

Notice: Per NRS 239B.030, this document does not contain personal information as defined in NRS 603A.040

SUMMARY: An ordinance amending the Washoe County Code at Chapter 125 (Enforcement; Remedies; Penalties) by clarifying civil Code enforcement and by modifying the current regulations for the administrative enforcement of Codes, and providing other matters properly relating thereto.

BILL NO. 1699

ORDINANCE NO. 1518

An ordinance amending the Washoe County Code at Chapter 125 (Enforcement; Remedies; Penalties) by clarifying civil code enforcement and by modifying the current regulations for the administrative enforcement of codes including removing provisions and procedures for correction notices, notices of violation and recording such notices, and withholding permit and license approval; adding provisions and procedures for stop activity orders and remediation orders, warnings, and administrative penalty notices; modifying provisions and procedures for judicial abatement, non-judicial abatement, summary abatement, and chronic nuisance abatement; modifying the administrative hearing procedures; adding civil action procedures; adding and clarifying certain definitions; modifying administrative enforcement penalties and fees; establishing an administrative hearing office; and, modifying the administrative hearing officer procedures. Recommendations include other matters properly relating thereto.

WHEREAS:

- A. The Board of County Commissioners desires to amend the Washoe County Code at Chapter 125 by clarifying civil Code enforcement and by modifying the current regulations for the administrative enforcement of Codes, and providing other matters properly relating thereto;
- B. Business Impact Statement. The proposed ordinance does not impose, increase or change the basis for the calculation of a fee that is paid in whole or in substantial part by businesses and, therefore, is not a "rule" as defined in NRS

~~237.060. Therefore, no business impact statement following the provisions of NRS 237.080 through 237.100 is required.~~

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WASHOE DOES ORDAIN:

Enforcement; Remedies; Penalties
Civil Actions to Enjoin, Abate, or Restrain Nuisances

125.015 Violations of adopted construction codes designated nuisances. Section 125.015 of the Washoe County Code was deleted in its entirety.

Administrative Enforcement Code

125.125 Declaration of purpose. The board finds that the enforcement of the Code throughout the unincorporated area of Washoe County, Nevada, is an important public service and is vital to the protection of the public's health, safety, and quality of life. The board finds that enforcement against such violations by all county departments and agencies can be obtained through the use of a comprehensive uniform administrative enforcement system, including civil penalties, administrative penalties, notices, penalties, liens, stop activity orders, abatement, action on permits and licenses, and hearings and appeals. This system is established in this administrative enforcement code, which may be used in addition to any civil or other legal remedy established by law with which to address violations of the Code.

125.130 Conflict of codes.

1. Except as otherwise provided in Section 125.125, the operation of this chapter shall in no way change or diminish the application of other sections in this chapter or of other chapters in the Code dealing with like or similar matters.

2. In any case where a provision of this administrative enforcement code is found to be in conflict with a provision of the Code, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

3. It is not intended by this administrative enforcement code to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other Codes or statutes or with private restrictions placed upon property by covenant, deed, or other private agreement except those specifically repealed by this chapter.

4. In cases where two or more provisions of this administrative enforcement code conflict, the most stringent or restrictive shall prevail.

125.135 Definitions. As used in sections 125.120 to 125.315, inclusive, the following words and phrases shall be construed to have the following meanings:

"Agency" means any county department or division.

"Board" means the Washoe County Board of Commissioners.

"Calendar day" means each day of the calendar. If a deadline fall on a day when Washoe County offices are not open for business, then the deadline date runs until the next day the offices are open.

"Code" means the Washoe County Code, as may be amended.

"Collections office" means that office in county government with the authority to take necessary measures to collect fines, penalties, administrative action fees, and collection fees.

"Court" means the justice courts of appropriate jurisdiction within Washoe County or the Second Judicial District Court of the State of Nevada as the context shall dictate.

"Chronic nuisance" is defined in section 125.215 of this chapter.

"Dangerous structure or condition" means a condition or structure that may injure or endanger the health, life, property, or safety of the general public or the occupants of the property on which the condition or structure is located. The term includes, without limitation, a condition or structure that violates any rule, regulation, ordinance or code regulating health and safety enacted, adopted, or passed by the board, including without limitation any rule, regulation, ordinance or code adopted pursuant to NRS 244.3675, as amended, concerning minimum levels of health or safety, the violation of which is designated as a public nuisance in the rule, regulation, ordinance or code.

"Debris-rubbish-refuse" means material that is discarded, worn out or cast off without regard to value; and is of a non-decaying nature, or is capable of decomposition to a putrid state, or is of solid or semi-solid wastes. Examples include: animal carcasses; accumulation of excrement; leaves; trimmings from brush, lawns, trees, gardens or shrubbery; weeds; dead trees and branches; piles of earth mixed with any of the matter set forth in this definition; manure; paper; trash; cardboard; metal; wood; glass; crockery; bedding; scrap; appliances; furniture; equipment; parts; junk vehicles; and, construction waste.

"Enforcement official" means the following persons designated by the board to be an "enforcement official" with the authority

~~and responsibility of enforcing the Code within their assigned areas of responsibility. Enforcement officials may only act within the field of enforcement in which they work. Within the foregoing scope, and subject to any specific provisions in the Code, enforcement officials have the power to issue and serve citations under NRS 171.17751, and issue and serve notices and carry out the provisions set forth in this chapter. Enforcement officials include, but are not limited to:~~

- (a) Building inspectors, code enforcement officials, safety inspectors, and engineering inspectors;
- (b) The Director of Planning and Development Division or the Director of Community Services Department, and all deputies and persons designated by him/her in writing to enforce provisions of the Code;
- (c) The County Building Official and all deputies and persons designated by him/her in writing;
- (d) The County Engineer and any person designated by him/her in writing;
- (e) Peace officers; and
- (f) Any other person as specifically provided for in the Code.

"Imminent danger" means the existence of any structure or condition that could reasonably be expected to cause injury or endanger the life, safety, health, or property of:

- (a) The occupants, if any, of the real property on which the structure or condition is located; or
- (b) The general public.

"Inoperable vehicle or junk vehicle" means the same as "junk vehicle" as defined in Chapter 50 of this Code.

"NRS" means the Nevada Revised Statutes, as may be amended.

"Nuisance" is defined in section 125.215 of this chapter.

"Party of record" means a person who is named as a party in a proceeding, or is entitled to participate in the proceeding and is seeking to be admitted, or one who has been admitted to participate in a proceeding.

"Person associated with the property" means:

- (a) The owner of the property;
- (b) The manager or assistant manager of the property;
- (c) The tenant of the property; or
- (d) A person who, on the occasion of a nuisance activity,

has:

- (1) Entered, patronized, or visited;
- (2) Attempted to enter, patronize, or visit; or
- (3) Waited to enter, patronize, or visit.

"Respondent" means a person (or persons) who is directly or indirectly responsible for or caused an activity, a violation of law, or a person (or persons) that is in a position to correct

an activity. Respondent includes, but is not limited to, an owner or any person having control over the structure or parcel of land in or upon which any act is committed or condition exists for which a warning or an administrative penalty notice could be issued under this chapter; a tenant; an owner of or person in control of an animal; a licensee; a person having control over the structure, parcel of land, or activity; a lien holder; or, a secured party or other appropriate document evidencing an interest in the property. The singular of "respondent" shall also mean the plural.

"Service" means the date of personal service, date of affixation, or three calendar days after mailing.

"Structure" means that which is built or constructed, or an edifice or building of any kind or any piece of work that is man-made or composed of parts joined together in some definite manner.

"WCC" mean the Washoe County Code, as may be amended.

Administrative Enforcement Authority, Remedies and Procedures

125.140 Prohibited acts.

1. It is unlawful for a person to violate, fail to comply with, or assist in the violation of a provision of the Code or of any term and condition of a county approval (including without limitation any permits or licenses) or any order issued by an enforcement official, a hearing officer, or the board, and is unlawful for a person to knowingly make or submit a false statement, document, or material omission in connection with an application or procedure required by this chapter.

2. Any work or activity performed without the proper permit or license from the County is a violation of Code and will result in an administrative penalty as set forth in this chapter.

125.145 Administrative enforcement authority. A violation of a provision of the Code may be construed by the enforcement official as an administrative offense unless that Code provision states it is a civil or criminal offense or is exclusively stated otherwise in the Code or in the Nevada Revised Statutes. Administrative offenses are subject to this administrative enforcement code. The enforcement official shall have the authority and powers necessary to determine whether a probable administrative offense exists, to determine the respondent in an enforcement case, and the authority to take appropriate action to gain compliance with the provisions of the Code. The enforcement official shall further have the authority and power to issue warnings, administrative penalties, administrative

orders, and other notices; to impose administrative fees and penalties; to inspect public and private property with the respondent's or adult occupant's permission, or with a search warrant; and, to use the administrative remedies available under this administrative enforcement code. The enforcement official must not issue an administrative penalty notice in a field of enforcement in which the official is not trained and does not work. The several departments and agencies of the county that have Code enforcement duties shall establish and maintain coordinated Code enforcement as appropriate.

125.150 Administrative enforcement remedies.

1. Any one or combination of the following enforcement remedies may be used to obtain compliance regarding or to remedy a violation of any provision of the Code to which this administrative enforcement code applies: warnings, civil penalties, stop activity orders, remediation orders, administrative penalties and fees, abatement, summary abatement, and the recordation of a lien. These remedies are defined in this chapter and are in addition to any civil, criminal, or other legal remedy established by law with which to address violations of the Code.

2. The remedies provided herein shall be cumulative and not exclusive. The imposition of any administrative, civil, or criminal penalties on any person shall not relieve such person from the responsibilities of correcting prohibited conditions or removing prohibited conditions, and shall not prevent the enforced correction or removal thereof.

125.155 Authority to inspect. An enforcement official is authorized with permission of the respondent or adult occupant or with a search warrant to enter upon any property or premises after a complaint has been filed or a case has been opened, to include re-inspections, in order to ascertain if there is compliance with the provisions of the Code, to make any investigations, examinations and surveys as may be necessary in the performance of enforcement duties, or to abate as provided in this administrative enforcement code. Investigations may include without limitation the taking of photographs, the taking of samples, or other measurements such as determining noise levels. The enforcement official may seek entry upon any premises at any reasonable time for the purpose of carrying out duties of enforcement of the Code. In the event that the respondent or adult occupant of any premises located within the county refuses to permit entry to the enforcement official when such entry is sought pursuant to this section, the enforcement official may seek entry by making application to the Court for

issuance of a warrant. Such sworn application shall identify the premises upon which entry is sought and the purpose for which entry is desired. The applicant shall state the facts giving rise to the belief that a condition exists on the premises that is in violation of the Code, or that a violation in fact exists and must be corrected or abated. The enforcement official is authorized to execute such a sworn application. Service of the warrant shall be performed by the law enforcement agency having primary jurisdiction wherein the warrant is to be served.

125.157 Stop activity order and remediation order.

1. If an enforcement official observes construction, grading, burning, loose animals, operating a business without a business license, or other activity in progress that is or is likely to be a violation of the Code, or the work or activity must be stopped to prevent unsafe conditions, or irreparable harm or damages, or is being conducted without first obtaining the required permits or approvals, the enforcement official may issue and serve a stop activity order. Upon issuance of a stop activity order all activity described in the order must cease.

2. The stop activity order shall:

(a) Name the respondent as well as any person who is ordered to stop the work or activity;

(b) Describe the location and nature of the illegal activity observed and why it appears to be a violation of the Code, with specific citation to the Code;

(c) Describe which activities must stop and the duration of the stop activity order;

(d) State what must be done, and a specific date by which to correct the situation;

(e) State the possible consequences of a failure to obey the order, including, as applicable:

(1) Penalties and fees (specify what those penalties and fees will be);

(2) A misdemeanor criminal citation;

(3) A court complaint for injunctive relief or damages;

(4) Abatement, including summary abatement, by the county; and/or

(5) Any other relief authorized by law.

(f) Provide the name, address, phone number, and the email address of the enforcement official and any person who should be contacted to discuss or resolve the stop activity order; and

(g) Describe the right to ask for a hearing before an administrative hearing officer.

3. Remediation order. If a violation of the Code threatens health, safety or welfare of the general public and immediate

action is necessary to remove an unsafe condition, an enforcement official may issue a remediation order directing a person to:

(a) Repair, safeguard, or eliminate a dangerous structure or condition;

(b) Clear debris, rubbish, refuse, litter, garbage, abandoned or junk vehicles, or junk appliances which are not subject to the provisions of Chapter 459 of NRS;

(c) Clear weeds and noxious plant growth; or

(d) Repair, clear, correct, safeguard or eliminate any other public nuisance as defined in the Code.

4. The remediation order shall:

(a) Name the respondent and any/or other person who is ordered to remediate the illegal activity;

(b) Describe the location and nature of the violation of the Code (with specific citation to the Code), and explain that the condition is an unsafe condition requiring immediate remediation;

(c) List and describe the corrective actions that need to be taken to remedy the unsafe condition;

(d) Specify a date by which the respondent must abate the public nuisance;

(e) Specify the possible consequences of a failure to obey the order to include, as applicable:

(1) Abatement, including summary abatement, by the County;

(2) Penalties and fees (specify what those penalties and fees will be);

(3) A misdemeanor criminal citation;

(4) A court complaint for injunctive relief or damages;

(5) Any other relief authorized by law

(f) Describe the right to ask for a hearing before an administrative hearing officer, that such a hearing request must be prior to the deadline established to abate the public nuisance as stated in subsection (d) above, and to contact the administrative hearing office to request and schedule a hearing; and

(g) Provide name, address, phone number, and email address of enforcement official and any person who should be contacted to discuss or resolve the remediation order.

5. Stop activity orders and remediation orders should be personally served on the person ordered to stop or remedy the violation. In addition, all stop activity and remediation orders shall be sent to the respondent by certified mail, return receipt requested, to the address indicated on the assessor's records for the property. The order is effective on the earlier date of personal service or service by certified mail. Each person who serves a stop activity order or remediation order

shall prepare a sworn affidavit specifying the date, time, and nature of service.

6. Any person who has been named and served with a stop activity order and continues to do any work in violation of the order, except work that is directed or approved by the enforcement official, is guilty of a misdemeanor, and each day or part of a day that the person continues to perform the work, activity, or allows the condition to continue is a separate offense. Any person who has been named in and served with a remediation order who unreasonably fails to perform the required remediation work by the deadline indicated shall be guilty of a misdemeanor, and each day or part of a day that the person continues to fail to perform the work shall be a separate offense.

7. The stop activity order or remediation order may provide for the imposition and collection of civil penalties and for the possibility of abatement, including summary abatement, as specified in this chapter. Administrative action fees may be assessed as contained in the master administrative enforcement penalty and fee schedule adopted by the board as part of any administrative enforcement process as set forth in this chapter.

8. Hearing required; appeals. The respondent who has received a stop activity order or remediation order may request an administrative hearing regarding the stop activity order or remediation order by contacting the administrative hearing office within 30 calendar days from the date the stop activity order or remediation order was served. Because of their injunctive nature, if the person who is served with a stop activity order or remediation order asks for a hearing, an administrative hearing officer will expeditiously be appointed and a hearing will be conducted within 30 calendar days of the receipt of the appeal by the administrative hearing office. A stop activity order remains in effect pending the hearing. The deadline for a remediation order is suspended pending the hearing. The hearing will be conducted in accordance with the provisions for hearings, and the issuance, enforcement, and appeal of administrative orders as set out in this chapter. The decision of the administrative hearing officer may be taken directly to judicial review in accordance with this chapter at the option of the appellant. If appeal is made to the Board of Adjustment for violation of WCC chapters 100 and 110, the decision of the Board of Adjustment is subject to judicial review in accordance with this chapter.

9. A stop activity order or remediation order may be rescinded by the enforcement official that issued it, by the Director of the Community Services Department, by the County

Engineer, by the County Building Official, by an administrative hearing officer, and/or by the Board of Adjustment.

10. Enforcement. If a hearing is held before an administrative hearing officer or the Board of Adjustment as provided in this chapter, then the decision or order shall be enforced as provided for in this chapter. If a hearing is not held, the enforcement official may proceed to enforce the stop activity order or remediation order through any of the administrative, civil, or criminal remedies provided in this chapter.

125.160 Complaints, warning, and administrative penalty notice, procedures.

1. Any person who observes a possible violation of the Code may notify the appropriate agency or department in person or by written communication, telephone contact, fax, or e-mail. Such a complaint is considered a public record under the law. After receipt of a complaint, the enforcement official will investigate the complaint if it is warranted.

2. Warnings. Whenever it is determined by the enforcement official that a violation of the Code exists, that is not a serious risk to public health, safety or welfare, the enforcement official shall start the formal enforcement process by providing to the respondent either an oral or a written warning seeking correction, mitigation, or remedy within a time frame specified by the enforcement official, but no more than 30 calendar days from the date the warning was served. The enforcement official may extend this time frame at the official's discretion to provide additional time to complete acts required for compliance with the Code. The enforcement official may also grant a request by the respondent for additional time to complete acts required for compliance with the Code. Extensions of time by the enforcement official are allowed if reasonable progress in the repair, correction, or abatement of violations is underway or there are extenuating circumstances that prohibit compliance within the established timeline, and a plan of action with accompanying time frames is made between the enforcement official and the respondent.

(a) The warning shall state:

(1) That respondent is in violation of the Code and the nature of the alleged violation, to include the Code citation of the violation;

(2) The action(s) needed to correct the alleged violation;

(3) The time given to correct the alleged violation, and that an extension of this time period may be requested of the enforcement official either orally or in writing:

(i) If reasonable progress in the repair, correction or abatement of violations is underway, or there are extenuating circumstances that prohibit compliance within the established timeline; and

(ii) A plan of action with accompanying time frames is made between the enforcement official and the respondent;

(4) That an administrative penalty notice will be issued at the end of that period if the violation is not corrected;

(5) That an administrative penalty will be assessed at the time of issuance of an administrative penalty notice in the amount set forth in the master administrative enforcement penalty and fee schedule adopted by the board; and

(6) That the collections office may charge and collect any subsequent fees, penalties, and costs, to include interest, or follow any administrative actions authorized by state law and/or Washoe County Code, necessary to collect unpaid fees, penalties and costs. The amount of any unpaid fee(s), penalty(ies), and/or costs may be sent to the county collections office for further action, and may result in a lien being placed on the property to recover unpaid fee(s), penalty(ies) and/or costs.

(b) If no action is taken to correct the alleged violation within the time allocated by the enforcement official under the warning, the enforcement official shall issue an administrative penalty notice in conformance with this section or, upon consultation with the district attorney's office, seek civil or criminal remedies.

(c) The enforcement official shall determine if the alleged violation has been corrected within the time stated in the warning.

3. If, in the opinion of the enforcement official, a more urgent action is needed to safeguard public health, safety, or welfare, the official may, in lieu of a warning, issue an administrative penalty notice, issue a stop activity order and/or remediation order, or proceed with summary abatement in accordance with this chapter.

4. Administrative penalty notice. If the Code violation is not resolved as set forth in subsection 2 above, the enforcement official shall issue an administrative penalty notice to the respondent except when a summary abatement, stop activity order, and/or remediation order is required in accordance with this chapter. Service of this administrative penalty notice shall be made pursuant to this chapter.

5. The administrative penalty notice shall include the following information:

(a) The name and address of the respondent in violation. The notice shall contain the address, and may contain the assessor's parcel number of the real property, when applicable.

(b) If not contained in the warning, a statement from the enforcement official identifying the conditions or conduct that violate the Code and the specific Code citation of the Code which the respondent violated.

(c) If applicable, and not contained in the warning, a list of recommended corrections to bring the property or violation into compliance.

(d) A statement that the respondent who has received an administrative penalty notice may request an administrative hearing regarding the administrative penalty notice by contacting the administrative hearing office within 30 calendar days from the date the administrative penalty notice was served. The administrative penalty notice shall also inform the person served that failure to respond to the administrative penalty notice within 30 calendar days of the date the administrative penalty notice was served shall be deemed an admission of liability and a waiver of any right to an administrative hearing.

(e) A statement of the penalty amount and that Washoe County will accept as payment in full for the administrative penalty, one-half of the authorized penalty indicated on the administrative penalty notice if payment is received within 30 calendar days of service. A respondent filing an appeal of an administrative penalty notice or paying the penalty after 30 calendar days of service shall not be entitled to reduction of the administrative penalty provided for in this subsection. A request for an administrative hearing shall stay the required payment of the administrative penalty until the hearing is completed. Any unpaid penalties shall be turned over to the county collections office, and a collections fee, payable to the collections office for cost recovery of the unpaid penalties, shall apply. The amount of the administrative penalty and collections fee is set forth in the master administrative enforcement penalty and fee schedule adopted by the board. The penalties and any fees assessed are cumulative.

(f) The name, address, phone number, email address, and signature of the enforcement official, and any person who may be contacted to discuss or resolve the administrative penalty notice.

(g) A statement that the administrative penalty notice is not a criminal proceeding.

(h) A statement that each and every instance the act or omission exists after the deadline together with any granted extensions, constitutes a separate and distinct offense.

6. The administrative penalty notice and/or an electronic facsimile thereof, must be filed with and retained by the issuing department and is deemed to be a public record of

matters which are observed pursuant to a duty which is imposed by law and is prima facie evidence of the facts which are alleged therein.

7. A peace officer or enforcement official may issue an administrative penalty notice to the same respondent for a second or subsequent violation of the same ordinance within a two-year period without being required to issue a warning.

8. A peace officer or enforcement official may issue a criminal citation for a second or subsequent violation by the respondent of the same ordinance within a two-year period.

9. The administrative penalty notice may be issued by peace officer or enforcement official based upon a written and signed statement of a complaining party. In such a case, the complaining party must appear at any hearing subsequently scheduled pursuant to this chapter to testify. If the complaining party does not appear at the hearing in the case, the administrative penalty notice will be dismissed and the respondent released from liability.

10. An appeal to an administrative hearing may be requested during an administrative proceeding only after the enforcement official issues an administrative penalty notice.

125.163 Service. Documents requiring service shall be made to the respondent by personal service; by affixing the notice to the place of residence in a conspicuous place; regular U.S. Postal Service mail to the last known address of the respondent as contained on the records of the county assessor; or, if required by law, certified mail, return receipt requested, to the last known address of the respondent as contained on the records of the county assessor. Service by mail or affixation has the same force and effect and is subject to the same penalties for the disregard thereof as if the documents were personally served on the respondent. The failure of the respondent to receive any documents served in accordance with this section shall not affect the validity of any proceedings taken under this administrative enforcement code.

125.165 Administrative penalties.

1. Once the enforcement official has issued an administrative penalty notice, the enforcement official shall collect the administrative penalties as listed in the notice and pursuant to the provisions of this administrative enforcement code. The respondent served is liable for all of the penalties which are imposed pursuant to this chapter. Each and every instance that such an act or omission exists constitutes a separate and distinct offense.

2. Administrative penalties shall be imposed, enforced,

collected, and reviewed in compliance with the provisions of this chapter. Administrative penalties shall be payable directly to the Washoe County department or agency that issued the administrative penalty notice or to the administrative hearing office, unless otherwise provided in that notice. All such collected penalties shall be placed into the county's general fund.

125.170 Administrative fees, penalties and costs.

1. Administrative penalties will be assessed for a first, second or subsequent violation of the same ordinance, as contained in the master administrative enforcement penalty and fee schedule adopted by the board.

2. Administrative action fees may be assessed as contained in the master administrative enforcement penalty and fee schedule adopted by the board as part of any administrative enforcement process as set forth in this chapter.

3. If any administrative fees, penalties, or costs remain unpaid after the date stated on the notice, the amount shall be sent to the collections office. A collections fee for cost recovery of the unpaid fees, penalties or costs shall be added to the fee, penalty and cost amount. The amount of the collections fee is contained in the master administrative enforcement penalty and fee schedule adopted by the board.

4. Payment of the penalty shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the county.

Abatement

125.195 Abatement and procedures.

1. Purpose and authority. The board determines that a necessary and proper enforcement power is the county abatement of nuisances and chronic nuisances as defined in this chapter, and that it is necessary to establish appropriate procedures for the board, judicial, non-judicial, summary, and chronic nuisance abatement of such nuisances as contemplated by NRS 244.360, 244.3601, 244.3603, and 1244.3605 as may be amended.

2. Alternatives; general procedures.

(a) The following procedures are available to abate nuisances:

(1) Board abatement. Complaint to and actions by the board under NRS 244.360(1) through (5);

(2) Judicial abatement. Action filed by the District Attorney under NRS 244.360(6) as set out in section 125.200 below;

(3) Non-judicial abatement. Abatement of dangerous structures or conditions, rubbish, noxious plant growth and other public nuisances as authorized in NRS 244.3605 and set out in section 125.205 below;

(4) Summary abatement. Abatement of a dangerous structure or condition posing imminent danger as authorized in NRS 244.3601 and set out in section 125.210 below; and

(5) Chronic nuisance abatement. Abatement of chronic nuisances as authorized in NRS 244.3603 and set out in section 125.215 below.

(b) Except as otherwise stated or supplemented in the specific sections dealing with each type of abatement, the following provisions are intended to provide general requirements for abatements as applicable.

(c) The abatement proceedings in this section are intended to implement the provisions of the authorizing statutes specified above and shall not be construed or applied in a manner that conflict with the statutes as amended.

3. Abatement notice.

(a) Enforcement officials may, but are not required to, use warnings, stop activity orders, remediation orders and administrative penalties notices or other procedures as set out in this chapter to try to obtain compliance with Codes prior to starting an abatement action. But those actions are not a substitute for the procedures set out in this section.

(b) Except as otherwise provided in this chapter, before taking any action to abate a nuisance, an abatement notice must be prepared and served. The notice must include:

(1) Address and Assessor Parcel Number (APN) of the property on which the nuisance exists and the name and address of the owner(s) as that information appears on the assessment records of Washoe County; and the name and address of any other known respondent;

(2) A description of each condition that constitutes a nuisance and the applicable Code section being violated;

(3) A statement of what needs to be done to adequately abate the condition and/or bring the property into compliance with the Code, and an order directing the owner to abate the condition and/or bring the property into compliance. For non-judicial abatement proceedings, the order must be within the limits of subsection 125.205(1).

(4) A deadline by which the abatement must be accomplished. If the condition is not an immediate danger to the public health, safety or welfare, the owner shall be given a minimum of 30 days from the date of service. If applicable, a statement that the deadline may be extended by the enforcement official for good cause may be given.

~~(5) A statement describing the possible remedies that the County may/shall take if the condition is not abated by the deadline, including any one or combination of the following, as applicable:~~

(i) Entering (with permission of the property owner or under a warrant) on the property and abating the condition.

(ii) Filing a lawsuit against the owner for a court order directing the owner or authorizing the county to abate the nuisance.

(iii) Recovering all costs incurred by the county as a special assessment lien against the property on which the condition exists, and that the special assessment may be collected as specified in subsection 7 below which could result in a sale of the property.

(iv) Imposing civil abatement penalties as established in the master administrative enforcement penalty and fee schedule adopted by the board (describing the penalty and amount) and stating that they if they are not paid voluntarily, the County may obtain a court judgment (and judicial lien on the property) or may add the civil abatement penalties to the special assessment lien for abatement costs if the conditions in subsection 7(b) below have been met. If any civil abatement penalties have already accrued, a statement of the balance shall be given.

(v) Imposing administrative action fees for follow up inspections or other services and collection costs, and a statement that such fees, costs and penalties may be collected by judicial action which could result in a judgment lien on the property.

(vi) Any other remedy authorized by law, describing those that are known or contemplated at the time of the notice.

(6) A description of appeal rights available to the respondent as specified in subsection 6 below for the type of abatement action. For non-judicial abatement or summary abatement with notice, a statement that a hearing request before an administrative hearing officer must be received within 14 calendar days after service of the notice, the address and contact information of the administrative hearing office, and that if a hearing is requested, the abatement deadline is suspended until the hearing is completed.

(7) Any other disclosure or statement required for the applicable abatement method, or desired by the agency;

(8) Name and contact information for the enforcement official preparing the notice.

(c) Service of the abatement notice shall be in accordance with the law that authorizes the abatement procedure.

Additionally, the enforcement official may serve additional respondents and may post the notice on the property.

4. Abatement actions.

(a) If the deadline for abatement has passed and a hearing has not been requested, the enforcement official may commence appropriate abatement proceedings subject to the following.

(b) The enforcement official may extend any deadlines or take other actions reasonably calculated to encourage voluntary abatement. Any penalty, cost or fee waivers must be approved as provided in subsection 7 below.

(c) If the owner or a person in possession of the property does not give consent to entering the property and abating the nuisance, a warrant or court order must be obtained. Prior to securing owner permission or a warrant to enter upon the property to abate, the enforcement official shall first obtain agency authorization for the anticipated abatement cost.

(d) The enforcement official or contractor is authorized to use reasonable means to secure the property, cordon off or deny entrance to portions of the property that pose danger to persons, remove and destroy weeds and noxious plants, remove and store personal property that needs to be secured, remove and dispose of personal property that is the cause of or contributes to the nuisance, and make building or other repairs to eliminate the nuisance.

(e) Tenants may be involuntarily ejected only under a summary abatement proceeding in accordance with section 125.210, and the costs of relocating them may be recovered as provided in NRS 244.3607.

(f) If a contract is going to be entered into with a private contractor to do abatement work, the normal purchasing procedures shall be followed and all solicitations and contracts shall be mailed to the property owner. The owner may not ask for a hearing or appeal the contract, but if the owner objects, the enforcement official may consider and make adjustments to avoid or minimize possible objections to the abatement report, and costs and penalties notice.

(g) Records shall be kept of the disposition of personal property removed from the property, and personal property not contributing to the nuisance condition may be returned to its owner.

(h) Any salvage or sale proceeds shall be credited against the costs of abatement.

5. Abatement report; costs and penalties notice; hearing; notice of lien.

(a) When the abatement has been completed and costs determined, the enforcement official shall prepare and serve on

~~the owner an abatement report, and costs and penalties notice~~
which shall include:

(1) A report of abatement actions taken and disposition of things removed from the property;

(2) An accounting of all costs of abatement together with a statement that such costs shall be a special assessment against the property to be collected at the same time and in the same manner as county taxes;

(3) The current balance of civil abatement penalties and if they are continuing to accrue, the rate they are accruing together with a statement that they may be collected by judicial action (which could result in a judgment lien on the property) or could be added to the special assessment describing the conditions stated in subsection 7 below;

(4) A statement of any administrative action fees that may be charged in the future, and the current balance of any administrative action fees and administrative penalties together with a statement that they can be collected by judicial order which could result in a judgment lien on the property;

(5) A statement of rights to appeal the report as specified in subsection 6 below for the particular type of abatement proceeding. For non-judicial abatement or summary abatement with notice, a statement that a hearing request before an administrative hearing officer must be received within 14 calendar days after service of the notice, and the address and contact information of the administrative hearing office;

(6) Any other disclosure or statement required for the applicable abatement method, or desired by the agency;

(7) Name and contact information for the enforcement official preparing the report.

(b) A notice of lien (referred to as an "abatement lien" and approved by the District Attorney) shall be prepared by the Collections Office and recorded in the Official Records of Washoe County. The abatement lien shall, at a minimum:

(1) Levy the special assessment amount;

(2) Describe how the assessment may be increased and give the name and phone number of a person to contact for the current balance; and

(3) Describe how the special assessment will be collected and how the lien will be enforced.

The collections office may delay this notice if there are negotiations which may lead to voluntary payment of the special assessment. If the special assessment is paid, a release of the abatement lien shall be prepared and recorded.

6. Appeal rights. A respondent may appeal an abatement notice and/or an abatement report, and costs and penalties notice as follows.

(a) In judicial or chronic nuisance abatement proceedings under sections 125.200 or 125.215, in accordance with the rules or orders of the court.

(b) In a summary abatement proceeding without notice under subsection 125.210(2), appeals may be made by filing a petition for judicial review in District Court.

(c) In non-judicial abatement proceedings under section 125.205 or summary abatement proceedings with notice under section 125.210(3), appeals may be taken as follows:

(1) By requesting a hearing with the administrative hearing office within 14 calendar days after service of the notice or report.

(2) If a hearing is conducted, the decision of the hearing officer may be appealed, at the option of the respondent, either by a petition for judicial review filed with the District Court within 30 calendar days of service of the decision, or by filing a written request for a hearing with the appropriate administrative appellate body identified in the decision (i.e., Board of Adjustment for zoning or building code violations) within 14 calendar days of service of the decision.

(3) The decision of an administrative appellate body may be appealed by filing a petition for judicial review with the District Court within 30 calendar days from service of the decision.

7. Assessment and collection of abatement costs, civil abatement penalties, chronic nuisance civil penalties, and administrative penalties or fees.

(a) Abatement costs include out of pocket expenses for labor and materials in carrying out the abatement. Abatement costs shall become a special assessment and lien against the property on which the abatement occurred. The assessment may be collected at the same time and in the same manner as ordinary county taxes. Delinquent assessments accrue the same penalties as delinquent taxes and all laws applicable to the levy, collection and enforcement of county taxes are applicable. Any agreements modifying the special assessment amount or payment schedule must be approved by the agency and the County Treasurer.

(b) Civil abatement penalties or chronic nuisance civil penalties may only be charged when authorized by statute (NRS 244.3603 and 244.3605) and in amounts specified in the master administrative enforcement penalty and fee schedule adopted by the board. The agency may negotiate a lower amount if it will expedite voluntary abatement or payment. Unpaid civil abatement penalties or chronic nuisance civil penalties may be collected through judicial action or may be added to the special assessment specified above when:

~~(1) At least 180 days have elapsed since the abatement deadline or a date specified in a court order;~~

(2) The owner has been billed, served, or otherwise notified that the abatement penalties are due; and

(3) The amount of unpaid civil abatement penalties or chronic nuisance civil penalties exceeds \$5,000.

Any agreement modifying the amount of civil abatement penalties or chronic nuisance civil penalties after they become special assessments must also be approved by the County Treasurer.

(c) Administrative action fees may not exceed the amounts set out in the master administrative enforcement penalty and fee schedule adopted by the board by resolution but may be reduced by the enforcement official at the time they are imposed. Administrative penalties shall not exceed the amount stated in the master administrative enforcement penalty and fee schedule adopted by the board by resolution, but the agency may approve an agreement reducing the penalties if it would expedite a voluntary abatement or payment of the penalties. Unpaid administrative action fees and administrative penalties levied under an administrative penalty notice may be collected by judicial action.

125.200 Judicial abatement; action by district attorney.

1. The district attorney is hereby authorized and instructed in accordance with NRS 244.360(6) to bring all necessary civil actions on behalf of the county in any court of competent jurisdiction to enjoin, abate or restrain the continued violation of any ordinance, rule or regulation enacted, adopted or passed by the board and having the effect of law, the violation of which is designated as a nuisance in such ordinance, rule or regulation.

2. Enforcement officials may apply to the district attorney for such litigation if circumstances require immediate litigation or if administrative remedies have or are likely to fail. The district attorney may require that certain administrative procedures in this chapter be completed before litigation is brought.

3. When litigation is commenced, the rules of civil procedure and orders and rules of the court shall govern the process and no further administrative remedies or appeals in this chapter are authorized.

125.205 Non-judicial abatement; abatement by county of dangerous structures or conditions, rubbish, noxious plant growth and other public nuisances.

1. To protect the public health, safety and welfare of the residents of the county, an enforcement official may issue and serve an abatement notice that orders an owner of property within the county to:

(a) Repair, safeguard or eliminate a dangerous structure or condition;

(b) Clear debris, rubbish, refuse, litter, garbage, abandoned or junk vehicles, or junk appliances which are not the subject to the provisions of chapter 459 of NRS;

(c) Clear weeds and noxious plant growth; and/or

(d) Repair, clear, correct, rectify, safeguard or eliminate any other public nuisance.

2. The County may abate the public nuisance on the property and may recover the costs of abatement if the owner has failed to request or has exhausted all appeal rights set forth in subsection 125.195(6) and has not abated the public nuisance.

3. All of the provisions in section 125.195 apply to abatements under this section except that the abatement notice must be served by certified mail upon the owner. If someone else is in possession of the property or if the nuisance is being caused by another person, the enforcement official should also post the abatement notice on the property and may serve any such person by personal service or regular mail.

125.210 Summary abatement; abatement of dangerous structure or condition posing imminent danger.

1. Determination of imminent danger. If requested by an enforcement official, the agency shall appoint an ad hoc committee to make a determination whether a structure or condition constitutes an imminent danger. The ad hoc committee shall be at least three persons and may include the county building official, any building code enforcement official, any health code enforcement official, any zoning code enforcement official, any peace officer, or any member of a local fire department. If at least three such persons sign a written statement determining that a structure or condition is an imminent danger, the structure or condition may be abated under this section.

2. Abatement without notice. If the three members who make the determination stated above also make the written determination that the structure or condition poses such an imminent danger that presents an immediate hazard and the result of the imminent danger is likely to occur before an abatement notice and opportunity to appeal to a hearing officer can be

~~provided under section 125.195, then the enforcement official~~
may proceed to abate the dangerous structure or condition in
accordance with section 125.195 as follows:

(a) An abatement notice shall not be issued and served, and
no hearing may be requested until the abatement report, and
costs and penalties notice is issued.

(b) The building or structure may be abated only to the
extent necessary to remove the imminent danger that presents an
immediate hazard.

(c) After abatement, the owner must be served with an
abatement report, and costs and penalties notice that states
that the owner may seek a judicial review of the summary
abatement by filing a petition with the District Court within 30
calendar days after service of the notice.

3. Abatement with notice. If the written determination
indicated in subsection 2 next above cannot be made, then the
enforcement officer should proceed with abatement substantially
as set out in section 125.195 except that the abatement notice
must be served as provided in NRS 244.3601(2) by hand delivery
or sent by prepaid United States mail to the owner of the
property, if practicable, or posted on the property.

125.215 Chronic nuisance abatement; abatement of chronic
nuisances by judicial action.

1. Definitions.

(a) "Nuisance." A nuisance consists of any activity,
behavior, or conduct defined by the Code to constitute a public
nuisance. A public nuisance includes, but is not limited to:

- (1) Criminal activity;
- (2) The presence of debris, litter, garbage, rubble,
abandoned or junk vehicles, or junk appliances;
- (3) Excessive noise;
- (4) The operation of an unlicensed business;
- (5) Violations of building codes, housing codes or any
other codes regulating the health or safety of occupants of real
property;

(6) Any act or omission which injures or endangers the
life, safety, health, or property of the general public or the
occupants of the property upon which the structure or condition
is located, or in any way annoys or endangers the comfort or
repose of a considerable number of persons; or

(7) Anything described in the Code as being a nuisance.

(b) "Chronic nuisance." For the purposes of this section,
any one or combination of the following activities and
circumstances are declared to be a chronic nuisance:

(1) When three or more instances of public nuisance activities exist or have occurred during any 90 day period on the property;

(2) When a person associated with the property has engaged in three or more instances of public nuisance activities during any 90 day period on the property or within 100 feet of the property;

(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of NRS Chapter 459 and hazardous materials described in that chapter have been found on the property as a result of a search pursuant to that warrant;

(4) When a building or place was or is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using, or giving away a controlled substance, immediate precursor as defined in NRS 453.086, or controlled substance analog as defined in NRS 453.043 and:

(i) The building or place has not been deemed safe for habitation by a governmental entity; or

(ii) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor as defined in NRS 453.086, or controlled substance analog as defined in NRS 453.043.

2. Action by district attorney.

(a) Subject to the provisions set forth in this section, if a chronic nuisance exists, the district attorney is hereby authorized to file a lawsuit on behalf of the county to:

(1) Seek the abatement of the chronic nuisance which is occurring in the unincorporated area of the county;

(2) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and/or

(3) If applicable, seek penalties against the owner of the property and any other appropriate relief.

3. Abatement notice.

(a) An abatement notice must be prepared and served as required by subsection 125.195(3), except as follows:

(1) The description of the nuisance required by subsection 125.195(3)(b)(2) shall also indicate that it is considered to be a chronic nuisance as defined in this chapter and give the reason why.

(2) The statement describing possible remedies, as required by subsection 125.195(3)(b)(5) that the County may/shall take if the condition is not abated by the deadline, shall state only

~~that if the condition is not abated, the matter shall be referred to the district attorney for legal action to seek abatement of the nuisance, possible closure of the building, and/or chronic nuisance civil penalties.~~

(3) The statement of right to appeal required by subsection 125.195(3)(b)(6), together with the appropriate deadline, shall also state that the owner may bring its own action to prevent the abatement or may ask for a hearing in the lawsuit brought by the district attorney.

(4) The abatement notice must be served on the owner by certified mail, return receipt requested, and, additionally, may also be served on the owner or another respondent by personal delivery or posting on the property.

4. Court action. As set out in NRS 244.3603(3), if the court finds that a chronic nuisance exists and action is necessary to avoid a serious threat to the public welfare or the safety or health of the occupants of the property, it may:

(a) Order the county to secure and close the property until the nuisance is abated;

(b) Order the owner to pay the county for the cost incurred by the county in abating the condition;

(c) Impose chronic nuisance civil penalties in an amount not to exceed the amounts specified in the master administrative enforcement penalty and fee schedule adopted by the board; and

(d) Order any other appropriate relief.

5. Collection of costs, assessments and penalties. As authorized by NRS 244.3603(2)(c) and (4), the board hereby designates that the costs of abatement may be collected as specified in subsection 125.195(7)(a), and that chronic nuisance civil penalties may be assessed and collected as provided in subsection 125.195(7)(b).

Administrative Hearing Procedures

125.220 Administrative hearing office.

1. The county manager shall establish an administrative hearing office.

2. The administrative hearing office shall have the authority to:

(a) Supervise the administrative hearing process;

(b) Prepare appropriate procedures relating to administrative hearings; and

(c) Manage the administrative hearing officer contracts and training.

(d) Prepare reports regarding special assessments required by NRS 244.3603(6).

125.225 Appointment and powers of hearing officer.

1. The board will approve a list of and all contracts for persons to serve as hearing officers. A hearing officer shall:

(a) Be licensed to practice law in the State of Nevada or be a graduate of an accredited 4-year college and have at least two years consecutive experience in administrative hearings in the State of Nevada, or

(b) Have a quality, level and length of experience deemed acceptable to the board and two years of administrative hearing experience.

(c) Not have been an employee of Washoe County within the last two years.

2. Compensation of hearing officers will be set at an hourly rate by resolution of the board.

3. The administrative hearing office has the authority to and will assign a hearing officer to each case. Assignment of hearing officers will be on a rotation basis. The hearing officer will be chosen from the list of hearing officers approved by the board. The hearing office may establish a specialized list of hearing officers to hear specific cases based on education, experience, and/or the type of case. The assigned hearing officer has discretion to determine if he/she should be disqualified for bias, prejudice, conflict of interest, or for any other reason for which a judge may be disqualified in a court of law, and the next hearing officer on the list shall be assigned. The hearing officer shall not have, at the time of hearing assignment, any personal interest, or expectation in any matter with the county except general county tax and business license matters and service as a hearing officer.

4. The hearing officer shall have the power to render a proper disposition of the matter, including without limitation, dismissal (with or without prejudice), remand to the enforcement official for further information or action, modification, assessment of administrative penalties, or any other action deemed appropriate, including the application of any administrative enforcement remedy authorized pursuant to this chapter. The hearing officer shall have the power to administer oaths to all witnesses and impose such rules of decorum upon the proceeding as will promote the decent, fair, and efficient consideration of matters before the hearing officer.

5. The hearing officer may continue a hearing as provided in section 125.240.

6. The hearing officer does not have the power to render monetary judgments or award damages against the county.

7. The hearing officer has continuing jurisdiction over the subject matter of an administrative hearing for the purpose of

~~granting a continuance, ensuring compliance with an administrative order, modifying an administrative order, or where extraordinary circumstances exist, granting a new hearing.~~

125.240 Request and scheduling administrative hearing.

1. A respondent may request a hearing regarding an administrative penalty notice, stop activity order, remediation order, or an abatement notice by filing a request with the administrative hearing office for an administrative hearing within the time frames set forth in this chapter. The request may either be on a form provided by the county or made in person at the administrative hearing office. The respondent requesting such a hearing shall pay an administrative action fee as contained in the master administrative enforcement penalty and fee schedule adopted by the board if found in violation at the end of the case.

2. The failure of any respondent to request an administrative hearing in accordance with this administrative enforcement code shall be deemed an admission of liability and shall constitute a waiver of the right to a hearing.

3. Upon receiving a request for an administrative hearing, the hearing office shall schedule a date, time and place for the hearing, which must commence no more than 60 calendar days from the hearing office's receipt of the request for an administrative hearing. Continuances based on good cause may be granted by the hearing office or hearing officer.

4. The administrative hearing office shall notice the department or agency that issued the administrative penalty notice, stop activity order, remediation order, or notice of abatement of the date, time, and place of the administrative hearing.

5. Notice of the scheduling of the hearing shall be served upon the respondent pursuant to this chapter at least 14 calendar days prior to the date of the hearing.

125.245 Deadline postponed for administrative hearing. When a respondent requests a hearing in conformance with this chapter regarding an administrative penalty notice, an abatement notice, or a remediation order, the deadline date specified in the notice and other enforcement or collection efforts is postponed until the hearing officer's administrative order is served pursuant to this chapter.

125.250 Administrative hearing procedures.

1. Administrative hearings are intended to be informal in nature. The receipt of evidence and the conduct of the hearing shall be in the sole discretion of the hearing officer. Each

party shall have the opportunity to cross-examine witnesses and to present evidence in support of the case. Each proceeding shall be audio recorded, constitute a public record, and the recording made available to all parties within five calendar days after the hearing.

2. Matters and evidence to be considered at the hearing must be relevant to:

a. Whether the conditions described in the administrative penalty notice, stop activity order, or remediation order violate the Code, and in the case of an abatement notice, solely whether the cited violations are repeating or continuing without required compliance or remedy; and

b. Whether the enforcement official afforded the respondent due process by adhering to the notice requirements set forth in this administrative enforcement code.

3. Written briefs may be required or permitted before or after the hearing by written order of the hearing officer.

4. Neither the rules of evidence nor the rules of discovery of courts of the State of Nevada apply in these administrative hearings. Matters of evidence and the weight to be given evidence received at the hearing are in the sole discretion of the hearing officer. No informality in any proceeding or in the manner of taking testimony will invalidate any decision of the hearing officer.

5. An objection to the admissibility of evidence may be made by any party of record and the objection will be ruled on by the hearing officer. The hearing officer, with or without objection, may exclude inadmissible, incompetent, repetitious, or irrelevant evidence. Any evidence offered at the hearing must be material and relevant to the issues of the hearing.

6. All evidence received during the hearing shall be retained by the county as part of the record of the hearing, to include an authenticated copy of any recording or transcription by a court reporter of the hearing at the sole expense of the party recording or reporting the hearing.

7. Any party may be represented at the hearing by counsel, but the hearing officer may limit or deny the representation by a person who is not licensed to practice law if such representation impairs the efficiency, effectiveness, or decorum of the hearing. Counsel will not be appointed to represent any party at County expense.

8. If the hearing officer finds that the violation of code has not occurred or a violation of code has been committed but the respondent asserts and proves one or more legal defenses to the administrative penalty notice, stop activity order, or remediation order, the hearing officer may dismiss the

~~administrative penalty notice, stop activity order, or remediation order, and release the respondent from liability.~~

9. In a contested hearing, the respondent against whom the hearing officer has entered a finding of liability and has assessed a penalty, by default or otherwise, may seek judicial review thereof by filing a petition for judicial review in the district court in conformance with section 125.275 et seq of this Administrative Code.

125.255 Standard of proof. The county bears the burden of proof at an administrative hearing to establish the existence of all elements required for the respective hearing pursuant to this administrative enforcement code. The standard of proof is by a preponderance of the evidence.

125.260 Failure to attend administrative hearing. Any respondent who requests a hearing or whose actions are the subject of an administrative hearing and who fails to appear at the hearing is deemed to waive the right to a hearing and all objections to an administrative penalty notice, stop activity order, remediation order, or abatement notice, provided that the hearing was properly noticed, unless there are extenuating circumstances as determined by the hearing officer.

125.265 Administrative order; compliance with administrative order.

1. The decision of the hearing officer shall be deemed to be an administrative order and shall be entitled "administrative order."

2. Upon completion of the hearing, the hearing officer shall issue an administrative order that affirms, modifies or dismisses the enforcement official's action, including any penalties assessed or to be assessed, or that requires any other action deemed reasonable under all of the circumstances by the hearing officer. The administrative order may also refer the matter back to the enforcement official for further specified action.

3. The hearing officer may require the respondent to cease violating or cause the cessation of any violation of the Code and to make necessary corrections, repairs, or to complete any other reasonable act requested by the enforcement official, which may be modified by the hearing officer, to be in compliance with the Code. The hearing officer shall include a specific time frame to complete the requested act.

4. The hearing officer may establish specific deadlines for the payment of penalties, fees, and costs, and may condition the total or partial assessment of administrative penalties on the

respondent's ability to complete compliance by specific deadlines.

5. The hearing officer may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the administrative order.

6. The administrative order shall become final on the date of service of the order upon all parties as provided in this chapter.

125.270 Failure to comply with the administrative order; misdemeanor. A person who fails to comply with an administrative order is guilty of a misdemeanor and upon conviction shall be punished as provided for misdemeanors in NRS 193.150. This penalty, however, shall not excuse the failure to comply with the order and to correct the violations, nor shall it bar further enforcement action by the county.

125.275 Judicial review; requirements for petition; statement of intent to participate; petition for rehearing.

1. Any party who is:

(a) Identified as a party of record in an administrative hearing; and

(b) Is aggrieved by a final decision in a contested case, is entitled to judicial review of the decision. Any preliminary, procedural, or intermediate act or ruling in an administrative hearing in a contested case is reviewable if review of the final decision of the administrative hearing would not provide an adequate remedy.

2. Petitions for judicial review must:

(a) Name as respondent Washoe County and all parties of record to the administrative proceeding. It shall not name the administrative hearing office or the hearing officer;

(b) Be instituted by filing a petition in the Second Judicial district court in and for the County of Washoe; and

(c) Be filed by petitioner within 30 calendar days after service of the administrative order. Cross-petitions for judicial review must be filed within 10 calendar days after service of a petition for judicial review.

3. Any party desiring to participate in the judicial review must file a statement of intent to participate in the petition for judicial review and serve the statement upon every party within 20 calendar days after service of the petition.

4. A petition for rehearing or reconsideration must be filed within 15 calendar days after the date of service of the final decision. An order granting or denying the petition must be served on all parties at least five calendar days before the expiration of the time for filing the petition for judicial

~~review. If the petition is granted, the subsequent order shall be deemed the final order for the purpose of judicial review.~~

5. The petition for judicial review and any cross-petitions for judicial review must be served upon Washoe County and every other party within 45 calendar days after the filing of the petition, unless, upon a showing of good cause, the district court extends the time for such service.

6. The provisions of this chapter are the exclusive means of judicial review of, or judicial action concerning, a final decision in a contested case.

125.2751 Transmittal of record of proceedings to reviewing court by administrative hearing; additional evidence; modification of findings by administrative hearing.

1. Within 30 calendar days after the service of the petition for judicial review or such time as is allowed by the court, the administrative hearing office shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review, including a transcript of the evidence resulting in the administrative order. The record may be shortened by stipulation of the parties to the proceedings. A party unreasonably refusing to stipulate to limit the record, as determined by the court, may be assessed by the court any additional costs. The court may require or permit subsequent corrections or additions to the record.

2. If, before submission to the court, an application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the administrative hearing, the court may order that the additional evidence and any rebuttal evidence be taken before the administrative hearing officer upon such conditions as the court determines.

3. After receipt of any additional evidence, the administrative hearing officer:

- (a) May modify its findings and decision; and
- (b) Shall file the evidence and any modifications, new findings or decisions with the reviewing court.

125.2752 Memoranda of points and authorities: time for filing memorandum and reply; request for hearing; required form.

1. A petitioner or cross-petitioner who is seeking judicial review must serve and file a memorandum of points and authorities within 40 calendar days after Washoe County gives written notice to the parties that the record of the proceeding under review has been filed with the court.

2. The respondent or cross-petitioner shall serve and file a reply memorandum of points and authorities within 30 calendar days after service of the memorandum of points and authorities.

3. The petitioner or cross-petitioner may serve and file reply memoranda of points and authorities within 30 calendar days after service of the reply memorandum.

4. Within seven calendar days after the expiration of the time within which the petitioner is required to reply, any party may request a hearing. Unless a request for hearing has been filed, the matter shall be deemed submitted.

5. All memoranda of points and authorities filed in proceedings involving petitions for judicial review must be in the form provided for appellate briefs in Rule 28 of the Nevada Rules of Appellate Procedure.

6. The court, for good cause, may extend the times allowed in this section for filing memoranda.

125.2753 Judicial review: manner of conducting; burden of proof; standard for review.

1. Judicial review of an administrative order must be:

(a) Conducted by the court without a jury; and

(b) Confined to the record. In cases concerning alleged irregularities in procedure before an administrative hearing officer that are not shown in the record, the court may receive evidence concerning the irregularities.

2. The final decision of the administrative hearing officer shall be deemed reasonable and lawful until reversed or set aside in whole or in part by the court. The burden of proof is on the party attacking or resisting the decision to show that the final decision is invalid pursuant to subsection 3.

3. The court shall not substitute its judgment for that of the administrative hearing officer as to the weight of evidence on a question of fact. The court may remand or affirm the final decision or set it aside in whole or in part if substantial rights of the petitioner have been prejudiced because the final decision of the administrative hearing officer is:

(a) In violation of constitutional or statutory provisions;

(b) In excess of the statutory authority of the administrative hearing officer;

(c) Made upon unlawful procedure;

(d) Affected by other error of law;

(e) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or

(f) Arbitrary or capricious or characterized by abuse of discretion.

~~4. The Nevada Rules of Civil Procedure (NRCP) apply to these judicial review proceedings to the extent that the NRCP are not inconsistent or in conflict with these ordinances.~~

125.2754 Procedure for stay of final decision; ruling by court.

1. A petitioner who applies for a stay of the final decision in a contested case shall file and serve a written motion for the stay on the administrative order to all parties of record to the proceeding at the time of filing the petition for judicial review.

2. In determining whether to grant a stay, the court shall consider the same factors as are considered for a preliminary injunction under Rule 65 of the Nevada Rules of Civil Procedure.

3. In making a ruling, the court shall:

- (a) Give deference to the trier of fact; and
- (b) Consider the risk to the public, if any, of staying the administrative order. The petitioner must provide security before the court may issue a stay.

125.2755 Award of costs. The district court shall award cost of the proceedings to the prevailing party including but not limited to the cost of preparation of the transcript of the administrative proceedings required in WCC 125.2752.

125.280 Exhaustion of administrative remedies. Appeal of an administrative order shall not be allowed without first exhausting the administrative process set forth in this chapter.

125.285 Time limits for repair, correction, or abatement. Unless otherwise provided by the order of an enforcement official or hearing officer, the respondent shall complete all actions necessary to achieve compliance with the Code within the time established pursuant to this administrative enforcement code.

125.287 Judicial enforcement. Judicial enforcement of an administrative order must be by way of civil suit in the appropriate Justice's Court. A certified copy of the administrative order constitutes a prima facie showing that an administrative infraction occurred.

125.288 Commencement of civil action - procedure. The civil action authorized in section 125.287 may be commenced at any time after the expiration of 60 calendar days following the date on which the administrative penalty notice was served pursuant to section 125.160 or 30 calendar days following the enforcement

official's findings, by the filing of a complaint in the name of Washoe County and the issuance of a summons with respect thereto. Service of such complaint and summons on the defendant must be made by certified mail, return receipt requested, addressed to the respondent having ownership, control, or responsibility of the property of record as stated on the assessor's records, and mailed to the respondent's address as contained on the assessor's records.

125.290 Extension of time; court order. When the Court has entered an order relating to matters governed by this administrative enforcement code, jurisdiction relating to the matter shall remain with the Court unless otherwise ordered by the Court. Any extension of time or other relief must be sought, in the first instance, by application to the Court for an order allowing an extension of time or any other relief.

Penalties, Fees and Costs

125.300 Administrative action fees.

1. When a violation has been found to occur and not have been corrected in the prescribed time, the board finds there is a need to recover costs incurred by the county in its Code enforcement efforts by assessing certain reasonable administrative fees. Administrative action fees are based on time spent by county personnel re-inspecting properties found to remain in violation, abating violations or disposing of abated items, as well as costs incurred in investigation, hearing work, service of notices, recording of notices, and liens, title search, and other processing costs associated with the violations specified on the administrative penalty notice, stop activity order, remediation order, or abatement notice. All such fees shall be placed into the county's general fund.

2. Any fee schedule imposed under this administrative enforcement code shall be adopted by, and may be modified at any time by, resolution of the board and may be found in the master administrative enforcement penalty and fee schedule adopted by the board. The master administrative enforcement penalty and fee schedule shall be filed in the county clerk's office.

125.305 Administrative enforcement penalties, fees and costs.

1. Where the assessment of administrative enforcement penalties, fees and costs are authorized under this chapter, the enforcement official's notice shall contain the following information:

- a. The case number;
- b. The amount of penalties, fees and costs charged;

- ~~c. The administrative enforcement action for which the penalties, fees and costs are charged;~~
- d. The date(s) of such administrative enforcement action; and
- e. A deadline by which the administrative enforcement penalties, fees and costs must be paid.
2. Administrative enforcement penalties, fees and costs may be assessed as part of any administrative enforcement action as provided for in this chapter.
3. Administrative enforcement penalties, fees and costs collected pursuant to this chapter shall not be duplicated in any other action to recover these identical penalties, fees and costs.
4. The failure of any respondent to receive notice of the administrative enforcement penalties, fees and costs shall not affect the validity of any penalties, fees and costs imposed under by this chapter.

125.310 Recovery of penalties, fees and costs; and lien.

1. Collection or satisfaction of any administrative penalties, fees, and costs allowed under this chapter, and which are not paid in the time specified in a notice or permitted under this chapter, whichever is later, shall be made and provided for by Washoe County by turning the amount over to the county collections office. The collections office may collect any subsequent fees or penalties, to include interest, or follow any administrative actions authorized by state law and/or Washoe County Code, necessary to collect unpaid administrative fees, penalties, and/or costs. As part of the recovery process, the collections office may place a lien against the property to ensure that the amount owed by the respondent is recovered. The lien shall be referred to as a "code enforcement lien." The respondent shall receive a copy of the recorded lien document.
2. The recorded code enforcement lien shall include the name and address of the served respondents, the assessor's parcel number, the street address, the parcel's legal description, and a copy of the latest amounts due the county.
3. Any costs and fees associated with recording the code enforcement lien or removal thereof may be assessed against the property as provided in this chapter.
4. Payment of all monies due under this administrative enforcement code shall be by cash, money order, credit or debit card, personal check, or cashier's check only on or before the date listed in the administrative penalty notice or other notice.
5. The collections office has the authority to grant a schedule for payment of penalties, fees, and costs.

125.315 Cancellation of code enforcement lien. Once payment in full is received in satisfaction of the code enforcement lien, or once the amount is deemed satisfied pursuant to a subsequent administrative order, and upon correction of the violation, the collections office shall, within ten business days from the date payment is made or decision is final, record and serve upon the respondent pursuant to this chapter, a notice of satisfaction with the Washoe County Recorder's office. The notice of satisfaction shall cancel the code enforcement lien and all liens pursuant to this action shall be removed by Washoe County.

Passage and Effective Date

This Ordinance was proposed on 9-10-13 by Board Member Hartung.

This Ordinance was passed on 9-24-13.

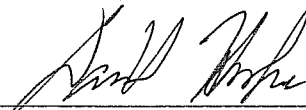
Those voting "aye" were Weber, Jung & Hartung.

Those voting "nay" were None.

Those absent were Humke and Benkbigler.

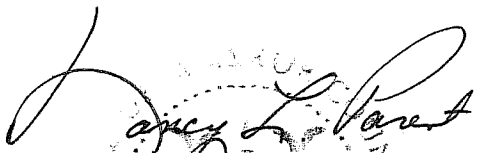
Those abstaining were NONE.

This Ordinance shall be in force and effect immediately upon the date of the second publication of such Ordinance as required by NRS 244.100.



David Humke, Chairman
Board of County Commissioners

ATTEST:



Nancy Parent, County Clerk



10/7 sent original to Vicky J.

WASHOE COUNTY
COMPTROLLER

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2013 OCT -7 AM 10: 32

Reno Gazette-Journal

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STATE OF NEVADA
COUNTY OF WASHOE

Being first duly sworn, deposes and says: That as the legal clerk of the Reno Gazette-Journal, a daily newspaper of general circulation published in Reno, Washoe County, State of Nevada, that the notice referenced below has published in each regular and entire issue of said newspaper between the dates: **09/27/2013 - 10/04/2013**, for exact publication dates please see last line of Proof of Publication below.

Signed: *[Signature]*

OCT 4 2013

Subscribed and sworn to before me



[Signature]

Proof of Publication

NOTICE OF ADOPTION WASHOE COUNTY ORDINANCE NO. 1518 BILL NO. 1699 NOTICE IS HEREBY GIVEN that typewritten copies of the above-numbered and entitled ordinance are available for inspection by the interested parties at the office of the County Clerk of Washoe County, Nevada, at her office in the Washoe County Complex, 1001 E. Ninth Street, Building A, Reno, Washoe County, Nevada; and that the ordinance was proposed on September 10, 2013 by Commissioner Hartung and was passed and adopted without amendment at a regular meeting held on September 24, 2013 by the following vote of the Board of County Commissioners: An ordinance amending the Washoe County Code at Chapter 125 (Enforcement; Remedies; Penalties) by clarifying civil code enforcement and by modifying the current regulations for the administrative enforcement of codes including removing provisions and procedures for correction notices, notices of violation and recording such notices, and withholding permit and license approval; adding provisions and procedures for stop activity orders and remediation orders, warnings, and administrative penalty notices; modifying provisions and procedures for judicial abatement, non-judicial abatement, summary abatement, and chronic nuisance abatement; modifying the administrative hearing procedures; adding civil action procedures; adding and clarifying certain definitions; modifying administrative

1518 ✓

enforcement penalties and fees; establishing an administrative hearing office; and, modifying the administrative hearing officer procedures. Recommendations include other matters properly relating thereto. (Bill No. 1699) Those Voting Aye: Kitty Jung, Bonnie Weber and Vaughn Hartung, Those Absent: Marsha Berkbigler and David E. Humke This Ordinance shall be in full force and effect from and after October 4, 2013. IN WITNESS WHEREOF, the Board of County Commissioners of Washoe County, Nevada, has caused this Ordinance to be published by title only. DATED September 25, 2013 Nancy Parent, Washoe County Clerk and Clerk of the Board of County Commissioners No. 16465 Sept 27, Oct 4, 2013

**NOTICE OF ADOPTION
WASHOE COUNTY ORDINANCE NO. 1518
BILL NO. 1699**

NOTICE IS HEREBY GIVEN that typewritten copies of the above-numbered and entitled ordinance are available for inspection by the interested parties at the office of the County Clerk of Washoe County, Nevada, at her office in the Washoe County Complex, 1001 E. Ninth Street, Building A, Reno, Washoe County, Nevada, and that the ordinance was proposed on September 10, 2013 by Commissioner Hartung and was passed and adopted without amendment at a regular meeting held on September 24, 2013 by the following vote of the Board of County Commissioners:

An ordinance amending the Washoe County Code at Chapter 125 Enforcement Penalties, Penalties by clarifying and enforcement and by modifying the current regulations for the administrative enforcement penalties including hearing provisions and procedures for enforcement matters, notice of violation and including a hearing, and including penalties for cross appeal; adding provisions and procedures for regulatory orders and violation orders, warnings, and other administrative penalties including provisions and procedures for judicial attachment, non-judicial statement, summary abatement, and electronic nuisance abatement; modifying the administrative hearing procedures; adding violation procedures; adding and clarifying curfew violations; modifying administrative enforcement penalties and fees; establishing an administrative hearing office; and modifying the administrative hearing officer procedures. Recommendations include other matters properly relating thereto. (Bill No. 1699)

Those Voting Aye: Kitty Jung, Bonnie Weber and Vaughn Hartung,
Those Absent: Marsha Berkbigler and David E. Humke

This Ordinance shall be in full force and effect from and after October 4, 2013.
IN WITNESS WHEREOF, the Board of County Commissioners of Washoe County, Nevada, has caused this Ordinance to be published by title only.

DATED September 25, 2013

Nancy Parent, Washoe County Clerk and
Clerk of the Board of County Commissioners

No. 16465 Sept 27, Oct 4, 2013