

## **EXHIBIT A**

### **Sec. L-II 5.23 Administrative Enforcement**

#### **A. PURPOSE AND INTENT**

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.

#### **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, size, 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, 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 means 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 means a hearing body designated by the Board of Supervisors to conduct administrative hearings.
8. NOTICE OF VIOLATION. Any notice, including, but not limited to, an Abatement Order issued by an ENFORCEMENT OFFICER, that informs a Responsible Party that a Code Violation has occurred 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 California Civil Code Section 3482.5, as may be amended, is subject to this Section.

10. RESPONSIBLE PARTY. Any of the following:

- a. A party, who by action or inaction, causes, maintains, permits or allows a Code Violation;
- b. A party, whose agent, employee, or independent contractor, by action or inaction, causes, maintains, permits or allows a Code Violation;
- c. An owner, in whole or in part, of real property on which a Code Violation occurs;
- d. A lessee or sublessee with the current right of possession of real property on which a Code Violation occurs;
- e. A person who uses real property on which a Code Violation occurs;
- f. An on-site manager who regularly works on real property on which a Code Violation occurs and who is responsible for the business or other activities on that real property;
- g. The owners, majority stockholders, corporate officers, trustees, general partners and any other party with the authority to act for a legal entity that is a responsible person under divisions (a) through (f) of this definition;
- h. If a party is a minor or incompetent, the parents, guardians, or legal representative of such party shall be deemed the Responsible Party; and
- i. Any other individual, association, co-partnership, political subdivision, public entity, municipality, industry, public or private corporation, firm, organization, partnership, joint venture or any other person or entity whatsoever whose act or omission caused or contributed to a violation of this Code.

**C. NOTICE OF VIOLATION AND/OR ABATEMENT ORDER**

1. Whenever an Enforcement Officer 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 occurs;
  - 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 including, but not limited to, an Abatement Order;
  - 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 signature of the Enforcement Officer issuing the Notice of Violation and/or Abatement Order;
  - i. Contain a statement that, 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. It shall also state that the 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;
  - j. Contain a statement that all Responsible Parties shall be jointly and severally liable for all Abatement

costs incurred by the County; and

- k. The date the Notice of Violation and/or Abatement Order is served.

#### **D. SERVICE OF NOTICE OF VIOLATION AND/OR ABATEMENT ORDER**

1. A Notice of Violation and/or an Abatement Order may be served in one or more of the following ways:
  - a. An Enforcement Officer may personally serve the Notice of Violation and/or Abatement Order on the Responsible Party;
  - b. An Enforcement Officer may post a copy of the Notice of Violation and/or Abatement Order on the subject property in a conspicuous place for a property-related Code Violation and, in which case, the Enforcement Officer shall also mail a copy of the Notice of Violation and/or Abatement Order to the Responsible Party by first-class mail 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; or
  - c. Any other method reasonably calculated to provide actual notice to the Responsible Party.
2. Service of a Notice of Violation and/or an Abatement Order will be deemed complete upon either: the date of personal service or three days after the date of mailing by an Enforcement Officer.

#### **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 he or she is an officer, may pursue a lawful abatement. The Enforcement Officer may proceed with the abatement of the Code Violation(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 administrative 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**

3. 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, to each and every Responsible Party who knew or reasonably should have known of that Code Violation.
4. 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;
  - f. A description of the procedure to pay the fine and/or penalty;
  - 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 unpaid fines and/or penalties may be placed as a special assessment or lien against the property where a Code Violation occurs or occurred;
  - 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 or collection of the administrative fines and/or penalties.
2. An Enforcement Officer may issue an administrative citation in conjunction with a Notice of Violation and/or an Abatement Order.

#### **J. SERVICE OF ADMINISTRATIVE CITATIONS**

An administrative citation may be served in one or more of the following ways:

1. An Enforcement Officer may personally serve the administrative citation on the Responsible Party. The Responsible Party is required to sign a copy of the administrative citation showing his or her receipt, but his or her failure to do so shall have no effect on the enforcement of the administrative citation;
2. An Enforcement Officer may post a copy of the administrative citation on the subject property in a conspicuous place for a property-related Code Violation and, in which case, the Enforcement Officer shall also mail a copy of the administrative citation to the Responsible Party by first-class mail 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; or
3. Any other method reasonably calculated to provide actual notice to the Responsible Party.

Service of an administrative citation will be deemed complete upon either: the date of personal service or three days after the date of mailing by an Enforcement Officer.

#### **K. 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 or penalty 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 and/or penalties imposed for the Code Violation(s).

2. A Code Violation that exists for more than one 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 or more days on which a Code Violation exists or existed and for violation of one or more Code sections.
4. The administrative fines 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.

**L. AMOUNT OF ADMINISTRATIVE FINES AND PENALTIES**

1. For Code Violations that would otherwise be an infraction, administrative fines shall not exceed those listed in Government Code section 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 Government Code section 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 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 in a 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.

**M. PAYMENT OF FINES AND PENALTIES**

1. Unless otherwise specified in an administrative citation, all fines and penalties are due within 21 calendar days of service of an administrative citation.
2. Fines and penalties shall be payable to the County 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 check or money order to the County Clerk at the same address. Cash payments may only be made in person at the same address.

Payment of a fine or penalty pursuant to this Section shall not excuse or discharge any continued or repeated Code Violation.

**N. 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.

#### **O. 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 calendar days of service of the Notice of Violation, Abatement Order, and/or administrative citation. 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.
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.
3. The hearing on the appeal shall occur not more than 30 days after receipt of a timely appeal and shall provide written notice of the hearing date and time to the appellant at least 10 days prior to the date of the hearing, unless such time limits are waived in writing by the Enforcement Officer and the appellant.
4. At the time of submitting the request for an administrative hearing, the Appellant requesting the administrative hearing shall pay a deposit the full amount of any fine and/or penalty imposed by a Notice of Violation, Abatement Order, and/or an administrative citation, in the event the fine and/or penalty has not yet been paid. No request for an administrative hearing shall be accepted without payment of the deposit of the fine and/or penalty amount at the time the administrative hearing request is filed. The County may waive or defer the fine and/or penalty 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.
5. 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.

#### **P. ADMINISTRATIVE HEARING**

1. 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.
2. 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.
3. 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 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.
4. 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 10 days of the hearing, and may affirm, modify or dismiss the notice(s) of violation, Abatement Order(s), and/or administrative citation(s). 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 affirmed, the fine and/or penalty amount on deposit with the County, if any, shall be retained by the County; otherwise, the County will refund the Appellant's deposit in full.

#### **Q. JUDICIAL REVIEW**

An Appellant may seek judicial review of a Hearing Body's decision by filing a petition for review with the Superior Court, pursuant to Government Code section 53069.4, within 20 days after service of the notice of decision on Appellant. For purposes of this section P, 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 Code of Civil Procedure section 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 calendar days. Service shall be deemed completed on the date the notice of decision is postmarked.

#### **R. COST ACCOUNTING, RECEIPTS AND NOTICE OF ASSESSMENT**

The Enforcement Officer shall keep an itemized account of the costs of enforcing the provisions of this Section, and of the proceeds of the sale of any materials connected therewith. Upon completion of the abatement, the Enforcement Officer shall prepare a notice to be served on any Responsible Party as provided in Subsection K, herein and specifying:

1. Any abatement action taken (supported by before and after pictures);
2. An itemized account of the costs and receipts of performing the work;
3. An address, legal description, or other description sufficient to identify the property that was subject to abatement and/or lien;
4. The amount of the assessment proposed to be levied against the property, or the amount to be refunded, if any, due to excess proceeds over the expenses;
5. The time and place where the Enforcement Officer will submit the account to the Hearing Body for confirmation. The time and place specified shall be no less than fifteen (15) days after service of the notice;
6. A statement that the Hearing Body will hear and consider the account and any objections and protests to the account, and the proposed assessment or refund.

#### **S. 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 Government Code section 25845(h). The determination of the Board of Supervisors as to all matters contained therein shall be final and conclusive.

#### **T. 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 lienied.
  - 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 Government Code section 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, interest, Administrative Costs and attorney's fees incurred. Resort to any one remedy shall not foreclose subsequent or simultaneous resort to any other.