

ORDINANCE NO. 737

AN ORDINANCE AMENDING CHAPTER 1.12, "NUISANCE ABATEMENT" OF THE CALISTOGA MUNICIPAL CODE RELATING TO THE TIME ALLOWED TO CORRECT VIOLATIONS

SECTION I: RECITALS.

WHEREAS, the City of Calistoga, pursuant to the police powers delegated to it by Article 11 of the California Constitution, has the authority to enact laws, which promote the public health, safety and general welfare of its residents; and

WHEREAS, the City desires to amend Chapter 1.12 to remove the ten (10) day minimum period timeframe to correct a violation and the sixty (60) day period to apply for and obtain permits for repair or demolition of a structure to instead allow the enforcement officer to determine a reasonable period of time based on the circumstances in each enforcement case; and

WHEREAS, this amendment will allow for more flexibility in enforcing provisions of the Municipal Code and allow shorter periods of time for correction, when such circumstances warrant such shorter periods, and more effective enforcement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALISTOGA DOES ORDAIN AS FOLLOWS:

SECTION II: AMENDMENT.

Chapter 1.12, "Nuisance Abatement" within Title 1, "General Provisions" shall be amended to read as follows, with additions denoted by underlined text and deletions denoted by ~~strikethroughs~~:

"1.12.060 Notice of violation and order to abate.

A. When an enforcement officer charged with the enforcement of any provision of this chapter determines that a nuisance exists, the enforcement officer shall notify the responsible person(s) of the existence of the condition(s) on the premises and order them to abate the nuisance. This notice must be served in conformance with CMC 1.12.090. If the nuisance to be abated requires demolition of a building, grading to the property, or other substantial alterations to real property, the enforcement officer shall obtain a preliminary or survey title report to identify all owners of record, holders of mortgages, deeds of trust, or other liens and encumbrances of record. If additional responsible persons are identified through the preliminary title report, the enforcement officer shall serve each such person with a copy of the notice of violation and order to abate.

B. The notice of violation and order to abate shall contain the following information:

1. The names and addresses of the owner and any other responsible person(s) in violation of this chapter and the street address, legal description (including Assessor's parcel number) or other description of the premises sufficient to identify the location of the violation.

2. A list of the specific code section(s) that have been violated by the responsible person and a statement specifying that the enforcement officer has determined that the violation(s) constitute a nuisance.

3. A statement of the action required to be taken to cure the violation as determined by the enforcement officer and a definite time frame for taking that action. This time frame shall be for a reasonable period of time based on the relevant circumstances, which may include the work and time required to correct the violation. The enforcement officer shall have the sole discretion in determining the time frame for taking action to correct the violation. ~~This time frame shall be determined in the sole discretion of the enforcement officer, but shall not be less than 10 calendar days after the date of the notice and order.~~

a. If the enforcement officer determines that a building, structure, or property must be repaired, the notice and order shall require that all required permits be secured and the work physically commenced within ~~60 days from the date of the notice and order and completed within~~ such time as the enforcement officer determines is reasonable under the circumstances.

b. If the enforcement officer determines the building, structure, or property must be vacated, the notice and order shall require the building or structure vacated within a reasonable time as determined by the enforcement officer.

c. If the enforcement officer determines the building, structure, or property must be demolished, the notice and order shall require that the building be vacated within such time as the enforcement officer determines is reasonable (not to exceed 60 days from the date of the notice and order), all required permits be secured ~~within 60 days from the date of the notice and order~~, and the demolition be completed within such time as the enforcement officer determines is reasonable under the circumstances.

4. A statement explaining the City's power to abate the nuisance should the responsible person fail to do so in the time allotted by the notice and order.

5. The City's intent to seek recovery of enforcement costs, and if applicable, all attorneys' fees.

6. The name and phone number of a contact person at the City should the recipient desire to speak with an appropriate City representative.

7. A statement advising that (a) any person having any record title or legal interest in the property to be abated may appeal the enforcement officer's order to the Council, provided the appeal is made in writing as provided in this code and filed with the enforcement officer within the time specified under CMC 1.12.070(B); and (b) failure to appeal within the time and manner provided will constitute: (i) a waiver of all rights to an administrative hearing for determination of the matter, and (ii) a failure to exhaust administrative remedies."

SECTION III: SEVERABILITY.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby. The City Council finds and declares that it would have adopted each and every provision of this ordinance, even if it had not adopted any other provision.

SECTION IV: CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

Adoption of this Ordinance is exempt from environmental review as the adoption of this Ordinance does not qualify as a "project" pursuant to Public Resource Code section 21065, since it can be seen with certainty that there is no possibility that adoption of the Ordinance would cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.

SECTION V: EFFECTIVE DATE.

This Ordinance shall take effect thirty (30) days after adoption as provided by Government Code section 36937.

SECTION VI: PUBLICATION.

The City Clerk shall attest to the adoption of this Ordinance and shall cause the same to be published in accordance with state law.

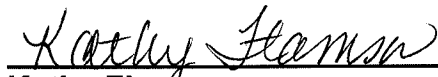
PASSED AND ADOPTED this 7th day of August 2018, by the following vote:

AYES: Councilmember Kraus, Vice Mayor Dunsford, Councilmembers Lopez-Ortega and Barnes and Mayor Canning
NOES: None
ABSTAIN: None
ABSENT: None



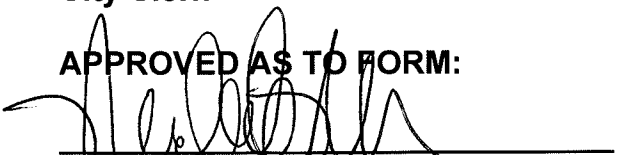
Chris Canning
Mayor

ATTEST:



Kathy Flanigan
City Clerk

APPROVED AS TO FORM:



Michelle Kenyon, City Attorney