

Item # 12

**City of Carson City
Agenda Report**

Date Submitted: 2-12-08

Agenda Date Requested: 2-21-08

Time Requested: 5 minutes

To: Mayor and Board of Supervisors

From: District Attorney

Subject Title: Action to introduce on First Reading, Bill No. _____, an ordinance amending Carson City Municipal Code Chapter 8.08 Nuisances, Section 8.08.030 Definitions, and Chapter 8.09 Enforcement Provisions For Nuisances, Section 8.09.040 Definitions to reference the correct resolution in the definition of "Enforcement official" and other matters properly related thereto.

Staff Summary: The Board of Supervisors adopted resolution number 2006-R-18 which identifies those individuals who have the authority to prepare, sign and serve citations for violations of the municipal code. On the consent agenda for the February 21, 2008 Board meeting is a new resolution amending resolution number 2006-R-18 to allow the District Attorney's Investigators to enforce the nuisance code. If the resolution passes, Chapters 8.08 and 8.09 of the Carson City Municipal Code will need to be amended to reflect the correct resolution that identifies who is considered an "enforcement official" under the nuisance code.

Type of Action Requested: (check one)
 Resolution Ordinance (First Reading)
 Formal Action/Motion Other (Specify)

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to introduce on First Reading, Bill No. _____, an ordinance amending Carson City Municipal Code Chapter 8.08 Nuisances, Section 8.08.030 Definitions, and Chapter 8.09 Enforcement Provisions For Nuisances, Section 8.09.040 Definitions to reference the correct resolution in the definition of "Enforcement official" and other matters properly related thereto.


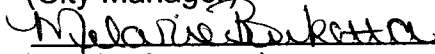
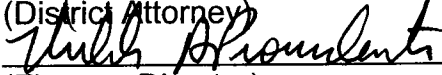
Explanation for Recommended Board Action: The Board of Supervisors adopted resolution number 2006-R-18 which identifies those individuals who have the authority to prepare, sign and serve citations for violations of the municipal code. On the consent agenda for the February 21, 2008 Board meeting is a new resolution amending resolution number 2006-R-18 to allow the District Attorney's Investigators to enforce the nuisance code. If the resolution passes, Chapters 8.08 and 8.09 of the Carson City Municipal Code will need to be amended to reflect the correct resolution that identifies who is considered an "enforcement official" under the nuisance code.

Applicable Statute, Code, Policy, Rule or Regulation: Carson City Municipal Code 8.08 and 8.09 and Nevada Revised Statute 171.17751

Supporting Material: Ordinance

Prepared By: Melanie Bruketta, Chief Deputy DA

Reviewed By:

	Date: <u>2/12/08</u>
_____ (City Manager)	
	Date: <u>2-12-08</u>
_____ (District Attorney)	
	Date: <u>2-12-08</u>
_____ (Finance Director)	

Board Action Taken:

Motion: _____	1) _____	Aye/Nay
	2) _____	_____

(Vote Recorded By)

Bill No. _____

Ordinance No. _____

An ordinance amending Carson City Municipal Code Chapter 8.08 Nuisances, Section 8.08.030 Definitions, and Chapter 8.09 Enforcement Provisions For Nuisances, Section 8.09.040 Definitions to reference the correct resolution in the definition of "Enforcement official" and other matters properly related thereto.

The Board of Supervisors of Carson City do ordain:

SECTION I:

Section 8.08.030 of the Carson City Municipal Code is hereby amended as follows:

8.08.030 Definitions.

The following definitions will be used in this chapter unless the context otherwise requires:

1. "Abandoned structure" means any structure:
 - a. That has been vacant for a period in excess of 6 months and is not for sale or lease; or
 - b. That has been vacant for any period of time creating an attractive nuisance, a health hazard, an imminent or existing danger or hazard.
2. "Abandoned vehicle" means any vehicle:
 - a. That has been left unattended and dangerously close to a travel lane on a city street, highway or road so as to possibly impede traffic; or
 - b. Which has not been moved or used for more than 7 consecutive days and reasonably appears to have been deserted. [Reference NRS 487.210]
3. "Antique old timer vehicle" means any vehicle entitled to be registered with the Nevada Department of Motor Vehicles as an "old timer" as a model manufactured more than 40 years before the date of application for registration. [Reference NRS 283.381]
4. "Attractive nuisance" means property, buildings or premises which are in such an unsecured state so as to potentially constitute an attraction to children, a harbor for vagrants, criminals, or other unauthorized persons, or so as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful act.
5. "Blight" means any condition which substantially impairs the livability or community appearance, or the safe, social or economic conditions of the community.
6. "Boarded" means secured against entry by apparatus which is visible off the premises and is not both lawful and customary to install on occupied structures.

7. "Building" means any structure used or intended for supporting or sheltering any use or occupancy.
8. "Brush" means shrubs or growth which present or may present a blight, safety or fire hazard.
9. "City" means Carson City, Nevada.
10. "Classic rod" means any passenger car or light commercial vehicle entitled to registration with the Nevada Department of Motor Vehicles as a "classic rod" which:
 - a. Has a manufacturer's rated carrying capacity of 1 ton or less; and
 - b. Was manufactured not earlier than 1949, but at least 20 years before the date of application for registration. [Reference NRS 283.3814]
11. "Classic vehicle" means any passenger car or light commercial vehicle entitled to registration with the Nevada Department of Motor Vehicles as a "classic vehicle" which:
 - a. Has a manufacturer's rated carrying capacity of 1 ton or less;
 - b. Was manufactured at least 25 years before the date of application for registration; and
 - c. Contains only the original parts which were used to manufacture the vehicle or replacement parts that duplicate those original parts. [Reference NRS 283.3816]
12. "Code" means the Carson City Municipal Code.
13. "Criminal activity" means any activity punishable as a misdemeanor under the Carson City Municipal Code or as a misdemeanor, gross misdemeanor or felony under NRS Title 15.
14. "Debris" means substance of little or no apparent economic value, which may be present in a state of apparent unpremeditated disarray.
15. "Dangerous structure or condition" means a structure or condition that may cause injury to or endanger the health, life, property or safety 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 244.3675 with respect to minimum levels of health or safety; or
 - b. Violates an ordinance, rule or regulation regulating health and safety enacted, adopted or passed by the Carson City board of supervisors, the violation of which is designated as a nuisance in the ordinance, rule or regulation. [Reference NRS 268.4122]
16. "Enforcement official" shall have the meaning set forth in Carson City Resolution [2005-R14] 2008-R-_____. [Reference NRS 171.17751 and NRS 280.125].
17. "Excavation" means wells, shafts, basements, cesspools, septic tanks, swimming pools, fish ponds, and other like or similar conditions more than 6 inches in diameter and 3 feet in depth.
18. "Facilities/building, service and equipment" means plumbing, piping and/or fixtures that convey or dispose of liquid waste and gas, electric wiring

components and/or fixtures, mechanical heating/cooling equipment, duct work and/or fixtures.

19. "Fences, screen walls and/or retaining walls" mean self standing structures designed to provide semi-privacy, security, or bank retention between grade separations.

20. "Garbage" means swill, offal, and any accumulation of animal, vegetable or other matter associated with the preparation, handling, consumption, storage or decay of plant and animal matter including meats, fish, fowl, buds, fruits, vegetable or dairy products and the waste wrappers or containers thereof and filthy or odoriferous objects. [Reference CCMC 8.32.010]

21. "Hazardous waste" means any waste or combination of wastes, including solids, semisolids, liquids or contained gases, which;

a. Because of its quantity or concentration or its or its physical, chemical or infectious characteristics may:

(1) Cause or significantly contribute to an increase in mortality or serious irreversible or incapacitating illness; or

(2) Pose a substantial hazard or potential hazard to human health, public safety or the environment when it is given improper treatment, storage, transportation, disposal or other management.

b. Is identified as hazardous by the health department as a result of studies undertaken for the purpose of identifying hazardous wastes.

c. The term includes, among other wastes, toxins, corrosives, flammable materials, irritants, strong sensitizers and materials which generate pressure by decomposition, heat or otherwise. [Reference NRS 459.430]

22. "Health hazard" means the presence of any item(s) which adversely impact or jeopardize the well being or health of an individual. Such items may be inclusive of human/animal waste, medical or biological waste, sharps, gaseous or combustible materials, radioactive waste, dangerous and/or corrosive chemicals/liquids, flammable and/or explosive materials, friable asbestos, offal and decay matter, and any other condition constituting a health hazard under the Nevada Revised Statutes. In addition, evidence of occupancy without adequate facilities shall be considered a health hazard. Such items constitute an imminent danger.

23. "Horseless carriage" means any vehicle entitled to registration with the Nevada Department of Motor Vehicles as a "horseless carriage" which is a model manufactured during or before 1915. [Reference NRS 283.380]

24. "Imminent danger" means the existence of any structure or condition that could reasonably be expected to cause injury or endanger the safety or health of:

a. The occupants, if any, of the real property on which the structure or condition is located; or

b. The general public.

25. "Incipient hazard" means condition of real property that can become an imminent danger or health danger if further deterioration occurs that can cause unreasonable risk or death or severe personal injury.

26. "Infestation" means the apparent presence of damaging, or unhealthful insects, rodents, or reptiles.

27. "Junk vehicle" means a vehicle, including component parts which:

a. Has been ruined, wrecked, dismantled, or rendered inoperative; or
b. Is unfit for further use in accordance with the original purpose for which it was constructed.

c. Is not registered with the Nevada Department of Motor Vehicles; and

d. Has value principally as scrap which does not exceed \$500.00; or

e. Any motor vehicle which is inoperative cannot be moved under its own power, or cannot be operated lawfully on a public street or highway due to removal of, damage to, or deterioration of, or inoperative condition of any component part or the lack of an engine, transmission, wheels, tires, doors, windshield or windows or, any other component part necessary for such movement or lawful operation.

28. "Litter" means rubbish which is non-decaying, decaying or solid and semi-solid wastes, including but not limited to, both combustible and noncombustible wastes, such as paper, trash, cardboard, waste material, tin cans, yard clippings, wood, glass, bedding, or debris, scrap paving material, discarded appliances, discarded furniture, bedding, dry vegetation, weeds, dead trees and branches, overgrown vegetation and trees which may harbor insect or rodent infestations or may become a fire hazard, piles of earth mixed with any of the above or any foreign object, including junk or abandoned vehicles, without regard to value.

29. "Nuisance" or "nuisance activity" means that which is injurious to health, or injurious, indecent and offensive to the senses, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property, or is against the interest of public morals, decency, safety, peace and order, including, but not limited to, an attractive nuisance, a nuisance per se, criminal activity, the presence of debris, litter, graffiti, garbage, rubble, abandoned, unregistered or junk vehicles or junk appliances, curfew violations, violations of building codes, housing codes, or any other codes regulating the health or safety of occupants of real property, excessive noise, the excessive emission of dense smoke and air pollution caused by excessive soot, cinders, fly ash, dust, noxious acids, fumes and gases, or any other activity, behavior or conduct defined by the Carson City board of supervisors to constitute a public nuisance. [Reference NRS Chapter 40 & 244]

30. "Occupant" means legal entity that, through the rights of ownership or rental, has the use and enjoyment of the subject real property for residential or commercial purposes.

31. "Owner" means a legal entity as current or rightful owner(s) as recorded in the official records of the Carson City Recorder's Office.

32. "Person associated with property" means:

a. The owner of the property;

b. The manager of assistant manager of the property;

c. The tenant of the property; or

d. A person who, on the occasion of a nuisance activity, has:

- (1) Entered, patronized or visited the property or a person present on the property;
- (2) Attempted to enter, patronize or visit the property or a person present on the property;
- (3) Waited to enter, patronize or visit the property or a person present on the property. [Reference NRS 244.3603]
33. "Pond/pool" means an in-ground body of water that is at least 18 inches deep and 8 feet or greater in any dimension. Ponds that meet these conditions are subject to the provisions of this chapter.
34. "Premises" means land and the buildings or structures upon it.
35. "Property" means any real property, real estate, land, lot, or part of real property, real estate, land or lot.
36. "Recreational/architectural pool" means a constructed (above-ground) or excavated (below-ground) exterior area designed to contain a regular supply of water.
37. "Rubble" means broken fragments resulting from the decay or deconstruction of a building, or miscellaneous mass of broken or apparently worthless materials.
38. "Street rod" means any passenger car or light commercial vehicle entitled to registration with the Nevada Department of Motor Vehicles as a "street rod" which:
 - a. Has a manufacturer's rated carrying capacity of 1 ton or less; and
 - b. Was manufactured not later than 1948. [Reference NRS 482.3812]
39. "Structure" means that which is built up or constructed, or an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner.
40. "Swimming pool" means artificial basin, chamber, or tank constructed and used, or designed to be used for swimming, diving, bathing or wading.
41. "Unauthorized" means without the prior permission of the property owner.
42. "Unregistered vehicle" means any vehicle or component thereof on which evidence of current registration with the Nevada Department of Motor Vehicles or current registration with a similar agency of another state is not displayed.
43. "Unsafe building" means as specified in the International Fire Code, as may be amended from time to time, buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard or are otherwise dangerous to human life, or which, in relation to existing use, constitute a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment as specified in the Carson City Municipal Code, International Building Code, International Fire Code or Nevada Revised Statutes.
44. "Unsecured structure" means any structure that is vacant with a damaged or open door, window or other opening not secured.
45. "Vegetation" means plants of any kind.
46. "Vehicle" means a piece of mechanical equipment intended for the conveyance or temporary housing of persons or personal property or parts

thereof, including, but not limited to, automobiles, trucks, boats, campers, camper shells, vans, motor homes, converted buses and similar vehicles.
47. "Weeds" means a useless and troublesome plant of negligible or no value and usually of uncontrolled growth. (Ord. 2005-18 § 2 (part), 2005).

SECTION II:

Section 8.09.040 of the Carson City Municipal Code is hereby amended as follows:

8.09.040 Definitions.

The following words when used in this chapter shall have the meanings respectively ascribed to them:

1. "Business day" means each day the city is open to conduct business excluding Saturdays, Sundays and holidays designated as legal holidays for the State of Nevada pursuant to NRS 236.015.
2. "Enforcement official" shall have the meaning set forth in Carson City Resolution [2005-R14] 2008-R-__. [Reference NRS 171.17751 and NRS 280.125]
3. "Owner" means a legal entity listed as current or rightful owner(s) as recorded in the official records of the Carson City recorder's office.

SECTION III:

That no other provisions of Chapter 8.08 and 8.09 of the Carson City Municipal Code are affected by this ordinance.

Vote:

Ayes: Supervisors _____

Nays: Supervisors _____

Absent: Supervisors _____

Attest:

Alan Glover, Clerk/Recorder

Marv Teixeira, Mayor

This ordinance shall be in force and effect from and after the _____ day of
the month of _____ of the year 2008.