



# Council Agenda Report

To: Mayor Grisanti and the Honorable Members of the City Council

Prepared by: Kelsey Pettijohn, City Clerk

Reviewed by: John Cotti, Interim City Attorney

Approved by: Steve McClary, Interim City Manager

Date prepared: September 29, 2021 Meeting date: October 11, 2021

Subject: Resolution Extending the Declaration of the Existence of a Local Emergency and Continuing a Program for Reducing the Risk of Fires Associated with Individuals Living Unhoused and Otherwise Engaged in Unpermitted and Unregulated Camping

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**RECOMMENDED ACTION:** Adopt Resolution No. 21-56 extending the declaration of the existence of a local emergency and continuing a program for reducing the risk of fires associated with individuals living unhoused and otherwise engaged in unpermitted and unregulated camping.

**FISCAL IMPACT:** There is no fiscal impact associated with the recommended action.

**WORK PLAN:** This item was not included in the Adopted Work Plan for Fiscal Year 2021-2022.

**DISCUSSION:** The City of Malibu is designated by CAL FIRE as a Very High Fire Hazard Severity Zone (VHFHSZ). Malibu bears this designation based on vegetation, its steeply sloping topography and its fire history, among other factors. Currently, factors such as live fuel moisture and extreme drought conditions pose a dangerous risk to the City, its residents, and its unhoused population.

Most vegetation fires in the Santa Monica Mountains are caused by human activity, including sparks from power lines, car accidents, weed whackers, arson, and campfires. The City and other agencies are actively working to reduce fire ignition from all causes, minimize the hazard, and prepare for response. The City's current efforts include home ignition zone assessments, public education on fire preparedness and the safe use of

weed whackers, a hazard tree removal program, neighborhood chipper events to further encourage brush clearance, and a multi-agency exercise with partner agencies to improve response coordination.

Since the beginning of 2021, Malibu has experienced more than seventeen fires attributed to unhoused individuals living in the City's hillsides and parks. Fortunately, these fires were identified quickly, the winds were calm, and the Los Angeles County Fire Department was able to extinguish them without loss of life and with only minimal loss of property.

While many individuals living unhoused do so in urban centers, a growing number have migrated to more remote, mountainous regions, as well as coastal communities, such as Malibu. As more individuals live unhoused in areas designated as VHFHSZ, the risk of vegetation fires started by warming, cooking fires, and other flammable materials increases, especially in the fall when the nights are cooler and Santa Ana winds may be present.

Unhoused individuals living in VHFHSZ are also at significant risk of loss of life due to being trapped by wildfires since they are not likely to receive traditional emergency alerts sent through cell phones. In addition, individuals who are attempting to leave Malibu during an emergency wildfire evacuation could be trapped by fires that start from the ember cast that precedes the fire front in a wind driven fire. This situation also increases the risk that emergency responders may have to divert resources from fighting the fire to assist these individuals and may also pose difficulties in identifying and providing transportation for unhoused individuals who are in an area that is under an Evacuation Order.

CAL FIRE identifies areas based on the severity of fire hazard that is expected to prevail there. These areas, or "zones," are based on factors such as fuel, slope, and fire weather. There are three zones, based on increasing fire hazard: medium, high and very high. The entire City of Malibu is within a VHFHSZ. Therefore, a vegetation fire in Malibu at any time of the year poses an extreme danger, and a wind-driven fire during "fire season" poses an extreme peril to life and property.

Local fire risk conditions in 2021 have hit historic levels. Live fuel moisture (LFM) is a key indicator of fire risk and an LFM of 60% or lower is considered critical. In the Santa Monica Mountains, the LFM is currently below the 60% threshold. This low LFM, combined with Santa Ana wind events which typically occur between September and January, means that a fire that starts during this time can spread very quickly and pose extreme peril to the safety of persons and property within Malibu.

With the potential for the very devastating fire season, it is critical that the City move with urgency to reduce our risk of fire to protect our community.

In light of these facts, on August 23, 2021, the Council adopted Resolution No. 21-49 declaring the existence of a local emergency and establishing a program for reducing the risk of fires associated with individuals living unhoused and otherwise engaged in unpermitted and unregulated camping.

Government Code Section 8630 requires the City Council to review the need for continuing a local emergency at least once every 60 days until the City Council terminates the local emergency. Unless it is extended, the local emergency will expire on October 25, 2021.

Due to the continuing fire danger in VHFHSZs staff recommends adopting Resolution No. 21-56 extending the declaration of the existence of a local emergency and continuing a program for reducing the risk of fires associated with individuals living unhoused and otherwise engaged in unpermitted and unregulated camping.

ATTACHMENTS:

Resolution No. 21-56

## RESOLUTION NO. 21-56

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU EXTENDING THE DECLARATION OF THE EXISTENCE OF A LOCAL EMERGENCY AND CONTINUING A PROGRAM FOR REDUCING THE RISK OF FIRES ASSOCIATED WITH INDIVIDUALS LIVING UNHOUSED AND OTHERWISE ENGAGED IN UNPERMITTED AND UNREGULATED CAMPING

The City Council of the City of Malibu does hereby find, order and resolve as follows:

#### SECTION 1. Recitals.

- A. Wildfires are a frequent natural and man-made disaster in California, causing significant harm and loss to individuals, communities, wildlife. The frequency, duration and size of wildfires have significantly increased over the past several decades with six of the seven largest fires in California's history occurring in the last 13 months. Malibu is among the areas devastated by wildfire in just the past few years – losing hundreds of homes and acres of vegetation, and suffering hundreds of millions of dollars in damages in the Woolsey Fire which also took three lives.
- B. Researchers at UC Irvine reported that the State's burn season has grown longer and longer over the last 20 years, now beginning in May, rather than June, with the peak shifting from August to July. Los Angeles County's (County) unusually extreme heat, coupled with bone-dry terrain, has created ideal conditions for more rapid spread when fires occur.
- C. A vegetation fire in Malibu at any time of the year poses a danger to life and property. A vegetation fire during a Santa Ana wind event poses extreme peril to the safety of persons and property within Malibu. Historically, the most devastating wildfires in Malibu have occurred between the months of September through January when the wildland and chaparral are at their driest and the Santa Ana winds are most prevalent – with the Woolsey Fire being the latest and most severe wildfire in Malibu.
- D. While most of California is subject to some degree of fire risk, specific features make some areas particularly hazardous. State law requires the California Department of Forestry and Fire Protection ("CAL FIRE") to identify areas based on the severity of fire hazard that is expected to prevail there. These areas, or "zones," are based on factors such as fuel, slope, and fire weather.
- E. There are three zones based on increasing fire hazard: medium, high, and very high. As we go through the 2021 fire season, we must be diligent in reducing the risk of fire, particularly in areas with the highest hazard, which are designated Very High Fire Hazard Severity Zones ("VHFHSZ").
- F. Considering a host of factors, including historical fire patterns, proximity to wildland and parkland, extensive chaparral, and severe drought, CAL FIRE has designated the entirety of the City of Malibu a VHFHSZ.

- G. The County currently has the largest population of individuals living unhoused in the nation. While many individuals living unhoused do so in urban centers, a growing number have migrated to more remote, mountainous regions, as well as coastal communities, such as Malibu. As more individuals elect to live unhoused within high fire zones, the risk of fires starting and causing harm and loss of life has also increased.
- H. Unhoused individuals living in the VHFHSZ are at significant risk of loss of life due to being trapped by wildfires since they are not likely to receive traditional emergency alerts sent through cell phones. In addition, individuals who are attempting to leave the mountainous region during a wildfire could be trapped by fires that start from the ember cast that precedes the fire front in a wind driven fire. This situation also increases the risk that emergency responders may have to divert resources from fighting the fire to assist these individuals.
- I. A 2018 Strategic Plan (“Plan”) developed by Malibu identified the City’s efforts to address this situation on many fronts. For example, the City of Malibu has explored and continues to explore ways to participate in a broad effort to address the root causes of homelessness.
- J. Among other things, the City of Malibu’s Plan goals include connecting individuals with services and temporary and permanent housing solutions and preventing and mitigating the health and safety impacts of homelessness on individuals and the community.
- K. To achieve these ends, the City of Malibu has worked closely with a “Homelessness Working Group” comprised of interested members of the public and outreach workers from The People Concern, a social services agency in the West Los Angeles area, dedicated to engaging the local homeless population.
- L. Since 2018, the City of Malibu’s outreach team (the “MOT”) has helped 136 individuals move into either temporary (27) or permanent (28) housing or reconnect with their families (81). The City of Malibu also partners with the Los Angeles County Sheriff’s Department (“LASD”) and its Homeless Outreach Services Team (“HOST”) to clear and clean the sites of encampments of people living unhoused (“PLU”) according to established protocols (i.e. PLU are given advanced warning of any scheduled clean-up and offered access to outreach services).
- M. Clean-up efforts have enabled the City of Malibu to (1) connect PLU with services and housing; (2) help prevent wildfires caused by fire and heating devices used for warming and cooking; and (3) remove human waste and other unsanitary conditions found in public parks, which create a health hazard for camp occupants and park visitors and impede the public’s use and enjoyment of the parks.

- N. Despite Malibu's efforts described above, Malibu continues to witness a significant number of PLU and otherwise engaged in unpermitted and unregulated camping in areas designated as VHFHSZ.
- O. PLU may be reliant on fires for everyday activities, including cooking food and keeping warm. These activities also increase the risk of nearby brush catching fire and rapidly spreading. PLU in high-fire zones may miss emergency notifications and may experience challenges in safely evacuating. Additionally, efforts to notify or evacuate PLU in remote locations can cause undue harm to outreach workers and emergency responders.
- P. In just the past year, Malibu has experienced more than seventeen fires attributed to PLU in area designated as VHFHSZ. In prior years, Malibu has experienced multiple other vegetation fires linked to PLU in area designated as VHFHSZ. Fortunately, those fires have been identified quickly, the winds were calm, and Los Angeles County Fire Department was able to extinguish these fires without loss of life and with only minimal loss of property—albeit not without injuries to some fire fighters. With less fortunate conditions, any one of those fires could have grown into the next Woolsey Fire (or worse).
- Q. Despite a significant increase in fire prevention efforts, there are still areas designated as VHFHSZ where, because of location, access, terrain, and fuels, the risk of a fire starting and rapidly spreading remains incredibly high. As climate change extends and exacerbates our local fire season, particular areas of Malibu pose too much risk of harm or loss of life for PLU, residents, outreach teams, and first responders, to allow PLU to remain in those areas.
- R. Local fire risk conditions in 2021 have hit historic levels. Live fuel moisture (LFM) is a key indicator of fire risk and an LFM of 60% or lower is considered critical. In the Santa Monica Mountains, the LFM is currently below 60%.
- S. As we enter what may be the most devastating fire season on record, it is critical that we move with urgency to reduce the risk of occurrence and spread.
- T. For these reasons, PLU in areas designated as VHFHSZ pose a clear and imminent danger demanding immediate action to prevent or mitigate loss of, or damage to life, health, property and/or essential services.
- U. California Government Code Section 8630 empowers the City Council to proclaim the existence of a Local Emergency when there is extreme peril to the safety of persons and property within the territorial limits of the City. Additionally, California Government Code Section 8634 empowers the City Council to promulgate orders and regulations necessary to provide for the protection of life and property during the time of a Local Emergency. These statutes codify the constitutional “police powers” of local governments to adopt local legislation designed to protect the health, safety, and welfare of the community.

- V. The extreme peril to the safety of persons and property within Malibu associated with PLU in areas designated as a VHFHSZ outweighs any arguable right that an individual may have to live unhoused or to camp in such areas. To mitigate the risk of fires, Malibu should prohibit PLU in areas designated VHFHSZ and which pose an extreme risk of fire danger. All necessary efforts to connect PLU to resources should occur and should be led by the best practices for addressing PLU such that no individual is criminalized simply for not having a home.

SECTION 2. It is hereby proclaimed that:

1. The potential for a wildfire in Malibu continues to pose extreme peril to persons and property in Malibu. As such, the City Council finds that the declaration of local emergency remains valid and necessary, and will remain in effect until the extreme danger of wildfire subsides;
2. To prevent the occurrences of fire and loss of life and property, homeless encampments are prohibited in areas designated as a VHFHSZ in Malibu;
3. City Staff is directed to act in collaboration with the MOT, LASD and LASD-HOST to provide appropriate notification of the prohibition to those PLU residing in encampments;
4. City Staff is directed to act in collaboration with the MOT, LASD and LASD-HOST to identify homeless encampments within areas designated a VHFHSZ, provide outreach, and offer available resources. Homeless encampments offered outreach should be prioritized based on risk level associated with location, access, and terrain, and fuels;
5. City Staff is directed to act in collaboration with the MOT, LASD and LASD-HOST, to ensure that the VHFHSZ remains free of homeless encampments, while also ensuring these efforts do not criminalize PLU;
6. The City is directed to request that the County expand its August 10, 2021 Motion related to reducing risk of fires in VHFHSZ to all of Los Angeles County;
7. City Staff is directed to act in collaboration with the MOT, LASD and LASD-HOST, to provide an initial report back after 30 days on progress relocating PLU in homeless encampments, and an analysis of resources needed to sustain this effort and ongoing progress reports every 60 days thereafter; and
8. City Staff is directed to continue to monitor and report back quarterly on fires that have been linked to PLU in Malibu and to develop appropriate prevention strategies for areas that have seen multiple incidents.

SECTION 3. The local emergency shall be deemed to continue and exist until its termination is proclaimed by the City Council. As required by law, the City Council shall review the need to continue the state of emergency every 60 days until this resolution is terminated.

SECTION 4. This resolution and the actions taken and/or proposed herein are not a project pursuant to the California Environmental Quality Act (CEQA) since they are activities that are excluded from the definition of a project by section 21065 of the California Public Resources Code and section 15378(b) of the State CEQA Guidelines. The proposed actions are organizational or administrative activities of government which will not result in direct or indirect physical changes in the environment. In the alternative, find that the actions are exempt from CEQA as specific actions necessary to prevent or mitigate an emergency pursuant to section 21080(b)(4) and section 15269(c) of the State CEQA Guidelines.

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, APPROVED, and ADOPTED this 11<sup>th</sup> day of October 2021.

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PAUL GRISANTI, Mayor

ATTEST:

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KELSEY PETTIJOHN, City Clerk  
(seal)

This proclamation has been issued in accordance with applicable law, is in effect and carries the force of law until December 13, 2021, on which date it expires unless the declaration of local emergency is extended by the City Council.

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED  
BY THE CITY ATTORNEY'S OFFICE

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JOHN COTTI, Interim City Attorney