

ORDINANCE NO. 3910  
(Amend Henderson Municipal Code Section 15.12 – Property Maintenance Code)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HENDERSON, NEVADA, AMENDING TITLE 15.12 – PROPERTY MAINTENANCE CODE - OF THE HENDERSON MUNICIPAL CODE, TO ADD CERTAIN DEFINED PUBLIC NUISANCES AND HABITABILITY REQUIREMENTS, ADD FINES AND REMEDIES FOR CERTAIN VIOLATIONS, ADD PROCEDURES FOR MUNICIPAL COURT ABATEMENT HEARINGS, AND TO MAKE OTHER CLARIFYING CHANGES.

- WHEREAS, Ordinance 2483 was adopted by the City Council on June 20, 2006;
- WHEREAS, Ordinance 2511 was adopted by the City Council on November 6, 2006;
- WHEREAS, Ordinance 2688 was adopted by the City Council on February 5, 2008;
- WHEREAS, Ordinance 2815 was adopted by the City Council on May 5, 2009;
- WHEREAS, Ordinance 3564 was adopted by the City Council on February 5, 2019;
- WHEREAS, Ordinance 3733 was adopted by the City Council on October 23, 2020;
- WHEREAS, pursuant to the provisions of Nevada Revised Statutes (NRS) 268 and the Henderson City Charter Section 2.180, the City Council is authorized to regulate all matters relating to construction, maintenance, and safety of buildings, structures, and property within the City, and to adopt such codes as are deemed necessary to carry out this purpose; and
- WHEREAS, pursuant to the provisions of NRS 268 and the Henderson City Charter Section 2.240, the City Council is authorized to provide by ordinance what shall be deemed nuisances, to provide for the prevention and removal of nuisances at the expense of the person creating, causing or committing such nuisances, and to provide other penalties or punishment of those responsible for nuisances; and
- WHEREAS, the City of Henderson maintains a property maintenance code in Chapter 15.12 of the Henderson Municipal Code for the safe and orderly maintenance of buildings, structures, and property and for the prevention and abatement of nuisances; and
- WHEREAS, a property maintenance code is considered a “living document” and will invariably need amending to make minor corrections, revisions, and updates as necessary; and

Amend Henderson Municipal Code Section 15.12 – Property Maintenance Code

WHEREAS, the City of Henderson desires to amend Chapter 15.12 to update the necessary safeguards and property maintenance standards to ensure public safety and properly maintained buildings and premises, to add certain defined public nuisances and habitability requirements, to add corresponding fines and remedies, to add procedures for Municipal Court abatement hearings, and to make other clarifying changes; and

NOW, THEREFORE, the City Council of the City of Henderson, Nevada, does ordain:

SECTION 1. Henderson Municipal Code Chapter 15.12.010 – General Provisions, is hereby amended as follows:

J. Short Title. This Chapter shall be known as the City of Henderson Property Maintenance, Habitability and Public Nuisance Code and shall be referred to herein as “this Code”.

SECTION 2. Henderson Municipal Code Chapter 15.12.020 – Definitions, is hereby amended as follows:

For the purpose of this chapter, all terms used herein are intended to have standard definitions, meanings and connotations, and are intended to be consistent with the meaning ascribed to them in other chapters of the Henderson Municipal Code and the Nevada Revised Statutes as limited in scope as specified below:

*Abandoned nuisance* activity, within the scope of this chapter, means:

1. Instances of unlawful breaking and entering or occupancy by unauthorized persons;
2. The presence of graffiti, debris, litter, garbage, abandoned materials, inoperable vehicles, or junk appliances;
3. The presence of unsanitary conditions or hazardous materials;
4. The lack of adequate lighting, fencing or security;
5. Indicia of the presence or activities of gangs;
6. Environmental hazards;
7. Violations of city codes, ordinances, or other adopted policy; or
8. Any other activity, behavior, conduct, or condition defined by this Code or any other provision of the Henderson Municipal Code to constitute a threat to the public health, safety, or welfare of the residents of or visitors to the city.

*Abandoned vehicle*. See *Vehicle*.

Accumulation of inoperable vehicles. See *Vehicle*.

*Alteration* means any construction or renovation to an existing structure other than repair.

*Animal* means an animal as defined by Title 7 of the Henderson Municipal Code.

*Architectural pool* or pond means a constructed or excavated exterior area designed to contain a regular supply of water other than a swimming pool or spa.

*Blight* or *blighted* means unsightly conditions, including but not limited to: the accumulation of debris; fences or walls characterized by holes, breaks, rot, crumbling, cracking, peeling, or rusting; landscaping that is dead, characterized by uncontrolled growth or lack of maintenance, or is damaged; or the exterior visible use or display of tarps, plastic sheeting, or similar materials as flexible or inflexible screening, fencing, or wall covering upon a residential lot, regardless of the condition of other properties in the neighborhood.

*Building code* means the most current edition of the International Building code or the International Residential Code and amendments thereto adopted by the City of Henderson and referenced in chapter 15.08 and 15.09 of the Henderson Municipal Code.

*Building official* means the person who oversees the Division of Building and Fire Safety at the City of Henderson, or his/her designee.

*Chronic nuisance* means a nuisance as defined in NRS 268.4124, including but not limited to three or more public nuisances or nuisance activities as defined in this chapter occurring within any 30-day period.

*Code enforcement official* (“code official”) means any City of Henderson personnel authorized by the director to enforce the provisions of this chapter.

*Congregate residence* means any building or portion thereof which contains facilities for living, sleeping, and sanitation, as required by this Code, and may or may not include facilities for eating, cooking, or for occupancy. A congregate residence may be a shelter, convent, monastery, dormitory, and fraternity or sorority house, but does not include jails, hospitals, nursing homes, hotels, or lodging houses.

*Dangerous structure or condition* means a structure or condition as defined in NRS 268.4122, including but not limited to any building or structure determined to be dangerous by the building official pursuant to HMC 15.10, and any condition that may cause injury to or endanger the health, life, property, or safety of the general public or the occupants, if any, of the real property on which the condition is located.

*Debris* means materials which may be present in accumulations including, but not limited to: deteriorated lumber; old newspapers; furniture parts; stoves; sinks; cabinets; household fixtures; refrigerators; car parts; abandoned, broken, or neglected equipment; or the scattered remains of items.

*Deterioration* means a lowering in quality of the condition or appearance of a building, structure or premises or parts thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, or any other evidence of physical decay, damage, neglect, or lack of maintenance.

*Development Code* means Title 19 of the Henderson Municipal Code.

*Director* means the Director of the City of Henderson Community Development and Services Department.

*Dwelling or dwelling unit* means a single unit providing complete and independent living facilities for one or more persons including provisions for living, sleeping, eating, cooking, and sanitation.

*Enforcement* means City efforts to secure compliance with the provisions of this Code, including but not limited to review of plans and permit applications, response to complaints, notices of violation, orders, administrative citations, fines, fees, and other legal processes. Except as otherwise provided in this part, "enforcement" may include inspections of existing land, buildings, and structures.

*Efficiency dwelling unit* means a dwelling unit containing only one habitable room and meeting the requirements for an exception to the minimum floor area requirements specified in this chapter.

*Excavation* means a well, shaft, trench, cellar, basement, cesspool, septic tank, pit, swimming pool, fishpond, or other similar condition resulting in a hole.

*Exterior opening* means any open or closed window, door, or passage between interior and exterior spaces.

*Extermination* means the elimination of insects, rodents, or other pests by eliminating their harborage places, removing or making inaccessible materials that serve as their food or water, or other approved pest elimination methods.

*Fences, screen walls and/or retaining walls* means self-standing structures designed to provide semi-private security or cut/slope retention between grade separations.

*Garbage* means putrescible animal and vegetable wastes resulting from the handling, storage, sale, preparation, cooking, and serving of food.

*Graffiti* shall have the meaning set forth in NRS 268.4075.

*Habitable space* means space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable space.

*Health hazard* means the presence of any item(s) or condition(s) that adversely impact or jeopardize the health of an individual. Such items or conditions include, but are not limited to evidence of occupancy without adequate water and sanitation facilities, human or animal waste, medical or biological waste, syringes, gaseous or combustible materials, dangerous or corrosive chemicals or liquids, flammable or explosive materials, friable asbestos, offal, and decay matter, or any other hazard identified by the health officer as defined herein.

*Health officer* means the representative of the Southern Nevada Health District who is authorized to enforce health regulations in the City of Henderson.

*Hot water* means water supplied to a plumbing fixture at a temperature of not less than 110 degrees Fahrenheit (49° degrees Celsius).

*Illegal discharge means any direct or indirect non-storm water discharge to the storm drain system that is not exempted in Henderson Municipal Code Chapter 13.04.100.*

*Imminent hazard* means any condition associated with real property that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before such hazard can be eliminated by the standard enforcement procedures set forth in Section 15.12.060.E.

*Infestation* means the presence of insects, rodents, reptiles, or pests in quantities large enough to be potentially harmful or threatening as determined by the health officer or a licensed extermination contractor.

*Inoperable vehicle.* See *Vehicle*.

*Litter* means decaying or non-decaying solid and semi-solid wastes, including but not limited to: both combustible and non-combustible wastes such as paper, trash, cardboard, water material, cans, yard clippings, wood, glass, bedding, debris, scrap paving material, discarded appliances, discarded furniture, piles of earth mixed with any of the above or any foreign objects, or any waste as determined by the health officer. *Lodging house* means any building or portion thereof containing not more than five guest rooms available for rent

*Mechanical code* means the most current edition of the Uniform Mechanical Code and amendments thereto adopted by the City of Henderson and referenced in chapter 15.24 of the Henderson Municipal Code. The mechanical code regulates the design, construction, installation, quality of materials, location, operation and maintenance, or use of heating, ventilating, cooling, refrigeration systems, incinerators, and other miscellaneous heat-producing appliances within the city.

*Occupant* means a person, persons, or legal entity that, through rights of ownership or tenancy, has possession or the use and enjoyment of the subject real property.

*Owner* means a person, persons, or legal entity listed as current titleholder to real property as recorded in the official records of the Clark County Recorder's office.

*Perimeter wall* means any wall composed of stone, brick, concrete, concrete blocks, masonry, iron, or similar building material, together with footings, pilasters, outriggers, grillwork, gates and other appurtenances, constructed around the perimeter of a residential subdivision or residential lot

*Person* means any individual, firm, association, organization, partnership, business trust, corporation, or company.

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*Plumbing code* means the most current edition of the Uniform Plumbing Code and amendments thereto adopted by the City of Henderson and referenced in chapter 15.20 of the Henderson Municipal Code. The plumbing code regulates the erection, installation, alteration, repair, relocation, replacement, addition to, use or maintenance of plumbing systems and equipment with the city.

*Pond* means a body of water that is less than 18 inches deep. The definition does not apply to city-approved detention basins or other like facilities.

*Private property* means any real property within the city that is not owned by the City of Henderson or another governmental entity.

Public area means an area that is owned and maintained by the city and/or any other governmental entity for its use or the use of its citizens.

*Public nuisance* or *nuisance activity* includes but is not limited to:

1. The presence of debris, litter, garbage, rubble, refuse, abandoned vehicles, inoperable vehicles, discarded appliances or other waste allowed to accumulate on private property;
2. Any violation of the uniform building code, as adopted and amended by title 15 of this Code, that is declared to be a hazard to the public health, safety, and welfare of the residents of the city;
3. Any violation of the uniform fire code, as adopted and amended by title 15 of this Code, that is declared to be a hazard to the public health, safety, and welfare of the residents of the city;
4. Any body of water which by its nature, condition, and/or location constitutes an unhealthy, dangerous or unsafe condition;
5. Any structure or object which by its nature, location, and/or character would tend to attract and endanger the safety of any minor person;
6. Any structure declared by the building official to be dangerous pursuant to the uniform code for the abatement of dangerous buildings as adopted and amended by title 15.10 of this Code;
7. Any dangerous or unsafe condition as defined herein;
8. Weeds, noxious plant growth, deteriorated and/or dead or substantially dead vegetation, trees or plants;
9. Criminal activity occurring on private property and caused or committed by the owner or responsible party;
10. Excessive noise;
11. A substandard building;
12. An unsecured vacant structure and/or unlawful habitation of any portion of a vacant structure or property;
13. Any violation of the Development Code, including but not limited to the following:
  - a. The keeping of any animals on private property not in compliance with the provisions of HMC Title 19 and Title 7, where applicable; and
  - b. The display of any signs on private or public property that are not in compliance with the provisions of HMC Title 19.

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14. The use of any temporary shelter, structure, or building, or litter, debris, or other similar material as a dwelling on public or private property unless otherwise permitted or approved in writing by the city; **[and]**

15. The use of recreational vehicles (RV) as living quarters on any premises other than a licensed and permitted RV park or resort. An RV shall be deemed used as living quarters if it is connected to sanitary sewer and/or municipal water sources; **[.]**

16. Any illegal discharge as defined in Section 15.12.020;

17. The presence of shopping cart(s) on residential property or any non-residential property other than the commercial property in which the shopping cart(s) were originally intended to be used;

18. Any unlawful burning on public or private property including, but not limited to:

(a) The kindling or maintaining of any indoor or outdoor fire without authorization of the fire department and/or not in conformance with HMC 8.37.060 and 8.37.070, or

(b) The burning of solid waste, hazardous waste, and/or recyclables without a written permit from the fire department;

19. The removal and/or transportation of liquid waste from any property without written approval from the Southern Nevada Health District; and

20. Any construction or building activity between the hours of 6:00 pm and 6:00 am without approval of the Building Official or as further described in HMC 8.84.030.E.

*Refuse* means those discarded materials that have no useful physical, chemical, or biological properties after serving their original purpose and that cannot be reused or recycled for the same or other purposes.

*Responsible party* means an owner, owner's authorized agent, operator, occupant, lessor, lessee, manager, licensee, or other person having authority or control over a structure or parcel of land.

*Rubbish* means non-putrescible solid waste, consisting of both combustible and noncombustible wastes such as paper, plastic, cardboard, tin cans, wood, glass, bedding, crockery, and similar materials.

*Rubble* means broken, solid surface fragments usually resulting from the decay or deterioration of a building, miscellaneous mass of broken or apparently worthless materials.

*Sound condition* means any structure, building, or component that is in a condition to withstand designed or anticipated loads. This would include maintenance for weather protection, free of deterioration and damage.

*Stagnant or stagnated water* means water that is not flowing or moving.

*Structure* means that which is built or constructed

*Structure unfit for human occupancy.* A structure is unfit for human occupancy whenever the code official finds the structure is unsafe, unlawful, or unsanitary because of the degree to which the structure is in disrepair or lacks maintenance, is infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this Code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

*Swimming pool* means a permanently installed artificial body of water in excess of 18 inches in depth that is used or intended for swimming and includes all equipment necessary for its use as well as a spa and any other water features intended and designed to be used in conjunction with the swimming pool.

*Vacant structure* means a structure with no occupant as defined herein. Disconnection of electrical power or water service shall constitute prima facie evidence that a structure is vacant. The date of discontinuance of electrical power and/or water service shall constitute the date at which such building became vacant.

*Vegetation* means plant life of any kind, whether living or dead, characterized as grass, weeds, bushes, cacti, and trees.

*Vehicle* means a vehicle as defined in NRS 482.135.

The following definitions also apply to the provisions of this Code regulating vehicles:

1. *Abandoned vehicle* means any vehicle that is parked on private property without permission of the property owner for a continuous period of more than 72 hours or parked on public property for a continuous period of more than 48 hours. Such a vehicle is presumed to have been abandoned or discarded by that vehicle's owner.
2. *Accumulation of inoperable vehicles* means two or more inoperable vehicles upon a residential lot or upon a commercial or industrial lot where the primary business does not involve the service of vehicles or the storage of inoperative vehicles.
3. *Inoperable vehicle* means a vehicle physically incapable of its intended operation or unable to be safely operated, or a vehicle that exhibits one or more of the following conditions: wrecked; partially or fully dismantled; stripped; substantially damaged; scrapped; having the status of a hulk or shell; discarded; unable to be safely operated; elevated on blocks or similar devices; deflated tires; or having the engine, steering wheel, headlights, taillights, wheels, or tires removed.

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4. Minor vehicle repair work means minor repair work that includes, but is not limited to: maintenance items such as engine tune-ups, oil changes and transmission fluid replacements, joint lubrication, brake component replacement, tire changes, and shall not exceed 72 hours in duration. Minor repair work does not include such work as engine overhauls or replacement, transmission replacements, and bodywork including repair or replacement of damaged body parts.

5. Recreational vehicle means a vehicle as defined in NRS 482.101. *Weed* means a useless and troublesome plant generally accepted as having no value and frequently of uncontrolled growth, not including native desert vegetation.

SECTION 3. Henderson Municipal Code Chapter 15.12.040 – Non-Residential Buildings and Structures Maintenance Standards, is hereby amended by adding a new Subsection H, as follows:

*H. Loading and unloading. Unless approved in writing by the Director, or their designee, loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects between the hours of 11:00 p.m. and 7:00 a.m. that creates unreasonable noise across a residential real property boundary is prohibited.*

SECTION 4. Henderson Municipal Code Chapter 15.12.050, Residential Buildings and Structures Maintenance Standards, Subsection E – Sanitation, is hereby amended as follows:

E. Sanitation

1. *Bathrooms.* *[Dwelling units, lodging houses and congregate residences.]* Dwelling units, lodging houses and congregate residences shall be provided with a bathroom equipped with facilities consisting of a water closet, lavatory, and either a bathtub or shower, or combination thereof.
2. *Kitchen.* Each dwelling unit shall be provided with a kitchen. Every kitchen shall be provided with a safe and operational kitchen sink, and cooking appliance. If a refrigerator is provided, it must be maintained in a safe and operational condition.
3. *Fixtures.* All plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system. All plumbing fixtures shall be connected to an approved water supply and provided with hot and cold running water necessary for normal operations. All plumbing fixtures shall be listed by an approved listing agency.
4. *Water closet compartments.* Except in dwelling units, walls within two feet of urinals and water closets shall have a smooth, hard, nonabsorbent surface to a height of four feet above the floor.

Editor's Note: Pursuant to City Charter Section 2.090(3), language to be omitted is red and enclosed in [brackets], and language proposed to be added is in blue italics and underlined.

5. *Installation and maintenance.* All sanitary facilities shall be installed and maintained in a safe and sanitary working condition.

6. *Required utilities. Dwelling units, lodging houses and congregate residences shall be provided with public utility services sufficient to maintain heating, plumbing, and electrical fixtures and appliances in a working condition.*

SECTION 5. Henderson Municipal Code Chapter 15.12.050, Residential Buildings and Structures Maintenance Standards, Subsection I – Mechanical Equipment, is hereby amended as follows:

I. Mechanical Equipment.

1. *Heating.* Dwelling units, guest rooms, and congregate residences shall be provided with permanently installed heating facilities capable of maintaining a room temperature of 68° degrees Fahrenheit (20° Celsius) at a point three feet (914 mm) above the floor in all habitable rooms. Such facilities shall be installed and maintained in a safe condition. All heating devices or appliances shall be of an approved type and utilized in accordance with their listing. Fuel-burning heaters without vents to the exterior are specifically prohibited.

2. *Combustion Air.* Rooms and areas containing fuel-burning appliances shall be provided with combustion air as required by the mechanical code.

3. *Cooling. Dwelling units, guest rooms, and congregate residences shall be provided with permanently installed cooling facilities capable of maintaining a room temperature of 78° degrees Fahrenheit (25.5° Celsius) at a point three feet (914 mm) above the floor in all habitable rooms. Such facilities shall be installed and maintained in a safe condition. All cooling devices or appliances shall be of an approved type and utilized in accordance with their listing.*

SECTION 6. Henderson Municipal Code Chapter 15.12.050, Residential Buildings and Structures Maintenance Standards, Subsection M – Substandard Residential Buildings, is hereby amended as follows:

M. Substandard Residential Buildings *(Minimum Habitability Standards)*

Any building or portion thereof or the premises on which the same is located in which there exists any of the following conditions shall be deemed and hereby declared to be a substandard building, which shall be a violation of this Code *and may be subject to the requirements of section 15.12.060.B.5.F.*

1. *Habitability and sanitation.* Buildings or portions thereof shall be deemed substandard when any of the following conditions exist:

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- (a) Lack of, or improper operation of, water closet lavatory, bathtub, or shower;
  - (b) Lack of required interior wall covering;
  - (c) Lack of proper kitchen sink, ~~or~~ cooking appliances ~~,~~ or refrigerator, or improper operation of kitchen sink, cooking appliance or refrigerator;
  - (d) Lack of required hot and cold running water to plumbing fixtures;
  - (e) Lack of adequate heating or cooling facilities;
  - (f) Lack of, or improper operation of, required ventilation equipment;
  - (g) Lack of minimum amounts of natural light and ventilation required by this Code;
  - (h) Room and space dimensions less than required by this Code. However, a condition that would require the displacement of sound walls or ceilings to meet height, length, or width requirements for ceilings, rooms, and dwelling units shall not by itself be considered sufficient existence of dangerous conditions making a building substandard, unless the building was constructed, altered, or converted in violation of those requirements in effect at the time of construction, alteration or conversion;
  - (i) Lack of required electrical lighting;
  - (j) Dampness in habitable rooms;
  - (k) Infestation of insects, vermin or rodents;
  - (l) General dilapidation or improper maintenance;
  - (m) Lack of connection to a required sewage disposal system;
  - (n) Lack of adequate garbage and rubbish storage and removal facilities;
  - (o) Lack of connection to public utilities that are essential to maintain heating, plumbing, and electrical fixtures and appliances in a working condition; and
  - (p) Lack of, or improper maintenance of, required systems, devices, and equipment to detect a fire, actuate an alarm, or suppress or control a fire, or any combination thereof, at all times in accordance with the International Fire Code.
2. Structural hazards. Buildings or portions thereof shall be deemed substandard when they are, or contain, structural hazards. Structural hazards shall include, but not be limited to, the following:
- a. Deteriorated or inadequate foundations incapable of supporting the load which normal use may place thereon;
  - b. Defective or deteriorated flooring or flooring supports;
  - c. Flooring or floor supports of insufficient size to carry imposed loads safely;
  - d. Members of walls, partitions, or other vertical supports that split, list (to lean), or buckle due to defective material or deterioration;
  - e. Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads safely;

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- f. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that sag, split, or buckle due to defective material or deterioration;
  - g. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads safely; and
  - h. Fireplaces or chimneys that list (to lean), bulge, or settle due to defective material or deterioration.
3. Hazardous electrical wiring. All wiring that does not conform to all applicable laws in effect at the time of installation, has not been maintained in good condition, or is not currently in good and safe condition and working properly shall be considered substandard.
4. Hazardous plumbing. All plumbing that does not conform to all applicable laws in effect at the time of installation, has not been maintained in good condition, is not currently in good and safe condition or not working properly, or is not free of cross connections and siphonage between fixtures shall be considered substandard.
5. Hazardous mechanical equipment. All mechanical equipment, including vents that do not conform to all applicable laws in effect at the time of installation, not maintained in good and safe condition and not currently in good and safe condition and working properly shall be considered substandard.
6. Fire hazard. Any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation that is noncompliant with the fire code to the extent that the fire chief, building official or their designee, or a code official has determined the noncompliant condition is unsafe or that a fire or explosion could occur as the result of said noncompliance shall be shall be considered substandard and a violation of this Code. In addition, any condition the fire chief or his or her designee has determined provides a ready fuel to augment the spread and intensity of fire or explosion arising from any cause is deemed substandard.
7. Faulty materials of construction. All materials of construction that are not specifically allowed or approved by the building code or have not been adequately maintained in good and safe condition shall be considered substandard.
8. Hazardous or unsanitary premises. Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rodent harborages, stagnant water, combustible materials, and similar materials or conditions that constitute a fire hazard, health hazard, or safety hazard shall be considered substandard.

9. Inadequate exits. All buildings or portions thereof not provided with adequate exit facilities as required by this Code, except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and that have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy shall be considered substandard. When an unsafe condition exists due to lack of or improper location of exits, additional exits may be required to be installed.

10. Inadequate fire-protection or fire-fighting equipment. All buildings or portions thereof that are not provided with fire-resistive construction or fire-extinguishing systems or equipment required by the building and fire code shall be considered substandard, except those buildings or portions thereof that conformed to all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

11. Improper occupancy. All buildings or portions thereof occupied for living, sleeping, cooking, or dining purposes that were not designed or intended to be used for those occupancies shall be considered substandard.

12. Inadequate emergency egress. Bars, grills, covers, screens, or similar devices are not permitted to be placed over emergency escape and rescue openings, bulkhead enclosures, or window wells that serve sleeping rooms, unless the minimum net opening dimensions required for escape and rescue openings are maintained. Such devices shall be releasable or removable from the inside without the use of a key, tool, or force greater than that which is required for normal operation of the escape and rescue opening.

SECTION 7. Henderson Municipal Code Chapter 15.12.060, Enforcement Provisions, Subsection B – Administrative Enforcement Procedures and Remedies, is hereby amended as follows:

B. Administrative Enforcement Procedures and Remedies

1. Notice of violation and order to correct. Except as otherwise provided herein, when the code official has determined that a violation of this Code exists, the code official may issue a notice of violation and order to correct to the property owner and any other responsible party, in the following manner:

(a) Form of notice and order. The notice and order shall be in writing and shall include:

- (1) A description of the real property sufficient for identification;
- (2) A statement of the violation(s) and why the notice is being issued;
- (3) A list of the corrections necessary to bring the property into compliance with this Code;

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- (4) A correction order with a reasonable deadline to bring the property into compliance; and
- (5) A statement advising that administrative fees and fines may be assessed in the event the owner or other responsible party fails to correct the stated violations of this Code.
  - (b) Method of service. A notice and order shall be deemed properly served if a copy is:
    - (1) Personally served to the owner or other responsible party, with a signed certificate of service prepared by the code official effectuating service. If personal service is effectuated upon a responsible party other than the owner, a copy of the notice shall be sent by first-class mail to the owner as shown in the records of the Clark County Assessor;
    - (2) Sent by certified mail, return receipt requested, to the owner of the property as shown in the records of the Clark County Assessor:
      - (a) If the notice is returned by the U.S. Postal Service showing that it was not delivered, a copy thereof shall be posted in a conspicuous place in or about the building, structure, lot, or premise of the subject property. It shall be unlawful for any person to remove, alter, deface, tamper with, or alter the visibility of any notice and order posted at the premises pursuant to this Code. Service of the notice and order shall be complete upon certified mailing or, if the notice and order is returned, posting on the premises. The failure of the owner to receive a certified mailing of the notice and order does not affect the validity of any enforcement proceeding taken under this Code;
      - (b) A certification of notice and order posting shall be completed by the code official stating the name of the code enforcement official posting the notice, the date and time of the posting, the address of the property where the notice and order was posted, and a brief description of the location on the property where the notice and order was posted;
    - (3) Posted in a conspicuous place in or about the building, structure, lot, or premise and sent by first-class mail to the owner of the property as shown in the records of the Clark County Assessor; or
    - (4) Sent by electronic mail (“email”) to the owner and any other responsible party if the recipient(s) has provided written, signed consent to receive service of notices under this section 15.12.060.B.1 by email and has provided their email address. If a notice and order served via email returns undeliverable, one of the other methods of service in this section shall also be employed.

(c) Re-inspections. The code official shall re-inspect the property after the compliance date specified in the notice and order. If the violation is still in existence on the re-inspection date, the code official is authorized to impose a re-inspection fee as provided in section 15.12.060.B.3 and in the amount specified in section 15.12.090 of this Code. A re-inspection fee may be charged in advance for the third inspection and any subsequent inspection until compliance is attained.

2. Notice and Order to Abate. When the code official determines that an owner or other responsible party has not complied with a notice of violation and order to correct, the code official may issue a notice and order to abate.

(a) Content of notice and order. The notice and order to abate shall include all information required in the notice of violation and order to correct (see section 15.12.060.B.1.a), and in addition shall include the following:

(1) A statement advising that the city will proceed to abate the violation if the owner or other responsible party does not comply with the notice and order to abate by the stated deadline;

(2) A statement explaining how the city intends to recover the costs incurred to abate the violation if the owner or other responsible party does not comply with the notice and order to abate by the stated deadline; and

(3) A statement that the owner or other responsible party may appeal the notice and order to abate within ten (10) calendar days of the notice and order and request a hearing in accordance with section 15.12.060.B.6.

(b) Service of notice and order. A notice and order to abate shall be served as follows:

(1) Sent by certified mail, return receipt requested, to the owner of the property as shown in the records of the Clark County Assessor;

(a) If the notice is returned by the U.S. Postal Service showing that it was not delivered, a copy thereof shall be posted in a conspicuous place in or about the subject building, structure, lot, or premise and shall be mailed by first-class mail to the owner. It shall be unlawful for any person to remove, alter, deface, tamper with, or alter the visibility of any notice and order posted at the premises pursuant to this Code;

(b) A certification of posting shall be completed by the code official who posted the notice and order stating the date and time it was posted on the property, the address of the property where it was posted, and a brief description of the location on the premises where it was posted; or

(2) Served by personal service on the property owner, with a signed certificate of service prepared by the code official effectuating the service;

(3) Service of the notice and order to abate shall be complete upon mailing or, where applicable, posting on the premises. The failure of the owner to receive the certified mailing does not affect the validity of any proceedings taken under this Code.

(c) Abatement by the City. The code official shall follow the reinspection process and may assess reinspection fees as provided in section 15.12.060.B.1.c. after the compliance date for the notice and order to abate has passed. Once reinspection has occurred, if abatement has not been completed, the code official has followed all other required procedures set forth in this section 15.12.060.B.1 and B.2, and no appeal has been filed, or an appeal has been denied and abatement not completed by the deadline provided in the decision on appeal, the condition(s) or violation(s) may be abated by city personnel or by a private contractor hired by the city for that purpose. City personnel or a private contractor may enter upon the property at a reasonable time and in a reasonable manner to abate the conditions set forth in the notice and order to abate.

(d) Abatement report. The city personnel or outside contractor ordered to perform the abatement shall file with the Director a written report detailing the work performed, time and labor incurred, and an itemized accounting of the total equipment and abatement costs incurred to abate the violation within 30 days of completion of the work. The report shall contain the names and addresses of the owner and any other responsible parties, and the address, Assessor's parcel number or legal description of the property. The Director shall review the abatement report and approve the report, reject the report and order a new report, or order modifications to the report as needed.

(e) Recovery of abatement costs. Once the Director has finalized an approved abatement report and costs included therein, the Director is authorized to proceed with recovery of the reported abatement costs against the property through a special assessment or other lawful collection method.

(1) Special assessment. The Director may authorize the code official to collect the abatement costs against the property by recording a special assessment lien, which may be collected at the same time and in the same manner as ordinary county taxes, subject to the same penalties, procedure and sale in the case of delinquency as provided for ordinary county taxes.

(a) The special assessment shall be perfected when the City has:

i. Recorded with the Clark County Recorder a statement setting forth the amount of the expenses incurred and unpaid and the description of the property subject to the lien; and

ii. Sent by certified mail, return receipt requested, a notice of special assessment lien, separately prepared for each lot affected, and addressed to the owner of the property as set forth in the records of the Clark County Assessor.

(b) The special assessment shall be treated as co-equal with the latest lien on the property to secure the payment of county taxes, not subject to extinguishment by the sale of the property for nonpayment of county taxes, and proper and superior to all other liens, claims, and encumbrances on the property other than the lien for county taxes.

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(c) Before recording the lien, the code official shall mail the owner of record a written notice of the city's intent to record a special assessment lien unless payment of all monies due is paid in full on or before the date listed in the notice.

(d) Quarterly special assessment report. Quarterly, the Director shall report to the City Council all special assessments recorded for abatement actions performed and shall include in such report the street address or assessor's parcel number of the property abated, the name of each owner of property assessed as of the date of the assessment, and the total amount of the assessment, stating the amount assessed for expenses of abatement and any amount assessed for administrative fines.

(2) Collection action. The city may take any lawful collection action deemed necessary and appropriate to recover the abatement costs owed, including but not limited to the City Attorney filing a petition in a court of competent jurisdiction for the entry of a civil judgment against the property owner in an amount equal to the amounts owed, or referral of the unpaid amounts to a collection agency for recovery. Where the amounts are referred for collection, the city may impose a fee of 25 percent of the outstanding indebtedness or \$250.00, whichever is less, against the responsible party. This fee shall accrue and become due and payable at the time the indebtedness is referred for collection to the collection agency, and that amount may be added by the collection agency to the amount sought to be collected. Any judgment or amended judgment entered under this chapter may include the amount of the collection fee authorized herein.

3. Administrative fees. Expenses incurred by the city in investigating, inspecting and re-inspecting property that is the subject of a violation, as well as any other processing costs related to enforcement of this Code may be recovered through the issuance of administrative fees pursuant to the administrative fee schedule established by the City Council and set forth in section 15.12.090. Administrative fees may be imposed in conjunction with abatement expenses or the issuance of administrative citations. In addition to any other lawful means of collection, administrative fees may be collected in the same manner and at the same time as administrative fines and any costs incurred by the city in performing abatements.

4. Administrative citations and fines. Administrative fines may be imposed for violations of any of the provisions of this Code, including failure to comply with any final order issued through the appeal process.

(a) Procedure for issuance of citation and fine.

(1) Administrative fines shall be assessed by means of an administrative citation issued by the code official and shall be payable directly to the city.

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- (2) An administrative citation shall contain:
- (a) The name and address of the property owner and any other responsible party and the address or legal description of the property where the violation is occurring;
  - (b) A statement of the provisions of this Code that have been violated and the date of the violation(s);
  - (c) The action required to correct the violation(s) and a deadline for compliance, if not already provided in a notice of violation separately or concurrently served with the citation;
  - (d) The amount of administrative fines and fees imposed for the violation(s);
  - (e) A statement that each day the owner or other responsible party does not correct or abate the violation after the date of the administrative citation may constitute a separate violation subjecting the owner to additional fines;
  - (f) A statement that the owner or responsible party may appeal the fine and request a hearing within ten (10) calendar days of the date the administrative citation is served; and
  - (g) An address and telephone number of a code official with whom contact regarding the violation can be made.
- (3) An administrative citation shall be served on the property owner via personal service or via certified mail, return receipt requested. A certificate of service shall be completed by the code official who effectuated service of the citation. Service shall be complete upon mailing or personal service of the citation. The failure of the owner to receive the citation shall have no effect on the validity of any fines issued.
- (b) Accumulation of fines. If the owner or other responsible party fails to correct the violation, subsequent administrative citations may be issued for the same violations. Each day that a violation continues shall constitute a separate violation. The amount of fines assessed for each administrative citation issued for the same violations shall be specified in the fee resolution adopted by the city council as set forth in section 15.12.090. Payment of the fine shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the city.
- (c) Appeal of an administrative citation, fines, and fees. Appeal of an administrative citation, fines, and fees shall be made in accordance with the procedures of section 15.12.060.B.6.

(d) Failure to pay administrative fines and fees.

(1) If not appealed, administrative fines and fees are immediately due and payable. Failure to issue payment shall constitute a violation of this Code. The city may take any lawful collection action deemed necessary and appropriate to recover the administrative fine amounts owed, including but not limited to the City Attorney filing a petition in a court of competent jurisdiction for the entry of a civil judgment against the property owner in an amount equal to the unpaid fine and/or fee amounts owed, or referral of the unpaid amounts to a collection agency for recovery.

(2) In addition to the fines assessed pursuant to this Chapter, the person responsible for any violation shall be liable for an additional collection fee where the collection of the fines provided for herein is referred for collection. The amount of such fee shall be 25 percent of the outstanding indebtedness or \$250.00, whichever is less. The amount of any such collection fee shall accrue and become due and payable at the time the indebtedness is referred for collection to the collection agency, and that amount may be added by the collection agency to the amount sought to be collected. Any judgment or amended judgment entered under this chapter may include the amount of the collection fee authorized herein.

(3) Special assessment. The City may also collect unpaid administrative fines and fees through the special assessment process set forth in section 15.12.060.B.2.e(1), if the uncollected fine amounts total more than \$5,000.00 and at least 12 months have elapsed after the date specified for correction in the notice and order or citation, or the date of compliance in any order of the city or court on an appeal of the notice and order or citation, whichever is later.

5. Emergency measures and expedited procedures.

(a) Emergency abatement order. Where the Director or building official determines a condition or violation of this Code constitutes an imminent hazard, the Director or building official may order the owner and any other responsible party to abate the condition or violation so as to remove the hazard within an expedited time period specified in the order. The order shall be served as required in section 15.12.060.B.2.b. No notice of violation is required to first be served, no extensions need be granted, and all appeal periods may be expedited. Within 24 hours after the required time to abate the condition or violation, the Director, building official or code official shall conduct a re-inspection of the property to determine compliance with the notice and order.

(b) Emergency abatement. If an imminently hazardous condition has not been abated in compliance with an order issued pursuant to subsection a, and no appeal has been filed or an appeal has been denied, the Director or building official may secure the necessary labor, materials, and other resources required to perform the abatement action set forth in the order as expeditiously as possible.

(c) Temporary safeguards. Notwithstanding other provisions of this Code, whenever there is an imminent hazard that necessitates immediate safeguards, the Director or building official may order the necessary corrective action taken, including but not limited to, the boarding up or securing of building or structure openings, to render such structure or condition temporarily safe whether or not prior notice to the owner or other responsible party has been provided, and may cause such other safeguards to be implemented as deemed necessary to meet such emergency.

(d) Order to vacate building or structure that is dangerous. When any of the following circumstances is present, the code official may, without providing prior notice to the owner or other responsible party, cause to be posted at each entrance to such structure a notice and order reading as follows: "THIS STRUCTURE IS DANGEROUS AND ITS OCCUPANCY IS PROHIBITED":

(1) There is imminent danger of failure or collapse of a building or structure;

(2) Any structure or part of a structure has fallen and life is endangered by the occupation of the structure; or

(3) There is imminent danger to the building occupants or those in the proximity of any structure or due to the presence of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases, or materials, or operation of defective or dangerous equipment.

It shall thereafter be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing hazardous or substandard conditions, or demolishing the same. Failure to vacate a building or structure as specified in the notice and order or to reoccupy a building or structure which has been ordered vacated prior to the issuance of written re-occupancy approval by the Director or building official or his or her designee shall constitute a violation of this Code.

(e) Cost of temporary safeguards and emergency abatement. Costs incurred in the performance of temporary safeguards and emergency work performed by the city may be recovered from the owner of the property where the imminent hazard is or was located, in accordance with sections 15.12.060.B.2.d and 15.12.060.B.2.e. Such costs may be recovered by a special assessment against the property, in addition to any other reasonable means authorized by law, this Code, or a court of competent jurisdiction. Prior to recording a special assessment lien to recover costs for the installation of temporary safeguards pursuant to subsection c, the city shall provide the property owner with a written statement of costs and an opportunity to appeal the assessment of such costs through the appeal procedures of section 15.12.060.B.6.

(f) Order to vacate structure unfit for human occupancy. A building or structure unfit for human occupancy as defined in this Code is subject to closure by a code official if the code official first follows the procedures set forth in section 15.12.060.B.2, except that no notice of violation and order to correct is required to first be issued. If the owner or other responsible party does not comply with a notice and order to abate a building or structure unfit for human occupancy by the original compliance date and fails to appeal the notice and order to abate, or fails to comply with any compliance date issued in a decision on appeal, the code official may cause to be posted at each entrance to such structure a notice and order reading as follows: "THIS STRUCTURE IS UNFIT FOR HUMAN OCCUPANCY AND ITS OCCUPANCY IS PROHIBITED". It shall thereafter be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing hazardous or substandard conditions, or demolishing the same. Failure to vacate a building or structure as specified in the notice and order or to reoccupy a building or structure that has been ordered vacated prior to the issuance of written re-occupancy approval by the code official shall constitute a violation of this Code. Costs incurred by the City in closing and securing the structure to prevent further occupancy of the structure may be recovered from the owner of the property where the building is located in accordance with sections 15.12.060.B.2. and 15.12.060.B.2.e.

*Property owners are responsible for providing relocation and temporary lodging assistance for any tenants or other lawful residents of a substandard building if such building is ordered to be vacated because it is unfit for human occupancy. If the property owner or its representative fails to assist any displaced tenants or other lawful residents in relocating and securing short-term replacement housing after receipt of a notice and order to vacate a structure unfit for human occupancy, reasonable relocation costs incurred by the City to assist residents in need of emergency housing may be recovered from the property owner in accordance with sections 15.12.060.B.2. and 15.12.060.B.2.e.*

(g) Closure of unmaintained vacant buildings. Vacant buildings that have not been maintained pursuant to the requirements of section 15.12.030.J are subject to an order requiring that they be secured as set forth in section 15.12.030.J.2. In issuing the order, the code official shall follow the procedures set forth in section 15.12.060.B.2, except that no notice of violation is required to first be issued. If the owner or other responsible party does not comply with the order by the original compliance date and fails to appeal the notice and order, or fails to comply with any compliance date issued in a decision on appeal, the code official may take any action deemed necessary to close and secure the building. It shall thereafter be unlawful for any person to enter such structure except for entry by the owner or owner's authorized agent for the purpose of further securing the building, inspecting

the property, performing repairs, or taking other action necessary to prepare the property for occupancy by a lawful occupant. Entry or occupancy by all other persons shall constitute a violation of this Code. Costs incurred by the City in closing and securing the building to prevent unlawful occupancy, vandalism, or other criminal activity on the premises may be recovered from the owner of the property, in accordance with sections 15.12.060.B.2.d and 15.12.060.B.2.e.

6. Appeal procedures. This section establishes the procedures for appealing administrative enforcement actions under this Code, including procedures for administrative appeal hearings. All appeals are limited by the provisions of this section 15.12.060.B.6.

(a) Procedures for requesting and setting an appeal hearing:

(1) An owner or other responsible party (referred to herein as the “appellant”) may request an appeal hearing by submitting a written request to the Director that:

(a) Identifies the enforcement action that the person is contesting;

(b) Sets forth the facts supporting the appeal;

(c) Identifies the requested relief; and

(d) Is delivered to and received by the Director personally or by mail (as postmarked) no later than the 10th day following the date of the notice, order or citation being appealed.

(2) A timely request for hearing shall stay the enforcement of the appealed action and toll the deadline for compliance, accrual of fines and fees, and payment of fines and fees. An untimely request for appeal shall not be considered and instead shall be dismissed.

(3) The Director, or his/her designee, shall set a hearing and shall issue notice of the hearing date no later than 10 days prior to the date set for the hearing, unless a shorter time period is agreed to in writing by the appellant. The notice shall state the date, time, and location of the hearing, and shall include a short explanation of the hearing process.

(b) Hearing procedures:

(1) The Director, or his/her designee, shall conduct and preside over the hearing. At the hearing, that person, referred to herein as the “presiding officer”, shall direct the order of the proceedings and shall hear all evidence presented relevant to the subject violation(s), fines and/or fees.

(2) The hearing shall be informal in nature. The presiding officer is not bound by evidentiary or procedural rules applicable to public hearings or judicial proceedings. The presiding officer shall have discretion to record the hearing.

(3) The city will have an opportunity to present facts, statements, witness testimony, and other evidence to support its position. Affidavits or declarations of witnesses made under penalty of perjury may be presented by the city at the hearing if provided to the appellant no later than five (5) days prior to the hearing.

(4) The appellant will have an opportunity to present facts, statements, witness testimony, and other evidence to support his or her position. Affidavits or declarations of witnesses made under penalty of perjury may be presented at the hearing if provided to the city no later than five (5) days prior to the hearing.

(5) During the appeal hearing, the presiding officer may gather any relevant information regarding the subject enforcement action to assist in making a final decision. The presiding officer shall have the discretion to question witnesses, to allow rebuttal testimony, and to limit the presentation of immaterial or unduly repetitious evidence.

(6) After the conclusion of the hearing, the presiding officer shall consider all evidence presented relevant to the subject enforcement action and shall issue a decision regarding the disputed enforcement action. In his or her decision, the presiding officer is not authorized to grant exceptions or make modifications to the requirements of this Code. The decision shall be in writing and shall be issued no later than 30 days following the conclusion of the hearing and served on the appellant. The decision shall clearly state one of the following:

(a) That the notice, order, citation, fine and/or fee is upheld, including a short statement of findings explaining the basis for the decision, and providing a deadline for curing the subject violation and payment of any fines and fees, with a notification that fines will resume accruing daily thereafter until the subject violation is corrected, if applicable;

(b) That the notice, order, citation, fine and/or fee is reversed, including a short statement of findings explaining the basis for the decision; or

(c) That the notice, order, citation, fine and/or fee is modified, including a short statement of findings explaining the basis for the decision, and providing a deadline for any modified compliance obligations and payment of fines and/or fees, with a notification that fines will resume accruing daily until the subject violation(s) is corrected, if applicable.

(7) Any appellant who fails to appear at the hearing on the designated date and time is deemed to have waived the right to a hearing and to object to any of the proceedings at the hearing, provided that the hearing was properly noticed and no continuances were granted.

(c) Post-hearing procedures:

(1) The decision of the presiding officer is the final administrative action on the appeal.

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(2) In the event the decision or appeal requires abatement of a nuisance or correction of any violation under this Code, the owner or other responsible party must abate the nuisance or correct the violation within 10 days after the date of the decision or within such other period as the decision may direct.

(3) Failure to comply with a decision on appeal, including the failure to pay any administrative fines, fees, or abatement costs upheld on appeal, constitutes a misdemeanor.

(4) The provisions of section 15.12.060.B.4.d shall apply to the city's collection of unpaid administrative fines, fees and abatement costs upheld on appeal.

SECTION 8. Henderson Municipal Code Chapter 15.12.060, Enforcement Provisions, Subsection E – Other Remedies and Proceedings, is hereby amended as follows:

E. Other remedies and proceedings

1. Graffiti.

a. Abatement of graffiti on residential property. City personnel or contractors may cover or remove graffiti on residential property, at the city's cost, if:

(1) The owner of the property consents to the covering or removal of the graffiti; or

(2) If code officials are unable to contact the owner of the property to obtain the owner's consent, the code official first provides the owner with written notice, sent by certified mail, return receipt requested and posted on the property on which the graffiti will be covered or removed at least five (5) days before city personnel or a city contractor covers or removes the graffiti.

b. Abatement of graffiti on non-residential property. Actions for abatement of graffiti on non-residential property shall follow the abatement procedures and remedies set forth in sections 15.12.060.B.2.

2. Abandoned nuisance. No owner or other responsible party shall allow an abandoned nuisance to exist on the owner's property. The city may employ the remedies and enforcement provisions of this section in response to any abandoned nuisance.

a. Abandoned nuisance notice. When an abandoned nuisance exists on any property, the code official may send the owner a written notice to abate the abandoned nuisance. The notice shall be entitled "Notice of Abandoned Nuisance" and shall:

(1) Identify property upon which the abandoned nuisance is located;

(2) Include a description of the conditions or activities that constitute the abandoned nuisance as defined by this Code;

(3) Specify the date, at least 30 days from the date of the notice if the nuisance is not an immediate danger to the public health, safety, and welfare and was caused by the criminal activity of a person other than the owner, by which the condition or activities must be abated in order to prevent the matter from being submitted to the city attorney's office to file an action in a court of competent jurisdiction to seek:

(a) Abatement of the nuisance;

(b) Repair, safeguarding, or demolition of any property or structure where the abandoned nuisance is located or occurring;

(c) Court authorization to carry out the abatement, repair, safeguard, or demolition of the nuisance; or

(d) Civil penalties against the owner; and/or

(e) Any other relief deemed appropriate by the court.

(4) Be sent by certified mail, return receipt requested, to the owner of the property at the address of record with the Clark County Assessor;

(5) Provide notice of the opportunity for a hearing before a court of competent jurisdiction;

(6) Advise the owner that the time to abate the condition or activities is tolled for the period during which the owner has requested a hearing and receives a decision from the court; and

(7) Advise the owner that the city may recover the money expended for labor and materials used to abate the condition or activities, or if applicable, repair, safeguard or demolish a structure or property where the abandoned nuisance is located or occurring, through a special assessment against the property.

b. Abandoned nuisance remedy. Upon finding by a court of competent jurisdiction that an abandoned nuisance exists, the court may:

(1) Impose a civil penalty of not more than \$500.00 per day for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition, if the property is residential property, and not more than \$750.00 per day if the property is nonresidential property;

(2) Order the owner to pay the city for all costs incurred by the city, including its fees imposed, in abating the condition;

(3) If applicable, order the owner to pay reasonable expenses for the relocation of any tenants who occupy the property legally and are affected by the abandoned nuisance; and

- (4) Order any other appropriate relief.
- c. Collection of costs, fees, and civil penalties. The City may make the costs and fees incurred in abating the condition a special assessment against the property in which the abandoned nuisance is or was located or occurring, pursuant to the procedures of section 15.12.060B.2.e. Civil penalties awarded by the court that are not collected from the owner of the property may be collected through a special assessment against the property if:
  - (1) At least 180 days have elapsed after the date specified in the order of the court by which the owner must abate the abandoned nuisance, or, if the owner appeals that order, the date specified in the order of the appellate court by which the owner must abate the abandoned nuisance, whichever is later;
  - (2) The total amount of uncollected civil penalties is more than \$5,000.00; and
  - (3) The owner has been billed, served or otherwise notified that the civil penalties are due.
3. Chronic nuisance. No owner or other responsible party shall allow the existence of a chronic nuisance upon the owner's property. The city may employ the remedies and enforcement provisions of this section in response to any chronic nuisance.
  - a. Chronic nuisance notice. When a chronic nuisance exists on any property, the code official may send the owner a written notice to abate the chronic nuisance. The notice shall be entitled "Notice of Chronic Nuisance" and shall:
    - (1) Identify the property upon which the chronic nuisance is located;
    - (2) Include a description of the conditions or activities that constitute the chronic nuisance as defined by this chapter;
    - (3) Specify the date, at least 30 days from the date of the notice if the nuisance is not an immediate danger to the public health, safety, and welfare and was caused by the criminal activity of a person other than the owner, by which the condition or activities must be abated in order to prevent the matter from being submitted to the city attorney's office to file an action in a court of competent jurisdiction to seek abatement of the nuisance, penalties and other relief deemed appropriate by the court;
    - (4) Provide notice of the opportunity for a hearing before a court of competent jurisdiction;
    - (5) Advise the owner that the time to abate the condition or activities is tolled for the period during which the owner has requested a hearing and receives a decision;
    - (6) Be sent by certified mail, return receipt requested to the owner of the property at the address as listed with the Clark County Assessor; and

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(7) Advise the owner that the city will recover the money expended for labor and materials used to abate the condition or activities, or if applicable, repair, safeguard or demolish a structure or property where the chronic nuisance is located or occurring, through a special assessment against the property.

b. Chronic nuisance remedy. Upon finding by a court of competent jurisdiction that a chronic nuisance exists, the court may:

(1) Impose a civil penalty of not more than \$500.00 per day for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition if the property is residential;

(2) Impose a civil penalty of not more than \$750.00 per day for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition if the property is non-residential;

(3) Order the owner to pay the city for all costs incurred by the city, including its fees imposed, in abating the condition;

(4) If applicable, order the owner to pay reasonable expenses for the relocation of any tenants who are affected by the chronic nuisance; and

(5) Order any other appropriate relief.

c. Collection of costs, fees and civil penalties. The city may make the costs and fees incurred in abating the condition a special assessment against the property in which the abandoned nuisance is or was located or occurring, pursuant to the procedures of section 15.12.060B.2.e. Civil penalties awarded by the court that are not collected from the owner of the property may be collected through a special assessment against the property if:

(1) At least 180 days have elapsed after the date specified in the order of the court by which the owner must abate the abandoned nuisance, or, if the owner appeals that order, the date specified in the order of the appellate court by which the owner must abate the abandoned nuisance, whichever is later;

(2) The total amount of uncollected civil penalties is more than \$5,000.00; and

(3) The owner has been billed, served or otherwise notified that the civil penalties are due.

*4. Municipal court abatement action. This procedure shall be followed when the code official and city attorney elect to pursue the chronic or abandoned nuisance remedies set forth in sections 15.12.060.E.2 or 15.12.060.E.3, pursuant to NRS 268.4124 and 268.4126. This procedure may also be followed when the code official and city attorney determine that Municipal Court action may be warranted due to the scope of the nuisance and abatement needed, or when another provision of this Code or state law requires court action.*

*This section 15.12.060.E.4 shall not be construed to prevent the city from 1) administratively abating a nuisance as authorized under this chapter or 2) pursuing injunctive relief or other nuisance remedies authorized by law in any other court of competent jurisdiction.*

*(a) After the code official has properly served the notices required by Sections 15.12.060.B or 15.12.060.E, as applicable, if the owner or responsible party has not cured the violations of this Code as required in the notices, the code official may refer the matter to the city attorney or his or her designee to initiate an action in Municipal Court (“court”) by filing a petition for abatement order with the court.*

*(1) The petition shall set forth the following:*

*a. The subject property address and Assessor’s Parcel Number (APN):*

*b. The name of the property owner:*

*c. A description of the violation(s) occurring on the subject property constituting a nuisance under this Code:*

*d. The dates and nature of all violation notices issued by the city prior to the filing of the petition;*

*e. The outcome of any administrative appeals proceedings regarding the violations, if any occurred; and*

*f. The city’s requested relief.*

*(2) The petition shall be served on the property owner by personal service or by certified mail, return receipt requested, at the address of record for the property owner as listed with the Clark County Assessor, and shall also be posted on the subject property.*

*(3) Once service has been effectuated, an affidavit of service shall be completed and filed with the court. For a certified mailing to the owner, service of the petition shall be deemed complete upon proof of mailing, regardless of whether the owner accepts the mailing.*

*(b) Once the court has received a complete filed petition and affidavit of service, it shall set a hearing date no later than 30 days from the date of service of the petition.*

*(1) The court shall provide notice of the hearing date, time, and location to the city attorney’s office, who shall serve the notice on the property owner in the same manner the petition is served.*

*(2) Any compliance deadlines set forth in the city’s pre-hearing notices regarding the nuisance shall be stayed pending the court’s decision following the hearing.*

*(3) The property owner may file with the court a written response to the petition no later than five days prior to the hearing. The owner must serve such response on the city attorney’s office by regular mail or personal delivery.*

*(4) The court may continue the hearing at its discretion.*

(c) Pre-Hearing Discovery

(1) No party to the abatement action may serve any interrogatories or take any depositions prior to the abatement hearing.

(2) Either party to the abatement action may request that the other party provide a copy of the documents intended to be used during the hearing, including:

a. Written or recorded statements made by the owner or a witness, or copies thereof, within the possession, custody or control of the other party, the existence of which is known, or by the exercise of due diligence may become known, that the other party intends to use at the hearing;

b. Photographs of the subject property and the nuisance;

c. Notices the city issued to the property owner regarding the nuisance; and

d. Any other correspondence books, papers, documents, reports, tangible objects, or copies thereof, which the other party intends to use at the hearing.

(3) The owner is not entitled, pursuant to the provisions of this section, to the discovery or inspection of:

a. An internal report, document or memorandum that is prepared by or on behalf of the city attorney in connection with the investigation or prosecution of the nuisance action.

b. A statement, report, book, paper, document, tangible object or any other type of item or information that is privileged or protected from disclosure or inspection pursuant to the Constitution or laws of this state or the Constitution or laws of the United States.

(4) The city is not entitled, pursuant to the provisions of this section, to the discovery or inspection of:

a. An internal report, document or memorandum that is prepared by or on behalf of the owner or the owner's attorney in connection with the investigation or defense of the nuisance action.

b. A statement, report, book, paper, document, tangible object or any other type of item or information that is privileged or protected from disclosure or inspection pursuant to the Constitution or laws of this state or the Constitution of the United States.

(5) A party shall provide copies of requested documents in its possession, custody or control within three days of the request

(d) Hearing. The abatement hearing shall be conducted by a Municipal Court judge, with no jury, in the following manner:

(1) The city shall have the burden to prove by a preponderance of the evidence that the condition of the subject property constitutes a nuisance in violation of this Code.

## Amend Henderson Municipal Code Section 15.12 – Property Maintenance Code

(2) The court may admit all relevant documentary evidence and may hear testimony of the parties and any witnesses.

(3) The property owner or its legal counsel, as authorized in writing, must appear for the hearing. If the owner or its counsel does not appear for the hearing and has not requested a continuance, the court may continue the matter or enter an abatement order in favor of the city.

(4) The court shall render its decision within 14 days after the conclusion of the hearing. The decision shall be in writing and served upon both parties. The court may make any orders and award any relief authorized by this chapter and Nevada law based upon the evidence presented.

(5) No attorney's fees or costs shall be assessed against either party.

(6) The decision by the court shall be a final order.

SECTION 9. Henderson Municipal Code Chapter 15.12.090 – Fee Schedule, is hereby amended as follows:

<b>Fee, Fine or Service Name/Description</b>	<b>Fee</b>
Re-inspection fee (each)	\$150.00
Administrative citations and fines <u>for residential properties:</u>	
1st citation	\$100.00
2nd citation	\$300.00
3rd and/or subsequent citation(s)	\$500.00
<u>Illegal Discharge 1<sup>st</sup> citation</u>	<u>\$300.00</u>
<u>Illegal Discharge 2<sup>nd</sup> and/or subsequent citation(s)</u>	<u>\$500.00</u>
<u>Illegal Dumping 1<sup>st</sup> citation</u>	<u>\$300.00</u>
<u>Illegal Dumping 2<sup>nd</sup> and or subsequent citation(s)</u>	<u>\$500.00</u>
Administrative citations and fines for commercial properties pursuant to NRS 268.4122:	
1st citation	\$250.00
2nd citation	\$500.00
3rd and/or subsequent citation(s)	\$1,000.00
<u>Illegal Discharge 1<sup>st</sup> citation</u>	<u>\$750.00</u>
<u>Illegal Discharge 2<sup>nd</sup> and/or subsequent citation(s)</u>	<u>\$1,000.00</u>
<u>Other fees:</u>	
Lien recordation and release fee	\$150.00

Editor's Note: Pursuant to City Charter Section 2.090(3), language to be omitted is red and enclosed in [brackets], and language proposed to be added is in blue italics and underlined.

Stagnant water treatment fee	\$100.00
Administrative violation processing fee (1)	\$150.00
Abatement (2)	Actual Costs
<u><i>Reasonable emergency tenant relocation costs incurred pursuant to 15.12.060.B.5(f)</i></u>	<u><i>Actual Costs</i></u>

(1) To recover any staff time and expense incurred in processing enforcement actions under this Code not included in the other fees set forth herein. May be issued on a one-time basis per violation if abatement action or administrative citation is required.

(2) Actual labor and materials associated with abatement, whether expended by city staff or contractors hired for such purpose.

SECTION 10. If any section, subsection, sentence, clause, phrase, provision or portion of this Ordinance, or the application thereof to any person or circumstances, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or provisions of this Ordinance or their applicability to distinguishable situations or circumstances.

SECTION 11. All ordinances, or parts of ordinances, sections, subsections, phrases, sentences, clauses, or paragraphs contained in the Municipal Code of the City of Henderson, Nevada, in conflict herewith are repealed and replaced as appropriate.

SECTION 12. A copy of this Ordinance shall be filed with the office of the City Clerk, and notice of such filing shall be published once by title in the Las Vegas Review-Journal, a newspaper having general circulation in the City of Henderson, at least ten (10) days prior to the adoption of said Ordinance (Initial Publication). Following adoption by the City Council, this Ordinance shall be published by title together with the names of the Council members voting for or against passage (Final Publication). This Ordinance is scheduled for publication on October 7, 2022, in the Las Vegas Review-Journal, at which time it will become effective.

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Editor's Note: Pursuant to City Charter Section 2.090(3), language to be omitted is red and enclosed in [brackets], and language proposed to be added is in *blue italics and underlined*.

PASSED, ADOPTED, AND APPROVED THIS 4<sup>th</sup> DAY OF OCTOBER, 2022.

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Debra March, Mayor

ATTEST:

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Jose Luis Valdez, CMC, City Clerk

The above and foregoing Ordinance was first proposed and read in title to the City Council on September 13, 2022, which was a Regular Meeting, and referred to a Committee of the following Councilmen:

“COUNCIL AS A WHOLE”

Thereafter on October 4, 2022, said Committee reported favorably on the Ordinance and forwarded it to the Regular Meeting with a do-pass recommendation. At the Regular Meeting of the Henderson City Council held October 4, 2022, the Ordinance was read in title and adopted by the following roll call vote:

Those voting aye:

Debra March, Mayor  
Councilmembers:  
John F. Marz  
Michelle Romero  
Dan K. Shaw  
Dan H. Stewart

Those voting nay: None

Those abstaining: None

Those absent: None

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Debra March, Mayor

ATTEST:

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Jose Luis Valdez, CMC, City Clerk