
CARSON CITY MUNICIPAL CODE COMPREHENSIVE REVISION PROJECT

CARSON CITY BOARD OF SUPERVISORS 2019 ANNUAL WORKSHOP

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TODAY'S PRESENTATION OUTLINE

- Discussion and development of Board's fundamental principles, objectives, and expectations that will guide revision of the Code
- Discussion of challenges in drafting effective legislation in general
- Discussion of specific challenges in our Code
- Discussion of plan and schedule for project



THE CODE AS
INFRASTRUCTURE



THE FOUNDATIONAL QUESTION



What characteristics should the law have?

IF THERE IS
SNOW, ALL
CARSON
CITY
OFFICES
SHALL BE
CLOSED.

DRAFTING
LEGISLATION:
*NOT AS EASY AS IT
MIGHT SEEM!*

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“LEGISLATIVE HISTORY” IN LEGAL INTERPRETATION
AN ASSAULT ON

I totally agree.

This is the dumbest idea I've ever heard.

I'm not even sure we have the authority to do this.

I think the Superintendent is a real wimp and cancels school too much. But I can't say that on the record. Anyway, I like the ordinance and will vote for it.

ol
ed
ould
edule.





... SO THAT
BECOMES THE
RULE.

EXECUTION OF ORDINANCE NO LONGER TIED TO TEXT

Text

- If there is snow, all Carson City offices will be closed.

Reality

- Whenever Carson City schools are closed or delayed due to weather, Carson City offices will also be closed or on delay.

TROUBLE

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 7 Attorneys for Petitioners Carson Nugget, Inc.,
 Gold Dust Carson City, LLC, and Casino
 8 Fandango, L.L.C.

REC'D & FILED
 2016 DEC 19 PM 4: 34
 SUSAN HEARIN/TIGER
 CLERK/COURT REPORTER
 BY: _____

We've always done it that way.

50 West Liberty Street,
 Reno, NV 89501-1922
Lewis Roca
ROTHGERBER CHRISTIE

14 liability company, d/b/a Casino Fandango,
 15
 16 Petitioners,
 vs.
 17 Board of Supervisors of the Consolidated
 Municipality of Carson City,
 18
 19 Respondent,
 20 and
 21 Silver Bullet of Nevada, LLC, d/b/a Silver
 Bullet, a Nevada limited liability company;
 22 and Nevada Treasure Chest, Inc., a Nevada
 domestic corporation d/b/a Carson Horseshoe
 23 Club,
 Real Parties in Interest.

VERIFIED PETITION FOR WRIT OF
 MANDAMUS OR, IN THE ALTERNATIVE,
 PROHIBITION

24 Petitioners Carson Nugget, Inc. ("Carson Nugget"), Gold Dust Carson City, LLC ("Gold
 25 Dust West"), and Casino Fandango, L.L.C. ("Casino Fandango") (collectively, "Petitioners"), by
 26 and through their counsel Lewis Roca Rothgerber Christie LLP, respectfully petition this Court,
 27 pursuant to NRS 34.160 *et seq.*, for a writ of mandamus compelling Respondent Board of
 28 Supervisors of the Consolidated Municipality of Carson City ("Board of Supervisors"), to vacate



ANOTHER CHALLENGE: LEGAL AUTHORITY

Dillon's Rule

- “It is a general and undisputed proposition of law that a municipal corporation possesses and can exercise the following powers, and not others: (1) Those granted in **express** words; (2) Those **necessarily or fairly implied** in or incident to the powers expressly granted; (3) Those **essential** to the accomplishment of the declared objects and purposes of the corporation – not simply convenient, but indispensable.”

Functional Home Rule

NRS 244.137 - .146

- Carson City now authorized to legislate without an express grant of authority from the Legislature so long as the legislation involves a “matter of local concern.”

SOME EXISTING EXAMPLES OF CHALLENGES

- CCMC 2.02.030 – Qualifications for supervisor. Research necessary to determine whether it is constitutional to require real property ownership as eligibility criteria as a City Supervisor.
- CCMC 4.04.130 – Additional limitations upon marijuana establishment license. This is a recent enactment providing that the issuance of a business license to operate a marijuana establishment is a revocable privilege and that the holder of a license does not acquire a vested right. This is a one sentence provision, but significant legal research was prepared to determine whether a person does or does not have legal claim to a vested property right upon the issuance of a business license.

EXISTING CHALLENGES CONTINUED

- CCCMC 10.24.080 – All-night parking prohibited; CCMC 18.05.030 – Trailers, mobile homes, recreational vehicles, commercial coaches and storage containers. Both of these provisions need to be carefully analyzed under recent 9th Circuit decisions holding unconstitutional ordinances which prevent homeless persons from sleeping in vehicles or on public sidewalks.
- CCMC 12.03.055 – Delinquent charges as liens. Cross-reference to NRS 244.36605 for the placement of delinquent sewerage charges on the tax roll must be examined against the NRS provision; the most recent Code revision was made in 2003, but the referenced NRS provision was revised twice after the ordinance adoption. Therefore, even though the statutory reference exists, additional research must be prepared to determine whether the Code provision still comports with the statutory requirements.

EXISTING CHALLENGES CONTINUED

- CCMC 12.01.120 – Waste of water prohibited. Research necessary to determine whether there is a vagueness issue based on the definition of “waste,” in addition to the overall structure of the provision as well as the notice procedures. For example, there is no clarity with respect to how “personal notice” is to be effectuated and there is no appeal or protest process, at least not one that is cross-referenced. There is also concern with regard to whether there are any due process violations if a decision to turn off water can be conditioned simply by providing personal notice to a person who controls or maintains a hose, water pipe or irrigation device. Although this is a short section of Code, there are legal, procedural and structural issues that must be analyzed and addressed.

EXISTING CHALLENGES CONTINUED

- CCMC 12.03.060 – Protests to rates and charges. The entire provision must be revised to strengthen due process protections and to avoid ambiguity in the protest process. Throughout CCMC, there are various notice and hearing provisions that are scattershot and which can be clearer.
- CCMC 18.10.020 – Proximity. This Code provision prohibits locating group care facilities within a certain radius of one another. Recent court decisions have addressed the constitutionality of such radius restrictions and additional research must be prepared for this one sentence Code provision. Additionally, there is much movement in the courts across the nation with regard to how sober living facilities fit or do not fit into existing municipal ordinances, and whether any such regulation on sober living facilities violated the FHA, ADA and other federal provisions.

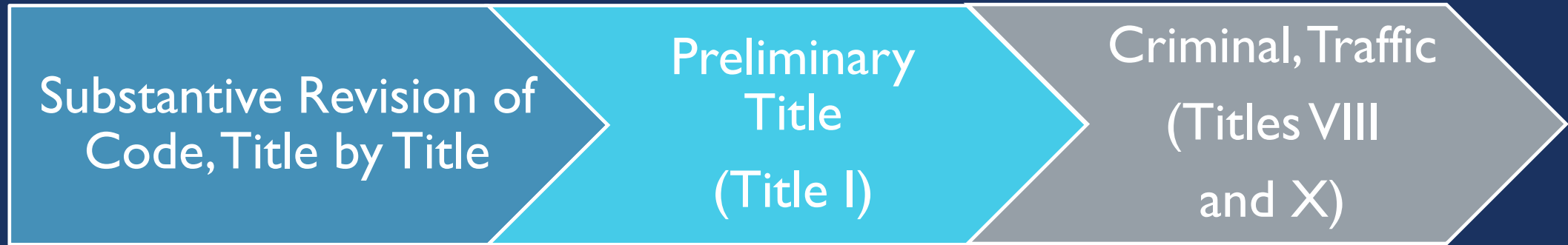
Preparation of
Drafting Manual

Comprehensive
Review of
Existing Code

- Elimination of sunsets and other obsolete provisions
- Update cross-references
- General clean-up

Prepare
Structural
Outline

OUR PLAN FOR THE PROCESS: STAGE I



OUR PLAN FOR THE PROCESS: STAGE II

Community Development
(Titles XVII and XVIII and
Development Standards)

Licensing and
Building
(Titles IV
and XV)

Public Works
(Titles XI
and XII)

OUR PLAN FOR THE PROCESS: STAGE II CONTINUED

Health and Welfare
(Titles VII and IX)

Parks and
Recreation
(Title XIII)

Fire
(Title XIV)

OUR PLAN FOR THE PROCESS: STAGE II CONTINUED

Aviation and Airport
(Titles XVI and XIX)

Taxation
(Title XX)

Franchises
and Utilities
(Title V)

OUR PLAN FOR THE PROCESS: STAGE II CONTINUED



Internal (Titles II and VI)

OUR PLAN FOR THE PROCESS: STAGE II CONTINUED

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Questions?

