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NEVADA COMMISSION FOR
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

From: [Gregory Kerr](#)
To: [NRED Administration](#)
Subject: Comments on Proposed Regulation LCB File R091-025 Health, Safety, Welfare
Date: Monday, March 9, 2026 5:21:51 PM
Attachments: [image001.png](#)
[CAI Proposed Changes to Commission Proposed Regulation R091-025 \(redline changes\).pdf](#)



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To whom it may concern,

I am an attorney specializing in representing common interest communities in Nevada. I am also a member of the Community Associations Institute (“CAI”) Legislative Action Committee in Nevada (“LAC”). On behalf of LAC, attached are proposed changes Sections 2 of the proposed regulation R091-025 that address the definition of “health, safety, welfare” violations (“HSW”), which will be discussed at the Commission’s workshop tomorrow. I intend on also being in attendance at the workshop.

Briefly, some of the concerns and/or issues to note regarding the proposed are as follows:

General concerns with the HSW proposal is that it attempts to incorporate specific criminal statutes as serving as the basis for an association’s HSW treatment of a violation. My concern here is that associations don’t have jurisdiction to determine who has or hasn’t committed a crime under an existing statute. The HSW determination by an association is not the underlying violation; the HSW determination has to do with the severity, the nature, or some aggravating circumstance of some underlying governing document violation. By bringing in specific criminal statutes and designating them as HSW violations, it leaves a question of where the underlying governing document violation is. Per the Division’s proposed regulation, the underlying violation would be the violation of the criminal statute, which associations don’t have the jurisdiction to declare.

The attached revisions to the proposed regulation add a new subsection that references governing document provisions (most commonly the CC&Rs but not limited thereto) that declare a separate violation of a law or regulation as also constituting a governing document violation. There is an argument that those CC&R or other governing document provisions carry a conviction requirement—where a person first has to be found to be in violation of a criminal statute, a building code, an administrative regulation, etc., first before an association can assert a violation of such a provision of the CC&Rs or other governing documents. Otherwise, the association would be in a position to have to make a determination if a law, regulation, building code, etc., has first been violated, which associations do not have the jurisdiction to do. So, the attached proposed changes state that if an association’s CC&Rs or other governing documents have such a provision, and if an owner or tenant is, in fact convicted of public nuisance statute, harassment statute, assault and battery statute as cited in the proposed regulation, then the association can assert its own governing document violation and treat

such governing document violation as a HSW violation per this regulation doing so is warranted.

More specific changes, the language “without limitation” from subsection 1 in the attached changes. If the regulation is not going to be an exhaustive list of the types of violations that can be deemed to be a HSW violation, then the proposed regulation may not end up resolving the ambiguity that has been somewhat problematic with the industry practice of utilizing the HSW designation.

Lastly, there is a reference in the Commission’s proposed regulation on HSW that any HSW fine imposed pursuant to the regulation is subject to the appeal provisions in NRS 116.31031. However, NRS 116.31031 does not contain any reference to appeals for fines.

On behalf of CAI LAC, I will be present to discuss these and other related matters and answer any questions that the Commission may have. I thank the both the Commission and the Division on its efforts surrounding these regulations. Thank you.

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1. A violation of a provision of the governing documents of an association poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community if the violation involves conduct that includes, ~~without limitation:~~

(a) A failure to exercise reasonable care that directly and immediately endangers, ~~or does cause injury or harm to,~~ a unit's owner, a resident of the common-interest community or an invitee of a unit's owner or a tenant;

(b) Intentional, ~~willful or malicious~~ misconduct that directly and immediately endangers, ~~or does cause injury or harm to,~~ a unit's owner, a resident of the common-interest community or an invitee of a unit's owner or a tenant;

(c) ~~Intentional, willful or malicious misconduct intended to harass, intimidate, stalk or threaten sexual violence a member of the executive board, manager or other agent of the association, unit's owner, a resident of the common-interest community or an invitee of a unit's owner or a tenant;~~

(d) ~~Intentional destruction, damage or vandalism to property belonging to the association, a unit's owner, a resident of the common-interest community or an invitee of a unit's owner or a tenant.~~

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2. ~~If an association's governing documents contain a provision that deems violations of applicable laws, regulations or codes to be violations of the governing documents, then a conviction of the owner, or owner's tenant for violations of the following laws are also governing document violations that pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community:~~

~~(a) public nuisance in NRS 202.450;~~

~~(b) harassment and stalking in NRS 200.571;~~

~~(c) assault and battery in NRS 200.471;~~

~~(d) malicious mischief in NRS 206.010, 206.015, 206.040, or NRS 206.310; or~~

~~(e) provisions of housing or health codes concerning health, safety, sanitation, or fitness for habitation.~~

~~(e) A public nuisance, as defined in NRS 202.450; or~~

~~(d) Actionable misconduct under State penal codes, including but not limited to:~~

~~(1) Willful and malicious conduct intended to harass, intimidate, or stalk, as defined by Harassment and Stalking NRS 200.571 et seq.;~~

~~(2) Violent or threatening behavior, as defined by Assault and Battery NRS 200.471 et seq.;~~

~~(3) Willful, malicious destruction or damage of real or personal property, as defined in Malicious Mischief NRS 206.010, 206.015, 206.040, NRS 206.310;~~

~~(e) Violates provisions of housing or health codes concerning health, safety, sanitation, or fitness for habitation.~~

~~32. A violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community if the sole basis for imposing the violation is conduct that:~~

~~(a) Uses foul, profane or abusive language;~~

~~(b) Voices opposition to or support for any matter that affects the common-interest community;~~

~~(c) Constitutes a nuisance under the governing documents of the association but does not constitute a public nuisance pursuant to NRS 202.450 unless such nuisance also involves such activities as described in subsection 1, or~~

~~(d) Is a violation of the governing documents of the association but is otherwise lawful under the laws of this State.~~

~~43. If a violation of a provision of the governing documents of an association poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the executive board may not impose a fine that exceeds \$10,000 for each violation. Any fine imposed pursuant to this section is subject to the fine appeal provisions of NRS 116.21031.~~

~~54. This section does not preclude an association from pursuing any other legal remedy authorized by law that is available to the association.~~