

Item # 10B

**City of Carson City
Agenda Report**

Date Submitted: 09/26/ 2006

Agenda Date Requested: 10/05/2006

Time Requested: 5 minutes

To: Mayor and Board of Supervisors

From: Public Works Department, Development Engineering

Subject Title: Action to introduce, on second reading, Bill No.123, an ordinance amending the Carson City Municipal Code Title 12, Water, Sewerage, and Drainage by adding a new section titled Chapter 12.18 Erosion & Sediment Control. This new section contains Chapters 12.18.010 Definitions; 12.18.020 Applicability; 12.18.030 Exceptions to Applicability; 12.18.040 Permits and Fees; 12.18.050 Failure to Complete the Work; 12.18.060 Denial of Permit; 12.18.070 Responsibility of Permittee; 12.18.080 General Requirements; 12.18.090 Inspection of Sites Under Permits; 12.18.100 Maintenance Requirements; 12.18.110 Notification of Needed Maintenance ; 12.18.120 Acts Resulting in Violation of Federal Clean Water Act; 12.18.130 Enforcement and 12.18.130 Request for Hearing.

Staff Summary: This new section to the Carson City Municipal Code fulfills the State and Federal requirements under the City's Storm Water (NPDES) Phase II Permit. This Code amendment will address the application and enforcement of erosion and sediment control during construction and for continued maintenance on all property. The new chapter adds definitions of terms; states that any person who undertakes any earth disturbance is subject to this ordinance; lists the conditions where there may be exceptions; states there are no new fees or permits to apply this ordinance; states the action the City will take when the condition of a city permit is not fulfilled; states the conditions when a city permit will not be issued; states the responsibility not to cause damage or put other property in danger; lists the requirements of engaging in earth disturbance for temporary and permanent erosion control facilities; states the action the city engineer will take to enforce the ordinance; states the responsibility to maintain permanent sediment and erosion control facilities after construction; states the procedure of notification; states that violators are subject to civil and criminal penalties; gives the city engineer the ability to enforce this ordinance; gives the process to request a hearing and other matters properly related thereto. This new section has been reviewed and presented to the public, engineers and contractor's over the past year. In July 2005, notices were published requesting comments on the new division. Documents were available at City Hall, the library and the permit center as well as through the city's web site by emailed link. Workshops were held in November 2005 and again in May of 2006 to review the requirements and take input. In July 2006, a brochure addressing maintenance of private storm drain system was mailed to all property owners within the city.

Type of Action Requested:

- 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 second reading, Bill No.123, an ordinance amending the Carson City Municipal Code Title 12, Water, Sewerage, and Drainage by adding a new section titled Chapter 12.18 Erosion & Sediment Control. This new section contains Chapters 12.18.010 Definitions; 12.18.020 Applicability; 12.18.030 Exceptions to Applicability;

12.18.040 Permits and Fees; 12.18.050 Failure to Complete the Work; 12.18.060 Denial of Permit; 12.18.070 Responsibility of Permittee; 12.18.080 General Requirements; 12.18.090 Inspection of Sites Under Permits; 12.18.100 Maintenance Requirements; 12.18.110 Notification of Needed Maintenance ; 12.18.120 Acts Resulting in Violation of Federal Clean Water Act; 12.18.130 Enforcement and 12.18.130 Request for Hearing.

Explanation for Recommended Board Action: The NPDES (National Pollution Discharge Elimination System) Phase II requirements are compulsory and Carson City is required to apply enforce and maintain erosion and sediment controls throughout the city as a part of its Storm Water Management Plan.

Applicable Statute, Code, Policy, Rule or Regulation: EPA Storm Water Phase II Final Rule for Small MS4 Storm Water Programs, and the State of Nevada General Permit for Storm Water Discharges (Permit No. NVS040000).

Fiscal Impact: None
Explanation of Impact: N/A
Funding Source: N/A

Alternatives: Not adopt the new section.

Supporting Material: Chapter 12.18 - Erosion & Sediment Control

Prepared By: Robert D. Fellows, P.E. - Chief Storm Water Engineer

Reviewed By: [Signature] Date: 9/25/06
(Larry Werner, City Engineer)
[Signature] Date: 9/26/06
(Andrew Buchanan, Public Works Director)
[Signature] Date: 9-26-06
(Linda Ritter, City Manager)
[Signature] Date: 9-26-06
(District Attorney)

Board Action Taken:

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

(Vote Recorded By)

ORDINANCE NO. _____
BILL NO. 123 _____

AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 12 WATER, SEWERAGE, AND DRAINAGE BY ADDING CHAPTER 12.18 EROSION AND SEDIMENT CONTROL, SECTION 12.18.010 DEFINITIONS, WHICH ADDS A SECTION FOR DEFINING TERMS USED IN THIS ORDINANCE, SECTION 12.18.020 APPLICABILITY, WHICH STATES THAT ANY PERSON WHO UNDERTAKES ANY EARTH DISTURBANCE IS SUBJECT TO THIS ORDINANCE, SECTION 12.18.030 EXCEPTIONS TO APPLICABILITY, LISTS THE CONDITIONS WHERE THERE MAY BE EXCEPTIONS TO THIS ORDINANCE, SECTION 12.18.040 PERMITS AND FEES, WHICH STATES THAT THERE ARE NO NEW FEES OR PERMITS IN THIS NEW CHAPTER, SECTION 12.18.050 FAILURE TO COMPLETE THE WORK, WHICH STATES THE ACTION THE CITY WILL TAKE WHEN THE CONDITION OF A PERMIT IS NOT FULLFILLED, SECTION 12.18.060 DENIAL OF PERMIT, WHICH STATES THE CONDITIONS WHEN A PERMIT WILL NOT BE ISSUED, SECTION 12.18.070 RESPONSIBILITY OF PERMITTEE, STATES THE RESPONSIBILITY NOT TO CAUSE DAMAGE OR PUT OTHER PROPERTY IN DANGER, SECTION 12.18.080 GENERAL REQUIREMENTS, LIST THE REQUIREMENTS OF ENGAGING IN EARTH DISTURBANCE FOR TEMPORARY AND PERMANENT EROSION CONTROL FACILITIES, SECTION 12.18.090 INSPECTION OF SITES

UNDER PERMITS, STATES THE ACTION THE CITY ENGINEER WILL TAKE TO ENFORCE THE ORDINANCE, SECTION 12.18.100 MAINTENANCE REQUIREMENTS, STATES THE RESPONSIBILITY TO MAINTAIN PERMANENT SEDIMENT AND EROSION CONTROL FACILITIES AFTER CONSTRUCTION, SECTION 12.18.110 NOTIFICATION OF NEEDED MAINTENANCE, STATES THE PROCEDURE OF NOTIFICATION, SECTION 12.18.120 ACTS RESULTING IN VIOLATION OF FEDERAL CLEAN WATER ACT, STATES THAT VIOLATORS ARE SUBJECT TO CIVIL AND CRIMINAL PENALTIES, SECTION 12.18.130 ENFORCEMENT, GIVES THE CITY ENGINEER THE ABILITY TO ENFORCE THIS ORDINANCE, SECTION 12.18.140 REQUEST FOR HEARING GIVES THE PROCESS TO REQUEST A HEARING AND OTHER MATTERS PROPERLY RELATED THERETO.

Fiscal Impact: None

THE BOARD OF SUPERVISORS OF CARSON CITY, NEVADA, DO ORDAIN:

SECTION I:

That Title 12 of the Carson City Municipal Code is hereby amended as follows:

Chapters

- 12.01 Water Connection Charges and Use Rates
- 12.02 Carson-City-Water-District
- 12.03 Sewer Connection Charges and Use Rates
- 12.04 Senior Citizens Assistance
- 12.05 Sewer Connection General Requirements
- 12.06 Industrial Wastewater Discharges—Sewer Design Standards
- 12.07 Cross-Connection Control
- 12.08 Water Drainage
- 12.09 Flood Damage Prevention
- 12.10 Reclaimed Water Use Rates

- 12.11 Use or Treated Wastewater Effluent for Construction Purposes
- 12.12 Solid Waste Management
- 12.13 Water and Reclaimed Water Design Standards
- 12.14 Improvement Plan Requirements
- 12.15 Domestic Water Supply Systems
- 12.16 Development Standards
- 12.17 Storm Water Service Charges
- 12.18 Erosion and Sediment Control
- 12.19 Storm Water System Illicit Discharges and Connections

SECTION II:

That Chapter 12.18 of the Carson City Municipal Code is hereby added as follows:

Chapter 12.18
EROSION AND SEDIMENT CONTROL

Sections:

<u>12.18.010</u>	<u>Definitions.</u>
<u>12.18.020</u>	<u>Applicability</u>
<u>12.18.030</u>	<u>Exceptions to Applicability</u>
<u>12.18.040</u>	<u>Permits and Fees</u>
<u>12.18.050</u>	<u>Failure to Complete the Work</u>
<u>12.18.060</u>	<u>Denial of Permit</u>
<u>12.18.070</u>	<u>Responsibility of Permittee</u>
<u>12.18.080</u>	<u>General Requirements</u>
<u>12.18.090</u>	<u>Inspection of Sites under Permits</u>
<u>12.18.100</u>	<u>Maintenance Requirements</u>
<u>12.18.110</u>	<u>Notification of Needed Maintenance</u>
<u>12.18.120</u>	<u>Acts Resulting in Violation of Federal Clean Water Act</u>
<u>12.18.130</u>	<u>Enforcement</u>
<u>12.18.140</u>	<u>Request for Hearing</u>

SECTION III:

That Section 12.18.010 of the Carson City Municipal Code is hereby added as follows:

Section 12.18.010 Definitions. The following words when used herein shall have the following meanings, unless the context clearly indicates otherwise:

1. "Accelerated Soil Erosion" – The increased migration and movement of soils on all land surfaces that occur as a result of a earth disturbance.

2. "Authorized Enforcement Agent" – The City Engineer and/or any individual designated by the City Engineer as an Authorized Enforcement Agent.
3. "Best Management Practices (BMPs)" – Physical, structural and/or managerial practices that, when used singly or in combination, control site run-off, spillage and leaks, errant dust, waste disposal and drainage from material storage and prevent or reduce the discharge of pollutants directly or indirectly to waters of the State,(United States). BMPs may include schedules of activities, prohibition of practices, design standards and maintenance activities.
4. "City Engineer" – The City Engineer of Carson City or his duly authorized representative.
5. "Development" – Any construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure within the jurisdiction of Carson City as well as any manmade change or alteration to the landscape, including but not limited to, mining, drilling, dredging, stripping, grading, paving, excavation and filling.
6. "Earth Disturbance" – Any man-made change in the natural cover or topography of land, including all stripping, grading, cut and fill operations, building, paving and other activities, which may result in or contribute to soil erosion or sedimentation of the waters of the State.
7. "Erosion" – The process by which the ground surface is worn away by action of wind, water, gravity, or a combination thereof.
8. "Excavation" – Any act, by which soil or rock is cut into, dug, mined, quarried, uncovered, removed, displaced, relocated, or stockpiled, including the conditions resulting from excavation.
9. "Filling" – Any act by which soil, rock or other construction materials are placed, stockpiled, dumped, or a combination thereof onto the surface of the earth that may be exposed to rain water or wind.

10. "Grading" – Any stripping, excavating, filling, stockpiling, or any combination thereof, and also included shall be the land in its excavated or filled condition.
11. "Impervious Surface" – A surface which prevents or retards the penetration of water into the ground, including, but not limited to, roofs, sidewalks, patios, driveways, parking lots, concrete and asphalt paving, gravel, compacted native surfaces and earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of storm water.
12. "Limits of Allowable Erosion" – The natural or historic rate of soil loss.
13. "Municipal Separate Storm Sewer System (MS4) – Includes, but is not limited to, those facilities located within the City and owned or operated by a public entity by which storm water may be collected and conveyed to waters of the United States, including any roadways with drainage systems, inlets, curbs, gutters, piped storm drains and retention or detention basins, which are not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR Section 122.2.
14. "Municipal Storm Water Permit" – An area-wide NPDES permit issued to a government agency or agencies for the discharge of storm water from a storm drain system.
15. "National Pollutant Discharge Elimination System (NPDES) Permit. A storm water discharge permit issued by the U.S. EPA, Region IX, in compliance with the federal Clean Water Act.
16. "Permanent soil erosion control measures" - Those control measures which are installed or constructed to control soil erosion and which are maintained after completion of all grading and earth disturbances.
17. "Permittee" – A person, firm, corporation, partnership, association, or governmental agency, responsible for implementing and/or complying with all of the conditions of a permit.

18. "Person" – An individual, firm, corporation, partnership, association, governmental agency, or other organization operating as a single business entity.
19. "Pollutant" – Any substance which, when added to water, would contaminate or alter the chemical, physical, or biological properties of any storm water discharged to the City's storm drainage system or to the waters of the U.S. or State. This includes a change in pH, temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any Carson City storm drainage system or waters of the United States, or State of Nevada, and will or is likely to create a nuisance. It also includes any substance, which renders such waters harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial use, or to livestock, wild animals, birds, fish, or other aquatic life.
20. "Pollution – Contamination or other alteration of the physical, chemical or biological properties of waters of the State, including change in pH, temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the State that will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreation or to other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.
21. "Stripping" - Any activity that removes or significantly disturbs the vegetative surface cover including clearing and grubbing operations.
22. "Storm Water" – Surface runoff and drainage associated with storm events and snowmelt.
23. "Temporary Soil Erosion Control Measures" - Interim control measures which are installed during construction and maintained for the purpose of

controlling soil erosion until permanent soil erosion control measures are implemented.

SECTION IV:

That Section 12.18.020 of the Carson City Municipal Code is hereby added as follows:

Section 12.18.020 Applicability. All persons taking any action or applying for any land development, land division or construction permits and/or approvals shall be required to submit for approval of an Erosion and Sediment Control Plan with their application and/or request, or :

Any person who undertakes, or is responsible for undertaking any action, which involves earth disturbance, is ultimately responsible to see that soil erosion and sedimentation as well as the resultant changed water flow characteristics are controlled to the extent necessary to avoid damage to property and to avoid pollution of receiving waters. Nothing in this Chapter shall be taken or construed as lessening or modifying the ultimate responsibility of such persons. Nor do the requirements of this Chapter imply the assumption of any liability therefore on the part of the City.

The standards, criteria and requirements of this Chapter are to be seen as minimum standards that are not necessarily adequate to meet the highly variable conditions that must be covered by effective control measures. Compliance with the requirements of this Chapter may not, therefore, of itself discharge such person's responsibility to provide effective control measures.

Erosion and sedimentation that occurs from construction activities within the City shall be prevented from leaving construction sites by providing proper provisions for water disposal and by protecting soil surfaces during and after construction, in order to promote the safety, public health, convenience and general welfare of the community.

No permits shall be issued unless said permits include soil erosion and sediment control measures consistent with the requirements of this Chapter and related Development Standards.

This Chapter shall be construed to assure consistency with the requirements of the Federal Clean Water Act and acts amendatory thereof or supplementary thereto, applicable implementing regulation, and the NPDES municipal stormwater permit and any amendments, revisions or re-issuance thereof. No required permit issued pursuant to this Chapter shall relieve a person of the responsibility to secure other permits and approvals required for activities regulated by any other applicable rule, code, act, permit or ordinance.

SECTION V:

That Section 12.18.030 of the Carson City Municipal Code is hereby added as follows:

Section 12.18.030 Exceptions to Applicability . No Erosion and Sediment Control Plan shall be required for the following:

1. Agricultural use of land zoned agricultural.
2. Single family residences with less than one (1) acre of disturbed area and/or less than 50 cubic yards of grading.
3. All other land use zones or public areas of less than 10,000 square feet of new impervious surface, and/or less than 50 cubic yards of grading, and/or less than one (1) acre of earth disturbance.
4. Where the City Engineer agrees in writing, with the permittee that the planned work and the final structures or topographical changes will not result in or contribute to soil erosion or sedimentation, i.e., the rainfall erosivity factor is less than 5 during the period of construction activity; will not interfere with any existing drainage course in such a manner as to cause damage to any adjacent property or result in the deposition of debris or sediment on any public way; will not present any hazard to any persons or property; or will have no detrimental influence upon the public welfare or upon the total development of the watershed.
5. Even though no Erosion and Sediment Control Plan is required under subsections (1), (2), (3), and (4) of this section, those operations and construction activities which are exempted from submitting an Erosion

and Sediment Control Plan must comply with the rules and regulations in this Chapter when conditions change such that appropriate controls are necessary to retain soil erosion on the area of earth disturbance.

SECTION VI:

That Section 12.18.040 of the Carson City Municipal Code is hereby added as follows:

Section 12.18.040 Permits and Fees.

1. Permit Requirement. Except as exempted by Carson City Municipal Code, no person shall do any earth disturbance, unless the City issues a valid permit. Issuance by City does not exempt the parties from obtaining any other permits required by the State of Nevada or the Federal Government.
2. Permit Application. Permit application shall be consistent with those required submittals for an Engineering Permit, along with plans, specifications, and project schedules for all construction operations for earth disturbances of more than one (1) acre in size or areas greater than 10,000 square feet of new impervious surface or of more than 50 cubic yards of grading.
3. Application Data Required. The plans and specifications shall include an Erosion and Sedimentation Control Plan, Stormwater Pollution Prevention Plan (SWPPP) and details, which shall include and contain all of the requirements of the applicable sections of the Development Standards of Carson City.
4. Fees. No separate fees under this Section will be imposed.

SECTION VII:

That Section 12.18.050 of the Carson City Municipal Code is hereby added as follows:

Section 12.18.050 Failure to Complete the Work. In the event of failure to complete the work or failure to comply with all the requirements, conditions, and terms of a permit, the City Engineer may order such work as is necessary to eliminate any danger to persons or property and to leave the site in a safe condition and he may authorize completion of all necessary temporary or permanent soil erosion control measures. Where a bond was required per the Development Standards, the permittee and the surety executing the bond or the issuer of the letter of credit, or person issuing the instrument of credit or making the cash deposit shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred or expended by the City in causing any and all such work to be done. In the case of a cash deposit, any unused portion thereof shall be refunded to the permittee. In the case of a permit where no bond is required, such costs for necessary work shall be collected through property tax lien or other means as allowed under State law.

SECTION VIII:

That Section 12.18.060 of the Carson City Municipal Code is hereby added as follows:

Section 12.18.060 Denial of Permit. Permits shall not be issued where:

1. The proposed work would cause hazards to the public safety and welfare;
or
2. The work as proposed by the applicant will damage any public or private property or interfere with any existing drainage course in such a manner as to cause damage to any adjacent property or result in the deposition of debris or sediment on any public way or into any waterway or create an unreasonable hazard to persons or property; or
3. The land area for which earth disturbance is proposed is subject to geological hazard to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce settlement, slope instability, or any other such hazard to persons or property; or
4. The land area on which earth disturbance is proposed may lie within a flood plain of any stream or watercourse (not specifically designated by

the City as an area subject to special flood hazard), unless a hydrologic report, prepared by a professional engineer, is submitted to certify that the proposed earth disturbance will have, in his professional opinion, no detrimental influence on the public welfare or upon the total development of the watershed and is also consistent with flood plain ordinances and Federal Emergency Management Agency regulations.

SECTION IX:

That Section 12.18.070 of the Carson City Municipal Code is hereby added as follows:

Section 12.18.070 Responsibility of Permittee. During earth disturbance operations the permittee shall be responsible for:

1. Preventing damage to any public utilities or services within the limits of earth disturbance and along any routes of travel of the equipment;
2. Preventing damage to adjacent property (No person shall disturb earth on land so close to the property line as to endanger any adjoining public street, sidewalk, alley, or any public or private property without supporting and protecting such property from settling, cracking, or other damage which might result).
3. Executing the proposed work in accordance with the permitted plans and in compliance with all the requirements of the permit and this Chapter;
4. Promptly removing all soil, miscellaneous debris, materials applied, dumped, or otherwise deposited on public streets, highways, sidewalks, or other public thoroughfares or any other non-authorized offsite location, during transit to and from the construction site, or otherwise, where such spillage constitutes a public nuisance, trespass or hazard in the determination of the City Engineer or a Court of competent jurisdiction.

SECTION X:

That Section 12.18.080 of the Carson City Municipal Code is hereby added as follows:

Section 12.18.080 General Requirements.

1. All temporary erosion control facilities and all permanent facilities intended to control erosion from any earth disturbance shall be installed before the work takes place.
2. All earth disturbances shall be conducted in such a manner so as to effectively reduce accelerated soil erosion and resulting sedimentation, and should not exceed the erosion expected to occur for the site in its totally undeveloped state.
3. All persons engaged in earth disturbances shall design, implement, and maintain acceptable soil erosion and sedimentation control measures, in conformance with the erosion control technical standards adopted by the City.
4. All earth disturbances shall be designed, constructed and completed in such a manner so that the exposed area of any disturbed land shall be limited to the shortest possible period of time.
5. Sediment cause by accelerated soil erosion shall be removed from runoff water to the maximum extent practicable before it leaves the site of the earth disturbance.
6. Any temporary or permanent facility designed and constructed for the conveyance of water around, through, or from the earth disturbance area shall be designed to limit the water flow to a non-erosive velocity.
7. Temporary soil erosion control facilities shall be removed and earth disturbance areas graded and stabilized with permanent soil erosion control measures pursuant to standards and specifications prescribed in accordance with the provisions the Development Standards of Carson City.
8. Permanent soil erosion control measures for all slopes, channels, ditches, or any disturbed land area shall be completed as soon as possible after final grading or the final earth disturbance has been completed. When it is not possible to permanently stabilize a disturbed area after an earth disturbance has been completed or where significant earth disturbance

activity ceases, temporary soil erosion control measures shall be implemented. All temporary soil erosion control measures shall be maintained until permanent soil erosion measures are implemented.

SECTION XI:

That Section 12.18.090 of the Carson City Municipal Code is hereby added as follows:

Section 12.18.090 Inspection of Sites under Permits. The City Engineer shall enforce the requirements of this Chapter. The City Engineer or his duly authorized agents shall inspect the site activities and shall require the owner to obtain services to provide adequate on-site inspection and/or testing by a soil engineer, approved by the City Engineer, unless he determines that such inspection requirements may be waived due to the non-hazardous nature of the earth disturbance. If the City Engineer finds any existing conditions not as stated in the permit or plans, he may refuse to approve further work until a revised plan, which will conform to the existing conditions, has been prepared and issued under a revised permit. If the City Engineer finds that eroded soils are leaving a construction site, the City Engineer may direct the owner(s) or his agents or his contractor on the site by written order to install any and all erosion controls that are deemed necessary to prevent said soil erosion from migrating off site. It shall be the duty of the owner(s) and his agent(s) and contractor(s) immediately to take all necessary steps to comply with such order and otherwise to take all necessary steps to prevent such migration off premises or from entering receiving waters. Delivery of such a written order by the City Engineer to the owner's agent or contractor shall be deemed to be notice thereof to and binding upon the owner.

SECTION XII:

That Section 12.18.100 of the Carson City Municipal Code is hereby added as follows:

Section 12.18.100 Maintenance Requirements. Any person carrying out soil erosion and sediment control measures under this Chapter, and all subsequent owners of property concerning which such measures have been taken, shall maintain all permanent erosion control measures, retaining walls, basins, structures, plantings, and other protective devices and/or facilities. Persons in violation of non-maintenance shall take action to remedy their facility within a reasonable period of time upon written notification from the City Engineer. Timeframes for maintenance of facilities of a critical nature will be stated in the City Engineer's written notification. Should the person or any of the subsequent property owners fail to adequately maintain the permanent erosion control facilities, retaining walls, basins, structures, plantings, and other protective devices and/or facilities, the City reserves the authority, after properly notifying the owner of needed maintenance and the owner failing to respond to the City Engineer's demand for such maintenance to enter affected property, provide needed maintenance and to charge the owner for the work performed by the City or its contractors. If payment of such costs for necessary work is not paid within one year, the costs shall be collected through property tax lien or other means as allowed under State law.

SECTION XIII:

That Section 12.18.110 of the Carson City Municipal Code is hereby added as follows:

Section 12.18.110 Notification of Needed Maintenance. Notwithstanding other requirements of law, as soon as any person responsible for the maintenance of permanent erosion control facilities fails to properly maintain their facility, the City may make notifications in person or by phone but notice shall be confirmed by written notice addressed and mailed to the responsible persons within five business days of the personal visit or phone notice. Also, the City may employ proactive or (annual) notification methods to remind persons of important maintenance tasks without risk of City action. Person not responding to annual notifications will be subject to the Notification of Needed Maintenance process.

SECTION XIV:

That Section 12.18.120 of the Carson City Municipal Code is hereby added as follows:

Section 12.18.120 Acts Resulting in Violation of Federal Clean Water Act. Any person who violates any provision of this Chapter, any provision of any permit issued pursuant to this Chapter, or who discharges waste or wastewater which causes pollution, or who violates any cease and desist order, prohibition, or effluent limitation, also may be in violation of the federal Clean Water Act and may be subject to the sanctions of that Act including civil and criminal penalties.

SECTION XV:

That Section 12.18.130 of the Carson City Municipal Code is hereby added as follows:

Section 12.18.130 Enforcement. Notwithstanding the existence or pursuit of any other remedy, the City may maintain an action in its own name in any court of competent jurisdiction for an injunction or other process against any person to restrain or prevent violations of this Chapter. The City Engineer, or his duly authorized agents, may enter at all reasonable times in, or upon, any private or public property for the purpose of inspecting and investigating conditions and practices which may be a violation of this Chapter.

SECTION XVI:

That Section 12.18.140 of the Carson City Municipal Code is hereby added as follows:

Section 12.18.140 Request for Hearing. Any person receiving a Notification of Needed Maintenance from the City Engineer may request a hearing.

1. Upon receipt of said notice, the person accused has ten (10) working days to request a hearing, in writing, with the City Engineer to provide additional reports, data, statements of any relevant material.
2. A failure to request a hearing, in writing, within the time allowed is deemed a waiver of the right to be heard.
3. Upon consideration of evidence provided by the alleged violator during a hearing, the City Engineer shall, within (10) working days, issue a final Notice of Needed Maintenance
4. Upon issuance of a final Notice of Needed Maintenance, the alleged violator shall have ten (10) working days to request, in writing, an appeal to the Board of Supervisors.

SECTION XVII:

That no other provisions of Title 12 of the Carson City Municipal Code are affected by this ordinance.

PROPOSED this 21st day of September, 2006

PROPOSED BY Supervisor Shelly Aldean

PASSED on the ___ day of _____, 2006

VOTE: AYES: _____

NAYES: _____

ABSENT: _____

Marv Teixeira, Mayor

ATTEST:

Alan Glover, Clerk Recorder

This Ordinance shall be in force and effect from and after the ____ day of _____, 2006.