

**BILL NO. 2019-08**  
**ORDINANCE NO. 725**

**An Ordinance Amending City Code Title 9, Chapter 1, Section 2 to allow the Building Official to serve criminal citations to the Ely Municipal Court for violation of zoning ordinances within the incorporated City limits.**

**WHEREAS**, N.R.S. 266.105 empowers the Ely City Council to pass ordinances necessary for the municipal government and the management of the affairs of the City, for execution of all powers vested in the City, and for making effective the provisions of Chapter 266 of the Nevada Revised Statutes; and

**WHEREAS**, the Ely City Council has determined that amending this Ordinance is a health and safety issue affecting citizens of the City of Ely; and

**WHEREAS**, NRS 278.0115 creates the office of the Building Official, which the City of Ely has done by prior Ordinance; and

**WHEREAS**, NRS 278.260(1), enforcement of zoning regulations, provides “[t]he governing body shall provide for the manner in which zoning regulations and restrictions and the boundaries of zoning districts are determined, established, enforced and amended”; and

**WHEREAS**, there are times when immediate response to a zoning violation are necessary and law enforcement is unavailable or otherwise does not have an understanding and there is no other alternative to addressing zoning issues immediately.

**NOW, THEREFORE, the City Council of the City of Ely DOES AMEND ELY CITY CODE TITLE 9, CHAPTER 1, SECTION 2, AS FOLLOWS:**

**Section 1: Ordinance Enactment.**

**9-1-2: DUTIES:**

**A. Limited Purpose Deputy; Appointment: the building official is a limited purpose deputy who shall be appointed by the city, and who shall have the duty and power to enforce all of the provisions of this article.**

**B.** The building official shall devote all necessary time to the duties of his office. He shall receive applications required by the building code adopted by chapter 2 of this title, approve permits and furnish the prescribed certificates. He shall examine premises for which permits have been issued and shall make necessary inspections to see that the provisions of law are complied with and that construction is prosecuted safely. He shall enforce all provisions of such building code. He shall, when requested by proper authority or when the public interest so requires, make investigations in connection with matters referred to in such building code and render written reports on the same. He shall enforce compliance with law to remove illegal or unsafe conditions,

to secure the necessary safeguards during construction, or to require adequate exit facilities in buildings and structures, he shall issue such notices or orders as may be necessary. (Prior code § 5-2)

**C. Entry Upon Private Property:** In the enforcement of the provisions of this article, any peace officer or animal control officer is authorized to enter upon private property. The authority granted by this section does not authorize entry into any building on private property without the consent of the person entitled to control said building. Entry into any building on private property for enforcement purposes may be obtained upon application to any justice of the peace and upon good cause shown.

**D. Citations:** The building official or any peace officer is authorized to prepare, sign, and serve written citations on people accused of a violation of adopted City zoning codes and regulations or applicable zoning related Nevada Revised Statutes and directing the person or persons to the Ely Municipal Court.

**E. Written Warning:** The building official may issue a written warning to any person or persons suspected of violating the provisions of adopted City zoning codes and regulations or applicable Nevada Revised Statutes in his sole discretion. One written warning may precede or be issued in lieu of a written citation.

**F. Any person, whether acting as principal, agent, employee or otherwise, violating any provision of Title 12 of these Codes or the owner, general agent, lessee or tenant of a building or premises where a violation of any provision of Title 12 of these Codes exists, or any other person who commits, takes part or assists in any violation, shall be deemed guilty of a misdemeanor and, upon conviction thereof, subject to penalty as provided in section 1-4-1 of this code. Such person shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of Title 9 or Title 12 is committed or continued by such person and shall be punishable as herein provided.**

**Section 2. Effective Date.** This ordinance shall become effective twenty (20) days after its passage, approval and publication according to law.

**Section 3. Proposing Parties.** The foregoing ordinance was proposed by Councilmember Carson, at the regularly scheduled meeting of the Ely City Council on June 27, 2019, read by title and referred to the City Council of the City of Ely, as a committee of the whole.

**Section 4. Notice.** Notice of filing of such ordinance was duly given by publication as required by law.

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**Section 5. Reading.** It was read in full at the regular meeting on July 25, 2019 and adopted by the following vote:

**VOTE:**                      **AYES:**                      \_\_\_\_\_

**NAYES:**                      \_\_\_\_\_

**ABSENT:**                      \_\_\_\_\_

Approved this \_\_\_\_ day of \_\_\_\_\_, 2019

\_\_\_\_\_  
**NATHAN ROBERTSON, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**JENNIFER LEE, CITY CLERK**

**Approved as to form and content**

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Charles H. Odgers, Esq., City Attorney