

Article 3: Recovery of Code Enforcement Penalties and Costs

Division 3: Recovery of Abatement Costs

*(“Administrative Remedies”
added 1-8-1990 by O-17408 N.S.)
(Retitled to “Recovery of Abatement Costs”
on 8-10-1993 by O-17956 N.S.)*

§13.0301 Procedures for Recovering Costs of Abatement

Division 3, Article 3 of Chapter 1 governs the procedures for the recovery of all administrative and actual costs incurred by the City in the administrative or summary abatement of a public nuisance pursuant to the procedures and authority found in Divisions 6 and 7, Article 2 of Chapter I.

(“Procedures for Recovering Costs of Abatement” added 8-10-1993 by O-17956 N.S.)

§13.0302 Confirmation of Costs Hearing

- (a) After the City has abated a public nuisance, the Director shall request the City Manager to schedule a confirmation of costs hearing in accordance with the administrative enforcement hearing procedures set forth in Division 4, Article 2 of Chapter 1. A confirmation of cost hearing is also appropriate if the City incurred abatement preparation costs before a Responsible Person voluntarily abated the public nuisance.
- (b) A notice of the date, time and place of the confirmation of costs hearing shall be served on the Responsible Person at least ten (10) calendar days prior to the scheduled hearing by any one of the methods set forth in Section 11.0301.
- (c) A copy of the report describing the work performed and an itemized account of the total abatement costs prepared pursuant to Section 12.0606 of this Chapter shall also be served on the Responsible Person at least ten (10) calendar days prior to the scheduled hearing by any one of the methods set forth in Section 11.0301.
- (d) The Enforcement Hearing Officer at the confirmation of costs hearing shall limit the scope of review to the Director’s report describing the work performed and the itemized account of costs together with any objections to its accuracy. The Enforcement Hearing Officer may make such revisions, corrections or modifications in the report or the account as may be just and reasonable.

- (e) The Enforcement Hearing Officer may issue an order which assesses the costs as either a personal obligation against the Responsible Person or a special assessment against the real property abated by the City.
- (f) At the confirmation of costs hearing, the Enforcement Hearing Officer shall not consider evidence regarding the merits of the previous abatement hearing or review the decision ordering the administrative or summary abatement.
- (g) The Enforcement Hearing Officer's order confirming or modifying the amount of costs incurred by the City in performing the abatement shall be final.

("Confirmation of Costs Hearing" added 8-10-1993 by O-17956 N.S.)

§13.0303 Recovery of Abatement Costs as a Personal Obligation

If the Enforcement Hearing Officer orders that abatement costs be charged as a personal obligation of the Responsible Person, the Director shall collect the obligation by use of all appropriate legal means. This may include the recordation of a Code Enforcement Lien against any real property owned by the Responsible Person pursuant to the provisions set forth in Division 2, Article 3 of Chapter 1. If unable to collect this obligation, the Director may refer the case to the City Treasurer or refer it to the City Attorney to file a court action to recover the costs.

("Recovery of Abatement Costs as a Personal Obligation" added (portions previously contained in former Sec. 13.0305(k) on 8-10-1993 by O-17956 N.S.)

§13.0304 Recovery of Abatement Costs by Special Assessment

- (a) If the Enforcement Hearing Officer orders that abatement costs shall be charged against the property, the Director shall prepare a notice of special assessment.
- (b) The Director shall deliver the notice of special assessment to the County Auditor who shall place it on the County Assessment Roll pursuant to Government Code Section 38773.5.
- (c) The notice of special assessment shall include a copy of the Enforcement Hearing Officer's confirmation of costs order and shall summarize the abatement action. The Director may record a copy of this special assessment notice to inform any subsequent purchasers or owners about this abatement action and costs.

- (d) The Director shall file a withdrawal of this notice with the County Recorder when either: (1) the Responsible Person pays in full the abatement costs; or (2) the County Auditor or Tax Collector posts a lien on the property pursuant to Government Code Section 38773.5.

(“Recovery of Abatement Costs by Special Assessment” added (portions previously contained in former Sec. 13.0305(k)–(n)) on 8–10–1993 by O–17956 N.S.)

§13.0305 Collection of Assessment—Penalties and Foreclosure

Pursuant to the provisions of Government Code Section 38773.5 the County Tax Collector may collect the amount of the assessment at the same time and in the same manner as ordinary municipal taxes, and impose the same penalties and procedures, including the sale of the property, in case of delinquency, as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to the special assessment. The provisions of Government Code Sections 38772 through 38773.5, and any amendments to those sections, are hereby incorporated by reference and made a part of this Division.

(“Collection of Assessment–Penalties and Foreclosure” added 8–10–1993 by O-17956 N.S.)

§13.0306 Nuisance Abatement Lien

As an alternative to the recovery of abatement costs by special assessment as set forth in Sections 13.0304 and 13.0305 of this Division, the Director can record a nuisance abatement lien pursuant to the provisions set forth in Division 2 of Article 3 of Chapter 1.

(“Nuisance Abatement Lien” added 8–10–1993 by O–17956 N.S.)

§13.0307 Repayment to Nuisance Abatement Superfund

All monies recovered by payment of the charge or assessment or from the sale or transfer of the property shall be paid to the City Treasurer who shall credit the appropriate amount to the Nuisance Abatement Superfund and reimburse the Department where appropriate.

(“Repayment to Nuisance Abatement Superfund” added (portions previously contained in former Sec. 13.0305(o)) on 8–10–1993 by O–17956 N.S.)

§13.0308 Nuisance Abatement Superfund

There is hereby established a revolving fund to be known as the Nuisance Abatement Superfund to defray costs of administrative and judicial abatements. The fund shall be reimbursed by collection from the property or property owner as specified in this Code and by the courts. The City Manager shall establish accounting procedures to ensure proper account identification, credit and collection. This fund may be operated and used in conjunction with procedures ordered or authorized under any other abatement provision of this Code.

(“Nuisance Abatement Superfund” renumbered from Sec. 13.0320 on 8-10-1993 by O-17956 N.S.)