

Exhibit "A"

CHAPTER 8.48 - HAZARDOUS VEGETATION AND RUBBISH ABATEMENT PROGRAM.

8.48.010 Hazardous vegetation and rubbish abatement program.

A. Findings

1. The City of Wildomar generally has an arid climate conducive to wildfires and is prone to periodic Santa Ana wind events. Many of the City's native and non-native plant species can be highly flammable during normal dry periods and have contributed to significant wildfires within the City and surrounding area. Drought and Santa Ana wind events further exacerbate the fire danger and have resulted in catastrophic fire losses to life, property and the environment throughout the region; and
2. Of paramount importance to the City Council and the citizens of the City of Wildomar is the protection of lives and property from the threat of fire and the safety of fire and law enforcement personnel during wildfires; and
3. It is the purpose of this ordinance to establish a hazardous vegetation abatement program that protects the lives and property of the citizens of Wildomar; and
4. The City Council finds that hazardous vegetation or combustible material poses a danger to the health, safety and welfare of the residents in the vicinity of any real property located throughout the City of Wildomar for the reasons set forth above.

B. Pursuant to Government Code Sections 39501 and 39502, the City of Wildomar adopts the following procedures making it the responsibility and duty of the property owners, lessees, and occupants of real property within the City to prevent and abate public nuisances caused by weeds, hazardous vegetation or rubbish on or about any parcel.

C. The following definitions apply to the City's hazardous vegetation and rubbish abatement program:

1. "Weeds" include (a) any vegetation or plants which when mature bear seeds of a downy or wingy nature; (b) sagebrush, chaparral and any other brush or weeds which attain such large growth as to become, when dry, a fire menace; (c) poison oak and poison ivy

when the conditions of growth are such as to constitute a menace to the public health, and weeds that are otherwise noxious or dangerous; (d) overgrown vegetation which is likely to harbor rats or vermin, or which constitutes a fire hazard; (e) dry grass, stubble, brush, or other flammable material which endangers the public safety by creating a fire hazard; (f) large amounts of dead, dying or diseased vegetation; and (g) any other brush, vines, trees, grass, plants, or vegetation that is injurious to public health, safety, welfare or is otherwise hazardous or unsightly to the community.

2. "Rubbish" includes, but is not limited to, trash or refuse consisting of uncontained paper, cardboard, wood, dry grass or brush, dirt, plastic, rubber, metal or ceramic wreckage, glass, junk, disassembled automobiles, machinery, or parts thereof, or any other discarded material which may be combustible or deleterious to the public health, safety, or welfare, or any material which by reason of its location and/or character may hamper or interfere with the prevention or suppression of fire upon the premises or adjacent premises.
 3. "Fire Chief" means the Fire Chief of the City of Wildomar or designee.
 4. "Hazardous vegetation" means vegetation that is flammable and endangers the public safety by creating a fire hazard, including, but not limited to, seasonal and recurrent weeds, stubble, brush, dry leaves and tumbleweeds.
 5. "Improved parcel" means a portion of land of any size, the area of which is determined by the County Assessor's maps and records and may be identified by an assessor's parcel number upon which a structure is located.
 6. "Parcel" means a portion of land of any size, the area of which is determined by the County Assessor's maps and records and may be identified by an assessor's parcel number.
 7. "Structure" means any dwelling, house, building or other type of flammable construction, including, but not limited to, a wood fence attached to or near any other structure.
- D. It shall be unlawful, and is hereby declared a public nuisance, for the owner(s), lessee(s), or occupant(s) of real property within the City to maintain, permit, or allow such premises to be maintained in such a condition where weeds, hazardous vegetation or rubbish negatively affect the public health, safety, or welfare. It is also hereby declared the duty and responsibility of the owner(s), lessee(s), and occupant(s) of real property

within the City to prevent and abate any and all conditions of weeds, hazardous vegetation or rubbish that negatively affect the public health, safety, or welfare.

- E. It shall be the duty of every owner, lessee and occupant of real property within the City, parcel of land or interest therein which is in the City to clear therefrom, including sidewalks and parkways adjacent to such property, all weeds, hazardous vegetation and rubbish.
- F. The Fire Chief, or his or her designee, shall have authority to declare violations of this section and to enforce the same against the owner(s), lessee(s) and occupant(s) of the real property upon which such conditions exist.
- G. The Fire Chief, or his or her designee, shall enforce the duty set forth in this subsection hereof, by issuing and serving a notice and order to abate by personal service or by US mail or by private carrier to the property owner as his or her name appears on the most recent equalized assessment roll and to the address as shown in the records of the County Assessor. The notice and order shall contain:
 - 1. A reasonable description of the lot or parcel of real property upon which the violation exists;
 - 2. A reasonable description of the violating conditions constituting the nuisance;
 - 3. The relevant standards for maintenance, prevention, and abatement of weeds, hazardous vegetation and rubbish adopted pursuant to this section;
 - 4. Reference to this section;
 - 5. An order to remove the violating conditions and bring the property into compliance within 20 calendar days;
 - 6. A description of the consequences of failure to comply as prescribed in this section; and
 - 7. A statement that a written appeal may be filed with the City Manager or designee thereof.
- H. The requirements of subsection (D) of this section shall be satisfied if the owner, lessee or occupant clears the property by disking, mowing or any other method described in said notice as follows:
 - 1. A 100-foot-wide strip of land at the boundary of an unimproved parcel, and/or parcel frontage adjacent to a roadway.

2. A 100-foot-wide strip of land around structure(s) located on an adjacent improved parcel (some or all of this clearance may be required on the unimproved parcel depending upon the location of the structure on the improved parcel).
 3. The Fire Chief may require more than a 100-foot width or less than a 100-foot width for the protection of public health, safety or welfare or the environment. The determination for appropriate clearance distances will be made based upon a visual inspection of the parcel and shall consider all factors that place the property or adjoining structure(s) at risk from a fire. These factors shall include local weather conditions, fuel type(s), topography and the environment where the property or adjoining structure(s) is located.
 4. Where the parcel's terrain is such that it cannot be disked or mowed, the Fire Chief may require, or authorize, that other means of removal be used.
- I. If after 20 calendar days from the date the notice and order was issued the nuisance upon the property has not been abated and no written appeal has been filed in accordance with this chapter, the right to appeal is waived and the notice and order shall be final, conclusive, and binding. In such instances, the City may, without any administrative hearing, enter the subject property and cause the abatement with City personnel or contractors of any or all of the nuisance conditions or activities stated in the notice and order. Notwithstanding the above, entry onto an improved parcel shall, excepting instances of an imminent hazard, be pursuant to a warrant from a court of competent jurisdiction. The City shall follow the procedures stated in this chapter for recovery of all abatement costs, fees and expenses (incidental or otherwise).
 - J. Abatement of any nuisance under this section may, in the discretion of the City, be contracted to an outside contractor. Should the City contract the abatement process, the City may assign its interest in collecting payment for the work to the contractor which performed the work, as payment to the contractor.

8.48.020 Appeals.

- A. The recipient of the notice and order issued pursuant to this chapter, or the owner of the property on which the nuisance is located, may request a hearing on the notice and order to abate by filing a written appeal with the City Manager or designee within 20 calendar days of the date of the notice to abate. The appeal shall state the reasons why the notice and order to abate is incorrect.
- B. If a request for hearing is not timely and properly filed, or if a hearing is held and a nuisance is confirmed, City personnel or contractors may enter the subject

property to abate the nuisance. Notwithstanding the above, entry onto an improved parcel, excepting instances of an imminent hazard, shall be pursuant to a warrant from a court of competent jurisdiction.

- C. Failure to timely and properly appeal constitutes a waiver of the right to appeal and a failure to exhaust administrative remedies.
- D. If a request for hearing is timely and properly filed, a hearing shall be conducted to hear the appeal and render a determination on the existence of the public nuisance(s) identified in the notice. The City Manager shall appoint a hearing officer. The hearing officer shall be an individual that had no involvement in the determination to issue or issuance of the notice and order to abate.
- E. Notice of Hearing. A notice of the hearing date, time and location shall be served on the person requesting the hearing and the owner of the property on which the violation occurred.
- F. Conduct of the Hearing. On the date and time stated in the notice of the hearing, the hearing officer shall hear and consider all relevant evidence relating to the conditions on the property as identified in the notice. The hearing may be continued from time to time at the discretion of the City or upon a written request from the appellant based on good cause. The appealing party shall have the opportunity to present relevant evidence and testimony on his or her behalf, and shall have the opportunity to examine relevant City witnesses. The rules of evidence shall not apply.
- G. Determination. Within a reasonable time following conclusion of the hearing, the hearing officer shall issue a written determination as to whether the conditions identified in the notice constitute a public nuisance that negatively affects the public health, safety, or welfare. If the hearing officers determines that a public nuisance exists, it shall declare such premises to be a public nuisance, uphold the notice to abate in full or in part, and order complete abatement within a specified time. If the hearing officer determines that none of the conditions identified in the notice to abate constitute a public nuisance, then the notice to abate shall be withdrawn. The determination of the hearing officer is final.
- H. Notice of Determination. Notice of the determination of the hearing officer shall be served on the appealing party and the owner of the property on which the violation.

8.18.030 Service.

Unless otherwise specified, any notice, order or statement issued pursuant to this chapter may be served by personal service, by US mail or by private carrier to the

violator's last known address or address as shown on the County's Assessor's most recent tax rolls. Service shall be completed at the time of deposit in the U.S. mail or with the private carrier.

8.18.040 Collection.

The City shall keep an itemized accounting of the associated costs incurred by the City to abate the nuisance. All abatement and administrative costs incurred by the City, including all costs, may be recovered by any manner authorized by law, including by lien or assessment pursuant to the procedures set forth in Municipal Code Section 1.16.080. As used herein, "associated costs" includes, but is not limited to, costs incurred in preparation of notices, specifications and contracts; inspection and other staff enforcement activities; printings and mailings; recordings and court costs; hearings; actual costs of abatement; and attorney's fees, whether through civil, criminal or administrative action, or otherwise.