of weeds, rubbish, litter or other flammable material creates a fire hazard, a menace to the public health or which is otherwise noxious or dangerous as defined in Chapter 16.26 of the El Cerrito Municipal Code and therefore constitutes a public nuisance; and

WHEREAS, pursuant to El Cerrito Municipal Code Section 16.26.160 and Government Code Section 39560-39588, the City Council shall adopt this resolution declaring that certain real property within the City constitutes a public nuisance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that the following properties identified on Exhibit A, attached hereto, are declared to be public nuisances pursuant to El Cerrito Municipal Code Section 16.26.160.

BE IT FURTHER RESOLVED that on this same date of November 2, 2021 at 7:00 pm in the City of El Cerrito, the City Council shall hold a hearing at which owners of the real property identified in Exhibit A hereto may object to the designation of their properties as public nuisances and object to the abatement actions proposed by the City.

I CERTIFY that at a regular meeting on November 2, 2021 the El Cerrito City Council passed this resolution by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on November ____, 2021.

Holly M. Charléty, City Clerk

APPROVED:

Paul Fadelli, Mayor

EXHIBIT A

El Cerrito Fire Protection District List of Real Property Constituting Public Nuisances

APN	Street Address
500-230-011	2507 Alva Ave.

RESOLUTION NO. 2021 - XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO OVERRIDING OBJECTIONS BY PROPERTY OWNERS AND ORDERING THE CITY MANAGER OR HIS DESIGNEE TO ABATE CERTAIN PUBLIC NUISANCES PURSUANT TO CHAPTER 16.26

WHEREAS, El Cerrito Municipal Code Chapter 16.26 provides a method by which a local legislative body may abate on private property public nuisance conditions relating to weeds, rubbish, litter or other flammable material that creates a fire hazard, a menace to the public health or which is otherwise noxious or dangerous; and

WHEREAS, the City of El Cerrito Fire Marshal has identified certain real property, by street name, lot and block number, on which the presence of weeds, rubbish, litter or other flammable material creates a fire hazard, a menace to the public health or which is otherwise noxious or dangerous as defined in Chapter 16.26 of the El Cerrito Municipal Code and therefore constitutes a public nuisance; and

WHEREAS, on November 2, 2021, pursuant to El Cerrito Municipal Code Section 16.26.160 and Government Code Sections 39560-39588, the City Council adopted Resolution 2021-XX declaring that certain real property within the City constitutes a public nuisance; and

WHEREAS, El Cerrito Municipal Code Chapter 16.26 provides that notice shall be sent to owners of the real property declared a nuisance pursuant to Resolution 2021-XX providing those owners with the following: description of the nuisance; explanation of how the nuisance must be abated; explanation that if the nuisance is not abated; the City shall abate the public nuisance and the cost of abatement shall be assessed against the property as a special assessment; and informing the owners that the City Council shall hold a hearing at a certain date, time, and place at which the owners may present objections to the designation of their properties as public nuisances or to the proposed abatement of the nuisance; and

WHEREAS, on September 14, 2021, the City Fire Department sent written notice to the property owner describing the weeds, rubbish, refuse, or other flammable material that presented a fire hazard and public nuisance; explaining that the Fire Department had determined a public nuisance that must be removed; informing the owners that if they did not abate by October 15, 2021, the City Council would hold a hearing on November 2, 2021 at which the owners could present objections to the declaration of the nuisance or the proposed abatement measures and further explained the City could abate the nuisance and collect the costs as an assessment on the property; and

WHEREAS, on November 2, 2021, the City Council adopted Resolution 2021-XX confirming the nuisance declarations of the City Fire Department and declaring a public nuisance on certain real property pursuant to Chapter 16.26; and

WHEREAS, El Cerrito Municipal Code Section 16.26.160 and Government Code Sections 39560-39588 provide that after adoption of a resolution declaring a public nuisance and notice to affected property owners of the Council's hearing of objections,

the Council may overrule any objections and order the City Manager or his designee to abate the public nuisances.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it overrides any objections by owners of that certain real property on which public nuisances were declared in Exhibit A to Resolution 2021-xXX (adopted on the same date herewith).

BE IT FURTHER RESOLVED that the City Manager and his or her designee is hereby ordered to abate the public nuisances by having the weeds, rubbish, refuse, dirt, or other fire hazard or noxious or dangerous materials removed.

BE IT FURTHER RESOLVED that pursuant to El Cerrito Municipal Code Section 16.26.160 and Government Code Section 39574, the City Manager or his designee shall keep an account of the cost of abatement for each parcel of land on which work is performed. The City Manager or designee shall then prepare an itemized written report to be presented to the City Council so that, after the notice and hearing during the City Council meeting of December 7, 2021 these abatement costs can be confirmed as a special assessment against those parcels.

I CERTIFY that at a regular meeting on November 2, 2021 the El Cerrito City Council passed this resolution by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on November 2, 2021.

Holly M. Charléty, City Clerk

APPROVED:

Paul Fadelli, Mayor



EL CERRITO-KENSINGTON FIRE DEPARTMENT
Fire Prevention Office
10900 San Pablo Avenue, El Cerrito, CA 94530
(510) 215-4457 FAX (510) 232-4917 fpo@ci.el-cerrito.ca.us



September 14, 2021

Parcel Number:
Property Address:
Property Owner:
Property Owner's Address:

Dear El Cerrito Property Owner:

With the minimal rainfall the last two years, the community is facing its peak fire danger earlier than normal. To reduce the fire danger on private property and provide greater community safety, the Fire Department has been inspecting properties and checking for fire hazards. Recently your property listed above was found that it **does not comply** with the Vegetation Management Guidelines set forth in the City of El Cerrito Vegetation Management Standards. You are being notified now so that you may, if you have not already done so, take steps to remove those fire hazard conditions found on your property.

Enclosed is a copy of the Fire Hazard Reduction Inspection form specifying those areas that are not in compliance as well as the Fire Hazard Reduction Guidelines and Fire Hazard Reductions Checklist that can assist you in bringing your property into compliance. More information on the Vegetation Management Standards and Guidelines may be found on the City's website at: www.el-cerrito.org under Vegetation Management Standards. Additional information is also available at www.readyforwildfire.org or www.cafiresafecouncil.org as well as many others.

If you have recently completed the work to meet these standards, no further action is required. If not, your property is required to be brought into compliance no later than October 15, 2021. There is no need to contact Fire Department upon completion as we will be re-inspecting all properties. When the Fire Department has cleared your property, you will receive a follow up letter to inform you that your property is currently in compliance.

On November 2, 2021 at 7:00PM the El Cerrito City Council will hold a public hearing to declare those properties still not in compliance as a public nuisance. Your property is at risk of being declared a public nuisance and subject to further abatement actions. In accordance with the Government Code, you may appear before the Board at this public hearing to dispute this declaration.

If you have not done so already, please take immediate action to remove those fire hazard conditions and we thank you for your cooperation helping us make El Cerrito a more fire safe community.

Sincerely,

Michael Piloni

Michael Piloni
Fire Chief / Fire Marshal



**EL CERRITO FIRE DEPARTMENT
KENSINGTON FIRE PROTECTION DISTRICT**



10900 San Pablo Avenue, El Cerrito, Ca. 94530 (510)215-4450

Fire Hazard Reduction Inspection

Agenda Item No. 7.A.
Attachment 5

Owner/Tenant	Site Address	City	State	Zip Code
--------------	--------------	------	-------	----------

Legal Propety Owner	Mailing Address	City	State	Zip Code
---------------------	-----------------	------	-------	----------

APN #

YOUR PROPERTY IS NOT IN COMPLIANCE WITH THE FIRE CODE.

YOU MUST COMPLETE THE FOLLOWING REQUIREMENTS:

ZONE 1

Zero to 30 feet from buildings, structures, decks,etc. in all portions within El Cerrito and Kensington

- ☐ 1. Remove all dead plants, grass and weeds.
- ☐ 2. Remove dead or dying leaves and pine needles from your yard, roof and rain gutters.
- ☐ 3. Trees shall be maintained so that no portion is closer than 10 feet from any chimney opening.
- ☐ 4. Trees, shrubs, bushes or other vegetation adjacent to or overhanging any structure shall be maintained free of dead limbs and other combustible matter.
- ☐ 5. On mature trees, limbs should be removed up to 10' above the ground. Smaller trees should be limbed to 1/3 of their height up to 6' above the ground, but in no case less than 18" from the ground.
- ☐ 6. Relocate wood piles to Zone 2 if applicable.
- ☐ 7. Remove or prune flammable plants and shrubs near windows.
- ☐ 8. Remove vegetation and items that could catch fire from around and under decks.
- ☐ 9. Create a minimum 6-foot separation between trees, shrubs or vegetation and combustible materials.
- ☐ 10. Vacant lots in Zone 1 shall be maintained to be 10 feet wide along the property line.

ZONE 2

Thirty to 100 feet from buildings, structures, decks, etc. for all parcels within the Very High Fire Hazard Severity Zone. Zone 1 requirements shall be followed in addition to Zone 2 requirements.

- ☐ 1. Cut or mow weeds and grass to a maximum height of 6 inches.
- ☐ 2. All fire hazardous vegetation except for weeds and grass shall be cleared and maintained to a height no greater than 18 inches above the ground.
- ☐ 3. Vacant lots in Zone 2 shall be maintained to be 30 feet wide along the property line.

COMMENTS:

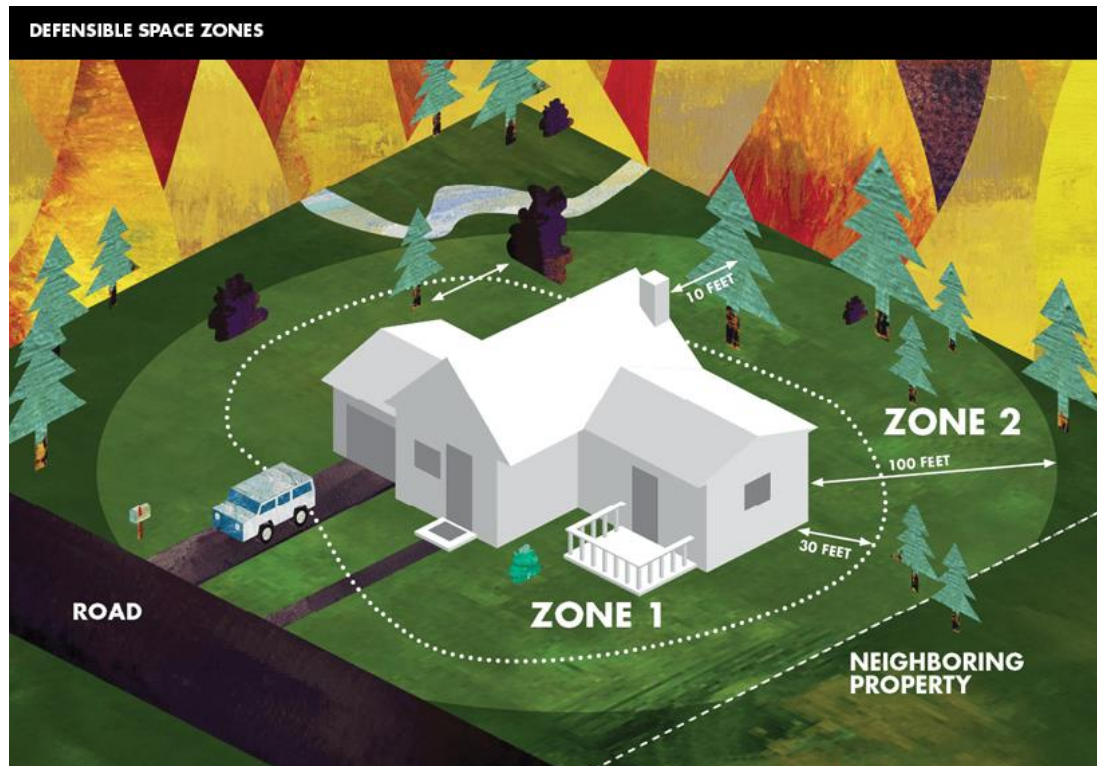
Inspected by

Inspection #

Date

Time

City of El Cerrito Fire Hazard Reduction Guidelines



Zone 1

Zone 1 extends 30 feet from buildings, structures, decks, etc. in all portions within the City of El Cerrito including the designated Very High Fire Hazard Severity (VHFHS) Zones. Vacant lots in Zone 1 shall be maintained to be 10 feet wide along the property line.

- Remove all dead plants, grass and weeds (vegetation).
- Remove dead or dry leaves and pine needles from your yard, roof and rain gutters.
- Trees shall be maintained so that no portion is closer than 10 feet from any chimney opening.
- Trees, shrubs, bushes or other vegetation adjacent to or overhanging any structure shall be maintained free of dead limbs and other combustible matter such as vines and loose papery bark.
- On mature trees, limbs should be removed up to 10' above the ground. Smaller trees should be limbed to 1/3rd of their height up to 6' above the ground, but in no case less than 18 inches from the ground.
- Relocate wood piles to Zone 2 if applicable.
- Remove or prune flammable plants and shrubs near windows.
- Remove vegetation and items that could catch fire from around and under decks.
- Create a minimum 6-foot separation between trees, shrubs or vegetation and combustible materials.

Zone 2

Zone 2 extends from 30 feet to 100 feet out from buildings, structures, decks, etc. in only those areas within the City of El Cerrito designated as the Very High Fire Hazard Severity (VHFHS) Zones. Vacant lots in Zone 2 shall be maintained to be 30 feet wide along the property line. NOTE: All Zone 1 requirements shall be followed in addition to the following Zone 2 requirements:

- Cut or mow weeds and grass shall be cleared to a maximum height of 6 inches.
- All fire hazardous vegetation except for weeds and grass shall be cleared and maintained to a height no greater than 18 inches above the ground.



Fire Hazard Reduction Checklist



Zone 1 Requirements

Definition: Zone 1 extends 30 feet from buildings, structures, decks, etc. in all portions within the City of El Cerrito including the designated Very High Fire Hazard Severity (VHFHS) Zones

- ☐ Remove all dead plants, grass and weeds within 30 feet of buildings, structures, decks, etc.
- ☐ Remove dead or dry leaves and pine needles from your yard, roof and rain gutters
- ☐ Trees shall be maintained so that no portion is closer than 10 feet from any chimney opening
- ☐ Trees, shrubs, bushes or other vegetation adjacent to or overhanging any structure shall be maintained free of dead limbs and other combustible matter such as vines and loose papery bark
- ☐ On mature trees, limbs should be removed up to 10' above the ground. Smaller trees should be limbed to 1/3rd of their height up to 6' above the ground, but in no case less than 18" from the ground
- ☐ Relocate wood piles to Zone 2 if applicable
- ☐ Remove or prune flammable plants and shrubs near windows
- ☐ Remove vegetation and items that could catch fire from around and under decks
- ☐ Create a minimum 6-foot separation between trees, shrubs or vegetation and combustible materials
- ☐ Vacant lots in Zone 1 shall be maintained to be 10 feet wide along the property line

Zone 2 Requirements

Definition: Zone 2 extends from 30 feet to 100 feet out from buildings, structures, decks, etc. in only those areas within the City of El Cerrito designated as the Very High Fire Hazard Severity (VHFHS) Zones. NOTE: All Zone 1 requirements shall be followed in addition to the following Zone 2 requirements

- ☐ Cut or mow weeds and grass shall be cleared to a maximum height of 6 inches
- ☐ All fire hazardous vegetation except for weeds and grass shall be cleared and maintained to a height no greater than 18 inches above the ground
- ☐ Vacant lots in Zone 2 shall be maintained to be 30 feet wide along the property line

To find out if your property is located within the Very High Fire Hazard Severity Zone, go to : <https://egis.fire.ca.gov/FHSZ/> On the upper left hand side, click on the bottom icon for Address Search.



EL CERRITO-KENSINGTON FIRE DEPARTMENT

10900 San Pablo Avenue ▪ El Cerrito ▪ CA ▪ 94530
(510) 215-4457 ▪ FAX (510) 232-4917 ▪ fpo@ci.el-cerrito.ca.us



XXXXXX, 2021

Parcel Number:
Property Address: _____, El Cerrito, CA 94530
Property Owner:
Property Owner's Address:

Dear El Cerrito Property Owner:

We are pleased to inform you that we have completed re-inspection of your property and your property was found to now be in compliance with the Vegetation Management Guidelines set forth in the City of El Cerrito Vegetation Management Standards. We very much appreciate your efforts in taking immediate action to bring your property into compliance and we thank you for helping us make El Cerrito a more fire safe community. Your property **has been removed** from our list of non-compliant properties and there will be no further abatement action based on the initial inspection.

We ask that you continue your fire hazard reduction efforts and maintain your property year-round in compliance with the Vegetation Management Guidelines set forth in the City of El Cerrito Vegetation Management Standards, particularly as we move further into the fire season. Again, your efforts are very much appreciated by the Fire Department and the community of El Cerrito for your cooperation in helping us make El Cerrito a more fire safe community.

With Appreciation,

David Yun
Fire Prevention Officer



CITY OF EL CERRITO

10900 San Pablo Avenue • El Cerrito • CA • 94530
(510) 215-4457 • FAX (510) 232-4917 • fpo@ci.el-cerrito.ca.us

November 3, 2021

Parcel Number:
Property Address:
Property Owner:
Property Owner's Address:

NOTICE TO DESTROY WEEDS AND REMOVE RUBBISH, REFUSE AND OTHER FLAMMABLE MATERIAL

On **November 2, 2021** the El Cerrito City Council declared that your property in the City of El Cerrito, designated above by address and parcel number, constitutes a public nuisance because of the presence of weeds, rubbish, litter or other flammable material which creates a fire hazard, a menace to the public health, or is otherwise noxious or dangerous.

A previous notice was sent to you informing you of the November 2, 2021 hearing and further informing you of your obligation to remove the weeds, rubbish, refuse and other flammable material from your property. **If you do not immediately abate these nuisance conditions, the City will do so and the costs for removal of the weeds, rubbish, refuse and other flammable material will be assessed against your property as a lien and special assessment.** These removal costs shall then be collected in the time and in the manner of ordinary municipal taxes.

You will not receive any further notices from the City prior to this removal. The City shall perform this removal either through its own staff or through private contract sometime between the dates of **November 8, 2021 to November 19, 2021**. It is impossible to predict what it will cost the City to remove these nuisance conditions from your property. The costs depend on the severity of those conditions. In past years these abatement costs have sometimes exceeded \$5,000 per parcel for those parcels with severe nuisance conditions

The City Council will conduct a public hearing on **December 7, 2021** to confirm the cost of the abatement work performed on your property. The meeting will be held via teleconference or in the **El Cerrito City Council Chambers at 10890 San Pablo Avenue in El Cerrito at 7:00 p.m.** Please refer to the agenda for meeting information at www.el-cerrito.org/CouncilMeetingMaterials. During this public hearing you will be given the opportunity to voice objections regarding the report and the assessment of the abatement costs for your property. At this hearing you will also be given the opportunity to object, protest and/or present evidence to support your arguments.

If you have any questions, contact the El Cerrito Fire Department at 10900 San Pablo Avenue. The phone number is (510) 215-4450.

Michael Pígoni

Michael Pígoni
Fire Chief/Fire Marshal

City of El Cerrito Fire Hazard Reduction Program

I. INTRODUCTION

A. Purpose of Vegetation Management Standards

California communities have experienced devastating fire loss because of the severity of fires which occur in the wildland interface areas. These areas exist in the community of El Cerrito. In these areas the risk of conflagration is increased further by homeowners who create or do not maintain landscaping on their properties. Homes are threatened by fire every year in California largely because of heavy vegetation fuel load very near structures.

Very High Fire Hazard Severity Zones (VHFHSZ) have been identified within the El Cerrito community by the El Cerrito Fire Department and CAL Fire. As specified by State Law AB 337, property owners within the VHFHSZ must take special precautions with their property, including vegetation management, to reduce the risk of fire. All El Cerrito property owners must comply with the City's Fire Hazard Reduction standards.

The buildup of unmanaged vegetation, whether native or non-native, steep hillsides with canyons, draws, and periods of extremely hot, dry weather all combine to create in El Cerrito the potential for catastrophic fire behavior. Catastrophic fires can destroy large numbers of homes, threaten public safety and severely damage the natural areas which contribute to our high quality of living.

A key goal of El Cerrito's community fire protection planning is to reduce the level of fire hazards throughout the community and particularly in the VHFHSZ. While it is not possible to eliminate all threats of catastrophic wildfire, fire hazards can be reduced to acceptable levels and still allow a "green" community.

Vegetation management planning in the VHFHS Zone focuses on areas where fire poses the greatest risk to life and property. Fires will continue to be a part of California urban living. By implementing vegetation management standards, El Cerrito residents can significantly reduce the potential a small fire will grow into a catastrophic event. An important component of reducing the community's fire risk requires vegetation management to be practiced by all property owners.

No person shall be prosecuted criminally under the provisions of Section 8.30.040 of the El Cerrito Municipal Code until that person has received written notice of how that property violates these standards and until that person has had the reasonable opportunity to meet with City staff concerning the procedures set forth in Chapter 8.34 or Chapter 16.26 of the El Cerrito Municipal Code. Civil procedures for fire hazard abatement include providing the property owner with (1) written notice on how the property violates these guidelines, (2) reasonable opportunity to comply with the guidelines and (3) opportunity to be heard before the City Council.

II. FIRE HAZARD REDUCTION GUIDELINES

Many factors combine to create a fire hazard on any specific property. It is difficult to single out a specific vegetation species or configuration to declare it either fire hazardous or completely fire safe in all situations. The Fire Department has developed guidelines conforming to State Law and National Fire Protection Standards which address most situations found on private property within El Cerrito.

A. Hazard Zones

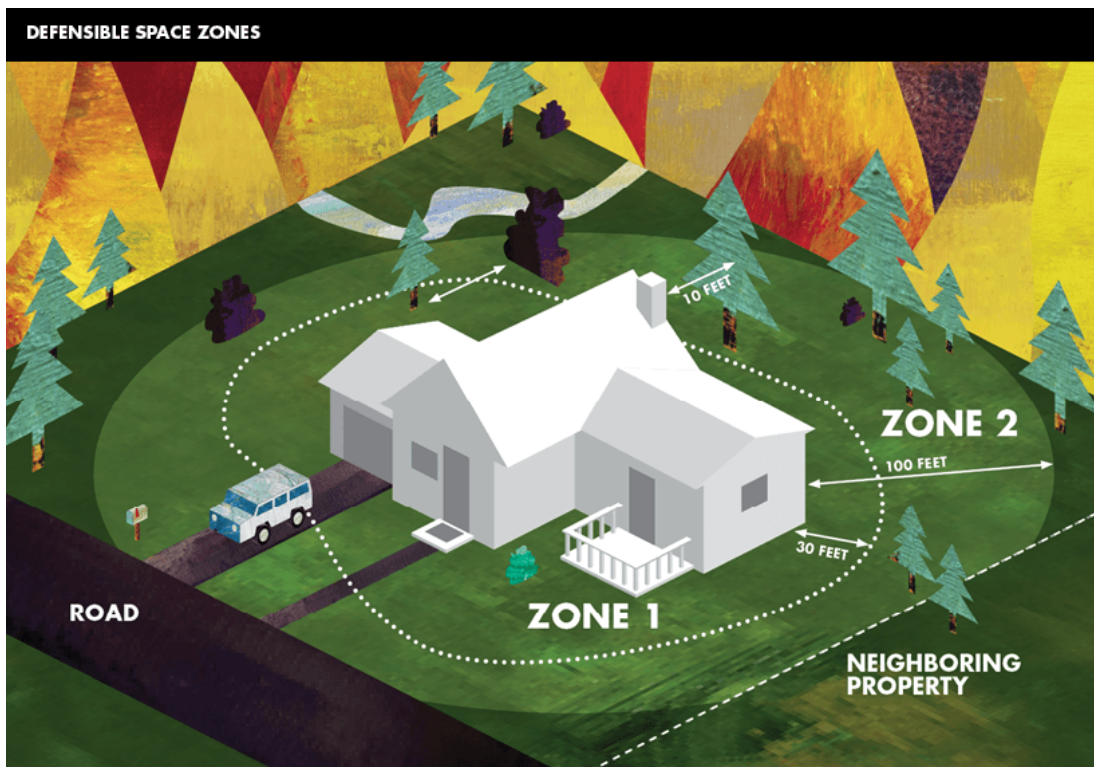
Portions of the City of El Cerrito lie adjacent or near to large wildland areas containing steep slopes and naturally growing vegetation. Every year under certain critical weather conditions, the neighborhoods near these wildland areas are at heightened risk of seasonal wildfire sweeping into the City and burning homes. These areas at heightened risk of wildfire have been designated as Very High Fire Hazard Severity (VHFHS) Zones as designated by CalFire. The rest of the City faces a lesser risk of wildfire. Fire hazard reduction measures common to the entire City are required on both vacant and developed lots.

B. Defensible Space

Defensible space is essential to improve your home's chance of surviving a wildfire. It is the buffer you create between a building on your property and the grass, trees, shrubs, or any wildland area that surround it. This space is needed to slow or stop the spread of wildfire and it helps protect your home from catching fire—either from direct flame contact or radiant heat. Defensible space is also important for the protection of the firefighters defending your home.

Defensible Space Zones

Two zones make up the required 100 feet of defensible space.



Zone 1

Zone 1 extends 30 feet from buildings, structures, decks, etc. in all portions within the City of El Cerrito including the designated Very High Fire Hazard Severity (VHFHS) Zones. Vacant lots in Zone 1 shall be maintained to be 10 feet wide along the property line.

- Remove all dead plants, grass and weeds (vegetation).
- Remove dead or dry leaves and pine needles from your yard, roof and rain gutters.
- Trees shall be maintained so that no portion is closer than 10 feet from any chimney opening.
- Trees, shrubs, bushes or other vegetation adjacent to or overhanging any structure shall be maintained free of dead limbs and other combustible matter such as vines and loose papery bark.
- On mature trees, limbs should be removed up to 10' above the ground. Smaller trees should be limbed to 1/3rd of their height up to 6' above the ground, but in no case less than 18 inches from the ground.
- Relocate wood piles to Zone 2 if applicable.
- Remove or prune flammable plants and shrubs near windows.
- Remove vegetation and items that could catch fire from around and under decks.
- Create a minimum 6-foot separation between trees, shrubs or vegetation and combustible materials.

Zone 2

Zone 2 extends from 30 feet to 100 feet out from buildings, structures, decks, etc. in only those areas within the City of El Cerrito designated as the Very High Fire Hazard Severity (VHFHS) Zones. Vacant lots in Zone 2 shall be maintained to be 30 feet wide along the property line. NOTE: All Zone 1 requirements shall be followed in addition to the following Zone 2 requirements:

- Cut or mow weeds and grass shall be cleared to a maximum height of 6 inches.
- All fire hazardous vegetation except for weeds and grass shall be cleared and maintained to a height no greater than 18 inches above the ground.

C. Additional Considerations for Vegetation Management

1. The Fire Hazard Abatement Program is intended to promote community fire safety by reducing the combustible vegetation fuel mass on private properties. Clearing vegetation by heavy construction methods, such as grading, discing, trenching or dozing shall require special permits from the City. **Disposal by burning is not permitted.**
2. Any parcel where slope stability will be threatened by removal of plants may be exempt from treatment requirements or subject to alternate treatments. The property owner must submit a report documenting the probability of slope failure due to vegetation removal, prepared by a licensed civil, geotechnical or soils engineer. The report shall propose alternative treatment methods to address fire hazards. The report will be reviewed by city staff. Review and acceptance by the City of alternative treatment will supersede other requirements.
3. Any parcel or lot which includes plant or animal species that are rare, endangered or of special concern may qualify for alternative plant treatment and spacing requirements. The property owner must submit a report from a qualified resource biologist or landscape architect describing the species, actions required to preserve its environmental value, and proposed alternative measures to address fire hazards. The report will be reviewed by the City. Review and acceptance by the City of alternative treatment will supersede other requirements.

D. Planting Considerations

Any plant will burn if the conditions are right. Some plants are considered to be extremely flammable while other plants are considered to have some resistance to fire. Verifiable tests of fire exposure characteristics for all specific ornamental landscaping plants are not available.

The Vegetation Management Standards for El Cerrito utilizes available information from the Diablo Firesafe Council at <http://diablofiresafe.org/tolerance.html> under Table 1 Plants with a Favorable Fire performance Rating in 3 or More References.

At the base of trees and shrubs, replace flammable vegetation with bark, mulch, rock, gravel or low-growing or more fire-resistant ground covers. This cover reduces the fire danger and minimizes weeds.

Avoid placing medium-sized shrubs beneath trees or taller shrubs. By breaking up the available fuel mass in ornamental landscaping, a fire will be kept at lower intensity, flame lengths will be shorter and fire will be less likely to form a continuous line or front.

E. Structural Fire Safety

The City's roofing and vegetation management standards are designed to reduce the amount of airborne burning material, limiting fire spread. Once a fire starts, it is often accelerated by wind-borne burning material. Burning embers or brands are the main source of fire spread in mixed urban-wildland fires. The roof of a house is most vulnerable to this type of ignition followed by openings such as vents. Spark arresters

with a maximum of ½ inch openings in the mesh are required over the outlet of every chimney. Class A is the top rating for fire resistive roofing, followed by Classes B and C. The City of El Cerrito requires that all roofing be Class B or better, and wood shake shingle roofing materials are prohibited in new construction or replacement of more than 50% of the roof. It is recommended to cover vent openings with ¼ inch openings in the mesh to prevent flying embers from entering the structure.

III. GLOSSARY OF TERMS

The following terms are used to describe the vegetation management standards in California State Law and in the City of El Cerrito's Fire Hazard Reduction Program.

Very High Fire Hazard Severity (VHFHS) Zones: Any geographic area designated per Government Code Section 51178 to contain the type and condition of vegetation, topography, weather and structure density to potentially increase the possibility of wildland conflagration fires. As a community adjacent to extensive wildland areas, the City of El Cerrito contains several VHFHS zones. A CAL Fire interactive map of these zones is available at <https://egis.fire.ca.gov/FHSZ/>. Fire hazard reduction standards are more extensive for properties located within VHFHS zones.

Defensible Space: A concept in landscape design for homes which provides a band of managed vegetation around a home that slows movement of fire by reducing or denying fuel and provides a space for firefighters to take a stand to protect the house.

Fire Resistant Plants: A relative term used to describe plants that are "more resistant: or "less resistant" than other plants to fire. Given enough heat, all vegetation will burn. Yet plants in fact differ in how fast they burn, how high a flame they produce and their ability to survive fire. Fire resistance is enhanced by higher amounts of moisture within twigs and foliage. Fire-resistant plants can lose this quality altogether if not properly maintained and irrigated. The Vegetation Management Standards for El Cerrito utilizes available information from the Diablo Firesafe Council at <http://diablofiresafe.org/tolerance.html> under Table 1 Plants with a Favorable Fire performance Rating in 3 or More References.

Fire Hazardous Vegetation: Plants which can burn easily because they generate dry undergrowth, contain flammable oils or produce significant quantities of dead or dying material. Hazardous vegetation is fuel which must be removed or strictly maintained so as not to constitute a fire hazard by igniting easily and then contributing to rapid fire spread. Seasonally dry grass, weeds, brush, and unmaintained and unirrigated trees and ornamental vegetation are examples of fire hazardous vegetation. Properly chipped, mulched and disbursed material does not constitute fire hazardous vegetation. Fire hazardous vegetation is also known as **flammable vegetation and combustible growth.**

Ornamental Landscaping: Decorative plants growing within a tended garden or yard which are appropriately irrigated, maintained and located to provide aesthetic decoration and functional utility, such as privacy screening, shade, weed suppression and erosion control. The use of fire-resistant plants and the removal of fire hazardous vegetation will enhance fire safety.

Zone 1: Extends 30 feet from buildings, structures, decks, etc.in all portions within the City of El Cerrito including the designated Very High Fire Hazard Severity (VHFHS) Zones. In Zone 1 vacant lots shall be maintained to be 10 feet wide along the property line.

Zone 2: Extends from 30 feet to 100 feet out from buildings, structures, decks, etc. in only those areas within the City of El Cerrito designated as the Very High Fire Hazard Severity (VHFHS) Zones. In Zone 2 vacant lots shall be maintained to be 30 feet wide along the property line. For properties within Zone 2, all Zone 1 requirements shall be enforced in addition to Zone 2 requirements.



Fire Hazard Reduction Checklist



Zone 1 Requirements

Definition: Zone 1 extends 30 feet from buildings, structures, decks, etc. in all portions within the City of El Cerrito including the designated Very High Fire Hazard Severity (VHFHS) Zones

- ☐ Remove all dead plants, grass and weeds within 30 feet of buildings, structures, decks, etc.
- ☐ Remove dead or dry leaves and pine needles from your yard, roof and rain gutters
- ☐ Trees shall be maintained so that no portion is closer than 10 feet from any chimney opening
- ☐ Trees, shrubs, bushes or other vegetation adjacent to or overhanging any structure shall be maintained free of dead limbs and other combustible matter such as vines and loose papery bark
- ☐ On mature trees, limbs should be removed up to 10' above the ground. Smaller trees should be limbed to 1/3rd of their height up to 6' above the ground, but in no case less than 18" from the ground
- ☐ Relocate wood piles to Zone 2 if applicable
- ☐ Remove or prune flammable plants and shrubs near windows
- ☐ Remove vegetation and items that could catch fire from around and under decks
- ☐ Create a minimum 6-foot separation between trees, shrubs or vegetation and combustible materials
- ☐ Vacant lots in Zone 1 shall be maintained to be 10 feet wide along the property line

Zone 2 Requirements

Definition: Zone 2 extends from 30 feet to 100 feet out from buildings, structures, decks, etc. in only those areas within the City of El Cerrito designated as the Very High Fire Hazard Severity (VHFHS) Zones. NOTE: All Zone 1 requirements shall be followed in addition to the following Zone 2 requirements

- ☐ Cut or mow weeds and grass shall be cleared to a maximum height of 6 inches
- ☐ All fire hazardous vegetation except for weeds and grass shall be cleared and maintained to a height no greater than 18 inches above the ground
- ☐ Vacant lots in Zone 2 shall be maintained to be 30 feet wide along the property line

To find out if your property is located within the Very High Fire Hazard Severity Zone, go to <https://egis.fire.ca.gov/FHSZ/> On the upper left hand side, click on the bottom icon for Address Search.



AGENDA BILL

Agenda Item No. 7.B.

Date: November 2, 2021
To: El Cerrito City Council
From: Sean Moss, Planning Manager; Diego Romero, Assistant Planner,
Community Development Department
Subject: Accessory Dwelling Unit Regulations Ordinance

ACTION PROPOSED

Conduct a public hearing and upon conclusion, introduce by title and waive any further reading of an Ordinance to repeal and replace Section 19.20.190 (Accessory Dwelling Units); add Section 19.20.195 (Junior Accessory Dwelling Units); and approve amendments to Section 19.46.030 (Residential Use Classifications), Chapter 19.47 (Terms and Definitions), and Section 19.24.040 (Required Off-Street Parking Spaces) of the El Cerrito Municipal Code.

BACKGROUND

Over the past two decades, the State of California has adopted a number of laws that encourage the development of Accessory Dwelling Units (ADUs) and limit the requirements that cities and other local agencies may impose on them. On June 6, 2017 the El Cerrito City Council adopted Ordinance 2017-04 amending various sections of the El Cerrito Municipal Code related to ADUs in order to comply with two California legislative bills (SB1069 and AB2299), which were adopted in 2016.

In the fall of 2019, the Governor signed several more bills that amended California Government Code 65852.2 and 65852.22, providing greater allowance for ADUs and Junior Accessory Dwelling Units (JADUs) and limit the requirements that cities can impose on their development. These bills include SB 13 and ABs: 68, 587, 670, 670, 671, and 881. The bills became effective January 1, 2020. On December 17, 2019, the City Council adopted an urgency ordinance that enacted interim regulations for ADUs to comply with the new legislation. This urgency ordinance will expire on December 15, 2021, and is not eligible for extension.

An ADU is a secondary dwelling unit with complete independent living facilities for one or more persons and can be either a detached unit separated from the primary structure or an attached unit that is attached to or included in the primary structure. A Junior ADU is no more than 500 square feet in size and must be contained entirely within a single family residence. A Junior ADU may include separate sanitation facilities or may share sanitation facilities with the primary residence. A Junior ADU shall also include an efficiency kitchen with a cooking facility and a counter and cabinets of reasonable size in relation to the size of the Junior ADU. ADUs are currently regulated by Section 19.20.190 of the El Cerrito Municipal Code. Although Junior ADUs are permitted pursuant to State law, the Municipal Code does not currently contain specific standards for JADUs.

ADUs and JADUs are an effective way to increase housing options within the framework of existing neighborhoods. They can provide affordable housing for renters, a source of income for homeowners, and a housing resource for extended families, seniors, college students, and others. ADUs represent a form of infill development that can be relatively affordable to construct and/or rent and offer innovative housing choices within existing neighborhoods.

Since the El Cerrito City Council amended Section 19.20.190 in 2017 and 2019, there has been a significant increase in the construction of ADUs in the City. The table below shows a large uptick in ADU building permits after 2017.

Calendar Year	ADU Building Permits Issued
2015	4
2016	4
2017	1
2018	18
2019	22
2020	12
2021 (to date)	17

Ordinance Process

California Government Code Section 65852.2(a)(4), as amended, provides that any existing local ADU ordinance failing to meet the requirements of the new state law shall be null and void unless and until the local agency adopts a new ordinance complying with the new legislation. In the absence of a valid local ordinance, the new state law instead provides a set of default standards governing local agencies' regulation and approval of ADUs. Therefore, in order to keep El Cerrito's current ADU standards in place, the City Council must adopt a permanent ordinance prior to the expiration of the urgency ordinance. The City Council would need to have the first reading and introduction on November 2, 2021 and the second reading and adoption by November 16, 2021 so that the ordinance could go into effect 30 days after adoption on December 16, 2021.

Since the adoption of the urgency ordinance in December 2019, City staff has been in communication with staff from the State Department of Housing and Community Development (HCD). HCD staff have assisted City staff in interpreting the various legislative acts and changes to the Government Code that facilitated the need for this update to the Municipal Code. HCD staff reviewed the City's interim ordinance and gave feedback to City staff to ensure compliance with applicable State laws.

The City's ADU regulations are part of the City's Zoning Ordinance. The process of adopting or amending a zoning ordinance can differ from the process for most other local ordinances. In particular, zoning ordinances require duly noticed public

hearings before both the Planning Commission and the City Council. On September 15, 2021 the Planning Commission held a duly noticed public hearing in which it recommended that the City Council amend Title 19 of the El Cerrito Municipal Code to amend Chapter 19.47 and Sections 19.20.190, 19.46.030, and 19.24.040 regarding Accessory Dwelling Units and to add Section 19.20.195 regarding Junior Accessory Dwelling Units.

City staff and the Planning Commission received public comments regarding the application of this ordinance within the City's Very High Fire Hazard Severity Zones (VHFHSZ). This ordinance doesn't consider VHFHSZ at this time; however, staff is evaluating this issue and may propose amendments to this ordinance that will address ADUs in the City's VHFHSZ to the City Council in the future.

ANALYSIS

To comply with the changes in State law, the proposed ordinance would repeal and replace Section 19.20.190 (Accessory Dwelling Units); add Section 19.20.195 (Junior Accessory Dwelling Units); and approve amendments to Section 19.46.030 (Residential Use Classifications), Chapter 19.47 (Terms and Definitions), and Section 19.24.040 (Required Off-Street Parking Spaces) of the El Cerrito Municipal Code.

The proposed permanent ordinance would permanently adopt all standards of the interim ordinance with minor changes resulting from input from HCD staff, which are highlighted later in this report.

The following is a description of the major aspects of the ordinance and the changes that are proposed to the interim ordinance:

1. Automatic zoning approval of certain ADUs/JADUs

Consistent with the requirements of AB 881, certain types of ADUs and JADUs would be permitted without any type of zoning permit. These ADUs and JADUs could proceed directly to the building permit process. During the building permit process, the Planning Division verifies that it complies with these standards. These categories include:

On lots with an existing or proposed single family dwelling:

- One Interior ADU or JADU located entirely within an existing primary dwelling or existing accessory structure.
- One ADU that is detached from the primary dwelling unit with no more than 800 square feet, at least 4-foot rear and side setbacks, and no more than 16 feet tall.

On lots with an existing multifamily dwelling or duplex:

- At least one ADU within the portion of an existing multifamily dwelling structure not used as livable space. The number of ADUs allowed per structure shall not exceed twenty-five percent of the existing multifamily dwellings within a structure.

- Two ADUs detached from the primary dwelling units with at least 4-foot rear and side setbacks and no more than 16 feet tall.

Additionally, the proposed ordinance allows for the creation of an ADU with no more than 800 square feet that does not exceed 16 feet in height with minimum side and rear setbacks of 4 feet without consideration of unit size, lot size, lot coverage, or open space.

ADUs not included in these categories would be subject to the development standards of the proposed ordinance.

2. Maximum floor area

The proposed ordinance contains the following floor area provisions, as required by AB 881:

- Studio and one-bedroom ADUs may be a maximum of 850 square feet
- ADUs with more than one bedroom may be a maximum of 1,000 square feet
- Attached ADUs are subject to the above standards or may be up to 50% of the floor area of the existing primary dwelling unit, whichever is less. However, ADUs that are 800 square feet or less must be allowed regardless of any square footage requirement.

3. Minimum Setbacks and Maximum Heights

As required by AB 881, the proposed ordinance permits a minimum side and rear setbacks of 4 feet for detached and attached ADUs and a maximum height of 16 feet for detached ADUs.

Additionally, pursuant to AB 881, the City may not consider unit size, lot size, lot coverage, or open space for ADUs that meet these standards and are no larger than 800 square feet.

4. Replacement Parking

Although local jurisdictions may require off-street parking spaces for ADUs in certain instances, at the City Council's direction, the ADU ordinance adopted in 2017 does not require any parking spaces for ADUs. This provision is also included in the proposed ordinance. In addition, consistent with the requirements of AB 881, the proposed ordinance eliminates the existing requirement that off-street parking spaces be replaced when a garage, carport, or covered parking is converted to an ADU or is demolished in conjunction with the construction of an ADU. Similarly, no parking spaces nor replacement parking shall be required for JADUs.

5. Deed Restriction – Owner Occupancy Requirement

Consistent with the requirements of AB 881, the proposed ordinance does not require owner occupancy of a property for ADUs developed between January 1, 2020 and

December 31, 2024. This provision allows both the primary residence and any ADU to be rented. JADUs will still require an owner occupancy deed restriction to be filed.

6. Short term rentals

Pursuant to the requirements of AB 881, the proposed ordinance provides that the ADUs and Junior ADUs that require automatic approval shall not be rented for a term less than 30 days.

7. Windows

Although not required by State legislation, in order to address potential impacts to adjacent properties, staff has included a development standard related to windows on ADUs. The proposed ordinance would require all Accessory Dwelling Unit windows facing a side yard or rear yard of an adjacent property and located closer than 5 feet to the shared property line shall be clerestory (minimum of 6.5 feet above the finished floor height). City staff recommend this requirement to minimize privacy impacts of proposed ADUs upon neighboring properties.

8. Changes to the Interim Ordinance

As mentioned previously in this report the proposed permanent ordinance would permanently adopt all standards of the interim ordinance highlighted above, with minor changes resulting from input from HCD staff.

To more correctly reflect the language of AB 881, Section 19.20.190(B)(2)(a)(i) was changed from “the number of ADUs allowed on a lot shall not exceed twenty-five percent of the existing multifamily dwellings on a lot” to “the number of ADUs allowed per structure shall not exceed twenty-five percent of the existing multifamily dwellings within a structure”.

Pursuant to the requirements of AB 68, Section 19.20.190(C) was amended to read as “Accessory Dwelling Units may be established on any lots zoned to allow single family or multifamily residential uses” instead of “Accessory Dwelling Units may be established on any lot in a RS, RD or RM zoning district, as identified in Chapter 19.06, or any lot in the TOHIMU or TOMIMU district as identified in San Pablo Avenue Specific Plan, incorporated by reference in Section 19.15.020.”

Whereas in the interim ordinance the deed restriction and owner occupancy sections were originally different sections, Sections 19.20.190(D)(5) & 19.20.190(D)(7), these two sections are now combined so that is more apparent that a deed restriction will not be required for any ADU permitted before December 31, 2024.

Pursuant to the requirements of AB 68 & 881 Section 19.20.190(E)(2)(c) and 19.20.190(E)(7) were altered to include language to make it more apparent that, regardless of any unit size, lot size, lot coverage, floor area ratio, and/or open space requirements an ADU that is up 800 sq ft with the minimum four-foot side and rear yard setbacks, and a maximum height of 16 feet must be permitted.

In the interim ordinance, Section 19.20.190(E)(5)(b) requires detached ADUs to not be located closer to the street-facing side lot line than the primary dwelling unit(s). Pursuant to the requirements of AB 881. This section was removed because the bill requires a setback of no more than 4 feet for an accessory dwelling unit that is not converted from an existing structure.

STRATEGIC PLAN CONSIDERATIONS

This action is consistent with the El Cerrito Strategic Plan Goal A - Deliver exemplary government services by allowing additional design flexibility, lower cost and a shorter timeline for community members that would like to construct an ADU or JADU.

ENVIRONMENTAL CONSIDERATIONS

Pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), the adoption of an ordinance regarding accessory dwelling units and junior accessory dwelling units in a residential or mixed-use zone by a city to implement the provisions of Sections 65852.1, 65852.2, and 65852.22 of the Government Code is statutorily exempt from the requirements of CEQA. Similarly, the ministerial approval of ADUs would not be a "project" for CEQA purposes, and environmental review would not be required prior to approving individual applications. (Individual ADU and JADU applications would be categorically exempt under Existing Facilities (Sec. 15301), Replacement or Reconstruction (Sec. 15302), or Construction or Conversion of Small Structures (Sec. 15303).)

FINANCIAL CONSIDERATIONS

The costs of implementing the proposed ordinance would be recovered through existing application fees. ADUs and JADUs subject to automatic approval, as required by State legislation, would no longer require zoning permits and the City would not collect fees to review ADUs other than those pertaining to the building permit process.

LEGAL CONSIDERATIONS

The City Attorney has reviewed the ordinance and found that legal considerations have been addressed.

Reviewed by:



Karen Pinkos, City Manager

Attachments:

1. Ordinance

ORDINANCE NO. 2021–XX

AN ORDINANCE OF THE CITY OF EL CERRITO AMENDING TITLE 19 OF THE EL CERRITO MUNICIPAL CODE SECTION 19.20.190, 19.46.030, 19.47 and 19.24.040 REGARDING ACCESSORY DWELLING UNITS AND TO ADD SECTION 19.20.195 REGARDING JUNIOR ACCESSORY DWELLING UNITS

WHEREAS, the California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, and general welfare, of their citizens; and

WHEREAS, a housing crisis exists in the State of California; and

WHEREAS, accessory dwelling units (ADUs) are an effective way to increase housing options without changing neighborhood character; they can provide affordable housing for renters, a source of income for homeowners, and a housing resource for extended families, seniors, college students, and others; they represent a form of infill development that can be relatively affordable to construct and/or rent and offer innovative housing choices within existing neighborhoods; and

WHEREAS, Senate Bill (SB) 1069 and Assembly Bill (AB) 2299 became effective on January 1, 2017, adding sections 65852.1 and 65852.2 to the Government Code and modifying the requirements for second units or ADUs related to unit size, parking, and fees; and

WHEREAS, on June 6, 2017, the El Cerrito City Council adopted Ordinance 2017-04 amending various section of the El Cerrito Municipal Code related to ADUs in order to comply with SB 1069 and AB 2299; and

WHEREAS, the 2017 amendments resulted in an increase in ADU applications, as the number of applications went from four in 2015, four in 2016 and one in 2017, to eighteen in 2018, twenty-two in 2019, twelve in 2020, and sixteen in 2021 (thus far); and

WHEREAS, on October 9, 2019, Governor Newsom signed into law a series of bills intended to further increase the state's supply of affordable housing by facilitating the construction of ADUs (AB 68, AB 587, AB 670, AB 671, AB 881 and SB 13) (the "new ADU laws"); and

WHEREAS, effective January 1, 2020, California Government Code Section 65852.2(a)(4), as amended, provides that any existing local ADU ordinance failing to meet the requirements of the new ADU laws shall be null and void unless and until the local agency adopts a new ordinance complying with the new ADU laws; and

WHEREAS, in the absence of a valid local ordinance, the new ADU laws instead provide a set of default standards governing local agencies' regulation and approval of ADUs; and

WHEREAS, on December 17, 2019, the El Cerrito City Council adopted Ordinance 2019-10—an urgency ordinance amending Title 19 of the El Cerrito Municipal Code regarding accessory dwelling units and junior accessory dwelling units; and

WHEREAS, on September 15, 2021, the El Cerrito Planning Commission adopted Resolution PC2021-13, recommending that the City Council adopt an Ordinance amending Title 19 of the El Cerrito Municipal Code to amend Chapter 19.47 and Sections 19.20.190, 19.46.030, and 19.24.040 regarding Accessory Dwelling Units and adding Section 19.20.195 regarding Junior Accessory Dwelling Units; and

WHEREAS, the City Council held a public hearing on the proposed amendments on November 2, 2021, at which time all interested parties had the opportunity to be heard; and

WHEREAS, proper notice of said hearing was given in all respects as required by law; and

WHEREAS, the City Council desires to regulate ADU uses in the City in a manner that mitigates potential negative impacts, preserves public health and safety, protects the environment, and implements the City’s General Plan and the San Pablo Avenue Specific Plan; and

WHEREAS, in adopting the amended Accessory Dwelling Unit Ordinance, the City of El Cerrito has found the ordinance to be consistent with its General Plan and existing ordinances.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF EL CERRITO DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Incorporation of Recitals. The City Council finds that the above Recitals are true and correct and are incorporated herein by reference.

Section 2. Amendment of the El Cerrito Municipal Code. Section 19.46.030(A) of the El Cerrito Municipal Code is amended to read in full as follows:

Section 19.46.030 Residential Use Classifications

A. Residential Housing Types

1. ***Single Family Dwelling.*** One dwelling unit, attached or detached, located on a single lot. This use includes manufactured housing but not mobile homes
2. ***Accessory Dwelling Unit.*** An Attached, Detached, or Interior residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary

dwelling, and/or as otherwise defined in California Government Code Section 65852.2, as amended from time to time.

- (a) **Attached Accessory Dwelling Unit** or **Attached ADU**. An Accessory Dwelling Unit that is constructed as a physical expansion (i.e. addition) of a proposed or existing primary dwelling and shares a common wall with the primary dwelling .
 - (b) **Detached Accessory Dwelling Unit** or **Detached ADU**. An Accessory Dwelling Unit that is constructed as a separate structure and fully detached from a proposed or existing primary dwelling.
 - (c) **Interior Accessory Dwelling Unit** or **Interior ADU**. An Accessory Dwelling Unit located within an existing structure. An existing structure means an existing permitted or otherwise legal dwelling unit, including all fully enclosed areas such as a partial basement, an attached garage, or an accessory structure that can be made safety habitable under building codes.
- 3. **Junior Accessory Dwelling Unit** or **JADU**. A unit that is no more than 500 square feet in size and contained entirely within a single family residence, and may include separate sanitation facilities or share sanitation facilities with the existing structure, or as otherwise defined in California Government Code Section 65852.22, as amended from time to time.
 - 4. **Duplex - Two-Family Dwelling**. A single building that contains two primary dwelling units, or a single lot with two freestanding buildings, each of which is designed for occupancy by one household.
 - 5. **Multiple Family Residential**. Three or more dwelling units on a single lot. Types of multiple-family dwellings include: townhouses, garden apartments, and other apartment buildings.

Section 3. Amendment of the El Cerrito Municipal Code. The terms Efficiency Unit, Living Area, and Passageway and their corresponding definitions shall be added to Sections 19.47.010 and 19.47.020 of the El Cerrito Municipal Code as follows:

Section 19.47.010 List of Terms

Efficiency Unit

Living Area

Passageway

Section 19.47.020 Definitions

Efficiency Unit. Shall have the same meaning as defined in Section 17958.1 of the Health and Safety Code, as amended from time to time.

Living Area. Shall have the same meaning as defined in California Government Code Section 65852.2, as amended from time to time.

Passageway. Shall have the same meaning as defined in California Government Code Section 65852.2, as amended from time to time.

Section 4. Amendment of the El Cerrito Municipal Code. Section 19.20.190 of the El Cerrito Municipal Code is amended to read in full as follows:

Section 19.20.190 Accessory Dwelling Units

- A. Purpose. The following regulations are intended to comply with Government Code Sections 65852.150 and 65852.2 (or as otherwise amended), and implement the General Plan by allowing Accessory Dwelling Units subject to the standards and requirements herein.
- B. Applicability. An Accessory Dwelling Unit Permit shall be required for all Accessory Dwelling Units, subject to the following exceptions:
 - 1. ADUs on Single-Family Dwelling Lots. The following Accessory Dwelling Units shall be allowed on a parcel with a proposed or existing single family dwelling, consistent with state law:
 - (a) One Interior ADU or Junior ADU subject to the following standards:
 - (i) The Interior ADU or JADU shall have exterior access.
 - (ii) The Interior ADU or JADU shall have side and rear setbacks sufficient for fire safety as determined by the Fire Marshal.
 - (iii) A Junior ADU shall be consistent with Section 19.20.195.

- (iv) The Interior ADU or JADU shall not be rented for a term less than 30 days.
 - (b) One Detached ADU subject to the following standards:
 - (i) The Detached ADU shall not exceed 800 square feet in size.
 - (ii) The side and rear setbacks of the Detached ADU shall be a minimum of four feet.
 - (iii) The height of the Detached ADU shall not exceed 16 feet.
 - (iv) The Detached ADU shall not be rented for a term less than 30 days.
- 2. ADUs on Multifamily Dwelling and Duplex Lots. The following Accessory Dwelling Units shall be allowed on a parcel with an existing multifamily dwelling or a duplex, consistent with state law.
 - (a) At least one ADU within the portion of an existing multifamily dwelling structure or a duplex not used as livable space subject to the following standards:
 - (i) The number of ADUs allowed per structure shall not exceed twenty-five percent of the existing multifamily dwellings within a structure.
 - (ii) The space includes, but is not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.
 - (iii) The ADU shall not be rented for a term less than 30 days.
 - (b) Two Detached ADUs subject to the following standards:
 - (i) The height of the Detached ADU shall not exceed 16 feet.
 - (ii) The side and rear setbacks of the Detached ADU shall be a minimum of four feet.
 - (iii) The Detached ADU(s) shall not be rented for a term less than 30 days.

C. Where Allowed

1. Accessory Dwelling Units may be established on any lots zoned to allow single family or multifamily residential uses.

D. General Requirements. Accessory Dwelling Units shall conform to the following:

1. Architectural Compatibility. The architectural design, exterior materials and colors, roof pitch and style, type of windows, and trim details of an Accessory Dwelling Unit shall be substantially the same as, and visually harmonious and or compatible with the primary dwelling, as determined by the Zoning Administrator.
2. Windows. All Accessory Dwelling Unit windows facing a side yard or rear yard of an adjacent property and located less than 5 feet from the shared property line shall be clerestory (minimum of 6.5 feet above the finished floor height).
3. Parking. No parking spaces shall be required. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an Accessory Dwelling Unit or converted to an Accessory Dwelling Unit, replacement off-street parking spaces shall not be required.
4. Building Code Compliance. Notwithstanding any other provision of this section, Accessory Dwelling Units shall be developed in compliance with Title 16, Buildings and Construction, of the El Cerrito Municipal Code.
5. Owner Occupancy. A legal owner of the property shall occupy either the primary dwelling or the Accessory Dwelling Unit, as the owner's primary residence, except that owner occupancy shall not be required for any Accessory Dwelling Unit permitted between January 1, 2020 and December 31, 2024, in accordance with Government Code section 65852.2(a)(6) or as otherwise amended. After December 31, 2024, a deed restriction shall be required as following:
 - (a) Deed Restriction. Before obtaining a building permit for an Accessory Dwelling Unit, the owner of the lot or parcel shall file with the County Recorder a declaration or agreement of restrictions that has been approved by the City Attorney as to its form and content,

containing a reference to the deed under which the property was acquired by the owner and stating that:

- (i) The Accessory Dwelling Unit shall not be sold separately.
- (ii) Accessory Dwelling Unit shall be considered legal only as long as either the Primary Dwelling or the Accessory Dwelling Unit is occupied by an owner of record of the property.
 - A) This section shall only be required in accordance with Government Code section 65852.2(a)(6).
- (iii) An Accessory Dwelling Unit shall be maintained as a separate living unit and shall not be converted as an addition to a primary dwelling unit.
- (iv) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance may result in legal action against the property owner

- 6. Sale Prohibited. An Accessory Dwelling Unit may be rented, but shall not be sold or otherwise conveyed separately from the primary dwelling.

E. Development Standards

1. Setbacks.

- (a) Detached ADUs and Attached ADUs. Side and rear setbacks shall be no less than 4 feet. Detached and Attached ADUs shall comply with the front setback requirements applicable to the primary dwelling unit(s) in the zoning district where the respective ADU is proposed, and with the Lot Location requirements below.
- (b) Interior ADUs. No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted or partially converted to an Accessory Dwelling Unit.

2. Floor Area.

- (a) Accessory Dwelling Units shall be subject to the following maximum floor area:

Studio or One Bedroom	850 square feet
More than One Bedroom	1000 square feet

- (b) An Accessory Dwelling Unit must have a floor area of at least 150 square feet and shall not preclude an Efficiency Unit.
- (c) Attached ADU. The total floor area of an Attached ADU shall not exceed 50% of the existing primary dwelling unit(s) or 800 sq. ft., whichever is more. In the event of a conflict between this subsection and the maximum floor areas in subsection (a), the Attached ADU shall be subject to the lower square footage requirement.

3. Height.

- (a) The maximum height of a Detached ADU shall be 16 feet.
- (b) The maximum height of an Attached ADU shall comply with daylight plane, building height, and any other provisions relevant to building height applicable to the primary dwelling unit in the zoning district where the Accessory Dwelling Unit is proposed.

4. Entries/Access. An Accessory Dwelling Unit shall have exterior access that is independent from that of the primary dwelling unit. No specific path or passageway shall be required in conjunction with the construction of an ADU, but the unit must meet the requirements of Title 16, Buildings and Construction, of the El Cerrito Municipal Code.

- (a) Attached ADUs. The exterior access to an Attached ADU shall be located at least 10 feet behind the exterior access to the primary unit, or shall be located on the side or rear of the dwelling.

5. Lot Location.

- (a) Detached ADUs - Interior Lots. A Detached ADU shall be located behind the primary dwelling(s) in relation to the front lot line. For the purpose of this regulation, "behind" shall mean that at least one of the following criteria is met:

- (i) All portions of the ADU are located behind all portions of the primary unit(s).
 - (ii) The ADU is located partially behind the primary dwelling unit(s), and the front façade of the ADU is at least 20 feet farther from the front lot line than is the front facade of the primary unit(s).
 - (iii) The ADU is located entirely in the rear half of the lot.
 - (b) Attached Units. If an Attached ADU is created through an addition to an existing single-family dwelling at the second or higher story of the dwelling, such ADU shall be located in the rear half of the structure.
6. Exceptions. Exceptions to the above standards shall require an Administrative Use Permit, according to the procedures of Chapter 19.34, Use Permits. In addition to the findings for approval of Section 19.34.040, the decision-making authority shall only grant approval if it finds the Accessory Dwelling Unit is compatible with, and preserves, the applicable residential character of the primary dwelling and the surrounding neighborhood. Additionally:
- (a) The hearing shall be publicly noticed not less than twenty-one days in the local newspaper and to all property owners located within a three hundred-foot radius.
 - (b) Any decision of the Zoning Administrator may be appealed directly to the Planning Commission.
7. Limitations. Notwithstanding any local development standards, including but not limited to unit size, lot size, lot coverage, floor area ratio, and/or open space; an Accessory Dwelling Unit that is no more than 800 square feet with minimum four-foot side and rear yard setbacks, and a maximum height of 16 feet, shall be allowed provided the unit will be constructed in compliance with all other local development standards.

Section 5. Amendment of the El Cerrito Municipal Code. Section 19.20.195 of the El Cerrito Municipal Code is added to read in full as follows:

Section 19.20.195 Junior Accessory Dwelling Units

- F. Applicability. This section applies to Junior Accessory Dwelling Units. Junior Accessory Dwelling Units in compliance with this section shall be allowed pursuant to Section 19.20.190(B)(1)(a).
- G. Where Allowed. Junior Accessory Dwelling Units may be established on any lot in a RS zoning district, as identified in Chapter 19.06, with a proposed or existing primary single-family dwelling. Only one Junior Accessory Dwelling Unit is permitted per lot.
- H. General Requirements. Junior Accessory Dwelling Units shall conform to the following:
1. Parking. No parking spaces shall be required. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of a Junior Accessory Dwelling Unit or converted to a Junior Accessory Dwelling Unit, replacement off-street parking spaces shall not be required.
 2. Short-term Rentals. Junior Accessory Dwelling Units may not be rented for less than 30 days.
 3. Building Code Compliance. Notwithstanding any other provision of this section, Junior Accessory Dwelling Units shall be developed in compliance with Title 16, Buildings and Construction, of the El Cerrito Municipal Code.
 4. Owner Occupancy. A legal owner of the property shall occupy either the primary dwelling or the Junior Accessory Dwelling Unit, as the owner's primary residence. Prior to the issuance of a building permit for a Junior Accessory Dwelling Unit, the applicant shall record notice of this requirement as a deed restriction.
 - (a) Exception. This section shall not apply if the owner is a governmental agency, land trust, or housing organization.
 5. Sale Prohibited. A Junior Accessory Dwelling Unit shall not be sold, transferred, or assigned separately from the primary dwelling.

6. Deed Restriction. Before obtaining a building permit for a Junior Accessory Dwelling Unit, the owner of the lot or parcel shall file with the County Recorder a declaration or agreement of restrictions that has been approved by the City Attorney as to its form and content, containing a reference to the deed under which the property was acquired by the owner and stating that:
 - (a) The Junior Accessory Dwelling Unit shall not be sold separately; and
 - (b) The Junior Accessory Dwelling Unit shall be considered legal only as long as either the Primary Dwelling or the Accessory Dwelling Unit is occupied by an owner of record of the property; and
 - (c) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance may result in legal action against any property owner; and
 - (d) The Junior Accessory Dwelling Unit shall be restricted to the size and attributes in accordance with this section.

I. Development Standards

1. Location. A Junior Accessory Dwelling Unit shall be constructed entirely within the walls of the proposed or existing single-family residence.
2. Entries/Access. A Junior Accessory Dwelling Unit shall have exterior access that is independent from that of the primary dwelling unit. No specific path or passageway is required in conjunction with the construction of a JADU, but the unit must meet the requirements of Title 16, Buildings and Construction, of the El Cerrito Municipal Code.
3. Efficiency Kitchen. A Junior Accessory Dwelling Unit shall include an efficiency kitchen, which shall include all of the following:
 - (a) A cooking facility with appliances; and
 - (b) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the Junior Accessory Dwelling Unit.

Section 6. Amendment of the El Cerrito Municipal Code. The Required Off-Street Parking Spaces for Accessory Dwelling Unit in Table 19.24-A within Section 19.24.040 of the El Cerrito Municipal Code is amended as follows: No parking spaces are required for ADUs.

Section 7. Compliance with the California Environmental Quality Act.

The proposed amendment is exempt from CEQA pursuant to CEQA Guidelines Section 15282(h), which states that the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code is statutorily exempt from the requirements of CEQA.

Section 8. Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The city council hereby declares that it would have passed the ordinance codified in this chapter, and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of this chapter would be subsequently declared invalid or unconstitutional.

Section 9. Effective Date. This Ordinance shall take effect and be enforced thirty days after the date of its adoption. Prior to the expiration of fifteen days from the passage thereof, the ordinance or a summary thereof shall be posted or published as may be required by law, and thereafter the same shall be in full force and effect.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council on November 2, 2021 and passed by the following vote:

AYES:	Councilmembers
NOES:	Councilmembers
ABSENT:	Councilmembers
ABSTAIN:	Councilmembers

ADOPTED AND ORDERED published at a regular meeting of the City Council held on (Month, DD, YYYY) and passed by the following vote:

AYES:	Councilmembers
NOES:	Councilmembers
ABSENT:	Councilmembers
ABSTAIN:	Councilmembers

APPROVED:

Paul Fadelli, Mayor

ATTEST:

Holly M. Charléty, City Clerk

ORDINANCE CERTIFICATION

I, Holly M. Charléty, City Clerk of the City of El Cerrito, do hereby certify that this Ordinance is the true and correct original Ordinance No. (2021-XX) of the City of El Cerrito; that said Ordinance was duly enacted and adopted by the City Council of the City of El Cerrito at a meeting of the City Council held on the November 16, 2021; and that said Ordinance has been published and/or posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of El Cerrito, California, this _
_____ day of (Month), 2021.

Holly M. Charléty, City Clerk



AGENDA BILL

Agenda Item No. 7.C.

Date: November 2, 2021
To: El Cerrito City Council
From: Will Provost, Operations + Environmental Services Division Manager;
Yvetteh Ortiz, Public Works Director/City Engineer, Public Works
Department
Subject: Amended Foodware Ordinance Requiring Foodware to be Reusable or
Compostable and Prohibiting the Use, Distribution, or Sale of Plastic
Straws and Plastic Stirrers

ACTION PROPOSED

Conduct a public hearing, and upon conclusion, introduce by title and waive any further reading of an Ordinance amending Chapter 8.24 Foodware Regulations of the El Cerrito Municipal Code.

BACKGROUND

Litter pollution on streets and in gutters, storm drains, creeks, and San Francisco Bay is a major environmental quality and compliance concern in El Cerrito and the entire Bay Area. Certain components of litter – including single-use plastic food ware – have been identified locally, regionally, and state-wide as being particularly problematic.

In 2013, the City of El Cerrito adopted its current Foodware Ordinance (Ord. No. 2013-04) that prohibits Expanded Polystyrene Foam (“Styrofoam”) foodware and has required foodware to be packaged for takeout in reusable, recyclable, or compostable containers. In support of the City’s goal to keep more materials out of the landfill, reduce recycling contamination and costs, decrease greenhouse gas emissions, and in alignment with the City’s Climate Action Plan and Strategic Plan goals, City staff is recommending changes to the 2013 Ordinance. The proposed Ordinance would phase out single-use plastic foodware items within the City of El Cerrito.

Single-use foodware includes all containers, bowls, plates, trays, cartons, cups, lids, utensils, forks, spoons, knives, straws, and other items that are designed for one-time use and disposal. If approved, all food providers in the City would be required to procure and use reusable or compostable foodware. Food providers include any vendor, business, organization, entity, group, or individual, including any restaurant or retail food establishment, located or operating within the City or providing food or beverage to the public, and any provider of prepared food at organized or special events occurring within the boundaries of the City. Food providers that are subject to the City’s current Foodware Ordinance would be the same food providers covered under the proposed Ordinance.

City staff has conducted a robust public outreach process to seek feedback from businesses and residents including meetings with the Chamber of Commerce, sending letters to all affected businesses, developing and hand-delivering a factsheet in three languages to businesses, and publishing information in articles, bill inserts, and on the City's website. Additionally, the City presented the proposed Ordinance to the Environmental Quality Committee, the Economic Development Committee, and the City's ADA Advisory group. The Environmental Quality Committee has analyzed the proposed Ordinance, discussed impacts, hosted two public meetings to which businesses were invited (one in 2020 and one in 2021), and unanimously recommended the City Council approve the proposed Ordinance at their September 14, 2021 regular meeting, with the note that City staff would make modifications that take into account comments received during the public meeting.

Public Input

Changes to the proposed Ordinance were initially planned for 2020 but were postponed due to the COVID-19 pandemic and concerns about impacts to businesses. Community outreach was conducted in early Spring 2020 and again in Fall 2021, each time including all of the aforementioned activities (i.e., public meetings, distribution of a public draft, mailings, door-to-door business outreach, etc.). During both processes, the City received feedback from businesses and community members and made changes to the proposed Ordinance. As such, the proposed Ordinance includes a longer enforcement timeline to reflect feedback received from businesses, a specific prohibition of products that contain intentionally added fluorinated chemicals, and other smaller changes and refinements suggested by community members.

Some concerns raised by some community members included that the enforcement period should begin sooner (in contradiction with comments received from businesses), that the City should require all single-use foodware accessories to only be provided upon request (a requirement that is being addressed by State law as described below) or only offered for a fee (which differs from the approach of El Cerrito's 2013 Ordinance in effect). In 2020, the City received concerns about the cost to businesses and customers resulting from the proposed changes. However, after incorporating the longer enforcement timeline now proposed (with enforcement beginning January 1, 2024) and perhaps due to the growing prevalence of these types of requirements, feedback received during the 2021 community engagement process for the most part did not include any mention of concerns around cost, including with the businesses most impacted like restaurants. Last, there were some members in the community who noted they are interested in seeing the City continue to develop policies that focus not just on plastic foodware, but all uses and sales of single-use plastic items.

Recent State Regulations

In October 2021, three relevant foodware regulations, Assembly Bill (AB) 1200, AB 1201, and AB 1276, were signed into law by Governor Newsom. AB 1200 prohibits distribution or sale of any food packaging that contains regulated perfluoroalkyl and polyfluoroalkyl substances (PFAs) beginning January 1, 2023. AB 1201 prohibits the sale of products labeled with the term "compostable" or "home compostable" unless the

product satisfies a specified criteria. AB 1276 expands the plastic straws upon request law (AB 1884) to include other single-use food accessories (e.g. utensils), other food facilities, and third-party delivery platforms for food that is taken away, delivered, or served on-site, and requires cities to authorize enforcement of those requirements prior to June 1, 2022. These new state laws are in alignment with the City of El Cerrito's proposed Ordinance, which will prohibit PFAs in permitted foodware in El Cerrito, requires compostable foodware to be compliant with the City's composting programs, and requires permitted straws to be provided only upon request. The proposed ordinance goes beyond the State laws by requiring disposable foodware to be compostable. City Staff is still analyzing the requirements under AB 1276, signed by the Governor in October 2021, and may return to City Council to establish additional mandated programs and requirements as it relates to providing single-use food accessories only upon request.

ANALYSIS

The features of the proposed Ordinance are summarized below:

- Food Providers shall only provide prepared food to customers in foodware that is reusable or compostable.
- City facilities, City Departments, and all City franchisees, contractors, vendors and caterers doing business with the City are prohibited from using foodware that is not reusable or compostable.
- All permitted straws shall only be provided upon request.
- Exemptions to the requirements are summarized below:
 - Prepared foods that are prepared or packaged outside the City as well as prepared foods prepared and packaged in the City for use outside of the City;
 - If no suitable disposable foodware alternative exists;
 - During a local emergency; and
 - Businesses that can demonstrate an economic hardship resulting from complying with the Ordinance.
 - Disposable plastic straws are allowed for persons who require and request them due to disability or other medical or physical conditions or circumstances.

If adopted, the proposed Ordinance is to go into effect on July 1, 2022 to give time for City staff to develop and distribute outreach materials and for businesses to plan for the transition. However, enforcement of the Ordinance is proposed to begin on January 1, 2024, aligning with the timeline for Senate Bill 1383 ("Mandatory Organics Recycling") and allowing for businesses to understand the requirements, use up existing non-compliant stock, and procure reusable or compostable foodware. Enforcement will be based on complaints received by the City and focused primarily on education, similar to enforcement practices under the current Ordinance. Should the proposed Ordinance be adopted, City staff will assist food providers by providing training and technical support and building public awareness.

This includes developing various outreach materials for businesses including a comprehensive brochure to help educate and get businesses into compliance.

STRATEGIC PLAN CONSIDERATIONS

Adoption of the proposed Ordinance will help fulfill the following City of El Cerrito Strategic Plan goals and objectives:

- Goal F: Foster environmental sustainability by reducing the amount of waste generated in El Cerrito as well as by being a leader in setting policies for environmental sustainability. The proposed Ordinance would also reduce recycling contamination and costs from non-recyclable plastic foodware and decrease greenhouse gas emissions from the production of single-use products.
- Goal E: Ensuring the public's health and safety by supporting initiatives that decrease pollution and improve the health and prosperity of future generations.

ENVIRONMENTAL CONSIDERATIONS

If adopted, the amended Foodware Ordinance would reduce plastic foodware litter on El Cerrito streets and public spaces, reduce the presence of plastic foodware litter in storm drains and creeks (the City is required to eliminate trash in stormwater per the Municipal Regional Stormwater Permit), and reduce waste management inefficiencies attributed to single-use plastic foodware.

Pursuant to Title 14 of the California Administrative Code, the City Council finds that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) for the following reasons: (1) under Section 15061 (b)(3), it is not a project which has the potential for causing a significant effect on the environment; (2) under Section 15308, it is an authorized action by an agency with regulatory authority for the purpose of assuring the maintenance, restoration, enhancement, or protection of the environment.

FINANCIAL CONSIDERATIONS

Financial impacts are expected to be minimal as a result of adopting the proposed Ordinance, and there are no impacts to the City's General Fund. There is expected to be an initial spike in City staff time needed to develop resources including a comprehensive brochure for businesses and to respond to questions and concerns in the first few months after the Ordinance is effective. After such time, City staff time to respond to complaints will largely be absorbed into on-going outreach, education, and communications with businesses as part of other state mandates. The proposed Ordinance builds upon the existing requirements and programs prohibiting the use of Expanded Polystyrene foodware, which is largely complaint driven, and as a result this would not result in a significant cost increase for the City.

LEGAL CONSIDERATIONS

The City Attorney has reviewed the draft Ordinance and found that legal considerations have been addressed.

Reviewed by:

A handwritten signature in blue ink, appearing to read "Karen Pinkos".

Karen Pinkos, City Manager

Attachments:

1. Ordinance
2. Presentation

ORDINANCE NO. 2021—

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AMENDING CHAPTER 8.24 OF THE EL CERRITO MUNICIPAL CODE ENTITLED “FOODWARE ORDINANCE” TO UPDATE THE FOODWARE REGULATIONS TO REQUIRE FOODWARE TO BE RESUABLE OR COMPOSTABLE AND PROHIBIT THE USE, DISTRIBUTION OR SALE OF PLASTIC STRAWS AND PLASTIC STIRRERS

WHEREAS, single-use plastic foodware has been associated with considerable environmental impacts, including being a problematic component of litter, which is unsightly and costly to clean up; and

WHEREAS, improperly discarded single-use plastic foodware can result in blocked storm drains, fouled waterways, and increased marine debris; and

WHEREAS, plastic litter and debris that accumulates in local waterways and the ocean can harm fish, birds, and other marine life throughout the ecosystem; and

WHEREAS, the reduction of single-use plastics in the environment will advance compliance with federal and state mandates, as well as City goals, relating to stormwater quality; and

WHEREAS, reducing single-use plastics from foodware supports the City's goals to reduce waste and reduce greenhouse gas emissions; and

WHEREAS, single-use plastic foodware is commonly used by food providers in the City of El Cerrito, and has limited to no recycling potential; and

WHEREAS, due to recent changes in the international recycling markets, it is challenging and costly, and in some cases no longer feasible, to recycle single-use plastic containers that are typically used for foodware; and

WHEREAS, single-use foodware may threaten public health as many types contain a number of additives that are known or suspected carcinogens or endocrine disruptors, such as phthalates, perchlorate, and fluorinated chemicals that are known to leach from foodware into the food and beverages they contain; and

WHEREAS, fluorinated chemicals, also known as per- and polyfluorinated alkyl substances (“PFAS”), are synthetic chemicals commonly used in and on single-use foodware products to repel water and grease; and

WHEREAS, the City of El Cerrito has a substantial interest in protecting its waterways, environment, and taxpayers from the negative impacts of single-use foodware; and

WHEREAS, a variety of expanded foodware ordinances have been adopted in nearby communities, including the City and County of San Francisco, the City of Berkeley, the Town of San Anselmo, the Town of Fairfax, and the County of San Mateo; and

WHEREAS, restricting the use of single-use plastic foodware products and replacing non-compostable or non-reusable foodware with compostable or reusable foodware products, that are certified to not contain intentionally-added fluorinated chemicals, will further protect waterways, public health, and promote environmental sustainability; and

WHEREAS, reducing the use of single-use plastic foodware is consistent with the El Cerrito Strategic Plan goals to “ensure the public’s health and safety by supporting initiatives that decrease pollution and improve the health and prosperity of future generations”, and to “foster environmental sustainability citywide”; and

WHEREAS, this proposed Ordinance will preserve and enhance the environment within the City of El Cerrito and is exempt from the requirements of the California Environmental Quality Act (“CEQA”), as amended, pursuant to Section 15061(b)(3) or Section 15308 of the CEQA Guidelines.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF EL CERRITO DOES HEREBY ORDAIN AS FOLLOWS:

Section 1: Incorporation of Recitals. The City Council finds that the above Recitals are true and correct and are incorporated herein by reference

Section 2: Amendment of Municipal Code: Chapter 8.24 of the El Cerrito Municipal Code is hereby amended and replaced in its entirety to read as follows:

8.24.010 - Title.

This chapter shall be known as the El Cerrito Foodware Ordinance. The City of El Cerrito hereinafter shall be called "City." This chapter shall be applicable in the incorporated territory of the City.

8.24.030 - Purpose.

It is the intent of the City of El Cerrito in enacting Chapter 8.24 to eliminate the use of Expanded Polystyrene foodware and single-use plastic foodware items and to require the use of Reusable, or Compostable, food containers by Food Providers and Customers in El Cerrito.

8.24.040 - Definitions.

The following definitions apply to this chapter:

- A. "Compostable" means the product is capable of composting using the City of El Cerrito's available composting and green-waste collection programs as determined by the City manager or designee and identified on the City's website, and the product is free of all intentionally added fluorinated chemicals, as certified by the

- Biodegradable Product Institute or other independent third party certifying organization or agency recognized by the City on the City's website.
- B. "City facilities" means any park, building, structure or vehicle owned or operated by the City of El Cerrito, its agents, agencies, departments or franchisees.
 - C. "City project" means any work that is undertaken by the City, contractors, or other agencies on behalf of, or in partnership with, the City of El Cerrito and taking place within the city of El Cerrito.
 - D. "City-sponsored event" means any event organized or sponsored by the City of El Cerrito or any department of the City of El Cerrito.
 - E. "Customer" means any member of the public obtaining Prepared Food from a Food Provider.
 - F. "Disposable foodware" means all containers, bowls, plates, trays, cartons, plate liners, cups, napkins, drink plugs, beverage trays, condiment containers, cup sleeves, lids, utensils, forks, spoons, knives, straws, stirrers, toothpicks, cocktail sticks, and other items that are designed for one-time use for Prepared Foods, including service ware for take-out foods and/or leftovers from partially consumed meals prepared by Food Providers.
 - G. "Food provider" means any vendor, business, organization, entity, group, or individual, including any restaurant or retail food establishment, located or operating within the City of El Cerrito or providing food or beverage to the public, and any provider of prepared food at organized or special events occurring within the boundaries of the City of El Cerrito.
 - H. "Expanded polystyrene" or "EPS" means and includes blown polystyrene and expanded and extruded foams (sometimes called styrofoam, a Dow Chemical Co. trademarked form of expanded polystyrene insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene). Expanded polystyrene is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons.
 - I. "Permitted beverage straw" means straws that are Compostable or Reusable.
 - J. "Plastic beverage straw" means a tube made predominantly of plastic derived from petroleum, silicone, or a biologically based polymer, such as corn or other plant sources, for transferring a beverage from its container to the mouth of the drinker. "Plastic beverage straw" does not include straws that are made from non-plastic materials, such as paper, sugar cane, bamboo, metal, or glass.
 - K. "Plastic stirrer" means a device that is used to mix beverages, intended for only one-time use, and made predominantly of plastic derived from either petroleum, silicone, or a biologically based polymer, such as corn or other plant sources. "Plastic stirrer" does not include stirrers that are made from non-plastic materials, such as wood, paper, sugar cane, or bamboo.
 - L. "Prepared food" means food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared on the Food Provider's premises. For the purposes of this chapter, prepared food does not include raw, butchered meats, fish and/or poultry sold from a butcher case or similar retail appliance. Prepared food may be eaten either on or off the premises, also known as "take-out food".

- M. "Restaurant" means a restaurant, take-out food establishment, or any other business that receives ninety percent or more of its revenue from the sale of prepared food or beverages to be eaten on or off its premises.
- N. "Retail food establishment" means any store, shop, sales outlet, or other establishment, other than a restaurant, including, but not limited to, a grocery store, delicatessen, mobile food preparation and sale unit, drive-in, coffee shop, cafeteria, short-order cafe, luncheonette, grill, sandwich shop, hotel, motel, movie house, theatre, bed and breakfast inn, tavern, bar, cocktail lounge, nightclub, roadside stand, take-out prepared food place, industrial feeding establishment, catering kitchen, commissary, special event, food market, produce stand, food stand, or similar place in which food or drink is prepared for sale, or for service, on the premises or elsewhere, and any other establishment or operation where food is processed, prepared, stored, served or provided to customers.
- O. "Reusable" means all materials in the product or package will be used more than once in its same form by the Customer, food vendor, or other reuse programs. Reusable foodware includes: food or beverage containers, packages or trays, such as, but not limited to, soft drink bottles and milk containers that are designed to be returned to the distributor by the Customer that is provided Take-out containers. Reusable also includes durable containers, packages or trays used on premises or returnable containers brought back to the Food Provider.
- P. "Reusable foodware" means all containers, bowls, plates, trays, cartons, cups, and other items that are designed for prolonged use, including, but not limited to, ceramic, glass, porcelain, and metal foodware. The City Manager or designee has the authority to make a final determination on if a foodware item is designed for prolonged use; the determination shall be in writing and will be final.

8.24.050 - Prohibited foodware.

- A. Except as provided in this chapter, Food Providers are prohibited from providing Prepared Food to Customers in foodware that is not Compostable or Reusable.
- B. Except as provided in this chapter, all City facilities are prohibited from using foodware that is not Compostable or Reusable and all City departments and agencies shall not purchase or acquire such foodware for use at City facilities or city-sponsored events.
- C. Except as provided in this chapter, all City franchisees, contractors, vendors and caterers doing business with the City shall be prohibited from using foodware that is not Compostable or Reusable in City facilities, at City events or on City projects within the City of El Cerrito.
- D. Except as provided in this chapter, no Food Provider, City franchisees, contractors, vendors and caterers doing business with the City, City facilities, or any City-sponsored event shall use, provide, distribute, or sell Plastic Beverage Straws or Plastic Stirrers, except as allowed under this chapter to meet the needs of persons who require and request them due to disability or other medical or physical conditions or circumstances. All Permitted Beverage Straws shall only be provided upon request by the customer.

8.24.060 - Permitted foodware.

- A. All Food Providers using any Disposable Foodware will use Compostable or Reusable foodware. All Food Providers are strongly encouraged to use Reusable Foodware in place of using Disposable Foodware for all food served on premises. A Food Provider may price its products or services to customers in a manner to cover any cost differential. All Permitted Beverage Straws shall only be provided upon request.
- B. All City facilities and City-sponsored events using any foodware will use Compostable or Reusable Foodware. All City facilities are strongly encouraged to use Reusable Foodware in place of using Disposable Foodware for all food served on premises.
- C. All City franchisees, contractors, vendors and caterers, when doing business with the City, will use Compostable or Reusable Foodware in City facilities, at City events, or on City projects within the City of El Cerrito. All City facilities are strongly encouraged to use Reusable Foodware in place of using Disposable Foodware for all food served on-premises.
- D. All individuals, entities or organizations using City facilities for public or private events shall comply with the requirements in this chapter.
- E. Food providers that provide Compostable or Reusable straws may provide single-use Plastic Beverage Straws to Customers by request to accommodate needs of persons who require and request them due to disability or other medical or physical conditions or circumstances

8.24.080 - Exemptions.

- A. Prepared Foods that are prepared or packaged outside the City of El Cerrito as well as prepared foods prepared and packaged in the City of El Cerrito for use outside of the City of El Cerrito are exempt from the provisions of this chapter. Purveyors of food prepared or packaged outside the City of El Cerrito are encouraged to follow the provisions of this chapter.
- B. Food Providers may be exempted from the provisions of this chapter for specific items or types of Disposable Foodware if the City Manager or designee finds that a suitable Compostable or Reusable alternative does not exist for a specific application and/or that imposing the requirements of this chapter on that item or type of Disposable Foodware would cause undue hardship. A list of exempted items will be located on the City's website.
- C. Any Food Provider or City facility may seek an exemption from the requirements of this chapter by filing a request in writing with the City Manager or designee. The City Manager or designee may waive any specific requirement of this chapter for a period of not more than one year if the Food Provider or City facility seeking the exemption has demonstrated that strict application of the specific requirement would cause undue hardship.
- D. A Food Provider or City facility granted an exemption must reapply prior to the end of the one year exemption period and demonstrate continued undue hardship if the Food Provider or City facility wishes to have the exemption extended. The City Manager or designee's decision to grant or deny an exemption or to grant or deny an extension of a previously issued exemption shall be in writing and shall be final.
- E. Expanded Polystyrene coolers and ice chests that are intended for reuse are exempt from the provisions of this chapter.

- F. In a situation deemed by the City Manager or designee to be an emergency, or in the event that a local emergency or disaster has been declared in effect, for the immediate preservation of the public peace, health or safety, City facilities, Food Providers, City franchisees, contractors, vendors and caterers doing business with the City shall be exempt from the provisions of this chapter.
- G. Nothing in this chapter shall restrict, or be construed to restrict, the availability of single-use Plastic Beverage Straws to individuals who may require and request them due to disability or other medical or physical conditions or circumstances. It shall not be a violation of this chapter for any Food Provider, City facility or City-sponsored event vendor to provide single-use Plastic Beverage Straws to such individuals who request them. Instances where compliance with the chapter would interfere with accommodating for any person's medical needs shall be exempt from the provisions of this chapter.

8.24.140 - Enforcement and violation—Penalty.

- A. Any violation of this chapter is punishable as specified in Chapters 1.08 or 1.14 of the El Cerrito Municipal Code or by any other applicable law.
- B. The City Manager or designee has primary responsibility for enforcement of this chapter. The City Manager is authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this chapter, including, but not limited to, investigating violations, issuing fines and entering the premises of any Food Provider during business hours. Other City of El Cerrito staff may assist with this enforcement responsibility by entering the premises of a Food Provider as part of their regular inspection functions and reporting any alleged violations to the City Manager.

Section 3. Compliance with the California Environmental Quality Act.

Pursuant to Title 14 of the California Administrative Code, the City Council finds that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) for the following reasons: (1) under Section 15061 (b)(3), it is not a project which has the potential for causing a significant effect on the environment; (2) under Section 15308, it is an authorized action by an agency with regulatory authority for the purpose of assuring the maintenance, restoration, enhancement, or protection of the environment.

Section 4. Severability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares that it would have passed the ordinance codified in this chapter, and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of this chapter would be subsequently declared invalid or unconstitutional.

Section 5. No Conflict with Federal or State Law.

Nothing in this Ordinance is intended to create any requirement, power or duty that is in conflict with any federal or state law.

Section 6. Effective Date.

This Ordinance shall take effect on July 1, 2022, and shall be enforced beginning January 1, 2024. The ordinance or a summary thereof shall be posted or published as may be required by law.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council on November 2, 2021, and passed by the following vote:

AYES:	Councilmembers
NOES:	Councilmembers
ABSENT:	Councilmembers
ABSTAIN:	Councilmembers

ADOPTED AND ORDERED published at a regular meeting of the City Council held on November 16, 2021 and passed by the following vote:

AYES:	Councilmembers
NOES:	Councilmembers
ABSENT:	Councilmembers
ABSTAIN:	Councilmembers

APPROVED:

Paul Fadelli, Mayor

ATTEST:

Holly Charl  ty, City Clerk

ORDINANCE CERTIFICATION

I, Holly M. Charl  ty, City Clerk of the City of El Cerrito, do hereby certify that this Ordinance is the true and correct original Ordinance No. (2021-XX) of the City of El Cerrito; that said Ordinance was duly enacted and adopted by the City Council of the City of El Cerrito at a meeting of the City Council held on the 16th Day of November 2021; and that said Ordinance has been published and/or posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of El Cerrito, California, this ____ day of (Month), 2021.

Holly M. Charl  ty, City Clerk

El Cerrito City Council

Proposed Foodware Ordinance

November 2, 2021



PRESENTATION OUTLINE

Background

Reasons for Updating Ordinance

Key Changes & Amendments

Process & Public Input

Consistency with City Policies

Staff Recommendations / Next Steps

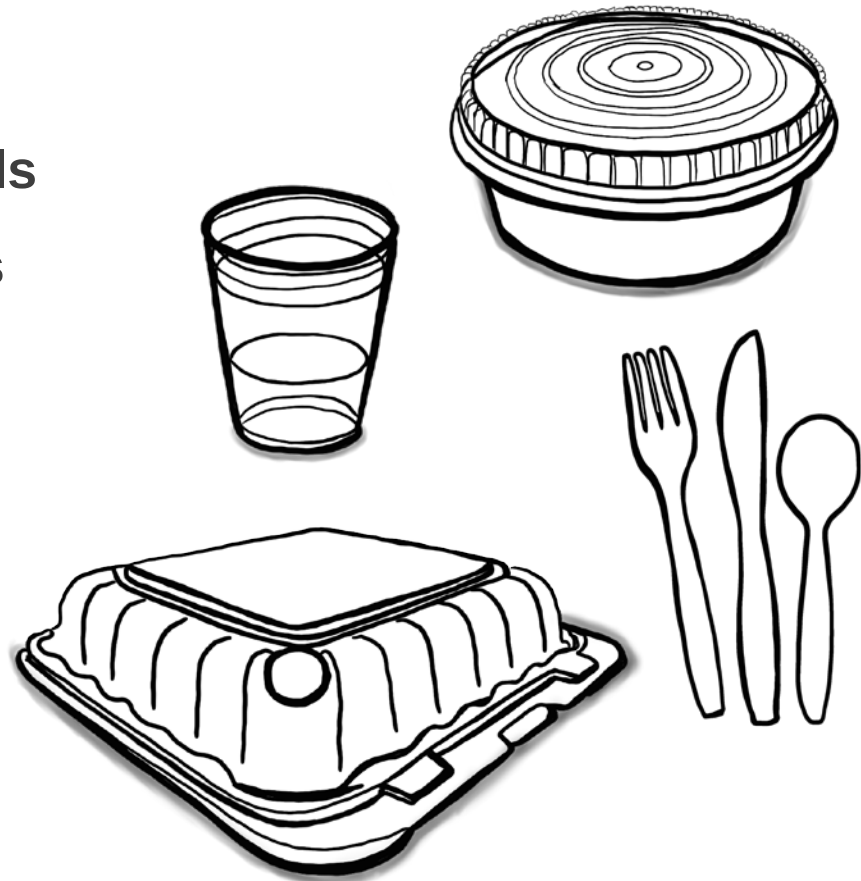
BACKGROUND

- City currently has a Foodware Ordinance adopted in 2013
 - *Prohibits Expanded Polystyrene Foam (“Styrofoam”) containers*
 - *Requires foodware to be packaged for takeout in reusable, recyclable, or compostable containers*
- Proposed ordinance would **phase out disposable plastic foodware** items within the City
- All **food providers** in the City would be covered
 - *Consistent with current Foodware Ordinance*



What is Disposable Foodware?

- x Containers
- x Bowls
- x Plates
- x Trays
- x Cartons
- x Cups
- x Lids
- x Utensils
- x Straws
- x Etc.



REASONS FOR UPDATING ORDINANCE

- Improves environment
 - *Reduces litter and pollution, chemicals in foodware, amount of waste being sent to landfill!*
- Improves stormwater quality
- Reduces recycling contamination and costs
- Decreases GHG emissions
- ***Aligns with the City's Climate Action Plan and Strategic Plan goals!***

KEY CHANGES & AMENDMENTS

Proposed Foodware Ordinance Features:

- Foodware items required to be reusable or compostable and free of per- and polyfluoroalkyl substances (PFAs)
 - *There will be exceptions for products with no available substitutes*
- Permitted straws **must only be provided upon request**
- Exceptions for plastic straws available upon request to meet needs of people with medical needs or disabilities
- Hardship waivers may be granted to food providers who apply

- City required to procure and use reusable or compostable foodware as well
- Implementation will begin **July 1, 2022**
- City will assist food providers by **providing resources, training, technical support, and build public awareness** to support a smooth transition
- Enforcement will begin **January 1, 2024**

PROCESS & PUBLIC INPUT

Proposed Foodware Ordinance Timeline



January – March 2020

Share Information and Gather Input

Spring 2020 - Spring 2021

Development of proposed changes to the Foodware Ordinance paused due to COVID-19

Summer/Fall 2021

Share information and re-engage stakeholders

Fall 2021

Proposed Changes to Foodware Ordinance brought to City Council for consideration

July 1, 2022

Implementation of proposed changes to the Foodware Ordinance

January 1, 2024

Expanded Foodware Ordinance enforcement begins

The City will offer food providers on-going technical assistance.

Public Engagement & Feedback

- Letters to affected businesses
- A factsheet in three languages hand-delivered to applicable businesses, in February 2020 and September 2021
- Articles in a variety of city publications, including bill-inserts sent to all businesses
- Public meetings in March 2020 and September 2021 at the Economic Development Committee, Environmental Quality Committee, and Chamber of Commerce
- Accepted comments on draft ordinance on the City's website from August-September 2021

Public Feedback

- **Incorporated comments:**
 - A longer enforcement timeline to give time for food operators to transition and adjust for any additional costs
 - A specific prohibition of products that contain intentionally added fluorinated chemicals

- **Community members also expressed a desire to:**
 - Begin the enforcement period sooner than 1/1/24
 - Require all single-use foodware to only be offered for a fee
 - Require single-use foodware accessories to be provided by request (which is being addressed by State law effective 6/2022)
 - See the City continue to develop policies that focus not just on plastic foodware, but all uses and sales of single-use plastic

What Messaging Will Look Like



**Reusable
foodware
preferred.**
It is better for
the environment
and saves
money for you.



**Compostable
foodware is
compliant.**
It breaks down
better than
alternatives and
can go in the
green waste bin.



**Plastic foodware
would be
prohibited in the
City of El Cerrito
through these
proposed changes
to the foodware
ordinance.**



Note: A brochure – with vendor, supplier, and product resources – will be produced in 2022, to ease the transition for businesses.

CONSISTENCY WITH CITY POLICIES

➤ Climate Action Plan

- **Waste Goal:** Reduce waste going to the landfill
- **M.4.3:** Waste reduction strategies at City facilities

➤ Strategic Plan

- **Goal F:** Foster environmental sustainability by reducing the amount of waste generated in El Cerrito
- **Goal E:** Ensuring the public's health and safety by supporting initiatives that decrease pollution

➤ Municipal Regional Permit

- Reduce litter entering stormwater sewer systems

Alignment with State Laws:

- **AB 1200** (*PFAs ban in compostable food packaging*)
 - Starting January 1, 2023, prohibits distribution or sale of any food packaging that contains regulated perfluoroalkyl and polyfluoroalkyl substances or PFAs
- **AB 1201** (*Compostable labeling*)
 - Prohibits the sale of products (any product, not just plastic products) labeled with the term “compostable” or “home compostable” unless the product satisfies a specified criteria
 - State to develop labeling requirements for compostable products to ensure that they are readily identifiable by both consumers and composting facilities
- **AB 1276** (*Foodware upon request*)
 - Expands the plastic straws upon request law to include other single-use food accessories, other food facilities, and third-party delivery platforms - including food that is taken away, delivered, or served on-site
 - Requires cities to “on or before June 1, 2022, authorize an enforcement agency to enforce this requirement”

NEXT STEPS

- Consider adoption of the Proposed Ordinance amending Chapter 8.24
- If adopted, staff will produce resources to make it easy for food providers



QUESTIONS & COMMENTS



CONSULTING GROUP, INC.

RESOURCES • RESPECT • RESPONSIBILITY



AGENDA BILL

Agenda Item No. 8.A.

Date: November 2, 2021
To: El Cerrito City Council
From: Karen Pinkos, City Manager, City Management
Subject: FY 2021-22 General Fund Budget Quarterly Update through September 2021

ACTION PROPOSED

Receive and file an update on City General Fund revenues and expenses for FY 2021-22 through September 2021.

BACKGROUND

The El Cerrito City Council adopted an annual Budget for FY 2021-22 on June 22, 2021. The Council has been closely monitoring the City's budget and financial position over the past two fiscal years, including during the COVID-19 pandemic and its impacts on the City. At the City Council's direction, City staff has produced General Fund budget reports that included an Income Statement, Balance Sheet and Cash Flow projection. These reports were provided monthly to the City Council through the end of FY 2020-21.

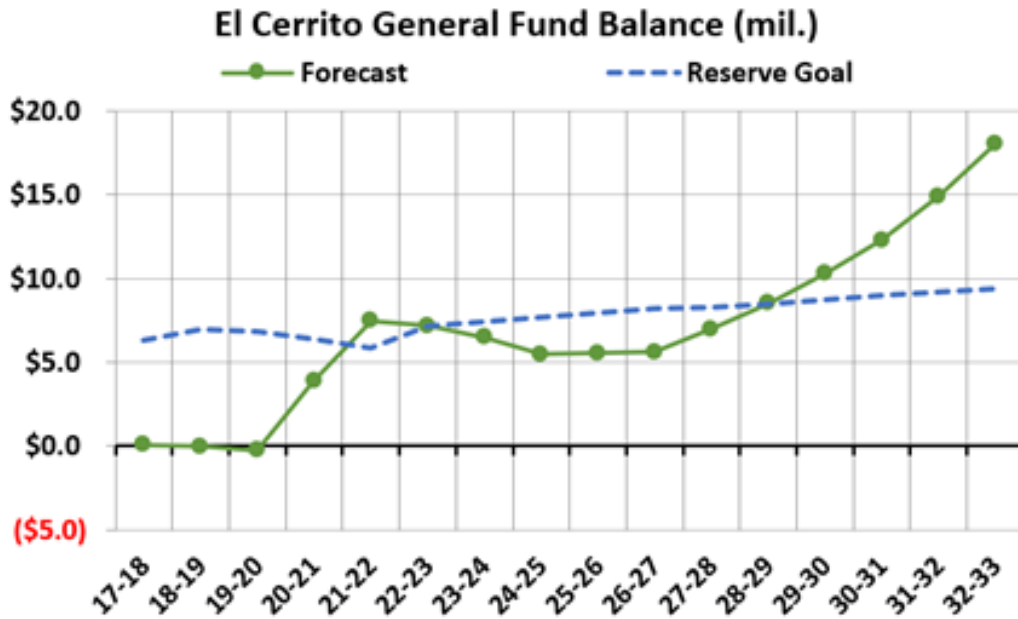
The report issued by the State Auditor in March 2021 recommended that the budget reports should include information on departmental budgets. On April 20, 2021, the City Council appointed a subcommittee of Councilmembers Motoyama and Rudnick to work with City staff on preparing the required six-month update to the State Auditor and consider implementation of various recommendations, including the General Fund budget reports. City staff held meetings with the subcommittee and discussed options and templates for updating the budget reports. The Subcommittee reported to the City Council on September 21, 2021 that for at least the first quarter of FY 2021-22, the report will be provided as a quarterly report instead of a monthly report, due to the fact that the first quarter of the fiscal year does not have as much activity, as well as the fact that the Finance Department is extremely short-staffed with the departures of the Finance Director and Finance Supervisor in the past two months. As this is the first version of an updated and quarterly report, City staff will appreciate feedback to improve the reporting as we move forward and as a permanent Finance Director is hired.

ANALYSIS

The General Fund Update includes information on revenues and expenditures and lists the year-to-date totals by department. Attached to the report are the General Fund Income Statement, which summarizes the major General Fund revenue and expenditure categories through September 2021 on a cash basis and compares to the previous and current budgets, and the General Fund Balance Sheet.

The following are some of the FY 2022 highlights on a preliminary unaudited cash basis through September:

1. Total revenue was \$5.58 million, approximately 14% of the adopted FY 2021-22 budget. As a reminder, property taxes are the largest income category and are received by the City in December and April each year. Notably, Real Property Transfer Taxes are already at 44% of budgeted revenues, and Community Development permit activity is very healthy and improving despite continuing staffing shortages. The majority of revenues are non-departmental, as they are general and not allocated to one department.
2. Total expenditures were \$9.9 million, or 25% of the adopted budget, which is on track for the quarter. Departments are all tracking at an average of 25% as well.
3. Personnel costs of \$29.3 million include all personnel related costs. Personnel is the largest component of General Fund expenditures (75%), and it is expected that with current vacancies some departments may need to increase their professional services and/or overtime budgets, which will be offset by the savings in salaries and wages. Staff will continue to monitor these expenses.
4. The Balance Sheet and Income Statement reflect the unaudited General Fund Balance. The Balance Sheet shows the unaudited General Fund surplus for FY 2020-21 of \$5.5 million, a result of an increase in real property transfer and sales taxes collected that were allocated to that fiscal year. This fund balance does *not* include American Rescue Plan Act (ARPA) funding, which is housed in a separate special fund. The Income Statement reflects that the RDA loan to the General Fund of \$1.3 million, that had been the subject of litigation, was finally written off. By writing off this loan, the unaudited General Fund Balance is at \$4,087,344. This marks the first time in almost ten years that the City will be on track to meet the minimum 10% General Fund operating reserve as per the City's Comprehensive Financial Policy. Once the annual independent audit and the Comprehensive Annual Financial Statements are complete, these numbers will be finalized and presented to the City Council.
5. ARPA funds, of which the City has received the first tranche of \$3 million, are housed in a separate special fund. It has been determined that the entire \$6 million allocation to the City can be considered as "revenue loss" as per the Federal guidelines. This means that the City may use the funds for general purpose provision of services. While the funds may be used for general purposes, they must be clearly and carefully tracked for reporting to the U.S. Treasury. Staff continues to work with our independent auditor to track and allocate these funds as per the City Council direction to replenish loss to the General Fund.
6. The ten-year forecast (shown below) as discussed with the City Council in August will be updated once the independent audit is complete. However, it is notable that the actions that the City has taken to rightsize the City's budget, in addition to ARPA, has had a positive impact and greatly improved the forecast.



STRATEGIC PLAN CONSIDERATIONS

This report is consistent with the City's Strategic Plan Goal B - Achieve long-term financial sustainability— and will allow the City Manager to develop a plan to ensure that Citywide Revenue meets the cost of providing Citywide services, including adequate reserves in the face of significant unanticipated revenue shortfalls. It further ensures procedures that represent best practices in financial management.

ENVIRONMENTAL CONSIDERATIONS

This section is not applicable to this agenda item.

FINANCIAL CONSIDERATIONS

- General Fund revenues and expenditures for FY 2021-22, both overall and by department, are tracking as expected for the first quarter of the fiscal year. Real property transfer taxes continue to perform well thanks to the continuing boom in the real estate market, and there has been an increase in permit activity.
- ARPA funds are not included in this report, as they are housed in a separate special fund.
- Preliminary unaudited General Fund budget surplus for FY 2020-21 is \$5.5 million, substantially exceeding the \$633,000 projected at mid-year of FY 2020-21, mainly because of higher than projected transfer tax and sales tax revenues and as a result of continuing budget reductions.
- This surplus will result in a General Fund balance of approximately \$4 million, following the write off of the legacy \$1.3 million advance to the Redevelopment Agency fund. This represents approximately 10% of General Fund expenditures,

meeting the City Council's minimum General Fund operating reserve per the City's Comprehensive Financial Policy.

LEGAL CONSIDERATIONS

This section is not applicable to this agenda item.

Reviewed by:

A handwritten signature in blue ink, reading "Alexandra Orologas". The signature is fluid and cursive, with the first name "Alexandra" written in a larger, more prominent script than the last name "Orologas".

Alexandra Orologas, Assistant City Manager

Attachments:

1. El Cerrito General Fund Update 1Q 2022



City of El Cerrito General Fund Budget Update October 2021

INTRODUCTION

This report contains information as of September 30, 2021 and provides a high-level overview of the City's current status on the General Fund budget, including revenues and expenditures presented by department. Funding from the American Rescue Plan Act is managed and tracked from a special revenue fund and, thus, is not reflected in this report. Attached to this report are the first quarter General Fund Balance Sheet and Income Statements.

SUMMARY

The City of El Cerrito is currently on track to meet its budget goals for FY 2021-22. The low percent of taxes received is due to the biannual nature of property taxes, the City's largest income source. Expenditures are on track, with most departments spending approximately 25% of their annual budget in the first quarter of the fiscal year.

GENERAL FUND REVENUES

General fund revenues are budgeted at \$40.4 million for FY 2021-22.

Revenues	2022 Adopted Budget	Actuals as of 9/30/2021	% of Adopted Budget
Property and Other Taxes	\$ 26,031,617	\$ 3,017,687	12%
Licenses & Permits	\$ 636,112	\$ 335,381	53%
Fines & Forfeitures	\$ 140,000	\$ 47,738	34%
Use of Money and Property	\$ 353,968	\$ 98,636	28%
Intergovernmental Revenues	\$ 7,312,900	\$ 642,536	9%
Charges for Services	\$ 4,800,000	\$ 1,383,680	29%
Other Revenue	\$ 175,000	\$ 56,548	32%
Other Financing Sources	\$ 952,650	\$ -	0%
Total	\$ 40,402,247	\$ 5,582,206	14%

PROPERTY AND OTHER TAXES

Tax revenues as of October 27, 2021 are at 16% of the adopted FY 2021-22 budget. This is primarily due to the biannual collection of property taxes (in December and April), which comprise the largest portion of City revenues. Taxes that have been partially received by the City include utility users' taxes, sales taxes, and property transfer taxes. Of note is the real property transfer tax category that is already at 44% of the budgeted revenues.

LICENSES AND PERMITS

Licenses and permits are currently at 53% of the budgeted revenues. These licenses include building permits, parking permits, and tobacco retailer license fees. This amount includes high activity in building permit revenues, including some large projects.

FINES AND FORFEITURES

The City has collected 39% of the budgeted revenues in the fines and forfeitures category. These items include parking citations, penalties, and moving vehicle citations.

USE OF MONEY AND PROPERTY

Use of money and property is currently at 33% of the budgeted revenues for FY 2021-22. This primarily consists of rental fees from City properties, including Recreation facility rentals.

INTERGOVERNMENTAL REVENUES

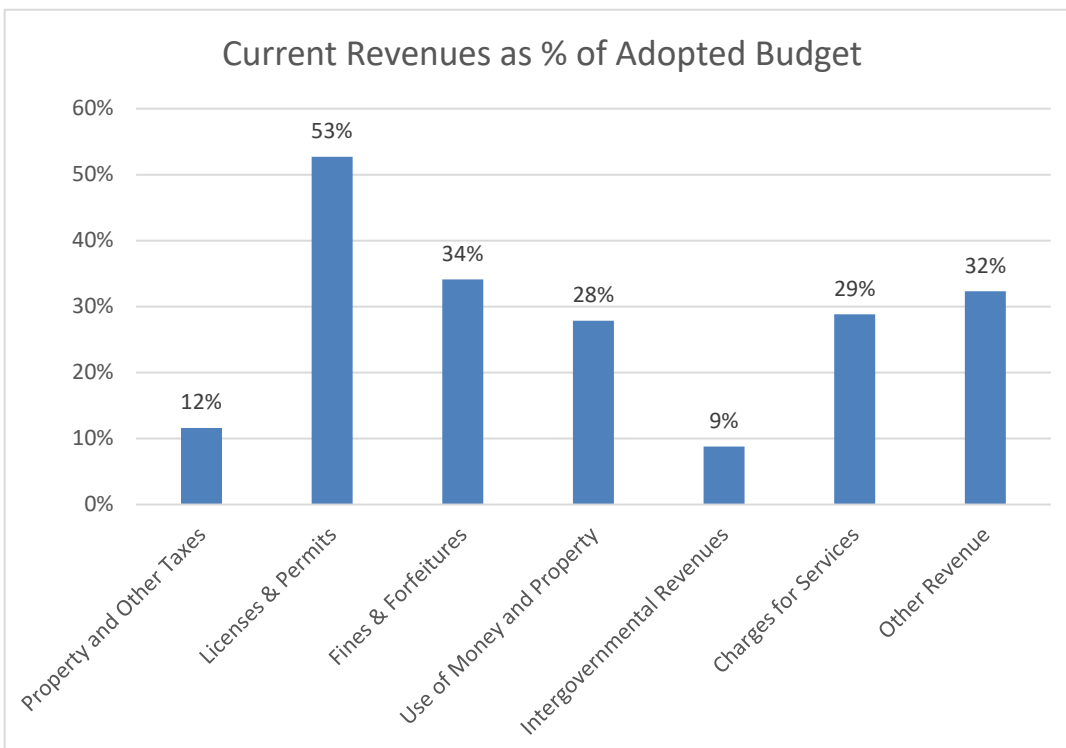
Intergovernmental revenues are currently at 13% of the annual budget. These revenues include the revenue from the Kensington Fire Protection District, grants, and intergovernmental transfers and reimbursements, but do not include American Rescue Plan Act (ARPA) funds, which are housed in a special fund for reporting purposes.

CHARGES FOR SERVICES

Charges for services encompasses program fees and charges for doing business with the City of El Cerrito. This includes Community Development fees for functions such as plan check and inspections, as well as Recreation fees for City programming. The City has received 33% of the budgeted revenues in this category, with the Recreation Department at 30% of its budgeted revenue to date.

OTHER REVENUE/OTHER FINANCING SOURCES

Other revenue includes donations and other miscellaneous revenues. These types of revenues comprise a small portion of El Cerrito's budgeted revenues. The City has received 55% of budgeted revenues in the Other Revenue category. Other Financing Sources refers to loans and indirect transfers. The City has currently not received any revenues in this category.



REVENUES BY DEPARTMENT

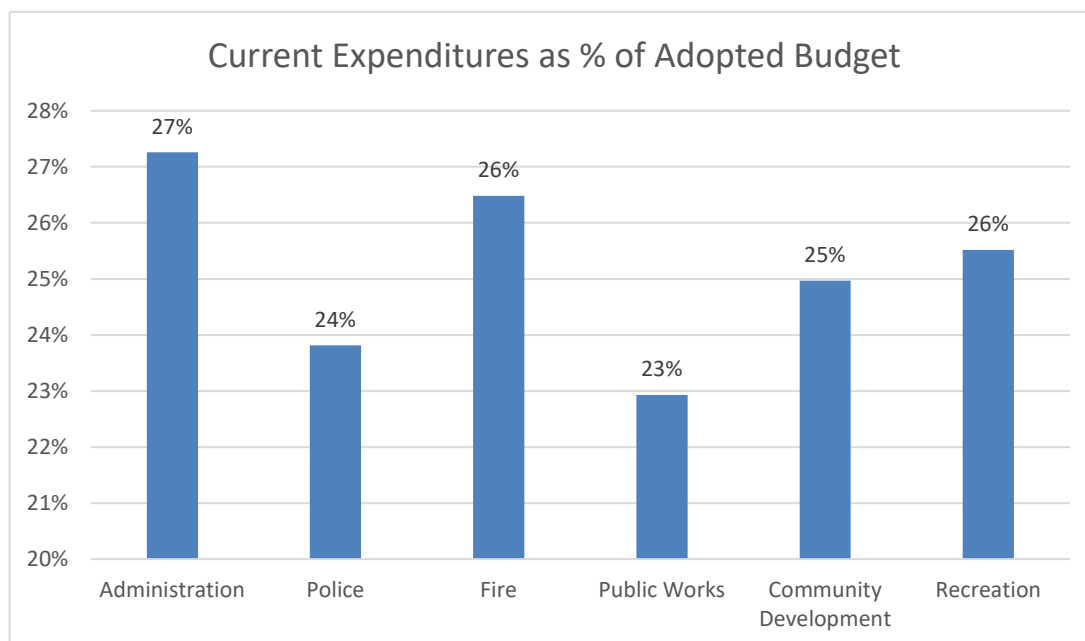
The majority of General Fund revenues, as previously described, are considered non-departmental as they do not pertain to a particular department. Individual departments are trending well, particularly Community Development, which is reflective of the activity in the Building Division.

Revenues by Department	2022 Adopted Budget	Actuals as of 9/30/2021	% of Adopted Budget
Non-Departmental	\$30,453,247.00	\$3,076,133.89	10%
Administration	\$10,000.00	\$13,316.07	133%
Police	\$219,000.00	\$65,412.57	30%
Fire	\$4,363,500.00	\$642,108.06	15%
Public Works	\$330,800.00	\$109,737.52	33%
Community Development	\$1,566,600.00	\$753,919.81	48%
Recreation	\$3,459,100.00	\$922,135.43	27%
Total	\$40,402,247.00	\$5,582,763.35	14%

GENERAL FUND EXPENDITURES

General Fund expenditures are budgeted at \$39.9 million for FY 2021-22.

Expenditures by Department	2022 Adopted Budget	Actuals as of 9/30/2021	% of Adopted Budget
Non-Departmental	\$1,039,328.00	\$94,746.66	9%
Administration	\$5,623,469.00	\$1,532,802.71	27%
Police	\$12,250,818.00	\$2,917,591.75	24%
Fire	\$12,348,402.00	\$3,270,479.95	26%
Public Works	\$1,696,985.00	\$389,118.65	23%
Community Development	\$2,548,257.00	\$636,322.00	25%
Recreation	\$4,475,719.00	\$1,141,977.24	26%
Total	\$39,982,978.00	\$9,983,038.96	25%



DEPARTMENTAL EXPENDITURES

Departments are on track for the first quarter of the fiscal year, coming in at 25% of budgeted expenditures. Personnel is the largest component of General Fund expenditures (75%), and it is expected that with current vacancies some departments may need to increase their professional services and/or overtime budgets that will be offset by the savings in salaries and wages. Staff will continue to monitor these expenses.

GENERAL FUND INCOME STATEMENT

Attachment 1 shows the General Fund Income Statement through September 30, 2021. This depicts the revenues and expenditures by category, in comparison to previous fiscal year adopted budgets, and shows the year-to-date percentage of the FY 2021-22 adopted budget. Of note is the unaudited General Fund surplus for FY 2020-21 of \$5.5 million, a result of an increase in real property transfer and sales taxes collected that were allocated to that fiscal year. This fund balance, again, does not include ARPA funding.

GENERAL FUND BALANCE SHEET

Attachment 2 shows the General Fund Balance Sheet through September 30, 2021. The FY 2020-21 numbers are unaudited and are based on the recently completed fiscal year, and as a result of fiscal closing procedures the assets and liabilities may change slightly in the coming months. As seen in previous balance sheets, each reporting period the year-to-date column will change as well to reflect the current status. Again, of note is the unaudited ending General Fund balance of \$4,087,344. This number reflects the surplus of \$5.5 million less the \$1.3 million RDA loan that was written off, as staff had previously reported to the City Council would occur.

DRAFT FY 2022 General Fund Revenues and Expenditures from July 2021 – September 2021

Revenues (\$000s)	FY 2018-19 Audited	FY 2019-20 Audited	FY20-21 Unaudited	Sep-21	Year To Date (YTD)	FY 2021-2022 Adopted Budget	YTD as a % of Budget
Taxes							
Property Taxes	11,284	13,309	14,936	525	1,025	13,446	7.62%
Sales Taxes	7,545	6,975	7,827	538	538	7,184	7.49%
Utility Tax	3,208	3,166	3,670	225	496	3,100	16.00%
Franchise Taxes	1,244	1,587	1,101	113	113	1,200	9.44%
Business License Tax	910	919	924	53	845	900	93.94%
Other Tax	149	173	164	0	1	202	0.28%
Total Taxes	\$24,340	\$26,127	\$28,623	1,455	\$3,018	\$26,032	11.59%
Licenses & Permits	776	785	657	139	335	636	52.72%
Fines and Forfeitures	219	227	178	22	48	140	34.10%
Use of Money and Property	157	465	334	55	99	354	27.87%
Intergovernmental Revenues	6,744	6,729	8,165	4	643	7,313	8.79%
Charges for Services	6,934	4,748	4,181	392	1,384	4,800	28.83%
Other Revenues	182	118	234	41	57	175	32.31%
Interfund Transfers	2,036	1,024	939	-		953	0.00%
Total	\$41,388	\$40,223	\$43,310	\$2,107	\$5,583	\$40,402	13.82%
Expenditures (\$000s)	FY 2018-19 Audited	FY 2019-20 Audited	FY20-21 Unaudited	Sep-21	Year To Date (YTD)	FY 2021-2022 Adopted Budget	YTD as a % of Budget
Personnel	29,862	30,383	29,728	2,412	8,293	30,009	27.63%
Professional Services	4,487	3,702	2,906	420	724	3,637	19.92%
Purchased Property Services	2,300	2,152	1,600	118	197	1,840	10.71%
Other Services	1,840	1,806	1,641	409	541	2,348	23.05%
Supplies	726	606	409	9	21	632	3.28%
Property & Capital	422	413	252	50	56	323	17.20%
Financing Costs	478	536	586	19	151	528	28.63%
Other Financing Uses	1,416	697	670	-	-	666	0.00%
Total	\$41,531	\$40,294	\$37,791	\$3,437	\$9,983	\$39,983	24.97%
Net Change (\$000s)	(\$143)	(\$71)	\$5,519	(\$1,330)	(\$4,400)	\$419	

City of El Cerrito				
DRAFT General Fund - Balance Sheet				
	Audited FY2019	Audited FY2020	Unaudited 6/30/2021	Year To Date 9/30/2021
Assets				
Cash and Investments	4,349,089	9,016,794	12,801,907	8,286,784
Taxes Receivable	2,113,059	1,882,887	2,955,585	
Accounts Receivable Net	-	32,158	11,858	10,541
Due from other funds	2,590,773	2,011,397		
Inventory	11,772	27,737	25,694	63,739
Prepaid Expense	-	3,278	-	74,018
Total Assets	9,064,693	12,974,251	15,795,044	8,435,082
Liabilities				
Accounts Payable	888,579	844,570	806,422	578,046
Accrued Payroll	1,231,945	1,227,263	303,789	5,752
Other Accrued Liabilities	-	324,585	94,758	165,042
Short Term Note	6,000,000	9,000,000	8,659,545	6,060,893
Unearned Revenues	80,381	82,890	83,463	83,463
Deposit Payable	804,162	1,604,964	1,759,723	1,854,818
Total Liabilities	9,005,067	13,084,272	11,707,700	8,748,014
Deferred Inflows of Resources				
Deferred Inflows of Resources - Unavailable Revenue	116,319	-	-	
Total deferred Inflows of Resources	116,319	-	-	
Fund Balances	(56,693)	(110,022)	4,087,344	(312,932)
Total Liabilities, Deferred Inflows of Resources and Fund balance	9,064,693	12,974,251	15,795,044	8,435,082



SUPPLEMENTAL AGENDA MATERIALS

REGULAR CITY COUNCIL MEETING

November 2, 2021

(Revised November 3, 2021)

PUBLIC COMMENT INDEX

1. Public Comments received

Agenda Item 5C – United Against Hate Week

1. Revised Proclamation

Agenda Item 7B – Accessory Dwelling Unit Regulations Ordinance

1. Presentation



SUPPLEMENTAL AGENDA MATERIALS PUBLIC COMMENT INDEX

REGULAR CITY COUNCIL MEETING November 2, 2021

The following Public Comments were **received by 4:00 p.m. 11/02/2021**, were provided directly to City Councilmembers in advance of the meeting, and were posted online as supplemental materials at www.el-cerrito.org/CouncilMeetingMaterials

Public Comments – Items Not on the Agenda

1. Cordell Hindler
2. Steve Bonini
3. Eevelyn Janean Mitchell

Agenda Item 7B – Accessory Dwelling Unit Regulations Ordinance

1. Jim Dolgonas, Gary Prost, and Sue Duncan

Agenda Item 7C – Amended Foodware Ordinance Requiring Foodware to be Reusable or Compostable and Prohibiting the Use, Distribution, or Sale of Plastic Straws and Plastic Stirrers

1. Swee Peck Quek
2. Rebecca Anaya
3. Barbara Chan
4. Anne Ogonowski

From: [Cordell Hindler](#)
To: [City Clerk](#)
Subject: Public Comments- Not on the Agenda
Date: Thursday, October 28, 2021 3:52:26 PM

good evening Mayor Fadelli, council members and staff, I have a couple of comments for the record

1. I am requesting that the council should Invite Ken Kirkey to provide an overview on the housing element for Homelessness
2. I was concerned regarding having Peckham & Mckenney on board to select a finance director

Sincerely
Cordell

From: [Steve Bonini](#)
To: [City Clerk](#)
Subject: Public Comments - Not On The Agenda
Date: Tuesday, November 2, 2021 2:53:34 PM

Good Evening Mayor and Council Members:

I am writing to encourage all of you to think about your decision to impose an out of contract - outside of meet and confer, price increase for medical benefits for retirees. Having been part of several negotiations as part of public safety association boards, I can tell you we tried to bring Cal PERS Medical and the retiree medical trust into negotiations with the City. Each time we were told it is a non-negotiable issue. The City allows retirees to buy into the city plan at the current rate. This was a benefit negotiated decades ago and reaffirmed each time public safety contracts were up for renewal.

Several retirees, myself included, retired on this pattern and practice. At no time was subsidy ever discussed and I would proffer the City knew exactly what was negotiated throughout the years; that being the City did not and would not offer medical after retirement and retirees being able to buy into the city plan was always a negotiated benefit. You might want to change that provision, but that should be done the same way it was negotiated - through a meet and confer with the labor groups.

At a time when the City was financially mismanaged into this mess by overspending and over-hiring in the City Manager's Department, senior employees retired so newer employees could keep their job. The City promise/contracted obligation was for the retirees to buy into the medical plan at the current employee rate. The City knowingly negotiated this benefit and operated by allowing retirees to buy into the plan at the current rate as a negotiated benefit. OPEB liabilities changed the reporting for cities, not the contractual obligation of a negotiated benefit.

City employees always took less than our surrounding cities during negotiations and always had the City's best interest as our view. Many of us could have gone to other agencies, but we remained dedicated employees of the city. A Bonini has been on the payroll with El Cerrito in 8 of the last 10 decades. My family fled Italy and Musolini to settle in El Cerrito where we were students (ECHS Grads 1958 through 1967), firefighters, volunteers, and police officers. We ask for nothing except for the City and Council to hold up their end of a negotiated benefit. Through the years we took less pay, less in retiree medical benefits, and less in adequate facilities. We ask for nothing more than our contracted and negotiated benefit.

Steve Bonini
Retired Public Safety

From: [Janean Mitchell](#)
To: [City Clerk](#)
Subject: Public comments - not on the agenda
Date: Tuesday, November 2, 2021 3:44:44 PM

Hello Holly and Lina,

I am Eevelyn Janean Mitchell, your Poet Laureate. I am also the Superintendent of Sunday School at my church, St. Peter CME. The Sunday School Department is having our first annual Block Party to promote Unity in our Community. I am hoping that this flyer can be shared at the City Council meeting this evening. It will be greatly appreciated if you can share. I will be in the meeting as well. If you have any questions, please feel free to call [REDACTED] or email me. Thank You

Warm Regards
Eevelyn Janean Mitchell

BLOCK

PARTY

ST. PETER

C.M.E. CHURCH



A DAY OF FUN FOR THE FAMILY



**SATURDAY
NOVEMBER 13TH
12PM-4PM**

- ❖ **FREE FOOD**
- ❖ **FACE PAINTING**
- ❖ **GAMES, PRIZES**
- ❖ **MUSIC & MORE**

***Come Meet Your
Neighbors
Encouraging Unity In
Our Community***

**5324 CYPRESS AVENUE
EL CERRITO, CA 94530**

Rev. Willie McDaniel, Pastor
Sis. Janean Mitchell, Sunday School Supt.
*Hosted By Christian Board
Of Education Sunday School*

**COVID-19 COMPLIANT—
MASK REQUIRED**

BLOCK

PARTY

SAN PEDRO

IGLESIA C.M.E.



UN DÍA DE DIVERSIÓN PARA LA FAMILIA

SÁBADO
13 DE NOVIEMBRE
12PM- 4PM



- ❖ COMIDA GRATIS
- ❖ PINTURA FACIAL
- ❖ JUEGOS, PREMIOS
- ❖ MÚSICA Y MÁS

*Ven a conocer a tus
vecinos*

*Fomentar la unidad en
nuestra comunidad*

5324 AVENIDA CYPRESS
EL CERRITO, CA 94530

Reverendo Willie McDaniel, Pastor
Sis. Janean Mitchell, Supt. de la Escuela Dominical.
Anfitrión: Christian Board
De educación Escuela Dominical

CUMPLE CON COVID-19 –
MASCARILLA REQUERIDA

From: [Sue Duncan](#)
To: [City Clerk](#)
Subject: Public Comment, Agenda Item 7B
Date: Tuesday, November 2, 2021 10:37:13 AM

November 2, 2021

Mayor Fadelli and El Cerrito City Council:

We are writing to express our concerns regarding the draft Accessory Dwelling Ordinance and Municipal Code amendments being presented for approval at the November 2nd Council meeting. We believe that, as written, these will have a negative effect on "public interest, health, safety, convenience and welfare of the city". As you are no doubt aware, one third of El Cerrito's population and housing exists in the VHFHSZ as mapped by Cal Fire. We request that the amendments be modified to prohibit additional housing in VHFHSZs unless a traffic study indicates such construction would not increase evacuation time or that widening of streets would address such increases. The proposed setbacks in the amendments should be adjusted to conform with National Fire Protection Association (NFPA) standard 1140.

We wish to make clear that we are not against ADUs or JADUs. We agree that there is an affordable housing crisis in California and that it must be addressed. Our concerns involve the effect of ADUs on increasing the density of people and structures in the VHFHSZ as it relates to emergency evacuations. ADUs and JADUs increase the number of vehicles evacuating and increase the amount of street parking on what are already narrow roads, lengthening evacuation times and restricting access by emergency vehicles.

Traffic studies in adjacent Berkeley indicate that evacuation times are highly dependent on the number of vehicles evacuating an area (Cova and Johnson, 2002; Zhao and Wong, 2021). As well, on-street parking creates choke points that slow or prohibit two-way flow. The time to safely evacuate all the residents increases significantly as the numbers of vehicles increase. The ADU Ordinance, as currently written, does not require any additional off-street parking associated with new ADUs and JADUs. Our reading of SB9 indicates the City has discretion to require off-street parking for ADSs and lot splits. The Ordinance should not permit additional ADUs, JADUs, or multifamily housing in the VHFHSZ until a traffic study indicates that evacuation (all people and vehicles out of the fire zone before the fire engulfs them) can be safely accomplished. San Rafael has already implemented a 45 day moratorium on ADUs in the VHFHSZ to study the issue (Adrian Rodriguez, Marin Independent Journal, Oct. 19, 2021).

We are also concerned about the danger resulting from reduced setbacks. The ADU Ordinance as written allows a decrease in setbacks from 5–6-foot side and 15-25 ft rear to a minimum of 4-foot setbacks. A decrease in already narrow setbacks may violate the city's fire code, and in any case increases the likelihood of structure-to-structure ignition during a fire. Recommended setbacks, road widths, and fire-truck turnaround specs can be found in the National Fire Protection Association (NFPA) standard 1140 and should be adopted in the revised ordinance.

SB9, just signed by the governor, states that "a local agency may deny a proposed housing development project if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact ... upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the ... adverse impact." The adverse impact on

public health and safety in the VHFHSZ results from reduced setbacks and increased evacuation time resulting from more people, more vehicles, and more on-street parking. These issues must be resolved before approving the ordinance.

Respectfully submitted,

Jim Dolgonas, Gary Prost, Sue Duncan, Make El Cerrito Fire Safe

From: [Swee Peck Quek](#)
To: [City Clerk](#)
Subject: public comments – food ware ordinance
Date: Monday, November 1, 2021 6:27:10 PM

I am writing to express my support for the foodware ordinance in El Cerrito that bans non-compostable take out containers and eating utensils. Please vote to support it.

Swee Peck Quek

From: [Rebecca Anaya](#)
To: [City Clerk](#)
Subject: public comments - agenda item #7C
Date: Monday, November 1, 2021 6:44:35 PM

Dear Mayor Fadelli and El Cerrito City Council Members,

I'd like to express my full support for passing the updated foodware ordinance. Passing this ordinance will be a huge step forward in reducing our community's environmental impact because it will phase out single-use plastic foodware items and encourage the use of reusable and compostable containers.

I recently volunteered on a clean up with El Cerrito's Green Teams, and noticed there was a fair amount of plastic foodware items (straws, lids, utensils, etc.) among the waste I collected. Some of this would have surely been flushed into storm drains with the recent big rain storm. So, while cleaning up is great, I think the updated ordinance is what we really need as a City to reduce waste and help prevent plastic from getting into our waterways.

Thank you to everyone who has been involved in working on the updated ordinance over the years.

Regards,
Rebecca Anaya
El Cerrito

From: [Barbara Chan](#)
To: [City Clerk](#); [Paul Fadelli](#)
Subject: Public Comments - Agenda Item #7C. Nov. 2, 2021
Date: Tuesday, November 2, 2021 11:59:11 AM

Dear Mayor Fadelli, Council members Abelson, Quinto, Motoyama, and Rudnick,

I am writing to urge you to pass the updated foodware ordinance. This updated ordinance has been in development and review with the Environmental Quality Committee, and local residents since Summer 2018 when a small group of El Cerrito residents brought research depicting the devastation that occurs with the use and disposal of plastic straws and non-biocompostable food ware.

The amount of non-recoverable waste tossed onto our streets, into our culverts, creeks, and yards has causes not only a blight, but threatens the health of the environment, Nature's living beings, and human residents. Residents who participate in trash pick up around the city, are unable to prevent all the toxic plasticware from drifting down gutters into our municipaldrain systems.

El Cerrito has touted itself as a "green city" for years. Passage of the updated foodware ordinance is imperative if we are to continue earning that recognition.

Thank you in advance for passing the foodware ordinance tonight.

Respectfully

Barbara Chan
Alta Vista La Honda Neighborhood Steward
Environmental Advocate
CERT Area 9 Block Captain Coordinator



From: [Anne Ogonowski](#)
To: [City Clerk](#)
Subject: Public Comment Agenda Item 7C
Date: Tuesday, November 2, 2021 2:55:43 PM

Dear Mayor Fidelli and City Council Members Abelson, Quinto, Motoyama, and Rudnick:

I write to urge you to support and vote for the updated ordinance prohibiting single-use plastic foodware.

You are aware, I am sure, of the problems related to our massive trash problems, especially of plastics, whether in our streets, landfill, oceans, bodies, or air. Passing this ordinance may not be up there with the weighty issues being discussed at COP26, but I believe it is related to those efforts to stem climate control. If we do not care about and for our immediate surroundings, how can we engage in the “big” climate change issues that more often seem to impact other people?

Passing and implementing the ordinance can spur us as a country to apply the know-how we already have to producing alternative and sustainable foodware to single-use plastics. Initially, doing the right thing may cost a little more, but better now than when we are forced to do the right thing.

The passage of this ordinance will confirm that all of us, food providers and consumers, can make a difference.

Respectfully,

Anne Ogonowski

22-year resident of El Cerrito; volunteer with El Cerrito Green Teams, Friends of Baxter Creek, and Friends of Five Creeks; and neighborhood litter monitor

Sent from my iPhone

EL CERRITO CITY COUNCIL PROCLAMATION
Designating November 14, 2021 – November 20, 2021 as “United Against Hate Week”

WHEREAS, the United States is a nation of immigrants, whose strength comes from its diversity;
and

WHEREAS, the Constitution enshrines equality on all individuals, regardless of race, gender, orientation, religion, or political views; and

WHEREAS, recent federal policies and rhetoric have generated a toxic environment that encourages the propagation of racist, xenophobic, sexist, homophobic, Islamophobic, and other bigoted views by emboldened hate groups and individuals; and

WHEREAS, deep divisions within our country allow for the festering of extreme ideology, further strengthening a cycle of mistrust and suspicion fueled by fear, anxiety, and insecurity; and

WHEREAS, the number of hate crimes across the United States has increased dramatically over the past couple of years; and

WHEREAS, white nationalist groups have held violent rallies in cities across the country, instilling fear across many diverse communities; and

WHEREAS, the City of El Cerrito is deeply committed to inclusivity; and

WHEREAS, the City of El Cerrito was declared a Sanctuary City on March 21, 2017 further affirming the City’s commitment to the values of dignity, inclusivity, and respect for all individuals regardless of ethnic or national origin, gender identity, race, religious affiliation, sexual orientation, age, disability, or immigration status; and

WHEREAS, the community launched a Stop Hate Together campaign to further state our shared values and reiterate our commitment to inclusivity; and

WHEREAS, the City has participated in the United Against Hate movement since its inception in 2018; and

WHEREAS, education, compassion, and cooperation are key to understanding and embracing differences between people; and

WHEREAS, sponsoring a United Against Hate Week is an important step in bridging divisions and healing communities.

NOW THEREFORE, the City Council of the City of El Cerrito does hereby declares the week of November 14, 2021 through November 20, 2021 as United Against Hate Week in the City of El Cerrito.

Dated: November 2, 2021

Paul Fadelli, Mayor

ADU ORDINANCE

El Cerrito City Council
November 2, 2021

BACKGROUND

- 2017: Updated ADU Ordinance to comply with State laws
- 2019: New State laws required another update by January 2020
 - SB 13 and ABs: 68, 587, 670, 670, 671, and 881
- On December 17, 2019, City Council adopted Interim Urgency Ordinance

STATISTICS

- Since 2017, ADU production has roughly multiplied by a factor of 4-5.

Year	ADU Building Permits Issued
2015	4
2016	4
2017	1
2018	18
2019	22
2020	12
2021 (to date)	17

ORDINANCE PROCESS

- Planning Commission recommended adoption of permanent ADU regulations on September 22, 2021
- Council must adopt regulations by November 16, 2021 to remain compliant with State law.
- Introduction tonight (November 2, 2021) and adoption on November 16, 2021.

ORDINANCE UPDATE OVERVIEW

- Repeal and replace Section 19.20.190 (ADUs)
- Add Section 19.20.195 (Junior ADUs)
- Amendments to:
 - Section 19.46.030 (Residential Use Classifications)
 - Chapter 19.47 (Terms and Definitions)
 - Section 19.24.040 (Off-Street Parking)

JUNIOR ADUs

- No more than 500 square feet
- Contained entirely within a single-family residence
- Separate or shared sanitation facilities
- Efficiency Kitchen

AUTOMATIC PLANNING APPROVAL

- Properties with Single Family Dwellings
 - 1 ADU (attached or detached) and 1 JADU
 - 1 Detached ADU (800 sf max/4' setbacks/16' tall)
- Properties with Multifamily Dwellings/Duplexes
 - At least 1 Interior ADU
 - Two Detached ADUs

MAXIMUM FLOOR AREA

- Studio/1 bedroom: 850 square feet
- 2+ bedrooms: 1,000 square feet
- Attached ADUs: the above standards or 50% primary dwelling, whichever is less

MINIMUM SETBACKS AND MAXIMUM HEIGHT

- 4' side and rear setback
- Detached ADUs: 16' max height
- Attached ADUs: comply with daylight plane requirements for zoning district

REPLACEMENT PARKING

- No ADU parking requirements & no replacement parking for garage conversions or demolitions as part of ADU construction.

ADDITIONAL ITEMS

- Owner Occupancy Requirement
 - Not enforceable until 2025
- Short Term Rentals
 - Not permitted for units subject to automatic approval
- Windows
 - Clerestory required close to rear and side property lines

CHANGES TO THE INTERIM ORDINANCE

- Accessory Dwelling Units are allowed on any lots zoned to allow single family or multifamily residential uses
- The deed restriction and owner occupancy sections are now combined in the same section
- ADUs that are up 800 sq ft with the minimum four-foot side and rear yard setbacks, and a maximum height of 16 feet must be allowed regardless of any development standards
- The Section for Detached ADUs on corner lots was removed

QUESTIONS AND COMMENTS