



*County of Lassen*  
Department of Planning and Building Services

• Planning • Building Permits • Code Enforcement • Surveyor • Surface Mining

March 9, 2018

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TO: Board of Supervisors  
Agenda Date: March 20, 2018

FROM: Maurice L. Anderson, Director

Zoning & Building  
Inspection Requests  
Phone: 530 257-5263

SUBJECT: The proposed ordinance would amend section 1.19.170 of the Lassen County Code to replace a reference to Government Code Section 38773.5 with the correct reference to Government Code 25845. Said section of County Code governs the assessment of costs to land owners when abandoned vehicles are removed in accordance with Chapter 1.19 (Abandoned Vehicles) of the Lassen County Code.

ACTION REQUESTED:

1. Receive Report; and
2. Introduce the Ordinance and read (or waive).

DISCUSSION:

When the Abandoned Vehicles Chapter (Chapter 1.19 et seq) of Lassen County Code was adopted in 2008, Section 1.19.170 referred to the wrong Section of the Government Code, as detailed below. This ordinance would correct this recently discovered oversight.

Lassen County is authorized to adopt a vehicle abatement ordinance pursuant to Sections 22660 through 22668 of the Vehicle Code. Vehicle Code Section 22660 (attached) states that costs to tow abandoned vehicles in accordance with such an ordinance can be recovered in accordance with Section 25845 or 38773.5 of the Government Code. Section 38773.5 (attached) is in regard to cost recovery by cities and Section 25845 (attached) is in regard to cost recovery by counties. County Code section 1.19.170 references Section 38773.5 of the Government Code instead of referencing Section 25845, which is more appropriate.

Specifically, Lassen County Code Section 1.19.170 states that, if the administrative costs and the costs of removal of abandoned vehicles are not paid within 30 days, such costs are to be assessed against the parcel of land pursuant to Section 38773.5 of the Government Code. This Section should refer to Section 25845 of the Government Code. As such, the proposed Ordinance simply replaces 38773.5 with 25845, as shown in track changes version of the section provided below:

“If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to Section 1.19.130 are not paid within thirty days of the date of the order or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to Section ~~38773.5~~ 25845 of the Government Code and shall be transmitted to the tax collector for collection. Said assessment shall have the same priority as other county taxes.”

ORDINANCE NO. \_\_\_\_\_

Ordinance Amending Chapter 1.19 of the Lassen County Code

The following ordinance, consisting of three 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 \_\_\_\_th day of \_\_\_\_\_, 20\_\_, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

ABSENT: \_\_\_\_\_

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

Attest: JULIE BUSTAMANTE  
Clerk of the Board

By: \_\_\_\_\_  
MICHELE J. YDERRAGA, Deputy Clerk of the Board

I, MICHELE J. 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 \_\_\_\_th day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
MICHELE J. YDERRAGA, Deputy Clerk of the Board

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

SECTION ONE: This ordinance shall take effect thirty (30) days after its passage, and before the expiration of fifteen (15) days after its passage 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 1.19.170 of the Lassen County Code is hereby repealed and replaced with the following:

**"1.19.070, Abatement and Removal –Assessment of costs to landowners.**

If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to Section 1.19.130 are not paid within thirty days of the date of the order or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to Section 25845 of the Government Code and shall be transmitted to the tax collector for collection. Said assessment shall have the same priority as other county taxes."

SECTION THREE: 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.



Lassen County Code							
<a href="#">Up</a>	<a href="#">Previous</a>	<a href="#">Next</a>	<a href="#">Main</a>		<a href="#">Search</a>	<a href="#">Print</a>	<a href="#">No Frames</a>
<a href="#">Title 1 GENERAL PROVISIONS</a>							
<a href="#">Chapter 1.19 ABANDONED VEHICLES</a>							

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**1.19.170 Abatement and removal—Assessment of costs to landowners.**

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If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to Section 1.19.130 are not paid within thirty days of the date of the order or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to Section 38773.5 of the Government Code and shall be transmitted to the tax collector for collection. Said assessment shall have the same priority as other county taxes. (Ord. 527-D § 1, 2008).

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## VEHICLE CODE - VEH

**DIVISION 11. RULES OF THE ROAD [21000 - 23336]** ( *Division 11 enacted by Stats. 1959, Ch. 3.*  )

**CHAPTER 10. Removal of Parked and Abandoned Vehicles [22650 - 22856]** ( *Chapter 10 enacted by Stats. 1959, Ch. 3.*  )

**ARTICLE 1. Authority to Remove Vehicles [22650 - 22711]** ( *Article 1 enacted by Stats. 1959, Ch. 3.*  )

**22660.** Notwithstanding any other provision of law, a city, county, or city and county may adopt an ordinance establishing procedures for the abatement and removal, as public nuisances, of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof from private or public property, and for the recovery, pursuant to Section 25845 or 38773.5 of the Government Code, or assumption by the local authority, of costs of administration and the removal.

(*Amended by Stats. 1988, Ch. 126, Sec. 1.*)



## GOVERNMENT CODE - GOV

**TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205]** ( *Title 3 added by Stats. 1947, Ch. 424. )*

**DIVISION 2. OFFICERS [24000 - 28085]** ( *Division 2 added by Stats. 1947, Ch. 424. )*

**PART 2. BOARD OF SUPERVISORS [25000 - 26490]** ( *Part 2 added by Stats. 1947, Ch. 424. )*

**CHAPTER 8. Health and Safety [25800 - 25846]** ( *Chapter 8 added by Stats. 1947, Ch. 424. )*

**ARTICLE 3. Miscellaneous [25840 - 25846]** ( *Article 3 added by Stats. 1947, Ch. 424. )*

**25845.** (a) The board of supervisors, by ordinance, may establish a procedure for the abatement of a nuisance. The ordinance shall, at a minimum, provide that the owner of the parcel, and anyone known to the board of supervisors to be in possession of the parcel, be given notice of the abatement proceeding and an opportunity to appear before the board of supervisors and be heard prior to the abatement of the nuisance by the county. However, nothing in this section prohibits the summary abatement of a nuisance upon order of the board of supervisors, or upon order of any other county officer authorized by law to summarily abate nuisances, if the board or officer determines that the nuisance constitutes an immediate threat to public health or safety.

(b) In any action to abate a nuisance, whether by administrative proceedings, judicial proceedings, or summary abatement, the owner of the parcel upon which the nuisance is found to exist shall be liable for all costs of abatement incurred by the county, including, but not limited to, administrative costs, and any and all costs incurred in the physical abatement of the nuisance. Recovery of costs pursuant to this section shall be in addition to and shall not limit any prevailing party's right to recover costs pursuant to Sections 1032 and 1033.5 of the Code of Civil Procedure or any other provision of law.

(c) A county may, by ordinance, provide for the recovery of attorneys' fees in any action, administrative proceeding, or special proceeding to abate a nuisance. If the ordinance provides for the recovery of attorneys' fees, it shall provide for recovery of attorneys' fees by the prevailing party, rather than limiting recovery of attorneys' fees to the county if it prevails. The ordinance may limit recovery of attorneys' fees by the prevailing party to those individual actions or proceedings in which the county elects, at the initiation of that individual 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.

(d) If the owner fails to pay the costs of the abatement upon demand by the county, the board of supervisors may order the cost 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. All laws applicable to the levy, collection, and enforcement of county taxes are applicable to the special assessment.

(e) 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





## GOVERNMENT CODE - GOV

**TITLE 4. GOVERNMENT OF CITIES [34000 - 45345]** ( Title 4 added by Stats. 1949, Ch. 79. )

**DIVISION 3. OFFICERS [36501 - 41805]** ( Division 3 added by Stats. 1949, Ch. 79. )

**PART 2. LEGISLATIVE BODY [36801 - 40592]** ( Part 2 added by Stats. 1949, Ch. 79. )

**CHAPTER 10. Health and Safety [38600 - 38794]** ( Chapter 10 added by Stats. 1949, Ch. 79. )

**ARTICLE 6. Nuisances [38771 - 38775]** ( Article 6 added by Stats. 1949, Ch. 79. )

**38773.5.** (a) As an alternative to the procedure authorized by Section 38773.1, the legislative body may by ordinance establish a procedure for the abatement of a nuisance and make the cost of abatement of a nuisance upon a parcel of land a special assessment against that parcel.

(b) A city may, by ordinance, provide for the recovery of attorneys' fees in any action, administrative proceeding, or special proceeding to abate a nuisance. If the ordinance provides for the recovery of attorneys' fees, it shall provide for recovery of attorneys' fees by the prevailing party, rather than limiting recovery of attorneys' fees to the city if it prevails. The ordinance may limit recovery of attorneys' fees by the prevailing party to those individual actions or proceedings in which the city elects, at the initiation of that individual 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 city in the action or proceeding.

(c) Any procedure established pursuant to this section shall include notice, by certified mail, to the property owner, if the property owner's identity can be determined from the county assessor's or county recorder's records. The notice shall be given at the time of imposing the assessment and shall specify that the property may be sold after three years by the tax collector for unpaid delinquent assessments. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.

(d) A local agency that has imposed an assessment pursuant to this section may, subject to the requirements applicable to the sale of property pursuant to Section 3691 of the Revenue and Taxation Code, conduct a sale of vacant residential developed property for which the payment of that assessment is delinquent.

(e) Notices or instruments relating to the abatement proceeding or special assessment shall be entitled to recordation.

(Amended by Stats. 1996, Ch. 718, Sec. 2. Effective January 1, 1997.)

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.

(f) 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.

(g) Recordation of a notice of abatement lien pursuant to subdivision (e) 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.

(h) The board of supervisors may delegate the hearing required by subdivision (a), prior to abatement of a public nuisance, to a hearing board designated by the board of supervisors. The hearing board shall make a written recommendation to the board of supervisors. The board of supervisors may adopt the recommendation without further notice of hearing, or may set the matter for a de novo hearing before the board of supervisors.

(i) The board of supervisors may, by ordinance, delegate to a hearing officer appointed pursuant to Section 27720 the powers and duties specified by this section.

*(Amended by Stats. 1996, Ch. 718, Sec. 1. Effective January 1, 1997.)*