

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

531



FROM: TLMA/Department of Code Enforcement

SUBMITTAL DATE:
February 3, 2011

SUBJECT: Amending in its entirety, Ordinance No. 725, "An Ordinance Establishing Procedures and Penalties for Violations of Riverside County Ordinances And Providing For Reasonable Costs Enforcement"

RECOMMENDED MOTION: That the Board of Supervisors:

1. Set for Public Hearing the adoption of Ordinance No. 725.14 amending Ordinance No. 725 which establishes enforcement procedures, remedies and penalties (including cost recovery) for violations of Riverside County Land Use Ordinances;
2. Authorize the Clerk of the Board to place an advertisement for a Public Hearing in the appropriate local publications; and
3. Upon close of the Public Hearing, adopt Ordinance No. 725.14.

BACKGROUND: The Board authorized the Director of Code Enforcement and County Counsel to process an amendment to Ordinance No. 725 on December 14, 2010 (Agenda Item No. 3.49) for the express purpose of streamlining the abatement enforcement and hearing processes and to increase cost recovery, specifically in collections on unpaid citations. (Continued on page 2)

Glenn Baude

Glenn Baude, Director of Code Enforcement

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|-----------------------|-------------------------------|----------|-------------------------|----------|
| FINANCIAL DATA | Current F.Y. Total Cost: | \$92,000 | In Current Year Budget: | \$92,000 |
| | Current F.Y. Net County Cost: | \$92,000 | Budget Adjustment: | \$-0- |
| | Annual Net County Cost: | \$50,000 | For Fiscal Year: | |

| | | |
|--|----------------------------------|--------------------------|
| SOURCE OF FUNDS: Department of Code Enforcement | Positions To Be Deleted Per A-30 | <input type="checkbox"/> |
| | Requires 4/5 Vote | <input type="checkbox"/> |

C.E.O. RECOMMENDATION: APPROVE

BY: *Jennifer L. Sargent*

Jennifer L. Sargent

County Executive Office Signature

FORM APPROVED COUNTY COUNSEL: *2/3/11*
 DATE: *2/3/11*
 BY: *KATIE SMITH*
 COUNTY OF RIVERSIDE
 DEPARTMENT OF CODE ENFORCEMENT
 ATTACHMENTS FILED WITH THE CLERK OF THE BOARD
 Dept Reco Consent
 Policy Policy

3.29

RE: Amendment to Ordinance No. 725, "Establishing Procedures and Penalties for Violations of Riverside County Ordinances And Providing For Reasonable Costs Related to Enforcement

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Riverside County Ordinance No. 725, as amended, serves as the enabling ordinance which sets forth procedures, remedies, penalties, fines, citations, hearings and cost recovery for the enforcement of many County Land Use Ordinances, as authorized by California Government Code Section 25845. The proposed Ordinance No. 725.14 replaces the prior Ordinance No. 725.13 in its entirety.

On November 30, 2010 (Agenda Item 2.5) the Auditor-Controller presented findings of its internal audit (2010-018) of the Code Enforcement Department and recommended that Ordinance 725 be amended to enhance the Department's cost recovery efforts.

Currently, all abatement and cost recovery matters are heard only by the Board of Supervisors. The Department is currently processing a substantial number of uncollected cost recovery cases, thus there is a need to dramatically increase the number of abatement and cost recovery hearings scheduled before the Board.

Due to the large volume of cases requiring Board Hearings and expected congestion to be caused thereby, Ordinance 725.14, as proposed, allows the Board of Supervisors the option to authorize a County Hearing Officer and/or County Hearing Board to adjudicate abatement and cost recovery matters on its behalf.

Ordinance No. 643 established the Office of the County Hearing Officer and was adopted on September 26, 1989. Government Code § 27720 allows the Board of Supervisors to delegate any hearings provided by County Ordinances to the County Hearing Officer to make either a final determination on a matter or to forward a recommendation to the Board for its further ratification, modification or denial.

Ordinance No. 725.14, as proposed, authorizes the County Hearing Officer to make a final determination on abatement issues. However, the Ordinance also includes the Board's right to also conduct hearings on abatement cases, if desired.

Government Code § 25845 specifically authorizes the Board to delegate its authority regarding the determination of public nuisances, order for abatements and recovery of abatement costs to a Hearing Board, as designated by the Board of Supervisors. In the event a Hearing Board is used, it shall submit a decision to the Board of Supervisors for further hearing, although no additional notices need to be issued for the Board hearing.

RE: Amendment to Ordinance No. 725, "Establishing Procedures and Penalties for Violations of Riverside County Ordinances And Providing For Reasonable Costs Related to Enforcement

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It is anticipated that establishment of a Hearing Board and/or Officer will impact the Code Enforcement Department positively by:

- a) increasing productivity by streamlining abatement procedures,
- b) eliminating a backlog of cost recovery cases; and
- c) improving the efficiency and effectiveness of future code enforcement activities, including abatements, citations, efficiency.

The proposed amendment significantly modifies Ordinance 725, including authorization to utilize special assessments in the recovery of unpaid administrative citations as part of abatement costs, and includes changes in various areas intended to improve the efficiency and effectiveness of civil and administrative enforcement proceedings and cost recovery.

Thus, Ordinance No. 725.14, as proposed, will not only satisfy the recommendation of the recent audit but will also facilitate the Department goals to increase productivity and cost recovery by streamlining abatement procedures, increasing efficiency by timely processing current and backlogged cases, and increasing the opportunity for more hearings for timely and effective cost recovery.

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

The Board of Supervisors of the County of Riverside, State of California, ordains that Riverside County Ordinance No. 725.13 is hereby fully repealed and replaced by this Ordinance No. 725.14 in its entirety as follows:

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

- a. The term "**County Land Use Ordinances**" 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 Director of the Transportation and Land Management Agency, Building Official, Director of Code Enforcement, Director of Environmental Health, 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 County 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 and not to an employee, 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 reasonably related to the abatement of conditions which violate County Ordinances, and shall include, but not be limited to, enforcement, investigation, administrative charges and penalties, collection and administrative costs, attorneys fees, and the costs associated with the removal or correction of the 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 business permits, 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 costs**" shall include County staff time reasonably related to enforcement, for items including, but not limited to, site inspections, investigations, summaries, reports, notices, telephone contacts and correspondence. Travel time for inspections shall not be included.

SECTION 2. ABATEMENT OF PUBLIC NUISANCES. Any condition caused, maintained or permitted to exist in violation of any of the provisions of County Land Use Ordinances 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 property or other activities located or occurring in the unincorporated areas of the County of Riverside to determine the existence of violations and to enforce the County Land Use Ordinances as provided for herein.

SECTION 3. 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. The conviction and punishment of 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 during any portion of which any violation of a Riverside County 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 upon any property or premises within the jurisdiction of the County to investigate and ascertain whether the property or premises is in compliance with Riverside County 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., as may be amended by successor provisions thereto. All costs incurred by the County of Riverside 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, Subsection (a) as may be amended by successor provisions thereto, the Enforcement Officer is authorized to summarily abate public nuisances determined by the Officer to constitute an immediate threat to public health or safety.

If an Enforcement Officer summarily abates a public nuisance he may keep an account of the abatement costs and bill the property owner pursuant to Section 7 of this Ordinance. In cases of summary abatement, however, at the hearing to confirm the abatement costs, the hearing officer shall also determine whether a public nuisance existed.

SECTION 6. ADMINISTRATIVE ABATEMENT - PROCEDURE. When a condition on real property is deemed by ordinance, notice, hearing officer ruling or adjudication to be a violation of a County Land Use Ordinance constituting a public nuisance and existing on property within the jurisdiction of the County of Riverside, the Enforcement Officer is authorized to institute an administrative abatement proceeding.

a. First Notice/Notice of Violation. If the Enforcement Officer determines that public or private property or any portion thereof is being maintained or permitted to exist in a manner prohibited by the provisions of any County Land Use Ordinance, the Officer shall issue a Notice of Violation to all parties concerned to abate the condition within fifteen (15) days of giving notice (pursuant to Section 9 of this Ordinance). The notice shall specify the manner in which the conditions on the property violate the provisions of County 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 county ordinances could subject the owner to civil, administrative and criminal penalties and could result in the imposition of a lien on the property for abatement costs related to the enforcement of the ordinances and abatement of the conditions. The failure of the notice to set forth all required contents shall not affect the validity of the proceedings.

b. Notice To Responsible Parties. The initial Notice of Violation shall also be issued by first class mail to each mortgagee or beneficiary under any recorded deed of trust or holder of any recorded lease and to the holder of any other asset or interest in the property, at the last known address of such interest holder.

c. 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 on or before the expiration of fifteen (15) days after service of the First Notice described in Subsection a. of this Section, the mortgagee or beneficiary under the deed of trust may within fifteen (15) days after expiration of the initial fifteen (15) day period, comply with the requirements of the notice.

d. Second Notice. If the First Notice is not complied with within the time periods set forth in Subsections a. and c. of 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: County Land Use Ordinance Violation(s) and Abatement of Public Nuisance." The notice shall direct the owner of the property 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 owner or other person to receipt such notice shall not affect the validity of the proceedings.

e. Hearing.

i. The hearing provided for in this Section shall be conducted in the manner set forth in Section 10 of this Ordinance in addition to the following:

1. Upon the conclusion of the hearing, the Hearing Officer shall render its decision not later than twenty (20) days thereafter and shall make Findings and Conclusions, and in the event that it so concludes, it may declare the conditions on the property or the property to be in violation of County Land Use Ordinances and a public nuisance. The Hearing Officer may direct the owner to abate the conditions declared in violation, within ninety (90) days after service of the decision. The Hearing Officer may further order that if the conditions declared to be in violation after ninety (90) days, the conditions will be abated by the County and the costs of abatement shall be a lien on the property which may be collected by an assessment against the property pursuant to *California Government Code* Section 38773.5 (as may be amended by successor provisions thereto) or by any other means provided by law.

iii. The Enforcement Officer shall serve a copy of the Board's decision to all 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.

f. Time to Bring Action. Unless the owner or holder of recorded interest presents an action in a court of competent jurisdiction within ninety (90) days after service of the decision of the Hearing Officer contesting the validity of any proceedings leading up to and including the decision of the Hearing Officer, all objections to the proceedings and decision shall be deemed to have been waived.

g. Cost Recovery. All abatement costs incurred by the County of Riverside pursuant to this section shall be reimbursed as set forth below in Section 7 of this Ordinance.

SECTION 7. ABATEMENT COST RECOVERY. The intent of this section is to recoup all actual abatement costs, administrative costs and related fines and penalties in any enforcement to abate public nuisances as stated herein and below in Section 17 of this Ordinance. All staff time cost determinations, as previously approved by the Board of Supervisors in this Ordinance prior to the effective date of this amendment are hereby ratified by this reference. Changes to staff cost charges may be authorized by resolution or

other appropriate board action.

The Enforcement Officer of each department shall maintain records of all administrative costs incurred and associated with the processing of violations and enforcement of County Land Use Ordinances and shall recover such costs from the property owner 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 Riverside County Land Use Ordinances, cost recovery of all abatement costs, fees and penalties may be pursued via collection, civil action or as follows:

i. The Enforcement Officer shall prepare a verified statement showing the actual abatement costs, together with administrative costs, Administrative Citation Penalties, Administrative Civil Penalties and attorneys' fees and shall issue a Demand For Payment within thirty (30) days.

ii. The verified statement shall be served in the same manner as set forth in Section 9 of this Ordinance.

iii. Any property owner or Responsible Party who receives a Statement of Abatement Costs shall have the opportunity to contest the Demand For Payment 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 agency or department within fifteen (15) days of service by mail of the issuing agency or department's Statement of Abatement Costs, on the form provided by the issuing agency or department.

c. The hearing shall be held before the County Hearing Officer and shall be conducted in a manner as set forth in Section 10 of this Ordinance.

d. **Decision.** In determining the validity of the abatement costs, the Hearing Officer shall consider whether the abatement costs are reasonable in the circumstances of the case. Factors to be considered include, but are not limited to, the following: whether the present owner created or had notice of the violation or abatement thereof; whether there was and is a present ability to correct the violation; whether the owner acted promptly to correct the violation; and whether reasonable minds can differ as to whether a violation exists.

e. **Payment – Lien.** If payment is not made within ten (10) days after the Hearing Officer's decision on the statement, the Enforcement Officer shall transmit the statement 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 in the Office of the County Recorder of Riverside County, a Notice of Lien, describing the real property affected, a summary of the action taken to abate the subject condition, if any, and the amount of the lien claimed by the

County of Riverside.

f. Release of Lien. Upon payment in full of the abatement costs, or upon further order by a Hearing Officer, the Enforcement Officer shall execute and record with the County Recorder, a release of recorded lien on the property. 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 roll.

g. Incurring Expense. The Enforcement Officer is authorized to pay from funds appropriated to him, the cost of a title search to determine the responsible parties or other concerned parties, mailing expense, and the expense of all work done or caused to be done in the abatement of the subject condition. All of such costs shall be included in the verified statement issued by the Enforcement Officer.

h. Alternatively, if payment of abatement costs, penalties or damages is not made within thirty (30) days after such amounts are due and payable, and after written Demand For Payment therefore has been issued, the Enforcement Officer may refer the debt to a collection agency licensed by the State of California in accordance with Government Code Section 26220, Subsection (a), as may be amended by successor provisions thereto.

SECTION 8. ADMINISTRATIVE CITATIONS AND PENALTIES. In addition to the remedies and penalties contained in this Ordinance, and in accordance with Government Code Section 53069.4, as may be amended by successor provisions thereto, an Administrative Citation may be issued by an Enforcement Officer for any violation of Riverside County 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, an Administrative Citation may be issued by the Enforcement Officer.

b. Content of Citation. The Administrative Citation shall contain the following information:

- i. Date, location and approximate time the violation was observed.
- ii. The ordinance violated and a brief description of the violation.
- iii. The amount of the administrative penalty imposed for the violation.
- iv. Instructions for the payment of the penalty, and the time period by which it shall be paid and the consequences of failure to pay the penalty within this time period.
- v. Instructions on how to appeal the citation.
- vi. The signature of the Enforcement Officer.

vii. The failure of the citation to set forth all required contents shall not affect the validity of the proceedings.

c. Service of Citation.

i. If the owner, occupant or other person who has violated an ordinance is present at the scene of the violation, the Enforcement Officer shall attempt to obtain their signature on the Administrative Citation and shall personally deliver a copy of the Administrative Citation to them. If the person receiving the citation is not the property owner, then a copy shall be mailed to the property address and/or the address listed for the owner on the last County Equalized Assessment Roll.

ii. If the owner, occupant or other person who has violated an ordinance is a business, and the business owner is on the premises, the Enforcement Officer shall attempt to deliver the Administrative Citation to them. 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, a copy of the Administrative Citation shall also be mailed to the business owner.

iii. 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 owner, occupant or other 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.

iv. The failure of any the owner or Responsible Party to receive the citation shall not affect the validity of the proceedings.

d. Administrative Citation Penalties.

Penalties shall be assessed and considered as part of abatement costs as follows:

i. \$100.00 for a first violation;

ii. \$200.00 for a second violation of the same ordinance within twelve (12) months after the first violation; and

iii. \$500.00 for each additional violation of the same ordinance within twelve (12) months after the first violation.

iv. 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 specified above.

v. Payment of the penalty shall neither excuse the failure to correct the

violation nor bar further enforcement action.

vi. The penalties assessed shall be payable to the County of Riverside.

e. Appeal of Administrative Citations and Penalties.

i. 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 department that issued the Administrative Citation. The written Notice of Appeal must be filed within twenty (20) days of the 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 or a notice that a Request for Advance Deposit Hardship Waiver has been filed 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 County forms and shall contain the following information:

1. A brief statement setting forth the appellant's interest in the proceedings;
2. A brief statement of the material facts which the appellant claims supports their contention that no violation exists and that no administrative penalty should be imposed or that an administrative penalty of a different amount is warranted;
3. An address at which the appellant agrees notice of any additional proceeding or an order relating to the imposition of the administrative penalty may be received by mail.
4. The notice of appeal must be signed by the appellant.

ii. Advance Deposit Hardship Waiver.

1. Any person requesting a hearing to contest an Administrative Citation and who is financially unable to make the advance deposit of the fine as required, may file a Request For Advance Deposit Hardship Waiver.
2. The Request For Advance Deposit Hardship Waiver shall be filed with the department that issued the administrative citation on a form provided by the same 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 fine in advance of the hearing.

3. The requirement of depositing the full amount of the fine shall be stayed for (10) days pending determination by the Enforcement Officer of the issuance of the Advance Deposit Hardship Waiver.

4. The Enforcement Officer shall issue a written determination listing the reasons for the granting or denial of the Advance Deposit Hardship Waiver. The written determination shall be mailed to the applicant at the address provided by in the request.

5. If the Enforcement Officer determines not to issue an Advance Deposit Hardship Waiver, the person shall remit the deposit to the County within fifteen (15) days of the date of mailing notice of that decision.

6. The written determination of the Enforcement Officer shall be final.

iii. Hearing on Appeal of Administrative Citation. Upon receipt of a timely Notice of Appeal submitted by the recipient of the Administrative Citation, an Administrative Hearing shall be held to consider the validity of the Administrative Citation and issuance of an order for penalties to be placed via recorded lien on the real property subject to the Administrative Citation by placing the penalties as a Special Assessment on the Tax Assessment Roll. The Hearing shall be held pursuant to the provisions set forth in Section 10 of this Ordinance.

iv. Hearing Officer's Decision. The Hearing Officer shall issue a written decision following the Administrative Hearing which may be served to the person requesting the hearing in the manner set forth in Section 9 of this Ordinance or to the person's address set forth in the Notice of Appeal. If the Administrative Citation is determined to have been valid at the time of the issuance, the Hearing Officer shall set the penalty amount (pursuant to the provisions of Section 8 of this Ordinance) and order said penalties to be paid within fifteen (15) days of service of the decision.

1. The hearing officer may allow payment of the administrative penalty in installments, if the person provides evidence satisfactory to the Hearing Officer at the time of the hearing of an inability to pay the penalty in full.

2. The Hearing Officer is authorized to order the penalties to be placed on the Tax Assessment Roll, via recordation of a lien, to be paid with County taxes, unless sooner paid.

3. The hearing officer's decision shall contain instructions for obtaining review of the decision by the superior court and noticing requirements thereof.

v. Judicial Review of Hearing Officer's Decision On Administrative Citation.

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 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 shall be served in person or by first class mail upon the issuing agency by the appellant/contestant in the manner set forth in the Hearing Officer's decision.

2. Conduct of Hearing. The conduct of 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 into 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) fee regardless of the outcome of the appeal. If the court finds in favor of the contestant, the amount of the fee 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, by filing a claim with the Superior Court of California, collection activities, through recordation of a lien creating a special assessment against the property as set forth in Section 7 Subsection e. of this Ordinance or in any other manner provided by law.

f. Collection of Administrative Citation Penalties when no Appeal Hearing is requested.

i. If the Citation Penalties are not timely paid and no appeal filed by the date set forth on the Administrative Citation then additional costs shall be assessed by the Enforcement Officer to recover administrative costs and actual costs incurred for further collection, recovery or hearing required pursuant to this Section.

ii. A "Notice Of Delinquent Administrative Citation Penalties and Special Tax Assessment" shall be issued in the same manner as set forth in Section 9 of this Ordinance. Said notice shall provide the recipient an opportunity to request a hearing on the amount of penalties to be assessed within 20 days

of issuance of the notice and shall include proper form for the appeal. If a Request for Hearing is not timely or properly submitted, the right to hearing or further redress pertaining to the amount of penalties assessed shall be waived.

SECTION 9. ISSUANCE OF NOTICE IN ABATEMENT PROCEEDINGS. Unless specifically stated in any other Section of this Ordinance, notices required by this Ordinance shall be issued in the following manner:

- a. Notice required pursuant to this section may be served by any of the following methods:
 - i. Personal Service; or
 - ii. By posting a copy of the notice in a visible place on the property and mailing a copy, to the Responsible Party and to the owner of the property, as such person's name and address appears on the last County Equalized Assessment Roll. 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. The failure of any owner or other person to receipt such notice shall not affect the validity of the proceedings.

SECTION 10. ABATEMENT HEARINGS. In addition to specific requirements set forth in this Ordinance which apply to a particular Section, hearings regarding abatement proceedings shall be conducted as follows:

- a. A notice of the date, time, and place of when and where the hearing required by this Ordinance shall be heard by the Hearing Officer, which shall be not less than ten (10) days after issuance of the notice or citation, in a manner as set forth in Section 9 of this Ordinance, shall be filed with the Clerk of the Board.
- b. Hearing Officer. Pursuant to *California Government Code* Section 25845 (as may be amended by successor provisions thereto), the Administrative Hearing may be conducted by either the Board of Supervisors, the County Hearing Board, a County Hearing Officer (pursuant to *California Government Code* Section 27720 et seq as amended by successor provisions), as follows:
 - i. A decision rendered by the Board of Supervisors is a final administrative determination on the matter which is subject to judicial review as set forth below.
 - ii. The Board of Supervisors hereby authorizes the County Hearing Officer to render a final decision in abatement hearings, including determining the existence of a violation at the time of the issuance of notice or citation, abatement posts, fines or penalties, and if applicable, ordering the Enforcement Officer to record a lien or Special Assessment on the County Tax Assessment Rolls against the real property subject to

the abatement proceedings.

iii. The Board of Supervisors delegates its authority herein to a County Hearing Board, as designated by the Board of Supervisors, to conduct the hearing required by this Section. Within fifteen (15) days following the conclusion of the hearing the County Hearing Board shall submit a written decision including a recommendation to the Board of Supervisors and any findings or conclusions pertaining thereto, and issue a copy to the person requesting the hearing. The written decision shall become the record of the proceeding. The Board of Supervisors may adopt the recommended decision of the Department Hearing Officer without further notice of hearing, or may set the matter for a de novo hearing before the Board of Supervisors.

iv. The County Hearing Officer or Hearing Board shall render a written decision within thirty (30) days after the hearing, including any findings or conclusions pertaining thereto, which decision shall become the record of the proceeding for submission to the Clerk of the Board of Supervisors. The decision shall also be issued to the person requesting the hearing and shall be the final administrative determination on the matter which is subject to judicial review as set forth below. The decision shall include specific notice of the time allowed for judicial appeal of the final decision.

v. The Hearing Officer's decision may be (but is not required to) be recorded in the office of the County Recorder.

c. Conduct of the Hearing. At the time fixed for the hearing, the Hearing Officer shall consider all relevant documents, statements, objections with may be submitted by either the County, property owners or Responsible Parties.

i. An owner or Responsible Party may be represented by another person who need not an attorney, but any such representative shall be indicated on the record with documentation provided to evidence the consent of the person to be represented.

ii. The Enforcement Officer who issued the notice or citation shall not be required to personally attend but may participate in the hearing. The contents of the enforcement officer's file in the case shall be admitted as prima facie evidence of the facts stated therein.

iii. The Hearing Officer shall not be limited by the technical rules of evidence.

iv. If the person 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 Hearing. The Hearing Officer may grant an extension of time to continue the hearing based on good cause.

SECTION 11. ISSUANCE OF PERMITS OR LICENSES; EFFECT OF VIOLATIONS ON PERMITS OR LICENSES. No permit or license shall be issued unless it is in accordance with all the provisions of Riverside County Land Use Ordinances and any administrative or abatement costs pertaining to violation processing fees, as established from time to time by the Board of Supervisors, have been paid. Any permit or license issued contrary to the provisions of Riverside County Land Use Ordinances shall be void and of no effect.

SECTION 12. PERMIT OR LICENSE REVOCATION OR SUSPENSION.

- a. This Section may be used in addition to any remedy specifically set forth in Riverside County Ordinance No. 348, as may be amended thereto, in addition to other remedies as set forth in Section 3 of this Ordinance.
- b. Findings. An Enforcement Officer may revoke or suspend a permit or license issued pursuant to County Land Use Ordinances upon a finding that:
 - i. The permittee has violated any of the conditions or requirements of the permit or license or the provisions of the ordinances, statutes, rules or regulations pertaining to the permit or license;
 - ii. The permit or license was issued in error; or
 - iii. The permit or license was issued on the basis of incorrect information supplied by the permittee or licensee.
 - iv. Written Notice of the Violation has been sent to the permittee or licensee by first class mail pursuant to Section – of this Ordinance.
 - v. The permittee or licensee has failed or neglected to correct the violation within the time frame stated in the Notice of Violation.
- c. Notice of Revocation or Suspension. After expiration of the time period set forth in the Notice of Violation as authorized by this Section and issued in the same manner as set forth in Section 9 of this Ordinance, the Enforcement Officer shall issue a Notice of Revocation or Suspension of the Land Use Permit or License to the permittee and owner of the real or personal property impacted by the revocation or suspension. The notice shall be issued in the same manner as set forth in Section 9 of this Ordinance and shall include a separate form for requesting a hearing on the action.
- c. Hearing. A permit or license may be revoked or suspended by the Enforcement Officer as provided for herein after the permittee or licensee is afforded a pre-deprivation opportunity for a hearing. Notwithstanding the foregoing, a permit or license may be summarily revoked or suspended without the opportunity for a pre-deprivation hearing in the event that the Enforcement Officer determines that exigent circumstances exist which demonstrate an immediate threat to the public health or safety. Upon a determination that exigent circumstances exist, a permittee or licensee shall be sent a Notice of Revocation or Suspension in a manner pursuant to Section 9 of this section, including a separate form to request a

post-deprivation hearing which shall be conducted pursuant to Section 10 of this Ordinance.

d. **Pre-Deprivation Hearing.** Any person whose application for a permit or license has been denied or whose permit or license faces revocation or suspension by issuance of a Notice of Revocation or Suspension provided for in Subsection b of this Section shall be entitled to request a pre-deprivation hearing. The person shall file the proper form for appeal with the issuing agency to request a hearing and shall set forth a brief statement of the grounds for the request within fifteen (15) days from the date the permit or license application was denied or the Notice of Revocation or Suspension was mailed. The failure to timely submit a written request for a hearing shall be deemed a waiver of the right to such hearing.

e. **Post-Deprivation Hearing.** Any person whose permit or license has been summarily revoked or suspended shall be entitled to request a post-deprivation hearing. The person shall file with the issuing agency a written petition requesting the hearing and setting forth a brief statement of the grounds for the request within fifteen (15) days from the date the written Notice of Revocation or Suspension was mailed pursuant to subsection a.2. of this section. The failure to timely submit a written request for a hearing shall be deemed a waiver of the right to such hearing.

f. **Hearing.** In addition to the terms required by Section 10 of this Ordinance, the hearing shall be set for a date within thirty (30) days from the date the written request is received by the issuing agency unless extended at the request of the petitioner. At the time and place set for the hearing, the petitioner and other interested persons shall be given adequate opportunity to present any facts pertinent to the matter at hand. At the close of the hearing, the Hearing Officer shall order such disposition of the permit application or permit as determined to be proper, and shall notify the petitioner of the hearing officer's final determination by first class mail.

SECTION 13. 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 Riverside County Land Use Ordinances or any rule, regulation, order, permit or conditions of approval, upon the request by the Enforcement Officer, 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 and 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 Riverside County Land Use Ordinances 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.

SECTION 14. CRIMINAL ACTIONS.

a. It shall be unlawful for any person to violate any provision of Riverside County Land Use Ordinances, or to violate any provision of any permit or conditions of approval granted pursuant to the ordinances. Any person violating any provision of Riverside County Land Use Ordinances, or any permit or conditions of approval granted pursuant to Riverside County Land Use Ordinances, 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 Riverside County Land Use Ordinances or violation of any provision of any permit granted pursuant to this Ordinance, is committed continued or permitted.

b. 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 site and perpetrated by the same person within twelve (12) months of the first offense. The third and any additional violations on the same site 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. Notwithstanding the above, a first offense may be charged and prosecuted as a misdemeanor. Payment of any penalty herein shall not relieve a person from the responsibility for correcting the violation.

SECTION 15. TREBLE DAMAGES. Upon a second or subsequent civil or criminal judgment for a violation of County Land Use Ordinances within a two year period the violator shall be liable to the County of Riverside for treble the abatement costs, in accordance with Government Code Section 25845.5 as amended by successor provisions thereto.

SECTION 16. RECORDATION OF NOTICES IN ABATEMENT PROCEEDINGS.

a. Notice of Pendency.

i. Whenever the County institutes a judicial action or proceeding to enforce County Land Use Ordinances, 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 as provided in this Section, shall have the same effect as a notice recorded in compliance with Section 405.20 *et seq.* of the *California Code of Civil Procedure*, as amended by successor provisions thereto.

ii. Upon motion of a party to the 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.

- i. Whenever a notice of violation has been issued based on a Land Use Ordinance, the Enforcement Officer may record a Notice of Pendency of Administrative Proceedings with the Office of the County Recorder of Riverside County and shall notify the owner of the property of such action.
 - ii. The Notice of Pendency of Administrative Proceedings shall describe the property, shall set forth the non-complying conditions, and shall state that any owner shall be liable for costs incurred by the County, including but not limited to investigative, administrative and abatement costs, penalties, fines and attorneys' fees as a result of the violation of Riverside County Land Use Ordinances, and the costs may become a lien or special assessment on the property.
 - iii. A Release of Notice of Pendency of Administrative Proceedings may be recorded after the Enforcement Officer has confirmed that the violation(s) set forth in the Notice of Pendency of Administrative Proceedings have been abated and all abatement costs have been paid.
- c. Notice of Non Compliance. Any Notice of Non Compliance properly issued or recorded by the Enforcement Officer in abatement matters prior to the effective date of this Ordinance amendment shall remain in full force and effect according to the terms of Subsection b. of this section.

SECTION 17. LIABILITY FOR VIOLATIONS, COSTS, PENALTIES OR DAMAGES.

Any person, whether acting as a principal, agent, employee, owner, lessor, lessee, tenant, occupant, operator or contractor, or otherwise, violating any provisions of Riverside County Land Use Ordinances or the rules, regulations, orders, permits or conditions of approval issued pursuant thereto, shall be liable to the County of Riverside for costs of abatement, administrative and civil penalties and any damages suffered by the County, its agents and agencies, as a result of such violations. Successor owners of any 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 a notice has been recorded prior in the Office of the County Recorder pursuant to Section 16 of this Ordinance.

SECTION 18. RECOVERY OF ATTORNEYS' FEES IN ABATEMENT CASES.

In any action, administrative proceeding, or special proceeding to abate a nuisance pursuant to this Ordinance or 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 action or proceeding.

SECTION 19. PARKING VIOLATION AND PENALTIES; PROCEDURE; CONFLICT

a. Except as provided in Subsection b of this section, any violation of any regulation governing the standing or parking of a vehicle under County Land Use Ordinances occurring within the jurisdictional limits of the County is subject to a civil penalty, the enforcement of which, including procedures, remedies, and recovery of costs related to enforcement, shall be governed by the administrative procedures set forth in this Ordinance.

b. If there is any conflict or variance in the requirements of this Ordinance and the applicable provisions of the Vehicle Code governing procedures for parking violation, commencing with Section 40200 et seq., the Vehicle Code shall apply.

SECTION 20. REPEAL OF DUPLICATE ORDINANCE SECTIONS. The following Riverside County Ordinance Sections are hereby repealed as duplicative of the penalties and procedures prescribed by this Ordinance:

Ordinance No. 348, Section 22.2 through and including 22.5;
Ordinance No. 421, Section 2;
Ordinance No. 457, Section 13;
Ordinance No. 458, Section 9;
Ordinance No. 460, Section 19.5 and 19.6;
Ordinance No. 520, Section 13;
Ordinance No. 541, Section 4 and 5;
Ordinance No. 551, Section 15;
Ordinance No. 559, Section 9; and,
Ordinance No. 704, Section 6.

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)