

**COACHELLA VALLEY MOSQUITO AND VECTOR CONTROL DISTRICT  
ABATEMENT POLICY**

I. Abatement Warrant Pursuant to Health and Safety Code section 2053.

A. The District may request an inspection and abatement warrant pursuant to Code of Civil Procedure section 1822.50 et seq. A warrant issued pursuant to this section shall apply only to the exterior of places, dwellings, structures, and premises. The warrant shall state the geographic area which it covers and shall state its purposes. A warrant may authorize District employees to enter property only to do the following:

1. Inspect to determine the presence of vectors or public nuisances.
2. Abate public nuisances, either directly or by giving Notice to the property owner to abate the public nuisance.
3. Determine if a Notice to abate a public nuisance has been complied with.
4. Control vectors and treat property with appropriate physical, chemical, or biological control measures.

B. Subject to the limitations of the United States Constitution and the California Constitution, District staff may enter any property, either within the District or property that is located outside the District from which vectors may enter the District, without hindrance or Notice for any of the following purposes:

1. Inspect the property to determine the presence of vectors or public nuisances.
2. Abate public nuisances, either directly or by giving Notice to the property owner to abate the public nuisance.
3. Determine if a Notice to abate a public nuisance has been complied with.
4. Control vectors and treat property with appropriate physical, chemical, or biological control measures.

II. Abating a Public Nuisance.

In addition to the powers set forth in section I above, the District may abate a public nuisance pursuant to Health and Safety Code section 2060 et seq. as set forth below.

A. Due Diligence.

1. District staff shall document any vector breeding and/or harborage on the property in question and determine whether a public nuisance exists.

2. District staff will use appropriate measures to control the vector(s) present and issue an Official Notice of Warning ("Warning") to the property owner or party in possession to abate the nuisance and prevent their recurrence within five (5) business days.

3. On the first workday after the Warning expires, District staff will re-inspect the property. The District may issue up to three (3) Warnings, depending on circumstances and the severity of the nuisance as determined in the District's sole and absolute discretion.

4. If the owner or party in possession fails to comply with the Warning(s), District staff will initiate formal abatement proceedings as set forth below.

B. Abatement Proceedings.

1. The person or agency claiming ownership, title, or right to property or who controls the diversion, delivery, conveyance, or flow of water shall be responsible for the abatement of a public nuisance that is caused by, or as a result of, that property or the diversion, delivery, conveyance, or control of that water.

2. Whenever a public nuisance exists on any property within the District or on any property that is located outside the District from which vectors may enter the District, the District may notify the owner of the property of the existence of the public nuisance.

3. The notice required for abatement of a public nuisance ("Notice") shall:

a. State that a public nuisance exists on the property, describe the public nuisance, and describe the location of the public nuisance on the property.

b. Direct the owner of the property to abate the nuisance within a specified time.

c. Direct the owner of the property to take any necessary action within a specified time to prevent the recurrence of the public nuisance.

d. Inform the owner of the property that the failure to comply with the requirements of the Notice within the specified times may result in the District taking the necessary actions, and that the owner shall be liable for paying the costs of the District's actions.

e. Inform the owner of the property that the failure to comply with the requirements of the Notice within the specified times may result in the imposition of civil penalties of up to one thousand dollars (\$1,000) per day for each day that the public nuisance continues after the specified times.

f. Inform the owner of the property that before complying with the requirements of the Notice, the owner may appear at a hearing of the Board of Trustees ("Board") Abatement Hearing Committee ("Committee"), as set forth in section C below, at a time and place stated in the Notice.

4. The District shall cause the Notice to be served on the owner of the property in the same manner as a summons in a civil action. If, after a diligent search, the Notice cannot be served on the owner of the property, the Committee shall cause the Notice to be posted in a conspicuous place on the property for not less than ten (10) days before the hearing. Not less than ten (10) days before the hearing, the District shall also cause a copy of the Notice to be mailed by certified mail to the owner of the property at the address shown on the most recent assessment roll of the county in which the property is located.

5. At the hearing before the Committee at the time and place stated in the Notice, the Committee shall accept written and oral testimony from the property owner and other persons. At the close of the hearing, the Committee shall find, based on substantial evidence in the record, whether a public nuisance exists on the property. If the Committee finds that a public nuisance exists, the Committee shall order the owner of the property to abate the public nuisance and to take other necessary actions to prevent the recurrence of the public nuisance.

a. On the day prior to the hearing, District staff will re-inspect the nuisance in question to determine whether the owner has complied with the Notice. If the property owner or person in possession of the property has complied with the Notice, District staff will send a letter of acknowledgment to the owner.

b. If the owner or party in possession does not appear at the hearing, the Committee shall review the facts as described by the District staff at the hearing and make a determination.

c. Based on the extent of the work to be performed to abate the nuisance, the Committee will grant the owner or person in possession of the property a period of not fewer than five (5) calendar days and not more than fifteen (15) calendar days to comply with the order of the Committee.

6. If the owner of the property does not abate the public nuisance and take the necessary actions to prevent the recurrence of the public nuisance within the time specified by the Committee, the District may abate the public nuisance and take the necessary actions to prevent the recurrence of the public nuisance. In addition, the Committee may impose civil penalties pursuant to this policy.

C. Board of Trustees Abatement Hearing Committee.

The Board of Trustees shall create an Abatement Hearing Committee ("Committee") to conduct nuisance abatement hearings. The Committee shall be composed of three (3) members of the Board, with one alternate, appointed by the Board annually each January, or whenever a vacancy occurs. The Committee shall conduct nuisance abatement hearings at regular or special meetings of the Committee in compliance with the Ralph M. Brown Act.

D. Civil Penalty.

In addition to abating the public nuisance and taking any necessary actions to prevent the recurrence of the public nuisance, the Committee may impose a civil penalty on the owner of the property for failure to comply with the requirements of the abatement proceedings. The civil penalty may not exceed one thousand dollars (\$1,000) per day for each day that the owner of the property fails to comply with the District's requirements.

E. Recurrence of a Public Nuisance Abated.

The Committee may consider any recurrence of a public nuisance abated pursuant to Section 2061 to be a continuation of the original public nuisance.

F. Owner's Payment of Costs.

1. The owner of the property abated pursuant to this policy shall pay the District for the cost of abating the public nuisance and the cost of any necessary actions to prevent the recurrence of the public nuisance. The owner shall also pay any civil penalty imposed pursuant to this policy.

2. If the owner of the property fails to pay the District's costs within sixty (60) days, the Committee may order the costs and any civil penalties charged and collected against the property. The charge 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 the same procedure and sale in case of delinquency as are provided for ordinary county taxes. All laws applicable to the levy, collection, and enforcement of county taxes are applicable to the costs and civil penalties charged and collected against the property.

3. If the Committee charges the costs and any civil penalties against the parcel, the Committee may also cause the Notice of abatement lien ("Notice of Lien") to be recorded. The Notice of Lien shall, at a minimum, identify the record owner of the property, set forth the last known address of the record owner, set forth the date upon which the abatement of the public nuisance was ordered by the Committee, set forth the date upon which the abatement and any necessary actions to prevent the recurrence of the public nuisance was complete, and include a description of the real property subject to the lien and the amount of the cost and any civil penalties.

4. However, if the Committee does not cause the recordation of a Notice of Lien, and any real property to which the costs and any civil penalties relate has been transferred or conveyed to a bona fide purchaser for value, or a lien on a bona fide encumbrancer for value has been created and attaches to that property, prior to the date on which the first installment of county taxes would become delinquent, then the cost and any civil penalties may not result in a lien against that real property but shall be transferred to the unsecured roll for collection.

5. Recordation of a Notice of Lien shall have the same effect as recordation of an abstract of a money judgment recorded pursuant to Code of Civil Procedure section 697.310 et seq. The lien created shall have the same priority as a judgment lien on real property and shall continue in effect until released. Upon order of the Committee, an abatement lien created under this policy may be released or subordinated in the same manner as a judgment lien on real property may be released or subordinated.

G. Public Agencies.

The lien provisions of this policy shall not apply to property owned by a public agency. Notwithstanding section 6103 of the Government Code or any other provision of law, a public agency shall pay the District for the cost of abating the public nuisance, the cost of any necessary actions to prevent the recurrence of the public nuisance, and any civil penalties.