

## **Comparison of proposed changes to R091-25 section 3**

Because this proposal is currently under review by the CIC Commission, homeowners still have an opportunity to be heard. NVHOAReform encourages members to review the issue and consider submitting comments or contacting the Commission ([mgallo@red.nv.gov](mailto:mgallo@red.nv.gov)) to express their views before the rule is finalized.

Several parties have submitted comments on the proposal. Two perspectives are particularly instructive: comments submitted by industry counsel (CAI) and the comments submitted on behalf of NVHOAReform.

The proposed rule attempts to adapt HOA enforcement procedures to concepts drawn from public safety law. That mismatch results in a system designed for covenant compliance being asked to perform functions it was not designed to handle.

### **Where the Comments Agree**

Despite the broader policy differences, both sets of comments identify several legitimate drafting problems.

**Criminal Law References:** The proposed rule incorporates several criminal statutes when defining HSW violations. Industry counsel correctly notes that HOA boards lack authority to determine whether criminal laws have been violated. Such determinations normally require investigation by law enforcement and adjudication by courts.

This concern aligns with NVHOAReform's observation that HOA enforcement hearings are not structured to adjudicate criminal conduct.

**Lack of an Appeal Mechanism:** The proposal also references "fine appeal provisions" within NRS 116.31031, yet that statute contains no formal appeal process. Both sets of comments note that the regulation should not refer to an appeal mechanism that does not exist in statute.

### **Where the Approaches Differ**

While the comments overlap on some technical issues, the policy direction diverges in important ways.

**Scope of the Definition:** Industry counsel expresses concern that narrowing the definition of HSW too much could restrict associations from addressing serious situations within communities. The comments suggest maintaining flexibility in the definition to allow boards to respond to a range of circumstances.

The NVHOAReform comments take the opposite approach. Because violations classified as HSW remove statutory fine limits, the definition should be narrow, objective, and limited to clearly identifiable hazards. Broad or subjective definitions could allow ordinary disputes to be escalated into high-penalty enforcement actions.

**The Negligence Standard:** One subsection of the proposal defines an HSW violation as conduct involving a “failure to exercise reasonable care” that directly and immediately endangers residents.

This language introduces the general legal concept of negligence into HOA enforcement. NVHOAReform comments note that this standard may be overly broad, as the concept of “reasonable care” can apply to a wide range of everyday conduct.

Industry comments do not focus heavily on this issue, but from a governance perspective the standard potentially grants boards significant discretion in determining when conduct poses a threat to safety.

**Harassment and Interpersonal Conduct:** These provisions appear to respond to earlier legislative rejection of industry efforts to address bullying within HOA communities. While addressing serious misconduct is important, NVHOAReform comments caution that determining harassment or intimidation often requires evaluating intent, context, and credibility—questions normally resolved through courts or law enforcement investigations rather than internal HOA hearings.

**The “Imminent Threat” Issue:** Perhaps the most significant issue raised by the proposed regulation concerns the concept of an “imminent threat.” The draft language defines HSW violations as conduct that “directly and immediately endangers” residents or poses an imminent threat of substantial harm. This creates a practical contradiction. If a threat is truly imminent, the appropriate response is typically immediate intervention by public authorities, not a delayed HOA enforcement process involving notice, hearings, and fines imposed weeks later.

In practice, HOA fines operate primarily as after-the-fact sanctions, not emergency responses to imminent danger.

This distinction reinforces the broader concern raised by NVHOAReform: the challenge may lie less in defining HSW violations and more in determining the proper role of HOA enforcement in addressing them.

### **Why This Matters**

The rule under consideration is intended to clarify when HOA boards may impose penalties exceeding the ordinary statutory limits. Because those penalties may reach \$10,000 per violation, the definition adopted by regulators will significantly affect how enforcement authority operates within Nevada’s common-interest communities.

Most HOA boards act responsibly and rarely encounter situations involving serious safety concerns. But regulatory frameworks should be designed not only for typical circumstances, but also to ensure that enforcement authority is clearly defined, appropriately limited, and resistant to misuse.

For that reason, the NVHOAReform comments emphasize the need for clear criteria, proportional enforcement mechanisms, and recognition of the institutional limits of HOA governance systems.

## **Conclusion**

NVHOAReform opposes any rule that would allow HOA fines to increase beyond the limits that have governed Nevada communities for over twenty years. A 100-fold increase in potential penalties would place extraordinary enforcement authority in the hands of volunteer boards operating through internal hearings where meaningful appeal options are limited. Giving private HOA boards power to classify conduct as a “health, safety, or welfare” violation and impose fines of up to \$10,000 risks transforming ordinary community disputes into high-stakes enforcement actions. This is a level of authority that deserves legislative reconsideration, not expansion through regulation.

More fundamentally, the current proposal highlights a broader policy question. The “health, safety, or welfare” category entered Nevada law nearly two decades ago, yet the present rulemaking effort illustrates how broadly that concept could now be used. Giving private HOA boards the authority to impose penalties of this magnitude—based on determinations traditionally handled by public authorities—deserves careful reconsideration by the Legislature.

For that reason, NVHOAReform believes the underlying statutory framework should be revisited during the next legislative session.

This rule is not final. Homeowners still have time to make their voices heard. NVHOAReform strongly encourages members to email or write the CIC Commission ([gmallo@red.nv.gov](mailto:gmallo@red.nv.gov)) and share their views before the rule is adopted. When regulators hear primarily from industry representatives, the final rules often reflect industry priorities. Clear, respectful input from homeowners can help ensure the regulation protects the people who actually live in Nevada’s HOA communities.

## Sample Email To Send

**Subject:** Oppose Increasing HOA Fine Authority

Dear Chair and Members of the Commission,

I oppose any rule that would allow HOA fines to increase beyond the limits that have existed in Nevada law for over twenty years. Giving volunteer HOA boards authority to classify conduct as a “health, safety, or welfare” violation and impose extraordinary fines creates a serious risk of misuse. Once such fines are imposed, homeowners often have limited, costly, and uncertain avenues for independent review.

I respectfully urge the Commission not to adopt any rule that increases HOA fine authority beyond the limits already established in Nevada law.

Thank you for considering homeowner input.

Sincerely,

[Name]

[City / HOA Community]