



# STAFF REPORT

**Report To:** Board of Supervisors

**Meeting Date:** July 6, 2017

**Staff Contact:** Steven E. Tackes, Esq

**Agenda Title:** For Possible Action: To introduce, on first reading, Bill No. \_\_\_, an ordinance amending the Carson City Municipal Code Title 19, Airport Rules and Regulations, by adding Section 19.02.020.370, to address permissible aircraft storage hanger use.

**Staff Summary:** At a regular meeting of the Carson City Airport Authority on June 21 2017, publicly noticed for that purpose, the Authority approved an Amendment to CCMC Title 19 to adopt a Hangar Use Policy and rules for compliance as to Aircraft Storage Hangars on the Carson City Airport.

**Agenda Action:** Ordinance - First Reading

**Time Requested:** 10min

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## **Proposed Motion**

I move to introduce, on first reading, Bill No. \_\_\_, an ordinance amending the Carson City Municipal Code Title 19, Airport Rules and Regulations, by adding Section 19.02.020.370, to address permissible aircraft storage hanger use.

## **Board's Strategic Goal**

N/A

## **Previous Action**

N/A

## **Background/Issues & Analysis**

The Carson City Airport Authority conducts its management of the Carson City Airport via NRS 844 which created the Airport Authority, the Cooperative Agreement between the Airport Authority and Carson City, and further pursuant to CCMC Title 19, which was adopted both by the Airport Authority and Carson City.

During a recent FAA inspection at the Airport, and as a result of an informal complaint, the FAA requested that the Carson City Airport (via the Authority and the City) adopt a Hangar Use Policy consistent with the FAA Policy which goes into effect on July 1, 2017.

The Airport Authority conducted a survey of other airports in the western United States for their hangar policies, successes and failures of such policies, demographic comparisons to Carson City, and a review of differences in economic approach and in applicable law. The Airport Authority also took comments and proposals from affected parties. After approval in principle of a draft policy and a structure for enforcement procedures, the Airport Authority took additional comments, and made additional changes to reflect new comments from Authority members, Airport users and the FAA. Notably, the Authority strengthened the information reporting and enforcement procedures.

As proposed, CCMC 19.02.020.370 clearly identifies the permitted and prohibited uses per the FAA Policy document, provides limitations on non-aeronautical use permitted by the FAA, and sets forth a compliance process. The compliance process provides the basis for a determination of compliance, or for grounds for hangar inspections under CCMC 19.02.020.350 subsection 7.H.2.a. (aircraft in hangars) and 19.02.020.350 subsection 7.H.20 (right to inspect hangars and procedures). The compliance process also imposes a \$1,000/mo/hangar rent surcharge for hangars found to be in violation of the Hangar Use Policy. Per the FAA Policy, exclusive non-aeronautical use requires that rent be at least the fair market value of comparable uses off-airport. The FAA personnel have confirmed that an increased amount, over and above the fair market value, can be used as an incentive to encourage aeronautical use and discourage use of Airport hangars for non-aeronautical use. This is consistent with the overall intent of the FAA Policy---that airport hangars are primarily for the storage of aircraft, and that non-aeronautical use of hangars should either be incidental to the primary use or should take place off-airport. The rent surcharge was adopted as a lesser alternative to the lease termination remedies, which are still preserved in the event that notice of violation of lease and termination are found to be appropriate. However, the \$1,000/mo/hangar was observed to both cover the fair market value, as well as, send the correct incentive signal to persons who may look at the Airport as a place to conduct non-aeronautical activities, e.g. general storage should be done at one of the many off airport storage businesses in Carson City, not an Airport hangar.

Adoption of this Policy completes the compliance items requested of Carson City by the FAA in their Audit and Land Use Report.

### **Applicable Statute, Code, Policy, Rule or Regulation**

NRS 844 Airport Authority Act

### **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: n/a

### **Alternatives**

Other approaches were considered and rejected. Some portions of those alternatives were included in the final version of the proposal. For example, the Airport Manager advocated limitations on hangar use that would have restricted incidental non-aeronautical items beyond what the FAA deemed reasonable. While permissible under the law, that proposal would have placed Carson City at a competitive disadvantage for hangar and economic development as against airports who followed the FAA Policy. One proposal from Airport Counsel had a system of penalties, which the FAA found problematic and instead leaned toward an economic approach. Other proposals appeared to be designed for airports where the hangars were owned by the Airport instead owned by private ownership. On the Carson City Airport, hangar owners lease the bare land and put up their own investment funds for the construction and maintenance of hangars.

After considering the alternatives, the final version was believed to include the positive elements of several alternatives including a well constructed foundational set of rules provided by airport users, many of which are very vocal about making sure the Airport hangars are used for aircraft and aviation.

**Board Action Taken:**

Motion: \_\_\_\_\_

1) \_\_\_\_\_

2) \_\_\_\_\_

Aye/Nay

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)

SUMMARY—An ordinance amending Title 19 of the CCMC  
to address permissible Storage Hangar Use

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_

AN ORDINANCE AMENDING TITLE 19, AIRPORT RULES AND REGULATIONS, BY  
ADDING SECTION 19.02.020.370 TO ADDRESS PERMISSIBLE AIRCRAFT STORAGE  
HANGAR USE AND OTHER MATTERS PROPERLY RELATED THERETO.

THE BOARD OF SUPERVISORS OF CARSON CITY DO ORDAIN:

SECTION 1:

That Section 19.02.020.370 of the Carson City Municipal Code is hereby adopted as follows:

**19.02.020.370- AIRCRAFT STORAGE HANGAR USE**

1) General: These provisions are adopted to implement the FAA’s “Policy on the Non-Aeronautical Use of Airport Hangars” published in the Federal Register/ Vol. 81, No. 115 / Wednesday, June 15, 2016 / Pages 38906-38911, which takes effect July 1, 2017.

A. Aircraft storage hangars at the Carson City Airport are to be used and occupied for an aeronautical use.

B. As provided for in the FAA Policy, non-aeronautical items are also permitted in a hangar so long as they do not interfere with the aeronautical use of the hangar.

2) Aeronautical Use: Qualifying aeronautical uses for storage hangars include:

A. Storage of active aircraft.

B. Final assembly of aircraft under construction.

C. Non-commercial construction of amateur built or kit- built aircraft.

D. Maintenance, repair or refurbishment of aircraft, but not indefinite storage of nonoperational aircraft.

E. Storage of aircraft handling equipment such as tow bars, glider tow equipment, workbenches, and tools and materials used in the servicing, maintenance, repair or

outfitting of aircraft.

F. Vacant awaiting aircraft occupancy such as: Aircraft in use, on travel, or away for maintenance.

G. Vacant reserved for aircraft domiciled at another airport, for anticipated aircraft purchase within a reasonable amount of time, or available for sale or rent.

H. Other Aeronautical activity approved by Carson City Airport Authority (“Authority”) that does not conflict with FAA requirements.

### 3) Permitted Non-Aeronautical Use:

A. Airport Area approved by the FAA for Non-Aeronautical use on Airport Layout Plan.

B. Non-Aeronautical items within Qualifying Aeronautical Use hangars unless the items:

1. Impede the movement of active aircraft in and out of the hangar or impede access to inactive aircraft or other Aeronautical contents of the hangar.

Items which can easily be moved to permit access to and/or movement of the aircraft shall not be regarded as an impediment. Typical examples include, but are not limited to: a functional vehicle, workbench, and tool box.

2. Displace the Aeronautical contents of the hangar. A functional vehicle parked in a vacant hangar while the aircraft designated or intended to occupy the vacant hangar is absent shall not be considered to displace the aircraft.

3. Are stored in violation of airport rules and regulations, lease provisions, building codes or local ordinances.

C. Other Uses approved by the Authority.

D. Other Uses approved by the FAA.

### 4) Prohibited Uses:

A. Residential: Hangars may not be used as a residence. The FAA differentiates between a typical pilot resting facility or aircrew quarters versus a hangar residence or hangar home. The former are designed to be used for overnight and/or resting periods for aircrew, and not as a permanent or even temporary residence.

B. Non-Aeronautical Business: Hangars may not be used for the conduct of a non-aeronautical business or municipal agency function unless the business activity is clearly incidental to the aeronautical use of the hangar in the sole judgement of the Airport

Authority if called upon to review the question. Examples of conduct of a Non-Aeronautical business include, but are not limited to: storage of inventory; the participation of employees, contractors or others in addition to the hangar occupant; visits from the non-aviation public; and/or deliveries of non-aeronautical items.

5) Compliance: To encourage and ensure compliance with this Policy:

A. Within 60 days after approval of this Aircraft Storage Hangar Use Policy, and within 60 days after any material change in the information previously reported to the Airport Manager, each Lessee whose ground lease includes one or more Storage Hangars (the “Lessee”) shall provide to the Carson City Airport Manager, for retention and distribution to the members of the Authority, timely contact information for each occupant, lessee, and owner of a hangar located upon the Lessee’s ground lease, identifying information for any and all aircraft stored in Lessee’s hangars, and a written statement of the basis by which the Lessee believes each hangar qualifies as Aeronautical Use.

B. If the Airport Manager or an Authority member disputes a Lessee’s claim of aeronautical use, the Lessee may appeal the dispute to the entire Authority, whose decision shall be final.

C. If it is determined by the Airport Manager, and not appealed, or by the Authority upon appeal, that a hangar located upon the Lessee’s ground lease has not met the qualifications for aeronautical use, either the Airport Manager at the direction of and under the authority of the Authority, or the Authority itself, whichever made the final decision, shall require the Lessee to have the subject hangar brought into compliance with this Policy or become subject to any and all enforcement actions permitted under Nevada law, including but not limited to increases in rents and eviction of the subtenant/hangar occupant.

D. If it is determined by the Authority that a Lessee or hangar Occupant has misrepresented material facts to the Airport Manager or the Authority regarding hangar use and/or failed to comply with the decision of the Authority regarding such use, as an alternative to terminating the lease for non-compliance, the Authority may impose upon the Lessee a non-aeronautical use surcharge on rent in the amount of \$1,000 per month per hangar that is not in compliance, or was the subject of the misrepresentation, for the period which the hangar was not in compliance or misrepresentation, in addition to any and all enforcement actions available against the offending Lessee and/or Occupant under relevant Nevada law.

E. If the Airport Manager or any member of the Authority verifies that a hangar is in compliance with the aeronautical use provisions of this policy, the hangar shall be considered in compliance. ”

(End)