



## Council Agenda Report

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Item 6f

**Department:** Community Development  
**Cost Center:** 4006  
**For Agenda of:** 5/21/2024  
**Placement:** Consent  
**Estimated Time:** N/A

**FROM:** Timmi Tway, Community Development Director  
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**SUBJECT:** DECLARATION OF INTENT TO HOLD A PUBLIC HEARING ON JULY 2, 2024, REGARDING 205 CASA STREET/1067 MURRAY AVENUE

### RECOMMENDATION

Adopt a Draft Resolution entitled, “Resolution of the Council of the City of San Luis Obispo finding that the property at 205 Casa Street and 1067 Murray Avenue may constitute a public nuisance, and ordering a public hearing concerning same and abatement thereof” setting a public hearing for July 2, 2024, to consider whether a public nuisance exists at 205 Casa Street and 1067 Murray Avenue.

### POLICY CONTEXT

The Code Enforcement Division is charged with promoting health and safety within the City of San Luis Obispo through various enforcement methodologies. In general, the procedures are designed to gain compliance at the lowest enforcement level possible; however, enforcement may escalate when necessary. San Luis Obispo Municipal Code (SLOMC) Section 8.24 “Nuisance Abatement” sets forth a process to address public nuisances identified within the city to protect public peace, health, safety and general welfare. SLOMC 8.24 clearly designates scenarios in which a public nuisance exists and outlines the steps required for declaring a nuisance and abatement by the city.

The Community Development Director is granted authority to make decisions and interpretations regarding health and safety violations and interpreting applications of the code in violations cited by Code Enforcement Officials (SLOMC 1.24). This authority is often delegated to the Deputy Director/Chief Building Official to carry out such relevant duties. SLOMC 1.24 authorizes the City to issue Administrative Citations for code violations and outlines the policies and procedures regarding escalating code enforcement action.

### DISCUSSION

## Background

SLOMC section 8.24.020 describes the scenarios that constitute a public nuisance which, at the discretion of the city, may be abated in accordance with the nuisance abatement process. These scenarios are as follows:

- A. Any structure, as defined in the Building Code, which exists, or which is maintained or used upon any premises in violation of any requirement or prohibition of any law, ordinance or permit, including, without limitation, requirements or prohibitions related to location, construction, condition, maintenance, use, or time period limitation.
- B. Any premises upon which there exists any condition, thing or use in violation of any requirement or prohibition of any law, ordinance or permit related to the condition, maintenance or use of the premises.
- C. Any unlawful encroachment which obstructs or interferes with the free passage or use by the public of any public sidewalk, street, alley or right-of-way.
- D. The occurrence of more than two loud or unruly assemblages in any sixty-day period that threatens the public peace, health, safety or general welfare and requires a police response to control the threat to the public peace, health, safety, or general welfare. The determination of a public nuisance under this subsection shall expire eighteen months after the date of the resolution ordering abatement as set forth in Section 8.24.110 of this chapter.
- E. As applied to this chapter, the determination of a “response” will be when the police department responds to a location, observes a violation of applicable state or municipal violations, and the tenant is issued a disturbance advisement card, a citation, or is arrested for the applicable violation.
- F. Anything constituting a public nuisance as specifically defined or declared by any other law or ordinance.

## Process for Abatement of a Public Nuisance

The process for abatement of a public nuisance involves, first, the adoption of a resolution by Council declaring that a nuisance may exist at a given parcel (SLOMC 8.24.040.) If, based, on the recommendation by the city administrative officer or department head, Council finds that a nuisance may exist, a public hearing is set via resolution to discuss the details of the potential nuisance. Notification of the hearing is posted on site and mailed to the property owner. (SLOMC 8.24.050-8.24.060.) During the public hearing, City staff will present their evidence regarding the existence of a public nuisance and the cost associated with potential abatement of the declared nuisance if not abated by the property owner within the timeframe established by Council. The property owner and any other witnesses or interested parties will also have the opportunity to present any statements or evidence to Council. (SLOMC 8.24.080.) If Council finds that a nuisance exists, the property owner will be given 30 days, or such other time limit as Council may specify, to remediate the identified violations. (SLOMC 8.24.090.) If the property owner fails to remediate the violations, the City shall abate the violations. (see SLOMC 8.24.100-8.24.120.) All costs associated with an abatement performed by the City will be brought back to Council for confirmation. (SLOMC 8.24.140.)

The property owner shall be personally liable to the City for the abatement costs confirmed by the resolution and, if left unpaid, the abatement costs shall constitute a special assessment against the respective lot or parcel of land to which it relates, and upon recordation in the office of the County Recorder of a notice of lien, shall constitute a lien on the property for the amount of such assessment. (SLOMC 8.24.150.)

**Basis of Staff's Recommendation**

The following information is provided so Council may consider, based on staff's recommendation, whether to declare that a nuisance may exist at 205 Casa Street/1067 Murray, pursuant to SLOMC 8.24.040; Council is not being asked to make affirmative findings as to the condition of the property at this time.

Code Enforcement staff has documented the property located at the southwest corner of the Casa Street and Murray Avenue intersection, Parcel # 001-031-016 consisting of two single family residences with addresses 205 Casa Street & 1067 Murray, to be vacant, in a state of disrepair and largely unmaintained since January 2022. The property is believed to have been vacant since 2015 based on water usage records. The lack of maintenance and control from the property owner has led to over 80 calls for service to the Police Department since 2018, as well as recent Code Enforcement action related to the state of the property. Code Enforcement first inspected the site in January of 2022 after receiving a citizen complaint regarding vacant structures, scattered debris and trespassing by transients. The inspection revealed an accumulation of trash and debris on site, as well as damaged building elements such as missing stairway railings, broken doors and removed doorway barricades.

Between January 2022 and June of 2023, the City of San Luis Obispo's Code Enforcement Division tracked the decline of the property maintenance and the structures on site while maintaining continued communication with the property owner. In June of 2022 Code Enforcement staff issued three administrative citations totaling \$6,400 before receiving contact from the property owner, who, at the time, advised that he was having trouble keeping transients from entering the property. The property owner worked to clean up the exterior of the property through December 2022 but continued to maintain that, as an out of the area owner, he had difficulty in keeping transients off of the property. Numerous issues remained to be addressed regarding maintenance of the structures on site. With the conditions of the property continuing to decline, staff reached out to the property owner multiple times in June of 2023. Staff advised the property owner that if the property condition continued to worsen, the City would consider its remediation options. Between December 2022 and October of 2023, the structure's state of deterioration drastically worsened, with documentation of broken windows, doors, and other structures on site as well as accumulation of trash and debris, overgrown vegetation and continued reports of suspicious and trespass activity. This condition of the property resulted in the issuance of daily fines totaling an additional \$42,000 and rendering it necessary for the issuance of an order for the structure to be boarded up by November 11, 2023.

By November 30th, 2023, the Chief Building Official (CBO) and Code Enforcement Officer observed conditions that were determined to be imminent dangers, such as structurally unsound stairs, missing door hardware, collapsed ceiling and electrical hazards. Staff concluded that these hazards were all related to the unsecure nature of the structures. The conditions presented an unmitigated, imminent danger to the life and health of entrants to the structure and surrounding neighbors. As a result of the imminent danger associated with this structure, the CBO authorized, through contracted services, the installation of temporary safeguards such as disconnection of electrical services and physical boarding of all entry points in compliance with the Boarding Standards found in Appendix A of the International Property Maintenance Code (IPMC) to prevent harm caused by further entry upon the dangerous property.

Since boarding of the structures on site in December of 2023, the code violations remain unresolved. The exterior areas of the property remain open to the public and furniture continues to be dumped on site. The deteriorated state of the property and continued property maintenance violations meet the criteria for the existence of a public nuisance as described in SLOMC 8.24.020(A).

Staff's recommendation is to address the continued activities at this location by first declaring that a public nuisance may exist. Council will have the opportunity to hear evidence and testimony regarding the condition of the property prior to making a final determination regarding the declaration of a public nuisance during the public hearing on July 2, 2024. If the City Council finds that a public nuisance exists on July 2, 2024, the property owner will be given 30 days, or such other time limit as Council may specify, to remediate the identified violations. If no remediation occurs by the stated deadline, the City Clerk will file with the County Recorder a certificate that the property is a public nuisance and that the owner has been notified thereof. City staff will coordinate efforts to remediate all debris, overgrown vegetation, and potentially install fencing to prevent future trespassing. City staff will keep an accounting of abatement costs, which will be submitted to Council for confirmation and assessment against the property. (SLOMC 8.24.140-8.24.150.)

### **Public Engagement**

Though not legally required at this stage, the property owner has been notified, by written notice sent via email, first-class mail to the property owner's last known address, and by telephone on May 1, 2024, of today's Council meeting and staff's recommendation to Council to declare that a public nuisance may exist at this property.

The adoption of the recommended resolution sets forth a public hearing for all interested parties to speak upon the subject. A certified copy of the resolution and Notice of Public Hearing shall be posted on the premises and mailed to the property owner as required by Section 8.24.050-8.24.060 of the Municipal Code.

## CONCURRENCE

The City Attorney's Office, Police Department and Fire Department concur with staff's recommendation.

## ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) does not apply to the recommended action in this report, because the action does not constitute a "Project" under CEQA Guidelines Section 15378.

## FISCAL IMPACT

Budgeted: No

Budget Year: 2023-24

Funding Identified: No

There is no immediate fiscal impact as a result of setting a public hearing. Should Council declare that a public nuisance exists in the subsequent hearing and the property owner does not voluntarily comply, the City would initially incur costs associated with abatement. Final costs would be borne by the property owner and, if reimbursement is not received directly, would constitute a lien upon such premises. The lien shall 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 under foreclosure and sale in case of delinquency as provided for ordinary municipal taxes (SLOMC 8.24.150.) Estimated costs will be presented during public hearing.

### Fiscal Analysis:

Funding Sources	Total Budget Available	Current Funding Request	Remaining Balance	Annual Ongoing Cost
General Fund	\$0	\$0	\$0	\$0
State				
Federal				
Fees				
Other:				
<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## ALTERNATIVES

***Council could decide that there is insufficient information to declare that a public nuisance may exist.*** This action is not recommended by staff because there is ample history to show that the impact of the abandoned, vacant structures has caused and will continue to cause negative impacts to the surrounding area. The property owner has not shown any evidence that he is willing and able to address the continued issues.

## ATTACHMENTS

A - Draft Resolution declaring a public nuisance may exist at 205 Casa/1067 Murray