



STAFF REPORT

Report To: Board of Supervisors

Meeting Date: March 16, 2017

Staff Contact: Iris Yowell, Deputy District Attorney

Agenda Title: For Possible Action: To adopt Bill No. 105, on second reading, Ordinance No. 2017-__, an ordinance amending Title 8, Public Peace, Safety and Morals, by amending Chapters 8.08, Nuisances, and 8.09, Enforcement Provisions for Nuisances, to better clarify the manner in which nuisances are to be abated; and making certain other conforming changes. (Iris Yowell, Deputy District Attorney, iyowell@carson.org)

Staff Summary: The ordinance proposes to amend sections of the Code as follows:

SUBSTANTIVE CHANGES: Section 8.08.020, to clarify that the scope of Chapter 8.08, Nuisances, includes lodging. Section 8.08.030, to include residential motels within the definition of "building," defining "lodging" to mean buildings and structures that a person pays to inhabit, but not including apartments, condominiums and houses, and defining a "residential motel" as one with six (6) or more units that are used by non-transient guests who remain longer than twenty-eight (28) days. Repealing Sections 8.08.040, 8.08.080, 8.08.150 and 8.08.190, because those sections presently overlap in describing the nature of nuisance violations and the penalties for nuisances, and replacing those sections with a new Section 8.08.095, which consolidates prohibited acts and an escalating system of enforcement in one section. Section 8.08.070, to add to the list of nuisances per se: Conditions that are hazards under the International Property Maintenance Code, and nuisances listed in the section which occur on the premises of a residential motel. Section 8.08.100, for the abatement of nuisances and nuisances per se, to clarify that the imposition of a special assessment does not preclude the imposition and collection of civil penalties and fees which are otherwise allowed by Chapter 8.08. Section 8.08.105, for the abatement of chronic nuisances, to direct the District Attorney to act in cooperation with enforcement officials, to clarify that notice and an opportunity for a hearing is required before property is secured or closed, and to direct that situations requiring emergency action be addressed using the procedures for summary abatement. Section 8.08.160, to provide that an occupant of a property, building or premises that is to be demolished as unsafe or dangerous need not be given relocation assistance or be considered a displaced person if the occupant caused the nuisance condition. Section 8.09.110, to clarify that administrative penalties may include administrative fines, and that the imposition of an administrative penalty does not exclude the imposition of abatement costs incurred by the city. Section 8.09.130, to provide that an enforcement official may for good cause shown, allow an owner of property additional time to correct a nuisance condition, and may delay recordation of a notice of violation. Section 8.09.290, to add procedural protections in the event of summary abatement, such that the owner must be served with a notice of imminent danger, to set forth the required contents of the notice of imminent danger, and to clarify that "imminent danger" involves a condition requiring rapid action. Section 8.09.300, to add to the process of summary abatement: Notice, a hearing, and the opportunity to appeal the results of the hearing to a court, but on a more condensed time-scale than other enforcement actions. Adding a new Section 8.09.305 to address "immediate emergencies," which pose such a present and actual danger to occupants of structures or to the general public, that an enforcement official must act immediately and due process is provided on a post-deprivation basis. Section 8.09.310, to allow foreclosure of a code enforcement lien. Section 8.09.350, to require a hearing officer to have training in administrative law or equivalent experience. Sections 8.09.390, 8.09.400, 8.09.450, 8.09.470 and 8.09.480, to recognize the shortened periods for notice and action within the process of summary abatement.

NON-SUBSTANTIVE CHANGES: Section 8.08.050, to maintain parallel sentence structure. Section 8.08.090, to add missing prefatory language. Section 8.08.120, to make conforming changes with the rest of the ordinance.

Section 8.08.140, to maintain parallel structure (related: Section 8.09.050 is repealed because it duplicates Section 8.08.140). Section 8.08.180, to add omitted words. Section 8.09.020, to add omitted words. Section 8.09.060, to correct grammar. Sections 8.09.080 and 8.09.100, to add language so that those sections read more logically. Section 8.09.150, to add missing articles. Sections 8.09.170 and 8.09.190, adding language to make the sections read more logically. Section 8.09.490, to make technical changes and add a cross-reference.

Agenda Action: Ordinance - Second Reading

Time Requested: 5 minutes

Proposed Motion

I move to adopt Bill No. 105, on second reading, Ordinance No. 2017-__, an ordinance amending Title 8, Public Peace, Safety and Morals, by amending Chapters 8.08, Nuisances, and 8.09, Enforcement Provisions for Nuisances, to better clarify the manner in which nuisances are to be abated; and making certain other conforming changes.

Board's Strategic Goal

Safety

Previous Action

The Board of Supervisors adopted Bill No. 105, on first reading, on February 16, 2017, by a vote of 5-0.

Background/Issues & Analysis

The proposed changes to the Nuisance Ordinance related to nuisances, the abatement of nuisances, and enforcement provisions therefor, are primarily to make those provisions more consistent, and to ensure that persons subject to enforcement proceedings receive due process.

Applicable Statute, Code, Policy, Rule or Regulation

Chapter 8.08, Nuisances; Chapter 8.09, Enforcement Provisions for Nuisances

Financial Information

Is there a fiscal impact? Yes No

If yes, account name/number: N/A

Is it currently budgeted? Yes No

Explanation of Fiscal Impact: A business impact statement is not required in this case pursuant to subsection 2 of NRS 237.080, as the practical effect of the ordinance is simply to: (1) Eliminate repetitive provisions; (2) Standardize procedures; and (3) Expand certain procedural protections for property owners. Thus, the proposed ordinance will not impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business.

Alternatives

The board may modify or deny the proposed changes.

Attachments:

1) Ordinance

Board Action Taken:

Motion: _____

1) _____

2) _____

Aye/Nay

(Vote Recorded By)

BILL NO. 105

ORDINANCE No. 2017-__

AN ORDINANCE AMENDING TITLE 8, PUBLIC PEACE, SAFETY AND MORALS, BY AMENDING CHAPTERS 8.08, NUISANCES, AND 8.09, ENFORCEMENT PROVISIONS FOR NUISANCES, TO BETTER CLARIFY THE MANNER IN WHICH NUISANCES ARE TO BE ABATED; MAKING CERTAIN OTHER CONFORMING CHANGES; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO.

The Board of Supervisors of Carson City does ordain:

SECTION I:

That Title 8 (Public peace, safety and morals), Chapter 8.08 (Nuisances), Section 8.08.020 (Purpose and scope) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

8.08.020 - Purpose and scope.

It is determined and declared as follows:

1. Carson City has a substantial and legitimate interest in seeing that its community, including **, without limitation,** property, buildings **, lodging** and premises within its limits, is kept in a safe and aesthetically pleasing condition;
2. The keeping or maintaining of property, buildings [~~and~~] **, lodging or** premises at variance with the level of maintenance of surrounding properties will result in blighting and/or unsafe conditions and substantial diminution in the enjoyment, use, aesthetic and property values of such surrounding properties; **and**
3. It is desirous to promote the maintenance of property, buildings **, lodging** and premises in order to enhance the livability, community appearance, and the safe, social and economic conditions of the community.

SECTION II:

That Title 8 (Public peace, safety and morals), Chapter 8.08 (Nuisances), Section 8.08.030 (Definitions) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

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 six (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 seven (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~~] **NRS 482.381**
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. **The term includes a residential motel.**
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 one (1) ton or less; and
 - b. Was manufactured not earlier than 1949, but at least twenty (20) years before the date of application for registration. [Reference ~~NRS 283.3814~~] **NRS 482.3814**
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 one (1) ton or less;
 - b. Was manufactured at least twenty-five (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}~~ **NRS 482.3816**]
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. "Criminal gang" means any combination of persons, organized formally or informally, so constructed that the organization will continue its operation even if individual members enter or leave the organization, which:
- (a) Has a common name or identifying symbol;
 - (b) Has particular conduct, status and customs indicative of it; and
 - (c) Has as one of its common activities engaging in criminal activity punishable as a felony, other than the conduct which constitutes the primary offense.
- [Reference NRS 193.168]
15. ~~["Debris" means substance of little or no apparent economic value, which may be present in a state of apparent unpremeditated disarray.~~
- ~~16.]~~ "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 ~~{mean}~~ **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. "Debris" means substance of little or no apparent economic value, which may be present in a state of apparent unpremeditated disarray.**
17. "Enforcement official" shall have the meaning set forth in Carson City Resolution 2008-R-8. [Reference NRS 171.17751 and NRS 280.125]
18. "Excavation" means wells, shafts, basements, cesspools, septic tanks, swimming pools, fish ponds, and other like or similar ~~{conditions}~~ **fixtures or structures that are** more than six (6) inches in diameter and three (3) feet in depth.
19. "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.
20. "Fences, screen walls and/or retaining walls" mean self standing structures designed to provide semi-privacy, security, or bank retention between grade separations.
21. "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 8.32.10]

22. "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]
23. "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.
24. "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]] **NRS 482.380**]~~
25. "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.
26. "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.
27. "Infestation" means the apparent presence of damaging, or unhealthful insects, rodents, or reptiles.
28. "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 five hundred dollars (\$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.

29. "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.

30. "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]

31. **"Lodging" means a building or structure or group of buildings or structures that a person pays to inhabit on a transient or non-transient basis. The term does not include an apartment, condominium or house that is rented as one's dwelling.**

32. "Occupant" means **a** 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.

~~{32.}~~ **33.** "Owner" means a legal entity as current or rightful owner(s) as recorded in the official records of the Carson City Recorder's Office.

~~{33.}~~ **34.** "Person associated with property" means:

- a. The owner of the property;
- b. The manager ~~{of}~~ **or** 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]

~~[34.]~~ **35.** "Pond/pool" means an in-ground body of water that is at least eighteen (18) inches deep and eight (8) feet or greater in any dimension. Ponds that meet these conditions are subject to the provisions of this chapter.

~~[35.]~~ **36.** "Premises" means land and the buildings or structures upon it.

~~[36.]~~ **37.** "Property" means any real property, real estate, land, lot, or part of real property, real estate, land or lot.

~~[37.]~~ **38.** "Recreational/architectural pool" means a constructed (above-ground) or excavated (below-ground) exterior area designed to contain a regular supply of water.

~~[38.]~~ **39. "Residential motel" means any building that contains six (6) or more guest rooms or efficiency units that are designed, used, rented or occupied for sleeping purposes by guests, and for which those guests remain longer than twenty-eight (28) days. The term does not include a building that is used primarily by transient guests.**

40. "Rubble" means broken fragments resulting from the decay or deconstruction of a building, or miscellaneous mass of broken or apparently worthless materials.

~~[39.]~~ **41.** "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 one (1) ton or less; and
- b. Was manufactured not later than 1948. [Reference NRS 482.3812]

~~[40.]~~ **42.** "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.

~~[41.]~~ **43.** "Swimming pool" means **an** artificial basin, chamber, or tank constructed and used, or designed to be used for swimming, diving, bathing or wading.

~~[42.]~~ **44.** "Unauthorized" means without the prior permission of the property owner.

~~[43.]~~ **45.** "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.

~~[44.]~~ **46.** "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 Property Maintenance Code**, International Fire Code or Nevada Revised Statutes.

~~[45.]~~ **47.** "Unsecured structure" means any structure that is vacant ~~{with}~~ **and has** a damaged or open door, window or other opening **which is** not secured.

~~[46.]~~ **48.** "Vegetation" means plants of any kind.

~~[47.]~~ **49.** "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.

~~[48.]~~ **50.** "Weeds" means a useless and troublesome plant of negligible or no value and usually of uncontrolled growth.

SECTION III:

That Title 8 (Public peace, safety and morals), Chapter 8.08 (Nuisances), Section 8.08.040 (Unlawful acts) is hereby amended by its repeal, as follows, as duplicative of the substance of new Section 8.08.095 (Unlawful acts; escalating enforcement actions) (**bold, underlined** text is added, ~~[stricken]~~ text is deleted):

~~[8.08.040 – Unlawful acts.~~

~~Each and all of the several acts and things enumerated and prohibited by this chapter are hereby deemed and declared to be unlawful, and subject to the remedies and enforcement provisions of this chapter and those set forth in Chapter 8.09 of the Code.]~~

8.08.040 – Reserved

Editor's note— Ord. No. 2017-[ordinance number], § III, adopted [Month], [Day], 2017, repealed § 8.08.040, which pertained to unlawful acts but overlapped other sections. § 8.08.040 derived from Ord. 2005-18 § 2 (part), 2005.

SECTION IV:

That Title 8 (Public peace, safety and morals), Chapter 8.08 (Nuisances), Section 8.08.050 (Dangerous structure or condition) is hereby amended, in part, as follows (**bold, underlined** text is added, ~~[stricken]~~ text is deleted):

8.08.050 - Dangerous structure or condition.

No person owning any building, including any part or cellar or basement thereof, shall permit the building to become a dangerous structure or allow the existence of a dangerous condition ~~[–]~~ **on or within the building.**

SECTION V:

That Title 8 (Public peace, safety and morals), Chapter 8.08 (Nuisances), Section 8.08.070 (Nuisances per se) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

8.08.070 - Nuisances per se.

Any of the following conditions are a nuisance per se as constituting conditions which annoy, injure or endanger the safety, health or welfare of any considerable number of persons:

1. A dangerous structure or condition;
2. Unoccupied buildings or unoccupied structures with boarded-up windows or entryways that have been opened and unsecured for more than ten (10) business days;
3. Buildings or structures in a state of partial un-progressing construction, without a permit, for more than sixty (60) days;
4. Property, buildings, structures or premises with barricades, fencing, screen walls or retaining walls which are unsound, damaged or in disrepair;
5. Property, buildings, structures or premises which contain debris, garbage, hazardous waste, a health hazard, an imminent danger, an incipient hazard, infestation, litter, rubble or overgrown vegetation that constitute a blight to **an** adjoining property, the neighborhood or the city, or a health, safety or fire hazard;
6. Wells, shafts, basements, cesspools, septic tanks, swimming pools, recreational/architectural pools, ponds and other like or similar excavations [~~where~~] **if** it appears that such **excavations** are abandoned or not maintained and that create a public health hazard;
7. [~~Unlawful for any person to throw or cause to be thrown or deposited in any reservoir, ditch, or other stream within the city, any~~] **Any** rubbish, garbage, trash, filth, or other matter [~~tending~~] **that is thrown or caused to be thrown or deposited in any reservoir, ditch or other stream within the city, and which tends** to make **the** waters thereof impure, unwholesome, or offensive;
8. Any tree which is in a dead or dying condition located anywhere in the city, that may serve as a breeding place for any infectious insects or disease;
9. Any property whereon any condition or object obscures the visibility of a public street intersection to the public so as to constitute a hazard, including, but not limited to, vegetation, signs, posts or equipment;
10. A building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor as defined in NRS 453.086 or controlled substance analog as defined in NRS 453.043; [~~or~~]
11. Any other condition which, in the judgment of the enforcement official, creates a blight to **an** adjoining property, the neighborhood or the city, or a health, safety or fire

hazard under the conditions set forth in the International Fire Code, International Building Code, **International Property Maintenance Code**, Carson City Solid Waste Management Code, or any other Carson City Municipal Code or the Nevada Revised Statutes. [Reference NRS 40.140, NRS 202.450]; ~~for~~

12. ~~[Burning refuse,]~~ **Refuse**, sawdust or other material **that is burned** in such a manner as to cause or permit fire, sparks, any burning or ignited material, ashes, smoke, soot or cinders to be cast or fall upon any street, alley or any premise of considerable number of persons in such quantity or manner as to injure or endanger the property, lives, health, comfort or repose of said persons; ~~for~~

13. ~~[Maintaining or operating in the city any]~~ **A** burner or incinerator **that is maintained or operated in the city, and** which emits or throws off fire, sparks, ashes, smoke, sawdust, soot, cinders or any other burning or ignited material in such a manner as to injure or endanger the property or the health, comfort or repose of any considerable number of persons ~~for~~ ;

14. A building, premise or place regularly and continuously used by members of a criminal gang to engage in, or facilitate the commission of, criminal activity by the criminal gang. [Reference NRS 40.140, NRS 202.450] ; **or**

15. Any condition or set of conditions set forth in subsections 1 to 14, inclusive, of this section, which exists or is allowed to exist on the premises or property of a residential motel.

SECTION VI:

That Title 8 (Public peace, safety and morals), Chapter 8.08 (Nuisances), Section 8.08.080 (Unlawful to permit or allow a nuisance) is hereby amended by its repeal, as follows, as duplicative of the substance of new Section 8.08.095 (Unlawful acts; escalating enforcement actions) (**bold, underlined** text is added, [~~stricken~~] text is deleted):

~~8.08.080 – Unlawful to permit or allow a nuisance.~~

~~No owner of any property, building, or premises within the city shall permit or allow the existence of a nuisance or nuisance activity, an attractive nuisance, or nuisance per se as defined in this chapter, upon any property, building, structure or premises owned, occupied or controlled by him. Any person violating any of the provisions of this chapter:~~

~~1. Upon conviction, shall be guilty of a misdemeanor and punished as provided in Section 8.08.170 of the Code; or~~

~~2. Shall be subject to provisions of Chapter 8.09 of the Code.]~~

8.08.080 – Reserved

Editor’s note— Ord. No. 2017-[ordinance number], § VI, adopted [Month], [Day], 2017, repealed § 8.08.080, which made it unlawful to permit or allow a nuisance but overlapped other sections. § 8.08.080 derived from Ord. 2005-18 § 2 (part), 2005.

SECTION VII:

That Title 8 (Public peace, safety and morals), Chapter 8.08 (Nuisances), Section 8.08.090 (Chronic nuisance) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

8.08.090 - Chronic nuisance.

A chronic nuisance exists on property when:

1. [~~When 3~~] **Three (3)** or more nuisance activities exist , or have occurred during any 90 day period on the property [~~]~~ **and have not been abated;**
2. [~~When the~~] **The** property has been **the** subject of a search warrant based on probable cause of continuous or repeated violations of NRS Chapter [~~459;~~] **453;**
3. [~~When a~~] **A** building or place **located on the property** is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor as defined in NRS 453.086 or controlled substance analog as defined in NRS 453.043. [Reference NRS 268.4124]

SECTION VIII:

That Title 8 (Public peace, safety and morals) is hereby amended by adding thereto a new section, 8.08.095, Unlawful acts; escalating enforcement actions, as follows (**bold, underlined** text is added):

8.08.095 - Unlawful acts; escalating enforcement actions.

- 1. An owner of any property, building, lodging, structure or premises within the city shall not permit or allow the existence of a dangerous structure or condition, nuisance or nuisance activity, an attractive nuisance, nuisance per se or chronic nuisance as defined in this chapter, upon any property, building, lodging, structure or premises that is owned, occupied or controlled by him or her.**
- 2. Except as otherwise provided in this section, an owner who violates the provisions of this chapter by failing to comply with subsection 1 is guilty of a**

misdemeanor and shall, insofar as is practicable, be subject to enforcement and penal actions in the following order until the offending condition has been corrected:

a. The abatement procedures set forth in Section 8.08.100 or 8.08.105 of the Code, as applicable.

b. The enforcement provisions set forth in Chapter 8.09 of the Code.

c. To the extent that such does not duplicate the procedures and provisions described in paragraphs (a) and (b), upon conviction, the penalties set forth for a misdemeanor in NRS 193.150.

3. The provisions of this section do not prevent the city or its official designees from:

a. Availing itself of other remedies set forth in state or local law or at common law.

b. In the case of emergency circumstances, exercising the summary abatement procedures set forth in Sections 8.09.290 and 8.09.300 of the Code.

c. Establishing alternative penalties for violations committed by juveniles.

SECTION IX:

That Title 8 (Public peace, safety and morals), Chapter 8.08 (Nuisances), Section 8.08.100 (Procedures for abatement of a dangerous structure or condition, a nuisance, or a nuisance per se) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

8.08.100 - Procedures for abatement of a dangerous structure or condition, a nuisance, or a nuisance per se.

1. Notice of violation and declaration of the abatement of a dangerous structure, nuisance or nuisance per se. If, after inspection, the enforcement official determines that a person is in violation of Sections 8.08.050 to ~~8.08.080~~ **8.08.070** of the Code, the city shall notify the owner of ~~the~~ record through the issuance of a notice of violation and declaration of a nuisance or a nuisance per se. The notice shall be served in accordance with Chapter 8.09 of the Code, shall advise the owner of record of the existence on his property of a nuisance or a nuisance per se and the date by which he must abate the condition to prevent the matter from being submitted to the District Attorney for legal action.

a. The notice must include a statement that the owner is afforded an opportunity for a hearing before the designee of the governing body and an appeal of that decision as set forth in Chapter 8.09 of the Code.

b. The notice must provide that the date specified by which the owner must abate the condition is **tolled** for the period during which the owner requests a hearing and receives a final decision.

c. The notice must provide a statement pursuant to Chapter 8.09 of the Code that explains the manner in which the city will recover money expended for labor and

materials used to abate the condition on the property if the owner fails to abate the condition.

d. The notice must provide a statement pursuant to Chapter 8.09 of the Code that explains the civil penalties for each day that the owner did not abate the condition after the date specified in the notice by which the owner was ~~requested~~ **directed** to abate the condition.

e. The notice must include a notice of intent to record according to the provisions of Sections 8.09.110 to 8.09.130 of the Code.

2. Abatement by the City. The city enforcement official may direct the city to abate the condition on the property and may recover the amount expended by the city for labor and materials used to abate the condition if:

a. The owner has not requested a hearing within the time prescribed in Chapter 8.09 of the Code and has failed to abate the condition within the period specified in the order;

b. After a hearing, in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in Chapter 8.09 of the Code and has failed to abate the condition within the period specified in the order; or

c. The court of competent jurisdiction has denied the appeal of the owner and the owner has failed to abate the condition within the period specified in the order .~~;~~
~~d.~~

3. Special assessments. In addition to any other reasonable means of recovering money expended by the city to abate the condition, the board of supervisors may make the expense a special assessment against the property upon which the condition is or was located. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment. **The provisions of this subsection do not preclude the imposition and collection of any civil penalties or fees that are authorized to be imposed and collected pursuant to this chapter of the Code or Chapter 8.09 of the Code.** [Reference NRS 268.4122]

SECTION X:

That Title 8 (Public peace, safety and morals), Chapter 8.08 (Nuisances), Section 8.08.105 (Procedures for abatement of a chronic nuisance) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

8.08.105 - Procedures for abatement of a chronic nuisance.

1. The District Attorney may **, in cooperation with the relevant enforcement official(s) and in accordance with the procedures set forth in this section,** file an action in a court of competent jurisdiction to:

- a. Seek the abatement of a chronic nuisance that is located or occurring within the city;
- b. If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and
- c. If applicable, seek penalties against the owner of the property within the city and any other appropriate relief.

2. Notice of Abatement. If, after inspection, the enforcement official determines that a chronic nuisance exists, the enforcement official shall notify the owner of record through the issuance of a notice of violation and declaration of chronic nuisance. The notice shall be sent by certified mail, return receipt requested, and shall:

a. Advise the owner of record of the existence on his property of 3 or more nuisance activities and the date by which he must abate the condition to prevent the matter from being submitted to the District Attorney for legal action ~~[.]~~ **as described in Chapter 8.09 of the Code.**

b. The notice of violation and declaration of chronic nuisance shall include the provisions set forth in Section 8.09.110 of the Code, including a description of the conditions or activities which constitutes the chronic nuisance. The notice of violation and declaration of chronic nuisance shall also include a notice of an opportunity for a hearing before a court of competent jurisdiction and the procedure ~~{therefore.}~~ **therefor.**

c. The date specified in the notice of violation and declaration of chronic nuisance for abatement is tolled for the period during which the owner of record requests a hearing before a court of competent jurisdiction and receives a decision.

d. The notice must provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.

e. The notice of violation and declaration of chronic nuisance shall include a notice of intent to record according to the provisions of Section 8.09.110 through 8.09.130 of the Code.

3. Action by the Court. If the court finds that a chronic nuisance exists and ~~{emergency}~~ action is necessary to avoid ~~{immediate}~~ threat to the ~~{public}~~ **public's** health, welfare or safety, the court shall **, after affording the owner notice and an opportunity for a hearing,** order the city to secure and close the property for a period not to exceed 1 year or until the nuisance is abated, whichever occurs first ~~[, and]~~ **If the court finds that emergency action is necessary to protect the public's health, welfare or safety, the court shall ensure that the nuisance is abated by way of summary abatement, in accordance with Sections 8.09.290 and 8.09.300 of the Code. The court** may:

a. ~~Impose a civil penalty of not more than \$500.00 per day for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;~~

~~b.~~ Order the owner to pay the city for the cost incurred by the city in abating the condition;

~~e.~~ **b.** If applicable, **except as otherwise provided in Section 8.08.160 of the Code,** order the owner to pay reasonable expenses for the relocation of any tenants who are affected by the chronic nuisance; and

~~d.~~ **c.** Order any other appropriate relief ~~[-]~~ **allowed by law.**

4. Special Assessment. In addition to any other reasonable means authorized by the court for the recovery of money expended by the city to abate the chronic nuisance, the board of supervisors may make the expense a special assessment against the property upon which the chronic nuisance is or was located or occurring. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment. [Reference NRS 268.4124]

SECTION XI:

That Title 8 (Public peace, safety and morals), Chapter 8.08 (Nuisances), Section 8.08.120 (Authority to enforce) is hereby amended, in part, as follows (**bold, underlined** text is added, ~~stricken~~ text is deleted):

8.08.120 - Authority to enforce.

The maintenance of property, buildings, **lodging,** structures and premises, in order to enhance the livability, community appearance, and the safe, social and economic conditions of the community as described herein, reasonably relates to the proper exercise of **the** police power **of the city** to protect the health, safety and general welfare of the public.

SECTION XII:

That Title 8 (Public peace, safety and morals), Chapter 8.08 (Nuisances), Section 8.08.140 (Authority to inspect) is hereby amended, in part, as follows (**bold, underlined** text is added, ~~stricken~~ text is deleted):

8.08.140 - Authority to inspect.

1. An enforcement official is authorized to enter upon any property or premises to ascertain if there is compliance with the provisions of ~~[Chapter 8.08 of the Code,]~~ **this chapter**, and to make any investigations, examinations and surveys as may ~~[by]~~ **be** necessary in the performance of ~~[their]~~ **his or her** enforcement duties. This may include, but is not limited to, the taking of photographs, samples or other physical evidence. The enforcement official may seek entry upon any **property or** premises at any reasonable time for the purpose of carrying out the duties of enforcement of ~~[Chapter 8.08 of the Code.]~~ **this chapter**. In the event that the owner or occupant of any **property or** premises located within Carson City refuses to permit entry to the enforcement official when such entry is sought pursuant to this section, the enforcement official may seek entry through any legal means including, but not limited to, making application to any court of competent jurisdiction for issuance of a warrant. Such sworn application shall identify the **property or** premises upon which entry is sought and the purpose for which entry is desired. The applicant shall state the facts giving rise to the belief that a condition which is in violation of ~~[Chapter 8.08 of the Code]~~ **this chapter** exists on such **property or** premises, or that a violation in fact exists and must be corrected or abated.

2. The enforcement official may expand the scope of any inspection to include other Code violations noted during inspection.

SECTION XIII:

That Title 8 (Public peace, safety and morals), Chapter 8.08 (Nuisances), Section 8.08.150 (Violations and penalties) is hereby amended by its repeal, as follows, as duplicative of the substance of new Section 8.08.095 (Unlawful acts; escalating enforcement actions) (**bold, underlined** text is added, ~~[stricken]~~ text is deleted):

~~8.08.150 – Violations and penalties.~~

~~— 1. The remedies herein are cumulative and the city may proceed under 1 or more such remedies.~~

~~— 2. In addition to any cost incurred, any person, other than a juvenile violating any of the provisions of the chapter:~~

~~— a. Upon conviction, shall be guilty of a misdemeanor and punished as provided in NRS 193.150;~~

~~— b. Shall be subject to the administrative fines, abatement notices, appeal procedures and lien or civil action provisions of Chapter 8.09 of the Code.]~~

8.08.150 – Reserved

Editor’s note— Ord. No. 2017-[ordinance number], § XIII, adopted [Month], [Day], 2017, repealed § 8.08.150, which set forth certain violations and penalties but overlapped other sections. § 8.08.150 derived from Ord. 2005-18 § 2 (part), 2005.

SECTION XIV:

That Title 8 (Public peace, safety and morals), Chapter 8.08 (Nuisances), Section 8.08.160 (Relocation of occupants) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

8.08.160 - Relocation of occupants.

1. If the enforcement official determines that any building or structure on the **premises or** property must be demolished as an unsafe or dangerous building, under the requirements of the International Fire Code, or International Building Code, he shall consult with the building official whose approval must first be obtained for such a notice of demolition. If the notice of demolition is issued, the notice shall require that the building be vacated within such time as the enforcement official shall set forth therein, not to exceed 60 days from the date of the notice, and that all required permits be promptly secured and demolition completed within such reasonable time frame as set forth in the notice.

2. Any person occupying a property, building or premises after the city has posted on the structure, a notice of its hazardous condition, shall not be eligible for relocation assistance or be considered a displaced person. **In addition, a person occupying a property, building or premises who has caused a nuisance condition existing therein or thereon shall not be eligible for relocation assistance or be considered a displaced person on account of the existence of that nuisance condition.**

SECTION XV:

That Title 8 (Public peace, safety and morals), Chapter 8.08 (Nuisances), Section 8.08.180 (Liability for costs to Carson City) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

8.08.180 - Liability for costs to Carson City.

~~10~~ **Ten (10)** business days after service of the notice of violation, the owner **or owners of property on which a nuisance exists** shall be jointly and severally liable for any and all reasonable charges incurred by reason of the city being required to respond to **the nuisance on** the property, **if the nuisance has** not **been** abated as required by the notice of violation. When incurred, such charges shall be treated in the same manner and be subject to the same rights of appeal as charges incurred in bringing the property into compliance.

SECTION XVI:

That Title 8 (Public peace, safety and morals), Chapter 8.08 (Nuisances), Section 8.08.190 (Criminal prosecutions not prevented) is hereby amended by its repeal, as follows, as duplicative of the substance of new Section 8.08.095 (Unlawful acts; escalating enforcement actions) (**bold, underlined** text is added, [~~stricken~~] text is deleted):

~~**8.08.190 – Criminal prosecutions not prevented.**~~

~~Nothing contained in this chapter shall prevent the initiation of a suit by the city against any of the persons mentioned in this chapter to collect the expenses of such abatement or removal or the prosecution criminally under the ordinances of the city of any person creating, maintaining, causing or committing a nuisance, or owning or in possession, charge or control of the property, building, structure or premises upon which a nuisance is created, maintained, caused or committed.]~~

8.08.190 – Reserved

Editor’s note— Ord. No. 2017-[ordinance number], § XVI, adopted [Month], [Day], 2017, repealed § 8.08.190, which stated criminal prosecution was not prevented but overlapped other sections. § 8.08.190 derived from Ord. 2005-18 § 2 (part), 2005.

SECTION XVII:

That Title 8 (Public peace, safety and morals), Chapter 8.09 (Enforcement provisions for nuisances), Section 8.09.020 (Conflict of ordinances) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

8.09.020 - Conflict of ordinances.

1. The operation of this chapter shall in no way change or diminish the effect of other ordinances in the Carson City Municipal Code dealing with like or similar matters.

2. In any case where a provision of this chapter is found to be in conflict with any other provision of the Carson City Municipal Code, the provision which establishes the higher standard for the promotion and protection of health and safety of the people shall prevail.

3. It is not intended by this chapter to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances or with private restrictions placed upon property by covenant, deed, or other private agreement except those specifically repealed by this chapter.

4. In cases where 2 or more provisions of this chapter conflict, the more or most stringent or restrictive provision, as applicable, shall prevail.

SECTION XVIII:

That Title 8 (Public peace, safety and morals), Chapter 8.09 (Enforcement provisions for nuisances), Section 8.09.050 (Authority to inspect) is hereby amended, in part, as follows (bold, underlined text is added, [~~stricken~~] text is deleted):

8.09.050 - Authority to inspect.

~~[1.] An enforcement official [is authorized to enter upon any] has the authority to inspect property or premises [to ascertain if there is compliance with the provisions of Chapter 8.08 of the Code, and to make any investigations, examinations and surveys as may be necessary in the performance of their enforcement duties. This may include, but is not limited to, the taking of photographs, samples or other physical evidence. The enforcement official may seek entry upon any premises at any reasonable time for the purpose of carrying out the duties of enforcement of Chapter 8.08 of the Code. In the event that the owner or occupant of any premises located within Carson City refuses to permit entry to the enforcement official when such entry is sought pursuant to this section, the enforcement official may seek entry through any legal means including, but not limited to, making application to any court to competent jurisdiction for issuance of a warrant. Such sworn application shall identify the premises upon which entry is sought and the purpose for which entry is desired. The applicant shall state the facts giving rise to the belief that a condition which is in violation of Chapter 8.08 of the Code exists on such premises, or that a violation in fact exists and must be corrected or abated.~~

2. ~~The enforcement official may expand the scope of any inspection to include other Code violations noted during inspection.]~~ **as described in Section 8.08.140 of the Code.**

SECTION XIX:

That Title 8 (Public peace, safety and morals), Chapter 8.09 (Enforcement provisions for nuisances), Section 8.09.060 (Recovery of administrative fees-purpose) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

8.09.060 - Recovery of administrative fees—Purpose.

The Carson City board of supervisors finds there is a need to recover costs incurred by Carson City, through an administrative fee schedule, in its enforcement efforts of Chapter 8.08 of the Code. Administrative fees may include **, without limitation, fees imposed to recover costs incurred by the city for the** recording of notices, **the conducting of** title [~~search,~~] **searches,** and any other processing costs **incurred by the city that are** associated with the violations specified on **or in** the notice of violation or administrative citation.

SECTION XX:

That Title 8 (Public peace, safety and morals), Chapter 8.09 (Enforcement provisions for nuisances), Section 8.09.080 (Notification of assessment of administrative fees) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

8.09.080 - Notification of assessment of administrative fees.

Where the assessment of an administrative fee is authorized under this chapter, the enforcement official shall provide the owner **of the property against whom the fee is assessed** with a written notice assessing the fee. The written assessment shall contain the following information:

1. The amount of fee charged;
2. The case number; **and**
3. A deadline by which the administrative fee must be paid. **In addition:**

- a. An administrative fee may be assessed as part of any enforcement **action or** actions as provided for in this chapter of the Code;
- b. An **action to recover an** administrative fee collected pursuant to this chapter shall not be duplicated in any other action to recover ~~these identical fees;~~ **the same fee; and**
- c. The failure of any owner to receive notice of the **assessment of** administrative fees shall not affect the validity of any fees imposed under this chapter of the Code.

SECTION XXI:

That Title 8 (Public peace, safety and morals), Chapter 8.09 (Enforcement provisions for nuisances), Section 8.09.100 (Service of notices) is hereby amended, in part, as follows (**bold, underlined** text is added, ~~stricken~~ text is deleted):

8.09.100 - Service of notices.

~~Whenever~~ **Unless otherwise specifically provided, whenever** a notice is required to be given under Chapter 8.08 of the Code for enforcement purposes ~~unless specifically provided otherwise, it~~, **the notice** shall be served by certified mail, postage prepaid, return receipt requested, or hand delivered. If a notice that is sent **by way of** certified mail is returned unsigned, then service shall be deemed effective. The failure of any owner to receive any notice served in accordance with this section shall not affect the validity of any proceedings taken under **this chapter or Chapter 8.08** of the Code.

SECTION XXII:

That Title 8 (Public peace, safety and morals), Chapter 8.09 (Enforcement provisions for nuisances), Section 8.09.110 (Notice of violation-procedures) is hereby amended, in part, as follows (**bold, underlined** text is added, ~~stricken~~ text is deleted):

8.09.110 - Notice of violation—Procedures.

Whenever it is determined that a violation of Chapter 8.08 of the Code exists, the enforcement official may issue a notice of violation to the owner ~~of~~ **of the property on which the violation exists.** The notice of violation shall include the following information:

1. The name and address of the owner who is in violation. If the notice pertains to events occurring on, or the status or condition of real property ~~[-.The]~~ , the notice shall contain the address or assessor's parcel number of the property;
2. A statement from the enforcement official identifying the conditions which violate Chapter 8.08 of the Code and the specific provisions which have been violated;
3. The amount of the administrative fine the city imposes for the ~~[-violated;]~~ violation;
4. A statement that the owner may request an administrative hearing within ~~[-10]~~ ten (10) business days after the date on which the notice is served;
5. If applicable, a list of necessary corrections to bring the property into compliance;
6. If applicable, a deadline or specific date to correct the violations listed in the notice of violation; and
7. A statement that if the owner fails to timely request an administrative hearing on the notice of violation, the administrative penalty shall be final. The administrative penalty may include applicable administrative fines, and does not exclude the imposition of abatement costs incurred by the city.

SECTION XXIII:

That Title 8 (Public peace, safety and morals), Chapter 8.09 (Enforcement provisions for nuisances), Section 8.09.130 (Procedures for recording notices of violation) is hereby amended, in part, as follows (bold, underlined text is added, ~~stricken~~ text is deleted):

8.09.130 - Procedures for recording notices of violation.

1. Once an enforcement official has issued a notice of violation to an owner and the property remains in violation after the deadline established in the notice of violation, the enforcement official ~~[-may]~~ shall, except as otherwise provided in this subsection, record the notice of violation in the official records of Carson City. If the enforcement official determines that good cause is shown, and an actual threat or imminent danger does not exist, or no longer exists, the enforcement official may allow the owner an additional reasonable period of time to fully correct the violation before recording the notice of violation.

2. Before recording, an enforcement official shall provide to the owner a notice of intent to record stating that a notice of violation will be recorded if the violation is not corrected within ~~[-10]~~ ten (10) business days from the date of the notice of intent to record ~~[-]~~ , unless the owner requests an administrative hearing on recordation in accordance with Section 8.09.150 of the Code.

3. Any costs associated with recording the notice of violation will be assessed against the property as provided for in Section 8.09.060 to 8.09.090 of this chapter of the Code.

SECTION XXIV:

That Title 8 (Public peace, safety and morals), Chapter 8.09 (Enforcement provisions for nuisances), Section 8.09.150 (Procedures to request administrative hearing on recordation) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

8.09.150 - Procedures to request administrative hearing on recordation.

1. A request for **an** administrative hearing on the enforcement official's notice of intent to record the notice of violation shall follow the procedures set forth in Sections 8.09.340 to 8.09.460 of this chapter of the Code.
2. Upon receiving a written request for **an** administrative hearing, the enforcement official shall schedule a hearing pursuant to the procedures set forth in Section 8.09.400 of the Code. The purpose of the hearing is for the owner to state any reasons why a notice of violation should not be recorded.
3. The failure of any person to file a request for **an** administrative hearing in accordance with these provisions shall constitute a waiver of the right to an administrative hearing and shall not affect the validity of the recorded notice of violation.

SECTION XXV:

That Title 8 (Public peace, safety and morals), Chapter 8.09 (Enforcement provisions for nuisances), Section 8.09.170 (Notice of compliance-removal procedures) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

8.09.170 - Notice of compliance—Removal procedures.

In the event that a notice of violation has been recorded in the official records of

Carson City:

1. When the [~~violation(s)~~] **violation or violations** listed on the notice of violation has **or have** been corrected, **as applicable**, the owner may file with the enforcement official a written request for a notice of compliance on a form provided by the Carson City clerk.
2. Once the enforcement official receives a request for a notice of compliance, the enforcement official shall confirm **that the** [~~violation(s)~~] **violation or violations** has **or have** been corrected or abated, **as applicable**, which confirmation may include the re-

inspection of the **relevant** property. The enforcement official shall provide a notice of compliance to the owner if the enforcement official determines that:

- a. All violations listed in the recorded notice of violation have been corrected;
- b. All necessary permits have been issued and finalized;
- c. All administrative fines have been paid; and
- d. The party requesting the issuance of the notice of compliance has paid all administrative fees due to the city.

3. ~~{The}~~ **If an enforcement official provides a notice of compliance as described in subsection 2, the** enforcement official shall record ~~{or cause to be recorded}~~ the notice of compliance **or cause the notice of compliance to be recorded** in the official records of Carson City. The recording of the notice of compliance shall have the effect of canceling the recorded notice of violation.

4. If the enforcement official denies a request to issue a notice of compliance, the enforcement official shall serve the owner with a written explanation setting forth the reasons for the denial. The written explanation shall be served by certified mail, postage prepaid, return receipt requested or hand delivered.

SECTION XXVI:

That Title 8 (Public peace, safety and morals), Chapter 8.09 (Enforcement provisions for nuisances), Section 8.09.190 (Administrative citations and fines-authority) is hereby amended, in part, as follows (**bold, underlined** text is added, ~~[stricken]~~ text is deleted):

8.09.190 - Administrative citations and fines—Authority.

The city may impose administrative fines for any of the acts or omissions ~~{set forth}~~ **prohibited in Chapter 8.08** of the Code ~~{,}~~ **and as further set forth in this section.** Administrative fines shall be imposed, enforced, collected and reviewed in compliance with the provisions of this chapter. Administrative fines may be imposed for any of the following acts or omissions:

1. Violations ~~{or}~~ **of** the provisions of Chapter 8.08 of the Code;
2. Failing to comply with any order issued by a hearing officer; and
3. Failing to comply with any condition imposed by any permit or environmental documents issued or approved by the city.

SECTION XXVII

That Title 8 (Public peace, safety and morals), Chapter 8.09 (Enforcement provisions for nuisances), Section 8.09.290 (Summary abatement) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

8.09.290 - Summary abatement.

1. Whenever at least 3 persons who enforce building codes, housing codes, zoning ordinances or local health regulations, or who are members of the Carson City Sheriff's Department or Carson City Fire Department determine in a signed, written statement that a dangerous structure or condition exists which is an imminent danger to the **occupants or** surrounding neighborhood, the **enforcement officials may take action to abate the dangerous structure or condition in accordance with Section 8.09.300 of this chapter of the Code. The** owner of the property on which the structure or condition is located must be given [~~reasonable written notice that is:~~

~~a.]~~ **a notice of imminent danger that:**

a. If practicable, **is** hand delivered [~~or sent prepaid by United States mail~~] to the owner of the property; or

b. [~~Posted~~] **If the enforcement officials anticipate that securing the structure or condition will be necessary, must be posted** on the property [~~]~~ before the structure or condition is [~~so~~] secured.

2. The notice **of imminent danger** must [~~state~~] :

a. **State** clearly that the owner of the property may challenge the action [~~to secure the structure or condition~~] **by requesting an administrative hearing within one (1) business day after the date on which the notice is served,** and must provide a telephone number and address at which the owner may obtain additional information.

b. **Contain the name and address of the owner who is in violation, and the APN number of the property, if applicable.**

c. **Include a statement identifying the specific conditions which create the imminent danger, accompanied by references to the relevant sections of the Code that are being violated.**

d. **Include a list of corrections that are necessary to bring the property into compliance.**

e. **If applicable, set forth a deadline or specific date by which the violations listed in the notice must be corrected.**

f. **If applicable, include a statement that the property will be secured, and the date on which it will be secured, if the imminent danger is not fixed.**

— [~~2.~~

— The]

3. If securing the structure or condition is necessary, the costs of securing the structure or condition may be made a special assessment against the real property on which the structure or conditions is located any may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

—[3.] **4.**As used in [the] **this** section, "imminent danger" means the existence of any structure or condition that **, if not addressed immediately or with all due rapidity,** 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. [Reference NRS 244.3601]

SECTION XXVIII:

That Title 8 (Public peace, safety and morals), Chapter 8.09 (Enforcement provisions for nuisances), Section 8.09.300 (Summary abatement-procedures) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

8.09.300 - Summary abatement—Procedures.

1. [The] **Except as otherwise provided in this subsection, the** enforcement officials shall pursue only the minimum level of correction or abatement as necessary to eliminate the imminent danger [.] **, unless pursuing only the minimum level of correction or abatement would, in the opinion of the enforcement officials, unduly increase the likelihood of the imminent danger arising again in the near future.**

2. [The enforcement official may also pursue any other criminal, administrative or judicial remedy to abate any remaining violations.]

If enforcement officials take summary abatement action, the owner of the property on which the summary abatement action is being or will be taken must be afforded procedural protections substantially similar to those set forth in Sections 8.09.340 to 8.09.480, inclusive, of the Code, with the following exceptions:

- a. **The time period for requesting an administrative hearing, as set forth in Section 8.09.390 of the Code is reduced from ten (10) business days to one (1) business day.**
- b. **The notice of the administrative hearing described in Section 8.09.400 is reduced from ten (10) business days to one (1) business day.**
- c. **The request for a subpoena, as described in Section 8.09.370, must be submitted within the time directed by the hearing officer, rather than five (5) business days before the hearing.**
- d. **The administrative hearing must be held by the applicable hearing officer as soon as is practicable after the mandatory notice allows.**

- e. Any administrative order that is issued as described in Section 8.09.450 of the Code must be issued as soon as is practicable, and must set deadlines for action on the part of the owner which are as short as possible to eliminate the imminent danger before such danger becomes actual.
- f. The time for appeal of an order or decision of a hearing officer, as set forth in Section 8.09.470 of the Code, is reduced from thirty (30) calendar days to ten (10) calendar days. Any motion to stay the hearing officer's order or decision pending the outcome of the appeal must be filed within one (1) calendar day after the issuance of the order or decision of the hearing officer.
- g. The court must hear an appeal as soon as is practicable after an appeal is requested.

SECTION XXIX:

That Title 8 (Public Peace, Safety and Morals) is hereby amended by adding thereto a new section, 8.09.305, Immediate emergencies, as follows (**bold, underlined** text is added):

8.09.305 – Immediate emergencies.

1. If an enforcement official determines that an immediate emergency exists, the enforcement official shall take action with all due diligence and haste to abate or terminate that immediate emergency.

2. To abate or terminate an immediate emergency, an enforcement official may take action as necessary to protect the safety or health of occupants of a structure or of the general public. Such action may include, but is not limited to, securing property, securing the structure, evacuating occupants, making repairs to property and dismantling buildings or structures.

3. After taking the action necessary to abate or terminate the immediate emergency, the owner of the property on which the action was taken must be afforded post-deprivation process substantially similar to that set forth in subsection 2 of Section 8.09.300 of this code.

4. It is a rebuttable presumption that an enforcement official acted in good faith in determining the existence of an immediate emergency, and in determining the action necessary to abate or terminate that immediate emergency.

5. As used in this section, an “immediate emergency” exists when:

(a) A structure or condition is presently causing actual injury or presently causing actual danger to the safety or health of the occupants of the structure or the general public; and

(b) Affording the pre-deprivation process prescribed for summary abatements in subsection 2 of Section 8.09.300 of the Code would pose an undue risk to the safety or health of those occupants or of the general public.

SECTION XXX:

That Title 8 (Public peace, safety and morals), Chapter 8.09 (Enforcement provisions for nuisances), Section 8.09.310 (Procedures for recording Code enforcement lien) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

**8.09.310 - Procedures for ~~recording~~ enforcing a code enforcement lien ~~[-]~~ ;
recording; foreclosure.**

A code enforcement lien may be enforced in the following manner:

1. **By recordation as described in paragraphs (a) to (d), inclusive.**

(a) An enforcement official may record a code enforcement lien in the official records of Carson City to collect all administrative fees, administrative fines, abatement costs and other costs provided for in this chapter and Chapter 8.08 of the Code.

~~[-]~~ **(b)** Before recording a code enforcement lien, an enforcement official shall provide to the owner a notice of intent to record stating that a code enforcement lien will be recorded unless payment of all monies due is paid in full on or before the date ~~[listed herein.]~~ **required by the Code.**

~~[-]~~ **(c)** The recorded code enforcement lien shall include the name of the property owner, the ~~[assessor's]~~ **assessor's** parcel number, the street address ~~[-]~~ **of the parcel,** the parcel's legal description, and a copy of the latest amounts due to the city.

~~[-]~~ **(d)** Any costs associated with recording the code enforcement lien or removal thereof may be assessed against the property as provided for in Sections 8.09.060 to 8.09.090 of this chapter of the Code.

2. By an action for foreclosure against such property in the same manner as an action for foreclosure of any other lien, commenced within two (2) years after the date of recording of the notice of the lien, and accompanied by appropriate notice to other lienholders.

SECTION XXXI:

That Title 8 (Public peace, safety and morals), Chapter 8.09 (Enforcement provisions for nuisances), Section 8.09.350 (Appointment of hearing officer) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

8.09.350 - Appointment of hearing officer.

Any hearing officer presiding at administrative hearings shall be appointed and compensated by the city. The hearing officer shall not be an employee of the city. **As determined by the city, the hearing officer must have training in administrative law, or equivalent experience, sufficient to enable the hearing officer to conduct fair and lawful hearings.**

SECTION XXXII:

That Title 8 (Public peace, safety and morals), Chapter 8.09 (Enforcement provisions for nuisances), Section 8.09.390 (Procedures for requesting an administrative hearing) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

8.09.390 - Procedures for requesting an administrative hearing.

1. ~~{An}~~ **Except as otherwise provided in Section 8.09.300 of this chapter of the Code, an** owner served with one of the following documents, orders, or notices may file a request for administrative hearing within 10 business days from the service of the notice:

- a. A notice of violation issued pursuant to Chapter 8.08 and Section 8.09.110 of this chapter of the Code.
- b. A notice from the enforcement official indicating an intent to record a notice of violation pursuant to Section 8.09.130 of this chapter of the Code.
- c. An administrative citation issued pursuant to Section 8.09.210 of this chapter.
- d. A notice to abate pursuant to Section 8.09.260 of this chapter of the Code.
- e. **A notice of imminent danger, as described in Section 8.09.290 of this chapter of the Code.**

2. ~~{The}~~ **Except as otherwise provided in Section 8.09.300 of this chapter of the Code, the** request for **an** administrative hearing shall be made in writing on a form provided by the Carson City Health and Human Services Department and shall state the grounds for requesting the hearing and be filed with the Carson City Health and Human Services Department on or before 10 business days after service of the notice or citation.

SECTION XXXIII:

That Title 8 (Public peace, safety and morals), Chapter 8.09 (Enforcement provisions for nuisances), Section 8.09.400 (Procedures for notification of administrative hearing) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

8.09.400 - Procedures for notification of administrative hearing.

1. Where the owner has timely requested an administrative hearing, the hearing officer shall schedule a day, time and place for the hearing.
2. [~~Written~~] **Except as otherwise provided in Section 8.09.300 of this chapter of the Code, written** notice of the time and place of the hearing shall be served at least 10 business days **prior** to the date of the hearing to the owner.
3. The notice of hearing shall be served by certified mail, postage prepaid, return receipt requested or hand delivered.

SECTION XXXIV:

That Title 8 (Public peace, safety and morals), Chapter 8.09 (Enforcement provisions for nuisances), Section 8.09.450 (Administrative order-compliance with administrative order) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

8.09.450 - Administrative order—Compliance with administrative order.

1. The decision of the hearing officer shall be entitled "administrative order."
2. Once all evidence and testimony are completed, the hearing officer shall issue an administrative order which affirms, modifies or rejects the enforcement official's action. The administrative order may affirm, modify or reject the daily rate or duration of the administrative fines depending upon the review of the evidence and may increase or decrease the total amount of administrative fines assessed.
3. The hearing officer may issue an administrative order that requires the owner to cease violating ~~the~~ Chapter 8.08 of the Code and to make necessary corrections, repairs, or to complete any other reasonable act requested by the enforcement official, which may be modified by the hearing officer, to bring the property into compliance with ~~the~~ Chapter 8.08 of the Code. The hearing officer shall include a specific time frame to complete the requested act.
4. As part of the administrative order, the hearing officer may establish specific deadlines for the payment of administrative fines, fees and costs and may condition the

total or partial assessment of administrative fines on the owner's ability to complete compliance by specified deadlines.

5. The hearing officer may issue an administrative order which imposes additional administrative fines as set forth in Section 8.09.220 of this chapter of the Code that will continue to be assessed for each day the violation continues until the owner complies with the hearing officer's decision and corrects the violation.

6. The hearing officer may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the administrative order.

7. The administrative order shall become final on the date of service of the order.

8. The administrative order shall be served on all parties by certified mail, postage prepaid, return receipt requested or hand delivered.

9. As per Section 8.09.300 of this chapter of the Code, in the case of summary abatement, the actions of the hearing officer described in this section must be taken as expeditiously as possible.

SECTION XXXV:

That Title 8 (Public peace, safety and morals), Chapter 8.09 (Enforcement provisions for nuisances), Section 8.09.470 (Appeal of administrative order to justice/municipal court-procedure) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

8.09.470 - Appeal of administrative order to justice/municipal court—Procedure.

~~Within~~ **Except as otherwise provided in Section 8.09.300 of this chapter of the Code, within** 30 calendar days from service of an administrative order or other decision by the hearing officer, any party may appeal the determination of the hearing officer to justice/municipal court, unless appeal to another tribunal is required by law. Any party failing to timely file an appeal to court shall be deemed to have waived any and all objections to the administrative hearing officer's decision. ~~Trial~~ **The standard of review for the appeal** in **justice/municipal** court shall be de novo.

SECTION XXXVI:

That Title 8 (Public peace, safety and morals), Chapter 8.09 (Enforcement provisions for nuisances), Section 8.09.480 (Service of appeal decision-Time limits for

repair correction, or abatement) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

8.09.480 - Service of appeal decision—Time limits for repair, correction, or abatement.

Unless otherwise provided in the court's order, **such as in the case of summary abatement as described in Section 8.09.300 of this chapter of the Code,** the owner shall complete all actions necessary to bring the property into compliance with ~~the~~ Chapter 8.08 of the Code within 30 calendar days of service of the court's decision. The enforcement official may grant or deny a request for additional time to complete acts required for compliance with the Chapter 8.08 of the Code that is made by the owner who is making reasonable progress in the repair, correction or abatement of violations. The request for and the granting or denial of additional time shall be made in writing.

SECTION XXXVII:

That Title 8 (Public peace, safety and morals), Chapter 8.09 (Enforcement provisions for nuisances), Section 8.09.490 (Injunctions against criminal gangs) is hereby amended, in part, as follows (**bold, underlined** text is added, [~~stricken~~] text is deleted):

8.09.490 - Injunctions against criminal gangs.

1. The District Attorney, or his designee, may file a civil action to seek a temporary or permanent civil injunction against a specific member of a criminal gang or a criminal gang to enjoin criminal activity associated with the criminal gang that is occurring in Carson City.

2. In addition to seeking a permanent or temporary injunction pursuant to subsection 1, the District Attorney, or his designee, may seek the recovery of money damages, attorney's ~~fee~~ **fees** and costs from:

(a) A member of a criminal gang that is engaging in criminal activities occurring within Carson City; and

(b) The owner of a building, premise or place located within Carson City that has been found to be a nuisance per se **as defined in Section 8.08.070 of the Code** because the building, premise or place is regularly and continuously used by members of a criminal gang to engage in, or facilitate the commission of, criminal activity by the criminal gang if the owner of the building, premises or place has actual notice that the building, premise or place is regularly and continuously used by members of a criminal gang to engage in, or facilitate the commission ~~or of,~~ **of,** criminal activity by the criminal gang.

3. Any money damages awarded in an action brought pursuant to this section must be:

(a) Paid by, or collected from:

(1) Any assets of the criminal gang or its members that were derived from the criminal activity or the criminal gang or its members;

(2) Any assets of the owner of a building, premise or place that has been found to constitute a nuisance per se; or

(3) Any combination of the assets described in subparagraphs (1) and (2).

(b) Deposited into a separate fund in the Carson City treasury, to be used solely for the benefit of the specific community or neighborhood that has been injured by the criminal activity of the criminal gang or the existence of the building, premise or place that constitutes a nuisance per se.

4. Any member of a criminal gang who is subject to a temporary or permanent injunction granted pursuant to this section and who knowingly and intentionally commits a material violation of the terms of that injunction is guilty of a misdemeanor. If the violation also constitutes a criminal offense under another provision of law, the violation may be prosecuted pursuant to this section, the other provision of law or both.

SECTION XXXVIII:

That no other provisions of Title 8 of the Carson City Municipal Code are affected by this ordinance.

PROPOSED on _____, 2017.

PROPOSED by _____.

PASSED _____, 2017.

VOTE: AYES: SUPERVISORS: _____

NAYS: SUPERVISORS: _____

ABSENT: SUPERVISORS: _____

Robert Crowell, Mayor

ATTEST:

SUE MERRIWETHER
CLERK/RECORDER

This ordinance shall be in force and effect from and after the _____ day of _____, 2017.