

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: COUNTY COUNSEL *af*

BOARD AGENDA # *E-1

Urgent _____ Routine X

AGENDA DATE February 13, 2001

CEO Concurs with Recommendation YES _____ NO _____
(Information Attached)

4/5 Vote Required YES _____ NO X

SUBJECT: INTRODUCTION AND WAIVER OF THE FIRST READING OF AN ORDINANCE
ADOPTING PROCEDURES FOR SUMMARY ABATEMENT OF UNSAFE
CONDITIONS OF PROPERTY

STAFF
RECOMMEN-
DATIONS:

IT IS RECOMMENDED THAT YOU APPROVE THE FOLLOWING:

1. FIND AND DETERMINE THAT THE SUBJECT RESOLUTION IS NOT SUBJECT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (PUBLIC RESOURCES CODE, SECTION 2100 ET SEQ.); AND
2. INTRODUCE, AND WAIVE THE FIRST READING OF AN ORDINANCE ADOPTING PROCEDURES FOR SUMMARY ABATEMENT OF UNSAFE CONDITIONS OF PROPERTY, AS SET FORTH IN THE PROPOSED ORDINANCE ATTACHED AS ATTACHMENT 1.

FISCAL
IMPACT:

No fiscal impact is anticipated with this ordinance.

BOARD ACTION

No. 2001-104

On motion of Supervisor Blom, **Seconded by Supervisor Caruso**,
and approved by the following vote,

Ayes: Supervisors: Mayfield, Blom, Simon, Caruso and Chair Paul

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended
Motion:

INTRODUCED AND WAIVED THE FIRST READING OF
ORDINANCE C.S. 752

ATTEST: REAGAN M. WILSON, Clerk

Christine Ferraro
By: Deputy

File No. ORD-54-44

**SUBJECT: INTRODUCTION AND WAIVER OF THE FIRST READING OF AN
ORDINANCE ADOPTING PROCEDURES FOR SUMMARY
ABATEMENT OF UNSAFE CONDITIONS OF PROPERTY**

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DISCUSSION:

The Stanislaus County Code Enforcement Taskforce identified a need to resolve minor property nuisances on an expedited basis. Four situations were determined to require immediate action:

- (1) Structures that were not secured from access by the general public that are attractive nuisances for children and are used for illegal or improper activities;
- (2) Open or abandoned excavations such as mining shafts, pits, wells, septic tanks that might trap people or animals;
- (3) Waste or refuse that is stored on property longer than one week or the failure to properly dispose of refuse; and
- (4) Any other hazardous condition that constitutes a substantial and imminent threat or risk to the health, safety or welfare of any person or domestic animal.

The proposed ordinance declares these conditions to be a public nuisance that require immediate abatement and establishes procedures to quickly resolve the problem. Key elements of the new summary abatement procedures are:

- 10-day notice is given to the property owner, lessee, agent or other person having charge or control over the property; emergency abatement is allowed without notice if property condition is so bad that abatement can't wait 10-days.
- Expedited 2-day appeal to the department director.
- Allows continued abatement without further notice.
- Limited to minor nuisance conditions that require \$2,000 or less to abate.
- Cost of abatement can be recovered as a lien on the property; allows the department director to enter into reimbursement agreement with the owner.
- Summary abatement of minor problems that are an immediate threat to the public can occur at the same time as regular abatement proceedings occur.

POLICY ISSUE:

This proposed ordinance supports the Board's Goals and Priorities of providing a safe, healthy community, and of improving efficient government operations.

STAFFING IMPACT:

There are no staffing impacts associated with this action.

**AN ORDINANCE ADOPTING PROCEDURES FOR SUMMARY
ABATEMENT OF UNSAFE CONDITIONS OF PROPERTY**

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

Section 1. Section 2.92.095 is hereby added to the Stanislaus County Code to read as follows:

"2.92.095. Remedy – Summary Abatement.

"A. Unsafe Condition.

"The Board of Supervisors finds and declares that the following 'Unsafe Conditions' of property are a public nuisance that require immediate abatement:

"1. Any structure that is not secured from access by the general public.

"2. Any open or abandoned excavation (mining shaft, pit, well, septic tank, cesspool or any other open or abandoned excavation) determined by the Department Director to be in violation of Part 9.5 (commencing with section 115700) of the California Health and Safety Code.

"3. The accumulation or storage of waste, refuse, rubbish or debris on property longer than one week, and/or the failure to regularly remove of such material in a manner provided for by law, and/or the failure to properly dispose of such material as required or allowed under applicable laws and regulations.

"4. Any other hazardous condition that is deemed by the Department Director to constitute a substantial and imminent threat or risk to the health, safety and welfare of any person or domestic animal.

"B. Notice of Unsafe Condition.

"Upon verification that an unsafe condition exists on property, the Department Director or his/her designee may elect to deliver a Notice of Unsafe Condition to the owner, lessee, agent or other person having charge or control of the property, or to any person 18 years of age or older

at the residence or place of business of said owner, lessee, agency or other person described above. Delivery of the Notice of Unsafe Condition may be made by personal service or by mail, certified return receipt requested, addressed to the owner at the address shown on the last equalized assessment roll. The Notice of Unsafe Condition shall contain:

"1. The street address and/or location of the property, including the Assessor's Parcel Number.

"2. A description of the Unsafe Condition(s) on the property that constitutes a public nuisance.

"3. An order to abate the Unsafe Condition within a time period designated by the Director or his/her designee, not less than 10 days after delivery of the notice.

"4. A statement that failure to abate the Unsafe Condition is a misdemeanor violation, subject to criminal prosecution, and will result in abatement by the County and that all costs incurred by the County to abate the Unsafe Condition, not to exceed \$2,000, shall be billed to the owner and, if not paid upon demand by the County, shall become a lien on the property pursuant to California Government Code section 25845.

"C. Abating Unsafe Condition.

"In the event an owner, agent, lessee or other responsible person having charge or control of property where there exists an Unsafe Condition, fails, refuses or neglects to abate the Unsafe Condition within the time specified, the Director or his/her designee may abate the Unsafe Condition and/or initiate other remedies authorized under Chapter 2.92 of the Stanislaus County Code. Abatement of an Unsafe Condition includes securing any structure from entry, removal and disposal of refuse on the property, and/or assisting the responsible person to abate the Unsafe Condition. The owner, lessee or responsible person may give the Director or his/her designee written authorization to abate the Unsafe Condition before the notice period has expired. If the Director or his/her designee reasonably determines that there is no responsible person to whom a Notice of Unsafe Condition can be delivered, the Director or his/her designee may waive the ten-day notice and proceed immediately with abatement of the Unsafe Condition, provided that an affidavit is completed documenting the circumstances and reasons why the service of the notice would be futile.

"D. Appeal.

"The owner, lessee, agent or other person having charge or control of the property may appeal the order to abate the Unsafe Condition by

filing with the Director a written notice of appeal containing reasons for seeking relief from the order prior to the compliance date designated in the Notice of Unsafe Condition. The Director shall determine and issue a decision on the merits of the appeal within two (2) working days and may sustain, modify or overturn the Notice of Unsafe Condition. The decision of the Director is final.

"E. Continuing Abatement without Notice.

"After initially following with the notice procedures set forth in this section, the Director and his/her designee are authorized to continue abatement of any Unsafe Condition on the property without notice.

"F. Liability For Costs of Abatement.

"The owner of record of the property shall be responsible for all costs incurred by the County to abate the Unsafe Condition, not to exceed \$2,000, which costs may include reimbursement for staff time expenses related to enforcement of the provisions of this section. The Director or his/her designee may enter into an agreement with the owner, agent, lessee or other responsible person for reimbursement of the cost incurred by the County to assist that person to abate the Unsafe Condition. The cost of abatement shall become a lien on the property pursuant to California Government Code section 25845 if the landowner fails to pay the costs upon demand by the County.

"G. Emergency Abatement.

"The Director or his/her designee may immediately abate any Unsafe Condition without prior notice to the owner, lessee, agent or other person having charge or control of the property, if the Director or designee find and determine that there exists on the property an extremely hazardous Unsafe Condition that cannot be permitted to exist for 10 days. The Director shall report to the Board of Supervisors at the first regular meeting after taking action to abate the Unsafe Condition explaining all actions taken and justifying the decision to proceed immediately without prior notice."

Section 2. Section 2.92.030 of the Stanislaus County Code is amended to add Subsection D to read as follows:

"D. In lieu of or in addition to the notice provisions and requirements set forth in this section, the Director or his/her designee may use the summary abatement procedures set forth in Section 2.92.095 to abate Unsafe Conditions as defined in that section."

Section 3. This ordinance shall take effect thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against the same, in the Modesto Bee, a newspaper published in the County of Stanislaus, State of California.

Upon motion of Supervisor _____, seconded by Supervisor _____, the foregoing resolution was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, the _____ day of _____, 2001, by the following called vote:

AYES: Supervisors:

NOES: Supervisors:


ABSENT: Supervisors:

Pat Paul, Chair of the Board of
Supervisors of the County of Stanislaus,
State of California

ATTEST:
REAGAN M. WILSON
CLERK OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF STANISLAUS, STATE OF CALIFORNIA

By _____
Deputy

APPROVED AS TO FORM:
MICHAEL H. KRAUSNICK
COUNTY COUNSEL

By  _____
John P. Doering
Deputy County Counsel