

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

AN ORDINANCE AMENDING CHAPTER 6.12 (NUISANCES) OF THE FORT BRAGG MUNICIPAL CODE TO ESTABLISH CODE ENFORCEMENT COST RECOVERY FEES

ORDINANCE NO. 998-2024

WHEREAS, pursuant to California Government Code Section 38770 et seq., the City Council has established, an alternate to procedures that may be used for purposes of abating a public nuisance; and

WHEREAS, the City of Fort Bragg has previously found that Code Enforcement is a necessary and vital City activity that contributes to the protection of the health, safety, and welfare of the city’s residents, visitors, and property; and

WHEREAS, at the October 15, 2024 meeting, the City Council received the staff report, draft updates to the Municipal Code, and a list of suggested Code Enforcement tasks that would qualify for cost recovery; and

WHEREAS, this ordinance adds the authority to assess and collect cost recovery fees to Chapter 6.12 of the Fort Bragg Municipal Code.

NOW, THEREFORE, the City Council ordains as follows:

Section 1. Legislative Findings. The City Council hereby finds as follows:

1. The foregoing recitals are true and correct and are made a part of this ordinance.
2. The proposed amendments are consistent with the General Plan because the proposed amendments promote and pursue the City’s objective of protecting the public health, safety, and welfare.

Section 2. Based on the foregoing, the City Council hereby amends Chapter 6.12 (NUISANCES): Section 6.12.060 (NOTICE OF VIOLATION.); Section 6.12.070 (RECOVERY OF ENFORCEMENT COSTS); and Section 6.12.140 (REPORT TO CITY COUNCIL OF COSTS OF ABATEMENT BY THE CITY) of the Fort Bragg Municipal Code as follows:

**CHAPTER 6.12
NUISANCES**

Section

- 6.12.010 Purpose
- 6.12.015 Definitions
- 6.12.020 Public nuisances included
- 6.12.030 Owner’s responsibility
- 6.12.040 Nuisance conditions
- 6.12.050 Abatement by repair, rehabilitation, demolition, or removal
- 6.12.055 Summary abatement of immediate dangers
- 6.12.060 Notice of violation
- 6.12.065 Abatement by proceedings before hearing body and notice of administrative hearing
- 6.12.070 [Reserved] Recovery of Enforcement Costs**
- 6.12.080 Posting and serving notice of violation
- 6.12.090 Form of proper service of notice of violation
- 6.12.095 Enforcement stayed during pendency of hearing

- 6.12.100 Hearing by hearing body
- 6.12.110 Decision by hearing body ordering abatement
- 6.12.120 Service of order of abatement
- 6.12.130 Abatement by City officer
- 6.12.140 Report to City Council of costs of abatement by the City
- 6.12.150 Hearing by City Council on report of costs of abatement by City
- 6.12.155 Imposition of penalties
- 6.12.160 Special assessment or nuisance abatement lien on property for costs of abatement by the City
- 6.12.170 Abatement of certain vehicles
- 6.12.180 Alternative remedies

6.12.060 NOTICE OF VIOLATION.

A. Whenever an Enforcement Officer finds that a provision of this Code has been violated, he or she shall notify the violator in writing of the violation. The form of written notice shall be a Notice of Violation, which shall be served on the violator in the manner described in § 6.12.090, below.

B. The Enforcement Officer shall include in the Notice of Violation the following information:

1. Date and location of the violation, including the address or definite description of the location where the violation occurred, or is occurring;

32. Actions required to correct or abate the violation and a reasonable amount of time for the actions to be commenced, and the correction or abatement completed. **Recovery of code enforcement costs will accrue upon failure to correct or abate the violation within the time specified in the Notice of Violation or within a reasonable amount of time for the corrective actions to be commenced and completed;**

43. An order prohibiting the continuation or repeated occurrence of a violation of this Code described in the Notice of Violation; and

54. The signature of the citing Enforcement Officer.

C. A Notice of Violation shall be accompanied by a statement that the Responsible Party may request a hearing within 15 calendar days of the date of the Notice of Violation, and that failure to do so will constitute a waiver of the Responsible Party’s right to a hearing and that the City may proceed upon the Notice of Violation without a hearing. If the City chooses to set the matter for hearing or if a hearing is required pursuant to a specific provision of this Code, then the Notice of Violation shall include a Notice of Hearing in the form set forth in § 1.06.050 of this Code, as the same may be amended from time to time.

(Ord. 840, § 1, passed -- 2003; Am. Ord. 898 § 6, passed 11-14-2011)

6.12.070 ~~[RESERVED]~~RECOVERY OF ENFORCEMENT COSTS.

This chapter provides authority for the City to recover the costs of inspection, enforcement and correction of violations of laws and ordinances to the full extent permitted by Government Code Section 54988 as it may be amended from time to time. Accordingly, provisions of this chapter which specify the process for creating, recording, and collecting liens for abatement of nuisances may also be used for the recovery of said costs of inspection, enforcement and correction as well.

Any person violating any provision of this code resulting in the city filing an administrative, civil action, or special proceeding to obtain code compliance or remedy of such violation shall be

liable for the costs of such matter, including, but not limited to, costs of investigation, abatement, court costs, and costs of monitoring compliance. In addition, in any administrative, civil, or special proceeding to abate an administrative violation, the city may, at the initiation of the proceeding, seek an award of attorney's fees. If the city seeks an award of attorney's fees, the award shall be made to the prevailing party. Provided, however, that no award may be made to a prevailing party that exceeds the amount of reasonable attorney's fees incurred by the city in the action or proceeding.

6.12.140 REPORT TO CITY COUNCIL OF COSTS OF ABATEMENT BY THE CITY.

A. The City may elect to recover its costs to abate nuisance conditions, ~~including enforcement and correction of violations of laws and ordinances to the full extent permitted by Government Code Section 54988. Recoverable costs, include or enforce other provisions of this Code,~~ ~~including~~ without limitation, the costs of any hearing or appeal hearing (including staff time necessary to prepare for and attend a hearing or an appeal hearing), any re-inspections required to determine or confirm that compliance has been achieved, production of all staff reports, environmental tests or measurements that are deemed necessary or appropriate by the Code Enforcement Officer, third party inspection(s) or consultant services as deemed necessary by the City and any attorneys' fees incurred in pursuing enforcement, including any civil action to abate nuisance conditions or enforce this Code. To this end the City has prepared a fee schedule that calculates the typical cost of enforcing a variety of different code violations based on previous experience. The code violation enforcement fee is updated on an annual basis. If the City elects at the initiation of an administrative enforcement action or other proceeding to seek recovery of attorneys' fees, pursuant to Cal. Government Code § 38773.5(b), or any other applicable authority, including this Code, then the prevailing party shall be entitled to recover attorneys' fees in an amount not to exceed the amount of attorneys' fees incurred by the City in such action. Recovery by the City of the costs of enforcement shall be in addition to any penalty imposed on the Responsible Party.

B. ~~Accrual of Abatement Costs will occur whenever any person creating, causing, committing, or maintaining a public nuisance, as referred to in Sections 6.12.020 and/or 6.12.040, or other public nuisance, as defined under State law or by other ordinances or regulations, has been given notice, by or on behalf of the Code Enforcement Department or by any other officer, or employee authorized to give such notice, to abate such nuisances or cease and desist from continuing such nuisance or violation of law, and such person fails, refuses, or neglects to comply with the notice within the time specified therein, or if such a time is not specified, then within a time reasonably sufficient to enable such compliance, such non-complying person shall be liable to the City of Fort Bragg for any and all costs and expenses incurred by the City in abating the nuisance and or correcting violations of State law or other ordinances and regulations and in obtaining compliance with or enforcing the law as referred to or encompassed within such notice.~~

BC. If the City abates the nuisance, the Director of Finance at the direction and request of the City Manager shall keep an account of the cost of abatement, including attorney fees, if any, and incidental expenses and shall render an itemized written report to the City Council showing the cost of abatement, including any salvage value of material from the abatement.

CD. The term "incidental expenses" shall include, but not be limited to, the actual expenses and costs of the City in:

1. Preparation of notices, specifications, and contracts;

2. Inspecting the work;
3. Costs of preparing for and attending any required hearings;
4. The costs of printing and mailing required hereunder; and
5. Costs of imposing a lien or levying a special assessment on the property.

D E. Should the proceeds of sale of any salvage material exceed the cost of the abatement, the balance, if any, shall be paid to the Owner or Responsible Party upon establishment of his or her claim for the excess proceeds.

(Ord. 840, § 1, passed -- 2003; Am. Ord. 898 § 15, passed 11-14-2011)

Section 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Fort Bragg hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

Section 4. Effective Date and Publication. This Ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause a summary of said Ordinance to be published as provided in Government Code Section 36933, in a newspaper of general circulation published and circulated in the City of Fort Bragg, along with the names of the City Council voting for and against its passage.

The foregoing Ordinance was introduced by Councilmember Rafanan at a regular meeting of the City Council of the City of Fort Bragg held on December 9, 2024, and adopted at a regular meeting of the City of Fort Bragg held on the ___ day of January, by the following vote:

**AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:**

**JASON GODEKE
Mayor**

ATTEST:

**Amber Weaver
Acting City Clerk**