

BILL NO. 2688

INTRODUCED BY COUNCIL

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 2 OF THE SPARKS MUNICIPAL CODE BY ADDING AND ADOPTING A CIVIL CITATION AND ADMINISTRATIVE CODE ENFORCEMENT PROCESS; PROVIDING OTHER MATTERS PROPERLY RELATED THERETO.

THE CITY COUNCIL OF THE CITY OF SPARKS DOES ORDAIN:

ARTICLE I. GENERAL PROVISIONS

Section 2.27.060. Declaration of Purpose.

Section 2.27.065. Conflict of ordinances.

Section 2.27.070. Administrative enforcement authority.

Section 2.27.075. Definitions.

Section 2.27.080. Authority to inspect.

Section 2.27.085. Recovery of administrative fees; purpose.

Section 2.27.090. Amount of administrative fees.

Section 2.27.095. Notification of assessment of administrative fees.

Section 2.27.100. Collection of administrative fees.

Section 2.27.105. Service of notices.

Section 1. Section 2.27.060: “Declaration of Purpose” is hereby added as follows:

Section 2.27.060 Declaration of Purpose

The council finds that the enforcement of the Sparks Municipal Code ("Code") throughout the City is an important public service, and enforcement of the Code is vital to protection of the public's health, safety and quality of life. The council recognizes that enforcement starts with the implementation of regulations that can be applied in administrative enforcement hearings and appropriate appeals. The council further finds that a comprehensive Code Enforcement system requires a variety of administrative remedies for the effective enforcement of violations of the Code. The procedures established in this chapter shall be in addition to any criminal or any other legal remedy established by law which may be pursued to address violations of the Code. The use of procedures established in this chapter, except as specifically provided otherwise, shall be in lieu of criminal sanctions.

The council also finds that there is a need to establish uniform procedures for administrative enforcement hearings conducted pursuant to the Code. It is the purpose and intent of the council to establish uniform minimum procedural requirements for administrative enforcement and adjudication procedures for the Code, and to provide for an administrative hearing and appeal.

Section 2. Section 2.27.065: “Conflict of ordinances” is hereby added as follows:

Section 2.27.065 Conflict of ordinances

- (1) *The operation of this chapter shall in no way change or diminish the effect of other ordinances in this Code dealing with like or similar matters.*
- (2) *In any case where a provision of this chapter is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance or section 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 chapter to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances 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 chapter conflict, the most stringent or restrictive shall prevail.*

Section 3. Section 2.27.070: “Administrative enforcement authority” is hereby added as follows:

Section 2.27.070 Administrative enforcement authority

The enforcement official shall have the authority and powers necessary to determine whether a violation of the Code exists and the authority to take appropriate action to gain compliance with the provisions of the Code. These powers include the power to issue notices of violation, administrative citations, misdemeanor citations, notices and orders, the power to inspect public and private property and use the administrative remedies which are available under the Code.

Section 4. Section 2.27.075: “Definitions” is hereby added as follows:

Section 2.27.075 Definitions

The following words when used in this chapter shall have the meanings respectively ascribed to them:

Business day shall mean each day the City is open to conduct business excluding Saturdays, Sundays and holidays designated as legal holidays for the State of Nevada pursuant to NRS 236.015.

Commercial property shall be defined as property associated with commercial use as defined in Title 20 of the Code.

Enforcement official shall mean the City Manager, the Chief of Police, the Director of Parks and Recreation, Director of Community Services, the City Engineer, and the Fire Chief, Police Officers, Code Enforcement Officers, the Building Official, Revenue Officers, Environmental Control Officers or their authorized designee.

Responsible person shall mean an owner, tenant, occupant, lessor, lessee, manager, licensee, or other person having control over a structure, dwelling, or parcel of land, or the parent or legal guardian of any person under 18 years who has done any act for which a penalty may be imposed under this chapter, or any other person required to comply with the provisions of the Code and, in the case where the demolition of a structure is suggested as a means of abatement, any lien holder, secured party, or other person who has properly recorded a security interest or other appropriate document evidencing an interest in the property, which has been recorded in the official records of Washoe County.

Section 5. Section 2.27.080: “Authority to inspect” is hereby added as follows:

Section 2.27.080 Authority to inspect

An enforcement official is authorized to enter upon any property or premises to ascertain if there is compliance with the provisions of the Code, and to make any investigations, examinations and surveys as may be necessary in the performance of their enforcement duties. This may include, but is not limited to, the taking of photographs, samples or other physical evidence such as the use of a sound level measurement device to measure noise disturbances. 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 owner or occupant of any premises located within the City refuses to permit entry to the enforcement official when such entry is sought pursuant to this section, the enforcement official may seek entry through any legal means including but not limited to making application to any court of competent jurisdiction 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 which is in violation of the Code exists on such premises, or that a violation in fact exists and must be corrected or abated.

Section 6. Section 2.27.085: “Recovery of administrative fees; purpose” is hereby added as follows:

Section 2.27.085 Recovery of administrative fees; purpose

The council finds there is a need to recover costs incurred by the City, through an administrative fee schedule, in its Code enforcement efforts. Administrative fees include time spent by City personnel re-inspecting properties throughout the City in an effort to ensure compliance with the Code, and costs incurred in the investigation, inspection, re-inspection, recording and canceling recording of notices, title search, and any other processing costs associated with the violations specified on the notice of violation or administrative citation.

Section 7. Section 2.27.090: “Amount of administrative fees” is hereby added as follows:

Section 2.27.090 Amount of administrative fees

An administrative fee schedule shall be established and revised as necessary by the council to reflect current costs. The administrative fee schedule shall be filed in the City Clerk's office.

Section 8. Section 2.27.095: “Notification of assessment of administrative fees” is hereby added as follows:

Section 2.27.095 Notification of assessment of administrative fees

- (1) *Where the assessment of an administrative fee is authorized under this chapter, the enforcement official shall provide the responsible person with a written notice assessing the fee. The written assessment shall contain the following information:*
 - (a) *The amount of fee charged;*
 - (b) *The case number;*
 - (c) *The corresponding dates when the inspection took place; and*
 - (d) *A deadline by which the administrative fee must be paid.*
- (2) *An administrative fee may be assessed as part of any administrative enforcement action as provided for in this chapter.*
- (3) *An administrative fee collected pursuant to this chapter shall not be duplicated in any other action to recover these same costs.*
- (4) *The failure of any responsible person to receive notice of the administrative fees shall not affect the validity of any fees imposed under this chapter.*

Section 9. Section 2.27.100: “Collection of administrative fees” is hereby added as follows:

Section 2.27.100 Collection of administrative fees

Collection of the administrative fees may be accomplished through all appropriate legal means, including, but not limited to, referral to the finance department for collection or assessment against the property in the form of a code enforcement lien as set forth in Section 2.27.205 through 2.27.210 of the Code.

Section 9. Section 2.27.105: “Service of notices” is hereby added as follows:

Section 2.27.105 Service of notices

Whenever a notice is required to be given under the Code for enforcement purposes unless specifically provided otherwise, it shall be served by any of the following methods:

- (1) *Personal service;*
- (2) *Certified mail, postage prepaid, return receipt requested. Simultaneously, the same notice may be sent by regular mail. If a notice that is sent certified mail is returned unsigned, then service shall be deemed effective pursuant to regular mail, provided the notice that was sent by regular mail is not returned; or*
- (3) *Posting the notice conspicuously on or in front of the property, business, or other place reasonably calculated to provide notice to the responsible person of a violation of the Code.*

Service of a notice by any of the above methods shall be effective on the date of mailing or posting, as applicable. The failure of any responsible person to receive any notice served in accordance with this section shall not affect the validity of any proceedings taken under this Code.

ARTICLE II. NOTICE OF VIOLATION

Section 2.27.110. Notice of violation; procedures.

Section 2.27.115. Recording notices of violation; purpose.

Section 2.27.120. Procedures for recording notices of violation.

Section 2.27.125. Service of notice of violation.

Section 2.27.130. Administrative hearing on recordation.

Section 2.27.135. Notice of compliance; notice of violation removal procedures.

Section 2.27.140. Prohibition against issuance of municipal permits and business licenses.

Section 10. Section 2.27.110: “Notice of violation; procedures” is hereby added as follows:

Section 2.27.110 Notice of violation; procedures

Whenever it is determined that a violation of the Code exists, the enforcement official may issue a notice of violation to the responsible person. The notice of violation shall include the following information:

- (1) The name and address of the responsible person in violation. If the notice pertains to events occurring on or the status or condition of property, the notice shall also be served on all property owners of record. The notice shall contain the address and assessor's parcel number of the property;*
- (2) A statement from the enforcement official identifying the conditions which violate the Code and the specific provisions of the Code which have been violated;*
- (3) If applicable, a list of necessary corrections to bring the property into compliance;*
- (4) If applicable, a deadline or specific date to correct the violations listed in the notice of violation.*
- (5) A statement that the property owner or responsible person in violation may request an administrative hearing within ten business days after the date the notice is served;*

Section 11. Section 2.27.115: “Recording notices of violation; purpose” is hereby added as follows:

Section 2.27.115 Recording notices of violation; purpose

The council finds that there is a need to give notice of pending enforcement actions to persons who may subsequently acquire property subject to a violation as a means to ensure the violations will be corrected. An appropriate method to accomplish this is through the issuance and recording of notices of violation.

Section 12. Section 2.27.120: “Procedures for recording notices of violation” is hereby added as follows:

Section 2.27.120 Procedures for recording notices of violation

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- (1) *Once an enforcement official has issued a notice of violation to a responsible person and the property is in violation after the deadline established in the notice of violation, the enforcement official may record the notice of violation in the official records of Washoe County.*
- (2) *Before recording, an enforcement official shall provide to the responsible person, and all owners of record a Notice of Intent to Record stating that a notice of violation will be recorded if the violation is not corrected within ten business days from the date of the Notice of Intent to Record.*
 - (a) *The notice shall include a statement that a responsible person may, within ten business days after the date the notice is served, request an administrative hearing to be conducted in accordance with Section 2.27.220 through Section 2.27.280 of the Code.*
 - (b) *The notice shall include a statement that the responsible person will be liable for the fees and costs of removal of the notice of violation.*
- (3) *Any costs associated with recording the notice of violation, will be assessed against the property as provided for in Section 2.27.085 through Section 2.27.100 of the Code.*
- (4) *The failure of any person to file a request for administrative hearing in accordance with these provisions shall constitute a waiver of the right to an administrative hearing and shall not affect the validity of the recorded notice of violation.*

Section 13. Section 2.27.125: “Service of notice of violation” is hereby added as follows:

Section 2.27.125 Service of notice of violation

A copy of the recorded notice of violation shall be served on the responsible person and/or all owners of record as set forth in Section 2.27.105 of the Code.

Section 14. Section 2.27.130: “Administrative hearing on recordation” is hereby added as follows:

Section 2.27.130 Administrative hearing on recordation

- (1) *The request for and the conduct of the administrative hearing shall be governed by Section 2.27.220 through Section 2.27.280 of the Code.*
- (2) *The purpose of the hearing is for the responsible person to state any reasons why a notice of violation should not be recorded.*
- (3) *The Hearing Officer shall consider evidence to the following issues:*
 - (a) *Whether the conditions listed in the notice of violation violate the Code; and*
 - (b) *Whether the enforcement official afforded the responsible person due process by adhering to the notification procedures specified in this chapter; and*
 - (c) *Whether the conditions listed in the notice of violation continue unabated.*
- (4) *If the hearing officer affirms the enforcement official's decision, the enforcement official may proceed to record the notice of violation.*
- (5) *If the hearing officer determines that recording the notice of violation is improper, the hearing officer shall invalidate the enforcement official's decision to record the notice of violation.*

Section 15. Section 2.27.135: “Notice of compliance; notice of violation removal procedures” is hereby added as follows:

Section 2.27.135 Notice of compliance; notice of violation removal procedures

- (1) *When the violation(s) listed on the notice of violation have been corrected, the responsible person may file with the enforcement official a written request for a notice of compliance on a form provided by the City Clerk.*
- (2) *Once the enforcement official receives a request for a notice of compliance, the enforcement official shall confirm the violation(s) have been corrected or abated, which confirmation may include the re-inspection of the property. The enforcement official shall provide a notice of compliance to the responsible person if the enforcement official determines that:
 - (a) *All violations listed in the recorded notice of violation have been corrected;*
 - (b) *All necessary permits have been issued and finalized;*
 - (c) *All administrative fines have been paid; and*
 - (d) *The party requesting the issuance of the notice of compliance has paid all administrative fees and costs due to the City.**
- (3) *Pursuant to the request by the responsible person, the enforcement official shall either:
 - (a) *Record or cause to be recorded the notice of compliance in the official records of Washoe County, and the responsible party will be liable for the fees and actual costs of recording the notice; or*
 - (b) *Serve the notice of compliance to the responsible person for the responsible person's own recording of such notice in the official records of Washoe County. If so requested by the responsible person, the notice of compliance shall be served by personal service or certified mail as listed in Section 2.27.105 of this code. The notice of compliance shall include the same information as provided in the original recorded notice of violation. The recording of the notice of compliance shall have the effect of canceling the recorded notice of violation.**
- (4) *If the enforcement official denies a request to issue a notice of compliance, the enforcement official shall serve the responsible person with a written explanation setting forth the reasons for the denial. The written explanation shall be served by personal service or certified mail as listed in Section 2.27.105 of this Code.*

Section 16. Section 2.27.140: “Prohibition against issuance of municipal permits and business licenses” is hereby added as follows:

Section 2.27.140 Prohibition against issuance of municipal permits and business licenses

For properties where a notice of violation has been recorded, the City may withhold all approvals for applications of special use permits, business licenses and building permits until a notice of compliance has been issued by the enforcement official.

ARTICLE III. ADMINISTRATIVE CITATIONS AND FINES

Section 2.27.145. Administrative citations and fines; authority.

Section 2.27.150. Administrative citations; procedures.

Section 2.27.155. Contents of administrative citation.

Section 2.27.160. Fines for administrative citations.

Section 2.27.165. Failure to pay administrative citation fine.

Section 17. Section 2.27.145: “Administrative citations and fines; authority” is hereby added as follows:

Section 2.27.145 Administrative citations and fines; authority

The City may impose administrative fines for any of the acts or omissions set forth in this chapter. Administrative fines shall be imposed, enforced, collected and reviewed in compliance with the provisions of this chapter. Administrative fines may be imposed for any of the following acts or omissions:

- (1) Violations of the provisions of any title or chapter of the Code which references the provisions of this chapter;*
- (2) Failing to comply with any condition imposed by any permit, license, variance, environmental documents, or other approvals issued by the City.*

Section 18. Section 2.27.150: “Administrative citations; procedures” is hereby added as follows:

Section 2.27.150 Administrative citations; procedures

- (1) Upon discovering a violation of this chapter, an enforcement official may issue an administrative citation to any or all responsible person(s) in the manner prescribed in this chapter.*
- (2) Each and every day a violation of the chapter exists constitutes a separate and distinct offense.*
- (3) Administrative fines shall be assessed by means of an administrative citation issued by the enforcement official and shall be payable directly to the City unless otherwise noted on the citation.*
- (4) Administrative fines assessed by means of an administrative citation shall be collected in accordance with the procedures specified in this chapter.*

Section 19. Section 2.27.155: “Contents of administrative citation” is hereby added as follows:

Section 2.27.155 Contents of administrative citation

Any administrative citation that is issued shall contain:

- (1) The name and address of the responsible person in violation. If the administrative citation pertains to events occurring on or the status or condition of property, the administrative citation may also be served on all property owners of record. The administrative citation shall contain the address and assessor's parcel number of the property;*

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- (2) *A statement from the enforcement official identifying the conditions which violate the Code and the specific provisions of the Code which have been violated;*
- (3) *Where appropriate, the action required to correct the violations, a deadline by which the violations must be corrected, and the consequences of failing to comply;*
- (4) *A statement that each day that the responsible person does not correct or abate the condition after the date specified in the administrative citation shall constitute a separate violation subjecting the responsible person to the fines set forth in Section 2.27.160 of the Code.*
- (5) *The amount of the administrative fine imposed for the violations;*
- (6) *A statement that the responsible person in violation may request an administrative hearing on the imposition of the administrative fine within ten business days of the date the administrative citation is served; and*
- (7) *A statement that if the responsible person fails to request an administrative hearing on the imposition of the administrative citation, the citation imposing the fine shall be final.*

Section 20. Section 2.27.160: “Fines for administrative citations” is hereby added as follows:

Section 2.27.160 Fines for administrative citations

- (1) *If the responsible person fails to correct the violation, subsequent administrative citations may be issued for the same and subsequent violations. The amount of the fine shall increase at a rate specified in subsection (a) and (b) below.*
 - (a) *The fines assessed for each administrative citation issued for the same and subsequent violations for residential property shall be as follows:*
 - 1st administrative citation = \$100.00*
 - 2nd administrative citation = \$250.00*
 - 3rd or subsequent administrative citation = \$500.00*
 - (b) *The fines assessed for each administrative citation issued for the same and subsequent violations for commercial property shall be as follows:*
 - 1st administrative citation = \$100.00*
 - 2nd administrative citation = \$250.00*
 - 3rd administrative citation = \$500.00*
 - 4th or subsequent administrative citations = \$1,000.00*
- (2) *Payment of the fine shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the City.*
- (3) *All fines assessed shall be payable to the City unless otherwise directed on the citation.*
- (4) *For all delinquent unpaid administrative fines, there shall be a penalty imposed in the amount of ten percent of the administrative fine amount, and an additional one percent per month of the total amount of the administrative fine and any penalty thereon for each month during the time that such fine remains unpaid after its delinquency date. The delinquency date for an administrative fine shall be 15 business days following the imposition of the fine, or the administrative determination of the hearing officer, whichever is later.*

Section 21. Section 2.27.165: “Failure to pay administrative citation fine” is hereby added as

follows:

Section 2.27.165 Failure to pay administrative citation fine

The failure of any person to pay the fines assessed by an administrative citation within the time specified on the citation may result in the enforcement official referring the matter to the finance department or other designated agent of the City for collection. Alternatively, the enforcement official shall pursue any other legal remedy to collect the fines.

ARTICLE IV. ABATEMENTS

State Law reference— *Abatement of dangerous structures and conditions, NRS 268.4122; abatement of chronic nuisance, NRS 268.4124; abatement of abandoned nuisance, NRS 268.4126.*

Section 2.27.170. Abatements; purpose.

Section 2.27.175 Authority.

Section 2.27.180. Notice to abate; general procedures.

Section 2.27.185. Abatement by the City.

Section 2.27.190. Summary abatement.

Section 2.27.195. Summary abatement; procedures.

Section 2.27.200. Disposition of property or materials resulting from abatement.

Section 22. Section 2.27.170: “Abatements; purpose” is hereby added as follows:

Section 2.27.170 Abatements; purpose

The council finds that it is necessary to establish appropriate procedures for the administrative and summary abatement of Code violations. These sections govern the abatement procedures established in all chapters of the Code unless other procedures are specifically stated to apply.

Section 23. Section 2.27.175: “Authority” is hereby added as follows:

Section 2.27.175 Authority

Any condition caused, maintained or permitted to exist in violation of any provisions of the Code may be abated by the City pursuant to the procedures set forth herein.

Section 24. Section 2.27.180: “Notice to abate; general procedures” is hereby added as follows:

Section 2.27.180 Notice to abate; general procedures

Whenever the enforcement official determines that public or private property or any portion of public or private property is in violation of any section of the Code, a notice to abate may be issued to the responsible person to abate the violation. If the notice pertains to events occurring on or the status or condition of property the notice shall also be served on all property owners of record. The notice to abate shall include the following information:

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- (1) *The name and address of the responsible person in violation. The notice shall be served on all property owners of record. The notice shall contain the address and assessor's parcel number of the property;*
- (2) *A statement from the enforcement official identifying the conditions which violate the Code and the specific provisions of the Code which have been violated;*
- (3) *A statement that the property owner or responsible person in violation may, within ten business days after the date the notice is served, request an administrative hearing in accordance with Section 2.27.220 through 2.27.280 of the Code;*
- (4) *A description of the action required to abate the violation which may include, but is not limited to: corrections, repairs, demolition, removal, obtaining the necessary permits, vacation of tenants or occupants or other appropriate required actions; and when necessary, time frames for multiple corrective actions by which each action must occur in order of priority;*
- (5) *A deadline or specific date to correct all violations listed in the notice to abate; and*
- (6) *A description of consequences should the responsible person fail to comply with the terms of the notice.*

Section 25. Section 2.27.185: “Abatement by the City” is hereby added as follows:

Section 2.27.185 Abatement by the City

- (1) *Once the enforcement official follows the procedures set forth in Section 2.27.180 of the Code, or an Administrative Order has been issued pursuant to Section 2.27.275 of the Code, and the time for compliance has lapsed without abatement being fully completed by the responsible person, the conditions may be abated by City personnel or by a private contractor hired by the City for that purpose.*
- (2) *City personnel or a private contractor can enter upon private property in a reasonable manner to abate the conditions as specified in the notice to abate or Administrative Order.*
- (3) *When the abatement is completed, a report describing the work performed and an itemized accounting of the total abatement costs shall be prepared by the enforcement official. The report shall contain the names and addresses of the property owner(s), the assessor's parcel number and a legal description of the property.*
- (4) *The enforcement official shall schedule a confirmation of costs hearing before a hearing officer pursuant to the procedures set forth in Section 2.27.250 of the Code, unless waived in writing by all responsible persons.*
- (5) *All administrative fees and actual costs incurred by the City in abating the violations may be assessed and recovered against the responsible person pursuant to the provisions set forth in this chapter.*
- (6) *In addition to the foregoing, the City may cause to have the actual costs of the abatement collected on the county's tax roll in the same manner, by the same persons, and at the same time as, together with and not separately from, the county's general taxes. The City shall have the right to collect from such person(s) four percent of the amount of the delinquent charges for the abatement to be collected on the tax roll or the amount estimated by the county treasurer which is necessary to collect and distribute those delinquent charges, whichever is greater.*

Section 26. Section 2.27.190: “Summary abatement” is hereby added as follows:

Section 2.27.190 Summary abatement

Whenever the enforcement official determines that an imminent hazard, as defined in Chapter 7.16 of the Code, exists that requires immediate correction or elimination, the enforcement official may exercise the following powers to summarily abate the hazard without prior notice to the responsible person:

- (1) Order the immediate vacation of any tenants and prohibit occupancy until all repairs are completed; or*
- (2) Post the premises as unsafe, substandard or dangerous; or*
- (3) Board, fence or secure the building or site; or*
- (4) Raze and grade that portion of the building or site to prevent further collapse and remove any hazard to the general public; or*
- (5) Make any minimal emergency repairs as necessary to eliminate any imminent health and safety hazard; or*
- (6) Remove or have removed any item(s) that appear to be an imminent hazard, to ensure the public's safety; or*
- (7) Take any other reasonable action deemed by the enforcement official as appropriate under the circumstances.*

Section 27. Section 2.27.195: “Summary abatement; procedures” is hereby added as follows:

Section 2.27.195 Summary abatement; procedures

- (1) The enforcement official shall pursue only the minimum level of correction or abatement as necessary to eliminate the imminent hazard.*
- (2) Upon completion of the abatement, the enforcement official shall prepare a report and schedule a confirmation of costs hearing as set forth in Section 2.27.185.*
- (3) Costs incurred by the City during the summary abatement process may be assessed, collected and recovered against the responsible person through the procedures available in Section 2.27.185 or 2.27.205 of the Code.*
- (4) The enforcement official may also pursue any other criminal, administrative or judicial remedy to abate any remaining violations.*

Section 28. Section 2.27.200: “Disposition of property or materials resulting from abatement” is hereby added as follows:

Section 2.27.200 Disposition of property or materials resulting from abatement

The City will reasonably dispose of property or materials removed from real property in the course of abatement by the City.

ARTICLE V. CODE ENFORCEMENT LIEN

Section 2.27.205. Procedures for recording code enforcement lien.

Section 2.27.210. Service of code enforcement lien.

Section 2.27.215. Notice of satisfaction; lien removal procedures.

Section 29. Section 2.27.205: “Procedures for recording code enforcement lien” is hereby added as follows:

Section 2.27.205 Procedures for recording code enforcement lien

- (1) *An enforcement official may record a code enforcement lien in the official records of Washoe County to collect all administrative fees, administrative fines, abatement costs and other costs provided for in this chapter.*
- (2) *Before recording a code enforcement lien, an enforcement official shall provide to the responsible person and all owners of record a Notice of Intent to Record stating that a code enforcement lien will be recorded unless payment of all monies due is paid in full on or before the date listed herein.*
- (3) *The recorded code enforcement lien shall include the name of the property owner, the assessor’s parcel number, the street address, the parcel's legal description, and a copy of the latest amounts due to the City.*
- (4) *Any costs associated with recording the code enforcement lien or removal thereof may be assessed against the property as provided for in Sections 2.27.085 through 2.27.100 of the Code.*

Section 30. Section 2.27.210: “Service of code enforcement lien” is hereby added as follows:

Section 2.27.210 Service of code enforcement lien

A copy of the recorded code enforcement lien shall be mailed to the responsible person and all property owners of record and/or any other persons who have requested copies of such notices pursuant to any of the methods of service set forth in Section 2.27.105 of the Code.

Section 31. Section 2.27.215: “Notice of satisfaction; lien removal procedures” is hereby added as follows:

Section 2.27.215 Notice of satisfaction; lien removal procedures

- (1) *When payment in full is received by the City for the outstanding administrative fines, fees and costs, or the amount is deemed satisfied pursuant to a subsequent Administrative Order, the responsible person may file with the enforcement official a written request for a notice of satisfaction on a form provided by the City Clerk.*
- (2) *Once the enforcement official receives a request for a notice of satisfaction, the enforcement official shall confirm the City has received payment in full. The enforcement official shall provide a notice of satisfaction to the responsible person if such confirmation is made.*
- (3) *Pursuant to the request by the responsible person, the enforcement official shall either:*

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- (a) *Record or cause to be recorded the notice of satisfaction in the official records of Washoe County, and the responsible party will be liable for the fees and actual costs of recording the notice; or*
 - (b) *Serve the notice of satisfaction to the responsible person for the responsible person's own recording of such notice in the official records of Washoe County. If so requested by the responsible person, the notice of satisfaction shall be served by personal service or certified mail as listed in Section 2.27.105 of this Code. The notice of satisfaction shall include the same information as provided in the original code enforcement lien. The recording of the notice of satisfaction shall have the effect of canceling the code enforcement lien.*
- (4) *If the enforcement official denies a request to issue a notice of satisfaction, the enforcement official shall serve the responsible person with a written explanation setting forth the reasons for the denial. The written explanation shall be served by personal service or certified mail as listed in Section 2.27.105 of this Code.*

ARTICLE VI. ADMINISTRATIVE HEARINGS

Section 2.27.220. Administrative hearing procedures.

Section 2.27.225. Appointment of hearing officer.

Section 2.27.230. Disqualification of hearing officer.

Section 2.27.235. Powers of hearing officer.

Section 2.27.240. Failure to obey subpoena.

Section 2.27.245. Procedures for requesting an administrative hearing.

Section 2.27.250. Procedures for notification of administrative hearing.

Section 2.27.255. Procedures at administrative hearing; admission of evidence.

Section 2.27.260. Standard of proof.

Section 2.27.265. Representation.

Section 2.27.270. Failure to request or attend administrative hearing.

Section 2.27.275. Administrative Order; compliance with Administrative Order.

Section 2.27.280. Failure to comply with the Administrative Order; misdemeanor.

Section 32. Section 2.27.220: “Administrative hearing procedures” is hereby added as follows:

Section 2.27.220 Administrative hearing procedures

This chapter establishes the procedures for the use of hearing officers and the procedures governing administrative hearings.

Section 33. Section 2.27.225: “Appointment of hearing officer” is hereby added as follows:

Section 2.27.225 Appointment of hearing officer

Any hearing officer presiding at administrative hearings shall be appointed and compensated by the City. The hearing officer shall not be an employee of the City.

Section 34. Section 2.27.230: “Disqualification of hearing officer” is hereby added as follows:

Section 2.27.230 Disqualification of hearing officer

Any person designated to serve as a hearing officer is subject to disqualification for bias, prejudice, interest, or for any other reason for which a judge may be disqualified in a court of law.

Section 35. Section 2.27.235: “Powers of hearing officer” is hereby added as follows:

Section 2.27.235 Powers of hearing officer

- (1) *The hearing officer shall preside over administrative hearings.*
- (2) *The hearing officer may continue a hearing based on good cause shown by one of the parties to the hearing or if the hearing officer independently determines that due process has not been adequately afforded.*
- (3) *The hearing officer, upon receipt of a written request which is submitted no later than five business days before the hearing, may issue a subpoena for witnesses, documents and other evidence where the attendance of the witness or the admission of evidence is deemed necessary to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees shall be borne by the party requesting the subpoena.*
- (4) *The hearing officer has continuing jurisdiction over the subject matter of an administrative hearing for the purposes of granting a continuance, ensuring compliance with an Administrative Order, modifying an Administrative Order, or where extraordinary circumstances exist, granting a new hearing.*

Section 36. Section 2.27.240: “Failure to obey subpoena” is hereby added as follows:

Section 2.27.240 Failure to obey subpoena

It is unlawful for any person to refuse to obey a subpoena issued by a hearing officer. Failure to obey a subpoena constitutes contempt and may be prosecuted as a misdemeanor.

Section 37. Section 2.27.245: “Procedures for requesting an administrative hearing” is hereby added as follows:

Section 2.27.245 Procedures for requesting an administrative hearing

- (1) *A responsible person served with one of the following documents, orders or notices may file a request for administrative hearing within ten business days from the service of the notice:*
 - (a) *A notice of violation issued pursuant to Section 2.27.110 of the Code.*
 - (b) *A notice from the enforcement official indicating intent to record a notice of violation pursuant to Section 2.27.120 of the Code.*
 - (c) *A denial of a request for a notice of compliance pursuant to Section 2.27.135 of the Code.*
 - (d) *A denial of a request for a notice of satisfaction pursuant to Section 2.27.215 of the Code.*

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- (e) *An administrative citation issued pursuant to Section 2.27.155 of the Code.*
- (f) *A notice to abate pursuant to Section 2.27.180 of the Code.*
- (2) *The request for administrative hearing shall be made in writing on a form provided by the City Clerk and shall state the grounds for requesting the hearing and be filed with the City Clerk on or before ten business days after service of the notice or citation.*

Section 38. Section 2.27.250: “Procedures for notification of administrative hearing” is hereby added as follows:

Section 2.27.250 Procedures for notification of administrative hearing

- (1) *Where a responsible person has timely requested an administrative hearing, the City Clerk shall schedule a day, time and place for the hearing.*
- (2) *Written notice of the day, time and place of the hearing shall be served at least ten business days prior to the date of the hearing to the responsible person.*
- (3) *The notice of hearing shall be served by any of the methods of service listed in Section 2.27.105 of the Code.*

Section 39. Section 2.27.255: “Procedures at administrative hearing; admission of evidence” is hereby added as follows:

Section 2.27.255 Procedures at administrative hearing; admission of evidence

- (1) *Administrative hearings are intended to be informal in nature. The hearing officer is not bound by the technical rules of evidence, and no informality in any proceeding or in the manner of taking testimony will invalidate any decision of the hearing officer. The rules of evidence of courts of the State of Nevada will be generally followed but may be relaxed at the discretion of the hearing officer when deviation from the technical rules of evidence will aid in ascertaining the facts. The rules pertaining to discovery do not apply.*
- (2) *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. When an objection is made to the admission or exclusion of evidence, the grounds upon which the relief is sought must be stated briefly. 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.*
- (3) *The hearing officer shall only consider evidence that is consistent with the rules and procedures for administrative hearings set forth in Sections 2.27.220 through 2.27.280 of the Code, and that is relevant to the following issues:*
 - (a) *Whether the conditions listed in the issued notice violate the Code;*
 - (b) *Whether the enforcement official afforded the responsible person due process by adhering to the notification procedures specified in this chapter.*
 - (c) *Whether costs associated with an abatement are reasonable.*
- (4) *Each party shall have the opportunity to cross-examine witnesses and present evidence in support of his or her case.*

Section 40. Section 2.27.260: “Standard of proof” is hereby added as follows:

Section 2.27.260 Standard of proof

The City bears the burden of proof at an administrative hearing to establish the existence of a violation of the Code. The standard of proof to be used by the hearing officer in deciding the issues at an administrative hearing is by a preponderance of the evidence.

Section 41. Section 2.27.265: “Representation” is hereby added as follows:

Section 2.27.265 Representation

Representation in a contested case is limited to representation in proper persona or by an attorney licensed to practice law in the State of Nevada.

Section 42. Section 2.27.270: “Failure to request or attend administrative hearing” is hereby added as follows:

Section 2.27.270 Failure to request or attend administrative hearing

Any responsible person is deemed to waive the right to a hearing and all objections to the notice or administrative citation, provided that the hearing was properly noticed if they:

- (1) Do not request a hearing; or*
- (2) Request a hearing or are the subject of an administrative hearing, and fail to appear at the hearing;*

Section 43. Section 2.27.275: “Administrative Order; compliance with Administrative Order” is hereby added as follows:

Section 2.27.275 Administrative Order; compliance with Administrative Order

- (1) The decision of the hearing officer shall be entitled "Administrative Order".*
- (2) Once all evidence and testimony are completed, the hearing officer shall issue an Administrative Order which affirms, modifies or rejects the enforcement official's action. Where applicable, the Administrative Order may affirm, modify or reject the daily rate or duration of the administrative fines depending upon the review of the evidence and may increase or decrease the total amount of administrative fines assessed.*
- (3) The hearing officer may issue an Administrative Order that requires the responsible person to abate the 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 bring the property into compliance with the Code. The hearing officer shall include a specific time frame to complete the requested act and may order the City to perform the abatement if the responsible person fails to comply with the Administrative Order.*
- (4) As part of the Administrative Order, the hearing officer may establish specific deadlines for the payment of administrative fines, fees and costs and may condition the total or*

partial assessment of administrative fines on the responsible person's ability to complete compliance by specified deadlines.

- (5) *The hearing officer may issue an Administrative Order which imposes additional administrative fines with the maximum amount per violation to be as set forth in Section 2.27.160 of the Code that will continue to be assessed for each day the violation continues until the responsible person complies with the hearing officer's decision and corrects the violation.*
- (6) *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.*
- (7) *The Administrative Order shall become final on the date of service of the order.*
- (8) *The Administrative Order shall be served on all parties by any one of the methods listed in Section 2.27.105 of the Code.*

Section 44. Section 2.27.280: “Failure to comply with the Administrative Order; misdemeanor” is hereby added as follows:

Section 2.27.280 Failure to comply with the Administrative Order; misdemeanor

Failure to comply with an Administrative Order constitutes a misdemeanor.

ARTICLE VII. APPEAL TO COURT

Section 2.27.285. Appeal of Administrative Order to court.

Section 2.27.290. Time limits for repair, correction, or abatement after appeal.

Section 45. Section 2.27.285: “Appeal of Administrative Order to court” is hereby amended/repealed/added as follows:

Section 2.27.285 Appeal of Administrative Order to court

Within 30 calendar days from service of an Administrative Order or other decision by the hearing officer, any party may appeal the determination of the hearing officer to municipal court, unless appeal to another tribunal is required by law. Any party failing to timely file an appeal to court shall be deemed to have waived any and all objections to the administrative hearing officer's decision. Trial in court shall be de novo.

Section 46. Section 2.27.290: “Time limits for repair, correction, or abatement after appeal” is hereby added as follows:

Section 2.27.290 Time limits for repair, correction, or abatement after appeal

Unless otherwise provided in the court's order, the owner or responsible party shall complete all actions necessary to bring the property into compliance with the Code within 30 calendar days of service of the court's decision. The enforcement official may grant or deny a request for additional time to complete acts required for compliance with the Code that is made by the owner of record or any responsible person who is making reasonable progress in the repair, correction or abatement

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of violations. The request for and the granting or denial of additional time shall be made in writing.

SECTION 47: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 48: The City Clerk is instructed and authorized to publish the title to this ordinance as provided by law.

SECTION 49: This ordinance shall become effective upon passage, approval and publication.

SECTION 50: The provisions of this ordinance shall be liberally construed to effectively carry out its purposes in the interest of the public health, safety, welfare and convenience.

SECTION 51: If any subsection, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

SECTION 52: The City Council finds that this ordinance is **not** likely to impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business, or is otherwise exempt from Nevada Revised Statutes Chapter 237.

PASSED AND ADOPTED this _____ day of _____, 20__, by the following vote of the City Council:

AYES: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

APPROVED this _____ day of _____, 20__, by:

GENO MARTINI, Mayor

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

TERESA GARDNER, City Clerk

CHESTER H. ADAMS, City Attorney