



## Legislation Details (With Text)

**File #:** 23-0306      **Version:** 2

**Type:** Agenda Item      **Status:** Approved

**File created:** 1/30/2023      **In control:** Board of Supervisors

**On agenda:** 3/21/2023      **Final action:** 3/21/2023

**Title:** Planning and Building Department, Code Enforcement Division, recommending the Board Approve the Final Passage (Second Reading) of Ordinance 5174 to amend Chapter 9.02., of the El Dorado County Code of Ordinances, related to Code Enforcement activities.

FUNDING: N/A

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 2A - Notice and Order Final Ordinance - Redline, 2. 2B - Notice and Order Final Ordinance - Clean, 3. A - Resolution Routing Sheet, 4. B - Notice and Order - Clean - Final, 5. C - Notice and Order Redline - Final, 6. Executed Ordinance 5174

Date	Ver.	Action By	Action	Result
3/21/2023	2	Board of Supervisors	Approved	Pass
2/21/2023	1	Board of Supervisors	Continued	Pass

Planning and Building Department, Code Enforcement Division, recommending the Board Approve the **Final Passage** (Second Reading) of Ordinance 5174 to amend Chapter 9.02., of the El Dorado County Code of Ordinances, related to Code Enforcement activities.

**FUNDING:** N/A

### DISCUSSION / BACKGROUND

On February 21, 2023 the Board Approved the Introduction (First Reading) of Ordinance 5174 to amend Chapter 9.02., of the El Dorado County Code of Ordinances, related to Code Enforcement activities and Continued the matter to March 21, 2023 for Final Passage (Second Reading).

On October 11, 2022, Code Enforcement and County Counsel staff discussed ordinance amendments to Chapter 9.02 with the Board of Supervisors to better enable Code Enforcement Officers to carry out their duties enforcing building, zoning, and health and safety-related rules and regulations. In addition to discussion of those amendments, staff briefed the Board on the need to streamline the notification and order process.

Staff have reviewed procedures from other jurisdictions and have noted that El Dorado County's process is longer and more complex. Current procedure is as follows: A Notice of Violation is sent to a property owner which commences a process whereby the property owner may appeal to a hearing before a neutral administrative hearing officer. This hearing can be held up to 20 days out from the request for appeal. If they lose at the administrative hearing, the owner may then appeal the Notice to Correct to the Superior Court. This greatly lengthens the time it takes to mitigate and resolve code cases. The current Notice to Correct allows for an appeal prior to the levy of any fine or issuance of a Citation. An appeal of the Notice to Correct can delay the issuance of any Citation by several months.

Once all appeals on the Notice are resolved, the County may then issue a fine and Citation. The owner then has the opportunity to go through another two (2) appeals regarding the Citation (Four possible appeals on every matter). This second round of appeals can also take several months. In total, each violation currently can be subject to four (4) appeals and could have four (4) hearings taking place over the course of many months. The proposed Notice and Order amendments to Chapter 9.02 reduce the number of possible appeals to two (2) and shorten the appeals process giving staff flexibility to escalate the most egregious health and safety cases while maintaining appropriate due process for the public.

This modified enforcement process is also under consideration for the proposed Ranch Marketing and Winery Ordinance update and the Hazardous Vegetation and Defensible Ordinance updates slated to go before the Board in 2023. Updating Chapter 9.02 with the Notice and Order procedures will align efforts in these ordinances with the base language used for Code Enforcement, allowing for a uniform enforcement procedure across all of these ordinances.

The proposed amendments to County Code will provide additional tools for Code Enforcement to carry out the mandates of County Ordinance §9.02.010, the purpose and intent of which is for the Board to establish uniform minimum procedural requirements for administrative enforcement and adjudication procedures for the Code and to provide for an administrative hearing and appeal process for code enforcement.

### **ALTERNATIVES**

- 1) The Board could direct staff to return with suggested changes on the proposed amendments.
- 2) The Board could choose not to approve the amendments.
- 3) The Board could direct staff to further study the amendments for consideration at a later date.

### **PRIOR BOARD ACTION**

16-0209 - As part of the comprehensive ordinance adoption for commercial cannabis use permits in the County, Ordinance Number 5067 was adopted which amended Chapter 9.02 Code Enforcement in its entirety.

21-1750 - Conceptual approval of four amendments to Chapter 9.02. - Code Enforcement, in the County's Code of Ordinances.

### **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

Sheriff's Office, Treasurer-Tax Collector

### **CAO RECOMMENDATION / COMMENTS**

Approve as recommended.

### **FINANCIAL IMPACT**

A streamlined Notice and Order process may cause an increase in Administrative Citations which range from \$100 to \$500, and a subsequent increase in Appeal Hearings, which accrue \$200 per hearing. These fees help offset the General Fund cost of the Code Enforcement Division.

### **CLERK OF THE BOARD FOLLOW-UP ACTIONS**

If the amendments are approved by the Board, an item will need to be placed on a future agenda for

a second (and final) reading.

**STRATEGIC PLAN COMPONENT**

Public Safety, Healthy Communities, Good Governance

**CONTACT**

Chris Perry, Assistant Director - Planning and Building Department