

Division 14 NUISANCES

Article 1. Statement of Purpose, § 3-14-1

Article 2. Abatement of Nuisances, §§ 3-14-2--3-14-100

Article 3. Reserved, §§ 3-14-101--3-14-103

ARTICLE 1. STATEMENT OF PURPOSE

Sec. 3-14-1. Purpose of division.

The purpose of this division is to provide remedies for public nuisances. This division is not exclusive and is supplementary to other state and ordinance sanctions for maintenance of nuisances and provisions for abatement of nuisances. The County may proceed under the abatement proceedings set forth in article 2 or the sanctions set forth in article 3 or both in any situation to which said articles are applicable.

(Ord. No. 3608, § 1, 12-17-86)

ARTICLE 2. ABATEMENT OF NUISANCES

Sec. 3-14-2. Authority and purpose.

The procedure set forth in this article for abatement of nuisances and the making of the cost of abatement of a public nuisance which exists on a parcel of land a special assessment against that parcel is adopted pursuant to Government Code section 25845 and article 11, section 7 of the California Constitution. The procedure set forth in this article for abatement applies to any matter which is determined to be a nuisance.

The procedure set forth in this division is not exclusive and is in addition to the procedure for abatement which is conferred upon the County by Civil Code section 3494, Code of Civil Procedure section 731, and any other applicable provision of law.

(Ord. No. 3608, § 1, 12-17-86)

Sec. 3-14-3. Determination of nuisance.

The Director of the Orange County Environmental Management Agency may determine that any premises within the unincorporated area of the County of Orange may constitute a public nuisance pursuant to any provision of law, including but not limited to Civil Code sections 3479 and 3480, and may initiate proceedings pursuant to this article. The authority of the Director shall, however, be limited to those types of matters set forth in section 3-14-101 and to those other specific matters as to which the board of supervisors may direct that proceedings be initiated. The Director shall set forth his determination in a letter of determination which shall identify the premises and state the conditions which may constitute the nuisance and shall request that such conditions be corrected within a stated period of time. The letter of determination shall be mailed to the owner and occupant of the premises. If the conditions are not remedied within the stated time, the Director may schedule a hearing to determine whether or not a nuisance exists.

(Ord. No. 3608, § 1, 12-17-86)

Sec. 3-14-4. Service of notice of hearing and letter of determination.

If a hearing is scheduled, the Director shall serve on the owner and occupant of the premises, which are the subject of the letter of determination issued pursuant to section 3-14-3, a copy of such letter of determination and a notice of hearing in substantially the form set forth in section 3-14-5, and a copy of this article. The notice shall be personally served if possible. If personal service is not possible, the letter of determination and notice shall be served by certified mail, return receipt requested, to the owner of the premises as shown on the latest equalized assessment roll and posted prominently on the premises. The notice shall be served and posted not less than thirty (30) calendar days before the date of the hearing.

(Ord. No. 3608, § 1, 12-17-86)

Sec. 3-14-5. Notice of hearing.

The notice referred to in section 3-14-4 shall be in substantially the following form:
"Notice is hereby given that on the _____ day of _____, the Director of the Orange County Environmental Management Agency determined that a nuisance subject to abatement may exist on the following described premises. On the _____ day of _____, at the _____, located at _____,

a hearing will be held before a hearing officer appointed by the Orange County Board of Supervisors to determine whether a public nuisance exists on the premises. If the premises, in all or in part, is found to constitute a public nuisance and if the same is not promptly abated by the owner, such nuisance may be abated by the County, in which case the costs of such abatement will be assessed upon such premises and such costs will constitute a lien upon such land until paid.

"The premises are described as follows: _____."
(Ord. No. 3608, § 1, 12-17-86)

Sec. 3-14-6. Hearing.

At the time fixed in the notice, a hearing officer appointed by the Board of Supervisors shall hear the testimony of all competent persons, subject to reasonable limitations of cumulative testimony and other procedures as set forth in section 3-14-15, desiring to testify respecting conditions constituting the alleged nuisance, including the estimated cost of its abatement and any other matter which may be pertinent. At the conclusion of the hearing, the hearing officer shall determine whether or not a nuisance exists; and, if the hearing officer so concludes, he may declare the conditions existing to be a nuisance and order the person owning or occupying the property upon which the nuisance exists to abate it within thirty (30) days after the date of posting on the premises of a notice of the order. The decision of the hearing officer shall be in writing and shall be final upon service of a copy of the decision and order by registered mail to those persons described in section 3-14-4.
(Ord. No. 3608, § 1, 12-17-86)

Sec. 3-14-7. Extension of time.

The hearing officer may grant an extension of time to abate the nuisance if, in his opinion, good cause for an extension exists.
(Ord. No. 3608, § 1, 12-17-86)

Sec. 3-14-8. Abatement by County.

If the nuisance is not abated within the time set forth, the Board of Supervisors may proceed to abate the nuisance unless an appeal has been filed pursuant to section 3-14-13.
(Ord. No. 3608, § 1, 12-17-86)

Sec. 3-14-9. Record of costs of abatement.

The Director shall keep an itemized account of the costs involved in abating the nuisance. The Director shall post conspicuously on the property and shall also mail to the owner and occupant of the property a statement showing the cost of the abatement. The statement shall be accompanied by a notice to the owner and occupant that the cost of abatement may be protested as set forth in section 3-14-10. If the cost is not protested within ten (10) calendar days after service, it shall be deemed final.
(Ord. No. 3608, § 1, 12-17-86)

Sec. 3-14-10. Hearing on statement of costs of abatement.

The owner or occupant may protest the cost of abatement by requesting a hearing before the hearing officer within ten (10) calendar days of service of the statement of costs described in section 3-14-9. Upon receipt of such a request, the Director shall schedule a hearing upon at least ten (10) calendar days' notice to the persons and in the manner provided in section 3-14-4. At the time fixed for the hearing on the statement of costs, the hearing officer shall consider the statement and protests or objections raised by the person liable to be assessed for the cost of the abatement. The hearing officer may revise, correct or modify the statement as he considers just and thereafter shall confirm the cost. The decision of the hearing officer shall be in writing and shall be served by mail as described in section 3-14-4. The decision shall be final upon mailing.

(Ord. No. 3608, § 1, 12-17-86)

Sec. 3-14-11. Special assessment.

If the property owner does not pay the cost of abating the nuisance within thirty (30) calendar days after the cost becomes final or the hearing officer confirms the cost of abatement or after the cost has been confirmed by the Board of Supervisors, if appealed, the Board of Supervisors may order that the cost shall become a special assessment against the property on which the nuisance was abated and that a notice of lien shall be filed. The assessment shall continue until it is paid, together with interest at the rate of seven (7) percent a year computed from the date of confirmation of the statement until payment. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary taxes. All acts applicable to levy, collection and enforcement of property taxes shall apply to this special assessment.

(Ord. No. 3608, § 1, 12-17-86)

Sec. 3-14-12. Notice of abatement lien.

In the event of an assessment pursuant to section 3-14-11, the Clerk of the Board of Supervisors shall file in the office of the County Recorder a notice in substantially the following form:

"Under the authority of Government Code section 25845, the County of Orange did on _____, 19_____, order abatement of a nuisance and on _____, 19_____, did abate such nuisance upon the real property hereafter described and then on _____, 19_____, did assess the cost of the abatement upon the real property. The record owner (or possessor) of such property was _____ (name and address). The County claims a special assessment on the real property for the cost of doing the work in the amount of \$_____. This amount is a special assessment against the real property until it is paid, with interest at the rate of seven (7) percent a year from _____, 19_____ (insert date of confirmation of statement), and discharge of record. The real property referred to above, and upon which the special assessment is claimed is that certain parcel of land situated within the County of Orange, State of California, more particularly described as follows:

"
(Ord. No. 3608, § 1, 12-17-86)

Sec. 3-14-13. Appeals.

(a) The Planning Commission shall constitute the Board of Appeals for any decision of the hearing officer. The Board of Supervisors shall constitute the Board of Appeals for any decision of the Planning Commission.

(b) Any decision of the hearing officer may be appealed to the Board of Appeals by the owner or occupant of the property or by any member of the Board of Supervisors. Notice of the appeal

shall be filed with the Clerk of the Board of Supervisors within ten (10) calendar days after the decision becomes final. Late notices of appeal will not be considered. Hearings on appeal shall be limited to those issues raised in the notice of appeal. The Director shall give notice of the hearing on the appeal in the manner and to the persons described in section 3-14-4 not less than ten (10) calendar days prior thereto.

(c) The filing of a timely notice of appeal shall stay any further proceedings under the determination appealed from until the Board of Appeals has made its determination.

(d) The Board of Appeals may uphold, reverse or modify any determination appealed. The decision of the Board of Appeals shall become final upon service thereof by registered mail upon those persons described in section 3-14-4.

(Ord. No. 3608, § 1, 12-17-86)

Sec. 3-14-14. Hearing officer.

A hearing officer shall be appointed by the Board of Supervisors to conduct hearings pursuant to this article as necessary.

(Ord. No. 3608, § 1, 12-17-86)

Sec. 3-14-15. Procedure.

The rules of evidence set forth in section 5-2-19 shall apply to hearings conducted pursuant to this article, and the hearing officer and property owner or occupant may request the Board of Supervisors to issue subpoenas as set forth therein.

(Ord. No. 3608, § 1, 12-17-86)

Sec. 3-14-16. Other County officials authorized to use procedures.

Any County official charged with enforcement of any provisions of law which authorize abatement of nuisances may utilize the provisions of this article for such abatement. In such instances, the official shall have the same powers as those given by this article to the Director, EMA.

(Ord. No. 3608, § 1, 12-17-86)

Sec. 3-14-17. Penalty.

(a) Notwithstanding any other provision in this Code to the contrary, each person who allows, causes, conducts, maintains or permits any condition, activity or use that is declared by Title 3, Division 13 to be a public nuisance or that is prohibited thereby, is guilty of a misdemeanor pursuant to Section 1-1-34(a) of Title 1 of this Code.

(b) A misdemeanor may be charged as an infraction when:

(1) The District Attorney files a complaint charging the offense as an infraction; or

(2) The court, on motion of the District Attorney and with the consent of the defendant, determines to treat a misdemeanor offense as an infraction, in which event the case will proceed as if the defendant had been arraigned on an infraction complaint.

(c) As used in this section, "person" includes a natural human being, any form of association, joint venture, partnership, corporation, trust or other entity of any kind, any person acting as a fiduciary or trustee, any municipal, political or governmental corporation, district, entity, body or agency other than this county, and any combination of persons. For violations of this Code involving real property, "Person" shall also include, without limitation, those who own, occupy, exercise dominion of, or otherwise control, or who are responsible for, said premises. "Person" shall also include agents thereof.

(Ord. No. 02-005, § 2, 7-23-02; Ord. No. 05-011, § 1, 6-7-05)

Sec. 3-14-18. Enforcement.

The Director of the Planning and Development Services Department and such subordinates as the Director may designate may be charged with enforcement of the provisions

of the article. In accordance with Penal Code section 836.5, the Director and subordinates are hereby authorized to arrest any person whom they have reasonable cause to believe has committed a violation of this article in their process.
(Ord. No. 02-005, § 2, 7-23-02) Secs. 3-14-19--3-14-100. Reserved.

ARTICLE 3. RESERVED*

***Editor's note:** Ord. No. 05-011, § 2, adopted June 7, 2005, amended the Code by repealing former art. 3, §§ 3-14-101--3-14-103, in its entirety. Former art. 3 pertained to prohibition against maintenance of certain nuisances, and derived from Ord. No. 3608, adopted December 17, 1986; Ord. No. 3683, adopted February 23, 1988; Ord. No. 3961, adopted April 2, 1996; Ord. No. 98-14, adopted December 8, 1998; Ord. No. 98-15, adopted December 8, 1998; and Ord. No. 02-005, adopted July 23, 2002.

Secs. 3-14-101--3-14-103. Reserved.