

# COUNTY OF LASSEN



DEPARTMENT OF AGRICULTURE/WEIGHTS & MEASURES

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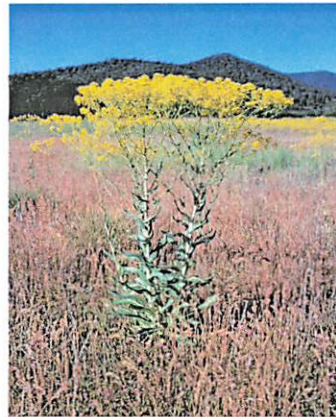
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Supervisors,

Dyer's Woad is a fast-spreading noxious weed that threatens Lassen County's rangelands and economy. It outcompetes native plants and reduces forage, which directly impacts ranchers through lower grazing capacity and higher feed costs. If we wait, control costs will rise dramatically—other western counties now spend far more on long-term containment because they didn't act early. Dyer's Woad also increases erosion, fire risk, and habitat loss, all of which strain county resources.

Right now, Lassen County still has a chance to contain it efficiently and affordably. Early abatement is the most cost-effective way to protect our rangelands, our economy, and our future.

Dyer's Woad (*Isatis tinctoria*) is an invasive noxious weed that spreads rapidly across rangelands. It forms dense patches that push out native plants, reduce forage for livestock, and create long-lasting seedbanks that are difficult and expensive to control. Because it thrives in disturbed soils and spreads easily, early removal is critical to prevent major economic and ecological damage.

The abatement falls under Chapter 1.18 Public Nuisances Lassen County Code

## 1.18.020

Any of the following is declared to be a public nuisance which may be abated or enjoined pursuant to this chapter:

(a)

Any condition declared by statute of the state of California, by ordinance of the county of Lassen, or resolution of the Lassen County board of supervisors to be a public nuisance;

(b)

Any public nuisance at common law or equity; and

(c)

Anything which is injurious to health, or is indecent or offensive to the senses, or any accumulation of trash, refuse, waste, junk (except as otherwise permitted), debris, garbage, rubbish and related matter, which by reason of its character and location is unsightly and interferes with the reasonable enjoyment of property by neighbors, or which detrimentally affects property value in the surrounding neighborhood or community, or which would materially hamper and interfere with the prevention or suppression of fire upon the premises or which may be detrimental to the health, safety and welfare of persons in the vicinity.

(Ord. 2019-03 § 7)

### § 1.18.040 Duty to abate.

No person or entity shall cause, permit, maintain, conduct or otherwise allow a public nuisance as defined in this chapter to exist within the unincorporated territory of the county of Lassen. It shall be the duty of every owner, occupant and person that controls any land or interest thereon within this jurisdiction to remove, abate and prevent the reoccurrence of the public nuisance upon such land.

(Ord. 2019-03 § 7)

§ 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.

(Ord. 2022-07 § 3)

§ 1.18.050 **Enforcing officers.**

The persons authorized by the county of Lassen to enforce this chapter are as follows:

(a)

The director of planning and building services (which includes designations in existing provisions of Lassen County Code referring to the director of community development), and/or his/her designee; and

(b)

The sheriff and/or his/her designee; and

(c)

The director of health and social services and/or his or her designee; and

(d)

The Lassen County agricultural commissioner, and/or his/her designee; and

(e)

Any other person designated by resolution of the Lassen County board of supervisors either by name or classification and either for a particular case or as a function of their respective classification, as specified in the resolution.

Any person authorized to enforce this chapter identified above shall be known for all purposes pursuant to this chapter as the "enforcing officer."

(Ord. 2019-03 § 7)

§ 1.18.060 **Notice of order to show cause.**

Whenever an enforcing officer determines that a public nuisance as described in this title exists on any premises within the unincorporated area of Lassen County, he or she is authorized to notify the owner(s) and/or occupant(s) of the property, through issuance of a "Notice of Administrative Order to Show Cause."

(Ord. 2019-03 § 7)

§ 1.18.070 **Contents of notice.**

The notice set forth in Section 1.18.060 shall be in writing and shall:

(a)

Identify the owner(s) of the property upon which the nuisance exists, as named in the records of the county assessor, and identify the occupant(s), if other than the owner(s), if known or reasonably identifiable.

(b)

Describe the location of such property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property.

(c)

Identify such property by reference to the assessor's parcel number.

(d)

Contain a statement that it has been determined by an enforcing officer that a public nuisance exists, as defined in Section 1.18.020 of this chapter.

(e)

Give a brief description of the nature of the public nuisance and any actions required to abate it.

(f)

Contain a statement that the owner or occupant is required to abate the public nuisance within ten calendar days after the date that said notice was served.

(g)

Notify the recipient(s) that, unless the owner or occupant abates the public nuisance, a hearing will be held before a county hearing officer to determine whether there is any good cause why these conditions should not be ordered abated. The notice shall specify the date, time, and location of this hearing, and shall state that the owner or occupant will be given an opportunity at the hearing to present and elicit testimony and other evidence regarding whether the conditions existing on the property constitute a public nuisance, or whether there is any other good cause why those conditions should not be abated.

(h)

Contain a statement that, unless the owner or occupant abates the conditions, or shows good cause before the hearing officer why the conditions should not be abated, the enforcing officer will abate the nuisance. It shall also state that the abatement costs, including administrative costs, may be made a special assessment added to the county assessment roll and become a lien on the real property, or be placed on the unsecured tax roll.

(i)

State the applicable hearing fee, if such a fee has been established.

(Ord. 2019-03 § 7)

§ 1.18.080 **Service of notice.**

(a)

The notice set forth in Section 1.18.060 shall be served by either delivering it personally to the owner and to the occupant, or by mailing it to the occupant of the property at the address thereof, and to any non-occupying owner at his or her address as it appears on the last equalized assessment roll, except that:

(1)

Service by mail shall be made by first class postage prepaid United States mail service (USPS). If notice is served by mail, the time period for a hearing on said notice shall be extended by two additional days;

(2)

If the records of the county assessor show that the ownership has changed since the last equalized assessment roll was completed, the notice shall also be mailed to the new owner at his or her address as it appears in said records; or

(3)

In the event that, after reasonable effort, the enforcing officer is unable to serve the notice as set forth above, service shall be accomplished by posting a copy of the notice on the real property upon which the public nuisance exists as follows: copies of the notice shall be posted along the frontage of the subject property and at such other locations on the property reasonably likely to provide notice to the owner. In no event shall fewer than two copies of the order be posted on a property pursuant to this section.

(b)

The date of deposit in the mail, personal delivery, or posting, as applicable, shall determine what the date of service is deemed to be for purposes of this title.

(c)

The failure of any owner or occupant to receive such notice shall not affect the validity of the proceedings.

(Ord. 2019-03 § 7)

§ 1.18.090 **Establishment of position of administrative hearing officer.**

(a)

The Lassen County board of supervisors hereby establishes the office of county hearing officer pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code, to which office the board of supervisors shall appoint one or more hearing officers. Each such hearing officer shall be an attorney at law having been admitted to practice before the courts of this state for at least five years. Hearing officers shall be appointed for a period of not less than one year. In the event that the board appoints more than one hearing officer, each day of hearings required under this section shall be assigned to a hearing officer based upon an alphabetical rotation. Hearing officers shall have those powers set forth in Sections 27721 and 27722 of the Government Code, including the power to conduct the hearing, the power to decide the matter under this section upon which a hearing has been held, the power to make findings of fact and conclusions of law required for the decision, the power to issue subpoenas at the request of a party of interest, the power to receive evidence, the power to administer oaths, the power to rule on questions of law and the admissibility of evidence, the power to continue the hearing from time to time, and the power to prepare a record of the proceedings.

(b)

The county hearing officer, as established by subsection (a) above, is vested with authority to hear and decide any case presented to him/her pursuant to this chapter, or any other title or chapter of Lassen County code which requires a due process determination by a hearing officer.

(c)

Any hearing held before a hearing officer, including a hearing held pursuant to this chapter, shall be a final administrative determination on the issues presented.

(Ord. 2019-03 § 7)

§ 1.18.100 **Hearing on order to show cause.**

(a)

Pursuant to Government Code Sections 25845, subdivision (i) and 27721, subdivision (a), the hearing officer shall hold an administrative hearing to determine whether the conditions existing on the property subject to the notice constitute a nuisance under this chapter, or whether there is any other good cause why those conditions should not be abated. This hearing shall be held no less than ten calendar days after service of the notice.

(b)

The owner or occupant of the property shall be given an opportunity at the hearing to present and elicit testimony and other evidence regarding whether the conditions existing on the property constitute a nuisance under this chapter, or whether there is any other good cause why those conditions should not be abated.

(c)

In the event that the owner or occupant does not appear and present evidence at the hearing, the hearing officer may base the decision solely upon the evidence submitted by the enforcing officer. Failure of the owner or occupant to appear and present evidence at the hearing shall constitute a failure to exhaust administrative remedies.

(d)

Any hearing conducted pursuant to this title need not be conducted according to technical rules relating to evidence, witnesses and hearsay. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. The hearing officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.

(e)

The hearing officer shall consider the matter de novo, and may affirm, reverse, or modify the determinations contained in the notice and order. The hearing officer shall issue a written decision, which shall include findings relating to the existence or nonexistence of a public nuisance, as well as findings concerning the propriety and means of abatement of the conditions set forth in the notice. Such decision shall be mailed to, or personally served upon the parties upon whom the notice was served, and the enforcing officer. The decision shall be final when signed by the hearing officer and served as herein provided.

(Ord. 2019-03 § 7)

§ 1.18.105 **Issuance and recordation of notices of violation.**

(a)

If, after conducting the hearing on order to show cause as provided for in Section 1.18.100, the hearing officer confirms the presence of a nuisance, the enforcement officer may record a notice of violation with the Lassen County recorder's office. Said notice of violation may be recorded for any nuisance confirmed by the hearing officer.

(b)

The recorded notice of violation shall include the name of the property owner, the property's assessor's parcel number, and the parcel's legal description. A copy of the hearing officer's decision shall be included as an attachment to said notice of violation.

(c)

The process described in this section for the recordation of a notice of violation is equivalent to the process for recordation of a notice of violation provided in Chapter 12.23 (Issuance and Recordation of Notices of Violation).

(d)

If a notice of violation has been recorded pursuant to this section, a notice of compliance shall be recorded with the Lassen County recorder's office, in accordance with Section 12.23.080 (Notice of Compliance — Procedures), after the public nuisance has been corrected. A decision to deny a request to issue a notice of compliance is appealable as detailed in Section 12.23.080, except that any appeal that may be filed shall be considered by the hearing officer appointed for Chapter 1.18 (Public Nuisances).

(Ord. 2023-07, 8/12/2023)

§ 1.18.110 **Liability for costs.**

(a)

In any enforcement action brought pursuant to this chapter, whether by administrative proceedings, judicial proceedings, or summary abatement, each person who causes, permits, suffers, or maintains a public nuisance shall be liable for all costs incurred by the county, including, but not limited to, administrative costs, costs incurred in conducting an administrative hearing when an order for abatement is upheld, but not in a case where the order for abatement is not sustained, and any and all costs incurred to undertake, or to cause or compel any responsible party to undertake, any abatement action in compliance with the requirements of this chapter, whether those costs are incurred prior to, during, or following enactment of this chapter; and

(b)

In any action to enforce this chapter, whether by administrative proceedings, judicial proceedings, or summary abatement, the prevailing party shall be entitled to a recovery of the reasonable attorneys' fees incurred. Recovery of attorneys' fees under this subsection shall be limited to those actions or proceedings in which the county elects, at the initiation of that action or proceeding, to seek recovery of its own attorneys' fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the county in the action or proceeding.

(Ord. 2019-03 § 7)

§ 1.18.120 **Enforcement.**

Whenever a person authorized to enforce this chapter becomes aware that an owner or occupant has failed to abate a public nuisance within five days of the date of service of the decision of the hearing officer, made pursuant to this chapter, the authorized person may take one or more of the following actions:

(a)

Enter upon the property and abate the nuisance by county personnel, or by private contractor under the direction of the enforcing officer. The enforcing officer may apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of undertaking the work, if necessary; and/or

(b)

Request that the county counsel commence a civil action to redress, enjoin, and abate the public nuisance.

(Ord. 2019-03 § 7)

§ 1.18.130 **Accounting.**

Every enforcing officer shall keep an account of every cost incurred in enforcement of this chapter. At the conclusion of a public nuisance abatement case, the enforcing officer shall render a report of this account in writing, itemized by the parcel number, to the board of supervisors showing said abatement and administrative costs.

(Ord. 2019-03 § 7)

§ 1.18.140 **Notice of hearing on accounting—Waiver by payment.**

The enforcing officer shall deposit a copy of the account (referenced in Section 1.18.130 above) pertaining to the property of each owner in the mail addressed to the owner and include therewith a notice informing the owner that, at a date and time not less than ten business days after the date of mailing of the notice, the board of supervisors will meet to review the account and that the owner may appear at said time and be heard. The owner may waive the hearing on the accounting by paying the cost of

abatement and administration to the Lassen County treasurer/tax collector prior to the time set for the hearing by the board of supervisors.

Unless otherwise expressly stated by the owner, payment of the cost of abatement and administration prior to said hearing shall be deemed a waiver of the right thereto and an admission that said accounting is accurate and reasonable.

(Ord. 2019-03 § 7)

**§ 1.18.150Hearing on accounting.**

**(a)**

At the time fixed, the board of supervisors shall meet to review the report of the enforcing officer. An owner may appear at said time and be heard on the question of whether the accounting, so far as it pertains to the cost of abatement and administration, is accurate and the amounts reported reasonable.

**(b)**

The report of the enforcing officer shall be admitted into evidence. The report of the enforcing officer enjoys a presumption of accuracy. The owner bears the burden of proving that the costs of abatement or administration included in the enforcing officers report are not accurate or reasonable.

**(c)**

The board of supervisors shall also determine whether or not the owner(s) had actual knowledge of the public nuisance, or could have acquired such knowledge through the exercise of reasonable diligence. If it is determined at the hearing that the owner(s) did not have actual knowledge of the public nuisance, and could not have acquired such knowledge through the exercise of reasonable diligence, costs for the abatement shall not be assessed against such parcel or otherwise attempted to be collected from the owner(s) of such parcel.

**(d)**

The board of supervisors shall make such modifications to the accounting as it deems necessary and thereafter shall confirm the report by resolution.

(Ord. 2019-03 § 7)

**§ 1.18.160Special assessment/lien.**

Pursuant to Section 25845 of the Government Code, the board of supervisors may order that any cost of abating or administering a case of public nuisances pursuant to this chapter and, as confirmed by the board of supervisors, be placed upon the county tax roll against the respective parcels of land (as a priority lien), or placed on the unsecured roll; provided, however, that the cost of abatement and administration as finally determined shall not be placed on the tax roll if paid in full prior to entry of said costs on the tax roll. The board of supervisors may also cause notices of abatement lien to be recorded against the respective parcels of real property pursuant to Section 25845 of the Government Code.

(Ord. 2019-03 § 7)

**§ 1.18.170Administrative civil penalties.**

**(a)**

In addition to any other remedy prescribed in this title, any nuisance as described in this chapter may be subject to an administrative penalty of up to one thousand dollars per day. The administrative penalty may be imposed via the administrative process set forth in this section, as provided in Government Code Section 53069.4, or may be imposed by the court if the violation requires court enforcement.

**(b)**

Acts, omissions, or conditions in violation of this chapter that continue, exist, or occur on more than one day constitute separate violations on each day. Violations continuing, existing, or occurring on the service date, the effective date, and each day between the service date and the effective date are separate violations.

**(c)**

In the case of a continuing violation, if the violation does not create an immediate danger to health or safety, the enforcing officer or the court shall provide for a reasonable period of time, not to exceed five days, for the person responsible for the violation to correct or otherwise remedy the violation prior to the imposition of administrative penalties.

**(d)**

In determining the amount of the administrative penalty, the enforcing officer, or the court, if the violation requires court enforcement without an administrative process, shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, any prior history of violations, the degree of culpability, economic savings, if any resulting from the violation, and any other matters justice may require.

**(e)**

The enforcing officer may commence the administrative process by issuance of a notice of violation and proposed administrative penalty, which shall state the amount of the proposed administrative penalty and the reasons therefor. The notice of violation and proposed administrative penalty may be combined with a notice and administrative order to show cause pursuant to Section 1.18.060. The notice of violation and proposed administrative penalty shall be served upon the same persons described in Section 1.18.070. Service of the notice shall be deemed sufficient if it is done in the manner described in Section 1.18.080. The failure to serve any person described in this subsection shall not affect the validity of service or the validity of any penalties imposed.

**(f)**

The hearing officer shall consider the matter de novo, and may affirm, reverse, or modify the proposed administrative penalties contained in the notice. The hearing officer shall issue a written decision, which shall include findings relating to the

imposition of any proposed administrative penalties. Such decision shall be mailed to, or personally served upon the parties upon whom the notice was served, and the enforcing officer in the same manner as described in Section 1.18.080. The decision shall be final when signed by the hearing officer and served as herein provided.

(g)

Payment of an administrative penalty specified in the hearing officer's order shall be made to the county within twenty days of service of the order, unless timely appealed to the Superior Court in accordance with Government Code Section 53069.4, subdivision (b)

(h)

Interest shall accrue on all amounts due under this section, from the effective date of the administrative penalty order, as set forth in this section, to the date paid pursuant to the laws applicable to civil money judgments.

(i)

In addition to any other legal remedy, whenever the amount of any administrative penalty imposed pursuant to this section has not been satisfied in full within ninety days and has not been timely appealed to the Superior Court in accordance with Government Code Section 53069.4, subdivision (b), or if appealed, such appeal has been dismissed or denied, this obligation may be enforced as a lien against the real property on which the violation occurred.

(1)

The lien provided herein shall have no force and effect until recorded with the county recorder. Once recorded, the administrative order shall have the force and effect and priority of a judgment lien governed by the provisions of Code of Civil Procedure Section 697.340, and may be extended as provided in Code of Civil Procedure Sections 683.110 to 683.220, inclusive.

(2)

Interest shall accrue on the principal amount of the lien remaining unsatisfied pursuant to the law applicable to civil money judgments.

(3)

Prior to recording any such lien, the enforcing officer shall prepare and file with the clerk of the board of supervisors a report stating the amounts due and owing.

(4)

The clerk of the board of supervisors will fix a time, date, and place for the board of supervisors to consider the report and any protests or objections to it.

(5)

The clerk of the board of supervisors shall serve the owner of the property with a hearing notice not less than ten days before the hearing date. The notice must set forth the amount of the delinquent administrative penalty that is due. Notice must be delivered by first class mail, postage prepaid, addressed to the owner at the address shown on the last equalized assessment roll or as otherwise known. Service by mail is effective on the date of mailing and failure of owner to actually receive notice does not affect its validity.

(6)

Any person whose real property is subject to a lien pursuant to this section may file a written protest with the clerk of the board of supervisors and/or may protest orally at the board of supervisors meeting. Each written protest or objection must contain a description of the property in which the protesting party is interested and the grounds of such protest or objection.

(7)

At the conclusion of the hearing, the board of supervisors will adopt a resolution confirming, discharging, or modifying the lien amount.

(8)

Within thirty days following the board of supervisors adoption of a resolution imposing a lien, the clerk of the board of supervisors will file same as a judgment lien in the Lassen County recorder's office.

(9)

Once the county receives full payment for outstanding principal, penalties, and costs, the clerk of the board of supervisors will either record a notice of satisfaction or provide the owner with a notice of satisfaction for recordation at the Lassen County recorder's office. This notice of satisfaction will cancel the county's lien under this section.

(10)

The lien may be foreclosed and the real property sold, by the filing of a complaint for foreclosure in a court of competent jurisdiction, and the issuance of a judgment to foreclose. The prevailing party shall be entitled to its attorney's fees and costs.

(j)

Administrative penalties imposed pursuant to this section shall also constitute a personal obligation of each person who causes, permits, maintains, conducts or otherwise suffers or allows the nuisance to exist. In the event that administrative penalties are imposed pursuant to this section on two or more persons for the same violation, all such persons shall be jointly and severally liable for the full amount of the penalties imposed. In addition to any other remedy, the county may prosecute a civil action through the office of the county counsel to collect any administrative penalty imposed pursuant to this section.

(k)

Payment of administrative penalties under this section does not excuse or discharge any continuation or repeated occurrence of the violation that is the subject of the notice of violation and proposed administrative penalty. The payment of administrative penalties does not bar the county from taking any other enforcement action regarding a violation that is not corrected.

(Ord. 2019-03 § 7)

§ 1.18.180 **Administrative hearing fees.**

(a)

The board of supervisors may, by resolution, establish fees for hearings conducted pursuant to Sections 1.18.060 and 1.18.170.

(b)

If the hearing fee is paid and the hearing officer finds there is no nuisance as described in this chapter, the hearing fee shall be refunded to the person who paid the fee, without interest.

(Ord. 2019-03 § 7)

§ 1.18.190 **Enforcement by civil action.**

As an alternative to the procedures set forth in Sections 1.18.060 through 1.18.180, the county may abate a violation of this title by the prosecution of a civil action through the office of the county counsel, including an action for injunctive relief. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings, prohibiting the maintenance of the violation of this title or requiring compliance with other terms.

(Ord. 2019-03 § 7)

§ 1.18.200 **Summary abatement.**

Notwithstanding any other provision of this chapter, when any public nuisance constitutes an immediate threat to public health or safety, and the procedures set forth beginning at Section 1.18.060 through and including Section 1.18.190 would not result in abatement of that nuisance within a short enough time period to avoid that threat, the enforcing officer may direct any officer or employee of the county to summarily abate the nuisance. The enforcing officer shall make reasonable efforts to notify the persons identified in Section 1.18.070, but the formal notice and hearing procedures set forth in this chapter shall not apply. The county may nevertheless recover its costs for abating that nuisance in the manner set forth in Sections 1.18.130 through 1.18.160. Any action to summarily abate under the provisions of this section shall require that the enforcing officer, prior to the commencement of the abatement, prepare written findings of the grounds for such action and the exigencies supporting same which shall be reviewed and approved by the Lassen County district attorney, as appropriate, prior to the abatement action.

(Ord. 2019-03 § 7)

§ 1.18.210 **No duty to enforce.**

Nothing in this chapter shall be construed as imposing on the enforcing officer or the county of Lassen any duty to issue a notice of administrative order to show cause, to propose any administrative penalties, nor to abate any public nuisance, nor to take any other action with regard to any public nuisance, and neither the enforcing officer nor the county of Lassen shall be held liable for failure to issue any such notices, nor for failure to abate any such public nuisance, nor for failure to take any other action with regard to any public nuisance.

(Ord. 2019-03 § 7)

§ 1.18.220 **Remedies cumulative.**

All remedies provided for herein are cumulative and not exclusive, and are in addition to any other remedy or penalty provided by law. Nothing in this chapter shall be deemed to authorize or permit any activity that violates any provision of state or federal law.

(Ord. 2019-03 § 7)

§ 1.18.230 **Severability.**

If any section, subsection, sentence, clause, portion, or phrase of this chapter is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The board of supervisors hereby declares that it would have passed this chapter and each section, subsection, sentence, clause, portion, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional.