

NRS Foundation for Proposed Administrative Enforcement and Nuisance Codes

NRS Chapter 244 deals with the general powers of County governments. NRS 244.360 rests within the Health and Safety section of NRS Chapter 244 and includes other provisions such as dangerous structures (NRS 244.3601), abatement of chronic nuisances (NRS 244.3603), and abatement of dangerous structures (NRS 244.3605). NRS 244.360 provides a process for a citizen to seek action by the County Commission against a nuisance (as defined in NRS 40.140). The section also enables, but does not limit, the Commission to adopt an ordinance to seek civil action against nuisances through the District Attorney's Office.

Likewise, NRS 244.3601 also enables, but does not limit, the Commission to adopt an ordinance to secure or summarily abate dangerous structures or conditions. Additionally, AB 353 amended NRS 244.3605 to enable, but not limit, the Commission to adopt an ordinance to abate a wide range of public nuisances, such nuisances as defined in the ordinance adopted by the Commission (so it broadens nuisances beyond NRS 40.140). The process envisioned within the draft administrative enforcement ordinance follows the procedures outlined in NRS 244.3605(2) through (4).

The draft nuisance ordinance really encompasses the intent of NRS 244.3601 and NRS 244.3605, while the administrative enforcement ordinance provides an administrative path for code compliance, rather than having the District Attorney file civil suit against nuisances.

Certain County codes already designate violations of the code as nuisances (such as WCC section 110.910.10). This means that a citizen could use the process outlined in NRS 244.360 to ask the Commission to take action on a Chapter 110 violation at a noticed public hearing. The administrative enforcement ordinance, when adopted, will satisfy the requirements of NRS 244.3601 and 3605 and allow the County to follow that administrative process to more effectively take care of nuisances (to include those nuisances within the draft nuisance ordinance).

Example section of Washoe County Code:

Section 110.910.10 Applicability. Any building or structure erected or maintained or any use of property contrary to the provisions of the Development Code shall be and is hereby declared to be unlawful and a public nuisance.

NRS contains definitions for nuisance within NRS 40.140 and NRS 202.450. NRS 202.470 contains provisions for maintaining or permitting nuisances.

NRS 202.470 Maintaining or permitting nuisance: Penalty. Every person who:

1. Shall commit or maintain a public nuisance, for which no special punishment is prescribed; or
2. Shall willfully omit or refuse to perform any legal duty relating to the removal of such nuisance; or
3. Shall let, or permit to be used, any building or boat, or portion thereof, knowing that it is intended to be, or is being used, for committing or maintaining any such nuisance, shall be guilty of a misdemeanor.

NRS 40.140 Nuisance defined; action for abatement and damages; exceptions.

1. Except as otherwise provided in this section:

(a) Anything which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property;

(b) A building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog; or

(c) A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(1) Which has not been deemed safe for habitation by a governmental entity; or

(2) From which all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed or remediated 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 or controlled substance analog, is a nuisance, and the subject of an action. The action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated, as well as damages recovered.

The NRS authority for the draft nuisance ordinance can be found within the following NRS sections:

Reference: NRS 202.450(3), Definition, Public Nuisance; NRS 244.195, Other Powers [County Government]; NRS 244.357, Police, sanitary, loitering, prowling and traffic ordinances: Enactment and enforcement; NRS 244.359, Ordinance concerning control of animals, license fee and designation of and requirement of liability insurance policy for inherently dangerous animals; applicability; civil liability in lieu of criminal penalty in certain circumstances; NRS 244.3675, Regulation of construction, maintenance and safety of buildings, structures and property; adoption of codes and establishment of fees; NRS 278.020, Regulation by governing bodies of improvement of land and location of structures for general welfare.

In addition NRS 244.195 adds emphasis to the underlying authority for these ordinances and is very broad to allow the Commission to have powers necessary to fully discharge its duties:

NRS 244.195 Other powers. The boards of county commissioners shall have power and jurisdiction in their respective counties to do and perform all such other acts and things as may be lawful and strictly necessary to the full discharge of the powers and jurisdiction conferred on the board.

Lastly, as to our current practice of code compliance, NRS 171.17751 provides the authority for the Commissioners to designate certain people to file misdemeanor citations for violations of County Code.

NRS 171.17751 Designation of certain state, county and city officers to prepare, sign and serve citations.

1. Any board of county commissioners or governing body of a city may designate the chief officer of the organized fire department or any employees designated by him, and certain of its inspectors of solid waste management, building, housing and licensing inspectors, zoning enforcement officers, parking enforcement officers, animal control officers, traffic engineers, marshals and park rangers of units of specialized law enforcement established pursuant to NRS 280.125, and other persons charged with the enforcement of county or city ordinances, to prepare, sign and serve written citations on persons accused of violating a county or city ordinance.

2. The State Health Officer and the health officer of each county, district and city may designate certain of his employees to prepare, sign and serve written citations on persons accused of violating any law, ordinance or regulation of a board of health that relates to public health.

3. The Chief of the Manufactured Housing Division of the Department of Business and Industry may designate certain of his employees to prepare, sign and serve written citations on persons accused of violating any law or regulation of the Division relating to the provisions of chapters 118B, 461, 461A and 489 of NRS.

4. The State Contractors' Board may designate certain of its employees to prepare, sign and serve written citations on persons pursuant to subsection 2 of NRS 624.115.

5. An employee designated pursuant to this section:
(a) May exercise the authority to prepare, sign and serve citations only within the field of enforcement in which he works;
(b) May, if he is employed by a city or county, prepare, sign and serve a citation only to enforce an ordinance of the city or county by which he is employed; and

(c) Shall comply with the provisions of NRS 171.1773.