

**ORDINANCE NO. 523
(AS AMENDED THROUGH 523.3)
AN ORDINANCE OF THE COUNTY OF RIVERSIDE
RELATING TO THE CONTROL OF VECTORS AND
INCORPORATING BY REFERENCE ORDINANCE NO. 725**

The Board of Supervisors of the County of Riverside, State of California, do ordain as follows:

Section 1. DEFINITIONS.

"ENFORCEMENT OFFICER" and "OFFICER" mean the Director of Environmental Health and his or her duly authorized designees.

"PERSON" means any person, corporation, partnership, firm, or legal representative.

"VECTOR" means any animal capable of transmitting the causative agent of human disease or capable of producing human discomfort or injury, including, but not limited to mosquitoes, flies, ticks, bees, wasps, other arthropods, rodents and other vertebrates.

"VECTOR BREEDING HAZARD" means the accumulation, existence or maintenance of any substance, matter, material, or condition known to cause the existence or breeding of vectors in an amount or manner such as to endanger the public health or safety, or to create a public nuisance.

Section 2. On property owned or under their control, no person shall create conditions or permit the accumulation of solid debris, standing water, decaying animal, decaying vegetable or organic matter, excreta from domestic animals or fowls, human excreta, or any other potential harborage for vectors in such a manner as to cause, or known to cause, a vector breeding hazard or the occurrence of excessive vectors. The determination of the presence of excessive vectors or a vector breeding hazard shall be made by the Enforcement Officer. The presence of excessive vectors on the property shall be prima facie evidence that an adverse public health/well-being hazard exists. The person claiming ownership, title, and/or control of the property shall be responsible for the abatement of the vector breeding hazard and any excessive vectors.

Section 3. Pursuant to California Code of Civil Procedure section 1822.50 et seq., and Riverside County Ordinance 725, the Enforcement Officer shall have the authority to enforce this ordinance and shall have the right to enter upon lands other than buildings or dwellings for the purpose of enforcing this ordinance. The Enforcement officer shall make all reasonable attempts to gain voluntary compliance to enter onto the land/property. Entry onto said land/property shall occur for the following reasons:

- (a) Conduct surveillance programs and other appropriate studies of vectors and vector borne diseases.

- (b) Take any and all necessary or proper actions to prevent the occurrence of vectors and vector borne diseases.
- (c) Take any and all necessary or proper actions to abate or control vectors and vector borne diseases so as to minimize the spread of disease from any premises.
- (d) Abate a public nuisance, as defined in Section 2 of Riverside County Ordinance 725.

Section 4. Any person who restrains, hinders, obstructs, or threatens the Enforcement Officer in the performance of that person's duties, or any person who interferes with any work done by, or under the direction of, the Enforcement Officer is guilty of a misdemeanor.

Section 5. Nothing contained in this ordinance shall be construed to authorize any person to maintain a public or private nuisance, or to prevent any proceeding for abatement thereof.

Section 6. ADMINISTRATIVE CITATIONS AND PENALTIES: In addition to the remedies and penalties contained in this Ordinance, and in accordance with *California Government Code* Section 53069.4, and as may be amended, an administrative citation may be issued for any violation of this Ordinance. The following procedures shall govern the imposition, enforcement, collection and administrative review of administrative citations and penalties.

- A. Notice of Violation. If the violation is not corrected within the period stated in the notice of violation, or if the violation creates an immediate danger to health or safety, an administrative citation may be issued by the Enforcement Officer.
- B. Content of Citation. The administrative citation shall be issued on a form approved by County Counsel and shall contain the information listed below. The failure of the citation to set forth all required contents shall not affect the validity of the proceedings.
 - 1. Date, location and approximate time the violation was observed.
 - 2. The Ordinance section violated and a brief description of the violation.
 - 3. The amount of the administrative penalty imposed for the violation.
 - 4. The corrective actions that need to be taken.
 - 5. Instructions for the payment of the penalty, the time period by which it shall be paid, and the consequences of failure to pay the penalty within this time period.
 - 6. Instructions on how to appeal the citation.
 - 7. The signature of the Enforcement Officer.
- C. Service of Citation.
 - 1. If the property owner or other authorized person who has violated the Ordinance is present at the scene of the violation, the Enforcement Officer shall attempt to obtain their signature on the administrative citation and shall deliver a copy of the administrative citation to them. A copy will be mailed to the property owner if the person receiving the administrative citation is not the property owner.

2. If the property owner or other authorized person who has violated the Ordinance cannot be located at the property, then the administrative citation shall be posted in a conspicuous place on or near the property and a copy mailed by certified mail, return receipt requested, to the property owner and/or other authorized person who has violated the Ordinance. The citation shall be mailed to the property address and/or the address listed for the owner on the last County Equalized Assessment Roll.
3. The failure of any interested person to receive the citation shall not affect the validity of the proceedings.

D. Administrative Penalties.

1. The penalties assessed for each violation shall not exceed the following amounts:
 - a. \$100.00 for a first violation;
 - b. \$200.00 for a second violation of this Ordinance within one (1) year from the date of the first violation; and
 - c. \$500.00 for each additional violation of this Ordinance within one (1) year from the date of the first violation.
2. If the violation is not corrected, additional administrative citations may be issued for the same violation. The amount of the penalty shall increase at the rate specified in Section 6.D.1., above.
3. Payment of the penalty shall not excuse the failure to correct the violation nor shall it bar further enforcement action.
4. The penalties assessed shall be payable to the County of Riverside.

E. Administrative Appeal.

1. Notice of Appeal. The recipient of an administrative citation may appeal the citation by filing a written notice of appeal with the Department. The written notice of appeal must be filed within (20) days of the service of the administrative citation. Failure to file a written notice of appeal within this time period shall constitute a waiver of the right to appeal the administrative citation. The notice of appeal shall contain the following information:
 - a. A brief statement setting forth the appellant's interest in the proceedings;
 - b. A brief statement of the material facts which the appellant claims support the contention that no administrative penalty should be imposed or that an administrative penalty of a different amount is warranted;
 - c. An address at which the appellant agrees notice of any additional proceeding or an order relating the imposition of the administrative penalty may be received by mail.
 - d. The notice of appeal must be signed under penalty of perjury by the appellant.
2. Administrative Hearing. Upon a timely written request by the recipient of the administrative citation, an administrative hearing shall be held as follows:
 - a. Notice of Hearing. Notice of the administrative hearing shall be given at least (10) days before the hearing to the person requesting the

hearing. The notice may be delivered to the person or may be mailed to the address listed in the notice of appeal.

- b. Hearing Officer. The administrative hearing shall be held before the Board of Supervisors, the County Hearing Officer or the County Hearing Board. The hearing officer shall not be the Enforcement Officer who issued the administrative citation or said Enforcement Officer's immediate supervisor or subordinate. The Board of Supervisors, the County Hearing Officer or the County Hearing Board may contract with a qualified provider to conduct administrative hearings or to process administrative citations.
- c. Conduct of the Hearing. Except as may be required by the Hearing Officer, the Enforcement Officer who issued the administrative citation is not required to participate in the administrative hearing. The contents of the Enforcement Officer's file in the case shall be admitted as prima facie evidence of the facts stated therein. The Hearing Officer shall not be limited by the technical rules of evidence. If the person requesting the appeal fails to appear at the administrative hearing, the Hearing Officer shall make his or her determination based on the information contained in the notice of appeal and the underlying administrative citation.
- d. Hearing Officer's Decision. The Hearing Officer's decision following the administrative hearing shall be delivered to the person requesting the hearing personally or sent by mail. The Hearing Officer may allow payment of the administrative penalty in installments, if the person provides evidence satisfactory to the Hearing Officer of an inability to pay the penalty in full. The Hearing Officer's decision shall contain instructions for obtaining review of the decision by the superior court.

F. Review of Administrative Hearing Officer's Decision.

- 1. Notice of Appeal. Within twenty (20) days of the date of the delivery or mailing of the hearing officer's decision, a person may contest that decision by filing an appeal to be heard by the Superior Court. The fee for filing the notice of appeal is twenty-five dollars (\$25.00). The failure to file the written appeal and to pay the court filing fee within this period shall constitute a waiver of the right to an appeal and the decision shall be deemed confirmed. A copy of the notice of appeal shall be served in person or by first class mail upon the issuing agency by the contestant.
- 2. Conduct of Hearing. The conduct of the appeal is a subordinate judicial duty and may be performed by traffic trial commissioners and other subordinate judicial officials at the direction of the presiding judge of the court. The appeal shall be heard de novo, except that the contents of the issuing agency's file in the case shall be received in evidence. A copy of the document or instrument of the issuing agency providing notice of the violation and imposition of the administrative penalty shall be admitted into evidence as prima facie evidence of the facts stated therein. The court shall request that the issuing agency's file on the case be forwarded to the court, to be received within fifteen (15) days of the request.

3. Judgment. The court shall retain the twenty-five dollar (\$25.00) filing fee regardless of the outcome of the appeal. If the court finds in favor of the contestant, the amount of the fine or penalty shall be reimbursed to the contestant by the local agency. Any deposit of the fine or penalty shall be refunded by the issuing agency in accordance with the judgment of the court. If the fine or penalty has not been deposited and the decision of the court is against the contestant, the issuing agency may proceed to collect the penalty pursuant to the procedures set forth in this Ordinance, or in any other manner provided by law.

Section 7. SUMMARY ABATEMENT. Pursuant to California Government Code Section 25845(a), and as may be amended, the Enforcement Officer is authorized to summarily abate public nuisances determined by the Officer to constitute an immediate threat to public health, safety or welfare. If an Enforcement Officer summarily abates a public nuisance, he may keep an account of the abatement costs and pursue cost recovery pursuant to Section 10 of this Ordinance. In cases of summary abatement, however, at the hearing to confirm the abatement costs, the Administrative Hearing Officer shall also determine whether a public nuisance existed.

Section 8. CRIMINAL PENALTIES. Any person who neglects or refuses to abate a condition found by the Enforcement Officer to be in violation of this Ordinance within the time specified in a written notice shall be in violation of the provisions of this ordinance and shall be deemed guilty of an infraction or misdemeanor as hereinafter specified. Such person(s) shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this ordinance is committed, continued, or permitted. Any person deemed guilty of violating this ordinance shall be: (1) guilty of an infraction offense and punished by a fine not exceeding one hundred dollars (\$100.00) for a first violation; (2) guilty of an infraction offense and punished by a fine not exceeding two hundred dollars (\$200.00) for a second violation on the same site. (3) The third and any additional violations on the same site shall constitute an infraction or a misdemeanor offense and shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00) or six (6) months in jail, or both. Notwithstanding the above, a first and a second violation may be charged and prosecuted as a misdemeanor. Payment of any penalty herein shall not relieve an individual from the responsibility for correcting the violation.

Section 9. CIVIL ACTIONS

- A. Injunctive Relief and Abatement. Whenever, in the judgment of the Enforcement Officer, any person is engaged in any act or practice which constitutes or will constitute a violation of any provision of this Ordinance, or any rule, regulation, order, permit or conditions of approval issued thereunder, upon the request of the Enforcement Officer, the County Counsel or District Attorney may commence proceedings for the abatement, removal, correction and enjoinder thereof, and require the violator to pay civil penalties and/or abatement costs.
- B. Civil Remedies and Penalties. Any person, whether acting as principal, agent, employee, owner, lessor, lessee, tenant, occupant, operator, contractor or

otherwise, who willfully violates the provisions of this Ordinance or any rule, regulation, order or conditions of approval issued thereunder, shall be liable for a civil penalty not to exceed \$1,000.00 for each day or portion thereof, that the violation continues to exist. In determining the amount of the civil penalty to impose, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the violator, whether corporate or individual, and any corrective action taken by the violator.

Section 10. ABATEMENT COSTS AND DAMAGES. Any person, whether acting as a principal, agent, employee, owner, lessor, lessee, tenant, occupant, operator or contractor, or otherwise, violating any provisions of this Ordinance or the rules, regulations, orders, permits or conditions of approval issued thereunder, shall be liable to the County of Riverside for costs of abatement, including attorney's fees, and any damages suffered by the County, its agents and agencies, as a result of such violations, following the procedure outlined in Ordinance 725, and as may be amended.

Section 11. RECOVERY OF ATTORNEYS' FEES IN NUISANCE ABATEMENT CASES. In any action, administrative proceeding, or special proceeding to abate a nuisance pursuant to this Ordinance attorneys' fees may be recovered by the prevailing party. 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.

Section 12. RECORDATION OF NOTICES IN ABATEMENT PROCEEDINGS.

A. NOTICE OF PENDENCY.

1. Whenever the County institutes a judicial action or proceeding to enforce this Ordinance, a Notice of Pendency ("Notice") of the action or proceeding may be filed with the County Recorder's Office. The Notice may be filed at the time of the commencement of the action or proceeding and upon recordation of the Notice, shall have the same effect as a notice recorded in compliance with Section 405.20 et seq. of the California Code of Civil Procedure, and as amended.
2. Upon motion of a party to the judicial action or proceeding, the Notice of Pendency may be vacated upon an appropriate showing of need therefore by an order of a judge of the Court in which the action or proceeding is pending.

B. NOTICE OF PENDENCY OF ADMINISTRATIVE PROCEEDINGS.

1. Whenever a Notice of Violation has issued pursuant to this Ordinance, the Enforcement Officer may record a Notice of Pendency of Administrative Proceedings with the Office of the County Recorder and shall notify the owner of the property of such action.
2. The Notice of Pendency of Administrative Proceedings shall describe the real property, shall set forth the non-complying conditions, and shall state that all current or subsequent owners of the property may be liable for abatement costs pertaining to any violation of this ordinance and that the abatement

costs may be affixed as a lien and special tax assessment on the real property.

3. A Release of Notice of Pendency of Administrative Proceedings may be recorded after the Enforcement Officer has confirmed that each violation described in the Notice of Pendency of Administrative Proceedings has been abated and all related abatement costs have been reimbursed to the County.

C. NOTICE OF NON COMPLIANCE. Any Notice of Non Compliance issued or recorded by the Enforcement Officer in abatement proceedings prior to the effective date of this Ordinance Amendment shall remain in full force and effect.

Section 13. REMEDIES AND PENALTIES. All remedies and penalties provided for herein shall be cumulative and not exclusive. The conviction and punishment of any person hereunder shall not relieve such person from the responsibility of correcting removing or abating the violation, nor prevent the enforced correction, removal or abatement thereof. Each and every day during any portion of which any violation of this Ordinance or the rules, regulations, orders, Permits or conditions of approval issued thereunder is committed, continued, or permitted by such person, shall be deemed a separate and distinct offense.

Section 14. SEVERABILITY. If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of the provisions of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are hereby declared to be severable.

Section 15. EFFECTIVE DATE. The ordinance shall take effect 30 days after its adoption.

Adopted: 523 03/30/1970 (Eff: 04/29/1970)

Amended: 523.1 Item 3.6 of 08/01/1989 (Eff: 08/31/1989)

523.2 Item 15.7 of 05/22/2007 (Eff: 06/21/2007)

523.3 Item 3.35 of 04/11/2017 (Eff: 05/11/2017)