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DATE: July 10, 2023

TO: Honorable Mayor and Members of the City Council through City Manager

FROM: Jeff Schach, Fire Chief  
Jessica Power, Fire Marshal

SUBJECT: Resolution Declaring Weeds Growing Upon Parcels of Public and Private Property, Referred to and Described in the Resolution, Constitute and are a Public Nuisance Requiring Abatement, and Setting Public Hearings at Which Objections May be Heard

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### **RECOMMENDATION**

It is recommended that the City Council adopt the attached Resolution Declaring Weeds Growing Upon Parcels of Public and Private Property, Referred to and Described in this Resolution, Constitute and are a Public Nuisance Requiring Abatement, and Setting Public Hearings at Which Objections May Be Heard.

### **BACKGROUND**

For over 37 years, the City of Petaluma has conducted an aggressive weed abatement program. The clearing of public and private property, depending on weather, must be accomplished by mid-May or early June of any given year and maintained until the first major rains of the fall.

For the 2023 season, the Code Enforcement Division is again coordinating with the Fire Prevention Bureau to standardize weed abatement programs and procedures for vacant and developed lots. For over a decade, the Fire Prevention Bureau has been responsible for weed abatement on vacant lots, and Code Enforcement for developed lots. Previously, Code Enforcement utilized the administrative enforcement process for weed abatement, which slowed the process of abatement, furthering the risk of fire to surrounding properties. To provide for a more efficient model and to ensure our residents safety in a timely manner, the Code Enforcement Division will now follow the weed abatement program as outlined in California Government Code Sections 39560 et seq.

In order for the Fire Prevention Bureau and Code Enforcement Division to conduct weed

abatement activities, Government Code Section 39560 et seq. requires the City Council to pass a resolution declaring weeds/brush a nuisance and to hold a public hearing for objections to this action.

The weed abatement program follows this process annually:

- The City Council declares weed/brush a nuisance and orders a public hearing to hear objections.
- The City Council holds a public hearing and orders abatement where appropriate.
- Property owners that qualify for grass/brush abatement are sent a notice that requests they clear their properties of nuisance weeds and overgrowth by May 31st (or otherwise imposed deadline), weather permitting.
- Property owners are encouraged to do their own weed abatement.
- Parcels still requiring abatement are identified by an inspector.
- Enforced abatement takes place only after non-compliance with the May 31st (or otherwise imposed) deadline.
- Enforced abatement is done by a contractor hired by the City and under the direction of the abatement inspector.
- Cost of the abatement, including the administrative cost, of \$240 per parcel, is invoiced directly to the property owner.
- Failure to pay the abatement invoice by the stated deadline authorizes the City to impose a special assessment on the property for the cost of abatement. The outstanding amount and parcel ownership information is provided to the County for collection as a special assessment placed on the owner's yearly property tax statement.
- The City Council holds a public hearing on the weed program's cost report and authorizes special assessments for properties whose owners have not paid their cost of abatement.

The City previously declared weeds a nuisance on April 3, 2023 and ordered a public hearing to hear objections on April 17, 2023. As the weed season has progressed, additional parcels/owners not listed on the original abatement notification list have been identified as those which may require abatement, with a compliance date of July 17, 2023.

## **DISCUSSION**

The purpose of brush and weed abatement is to reduce fuel loads in areas susceptible to grass or brush fires. The weed abatement program is a proactive fire prevention measure designed to:

1. Prevent ignition by reduction or removal of fuel;
2. Stop, slow, or confine the spread of a fire in areas with excessive grass or brush;
3. Allow time for fire suppression personnel to respond and extinguish a threatening fire;
4. Reduce the fire threat from properties that adjoin the city limits.

All grass and brush fires cannot be totally eradicated, but this type of weed abatement goes a long way to accomplish the goals noted above.

The finished product results in grassy areas that are mowed or disked.

Disking is the most effective method for weed abatement as areas of expansive acreage are disked with fire breaks in strategic locations to slow any rate of fire spread.

City Staff researched alternative methods, including grazing; however, the cost and logistics of grazing are not feasible with many of the lots located in Petaluma. The cost of grazing could be up to ten times more expensive than traditional methods, and logistically, it is difficult to use grazing as an enforcement model, especially for relatively small areas (less than an acre). The Public Works & Utilities Department is further researching grazing options for City-owned properties, where applicable, and will provide a budget request regarding that effort.

City staff will continue to work with the only weed abatement contractor found that utilizes electric abatement equipment when feasible. With over twenty abatement contractors contacted, none solely utilized electric equipment for abatement. After expressed concerns from the Council regarding environmental effects from the disking method, research was conducted to determine the extent of disking utilized for this program. In 2018 it was found that only two lots were abated utilizing the disking method. Portions, if not all, of these lots may not be able to be abated by other methods due to the terrain. In years since this was identified, the contractor was provided direction to utilize other methods wherever feasible. The 2023 contractor will be provided the same direction. This may mean portions of lots are mowed, and portions are disked due to the terrain.

Additionally, the contractor awarded the City's weed abatement contract agrees to honor any designated "Spare-the-Air Days" that occur during the weed abatement season, as designated by the Bay Area Air Quality Management District (BAAQMD). The contractor fulfills this agreement by not utilizing any gas- or diesel-powered equipment on those designated days. The City of Petaluma requires the contractor to enroll online with BAAQMD to receive automatic e- mail notifications for designated "Spare-the-Air Days". All scheduled weed abatement cutting will take place around those designated days, if any.

## **PUBLIC OUTREACH**

This agenda item was noticed in compliance with the California Brown Act.

## **COUNCIL GOAL ALIGNMENT**

The proposed action supports the following City Council Goals, Objectives, and Workplan Items:

A Safe Community that Thrives

OBJECTIVE 1: maintain and enhance public safety and prepare for emergencies and disasters, through crime and fire prevention and traffic safety.

Workplan Item #74. Evaluate all City facilities, including Police and Fire stations and corporation yard facilities; and develop maintenance and replacement recommendations.

Workplan Item #78. Improve public safety through proactive crime and fire prevention activities.

## **ENVIRONMENTAL REVIEW**

This action of adopting a resolution to declare weeds a nuisance is exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline section 15304, “Class 4” – Minor Alterations to Land, because the project involves the minor alteration of the condition of land and/or vegetation.

### **FINANCIAL IMPACTS**

The weed abatement program is structured to be a 100% cost recovery program; however, the amount of cost recovered is dependent upon the number of parcels abated. A per-parcel administrative fee is added to each public and private parcel that is abated. Said fee is imposed to cover the cost of the weed abatement inspector, program management and clerical support. Fewer parcels abated reduces the administrative fee collected and affects the cost recovery percentage.

The administrative fee for the 2023 weed abatement program is \$240 per parcel and is based upon the City’s actual and reasonable costs of administering the program. The fee is approved by City Council Resolution and is identified in the City’s adopted schedule of fees for services. Direct costs of abatement are charged based on actual costs to clear the parcels. All work performed such as disking, mowing, blading or hand work is charged at one-hour minimums. Additional work over one hour is prorated on quarter-hour increments at the same hourly base rate. The Contractor is permitted to charge a pulling (or towing) fee for each parcel where mowing, blading, disking or a combination thereof is performed. This fee is not applicable where only hand work is provided.

### **ALTERNATIVES**

The alternative to the program would be not enacting the program and relying on property owners to complete the work without direction or enforcement options. The weed abatement program is a proactive fire prevention measure designed to reduce fuel loads in areas susceptible to grass or brush fires. If property owners chose not to abate their lots, the City would have an increased fire risk.

### **ATTACHMENTS**

1. Resolution