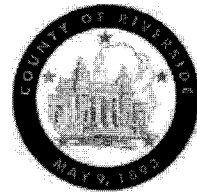


**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM
3.13
(ID # 3530)

MEETING DATE:
Tuesday, March 21, 2017

FROM : ENVIRONMENTAL HEALTH:

SUBJECT: ENVIRONMENTAL HEALTH: Introduce Ordinance No. 523.3, an ordinance of the County of Riverside amending Ordinance 523 Regarding Vector Control and findings of Environmental Quality Act (CEQA) Exemption. Countywide. (0); Funded by service contracts, permit fees, and other funds.

RECOMMENDED MOTION: That the Board of Supervisors:

1. Introduce and Adopt on successive weeks, Ordinance No. 523.3, an ordinance amending Ordinance 523 Regarding the Vector Control Program; and
2. Find that the introduction and adoption of Ordinance No. 523.3 is exempt from CEQA pursuant to CEQA Guidelines 15061(b)(3) based on the findings set forth below.
3. Waive further reading of ordinance.

ACTION: (Policy)

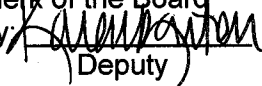


Steve Van Stockum, Director Environmental Health 3/8/2017

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Tavaglione, seconded by Supervisor Jeffries and duly carried, IT WAS ORDERED that the above matter is approved as recommended and that the above Ordinance is approved as introduced with a waiver of reading.

Ayes: Jeffries, Tavaglione and Washington
Nays: None
Absent: Ashley
Date: March 21, 2017
xc: Environmental Health, COB

Kecia Harper-Ihem
Clerk of the Board
By: 
(Deputy)

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: service contracts, permit fees, other funds			Budget Adjustment: No	
			For Fiscal Year: 16/17	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

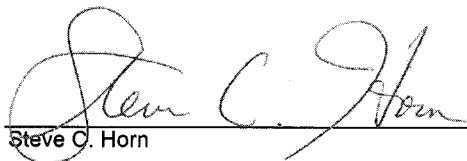
Over the last several years, the prevalence of arthropod-borne disease has continued to increase within the County. The recent discovery of an invasive species of mosquito that primarily dwells with and feeds on humans increases the potential for that mosquito to transmit new mosquito-borne viruses such as Zika virus, Dengue fever, and Chikungunya; as well as West Nile virus.

Currently Ordinance No. 523 only addresses the control of flies. This proposed revision will cover a more comprehensive approach to vector control, including, but not limited to mosquitoes, flies, ticks, bees, wasps, other arthropods, rodents and other vertebrates.

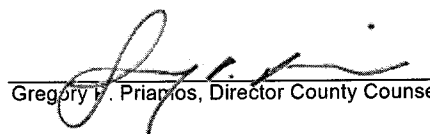
The Department of Environmental Health is seeking to gain compliance through education of the public and enforcement. In order to ensure the ability to regulate, the Ordinance will be amended to include all vectors that transmit disease to humans (including mosquitoes).

Impact on Residents and Businesses

Residents that willfully and continually allow vectors to breed and exist on their properties would be impacted by the enforcement actions. Enforcement actions shall follow due process that may include: Notice of Violation, Administrative Citations, penalties and Notice of Pendency. Surrounding residents would benefit as the overall number of vectors as well as the potential for the transmission of vector-borne disease could decline.


Steve C. Horn

3/13/2017


Gregory V. Priamos, Director County Counsel

3/8/2017

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

5
6 Section 2. On property owned or under their control, no person shall create conditions or permit the
7 accumulation of solid debris, standing water, decaying animal, decaying vegetable or organic matter,
8 excreta from domestic animals or fowls, human excreta, or any other potential harborage for vectors in
9 such a manner as to cause, or known to cause, a vector breeding hazard or the occurrence of excessive
10 vectors. The determination of the presence of excessive vectors or a vector breeding hazard shall be made
11 by the Enforcement Officer. The presence of excessive vectors on the property shall be prima facie
12 evidence that an adverse public health/well-being hazard exists. The person claiming ownership, title,
13 and/or control of the property shall be responsible for the abatement of the vector breeding hazard and any
14 excessive vectors.

15 Section 3. Pursuant to California Code of Civil Procedure section 1822.50 et seq., and Riverside
16 County Ordinance 725, the Enforcement Officer shall have the authority to enforce this ordinance and
17 shall have the right to enter upon lands other than buildings or dwellings for the purpose of enforcing this
18 ordinance. The Enforcement officer shall make all reasonable attempts to gain voluntary compliance to
19 enter onto the land/property. Entry onto said land/property shall occur for the following reasons:
20

- 21 (a) Conduct surveillance programs and other appropriate studies of vectors and vector borne
22 diseases.
23 (b) Take any and all necessary or proper actions to prevent the occurrence of vectors and vector
24 borne diseases.
25 (c) Take any and all necessary or proper actions to abate or control vectors and vector borne
26 diseases so as to minimize the spread of disease from any premises.
27 (d) Abate a public nuisance, as defined in Section 2 of Riverside County Ordinance 725.
28

1
2 Section 4. Any person who restrains, hinders, obstructs, or threatens the Enforcement Officer in the
3 performance of that person's duties, or any person who interferes with any work done by, or under the
4 direction of, the Enforcement Officer is guilty of a misdemeanor.

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

8
9 Section 6. ADMINISTRATIVE CITATIONS AND PENALTIES: In addition to the remedies and
10 penalties contained in this Ordinance, and in accordance with *California Government Code* Section
11 53069.4, and as may be amended, an administrative citation may be issued for any violation of this
12 Ordinance. The following procedures shall govern the imposition, enforcement, collection and
13 administrative review of administrative citations and penalties.

14 A. Notice of Violation. If the violation is not corrected within the period stated in the notice of
15 violation, or if the violation creates an immediate danger to health or safety, an administrative
16 citation may be issued by the Enforcement Officer.

17
18 B. Content of Citation. The administrative citation shall be issued on a form approved by County
19 Counsel and shall contain the information listed below. The failure of the citation to set forth all
20 required contents shall not affect the validity of the proceedings.

- 21 1. Date, location and approximate time the violation was observed.
22 2. The Ordinance section violated and a brief description of the violation.
23 3. The amount of the administrative penalty imposed for the violation.
24 4. The corrective actions that need to be taken.
25 5. Instructions for the payment of the penalty, the time period by which it shall be paid, and
26 the consequences of failure to pay the penalty within this time period.
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1 6. Instructions on how to appeal the citation.

2 7. The signature of the Enforcement Officer.

3 C. Service of Citation.

4 1. If the property owner or other authorized person who has violated the Ordinance is present
5 at the scene of the violation, the Enforcement Officer shall attempt to obtain their signature
6 on the administrative citation and shall deliver a copy of the administrative citation to
7 them. A copy will be mailed to the property owner if the person receiving the
8 administrative citation is not the property owner.

9 2. If the property owner or other authorized person who has violated the Ordinance cannot be
10 located at the property, then the administrative citation shall be posted in a conspicuous
11 place on or near the property and a copy mailed by certified mail, return receipt requested,
12 to the property owner and/or other authorized person who has violated the Ordinance. The
13 citation shall be mailed to the property address and/or the address listed for the owner on
14 the last County Equalized Assessment Roll.

15 3. The failure of any interested person to receive the citation shall not affect the validity of
16 the proceedings.

17 D. Administrative Penalties.

18 1. The penalties assessed for each violation shall not exceed the following amounts:

19 a. \$100.00 for a first violation;

20 b. \$200.00 for a second violation of this Ordinance within one (1) year from the date
21 of the first violation; and

22 c. \$500.00 for each additional violation of this Ordinance within one (1) year from the
23 date of the first violation.

- 1 2. If the violation is not corrected, additional administrative citations may be issued for the
2 same violation. The amount of the penalty shall increase at the rate specified in Section
3 6.D.1., above.
- 4 3. Payment of the penalty shall not excuse the failure to correct the violation nor shall it bar
5 further enforcement action.
- 6 4. The penalties assessed shall be payable to the County of Riverside.

7
8 E. Administrative Appeal.

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

3 b. Hearing Officer. The administrative hearing shall be held before the Board of
4 Supervisors, the County Hearing Officer or the County Hearing Board. The
5 hearing officer shall not be the Enforcement Officer who issued the administrative
6 citation or said Enforcement Officer's immediate supervisor or subordinate. The
7 Board of Supervisors, the County Hearing Officer or the County Hearing Board
8 may contract with a qualified provider to conduct administrative hearings or to
9 process administrative citations.
10

11 c. Conduct of the Hearing. Except as may be required by the Hearing Officer, the
12 Enforcement Officer who issued the administrative citation is not required to
13 participate in the administrative hearing. The contents of the Enforcement
14 Officer's file in the case shall be admitted as prima facie evidence of the facts
15 stated therein. The Hearing Officer shall not be limited by the technical rules of
16 evidence. If the person requesting the appeal fails to appear at the administrative
17 hearing, the Hearing Officer shall make his or her determination based on the
18 information contained in the notice of appeal and the underlying administrative
19 citation.
20

21 d. Hearing Officer's Decision. The Hearing Officer's decision following the
22 administrative hearing shall be delivered to the person requesting the hearing
23 personally or sent by mail. The Hearing Officer may allow payment of the
24 administrative penalty in installments, if the person provides evidence satisfactory
25 to the Hearing Officer of an inability to pay the penalty in full. The Hearing
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1 Officer's decision shall contain instructions for obtaining review of the decision by
2 the superior court.

3 F. Review of Administrative Hearing Officer's Decision.

- 4 1. Notice of Appeal. Within twenty (20) days of the date of the delivery or mailing of the
5 hearing officer's decision, a person may contest that decision by filing an appeal to be
6 heard by the Superior Court. The fee for filing the notice of appeal is twenty-five dollars
7 (\$25.00). The failure to file the written appeal and to pay the court filing fee within this
8 period shall constitute a waiver of the right to an appeal and the decision shall be deemed
9 confirmed. A copy of the notice of appeal shall be served in person or by first class mail
10 upon the issuing agency by the contestant.
- 11 2. Conduct of Hearing. The conduct of the appeal is a subordinate judicial duty and may be
12 performed by traffic trial commissioners and other subordinate judicial officials at the
13 direction of the presiding judge of the court. The appeal shall be heard de novo, except that
14 the contents of the issuing agency's file in the case shall be received in evidence. A copy of
15 the document or instrument of the issuing agency providing notice of the violation and
16 imposition of the administrative penalty shall be admitted into evidence as prima facie
17 evidence of the facts stated therein. The court shall request that the issuing agency's file on
18 the case be forwarded to the court, to be received within fifteen (15) days of the request.
- 19 3. Judgment. The court shall retain the twenty-five dollar (\$25.00) filing fee regardless of the
20 outcome of the appeal. If the court finds in favor of the contestant, the amount of the fine
21 or penalty shall be reimbursed to the contestant by the local agency. Any deposit of the
22 fine or penalty shall be refunded by the issuing agency in accordance with the judgment of
23 the court. If the fine or penalty has not been deposited and the decision of the court is
24 the court. If the fine or penalty has not been deposited and the decision of the court is
25 the court. If the fine or penalty has not been deposited and the decision of the court is
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27 the court. If the fine or penalty has not been deposited and the decision of the court is
28 the court. If the fine or penalty has not been deposited and the decision of the court is

1 against the contestant, the issuing agency may proceed to collect the penalty pursuant to
2 the procedures set forth in this Ordinance, or in any other manner provided by law.

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

11 Section 8. CRIMINAL PENALTIES. Any person who neglects or refuses to abate a condition found
12 by the Enforcement Officer to be in violation of this Ordinance within the time specified in a written
13 notice shall be in violation of the provisions of this ordinance and shall be deemed guilty of an infraction
14 or misdemeanor as hereinafter specified. Such person(s) shall be deemed guilty of a separate offense for
15 each and every day or portion thereof during which any violation of any of the provisions of this
16 ordinance is committed, continued, or permitted. Any person deemed guilty of violating this ordinance
17 shall be: (1) guilty of an infraction offense and punished by a fine not exceeding one hundred dollars
18 (\$100.00) for a first violation; (2) guilty of an infraction offense and punished by a fine not exceeding two
19 hundred dollars (\$200.00) for a second violation on the same site. (3) The third and any additional
20 violations on the same site shall constitute an infraction or a misdemeanor offense and shall be punishable
21 by a fine not exceeding one thousand dollars (\$1,000.00) or six (6) months in jail, or both.
22 Notwithstanding the above, a first and a second violation may be charged and prosecuted as a
23 misdemeanor. Payment of any penalty herein shall not relieve an individual from the responsibility for
24 correcting the violation.
25

26 Section 9. CIVIL ACTIONS
27
28

1 A. Injunctive Relief and Abatement. Whenever, in the judgment of the Enforcement Officer, any
2 person is engaged in any act or practice which constitutes or will constitute a violation of any
3 provision of this Ordinance, or any rule, regulation, order, permit or conditions of approval issued
4 thereunder, upon the request of the Enforcement Officer, the County Counsel or District Attorney
5 may commence proceedings for the abatement, removal, correction and enjoinder thereof, and
6 require the violator to pay civil penalties and/or abatement costs.

7
8 B. Civil Remedies and Penalties. Any person, whether acting as principal, agent, employee, owner,
9 lessor, lessee, tenant, occupant, operator, contractor or otherwise, who willfully violates the
10 provisions of this Ordinance or any rule, regulation, order or conditions of approval issued
11 thereunder, shall be liable for a civil penalty not to exceed \$1,000.00 for each day or portion
12 thereof, that the violation continues to exist. In determining the amount of the civil penalty to
13 impose, the court shall consider all relevant circumstances, including, but not limited to, the extent
14 of the harm caused by the conduct constituting a violation, the nature and persistence of such
15 conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth
16 of the violator, whether corporate or individual, and any corrective action taken by the violator.
17

18 Section 10. ABATEMENT COSTS AND DAMAGES. Any person, whether acting as a principal,
19 agent, employee, owner, lessor, lessee, tenant, occupant, operator or contractor, or otherwise, violating
20 any provisions of this Ordinance or the rules, regulations, orders, permits or conditions of approval issued
21 thereunder, shall be liable to the County of Riverside for costs of abatement, including attorney's fees,
22 and any damages suffered by the County, its agents and agencies, as a result of such violations, following
23 the procedure outlined in Ordinance 725, and as may be amended.
24

25 Section 11. RECOVERY OF ATTORNEYS' FEES IN NUISANCE ABATEMENT CASES. In any
26 action, administrative proceeding, or special proceeding to abate a nuisance pursuant to this Ordinance
27 attorneys' fees may be recovered by the prevailing party. In no action, administrative proceeding, or
28

1 special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable
2 attorneys' fees incurred by the County in the action or proceeding.

3
4 Section 12. RECORDATION OF NOTICES IN ABATEMENT PROCEEDINGS.

5 A. NOTICE OF PENDENCY.

- 6 1. Whenever the County institutes a judicial action or proceeding to enforce this Ordinance, a
7 Notice of Pendency ("Notice") of the action or proceeding may be filed with the County
8 Recorder's Office. The Notice may be filed at the time of the commencement of the action
9 or proceeding and upon recordation of the Notice, shall have the same effect as a notice
10 recorded in compliance with Section 405.20 et seq. of the California Code of Civil
11 Procedure, and as amended.
12
13 2. Upon motion of a party to the judicial action or proceeding, the Notice of Pendency may
14 be vacated upon an appropriate showing of need therefore by an order of a judge of the
15 Court in which the action or proceeding is pending.

16 B. NOTICE OF PENDENCY OF ADMINISTRATIVE PROCEEDINGS.

- 17 1. Whenever a Notice of Violation has issued pursuant to this Ordinance, the Enforcement
18 Officer may record a Notice of Pendency of Administrative Proceedings with the Office of
19 the County Recorder and shall notify the owner of the property of such action.
20
21 2. The Notice of Pendency of Administrative Proceedings shall describe the real property,
22 shall set forth the non-complying conditions, and shall state that all current or subsequent
23 owners of the property may be liable for abatement costs pertaining to any violation of this
24 ordinance and that the abatement costs may be affixed as a lien and special tax assessment
25 on the real property.
26
27 3. A Release of Notice of Pendency of Administrative Proceedings may be recorded after the
28 Enforcement Officer has confirmed that each violation described in the Notice of Pendency

1 of Administrative Proceedings has been abated and all related abatement costs have been
2 reimbursed to the County.

3 C. NOTICE OF NON COMPLIANCE. Any Notice of Non Compliance issued or recorded by the
4 Enforcement Officer in abatement proceedings prior to the effective date of this Ordinance
5 Amendment shall remain in full force and effect.
6

7 Section 13. REMEDIES AND PENALTIES. All remedies and penalties provided for herein shall be
8 cumulative and not exclusive. The conviction and punishment of any person hereunder shall not relieve
9 such person from the responsibility of correcting removing or abating the violation, nor prevent the
10 enforced correction, removal or abatement thereof. Each and every day during any portion of which any
11 violation of this Ordinance or the rules, regulations, orders, Permits or conditions of approval issued
12 thereunder is committed, continued, or permitted by such person, shall be deemed a separate and distinct
13 offense.
14

15 Section 14. SEVERABILITY. If any provision, clause, sentence or paragraph of this Ordinance or the
16 application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the
17 other provisions or applications of the provisions of this Ordinance which can be given effect without the
18 invalid provision or application, and to this end, the provisions of this Ordinance are hereby declared to be
19 severable.”
20

21 ///

22 ///

ORDINANCE NO. 523
(AS AMENDED THROUGH 523.23)
AN ORDINANCE OF THE COUNTY OF RIVERSIDE AMENDING ORDINANCE NO.
523 RELATING TO THE CONTROL OF FLIESVECTORS AND INCORPORATING
BY
REFERENCE ORDINANCE NO. 725

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

Section 1. DEFINITION. "~~Health Officer~~" means the Health Officer of the County of Riverside,
~~or his designated representative~~DEFINITIONS.

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

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

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

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

Section 2. ~~On~~On property owned or under their control^[ES1], no person shall create conditions or permit the accumulation ~~on premises owned by him or under his control~~of of solid debris, standing water, decaying animal, decaying vegetable or mineralorganic matter, excreta from domestic animals or fowls, or human excreta, ~~in such a manner as to cause the breeding of flies or any other potential harborage for vectors in such a manner as to cause, or known to cause~~^[ES2], a vector breeding hazard or the occurrence of excessive vectors. The determination of the presence of excessive vectors or a vector breeding hazard shall be made by the Enforcement Officer. The presence of excessive vectors on the property shall be prima facie evidence that an adverse public health/well-being hazard exists. The person claiming ownership, title, and/or control of the property^[ES3] shall be responsible for the abatement of the vector breeding hazard and any excessive vectors.

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

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

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

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

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

- A. Notice of Violation. If the violation is not corrected within the period stated in the notice of violation, or if the violation creates an immediate danger to health or safety, an administrative citation may be issued by the Enforcement Officer.
- B. Content of Citation. The administrative citation shall be issued on a form approved by County Counsel and shall contain the information listed below. The failure of the citation to set forth all required contents shall not affect the validity of the proceedings.
 1. Date, location and approximate time the violation was observed.
 2. The Ordinance section violated and a brief description of the violation.
 3. The amount of the administrative penalty imposed for the violation.
 4. The corrective actions that need to be taken.
 5. Instructions for the payment of the penalty, the time period by which it shall be paid, and the consequences of failure to pay the penalty within this time period.

6. Instructions on how to appeal the citation.
7. The signature of the Enforcement Officer.

C. Service of Citation.

1. If the property owner or other authorized person who has violated the Ordinance is present at the scene of the violation, the Enforcement Officer shall attempt to obtain their signature on the administrative citation and shall deliver a copy of the administrative citation to them. A copy will be mailed to the property owner if the person receiving the administrative citation is not the property owner.
2. If the property owner or other authorized person who has violated the Ordinance cannot be located at the property, then the administrative citation shall be posted in a conspicuous place on or near the property and a copy mailed by certified mail, return receipt requested, to the property owner and/or other authorized person who has violated the Ordinance. The citation shall be mailed to the property address and/or the address listed for the owner on the last County Equalized Assessment Roll.
3. The failure of any interested person to receive the citation shall not affect the validity of the proceedings.

D. Administrative Penalties.

1. The penalties assessed for each violation shall not exceed the following amounts:
 - a. \$100.00 for a first violation;
 - b. \$200.00 for a second violation of this Ordinance within one (1) year from the date of the first violation; and
 - c. \$500.00 for each additional violation of this Ordinance within one (1) year from the date of the first violation.
2. If the violation is not corrected, additional administrative citations may be issued for the same violation. The amount of the penalty shall increase at the rate specified in Section 6.0.1., above.
3. Payment of the penalty shall not excuse the failure to correct the violation nor shall it bar further enforcement action.
4. The penalties assessed shall be payable to the County of Riverside.

E. Administrative Appeal.

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

2. Conduct of Hearing. The conduct of the appeal is a subordinate judicial duty and may be performed by traffic trial commissioners and other subordinate judicial officials at the direction of the presiding judge of the court. The appeal shall be heard de novo, except that the contents of the issuing agency's file in the case shall be received in evidence. A copy of the document or instrument of the issuing agency providing notice of the violation and imposition of the administrative penalty shall be admitted into evidence as prima facie evidence of the facts stated therein. The court shall request that the issuing agency's file on the case be forwarded to the court, to be received within fifteen (15) days of the request.
3. Judgment. The court shall retain the twenty-five dollar (\$25.00) filing fee regardless of the outcome of the appeal. If the court finds in favor of the contestant, the amount of the fine or penalty shall be reimbursed to the contestant by the local agency. Any deposit of the fine or penalty shall be refunded by the issuing agency in accordance with the judgment of the court. If the fine or penalty has not been deposited and the decision of the court is against the contestant, the issuing agency may proceed to collect the penalty pursuant to the procedures set forth in this Ordinance, or in any other manner provided by law.

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

Section 8. CRIMINAL PENALTIES. Any person who neglects or refuses to abate a condition found by the Enforcement Officer to be in violation of this Ordinance within the time specified in a written notice shall be in violation of the provisions of this ordinance and shall be deemed guilty of an infraction or misdemeanor as hereinafter specified. Such individual person(s) shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this ordinance is committed, continued, or permitted.

Any individual convicted person deemed guilty of a violation of violating this ordinance shall be: (1) guilty of an infraction offense and punished by a fine not exceeding one hundred dollars (\$100.00) for a first violation; (2) guilty of an infraction offense and punished by a fine not exceeding two hundred dollars (\$200.00) for a second violation on the same site. (3) The third and any additional violations on the same site shall constitute an infraction or a misdemeanor offense and shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00) or six (6) months in jail, or both. Notwithstanding the above, a first offense and a second violation may be charged

and prosecuted as a misdemeanor. Payment of any penalty herein shall not relieve an individual from the responsibility for correcting the violation.

~~The procedures, remedies and penalties for violation of this ordinance and for recovery of costs related to enforcement are provided for in Ordinance No. 725, which is incorporated herein by this reference~~

Section 9. CIVIL ACTIONS

- A. Injunctive Relief and Abatement. Whenever, in the judgment of the Enforcement Officer, any person is engaged in any act or practice which constitutes or will constitute a violation of any provision of this Ordinance, or any rule, regulation, order, permit or conditions of approval issued thereunder, upon the request of the Enforcement Officer, the County Counsel or District Attorney may commence proceedings for the abatement, removal, correction and enjoinder thereof, and require the violator to pay civil penalties and/or abatement costs.
- B. Civil Remedies and Penalties. Any person, whether acting as principal, agent, employee, owner, lessor, lessee, tenant, occupant, operator, contractor or otherwise, who willfully violates the provisions of this Ordinance or any rule, regulation, order or conditions of approval issued thereunder, shall be liable for a civil penalty not to exceed \$1,000.00 for each day or portion thereof, that the violation continues to exist. In determining the amount of the civil penalty to impose, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the violator, whether corporate or individual, and any corrective action taken by the violator.

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

Section 11. RECOVERY OF ATTORNEYS' FEES IN NUISANCE ABATEMENT CASES. In any action, administrative proceeding, or special proceeding to abate a nuisance pursuant to this Ordinance attorneys' fees may be recovered by the prevailing party. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the County in the action or proceeding.

Section 12. RECORDATION OF NOTICES IN ABATEMENT PROCEEDINGS.

A. NOTICE OF PENDENCY.

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

B. NOTICE OF PENDENCY OF ADMINISTRATIVE PROCEEDINGS.

1. Whenever a Notice of Violation has issued pursuant to this Ordinance, the Enforcement Officer may record a Notice of Pendency of Administrative Proceedings with the Office of the County Recorder and shall notify the owner of the property of such action.
2. The Notice of Pendency of Administrative Proceedings shall describe the real property, shall set forth the non-complying conditions, and shall state that all current or subsequent owners of the property may be liable for abatement costs pertaining to any violation of this ordinance and that the abatement costs may be affixed as a lien and special tax assessment on the real property.
3. A Release of Notice of Pendency of Administrative Proceedings may be recorded after the Enforcement Officer has confirmed that each violation described in the Notice of Pendency of Administrative Proceedings has been abated and all related abatement costs have been reimbursed to the County.

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

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

Section 14. SEVERABILITY. If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of the provisions of this Ordinance which can be

given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are hereby declared to be severable.

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

(e) :

~~Section 4. The Health Officer shall enforce this ordinance. The Health Officer shall have the right to enter upon lands and buildings other than dwellings for the purpose of enforcing this ordinance, and in making such entry shall take reasonable precaution to minimize the spread of disease from any premises.~~

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

~~Section 6. Nothing contained in this ordinance shall be deemed to interfere with the existing authority or duty of the Health Officer or other public officer under any law defining or relating to the abatement of any public nuisance, nor to be duplicative or in conflict with any such law.~~

~~Section 7. Ordinance Nos. 483, 483.1, and 483.2 are repealed.~~

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

~~Amended: 523.1 Item 3.6 of 03/01/1989 (Eff. 08/31/1989)~~

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