

## NEVADA COUNTY BOARD OF SUPERVISORS

### BOARD WORKSHOP MEMORANDUM

**MEETING DATE:** January 23, 2025

**TO:** Board of Supervisors

**FROM:** Matt Kelley, Code & Cannabis Compliance Director

**SUBJECT:** Nevada County Code Compliance Division – Code Violation Case Process, Code Violation Compliance Tools and Code Case Flowcharts

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#### **RECOMMENDATION:**

Receive the presentation and provide feedback and policy recommendations on the Code Violation Case Process along with other code violation compliance tools including Abatements and Receiverships and approaches to code compliance.

#### **FUNDING:**

Not Applicable

#### **BACKGROUND:**

This memorandum serves to provide the Nevada County Board of Supervisors with a general overview of the Code Violation Case process, accompanied by a detailed flowchart outlining the process. Additionally, it includes information about the County's Abatement and Receivership procedures. Furthermore, this memorandum includes a list of proposed Policy and Ordinance updates for consideration by the Nevada County Board of Supervisors.

Attached to this memorandum is a comprehensive flowchart that visually represents the entire Code Violation Case process, including separate flowcharts of the County Abatement and Receivership processes. This resource is intended to enhance understanding and provide clarity regarding the procedures involved.

The discussion below includes the following sections:

- Code Compliance Division – General Information
- Code Violation Enforcement Actions
- Code Case Initiation and Investigation Process
- Resolution of Code Compliance Cases
- 2025 Policy and Ordinance Updates and Proposed Policy Guidance Direction

## **Code Compliance Division – General Information**

### **Purpose of Code Compliance**

The Nevada County Code Compliance Division (Division) works in partnership with the citizens of Nevada County to promote and maintain, a safe and desirable living and working environment. Code Compliance helps maintain or improve the quality of the community by administering a fair and unbiased program to correct violations of codes and ordinances enacted by the Nevada County Board of Supervisors, regarding property, building and structures. Code Compliance provides outreach and public education on codes, regulations, and laws for all Community Development Agency (CDA) Departments. If voluntary compliance is unmet, enforcement actions consistent with Department policies and procedures and State law are administered to ensure the health and safety of the public and environment.

The Division is complaint driven as directed by the Nevada County Board of Supervisors and commonly investigates allegations of violations for compliance with:

- Nevada County Code
- California Building Codes
- California Health and Safety Codes
- California Vehicle Codes (C.V.C) - Abandoned Vehicle Abatement Program

The Division does not enter civil disputes which may include encroachments, easements, rights-of-way, along with other disputes which may be handled civilly through Court or other legal resources. The Division also does not address criminal cases such as crimes, narcotics or other criminal activities, which are handled by law enforcement.

The Division enforces Nevada County Codes, State of California Health and Safety Codes and codes on building, mechanical, plumbing, electrical, fire, and property maintenance. In addition, Code Compliance staff are not mandatory reporters, however the Division will refer noticed violations to other Responsible Agencies as well such as child safety / endangerment to Child Welfare Services and animal cruelty to Animal Control.

### **Established Priorities**

Code Compliance works with communities and neighborhoods to resolve key enforcement issues. Code Compliance is a complaint driven process, with the sole purpose of maintaining established norms and standards for our community that are in compliance with minimum local, state, and federal requirements. The only exception to this process is when fire, life safety, and health violations are observed during the normal course of business. The Division works with communities and neighborhoods to resolve key enforcement issues and decides which complaints or violations to pursue based on priority and staff resources. For example, fire, life safety, and health violations are high priority.

Highest priority items are assigned and investigated immediately along with a site visit usually taking place within five (5) business days of the reported allegation of violation. The Code & Cannabis Compliance Department Director or designee sets case priorities at the time of assignment, and at their discretion adjusts the priority at any time during the investigation.

### *Health, Fire & Life Safety Violations*

Health, fire, and life safety complaints involve hazardous conditions, matters of urgent public safety and other complaints deemed by Code Compliance as requiring immediate response. Some examples of these violations include but are not limited to surfacing sewage, contaminated wells, substandard living conditions, substandard structures, fire hazards, chemical storage, grading that is detrimental to the natural environment, and immediate life safety issues. To address such critical violations effectively, Code Compliance frequently collaborates with other County Departments, including the Building Department, Department of Environmental Health and the Nevada County Health and Human Services Agency, and partners with State and Federal agencies as needed. This multidisciplinary approach ensures timely and comprehensive responses to safeguard public health, safety, and the environment.

### *All other Code Violations*

This level is generally the most common code violations investigated and include complaints that allege the activity or site conditions violate Nevada County Code, building codes, health & safety codes or any applicable code the Division is the authority to enforce. Some examples of these include property setback violations, solid waste, unpermitted work, home-based businesses without immediate hazardous conditions, and inoperable vehicles.

When prioritizing cases, the Code & Cannabis Compliance Department Director may consider such factors as chronic reporting parties, complaints that are generated as part of a neighbor against neighbor feud, and other actions where the complaint appears to be a vehicle to use the Code Compliance Division to retaliate or punish another party. Prioritization may also be based on available staffing.

### **Code Case Initiation and Investigation Process**

The initiation of a Code Violation Case begins with the submission of a completed Investigative Services Request (ISR) Form. Members of the public may submit this form along with supporting documentation, such as letters, photos, or other evidence. Complaints can be filed via mail, email, online platforms, or in person at the public services counter. The Code Compliance Division is unable to open and investigate an alleged code violation complaint without the submission of a completed Investigative Services Request Form.

Once completed, ISR Forms are forwarded to the Director of the Code & Cannabis Compliance Department or their designated representative for review and action. Neighborhood complaints from residents are a critical source of information in ensuring code compliance. To encourage participation, the County accepts confidential—but not anonymous—complaints, except in the case of Cannabis Compliance complaints, which may be submitted anonymously. The ISR Form includes a section where complainants can request confidentiality. While the complaint form requests identifying information, the Division generally protects the identity of the reporting party and only discloses it under court order.

The Code & Cannabis Compliance Department Director or their designee performs several key duties related to the intake of Investigative Services Requests (ISRs):

- **Immediate Action:** Provides prompt attention to complaints involving potential fire, life safety, or health hazards.
- **Digital File Management:** Oversees the creation of a digital file for each complaint in the Accela Permit Management Software system.
- **Code Case Assignment:** Assigns cases to Code Compliance Officers based on geographic regions, workload distribution, staffing availability, conflicts of interest, or other relevant factors.

#### Code Case Investigation Process

Before contacting the property owner, the Code Compliance Officer completes preliminary research, including a site visit, which often includes observation and verification of the alleged violation from the public rights-of-way or publicly accessible roadway. Site visits may occur at any stage of the investigation. The Officer's investigation also involves reviewing:

- Current or past permit applications.
- Administrative or discretionary land use development permit applications.
- Relevant documentation from other County Departments or outside agencies related to land use or permit activities.

#### Code Case Analysis

The Code Compliance Officer evaluates the facts of the code violation case in relation to Nevada County Codes and Ordinances to determine whether a violation exists.

- **If No Violation Exists:** The Code Compliance Officer closes the case and, where appropriate, informs the reporting party.
- **If a Violation is Suspected but Not Verified:** The Code Compliance Officer may contact the reporting party to gather additional evidence. This could include viewing the alleged violation from the reporting party's property, with their permission.
- **If a Violation is Verified:** The code case investigation proceeds.

#### Code Violation Enforcement Actions

Once a violation is confirmed, the Code Compliance Officer may take the following steps, depending on the case specifics:

1. **Violation Warning Letter:** A Violation Warning Letter is sent to the property owner, detailing the observed violations and specifying the necessary corrective actions. Typically, a 30-day compliance deadline is given to correct the violation(s) or obtain the required permits. Additionally, the responsible party is required to contact the Division to schedule a follow-up inspection. This inspection will verify that the outstanding violations have been resolved.

Failure to comply within the specified timeframe may result in continued accrual of penalties.

2. **Follow-Up Actions:** If the response deadline is missed, the Code Compliance Officer may:

- A. Conduct an additional site visit of the property to establish contact with the property owner.
- B. Issue a Citation Warning Letter, offering typically another 30-day compliance deadline, further outlining the necessary steps to correct or permit the violation(s). The property owner or responsible party is advised that missing this compliance deadline may result in further action.
- C. If the compliance deadline is again missed or no progress towards compliance is made, the Code Compliance Officer may issue an Administrative Citation, and then offer another 30-day compliance deadline, further outlining the necessary steps to correct or permit the violation(s).
- D. If the compliance deadline is again missed or no progress towards compliance is made, the Code Compliance Officer may continue to issue additional Administrative Citations until compliance is achieved. The Code Compliance Officer will then further evaluate the violation(s) severity and determine if the impacts are isolated or have the potential to impact surrounding neighbors or neighborhoods, the ability of the property owner to achieve compliance or progress towards compliance being made and determine if additional Administrative Citations are necessary to achieve compliance or if additional code compliance investigative tools are necessary to achieve compliance.
- E. It should be noted that the property owner or responsible party has a right to appeal to an Administrative Hearing Officer at the Violation Warning Letter, Citation Warning Letter and Administrative Citation Letter stages, which can add an additional 30 days to deadline for compliance, for each appeal. Staff may also invoice staff costs for their time or other County incurred costs while processing the code violation case.

**Administrative Citations**

The preferred method to address violations is for voluntary compliance. If this approach does not work, the Division has several enforcement related tools to seek compliance including Administrative Citations, Nuisance Abatements and Receiverships.

The most widely used tool is administrative citations of building and safety codes, which includes fines of \$130 for a first violation, \$700 for a second and \$1,300 for a third and subsequent violation of the same Code section within one year of the first citation being issued. The Division also have administrative citation infractions which includes fines of \$100 for a first violation, \$200 for a second and \$500 for a third and subsequent violation of the same Code section within one year of the first citation being issued.

While administrative citations are the most widely used tool, it is not the preferred legal tool for enforcement, as it takes resources away from the violator who, could use them toward

improvements to meet compliance. However, administrative citations will be used after other efforts have failed to achieve voluntary compliance. It is at the discretion of the Code Compliance Officer when to use citations as an enforcement tool specific to a code case.

The process is as follows:

1. A citation is issued by a Code Compliance Officer after site visit(s), if applicable, and communication with the violator/property owner when possible. This communication may be in the form of letters, phone calls, emails, site visits, and/or other forms of communication. Unless an imminent health and safety concern, or a case where the responsible party has been noticed that a repeat offence will result in immediate citation, a citation is preceded by a Violation Warning Letter and a Citation Warning Letter. These steps included a time frame for correction, which must have expired with no compliance prior to issuing a Citation.
2. The Code Compliance Officer issuing the Citation must have knowledge of the violation, or from a source deemed to be a credible witness during an appeal such as report from the Nevada County Sheriff's Office or other such governmental entity.
3. The Code Compliance Officer must attempt to document the owner/tenant's contact information and/or identification. If contact information and/or identification is refused or unavailable, the Code Compliance Officer notes the refusal or unavailability and relies upon the most readily available information in County records and the currently registered owner information.
4. The violator is notified by mail, email or direct delivery of the Citation. Each Citation shall include a notice of how to appeal with applicable timelines. Those cited may appeal through an Administrative Hearing or in Superior Court.

#### **Nevada County Nuisance Abatement Process**

The Nevada County Nuisance Abatement process is designed to address violations that pose risks to public health, safety, and welfare.

Nuisance Abatement actions are initiated only after the following steps have been taken:

1. Voluntary Compliance Efforts: The responsible party fails to address the violation after receiving education and warnings.
2. Issuance of Administrative Citations: Repeated failures to comply result in formal citations.
3. Final Notice of Violation (NOV): The property owner is given one last opportunity to resolve the issue before abatement procedures escalate.

If the property owner does not bring the property into compliance, the Division may initiate an Administrative Nuisance Abatement Hearing. This process requires securing the services of an Administrative Hearing Officer, but it allows the County to eventually recover all enforcement-related costs.

Key Components of the Hearing Process:

- **Notice to Abate:** A formal notice is mailed and posted at the property, providing a 45-day compliance deadline.
- **Public Hearing:** A hearing is scheduled and publicly noticed, where the property owner can:
  - Challenge the NOV and the County's enforcement actions.
  - Present evidence to dispute the claims.
- **Right to Appeal:** The property owner has the right to appeal the Hearing Officer's decision through a Writ of Mandate in the Superior Court.

Post-Hearing Actions

If no appeal is filed, and the Hearing Officer authorizes abatement, the County proceeds with formal enforcement measures:

1. **Inspection Warrant:**
  - Staff collaborates with County Counsel to obtain an inspection warrant approved by the Superior Court.
2. **Request for Proposals (RFP):**
  - A vendor is selected through an RFP process to carry out the abatement (e.g., debris removal, demolition of unsafe structures).
3. **Execution of Abatement:**
  - The vendor performs the abatement under County supervision.
4. **Warrant Return:**
  - Following abatement, staff prepares a Warrant Return, which is submitted to the Superior Court for approval.

Cost Recovery Process

After abatement, the County seeks to recover enforcement and abatement costs:

- **Cost Recovery Hearing:** A hearing is scheduled with the Hearing Officer to determine the total costs incurred, including:
  - Staff time.
  - Investigation efforts.
  - Hearing officer fees.
  - Vendor expenses.
- **Lien Placement:** If the property owner does not voluntarily pay the abatement costs, a lien is placed on the property.
  - The lien must be approved by the Nevada County Board of Supervisors.
  - The lien ensures the County recovers costs upon the property's sale.
  - The lien costs may be placed on the secured tax roll.

### **Judicial Injunctive Process**

In extreme cases where administrative enforcement is insufficient, the Division may pursue the judicial injunctive process. This involves court orders to compel compliance or authorize abatement, providing a more robust legal mechanism to address severe violations.

### **Receiverships**

A Health and Safety Receivership is a legal mechanism designed to address severe nuisance conditions and code violations that threaten public health, safety, and the environment. This process involves temporarily transferring control of problematic properties to a court-appointed Receiver, who is tasked with rehabilitating the property, remedying hazardous conditions, and ensuring code compliance.

### **Key Functions of a Health and Safety Receivership**

#### **1. Property Rehabilitation**

- The Receiver addresses significant nuisance conditions, such as:
  - Solid waste accumulation.
  - Inoperable vehicles.
  - Unsafe electrical connections.
  - Improper sewage disposal.
  - Substandard and unpermitted residential structures.
- The Receiver oversees necessary repairs and upgrades to bring the property into compliance. If the Receiver is unable to bring the property into compliance due to financing, they may be able to sell the property with an agreement in place that the new owner is obligated to achieve compliance.

#### **2. Protection of Public and Environmental Health**

- The process safeguards neighborhoods by eliminating hazardous conditions and restoring properties to habitable standards.
- Receivership actions improve community safety and prevent further environmental degradation.

#### **3. Enhanced Security and Safety**

- The Receiver may secure the property by:
  - Boarding windows and doors.
  - Installing fencing.
  - Hiring security personnel to prevent unauthorized access.
- These measures deter trespassing and mitigate risks associated with abandoned or unsafe properties.

#### **4. Connection to Support Services**

- A Receiver can connect property occupants, including homeowners or tenants, with vital support services, such as:
  - Mental health treatment providers.

- The County's HOME team.
- Other social services aimed at fostering sustainable living conditions.

### Receivership Process

#### 1. Court Appointment of a Receiver

- The County initiates the process under the applicable provisions of the California Health and Safety Code.
- The Nevada County Board of Supervisors must approve the initiation of a receivership.
- The case is presented to the court, and if approved, a Receiver is appointed to take temporary control of the property.

#### 2. Rehabilitation and Compliance

- The Receiver begins work on the property, addressing nuisance conditions and code violations.
- This may involve coordinating contractors, managing repairs, and ensuring all improvements meet regulatory standards.

#### 3. Property Sale and Cost Recovery

- Once the property is rehabilitated, the Receiver arranges for its sale.
- Proceeds from the sale are deposited into the Receivership Estate, which is used to cover:
  - The Receiver's fees and expenses (paid first).
  - The County's costs, as determined by an application to the court by the County's outside counsel.

To date, Nevada County has initiated four Health and Safety Receiverships, demonstrating the effectiveness of this process in addressing severe property violations:

#### 1. Completed Case:

- One property has been fully rehabilitated and is now listed for sale.

#### 2. Active Case:

- One property has been approved by the courts for a Receiver, and the rehabilitation process is underway.

#### 3. Pending Cases:

- Two additional properties are scheduled for court hearings to determine the appointment of a Receiver.

These cases highlight the County's commitment to resolving hazardous conditions, protecting public safety, and fostering healthier, more sustainable neighborhoods.

### Benefits of Receiverships

- **Effective Hazard Mitigation:** Removes dangerous conditions that pose immediate threats to public health and safety.
- **Community Revitalization:** Improves neighborhood aesthetics and property values.

- **Cost Recovery:** Ensures the County recoups enforcement and rehabilitation expenses from the Receivership Estate.
- **Support for Occupants:** Provides opportunities for affected individuals to connect with essential services, promoting long-term stability.
- **Court Ordered:** Transfers full control of the property to the Receiver and removes the County from liability.

### **Resolution of Code Compliance Cases**

A Code Violation Case will not be closed until the necessary permits have been obtained and/or other violations mitigated, and compliance has occurred, inspections have been made to verify compliance (Zoning, Building, Environmental, Safety, Etc.) and Code Compliance invoices, if any, have been provided to the property owner. When a case is closed due to no violation being present, the status of “unfounded” shall be used stating that no violations were found during the investigation. When all violations have been corrected, the Code Compliance Officer shall document the reason for case closure and close the digital case file.

### **2025 Policy and Ordinance Updates and Proposed Policy Guidance and Direction**

#### **Nuisance Ordinance**

As the Board of Supervisors directed during the 2023 Workshop, a stand-alone Nuisance Abatement Ordinance has been prepared. The ordinance will cross-reference all County codes that reference public nuisance violations and contain provisions for nuisance abatements done by the county, including noticed abatement orders and summary abatement for emergency situations; civil nuisance actions to be handled in superior court; as well as cost recovery provisions such as collection methods, tax roll placement, and special assessments and liens.

The Division is also exploring a fee deposit for appeal hearings of code violation determinations. This fee will cover staff time, Clerk of the Board costs for administering a hearing, and Hearing Officer costs. Currently, the County attempts to recoup these fees after a hearing by invoicing the appellant if the hearing officer’s decision upholds the County’s determination.

The proposed Nuisance Abatement Ordinance is proposed to be brought to the Board of Supervisors for your consideration and adoption in late Spring or Early Summer 2025.

#### **Proposed Direction and Policy Guidance and Additional Tools and Approaches:**

The Division collaborates with Nevada County residents to ensure a safe and desirable living and working environment. By administering a fair and impartial program, Code Compliance addresses violations of codes and ordinances enacted by the Nevada County Board of Supervisors concerning properties, buildings, and structures. If voluntary compliance is not achieved, enforcement actions are taken in alignment with departmental policies, procedures, and State law to safeguard public health, safety, and the environment.

*Code Compliance Additional Tools and Approaches:*

Continuing in 2025, staff proposes to continue operating on a complaint-driven basis and to continue to achieve voluntary compliance of a Code Violation Case. To maintain and expand on this process, staff recommends the additional following actions for 2025:

- **Amendments to Notice of Violation Letters:** Revisions to Notice of Violation Letters to only allow appeal of administrative citations and fines, in alignment with other jurisdictions to streamline the compliance process and deadlines. Begin issuing one violation warning letter instead of the current practice of issuing two warning letters prior to a citation in hopes of obtaining faster results.
- **Prioritization of Older Code Violation Cases:** Focus on resolving longstanding Code Violation Cases to improve community confidence and resource efficiency.
- **Small Claims Court:** Utilize small claims court to address the resolution of Code Compliance Cases and to recover costs associated with compliance efforts.
- **Temporary Restraining Orders/Injunctions:** In extreme cases, where administrative enforcement has not been sufficient, the Division proposes to utilize court orders to achieve compliance to prevent ongoing or severe violations that pose significant health and safety risks.
- **Receiverships/Abatements:** Continue to employ 2 or 3 Receiverships and Abatements per year for complex cases where property conditions require significant intervention to restore compliance and safety.

**CONCLUSION AND RECOMMENDATIONS:**

As outlined above, the Code Compliance Division remains committed to achieving voluntary compliance for Code Violation Cases. As proposed, updates to the Nuisance Abatement Ordinance along with additional tools and approaches for Code Compliance in 2025 are designed to further strengthen the Division's ability to safeguard public health, safety, and the environment. These updates will help streamline enforcement, enhance efficiency, and improve community confidence in the County's code enforcement efforts.

The Code Compliance Division remains committed to achieving voluntary compliance, along with the introduction of tools such as amendments to Notice of Violation Letters, prioritization of older cases, small claims court utilization, temporary restraining orders and continued utilization of Receiverships and Abatements will provide additional means of addressing ongoing violations effectively. These measures will also ensure that severe or complex code violation cases can be resolved in a timely and impactful manner, promoting a safe and desirable living and working environment for all residents of Nevada County.

**Item Initiated By:** Matt Kelley, Director, Code & Cannabis Compliance

**Approved By:** Trisha Tillotson, Director, Nevada County Community Development Agency  
Director

**Attachments:**

1. Code Violation Case Process Flowchart
2. Nevada County Abatement Process Flowchart
3. Receivership Process Flowchart
4. Voluntary Abatement Process Flowchart
5. Staff Time Costs Placed on Property Tax Roll Process Flowchart