



AGENDA REPORT

CITY OF SAN CLEMENTE

CITY COUNCIL MEETING

910 Calle Negocio
2nd Floor
San Clemente, California
www.san-clemente.org

Meeting Date: April 16, 2024

Agenda Item: 7C

Submitted By: Community Development

Prepared By: Danielle Sorahan, Code Compliance Manager

Subject:

WEED ABATEMENT 2024 - ORDER TO ABATE NUISANCES BY HAVING WEEDS, RUBBISH, AND REFUSE, REMOVED FROM VACANT AND UNOCCUPIED, DEVELOPED PROPERTIES, AND FINDING THE PROJECT CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

Fiscal Impact:

The Weed Abatement Program is budgeted annually in the General Fund and \$160,000 was appropriated for fiscal year 2024 to cover all program costs (Acct. # 001-452-43000).

Summary:

This is a public hearing concerning the abatement of weeds, rubbish, and refuse, and consideration of a resolution authorizing the Community Development Director to address these nuisances. Following approval, the City's weed abatement contractor will initiate the clearance of all vacant properties in San Clemente that fail to meet the City's weed abatement standards starting from May 15, 2024. Subsequently, the costs incurred by the weed abatement contractor for clearing non-compliant lots will be invoiced to the respective property owners. Any outstanding bills remaining by the end of 2024 will be forwarded to the County for the imposition of liens to recover those costs.

Background:

At the March 19, 2024 meeting, the City Council adopted Resolution 24-40 declaring weeds, rubbish, refuse, and dirt upon streets, sidewalks, parkways and private property to be public nuisances and providing for their abatement. On April 1, 2024, the City's weed abatement contractor completed the required public notification process by mailing "notification of the need to abate" letters to owners of 541 vacant and unoccupied, developed properties in the City. This list was compiled using the most current information provided by the Orange County Assessor's office. The list was approved by the Council on March 19, 2024.

Council Options:

- Adopt Resolution 24-47 directing the abatement of weeds, rubbish, refuse, and dirt upon streets, sidewalks, parkways, and private property.
- Continue the Item with direction to provide additional information.
- Provide specific direction to the City Manager for action.
- Deny Resolution 24-47 with direction to reconsider the item.

Environmental Review/Analysis:

The Community Development Department completed an initial environmental assessment of the project per the California Environmental Quality Act (CEQA). Staff recommends the City Council determine the project is Categorical Exempt from CEQA pursuant to CEQA Guidelines Sections 15301(h) (Class 1: Existing Facilities), 15308 (Class 8: Actions by Regulatory Agencies for Protection of the Environment), and 15321 (Class 21: Enforcement Actions by Regulatory Agencies) because the project is limited to maintenance of existing landscaping, native growth, and water supply reservoirs, the project consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment, and the project consists of actions by regulatory agencies to enforce a law, general rule, standard, or objective, administered or adopted by the regulatory agency.

Recommended Actions:

Staff Recommendation

STAFF RECOMMENDS THAT the City Council adopt Resolution No. 24-47 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ORDERING THE DIRECTOR OF COMMUNITY DEVELOPMENT TO ABATE THE NUISANCES BY HAVING WEEDS, RUBBISH, REFUSE AND DIRT REMOVED FROM VACANT PROPERTIES AND UNOCCUPIED, DEVELOPED PROPERTIES WITHIN THE CITY AND NOTIFYING THE STATE, COUNTY, OR ANY OTHER PUBLIC AGENCY AND FINDING THE PROJECT CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) UNDER SECTIONS 15301, 15308, AND 15321 OF THE CEQA GUIDELINES (14 CCR § 15301(h), CLASS 1: EXISTING FACILITIES, 15308, CLASS 8: ACTIONS BY REGULATORY AGENCIES FOR PROTECTION OF THE ENVIRONMENT, AND 15321, CLASS 21: ENFORCEMENT ACTIONS BY REGULATORY AGENCIES).

Attachment:

1. Resolution 24-47
2. Private Property List
3. Affidavit of Mailing Notice
4. Letter to Property Owner's
5. Notice of Public Hearing published in the San Clemente Times

Notification:

E. Stewart & Associates, Inc.

Notice of Public Hearing Letter Mailed to Vacant Lot List Property Owners
Notice of Public Hearing notice published in San Clemente Times

RESOLUTION NO. 24-47

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ORDERING THE DIRECTOR OF COMMUNITY DEVELOPMENT TO ABATE THE NUISANCES BY HAVING WEEDS, RUBBISH, REFUSE AND DIRT REMOVED FROM VACANT PROPERTIES AND UNOCCUPIED, DEVELOPED PROPERTIES WITHIN THE CITY, NOTIFYING THE STATE, COUNTY, OR ANY OTHER PUBLIC AGENCY, AND FINDING THE PROJECT CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) UNDER SECTIONS 15301, 15308, AND 15321 OF THE CEQA GUIDELINES (14 CCR §§ 15301(h), CLASS 1: EXISTING FACILITIES, 15308, CLASS 8: ACTIONS BY REGULATORY AGENCIES FOR PROTECTION OF THE ENVIRONMENT, AND 15321, CLASS 21: ENFORCEMENT ACTIONS BY REGULATORY AGENCIES)

WHEREAS, the City Council of San Clemente on March 19, 2024, adopted Resolution 24-40 pursuant to Sections 39561 and 39562 of the California Government Code declaring weeds, rubbish, refuse, and dirt upon streets, sidewalks, parkways, and private property to be public nuisances and providing for the abatement thereof; and

WHEREAS, the Code Compliance Division has completed the necessary public notices to owners of each parcel identified in the Weed Abatement Program, as listed in Exhibit 1 of Resolution 24-40; and

WHEREAS, these property owners have been notified that all weeds must be cut to a height no higher than one inch (1") from the ground and the property must be maintained in this manner for the remainder of the calendar year; and

WHEREAS, pursuant to Government Code section 39567.1, these property owners have been informed that if they do not remove the weeds, rubbish, refuse, and dirt, then the City will remove these nuisances, and the cost of the removal plus all related administrative costs will be billed to the non-compliant property owners; and if these costs are not paid to the City when billed, those costs will be assessed upon the land from or in front of which the weeds, rubbish, refuse, and dirt are removed and will constitute a lien upon such land until paid; and

WHEREAS, these property owners have been properly notified of the public hearing on this matter; and

WHEREAS, on April 16, 2024, the City Council held a duly noticed public hearing, and received, heard and considered all evidence and testimony presented at and before such public hearing.

NOW, THEREFORE, the City Council of the City of San Clemente does hereby find, determine and resolve as follows:

SECTION 1: Incorporation of Recitals.

The City Council hereby finds that all of the facts in the Recitals are true and correct and are incorporated and adopted as fully set forth in this resolution.

SECTION 2: CEQA Findings.

Based upon its review of the entire record, including the Staff Report, any public comments or testimony presented to the City Council, and the facts outlined below, the City Council hereby finds and determines that the proposed project is categorically exempt from CEQA pursuant to State CEQA Guidelines Sections 15301(h) (Class 1: Existing Facilities), 15308 (Class 8: Actions by Regulatory Agencies for Protection of the Environment), and 15321 (Class 21: Enforcement Actions by Regulatory Agencies).

The Class 1 exemption specifically exempts from further CEQA review the operation, repair, maintenance, and minor repair of existing public or private structures, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. This exemption covers, but is not limited to, maintenance of existing landscaping, native growth, and water supply reservoirs. The project does not change the existing general use of the site. Thus, the project qualifies for the Class 1 exemption.

The Class 8 exemption specifically exempts from further CEQA review actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. The purpose of the weed abatement process is to protect the City's environmental resources by reducing the possibility of weed and debris fires in San Clemente. Thus, the project qualifies for the Class 8 exemption.

The Class 21 exemption specifically exempts from further CEQA review actions taken by regulatory agencies to enforce a law, general rule, standard, or objective, administered or adopted by the regulatory agency. The weed abatement process enforces the Resolution 23-09, A Resolution of the City Council of the City of San Clemente, California, Pursuant to Section 39561 And 39562 of the California Government Code Declaring Weeds, Rubbish, Refuse, And Dirt Upon Streets, Sidewalks, Parkways, and Private Property to be Public Nuisances and Providing for the Abatement Thereof. Thus, the project qualifies for the Class 21 exemption.

Furthermore, none of the exceptions to the use of the Class 1, 8, and 21 categorical exemptions identified in State CEQA Guidelines section 15300.2 apply. The project will not result in a cumulative impact from successive projects of the same type in the same place over time. The weed abatement process consists of regular maintenance activities to reduce the risk of fires in the City. There are no unusual circumstances surrounding the project that result in a reasonable possibility of a significant effect on the environment because the project is limited to the removal of weeds, rubbish, refuse, and dirt upon streets, sidewalks, parkways, and private property. The project will not damage scenic resources, including trees, historic buildings, rock outcroppings, or similar resources. The project does not include any hazardous waste sites, and the project will not cause a

substantial adverse change in the significance of a historical resource. The project will be carried out on vacant or unoccupied, structured lots with no historical resources affected. And the project has no possibility of a direct or foreseeable indirect significant impact on the environment. Thus, the Class 1, 8, and 21 exemptions apply, and no further environmental review is required.

SECTION 3: The City Council, pursuant to Government Code section 39571, hereby directs the Community Development Director, or their designee, to abate the nuisances by having the weeds, rubbish, refuse, and dirt removed from vacant and unoccupied, developed properties within the City of San Clemente that are not in compliance with the weed abatement standards, as indicated on the notices mailed to the property owners, at such owners' cost, at such time as the City's Weed Abatement Contractor arrives at the property and to notify the State, County, or any other public agency of such nuisances.

SECTION 4: The cost of the removal plus all related administrative costs will be billed to the non-compliant property owners; and if these costs are not paid to the City when billed, those costs will be assessed upon the land from or in front of which the weeds, rubbish, refuse, and dirt are removed and will constitute a lien upon such land until paid.

SECTION 5: The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED this _____ day of _____, 2024.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of
San Clemente, California

STATE OF CALIFORNIA)
 COUNTY OF ORANGE) §
 CITY OF SAN CLEMENTE)

I, LAURA CAMPAGNOLO, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 24-47 was adopted at a regular meeting of the City Council of the City of San Clemente held on the _____ day of _____, _____, by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, _____.

 CITY CLERK of the City of
 San Clemente, California

Approved as to form:

 Elizabeth A. Mitchell, City Attorney

Attachment 2 - Private Property List addresses are on file with the City Clerk.

CITY OF SAN CLEMENTE
AFFIDAVIT OF MAILING NOTICE

STATE OF CALIFORNIA
COUNTY OF ORANGE
CITY OF SAN CLEMENTE

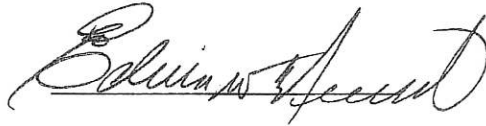
AFFIDAVIT OF MAILING NOTICE REQUIRING THE ABATEMENT OF WEEDS, RUBBISH, REFUSE AND DIRT FROM PRIVATE PARCELS – AS PER RESOLUTION No. 24-40, PASSED BY THE CITY COUNCIL ON MARCH 19, 2024.

That I am the Contractual Weed Abatement Administrator for the City of San Clemente; that copies of the Notice of the Need to Abate noxious weeds, rubbish and dirt from private parcels as per Resolution No. 24-40, were mailed to each and every person set forth on the attached list of Resolution 24-40.

Said mailing was completed by placing a copy of said Notice in a sealed envelope, with postage prepaid, and depositing same in the U.S. Mail at San Clemente, California.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on April 1, 2024 at San Clemente, California.



EDWIN W. STEWART
E. Stewart & Associates, Inc.
Contractual Weed Abatement Administrator
City of San Clemente



City of San Clemente Code Compliance Division

Weed Abatement Program

Phone: (949) 498-9250 Fax: (949) 498-4961

E-Mail: Ed@estewartinc.com

Dear Property Owner:

Every spring the City of San Clemente notifies the property owners of undeveloped parcels and vacant, developed parcels of their responsibility to remove weeds and debris from those properties. The native and naturalized landscape of San Clemente is susceptible to fire, along with the trash and debris that can collect on unoccupied properties. Therefore, it is very important to reduce this fire potential through the removal of weeds and debris.

Notice is hereby given that on Tuesday, April 16, 2024, the City Council of the City of San Clemente will be asked to adopt a Resolution declaring that noxious or dangerous weeds may be growing upon or in front of the type of properties described above and that these weeds constitute a public nuisance which must be abated by the removal of the weeds, rubbish, refuse, and dirt. These properties, including yours, will be described more specifically in the draft Resolution presented to the City Council on that date. Once the Resolution is adopted, should you choose not to remove the weeds and debris, they will be removed by the City, and the cost of removal billed to you. If not paid, the amount, including the City's administrative costs, will be assessed upon the land from which, or in front of which, the weeds and debris are removed and will constitute a lien upon such land until paid. In 2023 these administrative costs per lot were \$200.00. A copy of the draft Resolution will be included in the Staff Report for this item, which will be posted to the City's website at www.san-clemente.org at least 72 hours prior to the April 16, 2024 City Council meeting. You may also request that a copy of the report be provided to you by contacting the City Clerk's Office by calling (949) 361-8303 or by emailing CityClerk@san-clemente.org.

If you disagree with the proposed removal of the weeds and debris, you are encouraged to address the City Council at its meeting of Tuesday, April 16, 2024, at 6:00 p.m., when objections will be heard and given due consideration. The agenda for this meeting, which includes methods in which to address Council, will be posted to the City's website at www.san-clemente.org at least 72 hours prior to the meeting.

PLEASE NOTE: This notice refers to a parcel number(s) listed by the County Assessor's office most recent tax roll in your name. If you feel the property in question should not be included in the weed abatement program or you no longer are the owner of the undeveloped parcel or vacant, developed property, please contact the City's Contractual Weed Abatement Administrator, Stewart & Associates at (949) 498-9250, by email at ed@estewartinc.com, or by mail at: City of San Clemente Weed Abatement, c/o 1000 Calle Negocio, San Clemente, CA 92673. Please indicate the reason why your property should not be included in the weed abatement program. Please postmark any written correspondence to be received by May 15, 2024. If you wish to clean your own lot, your lot must be cleared to City standards by May 15, 2024, which require that weeds be cut to a height no higher than one inch (1") from the ground and all debris/trash be removed. Please note, the work required by the Weed Abatement Program is separate from, and in addition to, any vegetation management which may be required by the Orange County Fire Authority. The property owner must maintain the property in that manner for the **remainder of the calendar year**. All lots will be inspected for compliance. Please contact (949) 498-9250 if you require additional information regarding weed abatement.

Laura Campagnolo, City Clerk

Danielle Sorahan, Code Compliance Manager

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT A PUBLIC HEARING WILL BE HELD BY THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, RELATIVE TO THE FOLLOWING:

Weed Abatement Program 2024

Public Hearing to consider all objections or protests, if any, to the proposed abatement of weeds, rubbish, refuse and dirt upon streets, sidewalks, parkways and private property within the City of San Clemente. Further information may be obtained by contacting the Code Compliance Division at (949) 366-4705.

If you challenge this item in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of San Clemente at, or prior to, the public hearing.

To allow staff adequate time to confirm software compatibility, individuals wishing to utilize electronic visual aids to supplement their oral presentations at the meeting, must submit the electronic files to the City Clerk by no later than 12:00 p.m. on the day of the meeting. Only compatible electronic formats will be permitted to be used on City audio/visual computer equipment. Staff makes no guarantee that such material will be compatible, but will use its best efforts to accommodate the request.

NOTICE IS FURTHER GIVEN that said public hearing will be conducted by the San Clemente City Council on Tuesday, April 16, 2024 at 6:00 p.m. in the City Council Chambers located at 910 Calle Negocio, 2nd floor, San Clemente. All interested persons are invited to attend said hearing or to provide written communication to the City Council to express their opinion for or against the project.

LAURA CAMPAGNOLO
City Clerk and Ex-Officio
Clerk of the Council