

SUMMARY OF ORDINANCE NO. 2022-07
ADOPTED ON AUGUST 23, 2022
BY THE LASSEN COUNTY BOARD OF SUPERVISORS

The adopted ordinance amendment added Chapter 12.23 (Issuance and Recordation of Notices of Violation), Section 12.04.025 (Public Nuisances), and Section 1.18.045 (Public Nuisances Subject to the Provisions of Chapter 12.23) to the Lassen County Code, and repealing Chapters 1.20 (Administrative Citations) and Chapter 12.25 (Uniform Code for the Abatement of Dangerous Buildings).

A complete copy of the ordinance is available for review in the office of the Clerk of the Board of Supervisors.

The ordinance was adopted by the following vote:

AYES: Supervisors Gallagher, Bridges, Albaugh, and Hammond.

NOES: None.

ABSTAIN: None.

ABSENT: Supervisor Hemphill.


JULIE BUSTAMANTE
Clerk of the Board

(Deputy)
Michele Yderraga
Deputy clerk of the Board.

ORDINANCE NO. 2022-07

Ordinance adding Chapter 12.23, Section 12.04.025, and Section 1.18.045 to the Lassen County Code, Pertaining to Notices to Abate Violations and Recordation of Notices of Violation and repealing Chapters 1.20 (Administrative Citations) and Chapter 12.25 (Uniform Code for the Abatement of Dangerous Buildings).

The following ordinance, consisting of seven sections, was duly and regularly passed and adopted by the Board of Supervisors of the County of Lassen, State of California, at a regular meeting of the Board of Supervisors held on the 23rd day of August, 2022, by the following vote:

AYES: Supervisors Gallagher, Bridges, Albaugh, and Hammond.

NOES: None.

ABSTAIN: None.

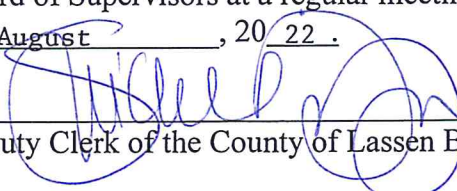
ABSENT: Supervisor Hemphill.


Chairman of the Board of Supervisors,
County of Lassen, State of California

Attest:
JULIE BUSTAMANTE
Clerk of the Board

By: 
MICHELE YDERRAGA, Deputy Clerk of the Board

I, MICHELE YDERRAGA, Deputy Clerk of the Board of the Board of Supervisors, County of Lassen, do hereby certify that the foregoing ordinance was adopted by the said Board of Supervisors at a regular meeting thereof held on the 23rd day of August, 2022.


Deputy Clerk of the County of Lassen Board of Supervisors



**THE BOARD OF SUPERVISORS OF THE COUNTY OF LASSEN
ORDAINS AS FOLLOWS:**

SECTION ONE: This ordinance shall take effect thirty (30) days from the date of its adoption, and before the expiration of fifteen (15) days after its adoption a summary shall be published with the names of the members voting for and against the same, once in a local newspaper of the County of Lassen, State of California.

SECTION TWO: Section 12.04.025 is hereby added to Chapter 12.04 of the Lassen County Code to read as follows:

12.04.025 Public Nuisance

Every building or structure constructed or maintained in violation of the building provisions of this Title, or which is in an unsanitary condition, or in an unsafe or dangerous condition, or which in any manner endangers the health or safety of any person or persons, is hereby declared to be a public nuisance. Any such public nuisance may be subject to the provisions of Chapter 12.23 (Issuance and Recordation of Notices of Violation) and/or Chapter 1.18 (Public Nuisances).

SECTION THREE: Section 1.18.045 is hereby added to Chapter 1.18 of the Lassen County Code to read as follows:

1.18.045 Public Nuisances Subject to the Provisions of Chapter 12.23

Any building or structure declared to be a public nuisance pursuant to this Chapter may also be subject to the provisions of Chapter 12.23 (Issuance and Recordation of Notices of Violation). In which case, the provisions of Chapter 12.23 shall be followed concurrently with the provisions of this Chapter.

SECTION FOUR: Chapter 12.23 is hereby added to the Lassen County Code to read as follows:

Chapter 12.23 - ISSUANCE AND RECORDATION OF NOTICES OF VIOLATION

12.23.010 Issuance and Recordation of Notices of Violation

This chapter shall govern the procedures relating to the issuance of Notices to Abate Violations and recordation of administrative Notices of Violation. (Reference is to Government Code Section 25845.)

12.23.020 Declaration of Purpose

The Board of Supervisors finds that there is a need for alternative methods of enforcement for violations of the Lassen County Code and applicable state laws which are found to exist on real property. The Board further finds that an appropriate method of enforcement for these types of violations is the issuance and recordation of a Notice of Violation. The procedures established in this Chapter shall be in addition to criminal, civil or any other remedy established by law which may be pursued in order to address violations of the Lassen County Code or applicable state laws.

12.23.030 Procedures for Issuance of a Notice to Abate Violation

Whenever the Building Official, Planning and Building Services Department Director, designee, or other official designated to enforce provisions of the Lassen County Code or state law that pertain to the use and/or development of real property (hereinafter collectively referred to as the "Enforcement Official") determines that a violation of the Lassen County Code or applicable state law pertaining to real property exists, the Enforcement Official may issue a *Notice to Abate Violation* to the property owner and/or occupant(s), hereinafter collectively referred to as the "responsible person". *Notice to Abate Violation* shall include sufficient information to provide reasonable notice of activities or conditions constituting violation of the Lassen County Code or applicable state law, and actions necessary to correct the violations.

The *Notice to Abate Violation* shall include the following information:

- (1) The name of the property's record owner;
- (2) Address of the subject property;
- (3) The law or code section(s) violated;
- (4) A description of the property's condition which violates the applicable codes;
- (5) A list of necessary corrections to bring the property into compliance;
- (6) A specific date by which corrections to violations listed in the notice of violation must be completed;
- (7) Reference to the potential consequences should the property remain in violation after the expiration of the compliance deadline including, but not limited to, criminal prosecution, civil injunction, administrative abatement, imposition of civil penalties, revocation of permits, recordation of the Notice of Violation, imposition of costs and fees, and withholding of future County permits;
- (8) A description of the procedure to appeal the Notice of Violation including time limitations.

12.23.040 Issuance of Notice of Intent and Right to Appeal

- (a) Whenever the Enforcement Official has issued a *Notice to Abate Violation* and the property remains in violation after the deadline established in the *Notice to Abate Violation*, the Enforcement Official shall issue to the

responsible person a Notice of Intent to Record a Notice of Violation. The Notice of Intent shall include a copy of the *Notice to Abate Violation* and shall advise of the intent to record the Notice of Violation in accordance with the provisions of this Chapter unless the matter is timely appealed and a determination made by the hearing officer that the alleged violations do not exist and/or the *Notice to Abate Violation* is not legally justified.

- (b) The Notice of Intent shall be served by personal service, or certified mail postage prepaid, return receipt requested, or by posting the notice conspicuously on or in front of the property, together with service by regular mail. The Notice of Intent shall also be served on the property owner if the property owner is not the person or persons occupying the property. The Enforcement Official may, but shall not be obligated to, send a courtesy copy of the Notice of Intent to any financial institution with a legal interest in the real property.
- (c) The responsible person and/or property owner may, within fifteen (15) calendar days of the date of service of a Notice of Intent to Record a Notice of Violation, file a written appeal to contest the recording of a Notice of Violation pursuant to the procedures outlined in this Chapter. The responsible person and/or property owner shall be responsible for paying the appeal to hearing officer fee established in Chapter 3.18. The appeal shall be filed with the Planning and Building Services Department on the form provided by the Planning and Building Services Department and must be received by the Planning and Building Services Department within said fifteen calendar day period, per above, and with the required fee. If the fee is not paid, the appeal request is not considered complete.
- (d) Upon receipt of the written appeal, the Enforcement Official shall schedule a hearing pursuant to the procedures set forth in this Chapter. The purpose of the hearing is address whether violations of the Lassen County Code or state law are reasonably shown to exist on the subject property so as to justify the issuance and recording of a Notice of Violation.
- (e) The failure of any person to file an appeal in accordance with these provisions shall constitute a waiver of the right to an administrative appeal hearing and shall not affect the validity of the recorded notice of violation.
- (f) If an appeal is not timely filed contesting intent to record a Notice of Violation, the Enforcement Official may proceed with the recording of the Notice of Violation.

12.23.050 Appeal Hearing

- (a) The appeal regarding the recording of Notice of Violation shall be heard by an independent hearing office designated by the County Counsel. The appeal hearing shall be informal in nature and formal rules of evidence and discovery will not apply. The County shall have the burden of proof at the appeal hearing to establish the existence of a violation of the Lassen County Code or applicable state code, or to establish the existence of a public nuisance. The standard of proof in deciding the issues at the appeal hearing is a preponderance of the evidence standard. Each party shall have the opportunity to cross-examine witnesses and present evidence in support of his or her case.
- (b) At the appeal hearing, the hearing officer shall only accept and consider evidence that is relevant to the following issues:
 - 1. Whether the conditions listed in the *Notice to Abate Violation* violate the Lassen County Code or applicable state codes; and
 - 2. Whether the Enforcement Official afforded the responsible person with due process by adhering to the notification procedures specified in this chapter; and
 - 3. Whether the property owner was given a reasonable opportunity to correct said violations.

If the hearing officer affirms the Enforcement Official's decision, the Enforcement Official may proceed to record the Notice of Violation.

If the hearing officer determines that alleged violations of the Lassen County Code or state law were not reasonably established the hearing officer shall reverse the Enforcement Official's decision to record the Notice of Violation.

- (c) Any person against whom a Notice of Violation has been recorded may obtain review of the order by filing a petition for writ of mandate with the Lassen County Superior Court in accordance with the timelines and procedures set forth in California Code of Civil Procedure Section 1094.5.

12.23.060 Procedures for Recordation

- (a) Once the Enforcement Official has issued a *Notice to Abate Violation* to a responsible person and the property remains in violation after the deadline established in the Notice of Violation, the Enforcement Official may record a Notice of Violation with the County Recorder's Office, provided that prior to recording a Notice of Violation, the Enforcement Official has issued to the responsible person a Notice of Intent to Record a Notice of Violation and the right to an administrative appeal as established by this Chapter has been exhausted.

- (b) The recorded Notice of Violation shall include the name of the property owner, the property's assessor's parcel number, the parcel's legal description, and a copy of the notice of violation.

12.23.070 Service of Notice of Violation

A copy of the recorded Notice of Violation shall be served on the responsible person and property owner by personal service; or certified mail, postage prepaid, return receipt requested, or posting the notice conspicuously on or in front of the property, together with service by regular mail.

12.23.080 Notice of Compliance – Procedures

- (a) After a Notice of Violation has been recorded, and after the violations listed on the Notice of Violation have been corrected, the responsible person and/or property owner may file with the Enforcement Official a written request for a re-inspection of the property to determine compliance with the County Code and applicable state codes listed in the recorded Notice of Violation, and for the issuance of a Notice of Compliance on a form provided by the County.
- (b) The applicant or property owner shall be responsible for paying the fee for a notice of cancellation specified in Chapter 3.18 for consideration of a Notice of Compliance.
- (c) Once the Enforcement Official receives the above request and payment, the Enforcement Official shall re-inspect the property to determine whether the violations listed in the Notice of Violation have been corrected and whether all necessary permits have been issued and final inspections have been performed.
- (d) The Enforcement Official shall serve a Notice of Compliance to the responsible person or property owner by personal service, or certified mail postage prepaid, return receipt requested, or posting the notice conspicuously on or in front of the property, together with service by regular mail if the Enforcement Official determines that:
 - 1. All violations listed in the recorded Notice of Violation have been corrected; and
 - 2. All necessary permits have been issued and finalized; and
 - 3. All civil penalties, if any, assessed against the property have been paid; and

4. The party requesting the Notice of Compliance has paid an administrative fee to reimburse the County for any administrative costs that were assessed.
- (e) If the Enforcement Official denies a request to issue a Notice of Compliance, the Enforcement Official shall serve the responsible person and property owner with a written explanation setting forth the reasons for the denial. The written explanation shall be served by personal service, or certified mail postage prepaid, return receipt requested, or post the notice conspicuously on or in front of the property, together with service by regular mail.
- (f) The Enforcement Official's decision denying a request to issue a Notice of Compliance may be appealed in the same manner and following the same procedures as set out in 12.23.050, above, provided however, that the applicant shall bear the burden of proof by a preponderance of the evidence to illustrate that any violations on the property have been fully and properly abated.

12.23.090 Prohibition Against Issuance of County Permits

Subject to the exception set forth herein, the County shall withhold permits for any alteration, repair or construction pertaining to any existing or new structures or signs on the property, or any permits pertaining to the use and development of the real property or the structure: (i) if a request to appeal the recordation of a Notice of Violation has not been timely filed; or (ii) after a hearing officer on appeal affirms the Enforcement Official's decision to record a Notice of Violation. The County may thereafter withhold permits until a Notice of Compliance has been issued by the Enforcement Official. The County may not withhold permits which are necessary to obtain a Notice of Compliance or which are necessary to correct serious health and safety violations.

12.23.100 Cancellation of Recorded Notice of Violation

The Enforcement Official, property owner or responsible person shall record the Notice of Compliance with the County Recorder's Office. The recordation of the Notice of Compliance shall have the effect of canceling the recorded Notice of Violation.

12.23.110 Assessment of Cost of and Fees Abatement Proceedings

- (a) The owner of the parcel upon which the nuisance is found to exist shall be liable for all costs and fees of abatement incurred by the county. Administrative fees shall be assessed to recover costs and fees, including attorneys' fees, incurred in the investigation, inspection, re-inspection, title search, appeal hearing and any other costs incurred by the County, including, but not limited to all costs incurred in the physical abatement of the nuisance associated with the violations specified on the notice of violation. If the owner fails to pay the costs and fees of the abatement upon demand by the County, the Board of Supervisors may order the

cost and fees of the abatement to be specially assessed against the parcel. The assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as are provided for ordinary county taxes

- (b) If the Board of Supervisors specially assesses the cost of the abatement against the parcel, the board also may cause a Notice of Abatement Lien to be recorded. The Notice shall, at a minimum, identify the record owner or possessor of property, set forth the last known address of the record owner or possessor, set forth the date upon which abatement of the nuisance was ordered by the Board of Supervisors and the date the abatement was complete, and include a description of the real property subject to the lien and the amount of the abatement cost.
- (c) However, if the Board of Supervisors does not cause the recordation of a Notice of Abatement Lien pursuant to subdivision (e), and any real property to which the costs of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or a lien on a bona fide encumbrancer for value has been created and attaches to that property, prior to the date on which the first installment of county taxes would become delinquent, then the cost of abatement shall not result in a lien against that real property but shall be transferred to the unsecured roll for collection.
- (d) Recordation of a Notice of Abatement Lien has the same effect as recordation of an abstract of a money judgment recorded pursuant to Article 2 (commencing with Section 697.310) of Chapter 2 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure. The lien created has the same priority as a judgment lien on real property and continues in effect until released. Upon order of the board of supervisors, or any county officer authorized by the board of supervisors to act on its behalf, an abatement lien created under this section may be released or subordinated in the same manner as a judgment lien on real property may be released or subordinated.

SECTION FIVE: Chapter 1.20 (Administrative Citations) is hereby repealed.

SECTION SIX: Chapter 12.25 (Uniform Code for the Abatement of Dangerous Buildings) is hereby repealed.

SECTION SEVEN: If any section, subsection, sentence, clause, or phase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.