

MOHAVE COUNTY ORDINANCE NO. 2006-03

MOHAVE COUNTY DEPARTMENT OF PUBLIC HEALTH ENVIRONMENTAL
HEALTH DIVISION

AN ORDINANCE PRESCRIBING THE PROCEDURE FOR ASSESSING THE COSTS OF REMOVAL OR ABATEMENT OF NUISANCES, SOURCES OF FILTH OR CAUSES OF SICKNESS ON THE LAND FROM WHICH THE NUISANCES, SOURCES OF FILTH OR CAUSES OF SICKNESS WERE REMOVED OR ABATED

WHEREAS, A.R.S. § 11-251(17) allows the Mohave County Board of Supervisors to adopt provisions necessary to preserve the health of the County; and

WHEREAS, the Director of the Mohave County Department of Public Health must enforce and observe the rules of the Director of the Arizona Department of Health Services, the Director of the Department of Environmental Quality and the local Board of Health, Mohave County rules and regulations concerning health, and laws of the State of Arizona pertaining to the preservation of public health and protection of the environment in accordance with A.R.S. § 36-186(5) and A.R.S. § 36-602; and

WHEREAS, there is a need to assess the costs of removal or abatement of nuisances, sources of filth or causes of sickness upon the land from which the nuisances, sources of filth or causes of sickness were removed or abated; and

WHEREAS, A.R.S. § 36-602(B) gives authority to a city or county to prescribe by sanitary ordinance or regulation a procedure for making the actual cost of this removal or abatement of nuisances, sources of filth or causes of sickness, including the actual costs of any additional inspection and other incidental costs in connection with the removal or abatement, an assessment on the lots and tracts of land on which the nuisance, source of filth or cause of sickness was abated or removed; and

NOW, THEREFORE, the Mohave County Board of Supervisors, in support of the Director of the Mohave County Department of Public Health, by virtue of the Director's authority under Arizona Revised Statutes §§36-186 and 36-602 do hereby order the following measures to be adopted for removal or abatement of nuisances, sources of filth or causes of sickness on private property in Mohave County:

1. A public health official who is investigating a public health nuisance, source of filth or cause of sickness may issue a 24 hour Order to Comply to the property owner in accordance with A.R.S. § 36-602(A) or may issue a notice of violation and demand for compliance in accordance with A.R.S. 36-183.04.
2. The notice of violation and demand for compliance may be sent by certified or registered mail or by hand delivery to the respondent. The

notice of violation and demand for compliance must state with reasonable specificity the nature of the violation and the deadline for compliance. The notice of violation shall also state that the respondent may request a hearing.

a. Should the property owner not comply within the specified deadline of the notice of violation and demand for compliance or request a hearing, a compliance order may be issued in accordance with A.R.S. 36-183.04.

b. Should the situation warrant, the Environmental Health Division through the county attorney may file an action in the superior court for a temporary restraining order, a preliminary or permanent injunction or any other appropriate relief necessary to enjoin the person from further violations and to protect public health or the environment, including a lien against the property for the actual cost of removal and/or abatement, including any inspections by the Environmental Health Division staff, and applicable recording fees, and at the discretion of the Environmental Health Division a civil penalty pursuant to A.R.S. § 36-183.04.

3. The 24 hour order may be delivered to the owner or occupant personally or left at the owner or occupant's normal place of abode or served on the owner or occupant in the same manner as provided for service of process under the Arizona rules of civil procedure. The Order shall require the owner or occupant to remove or abate the nuisance, source of filth or cause of sickness within twenty-four hours at the expense of the owner or occupant.

a. Should the property owner/occupant not comply with the 24 hour Order and Mohave County need to remove the public health nuisance, and the property owner, occupant or other person who caused the nuisance refuses to pay the cost of removal and/or abatement of the nuisance, a lien against the property for the actual cost of removal and/or abatement, including any inspections by Environmental Health Division staff, and applicable recording fees, and at the discretion of the Environmental Health Division a civil penalty pursuant to A.R.S. § 36-183.04, shall be created.

b. The lien placed pursuant to A.R.S. § 36-602(B) may be appealed within 30 days of the removal of the public health nuisance before recordation with the Mohave County Recorder's office. If the lien is appealed it must be done before the Mohave County Board of Supervisors or their designee in accordance with A.R.S. § 36-602(B)(1) by filing a written appeal with the Clerk of the Board who will either place it on the agenda for the next scheduled board meeting or make arrangements for a hearing before the designee. If the lien is not appealed within 30 days of the removal it may be recorded with the Mohave County Recorder's office in accordance with A.R.S. § 36-602(B).

4. Notice of a lien must be given to all lien holders of record.

5. Costs of inspections shall be assessed in accordance with the hourly rate as published in the Mohave County Environmental Health Division Fee Schedule in effect at the time.

6. The assessment, from the date of its recording in the office of the county recorder in the county where the lot or tract of land is located, is a lien on the lot or tract of land until paid. Any assessment recorded is prior and superior to all other liens, obligations or other encumbrances, except liens for general taxes and prior recorded mortgages.

7. The Mohave County Environmental Health Division may bring an action to enforce the lien in the superior court through the County Attorney's office at any time after the recording of the assessment, but failure to enforce the lien by this action does not affect its validity. The recorded assessment is prima facie evidence of the truth of all matters recited in the assessment and of the regularity of all proceedings before the recording of the assessment.

8. A prior assessment is not a bar to a subsequent assessment or assessments for these purposes, and any number of liens on the same lot or tract of land may be enforced in the same action.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of Mohave County, Arizona the ____ day of _____, 2007.

MOHAVE COUNTY BOARD OF SUPERVISORS

Pete Byers, Chairman