

## **MEMO**

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**TO:** Honorable Mayor and  
Members of City Council

**DATE:** July 18, 2017

**FROM:** Oleander Work Group

**SUBJECT:** Proposed Oleander Regulation

The Oleander Work Group ("OWG") appreciates council's continuing consideration of the proposed oleander regulation.

Based on the June 19<sup>th</sup> council discussion, the OWG suggest a modification to the regulation by limiting the exposure to just horses and not the other animals listed in the current proposal. In addition, the code language would reflect that enforcement would be complaint based with as much discretion provided to code officers with the ultimate goal of compliance, not punishment. A proactive enforcement style was never the proposal nor would it serve the community purpose of educating the public on the dangers of oleanders.

In consultation with the city attorney and from the June 19<sup>th</sup> discussion, there was concern that passage of this law would be the basis of Proposition 207 lawsuits (laws passed that diminution market value of property). Placing this regulation in the Health and Sanitation Property Maintenance Code under Apache Junction City Code, Vol. I, Chapter 9, would avoid a possible Proposition 207 application since exceptions to Proposition 207 are when the adopted law is a health and safety or public nuisance law. The code, by its own terms, would classify oleanders as a public nuisance.

In addition, oleanders have been determined to be a dangerous plant in Norco California which has a complaint-based system of enforcement, similar to what is proposed in Apache Junction. This prohibition has been in place since 1974 and is well received by the community. (*See attached ordinance and amendment*).

In addition to its toxicity, oleander is considered an invasive non-native plant (*see attached article, map and USDA Environmental Assessment with selected pages*). In November 2016, the East Valley Back Country Horsemen provided horse and pack animal support for a grant awarded to eradicate oleander from a portion of Arnett Canyon near Superior, Arizona. This effort was managed by the United States Forest Service and the grant was awarded to the Arizona Wilderness Coalition from the National Fish and Wildlife Foundation. This was a seven day project.

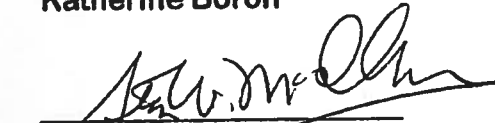
The council was also interested in an educational component that identifies oleanders as a dangerous plant. The Superstition Horsemen's Association

("SHA") is committed to place a continuous message on it's website of the dangers of oleanders and passage of any city regulation with the penalties. SHA agrees also to hold community educational sessions that teaches the hazardous nature of the plant to residents and business owners.

The OWG appreciates council recognition of this problem in Apache Junction and urges support of the regulation with a complaint based enforcement approach and with horses as the protected class of animals rather than the broader class of livestock and chickens as originally proposed.

  
Katherine Boron

  
Darryl Cross

  
Steve McClintock

  
Jeff Watson

Attachments

# WORK GROUP AJCC CODE CHANGE RECOMMENDATION

## CONTROLLED ACCESSIBILITY

### APACHE JUNCTION CITY CODE, VOL. I, AMENDMENT TO CHAPTER 9: HEALTH AND SANITATION, ARTICLE 9-1: PROPERTY MAINTENANCE STANDARDS

#### Section

#### 9-1-3 Public nuisances prohibited

#### (C) *Land maintenance and weeds.*

(5) No person shall ~~offer to sell, sell,~~ maintain, grow, keep or plant any male mulberry tree (*Morus alba*) or olive tree (*Olea europea*) in the city unless it is one of the non-pollinating varieties of such trees.

(6) No person shall maintain, grow, keep or plant any oleander tree or shrub (*Nerium oleander*) in the city unless it is maintained, grown, kept or planted in a location or size in which it is not accessible to horses (*Equus spp.*) on adjoining properties, or in such a manner in which the leaves are contained on the property from which the plant is maintained, grown, kept or planted. Enforcement of this subsection shall be complaint-based.

ORDINANCE NO. 304

AN URGENCY ORDINANCE OF THE CITY OF NORCO, CALIFORNIA,  
AMENDING CHAPTER 6.08 OF TITLE 6 OF THE MUNICIPAL CODE  
OF NORCO, CALIFORNIA, AND RELATING TO THE PROHIBITION OF  
PLANTING AND CULTIVATING THE OLEANDER SHRUB AT CERTAIN  
LOCATIONS WITHIN THE CITY OF NORCO AND DECLARING THE  
URGENCY THEREOF

THE CITY COUNCIL OF THE CITY OF NORCO, CALIFORNIA, DOES ORDAIN  
AS FOLLOWS:

SECTION 1: Recitals. The City Council of the City of Norco, California, hereby finds, based on evidence developed by the sciences of Medicine, Veterinary and Pharmacology, that the plant, which takes the form of an evergreen shrub of the dogbane family, is classified botanically as "Nerium Oleander" and hereinafter referred to as the "Oleander plant", has poisonous qualities, which would have a fatal effect on both humans and animals if the leaves or any other portion of said plant were eaten by animals or humans. The City Council has been informed by a Veterinarian, who conducts a practice in the City of Norco, that there is no antidotal cure for any animal or human who has eaten the leaves or any portion of said plant, and that the consensus opinion in the medical and veterinary sciences is that consumption by a horse of approximately 40 leaves from said plant would cause its death and the consumption of approximately 4 leaves by a child could cause his or her death. The City Council is further informed that said plant and the leaves therefrom, although not particularly palatable to animals, will be eaten by animals, who are hungry. The City Council has been further informed that throughout the City of Norco the Oleander plant has been planted and cultivated on property occupied by private persons, along the property lines thereof, which are immediately adjacent to public rights of way used for

pedestrian and/or equestrian purposes and along property lines, which constitute common boundaries, with adjacent property on which humans and animals live. The leaves and other portions of the Oleander plant, as so planted, are immediately available for eating by children, who are using said rights of way or playing on such private property immediately adjacent to said plants and said children are attracted to the plant by its red and white flower. Said plantings are also available for eating by animals, and particularly horses, which traverse said public rights of way or are pastured on property immediately adjacent thereto. It is also found that since the Oleander plant bears flowers with a pretty color combination, is a sturdy plant and easy to maintain, it has been considered by many public agencies for planting within or adjacent to public rights of way or in public places, such as parks and recreational areas, which public places are immediately available to all members of the public, including children.

It is hereby found, based on the foregoing facts, that the immediate preservation of the public health, safety and general welfare of the City of Norco, its residents and the public at large, require that the planting and cultivation of the Oleander plant on any portion of a public right of way or public place in the City of Norco be immediately prohibited, and that the planting and cultivation of the Oleander plant at certain other locations within the City of Norco, California, be immediately prohibited.

SECTION 2: Chapter 6.08 of Title 6 of the Municipal Code of the City of Norco is hereby amended to read as follows:

"CHAPTER 6.08  
Oleander Plant - Prohibition

"6.08.010. Prohibition. No person, including but not limited to natural person, association, partnership, joint venture, corporation or public agency, shall plant or cultivate or cause to be planted and cultivated the Oleander plant at any place in City

wherein the leaves, limbs, or any other extremity of said Oleander plant at any time extends within five (5) feet or less of any property owned by a public agency or used by a public agency, or any property over which there is a dedicated and accepted public right of way for public street purposes or only equestrian or pedestrian purposes, or of any property immediately adjacent thereto, which property is occupied by animals or humans for any purpose whatsoever.

"Notwithstanding anything to the contrary stated hereinabove, No person, including but not limited to natural person, association, partnership, corporation, or public agency shall plant or cultivate the Oleander plant on any portion of any property over which there exists a right of way for street purposes or only pedestrian or equestrian purposes or of any property owned, leased, rented or used by the City of Norco.

"6.08.030. Violations and Penalties. It shall be unlawful for any person to violate any provision or fail to comply with any provision of Chapter 6.08 of Title 6 of the Municipal Code of Norco. Any person violating any of the provisions of this Chapter 6.08 shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not more than \$500.00, or by imprisonment in the County jail of Riverside County for not more than six (6) months, or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Chapter 6.08 is committed, continued or permitted by such person."

SECTION 3: This Ordinance is hereby declared pursuant to Section 36934 of the California Government Code, to be an urgency measure necessary for the immediate preservation of the public health, safety and general welfare for the reasons stated hereinabove.

SECTION 4: This Ordinance shall become effective immediately under the provisions of Section 36937(b) of the California Government Code, and the City Clerk is hereby directed to cause this Ordinance within fifteen (15) days after its passage to be published at least once in a newspaper of general circulation, published and circulated in the City, or if there be no such newspaper, to cause it to be posted at no less than three (3) public places in the City.

ADOPTED this 16th day of September, 1974.

Mayor of the City of Norco, California

ATTEST:

Simon Melendez  
City Clerk of the City of  
Norco, California

I, SIMON MELENDEZ, City Clerk of the City of Norco, California,  
do hereby certify that the foregoing Ordinance was regularly introduced  
and adopted as an urgency Ordinance by the City Council of the City of Norco,  
California, at a regular meeting thereof, held on September 16, 1974, by  
the following vote of the Council, to wit:

AYES: Councilmen Brown, McCollum, Taylor Weaver & Mayor Brinton

NOES: None

ABSENT: None

ABSTAINED: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the  
official seal of the City of Norco, California, this 16th day of September,  
1974.

Simon Melendez  
City Clerk of the City of Norco, California

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) ss.  
CITY OF NORCO )

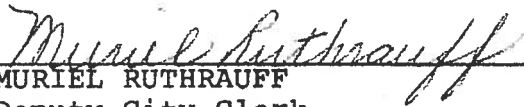
AFFIDAVIT OF POSTING

I, MURIEL RUTHRAUFF, Deputy City Clerk of the City of Norco,  
do hereby certify that I am the duly chosen qualified employee of  
the City of Norco; that I posted a copy of \_\_\_\_\_

ORDINANCE NO. 304

\_\_\_\_\_

copy attached hereto, as required by City of Norco Resolution  
No. 74-45.

  
\_\_\_\_\_  
MURIEL RUTHRAUFF  
Deputy City Clerk  
City of Norco

DATED: September 23, 1974



ORDINANCE NO. 773

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORCO, CALIFORNIA AMENDING THE TEXT OF THE NORCO MUNICIPAL CODE, TITLE 6 "HEALTH AND SANITATION" SECTION 6.08.010 "PROHIBITION" CLARIFYING PROVISIONS FOR THE PLANTING, CULTIVATING AND MAINTAINING OF THE OLEANDER PLANT. CODE AMENDMENT 2000-07.

WHEREAS, the City of Norco initiated Code Amendment 2000-07, a proposed amendment to Section 6.08.010 entitled "Prohibition" clarifying provisions for the planting, cultivating and maintaining of the Oleander plant; and,

WHEREAS, the proposed amendment has been duly submitted to said City's Planning Commission for decision at a public meeting for which proper notice was given; and,

WHEREAS, the proposed amendment was scheduled for a public hearing on 11th day of October, 2000 on or about 7:00 P.M. in the City Council Chambers, 2820 Clark Avenue, Norco, California, 92860; and,

WHEREAS, said Commission did hold said public hearing and did receive oral and written testimony pertaining to said application; and,

WHEREAS, the City of Norco, acting as the Lead Agency, has determined that the requested code amendment will not have a significant adverse effect on the environment, as the proposed amendment only clarifies existing provisions; and

WHEREAS, the Planning Commission did recommend to the City Council of the aforesaid City that Code Amendment 2000-07 be adopted; and,

WHEREAS, at the regular meeting of the 1st day of November 2000, the City Council did conduct a public hearing and received and considered oral and written testimony concerning the proposed zone code amendment; and,

WHEREAS, the City Council considered the recommendation of the Planning Commission, but took action to modify and revise the requirements and language of the Code Amendment; and,

WHEREAS, at the regular meeting of the 1st day of November 2000, the City Council did take up for first reading said ordinance for the proposed code amendment and did schedule a second reading for the next regular meeting of the 15th day of November 2000; and,

WHEREAS, at the second reading the City Council discussed the proposed code amendment and directed staff to obtain additional comment and recommendation from both the Streets and Trails Commission and Planning Commission; and,

WHEREAS, both Commissions reconsidered their recommendations for the proposed code amendment, which were considered by the City Council at a public hearing legally scheduled for the 3rd day January 2001; and,

WHEREAS, the City Council concurs that the proposed amendment will not have a significant adverse effect on the environment, as the proposed amendment only clarifies existing provisions; and,

NOW, THEREFORE, the City Council of the City of Norco does hereby ordain as follows:

SECTION 1: Norco Municipal Code Section 6.08.010 is hereby amended to read as follows:

**6.08.010 Prohibition** Due to the poisonous nature of the oleander plant, the oleander plant is hereby declared a public nuisance. For this reason, no person, corporation, or public agency shall plant, cultivate or maintain the oleander plant at any place in the city for any purpose whatsoever. Any oleander plant existing as of the date of this enactment shall be removed.

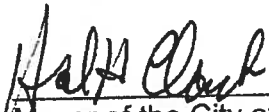
SECTION 2: The Director of Community Development shall transmit the Environmental Notice of Determination to the Clerk of Riverside County Board of Supervisors.

SECTION 3: EFFECTIVE DATE: This Ordinance shall become effective thirty (30) days after final passage thereof.

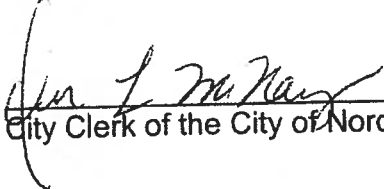
SECTION 4: SEVERABILITY: If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, and phrase, hereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases hereof be declared invalid or unconstitutional.

SECTION 4: POSTING: The mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall cause the same within fifteen (15) days of its passage to be posted at no less than five (5) public places within the City of Norco.

PASSED AND ADOPTED by the City Council of the City of Norco at a regular meeting held on the 7<sup>th</sup> day of February 2001.

  
\_\_\_\_\_  
Mayor of the City of Norco

ATTEST:

  
\_\_\_\_\_  
City Clerk of the City of Norco

I, DEBRA MCNAY, City Clerk of the City of Norco, California, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Norco, California, duly held on the 17th day of January 2001 and thereafter at a regular meeting of said City Council duly held on the 7<sup>th</sup> day of February 2001, it was duly passed and adopted by the following vote of the City Council, to-wit:

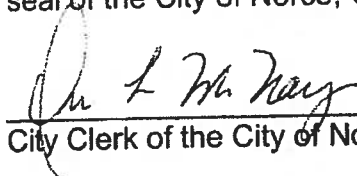
AYES: CARMICHAEL, HALL, HIGGINS

NOES: SULLIVAN, CLARK

ABSENT: NONE

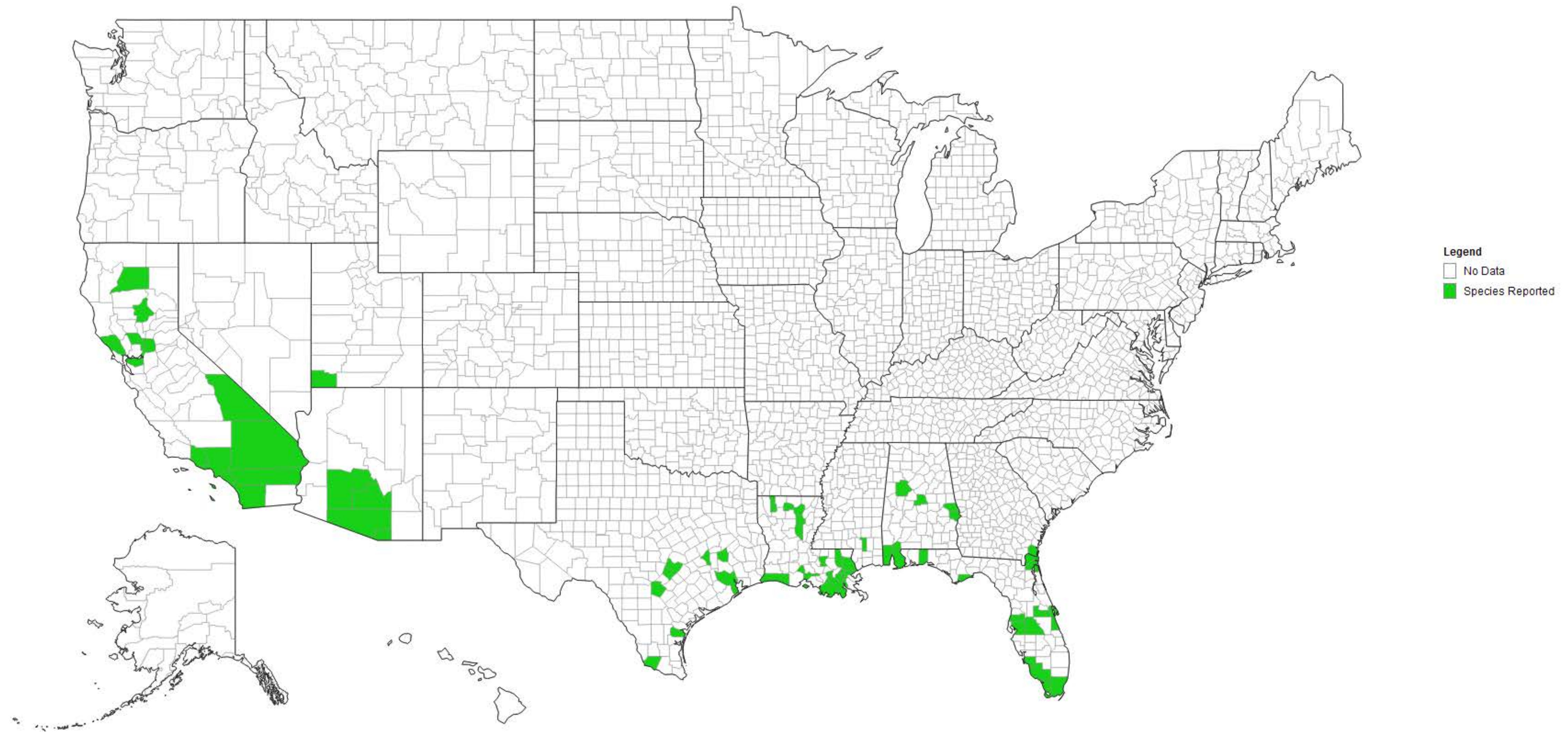
ABSTAIN: NONE

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Norco, California, this 7<sup>th</sup> day of February 2001.

  
\_\_\_\_\_  
City Clerk of the City of Norco, California

27687







United States  
Department of  
Agriculture

Forest  
Service

Southwestern  
Region



# **Environmental Assessment for Integrated Treatment of Noxious or Invasive Plants**

## **Tonto National Forest**

**Gila, Maricopa, Pinal and Yavapai Counties, Arizona**

**For Information Contact: Patti Fenner, Noxious Weed Program Manager**

**Tonto National Forest Supervisor's Office    2324 E. McDowell Road  
Phoenix, AZ 85006**

**602-225-5200**

**[www.fs.fed.us/r3/tonto/](http://www.fs.fed.us/r3/tonto/)**

## Chapter 2 – Alternatives, Including the Proposed Action

The Proposed Action: Integrated Vegetation Management to Treat Weed Infestations

The Forest Service proposes eradication, containment, and/or control of noxious weed and invasive plant species on parts of the Cave Creek, Globe, Mesa, Payson, Pleasant Valley, and Tonto Basin Ranger Districts. The Tonto National Forest is within Gila, Maricopa, Pinal and Yavapai Counties, and comprises a total of 2,873,118 acres. Known noxious weed infestations cover only a small percentage of the total National Forest acres, but new infestations could be found anywhere within the nearly 3 million acres of the Forest.

This program will be reviewed and updated after 10 years. If weed control beyond the scope of this analysis becomes necessary, further analysis under NEPA will be conducted.

Proposed noxious weed treatment measures are a part of a broad strategy of Integrated Vegetation Management (IVM) (FSM 2080.2), which is composed of five elements:

### **Prevention and Detection**

- Conduct fire management activities in such a manner that noxious weeds are not introduced or spread during fire suppression or prescribed burn projects.
- Educate the public, employees, and permittees to identify and report noxious weeds.
- Ensure all contractors and permittees operating on the National Forest understand and comply with the Forest's Noxious Weed Policy.
- Implement Regional weed-free hay and mulch closure order.
- Conduct weed surveys as funding allows.

### **Treatment of existing populations**

- Implement an integrated vegetation management strategy using cultural, physical, mechanical, biological, or chemical methods of control. New populations are treated as they are found, and, as long as the conditions of this analysis and decision are met, no further NEPA analysis will be performed.

### **Monitoring**

- Monitor effectiveness of control methods annually for 5 years following treatment.
- Monitor all known populations at least every 3 years noting density and area of infestation.

### **Restoration**

- In areas where there are large concentrations of an invasive species, where treatment would result in expanses of bare ground, restore native vegetation following treatment. Restoration efforts would mainly involve erosion control and planting of native species.

### **Coordination, cooperation and education**



- Continue ongoing cooperation efforts with other agencies and landowners, and encourage new cooperative efforts as appropriate. These efforts should include lands of all ownerships and jurisdictions to ensure overall weed control.
- Partner with the State of Arizona Department of Transportation to cooperate on control of invasive exotic species and ensure mulches and seed mixes are weed free, including coordination of this treatment plan with the ongoing statewide plan for treatment of invasive exotic plants in state and federal highway rights-of-way. Ensure invasive plant surveys are conducted for new highway construction early in the planning process. Work with ADOT to ensure weeds found are treated so as to prevent spread during construction.
- Continue to develop and implement educational and public awareness materials.

Most of these elements require only administrative action to accomplish. This proposed action evaluates treatment and restoration of sites with noxious weed infestations. Noxious weed treatment methods in this Integrated Vegetation Management approach include:

**Manual** – digging by hand, using hand tools, selectively removing noxious weeds from a native plant population. This method is very labor-intensive, and ineffective on some types of weeds. It is a very effective method to quickly control new infestations of many weeds. This control method will be used on up to 400 acres each year.

**Mechanical** – Using motorized equipment to mow, clip, or till. Many mechanical treatments are expensive. This control method will be used on up to 500 acres each year.

**Prescribed Burning** -- Burning is an inexpensive and often very effective method to remove large quantities of seed of annual weeds. It can be used very effectively, in combination with other treatments, as an integral part of multi-year strategy, especially for annual weeds. This control method will be used on up to 2000 acres each year.

**Cultural** – Seeding with plants that prevent infestation by invasive plants. Establishing desirable plants is essential to preventing areas of bare ground created by construction or other activities from being vulnerable to infestation of weeds. Fertilizers or mycorrhizal inoculants will be included in some revegetation projects to increase establishment success. This method will be used on up to 2000 acres each year.

**Biological** – Use grazing animals, approved insects and pathogens to control weeds. Biological treatments are usually used when the objective is control and not eradication. The biological agent and the weed co-exist to the extent that spread of the weed is limited. Once biological control agents such as insects or plant pathogens are released, they may cover a large number of acres if there is a continuous infestation of their target weed plant.

**Herbicidal** – Application of approved chemicals to noxious weeds. Herbicides would be used to treat up to 5,000 acres per year (less than 0.2% of the National Forest); mechanical and prescribed burning treatments will involve additional areas. Amount of treatment would probably be much less, as it would be limited by funding each year. Annual weed management efforts will be coordinated with treatment efforts undertaken

by other Federal, State, and local governments and Weed Management Areas. The majority of treatments will occur along roads and other travel corridors.

Thirteen herbicides and carriers (or additives) are proposed for use: aminopyralid, chlorsulfuron, clopyralid, dicamba, glyphosate, imazapic, imazapyr, metsulfuron methyl, picloram, sethoxydim, sulfometuron methyl, tebuthiuron, and triclopyr. These herbicides have been approved for use on the three northern Forests (Coconino, Kaibab & Prescott) in Arizona, and/or on rights-of-way on federal and state highways in all National Forests in Arizona. Aminopyralid is a new herbicide that has been quickly approved by EPA due to its very low toxicity. It is the newest herbicide for which a risk assessment has been completed by SERA.

## Plant Treatment by Species

Refer to Table 1 for classification of each species, in the following discussion.

### Russian knapweed

*Acroptilon repens*

#### Cultural control/Use of prescribed fire:

Seeding competitive, perennial grass species after Russian knapweed has been stressed by other control measures is essential (Colorado State 2005). The most effective treatment includes cultural control combined with mechanical and/or chemical control techniques.

#### Mechanical/hand control:

This plant's perennial growth habit and deep rooting system render hand or mechanical removal methods fairly useless, when not used in combination with herbicides.

#### Herbicidal control:

A single control strategy, such as mowing or herbicide application, usually is not sufficient. Herbicides alone will not control Russian knapweed. They should be used in combination with cultural or mechanical/hand controls, such as mowing and seeding with perennial grasses. Some tillage may be needed prior to seeding to overcome the allelopathic effects of the knapweed (Beck 2004). Herbicides that could damage grasses should not be used, because competition from grasses is known to stress Russian knapweed (Beck 2004). Chlorsulfuron and metsulfuron control this species, but only if applied during the bloom or postbloom stage. A surfactant should always be used.

#### Biological control:

In North America, Russian knapweed is relatively free of parasites and is not extensively attacked by generalist feeders (Watson and Harris 1984). Only two biological control agents have been approved for release on Russian knapweed; *Subanguina picridis*, a gall-forming nematode, and *Aceria acroptiloni*, a gall-forming mite.

#### Tonto NF Goals & Strategy:

Russian knapweed occurs in very few locations on the Tonto. It is classified as an "A" species, one that poses a serious threat to ecosystems. Infestations will be eradicated when found, using combinations of the tools above.



Pulling or grubbing with hand tools will remove this species.

**Herbicidal control:**

Herbicides that control broadleaf species could work on sweetclover. Its use as a crop or cover plant for many years has probably lent it resistance to some herbicides.

**Biological control:**

As this is a crop plant, there are no biological controls being developed for treatment.

**Tonto NF Goals & Strategy:**

This plant is not a priority weed to control; only locally important infestations will be treated. Most effort will be to prevent introduction of more sweetclover in seed mixes.

**Oleander**  
*Nerium oleander*

**Cultural control/Use of prescribed fire:**

Burning is definitely not recommended, as the smoke from burning oleander is toxic.

**Mechanical/hand control:**

Plants may be mechanically removed, if care is taken to remove the crown.

**Herbicidal control:**

A combination of mechanical trimming plus use of herbicide either as a spray or cut stump for larger plants is probably the most effective control method. Heavy trimming over a period of time would serve to reduce root carbohydrate reserves, and also reduce the amount of herbicide that is needed.

**Biological control:**

There are no known biocontrol agents that control oleander. Its common use as an ornamental plant will preclude development of this type of control.

**Tonto NF Goals & Strategy:**

Our goal is eradication.

**Globe chamomile**  
*Oncosiphon piluliferum*

**Cultural control/Use of prescribed fire:**

It may be possible to discourage use of this plant as an ornamental, which seems to be how it has been introduced and subsequently naturalized into wildlands.

There is no literature on control methods for globe chamomile. It grows densely along rights-of-way, lending itself to control by burning or use of broad-leaf specific herbicides.

**Mechanical/hand control:**

Globe chamomile normally grows in dense patches for long distances. Pulling would not be effective unless very small patches were found. Tilling along roadsides may be effective, but could also prepare the ground for infestation by other, more invasive weeds.