

**ORDINANCE NO. 725
(AS AMENDED THROUGH 725.14)
AN ORDINANCE OF THE COUNTY OF RIVERSIDE
ESTABLISHING PROCEDURES AND PENALTIES FOR VIOLATIONS
OF RIVERSIDE COUNTY ORDINANCES AND PROVIDING FOR
REASONABLE COSTS RELATED TO ENFORCEMENT**

Section 1. DEFINITIONS. For the purpose of this Ordinance, certain words are defined as follows:

- a. The term “Land Use Ordinance(s)” shall include Riverside County Ordinance Nos. 348, 413, 421, 427, 449, 457, 458, 460, 465, 492, 508, 520, 523, 525, 527, 541, 551, 555, 559, 576, 578, 580, 615, 617, 630, 640, 650, 651, 655, 657, 660, 679, 682, 689, 695, 704, 712, 742, 743, 745, 754, 771, 806, 812, 817, 830, 853, 857, 878 and 881.
- b. The term “Enforcement Officer” shall include the Transportation and Land Management Agency Director, Community Health Agency Director, Building Official, Code Enforcement Department Director, Environmental Health Department Director, Department of Animal Services Director, Agricultural Commissioner, Fire Chief, Clerk of the Board of Supervisors, Sheriff and their designees.
- c. The term “person” means any natural person, firm, association, club, organization, corporation, partnership, business trust, company or other entity which is recognized by law as the subject of rights or duties.
- d. The term “Responsible Party” means: 1) each person committing the violation or causing a condition on a parcel of real property located within the jurisdiction of the County of Riverside which violates a Riverside Land Use Ordinance; 2) each person who has an ownership interest in that property; or 3) each person who, although not an owner, nevertheless has a legal right or a legal obligation to exercise possession and control over that property. In the event the person who commits the violation or causes the violating condition is a minor, then the minor’s parents or legal guardian shall be deemed the Responsible Party. In the event the violation or violating condition is most reasonably attributable to a business, then that business, to the extent it is a legal entity such that it can sue and be sued in its own name, and each person who is an

- owner of that business shall be deemed Responsible Parties.
- e. The term “abatement costs” means any costs or expenses, including County staff time reasonably related to the abatement of conditions which violate Land Use Ordinances, and shall include, but not be limited to, enforcement, investigation, summaries, reports, notices, telephonic contact, correspondence, mailing expense, title search costs, administrative costs including scheduling and participation at hearings, Hearing Officer costs, expenses incurred by the County, court costs, civil or administrative penalties, collection, attorneys fees, and other costs associated with the removal, abatement or correction of a violation.
 - f. The term “permit” means any document issued by the County granting a person a license or right to do something, including but not limited to Building Permits, Conditional Use Permits, Plot Plans, Public Use Permits, Variances, WECS Permit or Accessory WECS Permit or other development or land use approvals or permits, or any grant of authority to do a thing or maintain or otherwise use real property in a manner not forbidden by law, but not allowable without such authority.
 - g. The term “Administrative Hearing Officer” refers to either the County Board of Supervisors, County Hearing Officer established pursuant to Ordinance No. 643 or County Hearing Board, as the entity conducting a hearing authorized by this Ordinance and issuing a written recommendation or decision.

Section 2. ABATEMENT OF PUBLIC NUISANCES. Any condition on public or private property located within the unincorporated areas of the County of Riverside which is caused, maintained or permitted to exist in violation of any provision of a Land Use Ordinance shall be and the same is hereby declared unlawful and a public nuisance that may be abated consistent with the procedures provided for in this Ordinance, or in any other manner provided by law. Enforcement Officers are authorized to investigate conditions on or pertaining to real or personal property or other activities to determine the existence of violations and to enforce Land Use Ordinances as provided for herein.

Section 3. NON-EXCLUSIVE REMEDIES AND PENALTIES. All remedies and penalties for the abatement of public nuisances provided for in this Ordinance shall be cumulative and not exclusive. Enforcement by use of any administrative, criminal or civil action, citation or administrative proceeding or abatement remedy does not preclude the use of additional citations or other remedies as authorized by other ordinance or law. Enforcement remedies may be employed concurrently or consecutively. Conviction and punishment of or enforcement against any person hereunder shall not relieve such

person from the responsibility of correcting, removing or abating a violation, nor prevent the enforced correction, removal or abatement thereof. Each and every day, or any portion thereof, during which any violation of a Land Use 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 4. AUTHORITY TO INSPECT. Enforcement Officers are authorized to enter any real or personal property or premises within the unincorporated area of the County to investigate and ascertain whether the property or premises is in compliance with Land Use Ordinances, and to make any inspection as may be necessary in the performance of their enforcement duties. These investigation activities may include visual inspections, taking of photographs, taking samples or other physical evidence, and the making of video and/or audio recordings. All such entries and inspections shall be done in a reasonable manner. If an owner, lawful occupant or the respective agent thereof refuses permission to enter and/or inspect, the Enforcement Officer may seek an Administrative Inspection Warrant pursuant to the procedures provided by *California Code of Civil Procedure* Section 1822.50 *et seq.* and as may be amended. All costs incurred by the County in seeking and obtaining an Administrative Inspection Warrant shall be recoverable as abatement costs.

Section 5. 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 7 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 6. ADMINISTRATIVE ABATEMENT-PROCEDURE. When a condition on real property is deemed by the Enforcement Officer to constitute a violation of a Land Use Ordinance constituting a public nuisance and existing on property within the unincorporated area of the County of Riverside, the Enforcement Officer is authorized to initiate an administrative abatement proceeding as follows:

- a. **NOTICE OF VIOLATION.** A Notice of Violation shall be issued to the property owner and any other Responsible Party ordering the abatement of the violative condition(s) within fifteen (15) days of giving notice in a manner set forth in Section 9 of this Ordinance. The Notice shall specify the manner in which the conditions on the property violate the provisions of Land Use Ordinances and the corrective actions required to abate the violation. The Notice shall also state that failure to bring the property into compliance with Land Use Ordinances could subject the owner and other Responsible Parties to administrative, civil and criminal penalties and could result in the imposition of a lien and special tax assessment against the property for abatement

costs related to the enforcement of the Land Use Ordinances and abatement of the violative conditions. The failure of the Notice to set forth all required contents shall not affect the validity of the proceedings.

b. **RIGHT OF MORTGAGEE OR BENEFICIARY TO COMPLY IF OWNER FAILS TO DO SO.** If the property is encumbered by a mortgage or deed of trust of record, and the owner of the property shall not have complied with the Notice of Violation on or before the expiration of fifteen (15) days after service of the Notice of Violation described in Subsection a. of this Section, the mortgagee or beneficiary under a recorded deed of trust may, within fifteen (15) days thereafter, act pursuant to the requirements of the Notice of Violation.

c. **SECOND NOTICE.** If the Notice of Violation is not complied with according to the time periods set forth in this Section, the Enforcement Officer shall give a second notice to all parties concerned in the same manner as set forth in Section 9 of this Ordinance, which notice shall be entitled “Notice of Hearing Re: Land Use Ordinance Violation(s) and Abatement of Public Nuisance.” The Notice shall direct the property owner and other Responsible Parties to appear at a hearing at a stated date, time and place to show cause why the conditions on the property should not be abated. The hearing shall be set not less than fifteen (15) days after the posting and mailing of the second notice. The failure of any property owner or any other Responsible Party to receive such notice shall not affect the validity of the proceedings.

d. **HEARING.**

(1) The hearing provided for in this Section shall be conducted in the manner set forth in Section 10 of this Ordinance and pursuant to the following:

a) Upon the conclusion of the hearing, the Administrative Hearing Officer shall render its decision not later than thirty (30) days thereafter and shall make Findings and Conclusions, and in the event that it so concludes, it may declare the property, or the conditions thereon, to be in violation of Land Use Ordinances and to be a public nuisance. The Administrative Hearing Officer may direct the owner to abate the conditions declared in violation.

b) The Administrative Hearing Officer may further order that if the conditions declared to be in violation are not abated within the time frame ordered, that the

conditions may be abated by the County and the costs of abatement shall be placed as a lien on the property and may be collected by a Special Tax Assessment against the property pursuant to *California Government Code* Section 25845, and as may be amended, or by any other means provided by law.

- c) The Enforcement Officer shall issue a copy of the Administrative Hearing Officer's decision to the property owner and other Responsible Parties concerned in the same manner as set forth in Section 9 of this Ordinance, and shall file a proof of service with the Clerk of the Board.
- e. **TIME TO BRING ACTION.** Unless the property owner or other Responsible Party presents an action in a court of competent jurisdiction within ninety (90) days after issuance of the decision of the Administrative Hearing Officer contesting the validity of any administrative abatement proceedings leading up to and including the decision of the Administrative Hearing Officer, all objections to the proceedings and decision shall be deemed to have been waived.
- f. **COST RECOVERY.** All abatement costs incurred by the County pursuant to this Section shall be reimbursed as set forth below in Section 7 of this Ordinance.

Section 7. ABATEMENT COST RECOVERY. All abatement costs, administrative costs and related penalties or assessments in any enforcement action to abate public nuisances as stated shall be recovered.

Any person, whether acting as a principal, agent, employee, owner, lessor, lessee, tenant, occupant, operator or contractor, or otherwise, who causes, allows or maintains a violation of any provision of a Land Use Ordinance or the rules, regulations, orders, permits or conditions of approval issued pursuant thereto, shall be liable to the County of Riverside for abatement costs including, but not limited to administrative and civil penalties and any other damages suffered by the County, its agents and agencies, as a result of such violation.

Successor owners of any real property on which an administrative, civil, criminal or other abatement proceeding has commenced shall be liable to the County for reimbursement of all abatement costs if any notice, as set forth in Section 14 of this Ordinance, has been recorded in the Office of the County Recorder prior to transfer of ownership of the real property to the successor owner.

Each County Department shall maintain records of abatement and administrative costs incurred and associated with the processing of violations and enforcement of Land Use Ordinances and shall recover such costs from the property owner or other Responsible Party as provided herein or by any other legal remedy.

- a. STATEMENT OF ABATEMENT COSTS. At any time during the pendency of administrative, civil or criminal enforcement of a violation of a Land Use Ordinance, cost recovery of all abatement costs, penalties and assessments may be recovered through collection, civil action or as follows:
 - (1) The Enforcement Officer shall prepare a verified Statement of Abatement Costs showing all abatement costs, administrative costs, Administrative Citation Penalties, civil penalties, assessments and attorneys' fees and shall demand payment of said costs within thirty (30) days.
 - (2) The Statement of Abatement Costs shall be issued to the property owner and any other Responsible Party in the same manner as set forth in Section 9 of this Ordinance.
 - (3) Any property owner or other Responsible Party who receives a Statement of Abatement Costs shall have the opportunity to contest the Statement of Abatement Costs by requesting a hearing. Notice of the opportunity for hearing, together with a form to request a hearing shall be provided with the Statement of Abatement Costs.
- b. REQUEST FOR HEARING. A request for hearing shall be filed with the issuing County Department within fifteen (15) days of service by mail of the Statement of Abatement Costs, on a form provided by the issuing County Department.
- c. HEARING. The hearing required by this Section shall be held before the Hearing Officer as set forth in Section 10 of this Ordinance and shall be conducted in the manner set forth therein.
- d. DECISION. In determining the validity of the abatement costs, the Hearing Officer shall consider whether the abatement costs are reasonable based on the circumstances of the case. A copy of the decision shall be filed with the Clerk of The Board of Supervisors and mailed to the property owner and any other Responsible Party in the same manner set forth herein at Section 9.
- e. ABATEMENT LIEN AND SPECIAL ASSESSMENT. If payment is not made within ten (10) days after the Hearing Officer's decision is issued, the Enforcement Officer shall transmit the Statement of Abatement Costs and the Hearing Officer decision to the County Auditor, who shall place the amount thereof on the Assessment roll as a Special Assessment to be paid with County taxes, unless sooner paid. At the same time, the Enforcement Officer shall file with County Recorder a Notice of Abatement Lien, describing the real property affected, a summary of the action taken to abate

- the violative condition(s), if any, and the amount of the lien claimed by the County.
- f. **RELEASE OF LIEN OR SPECIAL ASSESSMENT.** Upon payment in full of the abatement costs the Enforcement Officer shall execute and record with the County Recorder a release of any recorded lien. If an assessment has been placed on the Assessment Roll and is thereafter paid, the Enforcement Officer shall notify the County Auditor, who shall cancel the assessment on the tax roll.
 - g. **REIMBURSEMENT OF COSTS.** The Enforcement Officer is authorized to pay from funds appropriated to him the cost of a title search to determine the Responsible Parties, if any, mailing expenses, and abatement costs for all work done or caused to be done in the abatement of the violative condition(s). All such costs shall be included in the verified Statement of Abatement Costs.
 - h. **COLLECTION.** Alternatively, if payment of the amount demanded in the Statement of Abatement Costs is not received within thirty (30) days, the Enforcement Officer may refer the debt to a collection agency licensed by the State of California in accordance with *California Government Code* Section 26220(a), and as may be amended.

Section 8. ADMINISTRATIVE CITATIONS AND PENALTIES. In addition to other 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 by an Enforcement Officer for any violation of Land Use Ordinances. The following procedures shall govern the imposition, enforcement, 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 issued pursuant to Section 6, an Administrative Citation may be issued by the Enforcement Officer.
- b. **CONTENT OF CITATION.** The Administrative Citation shall contain the following information:
 - (1) Date, location and approximate time the violation was observed.
 - (2) The Land Use Ordinance violated and a brief description of the violation.
 - (3) The amount of the Administrative Penalty imposed for the violation.
 - (4) Instructions for the payment of the Administrative Penalty, and the time period by which it shall be paid and the consequences of failure to pay the Administrative Penalty within this time period.
 - (5) Instructions on how to appeal the Administrative Citation.

- (6) The signature of the Enforcement Officer.
- (7) The failure of the Administrative Citation to set forth all required contents shall not affect the validity of the Administrative Citation or any proceedings to enforce said Citation.

c. SERVICE OF ADMINISTRATIVE CITATION.

- (1) If the property owner or other Responsible Party who has violated a Land Use Ordinance is present at the scene of the violation, the Enforcement Officer shall attempt to obtain his signature on the Administrative Citation and shall personally deliver a copy of the Administrative Citation to him. If the person receiving the Administrative Citation is not the property owner, then a copy shall be mailed to the property address or the address listed for the property owner on the last County Equalized Assessment Roll.
- (2) If the property owner or other Responsible Party who has violated a Land Use Ordinance is a business, and the business owner is on the premises, the Enforcement Officer shall attempt to deliver the Administrative Citation to the business owner. If the Enforcement Officer is unable to serve the business owner on the premises, the Administrative Citation may be left with the manager or employee of the business and a copy of the Administrative Citation shall also be mailed to the business owner or its authorized agent.
- (3) If no one can 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 to the property owner at the property address or the address listed for the property owner on the last County Equalized Assessment Roll or other Responsible Party who has violated the Land Use Ordinances at the last known address.
- (4) The failure of a property owner or Responsible Party to receive an Administrative Citation shall not affect the validity of the Administrative Citation or proceedings to enforce said Citation.

d. ADMINISTRATIVE CITATION PENALTIES. Penalties shall be assessed and considered as part of abatement costs as follows:

- (1) \$100.00 for a first violation;
- (2) \$200.00 for a second violation of the same Land Use Ordinances on the same real property within twelve (12) months after the Administrative Citation for the first violation is issued; and
- (3) \$500.00 for each additional violation of the same Land

Use Ordinances on the same real property within twelve (12) months after the Administrative Citation for the first violation is issued.

- (4) If the violation is not corrected, additional Administrative Citations may be issued for the same violation as authorized by Section 3 of this Ordinance. The amount of the penalty shall increase at the rate set forth in Subsection d.(3) of this Section.
- (5) Payment of the Penalty shall neither excuse the failure to correct the violation nor bar further enforcement action.
- (6) Any penalties assessed shall be payable to the County.

e. APPEAL OF ADMINISTRATIVE CITATIONS AND PENALTIES.

(1) Notice of Appeal. The recipient of an Administrative Citation may appeal the validity of the Citation and resulting penalties by filing a written Notice of Appeal with the County Department that issued the Administrative Citation. The written Notice of Appeal must be filed within twenty (20) days of service of the Administrative Citation as set forth in Subsection c. of this Section. The Notice of Appeal shall be accompanied by either an advance deposit of the Penalty imposed or a Request for Advance Deposit Hardship Waiver as set forth herein below. Failure to properly 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 be submitted on a form provided by the County Department that issued the Administrative Citation and 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 a contention that no violation exists and 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 that notice of any additional proceeding or an order relating to the imposition of the Administrative Penalty may be received by mail; and
- d) The Notice of Appeal must be signed by the appellant under penalty of perjury.

(2) Advance Deposit Hardship Waiver.

- a) Any person filing a Notice of Appeal to contest an Administrative Citation and who is financially unable to make the advance deposit of the penalty as required, may submit a Request For Advance Deposit Hardship Waiver with the Notice of Appeal.
 - b) The Request For Advance Deposit Hardship Waiver shall be filed with the County Department that issued the Administrative Citation on a form provided by the same County Department. The request shall be documented by a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the Enforcement Officer the person's actual financial inability to deposit the full amount of the Administrative Penalty in advance of the hearing.
 - c) The requirement of depositing the full amount of the Penalty shall be stayed for ten (10) days pending a determination by the Enforcement Officer of the approval or denial of the Request For Advance Deposit Hardship Waiver.
 - d) The Enforcement Officer shall issue a written determination listing the reasons for the approval or denial of the Request For Advance Deposit Hardship Waiver. The written determination shall be mailed to the appellant at the address provided in the Request.
 - e) If the Enforcement Officer denies a Request For Advance Deposit Hardship Waiver, the appellant shall remit the deposit to the County within fifteen (15) days of the date of mailing notice of the denial.
 - f) The written determination of the Enforcement Officer shall be final.
- (3) Hearing on Appeal of Administrative Citation. Upon receipt of a timely Notice of Appeal of an Administrative Citation, an appeal hearing shall be held before an Administrative Hearing Officer to consider the issuance of the Administrative Citation and imposition of penalties. The appeal hearing shall be conducted

pursuant to the provisions set forth in Section 10 of this Ordinance.

- (4) Administrative Hearing Officer's Decision. The Administrative Hearing Officer shall issue a written decision following the appeal hearing which shall be issued to the appellant in the manner set forth in Section 9 of this Ordinance or to the appellant's address set forth in the Notice of Appeal. If the Administrative Citation is determined to have been valid at the time of its issuance, the Administrative Hearing Officer shall set the penalty amount pursuant to Subsection d. of Section 8 of this Ordinance, and order said penalties to be paid within fifteen (15) days of issuance of the Administrative Hearing Officer's decision.

- a) The Administrative Hearing Officer is authorized to order the penalties to be placed as a recorded lien against the real property subject to the Administrative Citation and authorize the penalties to be placed as a Special Assessment on the County Tax Assessment Roll to be paid with County taxes, unless sooner paid.
- b) The Administrative Hearing Officer's decision shall contain instructions for obtaining judicial review of the decision as set forth below.

- (5) Judicial Review of Administrative Hearing Officer's Decision On Administrative Citation.

- a) Notice of Appeal of the Administrative Hearing Officer's Decision. Within twenty (20) days of the date of issuance of the final decision, the appellant may contest an Administrative Hearing Officer's decision by filing an appeal in the Riverside County Superior Court. The fee for filing the appeal is twenty-five dollars (\$25.00) and shall be paid to the Clerk of the Court. The failure to file the written appeal and to pay the filing fee within this period shall constitute a waiver of the right to an appeal and the decision shall be deemed final and confirmed. A copy of the Notice of Appeal of the Administrative Hearing Officer's Decision filed in the Riverside County Superior Court shall be served in person or by first

class mail upon the County Department that issued the Administrative Citation by the appellant.

b) Conduct of Hearing. The conduct of the appeal hearing 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 Riverside County Superior Court. The appeal shall be heard de novo, and the contents of the file of the County Department that issued the Administrative Citation shall be received into evidence. A copy of the Notice of Violation, Administrative Citation and Hearing Officer's Decision shall be admitted into evidence as prima facie evidence of the facts stated therein. The Court shall request that the County Department's file be forwarded to the Court, to be received within fifteen (15) days of the request.

c) Judgment. The Court shall retain the twenty-five dollar (\$25.00) fee regardless of the outcome of the appeal. If the Court finds in favor of the appellant, the amount of the fee shall be reimbursed to the appellant by the County in accordance with the judgment of the Court. If the penalty has not been deposited and the decision of the Court is against the appellant, the County Department that issued the Administrative Citation may proceed to collect the penalty pursuant to the abatement cost recovery procedures set forth in this Ordinance.

f. **COLLECTION OF ADMINISTRATIVE CITATION PENALTIES WHEN NO APPEAL HEARING IS REQUESTED.**

(1) If the Administrative Citation Penalties are not timely paid and no Notice of Appeal is filed by the date set forth on the Administrative Citation then additional costs shall be assessed by the Enforcement Officer to recover administrative costs. These administrative costs include, but are not limited to costs of obtaining a title report, recording fees, noticing, scheduling and

participating in further hearings, collection activities or other costs incurred to recover the Administrative Citation Penalties.

- (2) A "Notice Of Delinquent Administrative Citation Penalties and Special Tax Assessment" shall be issued to the property owner and other Responsible Party who received the Administrative Citation in the same manner as set forth in Section 9 of this Ordinance. Said notice shall provide an opportunity to request a hearing regarding only the amount of penalties to be assessed as a special tax assessment. The request for hearing shall be submitted to the County Department issuing the Administrative Citation within twenty (20) days of issuance of the Notice of Delinquent Administrative Citation Penalties and Special Tax Assessment and shall include the proper form to be used to request a hearing. Any hearing set pursuant to this Subsection shall be conducted pursuant to Section 10 of this Ordinance. If a request for hearing is not timely or properly submitted, the right to a hearing concerning the amount of penalties assessed shall be considered waived.

Section 9. NOTICES. Unless otherwise specifically provided for in any other Section of this Ordinance, notices shall be issued in the following manner:

- a. **SERVICE OF NOTICE.** Notices required pursuant to this Ordinance may be served in any of the following methods:
 - (1) Personal service; or
 - (2) By posting a copy of the notice in a visible place on the property and mailing a copy to the property owner as such person's name and address appears on the last County Equalized Assessment Roll. If notice is mailed to a Responsible Party other than the property owner then the notice may be mailed to the last known address. If the address of any such person is unknown, that fact shall be stated in the copy so mailed and it shall be addressed to the person at the county seat. Service by mail and posting shall be deemed complete five days after the date of deposit in the mail and posting, whichever is later.
- b. **FAILURE TO RECEIVE NOTICE.** The failure of any property owner or any other Responsible Party to

receive such notice shall not affect the validity of the abatement proceedings.

Section 10. ADMINISTRATIVE HEARINGS. In addition to other specific hearing requirements set forth in this Ordinance, hearings shall be generally conducted as follows:

- a. NOTICE. A notice of the date, time, and place of the hearing to be conducted by the Administrative Hearing Officer shall be issued pursuant to the provisions of Section 9 of this Ordinance and filed with the Clerk of the Board. The hearing shall be set not less than ten (10) days after issuance of the notice.
- b. ADMINISTRATIVE HEARING OFFICER. Pursuant to *California Government Code* Section 25845 and as may be amended, the hearing may be conducted by either the Board of Supervisors, the County Hearing Officer or the County Hearing Board as follows:
 - (1) When the Board of Supervisors conducts an Administrative Hearing, the Board shall consider the violations of Land Use Ordinances, abatement orders, Administrative Citations, and recovery of abatement costs, including if applicable, ordering the Enforcement Officer to record a lien against the real property subject to the abatement proceeding and authorizing the costs to be placed as a Special Assessment on the County Tax Assessment Rolls. The Board of Supervisors shall render a written decision within thirty (30) days after a hearing, setting forth findings and conclusions which shall be the record of the proceeding and filed with the Clerk of the Board. The written decision shall be issued to the property owner or any other Responsible Party who requested the hearing in the manner set forth in Section 9 of this Ordinance. Said decision shall include also specify the time allowed for judicial appeal of the decision rendered by the Board of Supervisors. A decision rendered by the Board of Supervisors is a final administrative determination on the matter.
 - (2) The Board of Supervisors hereby delegates to the County Hearing Officer the authority to conduct Administrative Hearings. Said delegation shall include, but shall not be limited to all matters set forth in Subsection b.(1) of this Section. A decision rendered by the County

Hearing Officer is a final administrative determination on the matter.

- (3) The Board of Supervisors further delegates its authority herein to a County Hearing Board, as may be designated by the Board of Supervisors, to conduct Administrative Hearings. Within fifteen (15) days following the conclusion of the hearing the County Hearing Board shall submit a written recommendation to the Board of Supervisors including any findings or conclusions pertaining thereto. A copy of the written recommendation shall be issued to the property owner or other Responsible Party who requested the hearing and shall become the record of the proceeding. The Board of Supervisors may adopt the recommended decision of the County Hearing Board without further notice of hearing, or may set the matter for a de novo hearing before the Board of Supervisors with notice thereof to the property owner or other Responsible Party.
- (4) The Administrative Hearing Officer's decision may be recorded in the office of the County Recorder.

c. CONDUCT OF THE HEARING. At the time fixed for the Administrative Hearing, the Administrative Hearing Officer shall consider all relevant documents, statements, and objections, written or oral, which may be submitted by the County, property owner(s) or other Responsible Parties.

- (1) A property owner or other Responsible Party may be represented by another person who need not be an attorney, but any such representation shall be indicated on the record. Any non-attorney representing a property owner or other Responsible Party not present at the Administrative Hearing, shall submit a verified statement sufficient to evidence the consent of the absent person represented.
- (2) The Enforcement Officer who issued the notice or Administrative Citation shall not be required to personally attend but may participate in the hearing. Documents from the Enforcement Officer's file in the case shall be admitted as prima facie evidence of the facts stated therein.
- (3) The Administrative Hearing Officer shall not be limited by the technical rules of evidence.

- (4) If the property owner or other Responsible Party requesting the appeal fails to appear at the Administrative Hearing, the Hearing Officer shall make a determination based on the information submitted.
- d. CONTINUANCE OF THE ADMINISTRATIVE HEARING. The Administrative Hearing Officer may grant an extension of time to continue the hearing based on good cause.
- e. TIME TO BRING ACTION. Unless the property owner or other Responsible Party presents an action in a court of competent jurisdiction within ninety (90) days after issuance of the final decision of the Administrative Hearing Officer contesting the validity of any administrative abatement proceedings leading up to and including the decision of the Administrative Hearing Officer, all objections to the proceedings and decision shall be deemed to have been waived.

Section 11. CIVIL ACTIONS.

- a. INJUNCTIVE RELIEF AND ABATEMENT. Whenever, in the judgment of the Enforcement Officer, any person is engaged in or about to engage in any act or practice which constitutes or will constitute a violation of any provision of a Land Use Ordinance or any rule, regulation, order, permit or conditions of approval, the County Counsel or District Attorney may commence judicial proceedings for the abatement, removal, correction and enjoinder thereof, and requiring the violator to pay civil penalties as set forth herein below as part of the 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 any Land Use Ordinance or any rule, regulation, order or conditions of approval issued thereunder by committing, causing, allowing, maintaining, continuing or otherwise permitting a violation of any Land Use Ordinance 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.

Section 12. CRIMINAL ACTIONS.

- a. It shall be unlawful for any person to violate any provision of a Land Use Ordinance, or to violate any provision of any permit or condition of approval granted

pursuant to the Ordinance. Any person violating any provision of a Land Use Ordinance, or any permit or condition of approval granted pursuant thereto shall be deemed guilty of an infraction or misdemeanor as hereinafter specified. Such person shall be deemed guilty of a separate offense for each and every day, or portion thereof, during which any violation of any provision of a Land Use Ordinance, or violation of any provision of any permit granted pursuant to the same Ordinance, is committed, continued, maintained or permitted.

- b. **INFRACTION OR MISDEMEANOR.** Any person so convicted shall be:
- (1) Guilty of an infraction offense and punished by a fine not exceeding one hundred dollars (\$100) for a first violation;
 - (2) Guilty of an infraction offense and punished by a fine not exceeding two hundred dollars (\$200) for a second violation on the same real property and perpetrated by the same person within twelve (12) months of the first offense. The third and any additional violations on the same real property and perpetrated by the same person within twelve (12) months of the first offense shall constitute a misdemeanor offense and shall be punishable by a fine not exceeding one thousand dollars (\$1,000) or six months in jail, or both.
 - (3) Notwithstanding the above, a first offense may be charged and prosecuted as a misdemeanor.
 - (4) Payment of any penalty herein shall not relieve a person from the responsibility for correcting the violation.

Section 13. TREBLE DAMAGES. Upon a second or subsequent civil or criminal judgment for a violation of a Land Use Ordinance within a two year period a violator shall be liable to the County for treble the abatement costs, in accordance with *Government Code* Section 25845.5, and as amended.

Section 14. RECORDATION OF NOTICES IN ABATEMENT PROCEEDINGS.

- a. **NOTICE OF PENDENCY.**
- (1) Whenever the County institutes a judicial action or proceeding to enforce a Land Use Ordinance, a Notice of Pendency 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 Land Use Ordinances 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 15. RECOVERY OF ATTORNEYS' FEES IN ABATEMENT PROCEEDINGS. In any action, administrative proceeding, or other proceeding to abate a nuisance pursuant to this Ordinance or to collect costs or penalties associated thereto, 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 abatement action or proceeding.

Section 16. PARKING VIOLATION AND PENALTIES; PROCEDURE; CONFLICT

- a. **ENFORCEMENT.** Except as provided in Subsection b. of this Section, any violation of any regulation governing the standing or parking of a vehicle under a Land Use Ordinance occurring within the jurisdictional limits of the County is subject to a civil or Administrative Penalty, the enforcement of which, including procedures, remedies, and recovery of costs related to enforcement, shall be governed by this Ordinance.
- b. **VEHICLE CODE GOVERNS.** If there is any conflict or variance in the requirements of this Ordinance and the applicable provisions of the *California Vehicle Code* governing procedures for parking violations, commencing with Section 40200 *et seq.*, the *California Vehicle Code* shall apply.

Section 17. SEVERABILITY. If any provision, clause, sentence, paragraph or provision of this Ordinance or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other 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.

This Ordinance shall take effect thirty (30) days after its adoption.

Adopted:

725 Item 3.7 of 02/02/1993 (Eff: 03/04/1993)

Amended:

- 725.1 Item 3.4 of 07/13/1993 (Eff: 08/12/93)
- 725.2 Item 3.9 of 10/18/1994 (Eff: 11/17/94)
- 725.3 Item 3.4 of 11/29/1994 (Eff: 12/29/94)
- 725.4 Item 3.1b of 11/14/1995 (Eff: 12/14/95)
- 725.5 Item 3.10 of 04/29/1997 (Eff: 05/29/97)
- 725.6 Item 3.5 of 10/07/1998 (Eff: 11/27/1998)
- 725.7 Item 3.18 of 09/07/1999 (Eff: 10/07/99)
- 725.8 Item 3.17 of 09/26/2000 (Eff: 10/26/2000)
- 725.9 Item 3.46 of 10/07/2003 (Eff: 11/06/2003)
- 725.10 Item 3.35 of 01/04/2005 (Eff: 02/03/2005)
- 725.10 Item 3.3 of 10/03/2006 (Eff: 11/02/2006)
- 725.11 Item 3.24 of 10/03/2006 (Eff: 11/02/2006)
- 725.12 Item 15.13 of 05/22/2007 (Eff: 06/21/2007)
- 725.13 Item 3.48 of 02/24/2009 (Eff: 03/26/2009)
- 725.14 Item 9.16 of 03/15/2011 (Eff: 04/14/2011)