

Amendment No. 748

Senate Amendment to Assembly Bill No. 360 First Reprint (BDR 21-266)

Proposed by: Senate Committee on Government Affairs**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

HAC/WLK



Date: 5/22/2011

A.B. No. 360—Revises provisions governing the imposition of civil penalties for violations of city or county ordinances regarding the abatement of certain conditions and nuisances on property within the city or county. (BDR 21-266)



ASSEMBLY BILL NO. 360—ASSEMBLYMAN BOBZIEN

MARCH 21, 2011

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing ~~the imposition of civil penalties for violations of~~ city or county ordinances regarding the abatement of certain conditions and nuisances on property within the city or county. (BDR 21-266)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to local governments; **requiring a city or county to provide by ordinance that property owners have 30 days to abate a nuisance or dangerous or noxious condition under certain circumstances;** authorizing a city or county to collect civil penalties imposed for failure to abate certain conditions and nuisances on property within the city or county as a special assessment against the property under certain circumstances; revising provisions relating to the maximum amount of a civil penalty that may be imposed for failure to abate certain nuisances on property within the city or county under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, if an owner of property within a city fails to abate a dangerous or noxious condition, a chronic nuisance or, in larger counties, an abandoned nuisance on the property after being directed to do so, the owner may be required to pay civil penalties as well as any costs incurred by the city to abate the condition or nuisance. In addition to any other reasonable means of recovering its abatement costs, the city is authorized to make those costs a special assessment against the property and collect the special assessment in the same manner as ordinary county taxes are collected. (NRS 268.4122-268.4126) Existing law sets forth parallel authority for counties to abate chronic nuisances and public nuisances and provides that abatement costs for public nuisances must be received as a special assessment against the affected property. (NRS 244.3603, 244.3605) **This bill provides that a city or county must allow a property owner at least 30 days to abate a condition or nuisance if the condition or nuisance: (1) is not an immediate danger to the public health, safety or welfare; and (2) was caused by the criminal activity of another person.** This bill authorizes a city or county to also collect any civil penalties imposed against the owner of the property as a special assessment against the property if the amount of the uncollected civil penalties after 12 months is more than \$5,000.

Under existing law, the maximum civil penalty that is authorized to be imposed on an owner of property in a city or county for failure to abate a chronic nuisance on the property is \$500 per day. (NRS 244.3603, 268.4124) **Sections 2 and 5** of this bill increase that maximum authorized civil penalty to ~~[\$1,000]~~ **\$750** per day if the relevant property is nonresidential

property. **Section 3** of this bill provides a maximum civil penalty that a city may impose for the failure to abate an abandoned nuisance of ~~[\$1,000]~~ \$750 per day against an owner of nonresidential property and \$500 per day against an owner of residential property.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 268.4122 is hereby amended to read as follows:

268.4122 1. The governing body of a city may adopt by ordinance procedures pursuant to which the governing body or its designee may order an owner of property within the city to:

- (a) Repair, safeguard or eliminate a dangerous structure or condition;
 - (b) Clear debris, rubbish, refuse, litter, garbage, abandoned or junk vehicles or junk appliances which are not subject to the provisions of chapter 459 of NRS; or
 - (c) Clear weeds and noxious plant growth,
- ↳ to protect the public health, safety and welfare of the residents of the city.

2. An ordinance adopted pursuant to subsection 1 must:

- (a) Contain procedures pursuant to which the owner of the property is:
 - (1) Sent a notice, by certified mail, return receipt requested, of the existence on the property of a condition set forth in subsection 1 and the date by which the owner must abate the condition. ~~[, and]~~

- (2) *If the condition is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the condition.*

- (3) Afforded an opportunity for a hearing before the designee of the governing body and an appeal of that decision. The ordinance must specify whether all such appeals are to be made to the governing body or to a court of competent jurisdiction.

- (b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

- (c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.

- (d) Provide for civil penalties for each day that the owner did not abate the condition after the date specified in the notice by which the owner was requested to abate the condition.

- (e) If the county board of health, city board of health or district board of health in whose jurisdiction the incorporated city is located has adopted a definition of garbage, use the definition of garbage adopted by the county board of health, city board of health or district board of health, as applicable.

3. The governing body or its designee may direct the city to abate the condition on the property and may recover the amount expended by the city for labor and materials used to abate the condition if:

- (a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the condition on the property within the period specified in the notice;

- (b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the condition within the period specified in the order; or

(c) The governing body or a court of competent jurisdiction has denied the appeal of the owner and the owner has failed to abate the condition within the period specified in the order.

4. In addition to any other reasonable means ~~for~~ *for* recovering money expended by the city to abate the condition ~~and, except as otherwise provided in subsection 5, for collecting civil penalties imposed pursuant to the ordinance adopted pursuant to subsection 1,~~ the governing body may make the expense *and civil penalties* a special assessment against the property upon which the condition is or was located. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. *Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 4 by the governing body unless:*

(a) At least 12 months have elapsed after the date specified in the notice by which the owner must abate the condition or the date specified in the order of the governing body or court by which the owner must abate the condition, whichever is later;

(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and

(c) The amount of the uncollected civil penalties is more than \$5,000.

6. As used in this section, "dangerous structure or condition" means a structure or condition that may cause injury to or endanger the health, life, property, safety or welfare of the general public or the occupants, if any, of the real property on which the structure or condition is located. The term includes, without limitation, a structure or condition that:

(a) Does not meet the requirements of a code or regulation adopted pursuant to NRS 268.413 with respect to minimum levels of health, maintenance or safety; or

(b) Violates an ordinance, rule or regulation regulating health and safety enacted, adopted or passed by the governing body of a city, the violation of which is designated as a nuisance in the ordinance, rule or regulation.

Sec. 2. NRS 268.4124 is hereby amended to read as follows:

268.4124 1. The governing body of a city may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt procedures pursuant to which the city attorney may file an action in a court of competent jurisdiction to:

(a) Seek the abatement of a chronic nuisance that is located or occurring within the city;

(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and

(c) If applicable, seek penalties against the owner of the property within the city and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent notice, by certified mail, return receipt requested, by the city police or other person authorized to issue a citation, of the existence on the property of two or more nuisance activities and the date by which the owner must abate the condition to prevent the matter from being submitted to the city attorney for legal action. ~~for and~~

(2) *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, afforded a minimum of 30 days to abate the nuisance.*

(3) Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.

3. If the court finds that a chronic nuisance exists and emergency action is necessary to avoid immediate threat to the public health, welfare or safety, the court shall order the city to secure and close the property for a period not to exceed 1 year or until the nuisance is abated, whichever occurs first, and may:

(a) Impose a civil penalty :

(1) *If the property is nonresidential property, of not more than ~~(\$1,000)~~ \$750 per day; or*

(2) *If the property is residential property, of not more than \$500 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;

(b) Order the owner to pay the city for the cost incurred by the city in abating the condition;

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

(d) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the city to abate the chronic nuisance ~~and~~ *and, except as otherwise provided in subsection 5, for the collection of civil penalties imposed pursuant to subsection 3, the governing body may make the expense and civil penalties* a special assessment against the property upon which the chronic nuisance is or was located or occurring. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. *Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 4 by the governing body unless:*

(a) *At least 12 months have elapsed after the date specified in the order of the court by which the owner must abate the chronic 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 chronic nuisance, whichever is later;*

(b) *The owner has been billed, served or otherwise notified that the civil penalties are due; and*

(c) *The amount of the uncollected civil penalties is more than \$5,000.*

6. As used in this section:

(a) A “chronic nuisance” exists:

(1) When three or more nuisance activities exist or have occurred during any 30-day period on the property.

(2) When a person associated with the property has engaged in three or more nuisance activities during any 30-day period on the property or within 100 feet of the property.

(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS.

(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog.

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

(I) The building or place has not been deemed safe for habitation by a governmental entity; or

(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

(b) *“Commercial real estate” has the meaning ascribed to it in NRS 645.8711.*

(c) “Controlled substance analog” has the meaning ascribed to it in NRS 453.043.

~~(d)~~ *(d) “Immediate precursor” has the meaning ascribed to it in NRS 453.086.*

~~(e)~~ *(e) “Nuisance activity” means:*

(1) Criminal activity;

(2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;

(3) Excessive noise and violations of curfew; or

(4) Any other activity, behavior or conduct defined by the governing body to constitute a public nuisance.

~~(f)~~ *(f) “Person associated with the property” means a person who, on the occasion of a nuisance activity, has:*

(1) Entered, patronized or visited;

(2) Attempted to enter, patronize or visit; or

(3) Waited to enter, patronize or visit,

↳ a property or a person present on the property.

~~(g)~~ *(g) “Residential property” means:*

(1) Improved real estate that consists of not more than four residential units;

(2) Unimproved real estate for which not more than four residential units may be developed or constructed pursuant to any zoning regulations or any development plan applicable to the real estate; or

(3) A single-family residential unit, including, without limitation, a condominium, townhouse or home within a subdivision, if the unit is sold, leased or otherwise conveyed unit by unit, regardless of whether the unit is part of a larger building or parcel that consists of more than four units.

↳ *The term does not include commercial real estate.*

Sec. 3. NRS 268.4126 is hereby amended to read as follows:

268.4126 1. The governing body of each city which is located in a county whose population is 100,000 or more may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt procedures pursuant to

1 which the city attorney may file an action in a court of competent jurisdiction to
2 seek:

3 (a) The abatement of an abandoned nuisance that is located or occurring within
4 the city;

5 (b) The repair, safeguarding or demolition of any structure or property where
6 an abandoned nuisance is located or occurring within the city;

7 (c) Authorization for the city to take the actions described in paragraphs (a)
8 and (b);

9 (d) Civil penalties against an owner of any structure or property where an
10 abandoned nuisance is located or occurring within the city; and

11 (e) Any other appropriate relief.

12 2. An ordinance adopted pursuant to subsection 1 must:

13 (a) Contain procedures pursuant to which the owner of the property is:

14 (1) Sent notice, by certified mail, return receipt requested, by a person
15 authorized by the city to issue a citation, of the existence on the property of two or
16 more abandoned nuisance activities and the date by which the owner must abate the
17 abandoned nuisance to prevent the matter from being submitted to the city attorney
18 for legal action. ~~and~~

19 (2) *If the abandoned nuisance is not an immediate danger to the public*
20 *health, safety or welfare and was caused by the criminal activity of a person other*
21 *than the owner, afforded a minimum of 30 days to abate the abandoned*
22 *nuisance.*

23 (3) Afforded an opportunity for a hearing before a court of competent
24 jurisdiction.

25 (b) Provide that the date specified in the notice by which the owner must abate
26 the abandoned nuisance is tolled for the period during which the owner requests a
27 hearing and receives a decision.

28 (c) Provide the manner in which the city will, if the owner fails to abate the
29 abandoned nuisance, recover money expended for labor and materials used to:

30 (1) Abate the abandoned nuisance on the property; or

31 (2) If applicable, repair, safeguard or demolish a structure or property
32 where the abandoned nuisance is located or occurring.

33 3. If the court finds that an abandoned nuisance exists, the court shall order
34 the owner of the property to abate the abandoned nuisance or repair, safeguard or
35 demolish any structure or property where the abandoned nuisance is located or
36 occurring, and may:

37 (a) *Impose a civil penalty:*

38 (1) *If the property is nonresidential property, of not more than ~~(\$1,000)~~*
39 *\$750 per day; or*

40 (2) *If the property is residential property, of not more than \$500 per day,*
41 *for each day that the abandoned nuisance was not abated after the date*
42 *specified in the notice by which the owner was required to abate the abandoned*
43 *nuisance;*

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

47 ~~(b)~~ (c) If the owner of the property fails to comply with the order:

48 (1) Direct the city to abate the abandoned nuisance or repair, safeguard or
49 demolish any structure or property where the abandoned nuisance is located or
50 occurring; and

51 (2) Order the owner of the property to pay the city for the cost incurred by
52 the city in taking the actions described in subparagraph (1); and

53 ~~(c)~~ (d) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the city to abate the abandoned nuisance ~~and~~ *and, except as otherwise provided in subsection 5, for the collection of civil penalties imposed pursuant to subsection 3,* the governing body of the city may make the expense *and civil penalties* a special assessment against the property upon which the abandoned nuisance is or was located or occurring. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. *Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 4 by the governing body unless:*

(a) At least 12 months 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;

(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and

(c) The amount of the uncollected civil penalties is more than \$5,000.

6. As used in this section:

(a) An "abandoned nuisance" exists on any property where a building or other structure is located on the property, the property is located in a city that is in a county whose population is 100,000 or more, the property has been vacant or substantially vacant for 12 months or more and:

(1) Two or more abandoned nuisance activities exist or have occurred on the property during any 12-month period; or

(2) A person associated with the property has caused or engaged in two or more abandoned nuisance activities during any 12-month period on the property or within 100 feet of the property.

(b) "Abandoned nuisance activity" means:

(1) Instances of unlawful breaking and entering or occupancy by unauthorized persons;

(2) The presence of graffiti, debris, litter, garbage, rubble, 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 the governing body of the city to constitute a threat to the public health, safety or welfare of the residents of or visitors to the city.

(c) "Commercial real estate" has the meaning ascribed to it in NRS 645.8711.

(d) "Person associated with the property" means a person who, on the occasion of an abandoned nuisance activity, has:

(1) Entered, patronized or visited;

(2) Attempted to enter, patronize or visit; or

(3) Waited to enter, patronize or visit,

↪ a property or a person present on the property.

~~and~~ *(e) "Residential property" means:*

1 *(1) Improved real estate that consists of not more than four residential*
2 *units;*

3 *(2) Unimproved real estate for which not more than four residential units*
4 *may be developed or constructed pursuant to any zoning regulations or any*
5 *development plan applicable to the real estate; or*

6 *(3) A single-family residential unit, including, without limitation, a*
7 *condominium, townhouse or home within a subdivision, if the unit is sold, leased*
8 *or otherwise conveyed unit by unit, regardless of whether the unit is part of a*
9 *larger building or parcel that consists of more than four units.*

10 *➤ The term does not include commercial real estate.*

11 **Sec. 4.** NRS 244.3601 is hereby amended to read as follows:

12 244.3601 1. Notwithstanding the abatement procedures set forth in NRS
13 244.360 or 244.3605, a board of county commissioners may, by ordinance, provide
14 for a reasonable means to secure or summarily abate a dangerous structure or
15 condition that at least three persons who enforce building codes, housing codes,
16 zoning ordinances or local health regulations, or who are members of a local law
17 enforcement agency or fire department, determine in a signed, written statement to
18 be an imminent danger.

19 2. Except as otherwise provided in subsection 3, the owner of the property on
20 which the structure or condition is located must be given reasonable written notice
21 that is:

22 (a) If practicable, hand-delivered or sent prepaid by United States mail to the
23 owner of the property; or

24 (b) Posted on the property,
25 ➤ before the structure or condition is so secured. The notice must state clearly that
26 the owner of the property may challenge the action to secure or summarily abate the
27 structure or condition and must provide a telephone number and address at which
28 the owner may obtain additional information.

29 3. If it is determined in the signed, written statement provided pursuant to
30 subsection 1 that the structure or condition is an imminent danger and the result of
31 the imminent danger is likely to occur before the notice and an opportunity to
32 challenge the action can be provided pursuant to subsection 2, then the structure or
33 condition which poses such an imminent danger that presents an immediate hazard
34 may be summarily abated. A structure or condition summarily abated pursuant to
35 this section may only be abated to the extent necessary to remove the imminent
36 danger that presents an immediate hazard. The owner of the structure or condition
37 which is summarily abated must be given written notice of the abatement after its
38 completion. The notice must state clearly that the owner of the property may seek
39 judicial review of the summary abatement and must provide an address and
40 telephone number at which the owner may obtain additional information
41 concerning the summary abatement.

42 4. The costs of securing or summarily abating the structure or condition may
43 be made a special assessment against the real property on which the structure or
44 condition is located and may be collected pursuant to the provisions set forth in
45 subsection 4 of NRS 244.360.

46 5. As used in this section:

47 (a) "Dangerous structure or condition" has the meaning ascribed to it in
48 subsection ~~5~~ 6 of NRS 244.3605.

49 (b) "Imminent danger" means the existence of any structure or condition that
50 could reasonably be expected to cause injury or endanger the life, safety, health or
51 property of:

52 (1) The occupants, if any, of the real property on which the structure or
53 condition is located; or

(2) The general public.

Sec. 5. NRS 244.3603 is hereby amended to read as follows:

244.3603 1. Each board of county commissioners may, by ordinance, to protect the public health, safety and welfare of the residents of the county, adopt procedures pursuant to which the district attorney may file an action in a court of competent jurisdiction to:

(a) Seek the abatement of a chronic nuisance that is located or occurring within the unincorporated area of the county;

(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and

(c) If applicable, seek penalties against the owner of the property within the unincorporated area of the county and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent a notice, by certified mail, return receipt requested, by the sheriff or other person authorized to issue a citation of the existence on the owner's property of nuisance activities and the date by which the owner must abate the condition to prevent the matter from being submitted to the district attorney for legal action. ~~[-and]~~

(2) *If the chronic nuisance is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the chronic nuisance.*

(3) Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the county will recover money expended to abate the condition on the property if the owner fails to abate the condition.

3. If the court finds that a chronic nuisance exists and action is necessary to avoid serious threat to the public welfare or the safety or health of the occupants of the property, the court may order the county to secure and close the property until the nuisance is abated and may:

(a) Impose a civil penalty :

(1) *If the property is nonresidential property, of not more than ~~(\$1,000)~~ \$750 per day; or*

(2) *If the property is residential property, of not more than \$500 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;

(b) Order the owner to pay the county for the cost incurred by the county in abating the condition; and

(c) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the county to abate the chronic nuisance ~~[-and]~~ *and, except as otherwise provided in subsection 5, for the collection of civil penalties imposed pursuant to subsection 3,* the board may make the expense *and civil penalties* a special assessment against the property upon which the chronic nuisance is located or occurring. The special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. *Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 4 by the board unless:*

(a) At least 12 months have elapsed after the date specified in the order of the court by which the owner must abate the chronic 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 chronic nuisance, whichever is later;

(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and

(c) The amount of the uncollected civil penalties is more than \$5,000.

6. As used in this section:

(a) A "chronic nuisance" exists:

(1) When three or more nuisance activities exist or have occurred during any 90-day period on the property.

(2) When a person associated with the property has engaged in three or more nuisance activities during any 90-day period on the property or within 100 feet of the property.

(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS.

(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog.

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

(I) The building or place has not been deemed safe for habitation by a governmental entity; or

(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

(b) "Commercial real estate" has the meaning ascribed to it in NRS 645.8711.

(c) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

~~(c)~~ (d) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

~~(d)~~ (e) "Nuisance activity" means:

(1) Criminal activity;

(2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;

(3) Violations of building codes, housing codes or any other codes regulating the health or safety of occupants of real property;

(4) Excessive noise and violations of curfew; or

(5) Any other activity, behavior or conduct defined by the board to constitute a public nuisance.

~~(e)~~ (f) "Person associated with the property" means:

(1) The owner of the property;

(2) The manager or assistant manager of the property;

(3) The tenant of the property; or

(4) A person who, on the occasion of a nuisance activity, has:

(I) Entered, patronized or visited;

(II) Attempted to enter, patronize or visit; or

(III) Waited to enter, patronize or visit,

1 ↳ the property or a person present on the property.

2 ~~[(f)]~~ (g) “Residential property” means:

3 (1) Improved real estate that consists of not more than four residential
4 units;

5 (2) Unimproved real estate for which not more than four residential units
6 may be developed or constructed pursuant to any zoning regulations or any
7 development plan applicable to the real estate; or

8 (3) A single-family residential unit, including, without limitation, a
9 condominium, townhouse or home within a subdivision, if the unit is sold, leased
10 or otherwise conveyed unit by unit, regardless of whether the unit is part of a
11 larger building or parcel that consists of more than four units.

12 ↳ The term does not include commercial real estate.

13 Sec. 6. NRS 244.3605 is hereby amended to read as follows:

14 244.3605 1. Notwithstanding the provisions of NRS 244.360 and 244.3601,
15 the board of county commissioners of a county may, to abate public nuisances,
16 adopt by ordinance procedures pursuant to which the board or its designee may
17 order an owner of property within the county to:

18 (a) Repair, safeguard or eliminate a dangerous structure or condition;
19 (b) Clear debris, rubbish and refuse which is not subject to the provisions of
20 chapter 459 of NRS;

21 (c) Clear weeds and noxious plant growth; or

22 (d) Repair, clear, correct, rectify, safeguard or eliminate any other public
23 nuisance as defined in the ordinance adopted pursuant to this section,

24 ↳ to protect the public health, safety and welfare of the residents of the county.

25 2. An ordinance adopted pursuant to subsection 1 must:

26 (a) Contain procedures pursuant to which the owner of the property is:

27 (1) Sent notice, by certified mail, return receipt requested, of the existence
28 on the owner’s property of a public nuisance set forth in subsection 1 and the date
29 by which the owner must abate the public nuisance. ~~[- and]~~

30 (2) If the public nuisance is not an immediate danger to the public
31 health, safety or welfare and was caused by the criminal activity of a person other
32 than the owner, afforded a minimum of 30 days to abate the public nuisance.

33 (3) Afforded an opportunity for a hearing before the designee of the board
34 and an appeal of that decision either to the board or to a court of competent
35 jurisdiction, as determined by the ordinance adopted pursuant to subsection 1.

36 (b) Provide that the date specified in the notice by which the owner must abate
37 the public nuisance is tolled for the period during which the owner requests a
38 hearing and receives a decision.

39 (c) Provide the manner in which the county will recover money expended to
40 abate the public nuisance on the property if the owner fails to abate the public
41 nuisance.

42 (d) Provide for civil penalties for each day that the owner did not abate the
43 public nuisance after the date specified in the notice by which the owner was
44 required to abate the public nuisance.

45 3. The county may abate the public nuisance on the property and may recover
46 the amount expended by the county for labor and materials used to abate the public
47 nuisance if:

48 (a) The owner has not requested a hearing within the time prescribed in the
49 ordinance adopted pursuant to subsection 1 and has failed to abate the public
50 nuisance on the owner’s property within the period specified in the notice;

51 (b) After a hearing in which the owner did not prevail, the owner has not filed
52 an appeal within the time prescribed in the ordinance adopted pursuant to

1 subsection 1 and has failed to abate the public nuisance within the period specified
2 in the order; or

3 (c) The board or a court of competent jurisdiction has denied the appeal of the
4 owner and the owner has failed to abate the public nuisance within the period
5 specified in the order.

6 4. In addition to any other reasonable means ~~for~~ *for* recovering money
7 expended by the county to abate the public nuisance ~~and~~ *and, except as otherwise*
8 *provided in subsection 5, for collecting civil penalties imposed pursuant to the*
9 *ordinance adopted pursuant to subsection 1,* the expense ~~is~~ *and civil penalties*
10 *are* a special assessment against the property upon which the public nuisance is
11 located, and this special assessment may be collected pursuant to the provisions set
12 forth in subsection 4 of NRS 244.360.

13 5. *Any civil penalties that have not been collected from the owner of the*
14 *property are not a special assessment against the property pursuant to subsection*
15 *4 unless:*

16 (a) *At least 12 months have elapsed after the date specified in the notice by*
17 *which the owner must abate the public nuisance or the date specified in the order*
18 *of the board or court by which the owner must abate the public nuisance,*
19 *whichever is later;*

20 (b) *The owner has been billed, served or otherwise notified that the civil*
21 *penalties are due; and*

22 (c) *The amount of the uncollected civil penalties is more than \$5,000.*

23 6. As used in this section, "dangerous structure or condition" means a
24 structure or condition that is a public nuisance which may cause injury to or
25 endanger the health, life, property or safety of the general public or the occupants,
26 if any, of the real property on which the structure or condition is located. The term
27 includes, without limitation, a structure or condition that:

28 (a) Does not meet the requirements of a code or regulation adopted pursuant to
29 NRS 244.3675 with respect to minimum levels of health or safety; or

30 (b) Violates an ordinance, rule or regulation regulating health and safety
31 enacted, adopted or passed by the board of county commissioners of a county, the
32 violation of which is designated by the board as a public nuisance in the ordinance,
33 rule or regulation.

34 **Sec. 7.** This act becomes effective upon passage and approval.