

TITLE III - LAND USE AND DEVELOPMENT

DIVISION 5

ABATEMENT OF PUBLIC NUISANCES

CHAPTER 1

PUBLIC NUISANCES

351-1. UNIFORM PROCEDURE.

This chapter shall be known as the "Uniform Public Nuisance Abatement Procedure." It is enacted pursuant to Government Code Section 25845 and is intended to be an alternative procedure for the abatement of any nuisance as defined herein. (Ord. 2457, § 2, 08/23/2011)

351-1.1. PURPOSE AND SCOPE.

Any nuisance, as defined herein, existing on any parcel of land in the County of Humboldt may be abated as provided herein. The procedure for said abatement provided herein shall not be exclusive but shall be 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. (Ord. 601, § 1, 6/6/67; Ord. 2457, § 1, 08/23/2011)

351-1.2 SUMMARY ABATEMENT

Nothing in this chapter prohibits the summary abatement of a nuisance upon order of the Board of Supervisors, or upon order of any county officer authorized by law to summarily abate nuisances, if the Board or officer determines that the nuisance constitutes an immediate threat to public health or safety. (Ord. 2457, § 2, 08/23/2011)

If a public nuisance is summarily abated, the enforcement official shall keep an account of the costs of abatement, including all enforcement, investigative and administrative expenses. Upon the completion of the abatement, the enforcement official shall schedule a hearing on costs in accordance with Section 351-33. (Ord. 2457, § 2, 08/23/2011)

351-2. DEFINITION OF NUISANCE.

A "nuisance" is hereby defined to be:

(a) Any condition declared by any statute of the State of California or ordinance of the County of Humboldt to be a nuisance.

(b) Any condition, act or failure to act constituting a public nuisance known at common law or equity. (Ord. 2457, § 1, 08/23/2011)

(c) Any condition, act or failure to act which is dangerous to human life, or unsafe or detrimental to the public health or safety. (Ord. 2457, § 1, 08/23/2011)

(d) Any attractive nuisance which may prove dangerous or detrimental to the public health or safety. (Ord. 2457, § 1, 08/23/2011)

(e) Any unlawful obstruction of or encroachment upon any public property, including but not limited to any public street, highway or right-of-way, park or building. (Ord. 2457, § 1, 08/23/2011)

(f) Any establishment, use or operation of buildings, land or property contrary to the provisions of the ordinances of the county. (Ord. 2457, § 1, 08/23/2011)

351-3. OTHER DEFINITIONS.

(a) Enforcement Official. "Enforcement official" means any officer or department head of the County of Humboldt charged with the duty of enforcing ordinances of the County of Humboldt or laws of the State of California.

(b) Owner. "Owner" means the owner of record of the premises affected.

(c) Occupier. "Occupier" means the person occupying or otherwise in real or apparent charge and control of the premises affected.

(d) Beneficial Owner. "Beneficial owner" means any mortgagee of record, a beneficiary under a recorded deed of trust, or the owner or holder of any lease of record; provided, however, that the United States, the State of California, and the County of Humboldt shall not be deemed to be beneficial owners by virtue of any lien for unpaid taxes. (Ord. 601, § 3, 6/6/67)

(e) Costs. "Costs" means all abatement and administrative costs.

i. "Abatement costs" are all costs reasonably related to the abatement of the nuisance including but not limited to enforcement, investigation, allowable attorney fees, and any and all costs associated directly with the removal and/or correction of the violation. (Ord. 2457, § 1, 08/23/2011)

ii. "Administrative costs" are that segment of abatement costs that includes staff time expended reasonably related to enforcement activities under this ordinance. This shall include, but not necessarily be limited to, site inspections, investigations, the preparation of summaries, reports, notices, and time and expenses incidental to meetings, hearings, and related communications/correspondence/document preparation. The hourly rate established for staff time shall be set by the Board of Supervisors and revised from time to time. (Ord. 2457, § 1, 08/23/2011)

iii. "Attorney fees"-in any administrative proceeding to abate a nuisance, attorneys' fees may be recovered by the prevailing party. Recovery of attorneys' fees by the prevailing party is limited to those administrative proceedings in which the county elects, at the initiation of that individual proceeding, to seek recovery of its own attorneys' fees. In no administrative proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the county in the administrative proceeding. (Ord. 2457, § 1, 08/23/2011)

351-12. NOTICE OF NUISANCE; FIRST NOTICE.

Upon the determination by the enforcement official that a nuisance exists, said enforcement official shall prepare a Notice of Nuisance and shall cause copies of said Notice of Nuisance to be served as follows: (Ord. 601, § 5, 6/6/67; Ord. 2457, § 1, 08/23/2011)

(a) A copy of said notice is either served personally or has been deposited in the mail, postage prepaid, certified, return receipt requested, to every owner, occupier and beneficial owner of the premises affected, addressed to such person at his last known place of address. Service by certified mail shall be deemed complete on the date of mailing and; (Ord. 2457, § 1, 08/23/2011)

(b) A copy of the notice is prominently and conspicuously affixed to the premises affected by the proceedings herein. (Ord. 2457, § 1, 08/23/2011)

The failure of the enforcement official to make or attempt to make such service on any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served. If no address can be found by or is known to the enforcement official, then any notice shall be so mailed to such person at the address of the premises affected by the proceedings. The failure of any person to receive such notice shall not affect the validity of any proceedings taken hereunder. (Ord. 2457, § 1, 08/23/2011)

351-13. CONTENTS OF NOTICE OF NUISANCE.

The Notice of Nuisance shall contain the following:

(a) A street address, legal description or other description sufficient to identify the premises affected.

(b) A description of the condition causing the nuisance. Where the enforcement official has determined that the condition causing the nuisance can be corrected or abated by repair thereof, the notice shall state the repairs which will be required.

(c) Where the enforcement official has determined that the condition causing the nuisance is imminently dangerous to human life or limb, or is unsafe, or is detrimental to the public health or safety, he may order that the building or structure affected be vacated pending the correction or abatement of the conditions causing the nuisance.

(d) An order to commence the abatement of said nuisance within thirty (30) days, and to thereafter diligently prosecute and complete said abatement.

(e) A statement that, if the required abatement is not commenced and diligently prosecuted within the time limit specified, the enforcement official will apply to the Board for an order to abate said nuisance; and that the costs of such abatement shall become a charge against the premises and shall be made a special assessment against the premises; and that said special assessment may be collected at the same time and in the same manner as is provided for the collection of ordinary County taxes and shall be subject to the same penalties, interest, and to the same procedures of foreclosure and sale in the case of delinquency as is provided for ordinary County taxes. (Ord. 601, § 6, 6/6/67)

351-14. LIS PENDENS.

At the time said Notice of Nuisance is served as provided herein, the enforcement official shall cause a copy of said Notice of Nuisance to be recorded in the office of the County Recorder of Humboldt County. (Ord. 601, § 7, 6/6/67)

351-15. NOTICE TO ABATE NUISANCE; SECOND NOTICE.

If upon the expiration of the period specified in the Notice of Nuisance, action to abate the nuisance has not been commenced, or if it has not been prosecuted with due diligence nor completed within a reasonable time the enforcement official shall cause a Notice to Abate Nuisance to be prepared and shall serve such notice as follows: (Ord. 601, § 8, 6/6/67; Ord. 2457, § 1, 08/23/2011)

(a) A copy of said notice is either served personally or has been deposited in the mail, postage prepaid, certified, return receipt requested, to every owner, occupier and beneficial owner of the premises affected, addressed to such person at his last known place of address. Service by certified mail shall be deemed complete on the date of mailing and; (Ord. 2457, § 1, 08/23/2011)

(b) A copy of the notice is prominently and conspicuously affixed to the premises affected by the proceedings herein. (Ord. 2457, § 1, 08/23/2011)

The failure of the enforcement official to make or attempt to make such service on any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served. If no address can be found by or is known to the enforcement official, then any notice shall be so mailed to such person at the address of the premises affected by the proceedings. The failure of any person to receive such notice shall not affect the validity of any proceedings taken hereunder. (Ord. 2457, § 1, 08/23/2011)

351-16. CONTENTS OF NOTICE TO ABATE NUISANCE.

The Notice to Abate Nuisance shall contain the following:

(a) A heading, "Notice to Abate Nuisance," in letters of not less than three-fourths of an inch (3/4") in height.

(b) A notice to appear before the Board at a stated time and place, which said time and place shall be not less than fifteen (15) days after service of said notice, to show cause, if any there be, why such condition should not be condemned as a nuisance and why such nuisance should not be abated by the enforcement official. (Ord. 601, § 9, 6/6/67)

(c) A notice that at the time and place specified the Board shall hear testimony and consider evidence concerning the conditions constituting the nuisance, the estimated cost of abatement and other matters the Board deems pertinent. (Ord. 2457, § 1, 08/23/2011)

(d) A notice that the person affected may be present at the hearing and may be represented by counsel, may present testimony and may cross-examine the enforcement official and other witnesses. (Ord. 2457, § 1, 08/23/2011)

(e) A notice that upon the conclusion of the hearing the Board may terminate the abatement proceedings, or it may order the nuisance to be abated by the owner or other affected person, prescribing the requirements of such abatement and prescribing a reasonable time, not less than thirty (30) days, for the completion of such abatement. (Ord. 2457, § 1, 08/23/2011)

(f) A notice that if the abatement is not commenced, prosecuted and completed within the terms set by the Board, the county enforcement official shall abate said nuisance. (Ord. 2457, § 1, 08/23/2011)

(g) A notice that the cost of such abatement shall become a charge against the premises and shall be made a special assessment against the premises; and that said special assessment may be collected at the same time and in the same manner as is provided for the collection of ordinary county taxes and shall be subject to the same penalties and interest and to the same procedures for foreclosure and sale in the case of delinquency as is provided for ordinary County taxes. (Ord. 2457, § 1, 08/23/2011)

(h) A notice that any materials collected by the county enforcement official during the abatement of the nuisance may be sold in the same manner as surplus County personal property and the proceeds from such sale shall be paid into the County revolving fund. (Ord. 2457, § 1, 08/23/2011)

351-21. HEARING.

At the time and place specified in the Notice to Abate Nuisance, the Board shall proceed to hear the testimony of the enforcement official, his assistants or deputies, the testimony of the owner or his representatives, and the testimony of other competent persons concerning the conditions constituting such nuisance, the estimated cost of abatement, and other matters which the Board may deem pertinent. Any person affected may be present at such hearing, may be represented by counsel, may present testimony, and may cross-examine the enforcement official and other witnesses. The hearing may be continued from time to time. (Ord. 601, § 10, 6/6/67)

351-22. ORDER OF THE BOARD.

Upon the conclusion of the hearing, the Board may terminate the abatement proceedings, or it may order the owner or other affected person to abate the nuisance, prescribing the requirements of such abatement and prescribing a reasonable time, not less than thirty (30) days, for the completion of such abatement. Such order may further provide that, in the event such abatement is not commenced, prosecuted or completed within the terms set by the Board, the enforcement official shall be empowered and authorized to abate said nuisance. The time limits set by the Board shall not commence until said order is served. The order of the Board shall be served as follows: (Ord. 601, § 11, 6/6/67; Ord. 2457, § 1, 08/23/2011)

(a) A copy of said order is either served personally or has been deposited in the mail, postage prepaid, certified, return receipt requested, to every owner, occupier and beneficial owner of the premises affected, addressed to such person at his last known place of address. Service by certified mail shall be deemed complete on the date of mailing and; (Ord. 2457, § 1, 08/23/2011)

(b) A copy of the order is prominently and conspicuously affixed to the premises affected by the proceedings herein. (Ord. 2457, § 1, 08/23/2011)

The failure of the enforcement official to make or attempt to make such service on any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served. If no address can be found by or is known to the enforcement official, then any notice shall be so mailed to such person at the address of the premises affected by the proceedings. The failure of any person to receive such notice shall not affect the validity of any proceedings taken hereunder. (Ord. 2457, § 1, 08/23/2011)

351-25. JURISDICTION TO ABATE.

Upon the expiration of the time limits set by the Board as set out in Section 351-22 hereof, the enforcement official shall acquire jurisdiction to abate said nuisance. (Ord. 601, § 12, 6/6/67)

351-31. REVOLVING FUNDS.

The Board may create a revolving fund or funds from which may be paid the costs of enforcing the provisions of this chapter and into which shall be paid the receipts from the collection of costs as hereinafter set forth. (Ord. 601, § 13, 6/6/67)

351-32. SALE OF MATERIALS.

The materials contained in any nuisance abated by the enforcement official may be sold in the same manner as surplus County personal property is sold, and the proceeds from such sale shall be paid into the revolving fund. (Ord. 601, § 14, 6/6/67)

351-33. ACCOUNT OF COSTS AND RECEIPTS; NOTICE OF ASSESSMENT.

The enforcement official shall keep an itemized account of the costs of enforcing the provisions of this chapter and of the proceeds of the sale of any materials connected therewith. Upon the completion of the abatement, the enforcement official shall cause a Notice of Assessment to be prepared specifying the work done, an itemized account of the costs and receipts of performing the work, an address, legal description or other description sufficient to identify the premises, the amount of the assessment proposed to be levied against the premises, and the time and place when and where the enforcement official will submit the account to the Board for confirmation. The time and place specified shall be not less than fifteen (15) days after the service of the Notice of Assessment. The Notice of Assessment shall contain a statement that the Board will hear and consider objections and protests to said account and proposed assessment. (Ord. 601, § 15, 6/6/67; Ord. 2457, § 1, 08/23/2011)

The Notice of Assessment shall be served personally or deposited in the mail, postage prepaid certified, return receipt requested to every owner, occupier and beneficial owner of the premises affected, addressed to such person at his/her last known place of address. If service is by certified mail it is deemed complete on the date of mailing. (Ord. 2457, § 1, 08/23/2011)

351-41. HEARING ON ACCOUNT AND PROPOSED ASSESSMENT.

At the time and place fixed in the Notice of Assessment, the Board shall hear and consider the account and proposed assessment together with objections and protests thereto. At the conclusion of the hearing the Board may make such modifications and revisions of the proposed account and assessment as it deems just, and may order the account and proposed assessment confirmed or denied, in whole or in part, as modified and revised. The determination of the Board as to all matters contained therein shall be final and conclusive. (Ord. 601, § 16, 6/6/67; Ord. 2457, § 1, 08/23/2011)

351-42. NOTICE OF LIEN.

Upon confirmation by the Board, the enforcement official shall cause to be prepared and recorded in the office of the County Recorder a Notice of Lien. Said notice shall contain the following:

(a) Name and last known address of the record owner or possessor of the property. (Ord. 2457, § 1, 08/23/2011)

(b) An address, legal description or other description sufficient to identify the premises subject to the lien. (Ord. 2457, § 1, 08/23/2011)

(c) A description of the proceedings under which the abatement of nuisance and special assessment were made, including the date the nuisance was ordered abated by the Board; the date the abatement was completed; the date the order of the Board confirming the assessment was made. (Ord. 2457, § 1, 08/23/2011)

(d) The amount of the assessment. (Ord. 2457, § 1, 08/23/2011)

(e) A claim of lien upon the described premises. (Ord. 601, § 17, 6/6/67; Ord. 2457, § 1, 08/23/2011)

351-43. LIEN.

Upon the recordation of such Notice of Lien, the amount claimed shall constitute a lien upon the described premises. Such lien shall be on a parity with the liens of State and County taxes. (Ord. 601, § 18, 6/6/67; Ord. 2457, § 1, 08/23/2011)

351-44. COLLECTION WITH ORDINARY TAXES.

The Notice of Lien, after recordation, shall be delivered to the County Auditor who shall enter the amount of the lien on the assessment roll as a special assessment. Thereafter the amount set forth shall be collected at the same time and in the same manner as ordinary County taxes are collected and shall be subject to the same penalties and interest, and to the same procedures for foreclosure and sale in case of delinquency, as is provided for ordinary County taxes, and all laws applicable to the levy, collection and enforcement of County taxes are hereby made applicable to such assessment. (Ord. 601, § 19, 6/6/67)

351-45. USE OF BUILDINGS FOR SALE OF CONTROLLED SUBSTANCES PROHIBITED.

(a) Purpose and Intent

It is the desire and intent of the Board of Supervisors of the County of Humboldt to eliminate, within any and every building or place in the unincorporated areas of Humboldt County, the unlawful selling, serving, storing, keeping, manufacturing or giving away of any controlled substance, precursor or analog, as defined under Health and Safety Code sections 11000 and 11400 et sequitur.

(1) The Board of Supervisors finds that the unlawful selling, serving, storing, keeping, manufacturing, or giving away of any controlled substance, precursor, or analog, in any building or place in the County of Humboldt is injurious to the health, safety, and general welfare of the County, interferes with the comfortable enjoyment of life and property, and is a condition that is dangerous to human life, and is unsafe and detrimental to the public health and safety.

(2) Section 11570 of the Health and Safety Code of California states that every building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, or giving away controlled substances, precursor, or analog, as defined in Health and Safety Code sections 11000 and 11400 et sequitur, is a nuisance which shall be enjoined, abated and prevented and for which damages may be recovered.

(3) The laws of the State of California define nuisance and the abatement thereof and provide for the enjoining of such acts. The Board of Supervisors intend hereby to declare those activities hereinafter set forth as a nuisance, and provide a procedure for determining that a nuisance exists.

(b) Public Nuisance Declared

The Board of Supervisors finds and declares that every and any building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, or giving away any controlled substance, precursor, or analog, as defined under the California Uniform Controlled Substance Act, Section 11000 and 11400 et sequitur of the Health and Safety Code is a nuisance, whether public or private.

(c) Persons Authorized to Commence Nuisance Proceedings

(1) In the name of the people, the Code Enforcement Unit and/or District Attorney of the County of Humboldt is authorized to abate, prevent, perpetually enjoin and seek damages against the person conducting or maintaining the nuisance of unlawful selling, serving, storing, keeping manufacturing or giving away of any controlled substance, precursor, or analog, and the owner, tenant, their agent, or anyone else associated with the building or place, in or upon which the nuisance exists, from directly or indirectly maintaining or permitting the nuisance, when such nuisance occurs within any building or place in the unincorporated areas of the County of Humboldt as hereinafter provided, and there is reason to believe that a nuisance exists under Health and Safety Code section 11570. (Ord. No. 2269, 04/23/2002)

(2) Any citizen of the State of California, residing in the County of Humboldt, in his or her own name is authorized to abate, prevent, perpetually enjoin and seek damages against the person conducting or maintaining the nuisance of unlawful selling, serving, storing, keeping manufacturing or giving away of any controlled substance, precursor, or analog, and the owner, tenant, their agent, or anyone else associated with the building or place, in or upon which the nuisance exists, from directly or indirectly maintaining or permitting the nuisance, when such nuisance occurs within any building or place in the unincorporated areas of the County of Humboldt as hereinafter provided, and there is reason to believe that a nuisance exists under Health and Safety Code section 11570. Any complaint filed by such a citizen, pursuant to these provisions, must be verified. (Ord. 2049, § 1, 08/16/1994)

(d) Notice

(1) Prior to bringing or maintaining an action to abate or prevent, perpetually enjoin a nuisance or seek damages therefrom, as described in subsection (b) of 351-45 of the Humboldt County Code, the person(s) authorized to commence nuisance proceedings shall give notice to the owner, tenant, their agent and anyone else associated with the nuisance of the building or place including but not limited to owners as shown by the records of the County Recorder or Assessor, business tax records, records of the Secretary of State in the case of corporate ownership or interest and any other evidence showing occupancy or presence associated with the nuisance where the nuisance is alleged to exist and shall request that the nuisance be abated within a reasonable time of the receipt of the notice. (Ord. 2049, § 1, 08/16/1994)

(2) The notice shall contain as enclosures documentation to establish that a nuisance exists in or upon the building or place.

(3) The notice shall be served on the owner, tenant, their agent, or anyone else associated with the nuisance by personal service or by certified mail.

(4) "Reasonable time" shall mean at least 30 days, unless a shorter time period is agreed to by the parties herein.

(5) The subdivision shall apply only to an action brought or maintained by the Code Enforcement Unit and/or District Attorney:

This notice shall not be required prior to bringing or maintaining an action to enjoin, abate, prevent a nuisance and seek damages if any one of the following exist:

(A) There is a danger to the public;

(B) The notice would impede an investigation;

(C) The Code Enforcement Unit and/or District Attorney determines there is good cause to forego the notice;

(D) For the purposes of this paragraph, "good cause" includes, but is not limited to, when an owner, tenant, their agent, or anyone else associated with the nuisance is unavailable or is evading service of process;

(E) The issuing agency shall provide the identified owner, tenant, their agency, or other person associated with the nuisance with the opportunity to demonstrate to that agency that the notice was issued on insufficient grounds or the owner, tenant, their agency or other person associated with nuisance was mistakenly identified. This agency shall present the Code Enforcement Unit and/or District Attorney with all information received in any request for action under this section. (Ord No. 2269, 04/23/2002)

(e) Types of Actions that May be Maintained.

(1) Temporary Restraining Order.

(A) A temporary restraining order may be sought to maintain the status quo and to encourage expeditious abatement. Although ex parte in nature, reasonable notice to the opposing party is required unless the applicant shows good cause why notice should be excused. (Code of Civil Procedure section 527(a)).

(B) The temporary restraining order is limited in duration to up to fifteen (15) days, or twenty (20) if good cause can be shown. The temporary restraining order can order that no further illegal drug activity take place, it can allow the County to post a sign stating the same and it can freeze all movable property. The County can also obtain an order allowing entry onto the premises to take an inventory of personal property to ensure that anything of value remains on the premises until the time of the final hearing on the matter.

(2) Preliminary Injunction.

(A) At the expiration of the temporary restraining order, the order to show cause hearing on the preliminary injunction, is held. Closure will only be ordered during the preliminary injunction stage if a prior order has been violated. Thus, if the temporary restraining order was violated, closure can be sought at the preliminary injunction hearing. Also closure can be sought at any time while the preliminary injunction is in effect, as its violation is violation of the court's prior order. (Health and Safety Code section 11573.5(b)).

(3) Closure of the Premises.

(A) At the preliminary injunction phase, the court can order that rent be placed in escrow for up to ninety (90) days or until the nuisance is abated. When closure is sought prior to final judgment, all tenants who may be affected by the closure must be provided with reasonable notice and an opportunity to be heard at all closure request hearing before a closure order can be issued. (Health and Safety Code section 11573.5(c)). In determining whether to close a premises prior to judgment, Health and Safety Code section 11573.5 requires the judge to consider:

(i) The extent and duration of the nuisance.

(ii) Prior efforts by the defendant to comply with previous court orders regarding the nuisance.

(iii) The effect of the nuisance on other persons, including residents or businesses.

(iv) The effect of placing rental payments into an escrow account on abatement efforts.

(v) The effect of closure on unnamed residents or occupants of the premises.

(4) Relocation Payments.

(A) A defendant shall provide relocation assistance to innocent tenants if a building or place is ordered closed, including moving costs, security deposits for utilities and comparable housing, adjustments for lost rent and any other costs the court deems reasonable and fair. The judge may also order the enforcing governmental agency seeking closure to make reasonable attempts to seek additional sources of funds for relocation assistance to displaced tenants. A receiver can be appointed to distribute relocation funds from the escrow account. (Health and Safety Code Section 11573.5(d) and (e)).

(5) Stipulated Judgment.

(A) Once a temporary restraining order issues or a preliminary injunction is granted, negotiation for a stipulated judgment requiring either the sale of the property, eviction of the nuisance causing tenant(s), or closure of the premises may be commenced.

(6) Permanent Injunction.

(A) If a stipulated judgment cannot be reached, a trial on the permanent injunction is held.

(f) Authorized Remedies

(1) Closure as a first Priority.

(A) Under the abatement law, the judgment requires the removal from the premises and the sale of all fixtures, musical instruments and other movable property used in conducting, maintaining, aiding or abetting the nuisance. The premises must be closed for one year unless the court finds that a vacant building would be more harmful to the community than an occupied one. The legislative intent in the closure provision indicated that closure is the first priority. If the building is not ordered vacated, the defendant can be required to pay damages equivalent to one year's fair market rental value of the building. (Health and Safety code section 11581).

(2) Damages.

(A) In addition to actual damages, damages of up to twenty-five thousand dollars (\$25,000) may be assessed against any or all of the defendant as a civil penalty. (Health and Safety Code section 11581). Civil penalties shall be apportioned pursuant to Health and Safety Code section 11489.

(3) Lien.

(A) Once the existence of a nuisance is established, an order of abatement is entered as part of the judgment and the plaintiff's costs are a lien upon the building or place. The lien is enforceable and collectible by execution issued by order of the court. (Health and Safety Code sections 11579, 11582). The court retains custody of the building or place for the duration of the abatement order.

(4) Contempt.

(A) A violation of any of the abatement orders, from the temporary restraining order through the final judgment, is punishable as contempt of court with attendant fines from five hundred dollars (\$500) through ten thousand dollars (\$10,000) or a county jail sentence of not less than one nor more than six months or both. Fines collected for contempt must be used as a first priority for relocation payments to innocent tenants. (Health and Safety Code section 11580.)

(5) Sale of Assets.

(A) The County's costs may be recouped from the sale of the movable property. In addition if the movable property proceeds do not satisfy the plaintiff's costs, the building or place can be sold. (Health and Safety Code section 11585).

(6) Release of Building to Owner.

(A) The building or place may be released to the owner, if the owner has not been guilty of any contempt during the court proceedings, pays all costs and fees that are a lien on the building or places and files a bond in the full value of the property conditioned that the owner will immediately abate any nuisance that may exist at the building and will do this for a period of one year. (Health and Safety Code section 11586).

(g) Bond Requirement.

The court may require that a private citizen maintaining an action under these provisions post a bond. In setting the amount of the bond, the court shall consider the relative hardship on the parties and the goal of encouraging citizen use of these provisions. The amount of the bond shall not exceed the potential financial injury to the defendant(s), and may be waived in the court's discretion. (Ord. 2049, § 1, 08/16/1994)