

Section 12.05.220 - Administrative Enforcement.

- A. *Purpose, Intent, and Authority.* The County of Nevada Board of Supervisors determines that the enforcement of this Code and any other ordinance of the County is an important public service and is vital to protecting the public. The Board of Supervisors further determines there is a need for alternative methods of code enforcement in addition to other enforcement options available. This Section is intended to promote the general health, safety, and welfare of the public and provide uniform, fair, and efficient code enforcement and administration. The Board of Supervisors intends this Section to apply to the enforcement of all code violations, except as otherwise provided for by this Code or by any other law, regulation, or ordinance.

This Section is enacted pursuant to Cal. Gov't Code § 53069.4 and is intended to be the primary procedure for the imposition, enforcement, collection, and administrative review of administrative civil penalties within the unincorporated area of the County of Nevada.

- B. *Definitions.* Unless specifically defined below, words or phrases used in this Section shall be interpreted to give them the meaning they have in common usage and to give this Section the most reasonable application.
1. *Abate or Abatement* shall mean an act used to remove, destroy, eliminate, seize, impound, or any action taken to mitigate a public nuisance. Abatement includes any and all steps taken by the County to correct a public nuisance or code violation, including, but not limited to, investigation, correspondence, hearings, imposition of fines and penalties, acquisition of warrants, entry and physical correction of violations, and collection of any and all fines, penalties and/or costs of whatever kind or nature.
 2. *Administrative Cost(s)* shall mean all costs incurred by or on behalf of the County regarding enforcement of this Code, from the first discovery of the violation of this Code through the appeal process and any court proceeding, and until compliance is achieved, including, but not limited to, staff time investigating the code violation, inspecting the property where the code violation occurred, acquisition of warrants, preparing investigative reports, sending notices of violations, administrative citations, and/or abatement orders, preparing for and attending any appeal or administrative hearing, collection of any and all fines, penalties, costs of abatement, and/or costs of whatever kind and nature, and attorneys' fees.
 3. *Appellant* shall mean a responsible party who seeks an administrative hearing on a Notice of Violation, Abatement Order, administrative citation, and/or the imposition of administrative costs in the manner required by this Section.
 4. *Code* shall mean this Code or any other ordinance of the County, including any codes adopted by reference and any condition imposed upon issuing any permit, license, or other approval (e.g., subdivision map, use permit, variance, or zoning clearance) under this Code or any other ordinance of the County.

5. *Code Violation(s)* shall mean any violation of this Code. Code violation(s) shall also include any Public Nuisance as determined by this Code.
6. *Enforcement Officer* shall mean the Community Development Agency Director, Code Compliance Program Manager, Building Department Director, Environmental Health Director, Sheriff, Fire Authority, or their respective authorized designees, or any other official authorized to enforce local, State, or Federal laws.
7. *Hearing Body* shall mean a hearing body designated by the Board of Supervisors to conduct administrative hearings.
8. *Notice of Violation* shall mean any notice, including, but not limited to, an Administrative Citation and an Abatement Order issued by an Enforcement Officer, that informs a responsible party that a code violation has occurred or is continuing to occur as defined in this Section.
9. *Public Nuisance* shall mean:
 - a. Any public nuisance heretofore or hereafter defined as a public nuisance by any ordinance of the County of Nevada, Section of any Nevada County Code, Section of any adopted uniform code, resolution of the Board of Supervisors, or by other law.
 - b. Any condition of property which would materially hamper and interfere with the prevention or suppression of fire upon the premises, or which may be detrimental to the health, safety, and welfare of persons in the vicinity.

Exception: No agricultural activity, agricultural processing activity, operation, or facility or appurtenances thereof, as defined in Cal. Civ. Code § 3482.5, as may be amended, is subject to this Section.

10. *Responsible Party* means any person or entity who causes, permits, maintains, conducts, or otherwise suffers or allows a public nuisance and/or a code violation, including but not limited to the property owner(s) or the occupant(s) if other than the owner(s), including any person or entity who causes a public nuisance and/or a code violation on property owned by another.

C. *Notice of Violation and/or Abatement Order.*

1. Whenever an enforcement officer reasonably determines that a code violation exists, the enforcement officer may issue a Notice of Violation and/or an Abatement Order to any responsible party. The Notice of Violation and/or Abatement Order shall include:
 - a. A description of the condition creating or constituting the code violation(s) and the Code section(s) or other ordinance(s) violated;
 - b. The address and APN where the code violation exists;
 - c. The name(s) of the responsible part(ies), if known to the enforcement officer;
 - d. The date, and if applicable, time at which the code violation was observed;

- e. If applicable, a list of any corrections to bring the property into compliance;
 - f. A description of the procedure for requesting an administrative hearing to contest the Notice of Violation and/or Abatement Order;
 - g. A deadline by which to correct or Abate the code violation;
 - h. The date the Notice of Violation and/or Abatement Order is served; and
 - i. The signature of the enforcement officer issuing the Notice of Violation and/or Abatement Order.
2. Unless the responsible part(ies) abate the code violation(s) or seeks an appeal within the time prescribed in the notice, the code violation may be abated at the Responsible Parties' expense abatement, including administrative costs. Abatement costs, including administrative costs, may be made a special assessment added to the County assessment roll and become a lien on the real property, or be placed on the unsecured tax roll.
 3. All responsible parties shall be jointly and severally liable for all administrative costs incurred by the County.

D. *Service of Notice.*

1. An enforcement officer may serve any notice described in this Section in one (1) or more of the following ways:
 - a. Personal service on a responsible party;
 - b. First class mail, postage prepaid, to the responsible party's mailing address as shown on the County's last equalized property tax assessment rolls, if such address is available, or otherwise to the last known address of the responsible party and/or to any address which the responsible party has used in dealings with the County;
 - c. *Alternative service.* If the person being served agrees, service may be accomplished in any agreeable manner, including, but not limited to, fax, email, or overnight delivery; or
 - d. Any other method reasonably calculated to provide actual notice to the responsible party.
 - e. The date of service shall be the date on which the notice is either personally served or mailed, or in the case of alternative service, the date the County initiates the delivery of the agreed method of service. For the purpose of this Section, "mailed" means deposited for mailing with the United States Postal Service or placed for collection and mailing by way of the County Department's ordinary business practices through which mail is collected and placed for mailing with the United States Postal Service, with postage prepaid.
 - f. Proof of giving any notice may be made by the certificate of any enforcement officer or employee of the County or by affidavit of any person over the age of eighteen (18) years, which affidavit shows service in conformity with this Code or other provisions of law

applicable to the subject matter concerned.

- E. *Authority to Inspect.* Enforcement officers may enter upon any property or premises within the County as allowed by law to ascertain whether the provisions of this Code are being obeyed, and to make any examination and surveys as may be necessary in the performance of their enforcement duties. These inspections may include the taking of photographs. If an owner or occupant of property or his or her agent refuses to consent to entry and inspection, an enforcement officer may seek an administrative inspection warrant to enter the property or premises for any lawful purpose.
- F. *Abatement by County.*
1. If, at the end of the time allowed for compliance in an Abatement Order or Notice of Violation, or, in cases of appeal, as specified by the hearing body, compliance has not been accomplished, the enforcement officer issuing the notice, or the agency of which they are an officer, may pursue a lawful abatement. The enforcement officer may proceed with the abatement of the code violations(s) and provide that abatement be carried out by public officers or by employees of the County of Nevada or by a private contractor selected by the County of Nevada in accordance with applicable statutes. The cost of such removal and enforcement accompanied by a reasonable administrative charge may be imposed as an assessment in the County tax roll.
 2. The costs so assessed shall be limited to the actual costs incurred by the Enforcement Officer and the County in enforcing the violation and abatement upon the subject parcel. Such costs may include, but are not limited to, the costs of all prior inspections, appeal hearings and other enforcement actions leading up to the abatement, payments to the contractor, costs of site inspection, costs of notice, boundary determination and measurement, costs for material disposal and all clerical, personnel, consultant, and other administrative costs.
- G. *Notice of Pending Administrative Enforcement.* An enforcement officer may record with the Nevada County Clerk-Recorder a notice against a property which is the subject of an administrative enforcement action to give notice to potential transferees of the property of code violations thereon. A notice of pending administration action shall be on a form approved by an enforcement officer and shall describe the nature of the administrative action and refer to the Code provision governing the pending administrative action.
- H. *Administrative Citations.*
1. If a responsible party violates this Code or fails to correct a code violation described in a Notice of Violation and/or an Abatement Order, an Enforcement Officer may issue an administrative citation, which may impose administrative fines and/or penalties and Administrative Costs, to each and every responsible party who knew or reasonably should have known of that code violation.

2. Except as otherwise provided by law or any other ordinance of this County, an enforcement officer may issue an administrative citation without first issuing a Notice of Violation or an Abatement Order.

I. *Contents of Administrative Citation.*

1. An administrative citation shall include the following:
 - a. A description of the condition creating the code violation(s) and the Code section(s) or other ordinance(s) violated;
 - b. The address and APN where the code violation occurs;
 - c. The name(s) of the responsible part(ies), if known, and any other involved persons;
 - d. The date and, if relevant, time at which the violation was observed;
 - e. The amount and due date of the fine and/or penalty and administrative costs to be imposed, if any;
 - f. A description of the procedure to pay the fine and/or penalty and administrative costs;
 - g. A description of the procedure for requesting an administrative hearing to contest the administrative citation;
 - h. If applicable, a list of any corrections to bring the property into compliance including, but not limited to, an Abatement Order;
 - i. A deadline by which to correct or Abate the Code Violation(s);
 - j. A statement that any abatement costs, including administrative costs, may be made a special assessment added to the County assessment roll and become a lien on the real property, or be placed on the unsecured tax roll;
 - k. The signature of the Enforcement Officer issuing the administrative citation;
 - l. The date the administrative citation was served;
 - m. Any other information deemed necessary for enforcement, imposition, or collection of the administrative fines and/or penalties and administrative costs.
2. All responsible parties shall be jointly and severally liable for all administrative fines and/or penalties and administrative costs incurred by the County.
3. An enforcement officer may issue an administrative citation in conjunction with a Notice of Violation and/or an Abatement Order.
4. Administrative fines and/or penalties shall continue to accrue until the Responsible Part(ies) notify the Enforcement Officer that the code violation has been abated.

- J. *Administrative Fines and Penalties.* Any violation of a provision of this Code, any code it adopts by reference, or other applicable law, may be subject to an administrative fine and/or penalty and administrative costs pursuant to this Section. This also includes any violation of any condition

imposed upon the issuance of any permit, license, or other approval (e.g., subdivision map, use permit, variance, zoning clearance, etc.) pursuant to this Code.

1. Each and every responsible party regarding a code violation(s) is jointly and severally liable for all fines, penalties, and administrative costs imposed for the code violation(s).
2. A Code violation that exists for more than one (1) day shall be considered a separate and distinct code violation for each and every day it exists. each daily code violation may be subject to the maximum fine or penalty permitted under this Section.
3. An administrative citation may charge a code violation for one (1) or more days on which a code violation exists or existed and for violation of one (1) or more code sections.
4. The administrative fines, administrative costs, and penalties prescribed in this Section are in addition to, and do not preclude imposition of, any other remedies, whether criminal, civil, or administrative, available to the County. Imposition of administrative fines or penalties shall be at the sole discretion of the enforcement officer.

K. *Amount of Administrative Fines and Penalties.*

1. For code violations that would otherwise be an infraction, administrative fines shall not exceed those listed in Cal. Gov't Code § 25132(b), as that section may be amended from time to time.
2. For code violations of local building and safety codes, administrative fines shall not exceed those listed in Cal. Gov't Code § 25132(c), as that section may be amended from time to time.
3. If the code violation pertains to building, plumbing, electrical, mechanical or other similar structural or zoning issues and does not pose an imminent or immediate threat of harm to persons or property, or to public health, welfare or safety, the responsible party shall be provided a Notice of Violation which shall provide not less than fifteen (15) days from the date of service of the Notice of Violation to Abate or otherwise correct the code violation(s) prior to the imposition of an administrative fine or penalty. The determination of timely compliance, Abatement, mitigation, or elimination of the code violation shall be made by the enforcement officer or other authorized County official.
4. Administrative fines and/or penalties not paid prior to their due date shall result in the imposition of a penalty and interest for every day of delinquency, as set forth by resolution of the Board of Supervisors.
5. Each responsible party may be charged with a separate offense for each and every day during any portion of which any code violation is committed, continued, or permitted by such responsible party.
6. Administrative penalties and administrative costs imposed pursuant to this Section shall also constitute a personal obligation on each responsible party. In the event the administrative penalties are imposed pursuant to this Section on two (2) or more persons for the same

violation, all such persons shall be jointly and severally liable for the full amount of the penalties imposed. In addition to any other remedy, the County may prosecute a civil action through the Office of the County Counsel to collect any administrative penalty imposed pursuant to this Section.

L. *Payment of Fines, Penalties, and Costs.*

1. Unless otherwise specified in an administrative citation, all fines, penalties, and administrative costs are due within twenty-one (21) calendar days of service of an administrative citation.
2. Payment shall be made to the County of Nevada at the Eric Rood Administrative Center, Code Compliance Division (Community Development Agency Counter) 950 Maidu Avenue, Nevada City, CA 95959, or to a collection agency if the fine and/or penalty has been assigned to a collection agency. Payment may be made by credit card, or by mailing the fine and/or penalty amount paid by personal check or cashier's check to the same address. Cash payments may only be made in person at the same address listed herein.
3. Payment of a fine or penalty pursuant to this Section shall not excuse or discharge any continued or repeated code violation.
4. Interest shall accrue on all amounts under this Section from the effective date of imposition of the administrative civil penalty to the date fully paid pursuant to the laws applicable to civil money judgments.

M. *Consideration in Other Proceedings and Applications.*

1. The Board of Supervisors, the Planning Commission, and any other board or commission of the County, and County staff may consider the fact that a responsible party has been issued a Notice of Violation, Abatement Order, and/or administrative citation when determining whether to grant, suspend, revoke, or deny any permit, license, or other approval, regarding a matter related to the condition causing the code violation, and may consider such Notice of Violation, Abatement Order, and/or administrative citation to be evidence that the responsible party has committed acts that threaten the health, safety, and welfare of the general public.
2. The Board of Supervisors, the Planning Commission, and any other board or commission of the County, and County staff may impose a moratorium on issuing new, renewed, or revised permits, licenses, or other approvals on a parcel pending satisfactory resolution of a Notice of Violation, Abatement Order, and/or payment of an administrative citation regarding a code violation on the same subject parcel.

N. *Request for Administrative Hearing.*

1. A responsible party to whom a Notice of Violation, Abatement Order, and/or an administrative citation is issued may request an administrative hearing within five (5) calendar days of service of the Notice of Violation, Abatement Order, and/or administrative citation.

2. A request for an administrative hearing shall be made in writing and filed with the Nevada County Clerk of the Board of Supervisors and shall state all grounds for appeal which the appellant wishes the County to consider. The written request shall be accompanied by the County's appeal fee as may be approved by the Board of Supervisors from time to time.
3. The time requirement for filing such a written request shall be deemed jurisdictional and may not be waived. Failure to timely request an administrative hearing in the manner required by this Section constitutes a waiver of the administrative hearing and a failure to exhaust administrative remedies. In the absence of a timely filed appeal by way of written request for a hearing that complies fully with the requirements of this Section, the findings and administrative civil penalties of the enforcing officer contained in the Notice to Abate shall become final and conclusive on the sixth (6th) calendar day following service of the Notice to Abate.
4. The hearing on the appeal shall occur not more than thirty (30) days after receipt of a timely appeal and shall provide written notice of the hearing date and time to the appellant at least ten (10) days prior to the date of the hearing, unless such time limits are waived in writing by the Enforcement Officer and the appellant.
5. At the time of submitting the request for an administrative hearing, the appellant requesting the administrative hearing shall pay an appeal fee as may be set from time to time by resolution of the Board of Supervisors. The County may waive or defer the appeal fee upon written request for good cause shown. Good cause may include severe economic hardship, significant attempts to comply with a Notice of Violation and/or Abatement Order, and other factors indicating good faith attempts to comply.
6. Unless otherwise required by the California Building Code, an adopted uniform code, or other provision of law, administrative hearings shall be conducted and heard by a hearing body.

O. *Administrative Hearing.*

1. The Board of Supervisors delegates the responsibility to conduct a hearing in conformance with this Section to a hearing body.
2. The administrative hearing shall be conducted by the hearing body on the date, time, and location specified in the notice of hearing transmitted to the appellant. Notice(s) of violation, Abatement Order(s), administrative citation(s), and other reports prepared by an Enforcement Officer concerning a code violation(s) shall be accepted by the hearing body as prima facie evidence of the facts stated in such documents. The hearing body shall allow the appellant an opportunity to testify at an administrative hearing and to present evidence about any code violation specified in the Notice of Violation, Abatement Order, and/or administrative citation. The Enforcement Officer or other representatives of the County may, but are not required to, attend the administrative hearing.

3. The hearing body may continue an administrative hearing from time to time and allow an appellant additional time to remedy a code violation. In addition, the hearing body may request additional information or evidence from the appellant.
 4. An administrative hearing need not be conducted in accordance with the technical rules of evidence. Any relevant evidence may be admitted if it is evidence on which reasonable persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might consider such admission improper in a civil or criminal proceeding. Irrelevant or unduly repetitious evidence may be excluded at the discretion of the hearing body.
 5. After considering all testimony and evidence submitted at the administrative hearing, the hearing body shall issue a written decision, or take the matter under submission and issue a written decision within ten (10) days of the hearing, and shall affirm, modify or dismiss the notice(s) of violation, Abatement Order(s), and/or administrative citation(s), and shall determine whether or not the County is entitled to reimbursement for administrative costs, including costs of the hearing officer's services. The decision shall include the hearing body's findings, as well as information regarding the appellant's right to seek judicial review of the decision and the time in which to do so. The Clerk of the Board of Supervisors shall serve the appellant and Enforcement Officer with a copy of the hearing body's written decision (the "notice of decision"). The decision of the hearing body shall be final. If the hearing body determines that the notice(s) of violation, Abatement Order(s), and/or administrative citation(s) should be dismissed, the County will refund the appellant's appeal fee in full.
 6. Payment of any administrative penalty and/or costs imposed by the hearing body shall be made to the County within twenty (20) calendar days of service the hearing body's decision, unless timely appealed to the Superior Court in accordance with Cal. Gov't Code § 53069.4(b).
- P. *Judicial Review.* Any party to an administrative hearing may seek judicial review of a hearing body's decision by filing a petition for review with the Superior Court, pursuant to Cal. Gov't Code § 53069.4, within twenty (20) days after service of the notice of decision. For purposes of this Subsection, "service" means personal service or deposit in the mail, first-class, postage prepaid, and return receipt requested to the last known address of the appellant and/or to any address which the appellant has used in dealings with the County. Pursuant to Cal. Civ. Proc. Code § 1013, if the County serves a hearing body decision by mail, the time to file a petition for review in Superior Court shall be extended by five (5) calendar days. Service shall be deemed completed on the date the notice of decision is postmarked.
- Q. *Collection of Costs and Penalties.*
- 1.

The County may pursue any and all legal and equitable remedies for the collection of fines, interest, administrative costs, and attorney's fees incurred. Resort to any one (1) remedy shall not foreclose subsequent or simultaneous resort to any other.

2. The County may seek to enforce any notion of violation, abatement order, administrative citation, fine, penalty, interest, administrative costs, and attorney's fees by confirmation from a court of competent jurisdiction. Any of such judicially confirmed may be enforced through all normal enforcement measures, including without limitation, criminal contempt proceedings upon a subsequent violation of such order.
 3. Administrative costs may be recorded as a lien or special assessment against a property on which a code violation occurred. Prior to recording a lien or special assessment, the County shall prepare a cost report itemizing the amount owed by the responsible party and give known responsible party reasonable opportunity to be heard with respect to that cost report. The time and place where the Enforcement Officer will submit the account to the hearing body for confirmation shall be no less than fifteen (15) days after service of the cost report. The County shall comply with any other law applicable to the recording of any delinquent costs and interest as a lien on the property, or as a special assessment.
 4. The notice of violation, abatement order, and administrative citation procedures described in this Section do not preclude the County from recovering any code violation abatement costs and/or administrative costs incurred by the County in performing its code enforcement efforts.
 5. A prevailing party shall be entitled to recover attorney's fees in an amount not to exceed the amount of attorney's fees incurred by the County in such action. Recovery by the County of administrative costs shall be in addition to any fine or penalty imposed on the responsible party.
- R. *Hearing on Account and Proposed Lien.* At the time and place fixed in the notice, the hearing body will hear and consider the account and proposed assessment, together with objections and protests thereto. At the conclusion of the hearing, the hearing body may make such modifications and revisions of the proposed account and assessment as deemed just and may order the account and proposed assessment confirmed or denied, in whole or in part, or as modified and revised, and shall issue a written recommendation regarding the proposed lien to the Board of Supervisors. The Board of Supervisors may summarily adopt the recommendation of the hearing body without further notice of hearing or may set the matter for a de novo hearing in accordance with Cal. Gov't Code § 25845(h). The determination of the Board of Supervisors as to all matters contained therein shall be final and conclusive.
- S. *Notice of Lien; Recordation of Lien; Collection of Lien.*
- 1.

Upon confirmation of an assessment by the Board of Supervisors, Code Compliance shall notify the affected parcel owners by certified mail, return receipt requested, of the amount of the pending lien confirmed by the Board of Supervisors, and advise them that they may pay the account in full within thirty (30) days in order to avoid the lien being recorded against the parcel(s). If the lien amount is not paid by the date stated in the letter, Code Compliance shall prepare and have recorded a Notice of Lien with the Nevada County Clerk-Recorder's office.

2. The Notice of Lien shall contain:
 - a. A legal description, address and/or other description sufficient to identify the parcel(s) to be liened.
 - b. A description of the proceeding under which the special assessment was made, including the order of the Board of Supervisors under this Code confirming the assessment.
 - c. The amount of the assessment.
 - d. A claim of lien upon the described parcel(s).
3. Upon the recordation of a Notice of Lien, the amount claimed shall constitute a lien upon the described parcel(s), pursuant to Cal. Gov't Code § 25845. Such lien shall be at parity with the liens of State and County taxes, to the extent allowed by applicable law.
4. The Board of Supervisors may authorize the Auditor-Controller to place the amount of the assessment on the next annual tax roll.
5. The amount set forth shall be subject to the same penalties and interest as ordinary County taxes. All laws applicable to the levy, collection and enforcement of County taxes are hereby made applicable to such assessment to the extent allowed by applicable law.
6. The County may pursue any and all legal and equitable remedies for the collection of fines and/or penalties, interest, administrative costs, and attorney's fees incurred. Resort to any one (1) remedy shall not foreclose subsequent or simultaneous resort to any other.

(Ord. 2491. (04/27/2021); Ord. 2510. (06/28/2022); Ord. 2533. (12/05/2023))