

TITLE 9

DIVISION 13: ENFORCEMENT

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CHAPTER 1: GENERAL

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§ 91301.00 PURPOSE & APPLICATION

The purpose of this Division is to provide for the enforcement of this Title 9, Land Use Ordinance for the County of Imperial. All persons are hereby on notice of the proceedings and penalties involved if any provision of this Title 9 is violated. The procedures contained in this Chapter do not limit or modify the authority of the County of Imperial to pursue enforcement actions under any other federal, state or local law, rule or regulation.

It is the further purpose of Title 9 to impose upon property owners the responsibility to maintain, use or require that their real property and appurtenances be maintained and used in accordance with the County Land Use Ordinances. Accordingly, it is hereby made unlawful for any property owner to maintain or use, or allow the maintenance or use of their real property and appurtenances in violation of the said Ordinances. All violations will be treated as strict liability offenses.

The Enforcement Officer shall have the authority and powers necessary to ensure compliance with the provisions of the County Land Use Ordinances and applicable state laws, rules and regulations. These powers include the power to issue Notices of Violation and field citations, to inspect public and private property and to use whatever administrative and judicial remedies available.

§ 91301.01 DEFINITIONS

For the purpose of this ordinance, certain words are defined as follows:

- A. The term "County Land Use Ordinances" shall mean this Title 9.
- B. The term "Enforcement Officer" shall include the Director of Planning, Building Official, Director of Environmental Health, Sheriff, Director of Public Works 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 "abatement costs" means any costs or expenses reasonably related to the abatement of conditions which violate County Land Use Ordinances, and shall include, but not be limited to, enforcement, investigation and administrative costs, attorneys fees, and the costs associated with the removal or correction of the violation.
- E. The term "administrative costs" shall include staff time reasonably related to enforcement for items including, but not limited to, site inspections, investigations, summaries, reports, notices, telephone contacts and correspondence. For purposes of this Division, the term "staff" shall include any County employee, regardless of employment status.
- F. The term "permit" shall include any permit, license, authorization or entitlement issued by the County of Imperial.

§ 91301.02 NO PERMITS TO BE ISSUED

- A. No permit shall be issued, and no department, official or employee of the County of Imperial shall issue a permit, unless it is in accordance with all the provisions of Imperial County Codified Ordinances. Further, no permit shall be issued to any person who at the time such permit is ready to be issued has failed to pay any fines or penalties assessed for violations of the County Land Use Ordinances. Any permit issued contrary to the provisions of Imperial County Codified Ordinances shall be void and of no effect.
- B. No permit, whether ministerial or discretionary, shall be issued for any building, structure or use on a parcel of land if the department, official or employee authorized to issue such permit is aware that a violation of the County Land Use Ordinances exists, unless such permit directly results in the abatement of the violation.

§ 91301.03 AUTHORITY TO INSPECT

Whenever necessary to make an inspection to enforce any applicable state law or provision of the county land use ordinances, or whenever there is reasonable cause to believe there exists a violation of any applicable state law or provision of the county land use ordinances in any building or upon any premises within the jurisdiction of the county, any authorized enforcement officer may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon him or her by ordinance; provided, that except in emergency situations or when consent of the owner and/or occupant to the inspection has been otherwise obtained, he or she shall give the owner and/or occupant, if they can be located after reasonable effort, at least 24 hours' written notice of the enforcement officer's intention to inspect. The notice transmitted to the owner and/or occupant shall state that the property owner and/or occupant has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of an inspection warrant by a duly authorized magistrate pursuant to code of civil procedure section 1822.50. In the event the owner and/or occupant refuses entry after such request has been made, the enforcement officer is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining an inspection warrant for such entry. It is a misdemeanor to willfully refuse access after an inspection warrant has been duly issued (code of civil procedure section 1822.57). The above 24-hour notice requirement shall not apply to any inspection where the enforcement officer conducts the observations and inspection while within the public right-of-way or within the unobstructed walkway between such right-of-way and the front entry of any residence; nor shall it apply to abandoned or inoperative motor vehicles inspected on site in accordance with applicable state law.

§ 91301.04 CITATIONS

The Enforcement Officer, or his designee(s) have the authority pursuant to Section 12401 of the Codified Ordinances of the County of Imperial to issue citations against any person, firm or corporation that is in violation of any provision of this Ordinance and/or any section, article, or regulation of the adopted codes, may issue a citation to effect compliance with all applicable laws, ordinances, and/or regulations.

The citation shall be issued only by duly qualified personnel and upon the format approved by the Courts.

§ 91301.05 CITATION PROCEDURES

The Enforcement Officer is authorized to issue notices to appear in court as prescribed by Chapter 5(c) of Title 5, Part 2 of the Penal Code, commencing with Section 853.5. If a violator to whom a notice is given fails to give his promise to appear, the Enforcement Officer shall request the assistance of Law Enforcement to take the individual into custody or shall refer the notice to appear to the District Attorney.

§ 91301.06 TRAINING

The Enforcement Officer shall not exercise the power to issue citations authorized by this chapter, unless he shall first have completed a course of training that meets the minimum standard prescribed by the commission on peace officers standards and training as established by Section 832(a) of the Penal Code.

§ 91301.07 VIOLATION OF PROMISE TO APPEAR

Any person who willfully violates his written promise to appear in court is guilty of a misdemeanor, regardless of the disposition of the charge set forth in the notice to appear and as established by Section 853.7 of the Penal Code.

§ 91301.08 WARRANT FOR ARREST FOR FAILURE TO APPEAR

When a person signs a written promise to appear at the time and place specified in the written promise to appear and has not posted bail as provided in Section 853.6 of the Penal Code, the magistrate shall issue and have delivered for execution a warrant for his arrest within twenty (20) days after his failure to appear as promised.

§ 91303.09 AUTHORIZATION TO MAKE ARRESTS

Pursuant to Penal Code Section 836.5, the Enforcement Officer is authorized to make arrests without warrant, subject to the limitations set forth in this Division 13, where there is a reasonable cause to believe that the person arrested has violated a statute or ordinance which the Enforcement Officer has the duty to enforce.

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TITLE 9

DIVISION 13: ENFORCEMENT

CHAPTER 2: ABATEMENT OF NUISANCES

§ 91302.00	PURPOSE AND DEFINITIONS
§ 91302.01	NUISANCE DEFINED
§ 91302.02	SCOPE OF CHAPTER
§ 91302.03	SUMMARY ABATEMENT
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§ 91302.05	ADMINISTRATIVE ABATEMENT- PROCEDURE
§ 91302.06	JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS IMPOSING FINES OR PENALTIES

§ 91302.00 PURPOSE AND DEFINITIONS

- A. This chapter is intended to provide an administrative procedure for the abatement of any public nuisance. A violation of any applicable state law or provision of the county land use ordinances enforced by the county constitutes a nuisance. It is intended to provide a uniform procedure for notification, right of appeal and assessment of costs and collection thereof for the abatement of public nuisances. The administrative abatement procedure herein is intended to provide due process to all those required to abate a public nuisance.
- B. "Authorized person" means hearing officer, board, commission, agency or department head, or their respective designee, or any other person authorized by the board of supervisors to preside over the administrative process and procedure.
- C. "Responsible party" means any person or legal entity that has a possessory, equitable or beneficial interest in the subject property.
- D. "Written notice" means a written document which informs a responsible party of the time, date and place for a hearing, the nature of the penalty and/or the corrective action required of that responsible party and the code and/or ordinance section(s) applicable to the proceeding.
- E. "Hearing" means both the initial hearing and any and all subsequent appeals.

§ 91302.01 NUISANCE DEFINED

Nuisance, as defined in civil code section 3479, is anything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street or highway.

Any condition caused, maintained or permitted to exist in violation of any of the provisions of the 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.

§ 91302.02 SCOPE OF CHAPTER

Whenever a public nuisance is declared, it may be abated in accordance with the procedures provided in this chapter and this chapter shall be applicable to all administrative procedures regarding the denial, suspension or revocation of a permit, license or entitlement. Nothing in this chapter shall be construed to limit the right and duty of any enforcement officer to take immediate action to preserve or protect public health or safety. The procedures set forth in this chapter are not exclusive but are cumulative to all other civil and criminal remedies provided by law. The seeking of other remedies shall not preclude the simultaneous commencement of proceedings pursuant to this chapter.

§ **91302.03 SUMMARY ABATEMENT**

Pursuant to government code section 25845(a), the enforcement officer is authorized to summarily abate public nuisances determined by the enforcement officer to constitute an immediate threat to public health or safety. The nuisance may be summarily abated by any reasonable means and without notice or hearing when immediate action is necessary to protect against the existence of a dangerous condition or imminent threat to life or safety on public or private property. Summary abatement actions shall not be subject to the notice and hearing requirements of this chapter. Summary abatement actions may be initiated after commencement of proceedings pursuant to this chapter, if immediate action becomes necessary to preserve or protect the public health or safety. Summary abatement shall be limited to actions that are reasonably necessary to immediately remove the threat. In the event a public nuisance is summarily abated, the enforcement officer may keep an account of the cost of abatement and such costs shall be charged to the responsible party. If the bill is not paid within 15 days from the date of mailing, the enforcement officer may proceed to obtain a special assessment and lien against the property in accordance with the procedures set forth in this code.

§ **91302.04 NUISANCE DECLARED**

An enforcement officer may declare a public nuisance for any reason specified in any county ordinance. Upon a public nuisance being declared, the enforcement officer shall issue a notice and order to abate substantially in the following form:

NOTICE AND ORDER TO ABATE

NOTICE IS HEREBY GIVEN THAT _____ [specify the condition constituting the nuisance] is in violation of Section ____ [insert section number] of the County of Imperial Codified Ordinances [or other applicable statute]. The violation is declared a public nuisance. The public nuisance is on property located at _____ [insert address or other legal property description].

YOU ARE HEREBY ORDERED TO ABATE SAID PUBLIC NUISANCE within ____ (____) [insert a reasonable number of days (not less than ten)] consecutive calendar days from the issuance of this order. The issuance date is specified below. You may abate the nuisance by _____ [insert desired action which, if taken, will adequately remedy the situation (for example, removal, demolition or repair)]. The nuisance must be abated by ____ [insert date certain]. If you fail to abate the public nuisance by the above date, the county may order its abatement by public employees, private contractor or other means, and the cost of said abatement may be levied and assessed against the property as a special assessment lien or billed directly to the property owner.

YOU MAY APPEAL FROM THIS ORDER OF ABATEMENT but any such appeal must be brought prior to the expiration of the number of days specified above for completion of abatement. The appeal must be in writing; specify the reasons for the appeal; contain your name, address and telephone number; be accompanied by an appeal fee of _____ dollars (\$____); and be submitted to the Director of Planning and Development Services at the following address:

801 West Main Street
El Centro, CA 92243

ISSUANCE DATE: _____ [insert date that the county issues the notice]

(Name, address and telephone number of officer issuing this notice)

§ **91302.05 ADMINISTRATIVE ABATEMENT – PROCEDURE**

These procedures shall be followed whenever it is necessary to corrector remove the conditions giving rise to a nuisance.

A. FIRST NOTICE

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 enforcement officer shall give written notice requiring abatement of the condition to all responsible parties concerned. The notice shall specify the following:

1. The manner in which the conditions on the property violate the provisions of county land use ordinances or other ordinances;
2. The corrective actions required to abate the violation;
3. Notice that failure to bring the property into compliance with the county land use ordinances or other ordinances could subject the owner and other responsible parties to civil and criminal penalties; and
4. Notice that failure to bring the property into compliance with county land use ordinances or other ordinances could result in the imposition of a lien on the property for 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. MANNER OF GIVING NOTICE

The enforcement officer may give personal notice. Alternatively, the enforcement officer shall send a copy of the notice by registered or certified mail, postage prepaid, return receipt requested, to the owner of the property (as such person's name and address appears on the county equalized assessment roll) and 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 holders. Service by mail shall be deemed complete at the time of deposit in the mail. In the event that the enforcement officer cannot give notice in the manner provided above, the enforcement officer shall post a copy of the notice in a conspicuous place on the property. The failure of any owner or other person, including any mortgagee or beneficiary or lease holder as mentioned above, to receive such notice shall not affect the validity of the proceedings.

C. SECOND NOTICE

If the first notice is not complied with in a timely manner, a second notice shall be given. Such second notice shall be sent to all responsible parties. The notice shall be dated and shall direct all responsible parties to appear at a hearing before the planning commission 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 15 days after service of the second notice. Prior to the hearing, a copy of the first and second notices and proof of service shall be filed with the planning commission. The failure of any responsible party to receive such notice shall not affect the validity of the proceedings.

D. HEARING

At the time fixed in the second notice, the Planning Commission shall receive evidence regarding the conditions of the property or any other relevant matter presented by any interested person. In conducting the hearing the planning commission shall not be limited by the technical rules of evidence. Upon the conclusion of the hearing, the planning commission shall make its decision and it may declare the conditions on the property or the property to be in violation of county land use ordinances or other ordinances and, therefore, a public nuisance. The decision shall be mailed to all parties concerned or be posted on the property in the same manner as the first notice. If the planning commission determines there is a public nuisance, it shall direct the responsible parties to abate the conditions on the property within 30 days after service of the decision. If the responsible parties fail to abate the conditions on the property within such time, the county may abate those conditions. If the county abates the conditions, after a hearing, the costs of abatement shall be a lien on the property which may be collected by an assessment against the property pursuant to government code

sections 25845 and 54988 or by any other means provided by law. The planning commission may grant any extension of time to abate such conditions that it may deem justifiable upon good cause being shown.

E. APPEAL TO BOARD OF SUPERVISORS

The decision of the Planning Commission shall be final unless appealed to the board of supervisors within 10 days of the date of the planning commission's decision.

F. TIME TO OBJECT

Unless a responsible party files a writ in a court of competent jurisdiction within 90 days after the date of service of the Board of Supervisors' decision, all objections to the proceedings and decision shall be deemed to have been waived.

G. TIME TO BRING ACTION – ADMINISTRATIVE FILES OR PENALTIES

A final decision shall be issued by the Board of Supervisors or other authorized person. The date of mailing of the final decision to the party by first class mail, with certificate of service attached, shall constitute the date of the exhaustion of administrative remedies. A party shall be advised that, pursuant to code of civil procedure section 1094.6, it has 90 days from that date in which to file for a writ of mandamus or other applicable judicial review, except that if the determination is made as to a decision imposing an administrative penalty, fine or charge pursuant to ordinance, the time to appeal to the superior court is limited to 20 days pursuant to government code section 53069.4. Failure to file for judicial review within the applicable time limit makes the final decision nonappealable and confirmed. Until a timely request for judicial review is filed, enforcement of the final decision may proceed in due course.

H. JURISDICTION TO ABATE

Once 95 days have passed after service of the decision of the board of supervisors, or 25 days have passed in the case of administrative penalty, fine or charge, the county shall have jurisdiction to abate such conditions, unless the Board of Supervisors grants an extension of time.

I. STATEMENT OF EXPENSE/NOTICE OF INTENT TO LIEN

The county shall mail, by certified and regular mail, and shall cause to be posted conspicuously on the property, a verified statement showing the abatement costs, together with a notice of the date, time, and place that the hearing on the statement shall be heard by the Board of Supervisors; service shall be in accordance with code of civil procedure sections 415.10, 415.20, 415.30 or 415.40 if the responsible party resides outside the state of California. The statement of expense shall include a notice that failure to pay the expenses shall result in a lien upon the property. The date for such hearing shall be not less than 50 days after the posting and mailing of the statement of expense. A copy of the statement of expense and notice shall be mailed to all responsible parties in the manner as it prescribed for the first notice. All supporting documentation and proofs of service shall be filed with the clerk of the board prior to any hearing.

J. HEARING ON STATEMENT OF EXPENSE

At the time fixed for the hearing on the statement of expense, the board of supervisors shall consider the statement of expense, together with any objections that may be raised by the responsible parties. The board of supervisors may make any such revision, correction or modification in the statement of expense as it may deem just and thereafter shall render its decision on the statement of expense. The board of supervisor's decision on the statement and all protests and objections that may be made shall be final and conclusive.

K. PAYMENT-LIEN

If payment of the amount due established in the statement of expense is not made within 10 days after the board of supervisor's decision, the county may transmit the statement of expense and the board of supervisor's decision to the county auditor-controller. The auditor-controller shall place the amount on the assessment roll as a special assessment on the property to be paid with county taxes, unless sooner paid. A notice of lien, including the following information, may be recorded with the county clerk/recorder:

1. A description of the real property affected, including the assessor's parcel number;
2. A summary of the action taken to abate the subject condition;
3. The date upon which abatement of the nuisance was ordered by the board of supervisors;
4. The date the abatement was complete; and
5. The amount of the lien claimed by the county.

L. RELEASE OF LIEN

Upon payment of the abatement costs in full, or upon order of the board of supervisors, if a lien has been recorded, the county shall execute and record a release of the lien on the property. If an assessment has been placed on the assessment roll and is thereafter paid to the county, the auditor-controller shall cancel the assessment on the roll.

M. INCURRING EXPENSE

The county is authorized to pay the cost of a title search to determine the responsible parties, mailing expense and the expense of all work done or caused to be done by the county in the abatement of the subject condition. All of such costs shall be included in the statement of expense.

N. CONTINUANCES – DECISION

The board of supervisors may continue any hearing for any amount of time. Upon the conclusion of the hearing, the board of supervisors shall render its decision within 15.

O. OTHER REMEDIES

The provisions of this chapter are to be construed as an added remedy of abatement and not in derogation of any other actions, proceedings or remedies otherwise provided by law.

§ 91302.06 JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS IMPOSING FINES OR PENALTIES

A. TWENTY DAY PERIOD TO APPEAL FINE OR PENALTY

Notwithstanding the provisions of sections 1094.5 or 1094.6 of the code of civil procedure, within 20 days after service of the final administrative order or decision of the board of supervisors or other authorized person is made, a responsible party contesting that final administrative order or decision may seek review by filing an appeal to be heard by the superior court, where the same shall be heard de novo, except that the contents of the file in the case shall be received in evidence. A proceeding under this section is a limited civil case. Copies of all notices and decisions shall be admitted into evidence as prima facie evidence of the facts stated therein. A copy of the notice of appeal shall be served in person or by first-class mail upon the county by the responsible party contesting the final administrative order or decision of the board of supervisors.

B. FEE FOR APPEAL

The fee for filing the notice of appeal shall be as specified in section 70615 of the government code. The court shall request that the file on the case be forwarded to the court, to be received within 15 days of the request. The court shall retain the fee regardless of the outcome of the appeal. If the

court finds in favor of the responsible party contesting the final administrative order or decision by the board of supervisors, the amount of the fee shall be reimbursed by the county. Any deposit of the fine or penalty shall be refunded by the county in accordance with the judgment of the court.

C. CONDUCT OF APPEAL

The conduct of the appeal under this section is a subordinate judicial duty that may be performed by traffic trial commissioners and other subordinate judicial officials at the direction of the presiding judge of the court.

D. NO APPEAL – ORDER CONFIRMED

If a notice of appeal of the county’s final administrative order or decision is not filed within the period set forth in this section, the order or decision shall be deemed confirmed.

E. COLLECTION OF FINE

If the fine or penalty has not been deposited and the decision of the court is against the responsible party contesting the final administrative order or decision by the board of supervisors, the county may proceed to collect the penalty pursuant to the procedures set forth herein.

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TITLE 9

DIVISION 13: ENFORCEMENT

CHAPTER 3: MODIFICATION, SUSPENSION OR REVOCATION OF PERMITS

- § 91303.00 GROUNDS
- § 91303.01 INITIATION OF ACTION TO MODIFY, SUSPEND OR REVOKE A PERMIT
- § 91303.02 NOTICE AND HEARING

§ 91303.00 GROUNDS

Any permit may be modified, suspended or revoked for any of the following reasons:

- A. The permit was obtained or extended by misrepresentation or fraud.
- B. One or more of the conditions upon which the permit was issued have been violated or not implemented.
- C. The use permitted is conducted in a manner that constitutes a nuisance or is detrimental to the public health, welfare or safety.

§ 91303.01 INITIATION OF ACTION TO MODIFY, SUSPEND OR REVOKE A PERMIT

An action to modify, suspend or revoke a permit may be initiated by the Board of Supervisors or the Planning Commission on its own motion or upon the request of the Enforcement Officer to the Planning Commission.

§ 91303.02 NOTICE AND HEARING

An action to modify, suspend or revoke a permit shall be subject to the procedures set out for administrative abatement.

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TITLE 9

DIVISION 13: ENFORCEMENT

CHAPTER 4: CIVIL ACTIONS

- § 91304.00 INJUNCTIVE RELIEF AND ABATEMENT
- § 91304.01 CIVIL REMEDIES AND PENALTIES

§ 91304.00 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 Imperial 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 proceedings for the abatement, removal, correction and enjoinder thereof, and requiring the violator to pay civil penalties and/or abatement costs.

§ 91304.01 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 Imperial 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. 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.

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TITLE 9

DIVISION 13: ENFORCEMENT

CHAPTER 5: CRIMINAL ACTIONS

§ 91305.00 CRIMINAL ACTIONS

§ 91305.00 CRIMINAL ACTIONS

It shall be unlawful for any person to violate any provision of Imperial County Ordinances, or to violate any provision of any permit or conditions of approval granted pursuant to the Imperial County Ordinances, or to cause, permit, aid or abet any such violation. Any person violating any provision of Imperial County Ordinances, or any permit or conditions of approval granted pursuant to Imperial County 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 Imperial County Ordinances or violation of any provision of any permit granted pursuant to this ordinance, is committed, continued or permitted.

Any person so convicted shall be (1) guilty of an infraction offense and punished by a fine not exceeding one thousand dollars (\$1,000.00) for a first violation; (2) guilty of an infraction offense and punished by a fine not exceeding twelve hundred dollars (\$1250.00) for a second violation on the same site and perpetrated by the same person. The third and any additional violations on the same site and perpetrated by the same person shall constitute a misdemeanor offense and shall be punishable by a fine not exceeding fifteen hundred dollars (\$1,500.00) 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.

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DIVISION 13: ENFORCEMENT

CHAPTER 6: COSTS AND DAMAGES

- § 91306.00 PERSONS LIABLE
- § 91306.01 TREBLE DAMAGES
- § 91306.02 PAYMENT OF ABATEMENT COSTS, PENALTIES OR DAMAGES

§ 91306.00 PERSONS LIABLE

Any person, whether acting as a principal, agent, employee, owner, lessor, lessee, tenant, occupant, operator or contractor, or otherwise, violating any provisions of Imperial county ordinances or the rules, regulations, orders, permits or conditions of approval issued thereunder, shall be liable to the County of Imperial for costs of abatement and any damages suffered by the County, its agents and agencies, as a result of such violations,

§ 91306.01 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 Imperial for treble the abatement costs, in accordance with Government Code Section 25845.5.

§ 91306.02 PAYMENT OF ABATEMENT COSTS, PENALTIES OR DAMAGES

If payment of an award of abatement costs, penalties or damages is not made within ten (10) days of an administrative (Section 5, subdivision 1 and or judicial determination of such costs, penalties or damages, the Enforcement Officer may file a Notice of Lien, describing the real property affected and the amount of the costs, penalties or damages claimed by the County, with the Office of the County Recorder of Imperial County. The Enforcement Officer may transmit the judgment or award of abatement costs, penalties or damages of 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. A judgment or award of such costs, penalties or damages may also be enforced in any other manner provided by law.

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TITLE 9

DIVISION 13: ENFORCEMENT

CHAPTER 7: NONCOMPLIANCE

§ 91307.00 NOTICE OF NON-COMPLIANCE

§ 91307.00 NOTICE OF NON-COMPLIANCE

Whenever a notice of violation has been given, the Enforcement Officer may record a Notice of Noncompliance with the Office of the County Recorder of Imperial County and shall notify the owner of the property of such action. The Notice of Noncompliance shall describe the property, shall set forth the non-complying conditions, and shall state that any costs incurred by the County, including, but not limited to investigative, administrative and abatement costs and attorneys' fees as a result of the violation of Imperial county ordinances may become a lien on the property and that the owner has been so notified.

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TITLE 9

DIVISION 13: ENFORCEMENT

CHAPTER 8: REMEDIES AND PENALTIES

§ 91308.00 REMEDIES AND PENALTIES

§ 91308.00 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 Imperial County Ordinances 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.

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TITLE 9

DIVISION 13: ENFORCEMENT

CHAPTER 9: RECOVERY OF COSTS WHERE NO PERMIT IS REQUIRED TO CURE VIOLATION

§ 91309.00	RECOVERY OF COSTS
§ 91309.01	RECORDS
§ 91309.02	NOTICE
§ 91309.03	SUMMARY OF COSTS
§ 91309.04	APPEAL
§ 91309.05	REQUEST FOR HEARING
§ 91309.06	REVIEW OF COSTS

§ 91309.00 RECOVERY OF COSTS

The following section establishes procedures for the recovery of administrative costs in cases where no permit is required to cure a violation. The intent of this section is to recoup administrative costs reasonably related to enforcement.

§ 91309.01 RECORDS

The Enforcement Officer shall maintain records of all administrative costs, incurred by responsible county departments, 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.

§ 91309.02 NOTICE

Upon investigation and determination that a violation of any of the provisions of County Land Use Ordinances is found to exist, the Enforcement Officer shall notify the record owner, or any person having possession or control of the subject property, of the existence of the violation(s), by issuing a Notice of Violation in person, by mail, or by posting the Notice on the property in a conspicuous place. The Notice shall also indicate the Department's intent to charge the property owner for all administrative costs associated with enforcement and of the owner's right to a hearing on objection thereto.

The Notice shall be in substantially the following form:

NOTICE OF VIOLATION

The Department of _____ has determined that conditions exist at the property at _____, Assessor's Parcel Number _____, which violates Section(s) _____ of the Imperial County Ordinance No(s),

to wit:

Notice is hereby given that at the conclusion of this case you will receive a summary of administrative costs associated with the processing of such violation(s).

You will have the right to appeal this Notice of Violation or to object to these charges by filing a Request for Hearing with the Planning Commission within ten (10) days of service of the summary of charges, pursuant to Section 91309.03 of Imperial County Codified Ordinances.

§ 91309.03 SUMMARY OF COSTS

Within ten (10) days of issuance of a Notice of Violation, the Enforcement Officer shall send a summary of costs associated with enforcement to the owner and/or person having possession or control of the subject

property by certified mail. If the owner and/or person having possession of control of the subject property cannot be located, the Enforcement Officer shall post a copy of the summary of costs at a conspicuous location on the property.

§ 91309.04 APPEAL

Any decision of the Enforcement Officer, including the determination of costs of enforcement. The appeal shall be heard by the Planning Commission which may affirm, amend or reverse the decision and may take any other action deemed appropriate. The Enforcement Officer shall give written notice of the time and the place of the hearing to appellant. In conducting the hearing, the Planning Commission shall not be limited by the technical rules of evidence.

§ 91309.05 REQUEST FOR HEARING

A request for hearing on the Notice of Violation and/or summary of costs shall be filed in writing with the Planning Commission within five (5) days of the service by mail or posting of the summary of costs, on a form provided by the Department. Within forty-five (45) days of the filing of the request, and on ten (10) days written notice to the owner, the Planning Commission shall hold a hearing on the owner's objections, and determine the validity thereof.

§ 91309.06 REVIEW OF COSTS

In determining the validity of the costs, the Planning Commission shall consider whether total 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 the violation; whether there 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.

