



CITY OF ATASCADERO

CITY COUNCIL STAFF REPORT

Item G3

Department: City Attorney
Date: 05/27/2025
Placement: Public Hearing

TO: James R. Lewis, City Manager
FROM: Dave Fleishman, City Attorney
PREPARED BY: Taylor Foland, Assistant City Attorney
SUBJECT: 4543 Yerba Avenue Nuisance Abatement Hearing

RECOMMENDATION:

Council adopt Draft Resolution Declaring a Public Nuisance at 4543 Yerba Avenue and Ordering Abatement of the Nuisance.

DISCUSSION:

The City Council is being asked to find and order abatement of a public nuisance located at 4543 Yerba Avenue, Assessor's Parcel No. 028-151-017 ("Property") within thirty days, and authorize the Enforcement Officer to abate the nuisance in the event abatement is not commenced, conducted, and completed pursuant to the Council's Order to Abate.

BACKGROUND

The Property has been the subject of numerous citizen complaints and enforcement actions from around September 2020 to present regarding various local and state law violations, including, but not limited to unlawful outdoor accumulation of debris and waste, improper storage of abandoned and inoperative vehicles, accumulation and storage of combustible materials constituting a fire, health or safety hazard and failure to maintain safe, continuous and unobstructed paths of travel to and from the building. Notably, there have been two fires on the Property, one in March 2008 and another in September 2022, and several reports of illegal burning in 2023 and 2024.

The City has issued the property owner, Ms. Terri Stinson, multiple warning letters and several administrative citations related to the code violations and fire hazards. In addition, Code Enforcement Officer Ayla Tomac has attempted to work with Ms. Stinson over the past several years to remedy these violations by setting up weekly meetings and inspections to encourage forward progress. Despite these efforts, the Property remains in violation of the Municipal Code, California Health and Safety Code, the International Property Maintenance Code and the California Fire Code.

In particular, as identified on the Notice of Nuisance Abatement (Attachment No. 2), the Property is in violation of the following local and state laws:

- **AMC § 9-6.103(g):** Outdoor storage of scrap, junk, and miscellaneous articles and materials in excess of 200 square feet and located outside of the buildable area of the lot
- **AMC § 9-6.103(d)(3):** Storage of inoperative vehicles outside the buildable area of the site
- **AMC § 6-4.103:** Storage of excessive amounts of solid waste, recyclable materials, organic materials, and litter
- **California Health & Safety Code § 17920.3(h):** Combustible waste and vegetation, in the opinion of the chief of the fire department or the chief's deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of the fire or explosion arising from any cause
- **California Health & Safety Code § 17920.3(j):** Accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rodent harborages, stagnant water, combustible materials, and similar materials or conditions constituting a fire, health, or safety hazard
- **2021 International Property Maintenance Code § 302.1¹:** Exterior property not maintained in a clean, safe or sanitary condition
- **2021 International Property Maintenance Code § 302.3:** Sidewalks, walkways, stairs, driveways, parking spaces and similar areas kept in an improper state of repair and contain hazardous conditions
- **2021 International Property Maintenance Code § 308.1:** Accumulation of rubbish and garbage on the exterior of the property and premises
- **2021 International Property Maintenance Code § 702.1:** Lack of safe, continuous and unobstructed path of travel from a point in the building to the public way
- **2022 California Fire Code § 304.1²:** Accumulation of combustible waste material creating a fire hazard upon premises and placement and storage of combustible material within 10 feet of a building
- **2022 California Fire Code § 315.4:** Storage of combustible materials outside within 10 feet of a lot line

Pursuant to AMC Section 12-1.02, "any condition caused or permitted to exist in violation of any of the provisions of this Code, or its adopted Codes, shall be deemed a public nuisance...". In addition, Section 9-8.106 defines a nuisance to include: "[a]ny condition declared by a statute of the State or ordinance by the City to be a nuisance...[a]ny public nuisance known at common law or equity...[a]ny condition dangerous to human life, unsafe, or detrimental to the public health or safety...[and any] use of land, buildings, or premises established, operated, or

¹ The City of Atascadero adopted the 2021 International Property Maintenance Code as part of the Atascadero Municipal Code. See AMC § 8-1.102.

² The City of Atascadero adopted the 2022 California Fire Code as part of the Atascadero Municipal Code. See AMC § 4-7.102.

maintained contrary to the provisions of this title.” The violations listed above are conditions caused or permitted to exist in violation of the City’s Code and adopted Codes and are dangerous to human life, unsafe, and detrimental to the public health and safety. Accordingly, they constitute a public nuisance which may be abated by the City.

NUISANCE ABATEMENT PROCESS

Chapter 9-8 (Enforcement) of the City’s Municipal Code governs nuisance abatement procedures in the City. First, Section 9-18.107 requires the Enforcement Officer to determine that a nuisance exists and serve a Notice of Nuisance Abatement upon the property owner. This initial notice describes the nuisance condition(s) and orders completion of abatement within 30 days. (See AMC § 9-8.107(a)). If nuisance abatement is not completed at the end of the 30 days, the City may schedule a nuisance abatement hearing before the City Council. At the hearing, the City Council may determine the existence of a public nuisance, order the abatement of such nuisance within a reasonable time, and authorize the Enforcement Officer to abate the nuisance in the event abatement is not completed in accordance with the terms set by the Council at the hearing. The Enforcement Officer must serve a Notice of Nuisance Abatement Hearing upon the property owner fifteen to thirty days prior to the hearing. (AMC § 908.107(b)-(c)).

On April 8, 2025, having determined that nuisance conditions existed on the Property, Ms. Tomac served the initial Notice of Nuisance Abatement personally upon Ms. Stinson and posted the Notice in a conspicuous place on the Property (Attachment No. 2). The Notice listed several conditions at the Property that constitute a public nuisance, described in more detail above, and required correction of the violations within 30 calendar days (i.e. before May 9, 2025).

On May 7, 2025 Ms. Tomac visited the Property and took photos of its condition. Ms. Tomac noticed minimal progress in the form of clearance of a small path partially around the hearse. However, the nuisance conditions had not been abated. On May 12, 2025 after the 30-day abatement period had expired, Ms. Tomac returned to the Property to survey the abatement progress. At this time, Ms. Tomac determined that actions to abate the nuisance conditions had not been commenced, or, if they had been commenced, had not been pursued with diligence nor completed. Accordingly, Ms. Tomac posted a Notice of Nuisance Abatement Hearing in a conspicuous place on the Property and served the Notice personally upon Ms. Stinson (Attachment No. 3).

The Notice of Nuisance Abatement Hearing notified Ms. Stinson of this public hearing regarding nuisance abatement on her Property.

RECOMMENDATION

Pursuant to Section 9-8.107(c), staff recommends the City Council find a public nuisance exists on the Property, order abatement of the nuisance within 30 days, and authorize the Enforcement Officer to abate the nuisance if abatement is not completed within this time.

ALTERNATIVES TO THE STAFF RECOMMENDATION:

1. The City Council may terminate the abatement proceedings and find that no nuisance conditions exist on the Property.
2. The City Council may amend the Resolution to provide for a reasonable time longer than 30 days to abate the nuisance.

FISCAL IMPACT:

While there is no fiscal impact anticipated in the declaration of a nuisance and an order to abate, the City may incur expenses in an amount to be determined should it later be compelled to abate the nuisance with its own forces or a contractor. The cost of this work may be imposed at a later date as a lien against the property, which would ultimately be collected through the property tax rolls. Staff will return to Council with the cost at a subsequent meeting. Furthermore, the property owner will be entitled to protest the cost prior to it being placed on the property tax rolls.

REVIEWED BY OTHERS:

This item has been reviewed by the Deputy City Manager

REVIEWED AND APPROVED FOR COUNCIL AGENDA



James R. Lewis, City Manager

ATTACHMENT(S):

1. Draft Resolution
2. Notice of Nuisance Abatement (April 8, 2025)
3. Notice of Nuisance Abatement Hearing (May 12, 2025)