

ORDINANCE NO. C.S. 752

**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."

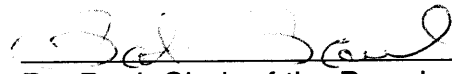
Section 3. This ordinance shall take effect thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against the same, in the Modesto Bee, a newspaper published in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

Upon motion of Supervisor Caruso, seconded by Supervisor Simon, 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 20th day of February, 2001, by the following called vote:

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

NOES: Supervisors: None

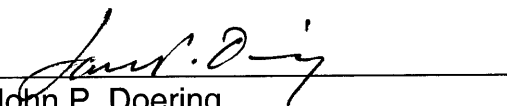
ABSENT: Supervisors: None


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



**DECLARATION OF PUBLICATION
(C.C.P. S2015.5)**

**COUNTY OF STANISLAUS
STATE OF CALIFORNIA**

I am a citizen of the United States and a resident Of the County aforesaid; I am over the age of Eighteen years, and not a party to or interested In the above entitle matter. I am a printer and Principal clerk of the publisher of **THE MODESTO BEE**, printed in the City of **MODESTO**, County of **STANISLAUS**, State of California, daily, for which said newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of **STANISLAUS**, State of California, Under the date of **February 25, 1951, Action No. 46453**; that the notice of which the annexed is a printed copy, has been published in each issue thereof on the following dates, to wit:

FEBRUARY 28, 2001

I certify (or declare) under penalty of perjury That the foregoing is true and correct and that This declaration was executed at **MODESTO**, California on

FEBRUARY 28, 2001


(Signature)

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(Signature)

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NOES: Supervisors: None

ABSENT: Supervisors: None

Pat Paul

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 Lillie L. Farriester

Deputy

APPROVED AS TO FORM:

MICHAEL H. KRAUSNICK

COUNTY COUNSEL

By John P. Doering

John P. Doering

Deputy County Counsel

FEBRUARY 28, 2001