



# STAFF REPORT

## CITY of YORBA LINDA

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### COMMUNITY DEVELOPMENT DEPARTMENT

**DATE:** JULY 19, 2022

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** DAVID BRANTLEY, COMMUNITY DEVELOPMENT DIRECTOR  
**PREPARED BY:** MARY LEWIS, SENIOR COMMUNITY PRESERVATION OFFICER

**SUBJECT:** RESOLUTION NO. 2022-5811 DECLARING THAT WEEDS GROWING UPON OR IN FRONT OF CERTAIN PROPERTY CONSTITUTE A PUBLIC NUISANCE; DECLARING INTENTION TO PROVIDE FOR THE ABATEMENT THEREOF AND SETTING A DATE FOR A PUBLIC HEARING

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### **RECOMMENDATION**

It is recommended that the City Council adopt Resolution No. 2022-5811, declaring its intention to set a public hearing on August 16, 2022, for this year's Weed Abatement Program.

### **BACKGROUND**

Every year the City Council implements a Weed Abatement Program to minimize hazardous fire conditions within the City. This involves a multi-step process of informing property owners that have large areas of undeveloped property that are prone to wildfire hazard, due to natural vegetation overgrowth, to perform weed abatement/vegetation reduction within certain specified time frames prior to the heightened portion of the fire season. Although the City does obtain a high degree of compliance from property owners as a result of the initial outreach efforts and subsequent inspections and follow up notifications, there are some number of properties that for various reasons fail to comply in a timely manner.

Article 2, Section 39560 et seq. of the California State Government Code authorizes cities to perform weed abatement on private properties that fail to comply through declaring such properties a public nuisance. The adoption of Resolution No. 2022-5811 is required to declare the City's intention to set a Public Nuisance Hearing on August 16, 2022, to provide for the Weed Abatement Program and receive any protest(s) relating to the potential City-abatement of non-compliant, private properties.

Also pursuant to the provisions of these sections of the Government Code, upon the second and any subsequent occurrence of such nuisance on the same parcel or parcels within the same calendar year, no further Hearings need to be held, and it shall be sufficient, prior to abatement, to mail a postcard notice to the owners of the property as they and their

addresses appear upon the current assessment roll, in accordance with the provisions for such notice contained in Section 39562.1 of the Government Code of the State of California.

## **DISCUSSION**

In previous years, the entire Weed Abatement list was presented to City Council (early in the fire season), ahead of any determination of compliance status, to allow the City to quickly conduct abatement of any non-compliant properties that remained non-compliant later on (after conclusion of inspections and compliance determination). Specifically, since determination of non-compliant properties potentially subject to City-abatement was not confirmed until later in the summer (after completion of follow-up inspections), it had been the City's historic practice to declare all properties on the City's Weed Abatement List (approximately 1200 properties) as a *potential* public nuisance due to the existence of hazardous vegetation/wildland fire prone areas on their properties in early summer (mid-July), before the inspection component of the program was completed. The public hearing was then held approximately one month later (in later August) after most inspections were completed. The City Council adopts resolutions for each of these steps in the process: 1) intent to declare applicable properties a public nuisance, and 2) ordering abatement of remaining non-compliant properties, respectively.

Given the extreme fire hazard condition last year (2021 Program) and potential need for additional time for homeowners to arrange for abatement work to be completed due to COVID-19, the resolution of intent was adopted earlier than in prior years (on May 18<sup>th</sup>) and the public hearing and resolution of abatement occurred on June 15<sup>th</sup>, before completion of the inspection program. For this reason, last year's resolution ordering abatement also referenced the *entire* Weed Abatement List of properties, rather than solely a subset of properties that had been confirmed as non-compliant (through inspection). Although the staff report and resolution emphasized that this was to provide a legal mechanism to allow the City the ability to abate non-compliant properties later, after completion of the inspection program, it nevertheless caused concern on the part of some property owners who already had completed weed abatement on their properties and thus were in full compliance. City staff were directed by City Council to look at ways to improve the noticing process.

After further review of the timing of initial compliance letters and the timeframe for completing inspections, staff believes scheduling the two City Council meetings to coincide more closely with the close of the inspection program avoids the need to identify the entire weed abatement list of properties as a "potential" public nuisance in the initial intent resolution. Staff also believes that by shifting the timing of the initial compliance request letter to late March rather than early-April, the same amount of time to comply (i.e., 65-70 days) can be provided to homeowners, while still allowing the necessary public meetings and related City Council actions to occur in a timely manner, in the interest of public safety. Staff provided an overview of these process modifications to the City Council at their February 15, 2022, regular meeting.

## **ANALYSIS**

Accordingly, the 2022 Weed Abatement Program has been modified. Compliance letters were delivered to the Weed Abatement List property owners on March 16, 2022. Homeowners were requested to complete weed abatement on their properties by May 25th, approximately 70 days later. Compliance inspections then were conducted from May 26th through July 19<sup>th</sup>. The currently requested resolution, therefore, includes only those properties that remain out of compliance at the conclusion of the inspection program.

Weed Abatement is an on-going concern within the City of Yorba Linda. In the last several years, California has experienced devastating wildland fires, including the most recent Blue Ridge Fire in Yorba Linda in 2020. This has increased resident awareness of this hazard and they have stepped up their involvement in taking preventive action. In addition to the City's weed abatement enforcement role, the Orange County Fire Authority also assumes responsibility for Fuel Modification parcels in the City, and for performing Wildland Task Force inspections. The Orange County Fire Authority's enforcement activities within these areas are separate and apart from the City enforced weed abatement properties.

This increased sensitivity to wildfire threat has resulted in a reduced number of properties remaining out of compliance at the close of the City's inspection process on July 19<sup>th</sup>. As of this writing, a total of 24 properties remain out of compliance. However, staff will continue to follow-up with the property owners over the next month or so leading up to the August 16, 2022, public hearing to gain compliance. It is anticipated that even fewer properties will be included in the final abatement list that will be presented to the City Council on August 16<sup>th</sup>.

## **FISCAL IMPACT**

None at this time. However, the Weed Abatement Program historically has been budgeted under the Weed Abatement section of the Community Preservation Division's budget. More recently, any required City abatement has been funded under the Public Nuisance section of the Community Preservation budget. Over the last several years, due to a high degree of resident compliance, the City's cost to abate non-complying properties has averaged approximately \$1,200.00 to \$15,000.00. The cost of abatement is passed on to owner(s) of the abated property(ies) through a special assessment.

## **ALTERNATIVES**

1. Continue to provide annual notices to properties that meet the Weed Abatement criteria, with no formal procedure or proactive follow-up, other than through standard code enforcement protocol, which is reactive in nature.

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### **ATTACHMENTS**

1. Resolution 2022-5811, with Exhibit “A” – 2022 Annual Weed Abatement List Subset of non-compliant properties.
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