ORDINANCE
DRAFTING MANUAL

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PREPARED BY
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CARSON CITY, NEVADA

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FOREWORD

At its finest, the law is an amazing human achievement. It vigilantly guards the public's safety within the confines of a sturdy respect for individual liberty. It equitably collects taxes that fund important public infrastructure and services. It maintains a fair and predictable context for orderly and sustainable development and commerce. It provides a forum for impartial resolution of disputes. And it establishes a responsible government, powerful enough to be effective, but limited enough to be accountable. Laws are the bones of a society.

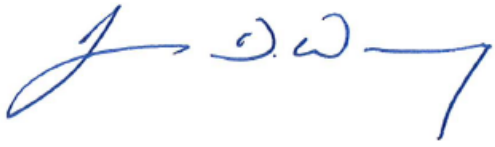
But lawmaking is a perilous process. A wise policy choice, difficult enough in itself, is wasted by a poorly articulated law which does little to resolve the problem that prompted the measure. Unfortunately, drafting high-quality legislation is not nearly as easy as one might assume. Inherent imprecision in language and communication hinders the perfect articulation of legislative intent. At the state and federal levels, legislative bodies combat this intrinsic impediment with an army of professional drafters and an elaborate process for the review, revision, and fine-tuning of legislation. But at the local level, the drafting process is not nearly as refined.

Formed through decades of ad hoc work by well-meaning staff, Carson City's current municipal code is functional, but far from ideal. Deficiencies in the Carson City Municipal Code (CCMC) are never catastrophic, just inefficient. That, coupled with the daunting prospect of a comprehensive CCMC revision, has led to complacent tolerance of our existing framework of local laws. This Manual is intended as the first step forward from the status quo.

Ordinance drafting is a specialized skill, partly science and partly art. That which follows is an effort to reduce the scientific element to a written explanation.

This Manual has several purposes. First and foremost, it directs drafters with a collection of clear and comprehensive drafting rules designed to ensure linguistic and stylistic uniformity throughout the code. Second, the Manual is intended to assist the Board of Supervisors in ensuring its intent is captured by draft ordinance language. And finally, we hope the Manual will help Carson City employees, advisory boards, businesses, and citizens understand the meaning of ordinances.

More broadly, this Manual is part of a mission. This commentary began with an homage to the nobility of the law at its finest. But there is a dark side to poorly crafted law. Slack legal language allows, indeed necessitates, "interpretation" as opposed to application; the looser the language, the wider the discretion of the interpreter. The wider the discretion, the more powerful the interpreter becomes at the expense of the text of the law, which fades to insignificance. In this circumstance, poorly crafted law is worse than no law because it gives the imprimatur of lawful authority to an interpreter who, in fact, is bound only by personal whims. In this way, imprecise articulation of the lawmaker's intent enables corruption. Our mission is to make such an outcome impossible.



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Chapter 1

Preliminary Considerations

1.1. The Drafter's Role

Ordinance provisions may be proposed by various persons and for different reasons. Some ordinances are specifically required by state law while others are merely authorized. Ordinances, both criminal and civil, may be proposed by the Carson City Board of Supervisors as the governing body of Carson City, the many departments of the City, the City's boards, commissions and committees, elected City officials and individual City staff to effectuate policy or establish procedure to govern a wide spectrum of matters affecting the City and its residents. Without regard to the person or purpose behind a proposed ordinance, the drafter must at all times maintain complete legal objectivity and political bipartisanship when preparing the ordinance. The drafter should never, under any circumstance, allow personal affiliations, self-interest or ideology to have any influence over what ought to be clear, concise and impartial language. It would not be wrong for the drafter to view himself or herself as a wholly disinterested technician of words, with the goal of applying as much surgical precision as possible to accomplishing the dual objective of fully capturing legislative intent and implementing the intent in a mechanically sound manner that is legally defensible and plainly understandable by the reader.

Unlike many legislative offices at the state or federal level, Carson City does not maintain staff to separately act as drafter, paralegal, proofreader, editor and final approver. The attorney drafter, therefore, must be personally responsible for all layers of necessary review before finalization, submission for reading and adoption and codification of ordinance provisions into the Carson City Municipal Code (CCMC).

During the drafting process, the drafter can expect to have regular contact with the person or persons requesting the ordinance, as well as with other stakeholders affected by the proposed legislation. Discussions with those requestors and stakeholders are beneficial and, in many instances, critical in assisting the drafter with preparing concise legislative language that captures intent and establishes the correct procedural mechanics to implement the provisions of an ordinance. While the attorney drafter is ultimately accountable for fashioning the legislative language, the drafter is not expected to be a subject matter expert in every area of law or municipal operation. For example, while the drafter will make all legal decisions concerning how a provision should be written, the drafter may need to rely on highly technical information and terms of art provided by a City engineer with regard to sewer pipe sizing requirements.

This should not be understood by the drafter as allowing the requestor or stakeholders to author or otherwise drive the results of final ordinance language. Very often, proposed language

will be provided by others. But the role of the drafter is not to be a mere scrivener who copies submitted material verbatim. To the contrary, although the substance of an ordinance may very well come from an industry expert, the drafter must still carefully select and assemble the right words in an organizationally sound arrangement to carry out intent in such a way that maintains uniform consistency with the overall style and convention of CCMC, clear of unintended consequences and not susceptible to constitutional deficiency.

1.2. Basic Rules of Ordinance Construction

When preparing an ordinance, the drafter should keep in mind the rules of ordinance construction employed by Nevada courts. In general, as a local government attorney, the drafter must become fully versed with the rules of construction because Nevada courts will rely heavily upon them in the event of a civil action where the intent and correct application of an ordinance is disputed. Litigation aside, the drafter's knowledge of the rules of construction will aid the drafter in crafting precise language that is clear and unambiguous and easily understandable by the public and the courts.

To assist the drafter, this chapter sets forth a summary of commonly applied rules of construction, excerpted from a sampling of applicable case law. Canons of construction are numerous. Because the following is not exhaustive in scope and also because the legal landscape is constantly shifting, the drafter may rely on this capsule information only to a limited extent and should always research the current state of the law to independently verify binding precedent and identify any other issues that deserve further attention and analysis when crafting legislative language.

Application to Ordinances, Charters, Regulations and Constitution

Ordinance and local charter provisions are generally construed according to the same rules of construction that apply to statutes. Carson City v. Red Arrow Garage, 47 Nev. 473, 484 (1924); Bishop Square Assoc. v. City and County of Honolulu, 873 P.2d 770, 772 (Haw. 1994) ("When interpreting a municipal ordinance, we apply the same rules of construction that we apply to statutes."); City of Sitka v. Int'l Bhd. of Elec. Workers, Local 1547, 653 P.2d 332, 335-36 (Alaska 1982); Rollo v. City of Tempe, 586 P.2d 1285, 1286 (Ariz. 1978). Courts apply the same rules of construction when interpreting provisions of the Nevada Constitution. Nev. Mining Ass'n v. Erdoes, 117 Nev. 531, 538 (2001). Those rules also apply to the interpretation of administrative regulations. Silver State Elec. Supply Co. v. State ex rel. Dep't of Taxation, 119 Nev. 630, 633 (2003).

Rules of Construction are Permissive, not Mandatory

Rules of construction "are not mandatory rules" and "need not be conclusive." Chickasaw Nation v. United States, 534 U.S. 84, 92 (2001) (quoting Circuit City Stores, Inc. v. Adams, 532 U.S. 105, 115 (2001)). "They are designed to help judges determine the Legislature's intent as embodied in particular statutory language. And other circumstances evidencing congressional intent can overcome their force." Id. "Rules for statutory construction are merely aids in the ascertainment of the legislative intent." Ronnow v. City of Las Vegas, 57 Nev. 332, 363 (1937).

Therefore, rules of construction "are often countered …. by some maxim pointing in a different direction." Circuit City Stores, 532 U.S. at 115.

However, Nevada courts rely on "well-established precepts of statutory and constitutional construction." We the People Nev. v. Miller, 124 Nev. 874, 881 (2008).

Intent is Controlling

"It is well settled in Nevada that words in a statute should be given their plain meaning unless this violates the spirit of the act." McKay v. Bd. of Supervisors, 102 Nev. 644, 648 (1986). If a statute is ambiguous, however, legislative intent "is the factor which controls its interpretation." Thompson v. District Court., 100 Nev. 352, 354 (1984). A court's "primary objective in construing a statute is to give effect to the Legislature's intent." City of Las Vegas v. Walsh, 121 Nev. 899, 902-03 (2005).

"The leading rule of statutory construction is to ascertain the intent of the Legislature in enacting the statute." McKay, 102 Nev. at 650 (citing City of Reno v. Stoddard, 40 Nev. 537, 543 (1917); Crawley v. Pershing County, 50 Nev. 237, 255 (1927)). "This intent will prevail over the literal sense of the words." McKay, 102 Nev. at 650 (citing City of Las Vegas v. Macchiaverna, 99 Nev. 256, 257-58 (1983)).

Plain Language as Evidence of Intent

"To determine legislative intent, [the Nevada Supreme Court] first looks at the plain language of a statute." Allstate Ins. Co. v. Fackett, 125 Nev. 132, 138 (2009) (citing Salas v. Allstate Rent-A-Car, Inc., 116 Nev. 1165, 1168 (2000)); Savage v. Third Judicial Dist. Ct., 125 Nev. 9, 16 (2009) ("this court first examines the plain language of a statute to decipher its meaning). A court will "only look beyond the plain language if it is ambiguous or silent on the issue in question." Id.

"In construing a statute, our primary goal is to ascertain the legislature's intent in enacting it, and we presume that the statute's language reflects the legislature's intent. Thus, we

first look to the plain language of the statute to decipher the statute's meaning. But where the language of the statute cannot directly resolve the issue standing alone, we consider 'the context and spirit of the statute in question, together with the subject matter and policy involved.'" Moore v. State, 117 Nev. 659, 661-62 (2001) (quoting Gallagher v. City of Las Vegas, 114 Nev. 595, 599 (1998)); Villanueva v. State, 117 Nev. 664, 669 (2001) ("When construing statutes, we generally presume that the plain meaning of the words reflects the legislature's intent, unless that reading violates the spirt of the act or leads to an absurd result.").

When language is clear and unambiguous, a court gives "effect to that meaning and will not consider outside sources beyond that statute." NAIW v. Nevada Self-Insurers Ass'n, 126 Nev. 74, 84 (2010). "However, when the statute is ambiguous and subject to more than one interpretation, we will evaluate legislative intent and similar statutory provisions." Id.

Ambiguous Language

"Under established principles of statutory construction, when a statute is susceptible to but one natural or honest construction, that alone is the construction that can be given." Randono v. CUNA Mutual Ins. Group, 106 Nev. 371, 374 (1990). "However, when more than one interpretation of a statute can reasonably be drawn from its language, the statute is ambiguous and the plain meaning rule has no application." Coast Hotels & Casinos v. Nev. State Labor Comm'n, 117 Nev. 835, 841 (2001) (citing Hotel Employees v. State, Gaming Control Bd., 103 Nev. 588, 591 (1987)).

A statute is ambiguous if "it is capable of being understood in two or more senses by reasonably informed persons" or when it does not address the issue at hand. Public Emples. Benefits Program v. Las Vegas Metro. Police Dep't, 124 Nev. 138, 147 (2008) (quoting McKay, 102 Nev. at 649).

"When a statute is ambiguous, the legislature's intent is the controlling factor in statutory interpretation." State Dep't of Human Resources v. Estate of Ullmer, 120 Nev. 108, 114 (2004) (citing Robert E. v. Justice Court, 99 Nev. 443, 445 (1983)).

Conflicts between Language and Intent

"Whatever meaning ultimately is attributed to a constitutional provision may not violate the spirit of that provision." Miller v. Burk, 124 Nev. 579, 590-91 (2008) (citing McKay, 102 Nev. at 648). The "intent will prevail over the literal sense of the words." McKay, 102 Nev. at 650.

Defined Terms and Phrases

"A statute's express definition of a term controls the construction of that term no matter where the term appears in the statute." Williams v. Clark County District Attorney, 118 Nev. 473, 485 (2002).

Undefined Terms and Phrases

"When a word is used in a statute or constitution, it is supposed it is used in its ordinary sense, unless the contrary is indicated." Ex parte Ming, 42 Nev. 472, 492 (1919). To ascertain the ordinary meaning of a word, a court may look to a dictionary definition. Rogers v. Heller, 117 Nev. 169, 173 (relying on dictionary definitions to ascertain meaning of "appropriation" and "expenditure").

A court may also refer to the definition of a term or phrase used in another statute. Univ. & Cmty College Sys. v. DR Partners, 117 Nev. 195, 199-200 (2001) (applying the definition of "public officer" in NRS 281.005 to NRS Chapter 241 for Open Meeting Law purposes); Advanced Sports Info., Inc. v. Novotnak, 114 Nev. 336, 341 (1998) ("a court may look to the entire statute, and even to related statutes, to construe an ambiguous or undefined word or term").

Technical Terms

"[W]ords that have a technical or special meaning are presumed to carry their technical or special meaning, unless the statute shows that the Legislature intended a different meaning." Savage v. Pierson, 123 Nev. 86, 94 (2007).

Purpose Statement as Evidence of Intent

"Legislative intent can be determined by looking at the entire act and construing the statute as a whole in light of its purpose." Hotel Employees & Restaurant Employees Int'l Union v. State, 103 Nev. 588, 591 (citing Collelo v. Administrator, Real Estate Division, 100 Nev. 344, 347 (1984)). "The expressly stated purpose of the statute is a factor to be considered." Id.

Bill or Ordinance Title as Evidence of Intent

"In construing an ambiguous statute, evidence of the legislature's intent may be gleaned from the title of the act by which the statute was enacted." Thompson v. First Judicial Dist. Court, 100 Nev. 352, 354 (1984) (citing Torreyson v. Board of Examiners, 7 Nev. 19 (1871); State v. Superior Court of Cty. in & for Pima, 627 P.2d 686 (Ariz. 1981)).

Heading or "Leadline" as Evidence of Intent

Recognizing that a "title is typically prefixed to a statute or a subsection in the form of a descriptive heading or a brief summary of the contents of the statute or subsection," the Nevada Supreme Court will look to a statute's heading as additional evidence of intent. Banegas v. State Indus. Ins. Syst., 117 Nev. 222, 230 (2001).

Legislative History as Evidence of Intent

The Nevada Supreme Court may turn to the legislative history of a statute to determine intent and purpose. Nevada Power Co. v. Haggerty, 115 Nev. 353, 367 (1999); Del Papa v. Board of Regents, 114 Nev. 388, 394-95 (1998) (discussing committee testimony).

Legislator Statements as Evidence of Intent

"The comments and questions made by members of the legislature during the hearings provide some insight into the purpose of the statute." Nevada Power Co., 115 Nev. at 367. "Legislators' statements are entitled to consideration in construing a statute when they are a reiteration of events leading to the adoption of proposed amendments, rather than an expression of personal opinion." Khoury v. Maryland Casualty Co., 108 Nev. 1037, 1040 (1992), *overruled on other grounds* by Breithaupt v. USAA Prop. & Cas. Ins. Co., 110 Nev. 31, 34-35 (1994).

However, the Nevada Supreme Court will not rely on statements or opinions contained in an affidavit or other declaration made by a legislator after the enactment of legislation. A-NLV Cab Co. v. Taxicab Auth., 108 Nev. 92, 95 (1992) (finding that affidavits of individual legislators to support an argument regarding legislative intent behind the enactment of a statute "improperly offered"). "Nevada law prohibits the use of an affidavit by a bill's author to divine legislative intent." Nev. Fair Hous. Ctr., Inc. v. Clark County, 575 F.Supp.2d 1178, 1187 (D. Nev. 2008). But in certain circumstances, to rebut a "legislative animus" such as lending support to a showing of facial discrimination, such affidavits may be relevant and therefore considered. Id.

Courts will place little to no reliance on the legislative history of statements made by opponents of legislation. Bryan v. United States, 524 U.S. 184, 186 (1998). "As we have stated …. 'the fears and doubts of the opposition are no authoritative guide to the construction of legislation.'" Id. (quoting Schwegmann Brothers v. Calvert Distillers Corp., 341 U.S. 384, 394 (1951)).

Witness Statements as Evidence of Intent

Courts have commonly held that "testimony before a committee is of little value in ascertaining legislative intent, at least where the committee fails to prepare and distribute a report

incorporating the substance of the testimony." Justice Court of Reno Township, 99 Nev. at 446. In the absence of any showing that witness testimony "was endorsed or relied on by the committees …. it would be extremely speculative to impute [the witness'] beliefs and opinions to the legislature as a whole." Id.

Policy and Circumstance as Evidence of Intent

"The meaning of the words used may be determined by examining the context and the spirit of the law or the causes which induced the legislature to enact it. The entire subject matter and policy may be involved as an interpretive aid." McKay, 102 Nev. at 650-51. A court will "determine the Legislature's intent by construing the statute in a manner that conforms to reason and public policy." NAIW, 126 Nev. at 84 (citing Bacher v. State Engineer, 122 Nev. 1110, 1117 (2006)). The "subject matter of the statute and the policy to be effectuated can be used in statutory construction." Nevada Power Co., 115 Nev. at 367.

"The legislative intent behind a statute may also be determined by examining the circumstances which propelled the enactment of the statute." Roberts v. State, 104 Nev. 33, 38 (1988).

Interpretations by the Legislature and Legislative Counsel

"Although not controlling, the legislature's construction of its own act is persuasive in ascertaining the act's meaning." Roberts, 104 Nev. at 40 (citing Commercial Nat'l Bank v. Arkansas Children's Hospital, 511 S.W.2d 640 (Ark. 1974)). "The importance of contemporaneous construction of a constitutional provision by the Legislature has long been recognized by this court." State ex rel. Herr v. Laxalt, 84 Nev. 382, 387 (1968).

A court may rely on an interpretation provided by the Legislative Counsel Bureau. Cable v. State ex rel. ITS Emplrs. Ins. Co., 122 Nev. 120, 126 (2006).

Interpretations by Executive Branch and Attorney General

"[T]he statutory interpretation of a coordinate governmental branch or an agency that is authorized to execute that statute, unless it conflicts with the constitution or other statutes, exceeds the agency's powers, or is otherwise arbitrary and capricious, is entitled to deference." Cable, 122 Nev. at 126 (citing Meridian Gold Co. v. State, 119 Nev. 630, 635 (2003)).

"When examining whether an administrative regulation is valid, we will generally defer to the 'agency's interpretation of a statute that the agency is charged with enforcing.'" NAIW, 126 Nev. at 83. Furthermore, if the Nevada Legislature "has had ample time to amend an administrative agency's reasonable interpretation of a statute, but fails to do so, such

acquiescence indicates the interpretation is consistent with legislative intent." Summa Corp. v. State Gaming Control Bd., 98 Nev. 390, 392 (1982).

The Nevada Supreme Court has applied this deference to the interpretation of an ordinance by a municipal department charged with enforcing it. City of Las Vegas Downtown Redevelopment Agency v. Crockett, 117 Nev. 816, 831 (2001).

However, a court will not defer to an agency interpretation if the regulation "conflicts with existing statutory provisions or exceeds the statutory authority of the agency." State, Div. of Insurance v. State Farm, 116 Nev. 290, 293 (2000). "[A]dministrative regulations cannot contradict the statute they are designed to implement." Jerry's Nugget v. Keith, 111 Nev. 49, 54 (1995).

While persuasive, opinions by the Attorney General regarding interpretation "are not binding legal authority in any event." DR Partners, 117 Nev. at 203. "In Nevada an opinion of the Attorney General is given whatever weight the Court thinks it deserves when the issue on which the opinion bears is before the Court for determination." Tahoe Regional Planning Agency v. McKay, 590 F.Supp. 1071, 1074 (D. Nev. 1984) (citing Weston v. County of Lincoln, 98 Nev. 183 (1982)). "It is only in unusual circumstances that an Attorney General's opinion will control the outcome of a case." Id.

Reading Provisions as a Whole

Whenever possible, courts "will avoid rendering any part of a statute inconsequential." Savage, 123 Nev. at 94. Courts will also read a statute "as a whole to give meaning to all of its parts." Metz v. Metz., 120 Nev. 786, 792 (2004) (citing Edgington v. Edgington, 119 Nev. 577, 583 (2003)). "No part of a statute should be rendered nugatory, nor any language turned to mere surplusage, if such consequences can properly be avoided." Collelo, 100 Nev. at 347. The Nevada Supreme Court will therefore avoid a "statutory interpretation that renders language meaningless or superfluous." Karcher Firestopping v. Meadow Valley Contrs., Inc., 125 Nev. 111, 113 (2009).

"Courts must construe ordinances in a manner that gives meaning to all of the terms and language." City of Reno v. Citizens for Cold Springs, 126 Nev. 263, 274 (2010) (citing Bd. of County Comm'rs v. CMC of Nevada, 99 Nev. 739, 744 (1983)). "Courts 'should read each sentence, phrase, and word to render it meaningful within the context of the purpose of the legislation.'" Id.

A court will "read statutes within a statutory scheme harmoniously with one another to avoid an unreasonable or absurd result." Allstate Ins. Co., 125 Nev. at 138 (citing Torrealba v. Kesmetis, 124 Nev. 95, 101 (2008)); Nevada Power Co., 95 Nev. at 364 ("[W]henever possible, a court will interpret a rule or statute in harmony with other rules or statutes."). A court will also

presume that the Legislature enacts one statute "with full knowledge of existing statutes relating to the same subject." State Farm, 116 Nev. at 295 (quoting City of Boulder v. General Sales Drivers, 101 Nev. 117, 118-19 (1985)).

"A fundamental rule of statutory construction is that the unreasonableness of the result produced by one among alternative interpretations of a statute is reason for rejecting that interpretation in favor of another that would produce a reasonable result." Sheriff v. Smith, 91 Nev. 729, 733 (1975).

Avoiding Interpretations that Render Provision Unconstitutional

"Where a statute may be given conflicting interpretations, one rendering it constitutional, and the other unconstitutional, the constitutional interpretation is favored." Sheriff, Washoe County v. Wu, 101 Nev. 687, 689-90 (1985); Bell v. Anderson, 109 Nev. 363, 366 (1993).

Failure to Adopt Proposed Amendment

The failure to adopt a proposed amendment is evidence of legislative intent to the contrary. McKay, 103 Nev. at 490, 492 n.2.

General versus Specific Provision

"It is an accepted rule of statutory construction that a provision which specifically applies to a given situation will take precedence over one that applies only generally." Sierra Life Ins. Co. v. Rottman, 95 Nev. 654, 656 (1979) (citing Sierra Life Ins. Co. v. Rottman, 95 Nev. 654, 656 (1979)).

Expressio unius est exclusion alterius

The Nevada Supreme Court will apply the fundamental rule of statutory construction that "[t]he mention of one thing implies the exclusion of another." Prestie v. Prestie (Estate of Prestie), 122 Nev. 807, 814 (2006) (citing State v. Wyatt, 84 Nev. 731, 734 (1968)); State ex rel. Kendall v. Cole, 38 Nev. 215, 220 (1915) ("In arriving at the intent of the legislature there is an old rule which is well recognized, "*Expressio unius est exclusion alterius."*).

Under this rule, where the Legislature specifically includes one thing but not the other, it must be presumed that the Legislature intended to exclude all others. Id.; Boucher v. Shaw, 124 Nev. 1164, 1170 (2008) ("had the Nevada Legislature intended to qualify managers as employers and thus expose them to personal liability, it would have done so explicitly").

Ejusdem generis

Ejusdem generis is a rule of construction "[u]sed in law to limit the application of a broad term to a specific class of things." Young Elec. Sign Co. v. Erwin Elec. Co., 86 Nev. 822, 825 (1970) (quoting Webster's Third New Int'l Dictionary (1968)). "If the intention of a statute is clear, courts do not resort to the rule of *ejusdem generis* because the statute must control. Courts may not read something into the statute which is not there. Where a general term in a statute follows specific words of a like nature, it takes its meaning from those specific words and is presumed to embrace the kind of things designated by the specific words." Id.; Circuit City Stores v. Adams, 532 U.S. 105, 114 (2001) (*ejusdem generis* is "the statutory canon that 'where general words follow specific words in a statutory enumeration, the general words are construed to embrace only objects similar in nature to those objects enumerated by the preceding specific words") (quoting 2A N. Singer, Singer, Sutherland on Statutes and Statutory Construction § 47.17 (1991))).

However, as stated by the United States Supreme Court:

> [W]hile the rule [of *ejusdem generis*] is a well-established and useful one, it is, like other canons of statutory construction, only an aid to the ascertainment of the true meaning of a statute. It is neither final nor exclusive …. If, upon a consideration of the context and the objects sought to be attained and of the act as a whole, it adequately appears that the general words were not used in the restricted sense suggested by the rule, we must give effect to the conclusion afforded by the wider view in order that the will of the legislature shall not fail.

Helvering v. Stockholms Enskilda Bank, 293 U.S. 84, 89 (1934).

Tax Provisions

Tax statutes are "construed most strongly against the government and in favor of the taxpayer." Hughes Properties v. State, 100 Nev. 295, 298 (1984) (citing State v. Pioneer Citizen's Bank of Nevada, 85 Nev. 395, 398 (1969)).

Open Meeting Law

The Nevada Supreme Court favors a strict interpretation of the statutory provisions establishing the Nevada Open Meeting Law. McKay, 102 Nev. at 651. "Open meetings are the rule in Nevada so the statute which states the exceptions must be strictly construed." Id.

Repeals

"Repeals by implication are not favored … ." Ronnow, 57 Nev. at 364. "Where express terms of repeal are not used, the presumption is always against an intention to repeal an earlier statute, unless there is such inconsistency or repugnancy between the statutes as to preclude the presumption, or the later statute revises the whole subject-matter of the former." Id.

Later versus Earlier Provision

"Where two statutes are flatly repugnant, the later, as a general rule, supplants or repeals the earlier." Ronnow, 57 Nev. at 364.

Appeals

"Any doubt about the construction of statutes regulating the right of appeal should be resolved in favor of allowing an appeal." Thompson, 100 Nev. at 355.

Criminal Provisions

"Where the legislative intent of a criminal statute is ambiguous, the statute must be strictly construed against imposition of a penalty for which it does not provide clear notice." Carter v. State, 98 Nev. 331, 335 (1982) (citing Anderson v. State, 95 Nev. 625, 629 (1979)); Moore v. State, 117 Nev. at 662 ("ambiguities in criminal liability statutes must be liberally construed in favor of the accused").

The Nevada Supreme Court has applied the "rule of lenity" as a principle of statutory construction which demands that ambiguities in criminal statutes be liberally interpreted in the accused's favor. Moore v. State, 122 Nev. 27 (2006).

However, even when a criminal statute may be ambiguous, the rule of lenity does not absolutely require that the statute be construed in favor of the accused if such a construction would yield a "strained and distorted" result. City of Las Vegas v. Dist. Ct., 124 Nev. 540, 545-46 (2008) (citing English v. State, 116 Nev. 828, 832 (2000)).

Ordinance Interpretation is an Issue of Law Reviewed De Novo

"Courts also apply a de novo standard of review when interpreting municipal code provisions." Citizens for Cold Springs, 126 Nev. at 271-72.

1.3. Carson City as Consolidated Municipality

Various provisions of NRS require or authorize the adoption of ordinances by local governments. Frequently, the applicability of those statutory provisions is dependent on the form of local government referenced in the statute.

Art. 8, §1 of the Nevada Constitution authorizes the creation of municipal corporations by special enactment. Under art. 8, §8 of the Nevada Constitution, the Nevada Legislature is prohibited from passing a special act relating to corporate powers except for municipal purposes, but may provide for the organization of towns and cities by special act notwithstanding Art. 8, §1, the provisions of which have been interpreted to mean that the legislature must provide for the organization of cities and towns by general laws.

Carson City was incorporated by the enactment of a city charter and not under general law pursuant to the provisions of NRS Chapter 266 (General Law for Incorporation of Cities and Towns); *see* Reviser's Notes, NRS Chapter 266; *see also* Carson City Charter, art. 1, §§ 1.010 and 1.020. Under the authority granted by art. 4, §37[A] of the Nevada Constitution, Carson City is organized as a consolidated municipality. As a consolidated municipality, Carson City "shall be considered as a county for the purpose of representation in the legislature, shall have all the powers conferred upon counties by this constitution or by general law, and shall have such other powers as may be conferred by its charter." Nev. Const. art. 4, §37[A].

Pursuant to NRS 0.033, Carson City is included in the term "county" as used in the Statutes of Nevada and NRS and "[e]xcept as limited by the Charter of Carson City or by ordinances enacted by authority thereof, those provisions of the Statutes of Nevada or Nevada Revised Statutes which refer to the several counties apply equally to Carson City." Similarly, the term "board of county commissioners" or "board" when referring to the boards of county commissioners of the counties in Nevada includes the Board of Supervisors of Carson City. NRS 0.0305.

Furthermore, as set forth in the City Charter, "[a]ll provisions of Nevada Revised Statutes which are applicable to counties or general to cities (not including chapter 265, 266 or 267 of NRS) or to both and which are not in conflict with the provisions of this Charter apply to Carson City. If there is a conflict between the law pertaining to counties and the law pertaining to cities, the Board of Supervisors may, by resolution choose which law applies." Carson City Charter, art. 1, § 1.010(2).

Accordingly, when preparing an ordinance either required or authorized by NRS, the ordinance drafter must be careful in first determining whether the statutory requirement or authorization applies to Carson City.

1.4. Nevada's "Functional" Home Rule

As explained in the Legislative Counsel's Digest to Senate Bill (SB) No. 29, enacted during the 78th (2015) Legislative Session:

> In a case from 1868 and in later treatises on the law governing local governments, former Chief Justice John F. Dillon of the Iowa Supreme Court developed a common-law rule on local governmental power known as Dillon's Rule, which defines and limits the powers of local governments. Under Dillon's Rule, a local government is authorized to exercise only those powers which are: (1) expressly granted; (2) necessarily or fairly implied in or incident to the powers expressly granted; or (3) essential to the accomplishment of the declared objects and purposes of the local government and not merely convenient but indispensable. Dillon's Rule also provides that if there is any fair or reasonable doubt concerning the existence of a power, that doubt is resolved against the local government and the power is denied. (*Merriam v. Moody's Ex'rs*, 25 Iowa 163, 170 (1868); 1 John F. Dillon, *Commentaries on the Law of Municipal Corporations* § 237 (5th ed. 1911))
>
> In Nevada's jurisprudence, the Nevada Supreme Court has adopted and applied Dillon's Rule to county, city and other local governments. (*Ronnow v. City of Las Vegas*, 57 Nev. 332, 341-43 (1937); *Hard v. Depaoli*, 56 Nev. 19, 30 (1935); *Lyon County v. Ross*, 24 Nev. 102, 111-12 (1897); *State ex rel. Rosenstock v. Swift*, 11 Nev. 128, 140 (1876)) Thus, as a general rule under existing law, a board of county commissioners is authorized to exercise only those powers which are expressly granted to the board and those powers which are necessarily implied to carry out the express powers of the board. (NRS 244.195; *First Nat'l Bank v. Nye County*, 38 Nev. 123, 134-39 (1914); *Sadler v. Board of County Comm'rs*, 15 Nev. 39, 42 (1880))

With the enactment of SB 29, the Nevada Legislature extended a degree of Home Rule authority to local governments by modifying Nevada's adopted Dillon's Rule. Pursuant to the provisions of SB 29, codified as NRS 244.137 to 244.146, inclusive, local governments in Nevada now enjoy greater authority over certain "matters of local concern." Under Dillon's Rule, a board of county commissioners (or, in the case of Carson City, its Board of Supervisors) may only exercise the following powers and no others: (1) powers granted in express terms by the Nevada Constitution or statute; (2) powers necessarily or fairly implied in or incident to the powers expressly granted; and (3) powers essential to the accomplishment of the declared objects and purposes of the county and not merely convenient but indispensable. NRS 244.137(3). "Dillon's Rule also provides that if there is any fair or reasonable doubt concerning the existence of a power, that doubt is resolved against the board of county commissioners and the power is denied." NRS 244.137(4).

However, as declared by the Nevada Legislature, "with regard to matters of local concern, a strict interpretation and application of Dillon's Rule unnecessarily restricts a board of county commissioners from taking appropriate actions that are necessary or proper to address matters of local concern for the effective operation of county government and thereby impedes the board from responding to and serving the needs of local citizens diligently, decisively and effectively." NRS 244.137(5). Therefore, boards of county commissioners are granted "all powers necessary or proper to address matters of local concern so that the board may adopt county ordinances and implement and carry out county programs and functions for the effective operation of county government," and Dillon's Rule as applied to those boards is modified "so that if there is any fair or reasonable doubt concerning the existence of a power of the board to address a matter of local concern, it must be presumed that the board has the power unless the presumption is rebutted by evidence of a contrary intent by the Legislature." NRS 244.137(6).

NRS 244.143 defines what type of matter constitutes a "matter of local concern" and sets forth a non-exhaustive, illustrative list of such matters. The provisions of NRS 244.146 further establish the powers of a board of county commissioners under the modified Dillon's Rule or "functional" Home Rule, and the proper exercise of those powers.

The importance of these statutory provisions should not escape the ordinance drafter's attention. With the passage of SB 29, the Carson City Board of Supervisors can now exercise greater powers in its adoption of ordinances that affect matters of local concern and which are not expressly required, authorized or prohibited by state law. The drafter must also recognize that while this expansion of local authority modified Dillon's Rule, that modification did not eliminate all limitations on local governmental authority. Thus, a matter is not a matter of local concern if it concerns a state interest that requires statewide uniformity of regulation, the regulation of business activities that are subject to substantial regulation by a federal or state agency or any other federal or state interest that is committed by the Constitution, statutes or regulations of the United States or the State of Nevada to federal or state regulation that preempts local regulation. NRS 244.143(1).

Consequently, it is important for the drafter to determine not only whether a proposed ordinance is substantively and procedurally sound, but whether there exists the proper authority to enact the ordinance, whether pursuant to statutory mandate, statutory permission or Nevada's "functional" Home Rule as a matter of local concern.

1.5. Extrinsic Drafting Aids

Ordinarily, the drafter should look to model proposed ordinances on previously adopted ordinances to maintain consistency in style and organizational approach. One of the main purposes behind the development of this Manual, however, is to create a baseline foundation of

drafting rules and related legal considerations as a vehicle for an eventual, comprehensive redraft and reenactment of all existing CCMC provisions. As described in the Foreword to this Manual, the CCMC provisions have been pieced together over the years by various attorneys and City staff without the benefit of legislative drafting guidelines. As a result, CCMC – while the provisions are functionally adequate – is irregular in its overall style and structure.

Accordingly, the drafter should pattern new ordinances after the more recent provisions of NRS and the Nevada Administrative Code (NAC), as well as the Statutes of Nevada. Older provisions of NRS, NAC and the Statues of Nevada may themselves be outdated in style and should therefore be avoided. The drafting guidelines established by this Manual are, with certain exceptions, intended to replicate the style of legislative drafting used by the Nevada Legislature's legislative attorneys over the course of the last several legislative sessions. Modeling the style and organization of Carson City's ordinances after state law will facilitate better readability for members of the public and help avoid inconsistency between state and local laws where there is overlap.

For example, if preparing an ordinance to create a new advisory board in Carson City, the drafter can select from a number of state statutory schemes that organize in sequential order: (1) the creation of a board or agency; (2) member appointments, terms, vacancies, compensation or non-compensation; (3) member removal; and (4) the establishment of powers and duties. Similarly, other state statutes can provide models for licensing provisions, administrative hearings and appeals, notice requirements and a myriad of other regulatory schemes that may be used as a starting point for the drafter to prepare conceptually identical ordinance provisions.

Other extrinsic aids that may be helpful to the drafter include model legislation, especially those that have been developed by different entities for the purpose of implementing a national trend in local legislation, uniform acts, federal legislation and state and local legislation from other jurisdictions. While each of these extrinsic sources may provide the groundwork for the drafter to build on, the drafter must be careful to identify source authority for Carson City's ordinances that may not correlate with enabling authority allowing the adoption of ordinances in other jurisdictions. In other words, what may be lawful in one state may not necessarily be lawful in Nevada. Additionally, the drafter will usually have to refashion model language in a manner consistent with CCMC and the drafting guidelines established by this Manual because each jurisdiction employs its own style. Extrinsic aids, however helpful, should only be used as a starting point for the comparison of laws and concepts, and the drafter ought to avoid verbatim duplication of language from other jurisdictions if such duplication is inappropriate.

1.6. Research

Adequate legal research is an essential component of legislative drafting. Each proposed ordinance, especially ordinances intended to effectuate a new concept or procedural framework,

can be complex and daunting. It is both impractical and impossible to try to establish an estimate of how much time the drafter should invest in research when preparing an ordinance; the amount of research needed will fluctuate depending on the type and length of the ordinance proposed.

The drafter is the best judge of how much time should be spent researching the law on a particular issue inherent in a legislative provision. A competent analysis of whether an ordinance is lawful and mechanically sound in its implementation requires a holistic consideration of the legislative intent and the best means to accomplish that intent, and may necessitate research into the state and federal constitutions, federal legislation, state laws and regulations and, of course, traditional common law research.

The ordinance drafter must be mindful of state and federal constitutional considerations such as preemption, the void for vagueness and overbreadth doctrines, equal protection, due process and other issues of constitutional law when preparing ordinance language. By having at least a basic understanding of how the courts have addressed ordinance challenges on such grounds, the drafter will be able to carefully determine whether a proposed ordinance is lawful in concept, and if so, to then construct language that both meets the intent of the proposed legislation and withstands constitutional scrutiny. While rules of construction are employed by Nevada courts to assist in the proper interpretation of an ordinance and therefore serve as essential tools for use by the municipal attorney in deciphering the meaning and application of local laws, the constitutionality of an ordinance is of paramount concern because a constitutionally infirm ordinance is fatally defective regardless of how concisely it is written. Passage and application of such an ordinance may subject the municipal client to liability, and therefore the drafter serves his or her client best by identifying legal flaws early in the process.

Pending legislation, especially any adopted by the Nevada Legislature but not yet effective, must be examined to avoid any conflict. If a proposed ordinance is meant to be enacted by the Board of Supervisors under a possibility that the ordinance may soon be rendered void or otherwise superseded in full or in part by pending state or federal legislation, the drafter should be aware of that possibility, if discoverable through proper legal research, and convey the information to the ordinance requestor and the Board of Supervisors.

The drafter should remember, particularly when drafting proposed ordinances in years when the Nevada Legislature is in regular or special session, to monitor and review Senate and Assembly Bills that are being heard by the Legislature. Because there is usually a delay between the enactment of a legislative measure and the codification of a bill's provisions in NRS, the drafter must also be diligent in cross-referencing provisions in statute that have been amended but are not yet reflected in NRS. One method of ensuring that the drafter does not neglect new Nevada law that has not been codified is to use the databases on the Internet website of the Nevada Legislature at www.leg.state.nv.us. For example, by using the Tables and Index database at the Legislature's website, the drafter can search a subject index that corresponds with proposed and passed legislative bills. The drafter can search for legislative activity that

corresponds with titles, chapters and sections of NRS. To illustrate, if in 2019 the drafter was tasked with reviewing changes in state law as to the authority of Nevada counties under NRS Chapter 244, the drafter can search the "Table of Sections of Nevada Revised Statutes Proposed to be Amended or Repealed by Bills Introduced" during the 80th (2019) Legislative Session and identify all bills affecting the specific NRS sections that were enrolled, failed, vetoed or deleted by amendment:

TABLE OF SECTIONS OF NEVADA REVISED STATUTES PROPOSED TO BE AMENDED OR REPEALED BY BILLS INTRODUCED

* Enrolled bill
D Bill failed to meet deadline
†† Vetoed by Governor
† Deleted by amendment

Updated June 14, 2019

244.016	A	SB 127	D
244.027	A	SB 123	*
244.143	A	SB 398	D
244.146	A	SB 398	D
	A	AB 379	D
244.164	R	SB 118	D
244.189	A	SB 473	*
244.200	A	SB 460	*
244.275	A	SB 36	*
244.2795	A	SB 36	*
	A	AB 198	†
244.281	A	SB 36	*
	A	AB 198	†
244.282	A	SB 36	*
244.287	A	SB 473	*
244.290	A	AB 135	D
244.2961	A	SB 338	
244.2967	A	AB 48	D
244.335	A	AB 409	D
	A	AB 533	*
244.33506	A	AB 539	
244.33508	A	AB 539	
244.3352	A	AB 324	D
244.3359	A	SB 543	*
	A	AB 324	D
244.345	A	SB 413	D
244.35253	A	AB 164	*
	A	AB 533	*
244.359	A	AB 479	D
244.363	A	SB 316	*
244.364	R	AB 291	†
244.3661	A	AB 79	*
244.367	A	SB 338	
244.401	A	AB 11	*
244.406	A	AB 11	*
244.424	A	AB 133	†

The drafter must also be familiar with the differences between NRS and Statutes of Nevada. NRS is the codified version of state law, organized into titles, chapters, sub-chapters and sections. During the codification process, state legislative attorneys prepare headings or "leadlines" for each new or amended section of NRS which provide a short summary of each section's contents. NRS also includes source notes at the bottom of each codified section which indicates the date of enactment and the Statute of Nevada from which the section addition or amendatory provision is derived:

NRS 0.030 Gender, number and tense.

1. Except as otherwise expressly provided in a particular statute or required by the context:

(a) The singular number includes the plural number, and the plural includes the singular.

(b) The present tense includes the future tense.

2. The use of a masculine noun or pronoun in conferring a benefit or imposing a duty does not exclude a female person from that benefit or duty. The use of a feminine noun or pronoun in conferring a benefit or imposing a duty does not exclude a male person from that benefit or duty.

(Added to NRS by 1977, 181; A 2009, 484)

REVISER'S NOTE.

Ch. 134, Stats. 2009, which amended this section regarding the use of the masculine, feminine and neuter genders and which directed the Legislative Counsel to make such changes as necessary so that the Nevada Revised Statutes and the Nevada Administrative Code are gender neutral, contains the following provision not included in NRS:

"1. In preparing supplements to the Nevada Revised Statutes and the Nevada Administrative Code, the Legislative Counsel shall make such changes as necessary so that the Nevada Revised Statutes and the Nevada Administrative Code are gender neutral. Such changes may include, without limitation, adding references to the feminine or masculine gender and revising other language as necessary to make the Nevada Revised Statutes and Nevada Administrative Code gender neutral.

2. To the extent that revisions are made to the Nevada Revised Statutes pursuant to subsection 1, the revisions shall be construed as nonsubstantive and it is not the intent of the Nevada Legislature to modify any existing interpretations of any statute which is so revised."

In this example, "NRS 0.030" is the section number, "Gender, number and tense" is the "leadline" to the section which summarizes the substance of the section's provisions, and the information included in the parenthetical interpolation indicates that the section was first added to NRS in 1977, from page 181 of Statutes of Nevada and then amended in 2009 by page 484 of Statutes of Nevada.

As also seen in the example above, there is a "reviser's note" included in the annotation to the NRS section. As explained in the Legislative Counsel's Preface to NRS, these "'reviser's notes' appear in the annotations under the appropriate sections and will answer most questions that may arise as to the reason for any difference between the old statute and the new. When a section has been amended since the enactment of NRS, the accompanying note may be omitted, upon the theory that the Legislature has then examined the section in detail and ratified any such change. Also included in the 'reviser's notes' are selected preambles and other transitory provisions which accompany statutes but which are not included in *Nevada Revised Statutes*." These reviser's notes can provide valuable information that may give the ordinance drafter a better understanding of a statute. Because such notes, as well as preambles and transitory provisions to statutes, may be omitted from a codified provision, the ordinance drafter should be aware that Statutes of Nevada is the complete form of state law whereas NRS is an edited version of state law.

Additionally, there are certain Statutes of Nevada, such as special and local acts, that are not codified. For example, the Airport Authority Act for Carson City exists outside of NRS as Chapter 844, Statutes of Nevada, 1989. These statutory provisions established the Airport Authority of Carson City and also govern the powers and duties of both the Airport Authority and the Board of Supervisors as they relate to the Carson City Airport. Correspondingly and pursuant to those delegations of powers, the Board of Supervisors has enacted ordinances codified in CCMC Title 19. To amend or add to Title 19, the drafter would have to review the statutory parameters established by the Airport Authority Act to ensure compliance with state law. However, a review of state law limited only to NRS would not reveal those governing state provisions.

Because of the application of Dillon's rule in Nevada's jurisprudence, even as modified by SB 29 in 2019, the drafter must always exercise caution by drafting ordinances that rest squarely within the confines of statutory limitations except as otherwise permitted under the "functional" Home Rule as a matter of local concern. With proper research, the drafter can avoid exceeding statutory limitations and creating conflict with state law.

Although legal research is almost always inherent in legislative drafting except in certain cases where, for example, an ordinance proposes only to make a technical or other clerical change, the drafter must exercise sound discretion in reasonably balancing the time devoted to research against deadlines imposed for finalizing a draft ordinance to meet the City's needs and expectations. This balancing act is left to the judgment of the attorney drafter who must feel confident that his or her written product is legally defensible and reasonably refined to the point it is ready for a public hearing and consideration by the Board of Supervisors.

If the drafter has identified concerns regarding an ordinance provision or has resolved a legal issue conclusively, those concerns or resolved issues should be memorialized in the form of an ordinance file memorandum. By documenting ordinance issues and any legal research and analysis prepared by the drafter, there is a clear record to benefit both the current drafter and any future drafter who may have a need to revisit the same ordinance provision.

Finally, the drafter must always, at a minimum and in every circumstance before preparing an ordinance, review the entire chapter in which an existing CCMC provision is located before amending or repealing legislative language. Frequently, the drafter must also review the title in which the chapter is located and cross-reference other titles, chapters and sections of CCMC to ensure that a revision, repeal or addition of language in one provision does not affect another provision. By reviewing the chapter and title in which a section is housed, the drafter will have an overall understanding of how an entire legislative framework operates. Without doing so, the drafter may produce an ordinance that is ineffective, illogical or unlawful by conflicting with other related provisions. Where a change in one main section of CCMC affects another section, the affected provisions must also be revised as necessary to reflect changes that conform to the change in the main section to maintain consistency.

1.7. Codified and Uncodified Ordinances

As of the issuance date of this edition of the Manual, the text of Carson City ordinances are incorporated into CCMC by a third-party vendor, MuniCode, which also provides web-based services to the City such as CCMC search functions and ordinance archiving. MuniCode will place sections of enacted ordinances into Carson City's MuniCode website page based on the CCMC sections assigned to each part of an ordinance that is submitted for codification. MuniCode, however, does not "codify" ordinance sections in the traditional sense of assigning the appropriate CCMC section numbers to legislative text from an adopted ordinance. Rather,

the drafter is responsible for numbering the text and, based on that numbering assigned by the drafter, MuniCode will incorporate those sections of text into CCMC in the correct sequential order. See chapter 2.1 for the use of the decimal system in assigning CCMC section numbers and chapter 3.3 for the proper drafting of CCMC headings that follow section numbers.

As with certain Statutes of Nevada, certain Carson City ordinances are not appropriate for codification. While the majority of ordinances will be codified as matters of local law or regulation that is of a general application, some ordinances are isolated to a singular transaction and are therefore unsuitable for codification because they have no application to the public at large. One such type of ordinance is a zoning map amendment to effectuate a change in the designated zoning for a specific real property parcel. Such an ordinance would not include an introductory clause (further discussed in chapter 4.6) for the various sections of the ordinance. Without an introductory clause to direct placement of the ordinance section in an existing title or chapter of CCMC or to create a new title or chapter, MuniCode will not codify the ordinance provisions. A sample ordinance intended for codification is included as Appendix B to this Manual, and a sample zoning map amendment ordinance not intended for codification is included as Appendix C.

1.8. Drafter Checklist

The drafter may find it helpful to use the following checklist of items (some of which are topics that will be discussed later in this Manual) to ensure that at a minimum, the most essential steps in ordinance drafting have been taken. The drafter should ask himself or herself, before the submission of a final draft ordinance for hearing and consideration, whether the ordinance:

- Conforms to the state and federal constitution.
- Avoids conflict with and is not superseded by any provision of state or federal law or regulation.
- Avoids unnecessary duplication of state or federal law or regulation.
- Is authorized, or required, for adoption by the Board of Supervisors, either expressly under state law or as a matter of local concern.
- Contains a title summary.
- Contains an ordinance title with a single subject that clearly expresses the contents of the ordinance.
- Contains the necessary introductory clauses for codification.

- Contains an effective date.

- Is consistent with the organizational structure, style and convention of CCMC as established by the drafting guidelines set forth in this Manual.

- **Accurately captures legislative intent.**

Style, Convention and Language

2.1. Organization and Structure

Title, Chapter and Section Organization

The arrangement of CCMC as a whole, as well as each individual ordinance prepared by the drafter, is a fundamental task in adopting a sound system of local laws organized in a logical sequence. The proper organizational structure of CCMC titles, chapters and sections of ordinance provisions makes the law more understandable and therefore more accessible to the public, whose members are whom the law is intended to govern and protect. Furthermore, by viewing the organization of each individual ordinance proposed for adoption as but one piece in a series of pieces that form a larger mechanism, the drafter will be able to predict how future revisions to CCMC may need to be accommodated by setting the right foundation one ordinance at a time. CCMC should be understood as a fluid, ever-evolving document. To facilitate its fluidity, the drafter has to anticipate future revisions to CCMC and make decisions concerning organizational structure that will enable the incorporation of those revisions with some measure of ease.

Accordingly, the organization of sections in an ordinance is not inconsequential. Currently, CCMC is divided broadly into 21 different titles and a separate appendix (Carson City Development Standards) to Title 18, which establishes provisions relating to zoning. Within each title is a grouping of chapters which are each in turn made up of a sub-grouping of sections. Titles of CCMC are the broadest grouping of ordinance provisions and are meant to establish the widest scope of a particular topic. Next, chapters within titles should be arranged in a way that establishes a narrower scope relating to more specific topics that fall neatly within the title. Chapters can also be further sub-divided, when appropriate, into sub-chapters with their own sub-headings when a grouping of sections are not broad or extensive enough to warrant its own chapter, but yet too specific and therefore illogical to place in sequential order with other, lesser-related sections within a chapter. Finally, sections of CCMC are narrowest in scope, operating as separate units that, when taken together, help form a larger regulatory framework.

The sequential arrangement of titles and chapters and the grouping of sections should follow a logical pattern so that it increases the likelihood that a person searching for a particular CCMC provision will know where to look. Thus, when preparing an ordinance, the drafter's initial question in the organizational step of drafting should be to ask what makes the most sense in arranging all of the ordinance provisions. At times, it may be helpful to create a basic outline of the ordinance as a preliminary step to drafting so that the drafter can see, on paper, how the sum of the ordinance parts ought to look. Existing titles of CCMC should never be renamed to

expand or restrict their existing scope without the approval of the District Attorney or Assistant District Attorney. Similarly, new titles of CCMC should rarely be created. Instead, the drafter should attempt to find a title that is broad enough to encompass the subject scope of newly proposed ordinance provisions. The drafter may enjoy a greater degree of latitude when renaming or creating chapters, but that should be a last resort used only when circumstance necessitates. The drafter has the most discretion in determining where to place individual sections of CCMC within existing chapters, but again, such placement must follow a logical pattern. For example, general provisions such as definitions that have chapter-wide applicability are typically placed at the beginning of a chapter, followed by any applicability section (see chapter 3.10 for a discussion on applicability sections), substantive sections governing a person or thing and then finally provisions establishing penalties for violations.

Sequencing

In general, the sequential placement of CCMC sections should be arranged in the following manner:

1. Definitions.
2. Purpose statement or declaration of policy.
3. Scope and applicability.
4. Substantive sections, grouped in a logical pattern.
   For example, for the creation of an advisory body:
   - A. Definition of the body.
   - B. Board findings and declarations.
   - C. Creation; membership; officers; terms; vacancies.
   - D. Meetings; rules; quorum; compensation; expenses.
   - E. General powers.
   - F. Additional powers and duties.
5. Violations and penalties.

The drafter must also follow technical rules concerning the sequential structure of an ordinance:

1. New sections to be codified in the main chapter relating to the main subject of the ordinance are placed first; followed by
2. Amendments to existing sections in the main chapter relating to the main subject of the ordinance; followed by
3. New sections to be placed in other chapters in descending numerical order (*e.g.*, Chapter 10.30; Chapter 12.50, etc.); followed by
4. Amendments to existing sections in other chapters in descending numerical order; followed by
5. All sections to be repealed.

Numbering Sections

The numbering of CCMC sections, similar to the numbering of NRS and NAC, follows the decimal system for sequencing purposes. To explain, consider CCMC 10.04.250. In this example, the numbers to the left of the first decimal – "10." – indicates the title number. That number, "10," when coupled with the numbers to the left of the second decimal – "04." – indicates the chapter number, "10.04." The final set of numbers to the right of the last decimal – ".250" – indicates the order of the section within the chapter. The decimals should always be to the hundredth decimal point to ensure space for additional sections of text that may be incorporated into a chapter. For example:

CORRECT:

CCMC 10.01.010

INCORRECT:

CCMC 10.01.10

Within each chapter of CCMC, the progression of sections is generally in the sequence of 10. For example, a typical sequence of CCMC sections appears as: 10.04.010, 10.04.020, 10.04.030, etc. New chapters of CCMC should always incorporate ordinance provisions in this sequence to promote uniformity throughout CCMC. For new sections of legislative text to be incorporated into an existing chapter of CCMC, the drafter must determine whether the new text ought to be sequenced before, in between or after existing sections. Frequently, the placement of new sections will be a combination of the three. When numbering new sections for placement between existing CCMC sections, the drafter may use decimals of .003, .005, .007 and 0.009. For example, if three new sections of an ordinance should be placed between an existing CCMC 10.01.010 and 10.01.020, those three sections should be numbered as follows:

CORRECT:

CCMC 10.01.013; CCMC 10.01.015; CCMC 10.01.017

If the drafter must place even more new sections between two existing sections, the drafter can use smaller numbers to the hundredth decimal. For example:

CORRECT:

CCMC 10.01.011; CCMC 10.01.012; CCMC 10.01.013, etc.

If necessary, decimals to the thousandths may be used. The main principle in the sequential numbering of CCMC sections is, as explained above, proper grouping of related sections of text. So long as a consistent, logical pattern is established, CCMC provides a coherent framework of local laws that can be easily understood and searchable by the public.

The process of ordinance enactment by the Board of Supervisors differs dramatically from the enactment of state legislation (see chapter 4 for state and city charter requirements for ordinance adoption), including the numbering or codification of new sections of legislative text. Compare, for example, the following excerpts of legislative text, one from Assembly Bill No. 108 (2019) and one from Ordinance No. 2018-17:

Assembly Bill excerpt:

Section 1. Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:

On or before January 1, 2018, and every 4 years thereafter, the Division shall:

1. Review the rate of reimbursement for each service or item provided under the State Plan for Medicaid to determine whether the rate of reimbursement accurately reflects the actual cost of providing the service or item; and

2. If the Division determines that the rate of reimbursement for a service or item does not accurately reflect the actual cost of providing the service or item, calculate the rate of reimbursement that accurately reflects the actual cost of providing the service or item and recommend that rate to the Director for possible inclusion in the State Plan for Medicaid.

Ordinance excerpt:

SECTION II:

That Title 12 (WATER, SEWERAGE AND DRAINAGE), new Chapter 12.035 (UTILITY RATEPAYER ASSISTANCE PROGRAM) is hereby amended by adding thereto a new section (**bold, underlined** text is added, ~~[stricken]~~ text is deleted) as follows:

12.035.010 – Short Title.

This chapter may be cited as the Utility Ratepayer Assistance Program.

As depicted in the examples above, "Section 1" of the Assembly Bill only indicates that a "new section" is being added to "Chapter 422 of NRS," but there is no indication as to where the new section will be placed within that chapter. For state legislative bills, the numbering of newly enacted provisions of law is completed during a separate codification phase after the legislative session has adjourned. "Section II" of the ordinance, however, shows that the new section being proposed is for inclusion in CCMC as "12.035.010." In essence, the ordinance drafter authors the substance of ordinance text simultaneously with codifying the text. Because the proper codification of ordinance text is fundamentally critical to the overall structure of CCMC, the drafter must be especially attentive to and not overlook the importance of proper numbering.

Deconstructing Legislative Text or "Paragraphing"

Deconstructing legislative text into smaller grammatical "units," or the method of "paragraphing," should follow the citation rules of NRS as established in the Legislative Counsel's Preface to NRS, as modified for CCMC. The following is a sample outline of the correct numbering for sections:

000.000 Sample Section.

1. This is a subsection.

2. Subsections are numbered with Arabic numerals and can be subdivided into paragraphs which:

(a) Are designated by a lowercase letter in parentheses;

(b) Are cited as "paragraphs (a) and (b) of subsection 2 of CCMC 000.000"; and

(c) Can be further subdivided into subparagraphs which:

(1) Are designated by Arabic numerals in parentheses;

(2) Are cited as "subparagraphs (1) and (2) of paragraph (c) of subsection 2 of CCMC 000.000"; and

(3) Can be further subdivided into sub-subparagraphs which are:

(I) Designated by Roman numerals in parentheses which are:

(II) Cited as "sub-subparagraphs (I) and (II) of subparagraph (3) of paragraph (c) of subsection 2 of CCMC 000.000."

All ordinance sections must follow the paragraphing model above as the proper typological device for arranging legislative text. Paragraphing legislative language into separate grammatical units can help the reader understand a lengthy or complex sentence by: (1) exposing its structure; (2) showing how different parts of a provision relate to each other; (3) avoiding ambiguity about the objects of modifiers such as preposition phrases, relative clauses and adverbial clauses; and (4) shortening text by reducing repetition. Although the benefits to paragraphing using the NRS rules are abundant, the drafter must also consider the disadvantages. While the readability of legislative text can be improved by dividing its parts, paragraphing can also disrupt the natural flow of reading by incorporating subsection numbers and breaks in text. In addition, paragraphing is seldom used in other types of writing and therefore readers who are not accustomed to legal text may have some difficulty understanding how paragraphed units of text relate to one another.

To properly paragraph text, the drafter must follow some basic rules. First, there must be at least two parallel units of text. If there is only one unit of text, then there is no need for paragraphing and no need for subsection numbering. To illustrate:

CORRECT:

The department shall adopt policies and procedures governing log entries.

INCORRECT:

1. The department shall adopt policies and procedures governing log entries.

In the illustration above, the second example is incorrect because there is no need to number one unit of text. All units of text as subsections, paragraphs, subparagraphs and sub-subparagraphs may only be drafted if there will be more than one unit. To further illustrate:

CORRECT:

The department shall adopt:
1. Policies and procedures governing log entries; and
2. A written manual for employees explaining how entries are logged.

INCORRECT:

1. The department shall adopt:
(a) Policies and procedures governing log entries; and
(b) A written manual for employees explaining how entries are logged.

The second example used above is incorrect because there is no second subsection. Because there is no second parallel unit of text, the sentence "The department shall adopt" should not be denoted as a subsection.

Parallel units of text must also be preceded by opening words and each subsequent unit of text that is broken up into subsections, paragraphs, subparagraphs or sub-subparagraphs must be capable of being read grammatically correct with those opening words. For example:

INCORRECT:

The department may issue a temporary permit:
1. After the required fee is paid; and
2. The permit expires 30 days after the date of issuance.

The example above is incorrect because subsection 2 does not read grammatically correct with the opening words. Subsection 2 should be written in a way that retains the same

grammatical function as the opening words and must also modify the same part of speech. For example:

INCORRECT:

The department may issue a permit:
1. Thirty days before the first day of the special event; and
2. To authorize an encroachment.

The example above is incorrect because subsection 1 modifies the verb "issue" and subsection 2 modifies the noun "permit." Every modifier in a parallel unit of text must modify the same thing described in the opening words or a thing within the parallel unit itself. When creating units of text, the drafter must ensure that the conjunction between the parallel units would occur in ordinary speech. Furthermore, a parallel unit should not contain a complete sentence because that disrupts the use of the conjunction. For example:

INCORRECT:

A penalty fee may be charged for a payment that is:
1. Not received by the department by the last day of each calendar quarter.
2. Received by the department on or before the last day of each calendar quarter but does not include an accounting statement, payable at the time the application is submitted.
3. A penalty fee imposed pursuant to this section must not be more than $100.

In this example, the first two subsections contain elements that relate to different things contained in the opening words. The verb phrases "not received" and "received" in both subsections 1 and 2 relate to "payment" but the phrase "payable" in subsection 2 relates to "penalty fee" which disrupts the reading of the entire section as a whole. Additionally, the third subsection as a complete sentence negates the use of any conjunction and does not read grammatically correct with the opening words. To avoid this error, the drafter could denote the last subsection from the example above as its own subsection, rewrite the previous two subsections by removing the inconsistent modifiers and then denote those two subsections as paragraphs under a new subsection 1. For example:

CORRECT:

1. A penalty fee may be charged for a payment that is:
(a) Not received by the department by the last day of each calendar quarter; or

(b) Received by the department on or before the last day of each calendar quarter but does not include an accounting statement.

2. A penalty fee imposed pursuant to this section:

(a) Is payable at the time the application is submitted; and

(b) Must not be more than $100.

A parallel unit may refer to a thing mentioned in the previous unit. For example:

CORRECT:

The department shall adopt:

1. Policies and procedures governing log entries; and

2. A written manual for employees explaining how entries are logged.

In the example above, "entries" as used in subsection 2 refers to "log entries" as used in subsection 1. Although "entries" does not fully replicate "log entries," the reference in the parallel unit is acceptable because there is no confusion as to what the term "entries" refers to.

As explained earlier in this chapter, paragraphing legislative text into separate grammatical units is not appropriate in all circumstances and depends on whether using the method is more or less beneficial to the overall readability of the proposed ordinance provision. Take, for example, the following proposed language:

A box of fruit required by this section must include an apple, banana, persimmon and strawberry.

A box of fruit required by this section must include a ripe apple with no bruises, a ripe banana, ripe orange persimmon, ripe strawberry, ripe imported Asian pear, ripe honeydew melon sourced locally and ripe packaged jackfruit.

A box of fruit required by this section must include a red apple with no bruises, a ripe banana, an orange persimmon, a strawberry with stem, an imported Asian pear, a honeydew melon sourced locally and a packaged jackfruit.

In the first example, the sentence is short, noncomplex and does not include any modifiers to the nouns. The next two sentences, while noncomplex, may be better separated into parallel texts. The second example uses a common modifier to each noun in the sentence that can be used as the opening descriptor which is preferable to repeating the same modifier. For example:

CORRECT:

A box of fruit required by this section must include a ripe:

1. *Apple with no bruises;*
2. *Banana;*
3. *Persimmon;*
4. *Strawberry;*
5. *Imported Asian pear;*
6. *Honeydew melon sourced locally; and*
7. *Packaged jackfruit.*

The third example above can also be separated into parallel text despite the absence of a common modifier for the nouns. For example:

CORRECT:

A box of fruit required by this section must include:

1. *A red apple with no bruises;*
2. *A ripe banana;*
3. *An orange persimmon;*
4. *A strawberry with stem;*
5. *An imported Asian pear;*
6. *A honeydew melon locally sourced; and*
7. *A packaged jackfruit.*

Other Organization Rules

When using Microsoft Word as the default word processing software to author ordinances, the drafter must turn on the function to show paragraph marks and other hidden formatting symbols so that there is consistency in margin formatting and spacing. To further ensure this level of consistency, the drafter must also prepare all sections of ordinances using left justified margins. Using the same model of section numbering on page 26 but with the paragraph marks and hidden formatting symbols visible, this is what the drafter should see in his or her document when drafting:

→ **000.000 Sample Section.**¶

→ 1. This is a subsection.¶

→ 2. Subsections are numbered with Arabic numerals and can be subdivided into paragraphs which:¶

→ (a) Are designated by a lowercase letter in parentheses;¶

→ (b) Are cited as "paragraphs (a) and (b) of subsection 2 of CCMC 000.000"; and¶

→ (c) Can be further subdivided into subparagraphs which:¶

→ → (1) Are designated by Arabic numerals in parentheses;¶

→ → (2) Are cited as "subparagraphs (1) and (2) of paragraph (c) of subsection 2 of CCMC 000.000"; and¶

→ → (3) Can be further subdivided into sub-subparagraphs which are:¶

→ → → (I) Designated by Roman numerals in parentheses which are:¶

→ → → (II) Cited as "sub-subparagraphs (I) and (II) of subparagraph (3) of paragraph (c) of subsection 2 of CCMC 000.000."¶

Note that the section number begins with a standard tab stop position of 0.5 inches from the left alignment. The section number is followed by two spaces before the leadline, followed by a period. The section number and leadline are in bold font (and all characters in Times New Roman, 12 point font). Additionally:

Subsections follow one tab.

Two spaces follow a tab.

Paragraphs use the same tab and spacing as subsections.

Subparagraphs follow two tabs.

One space follows two tabs after a subparagraph.

Sub-subparagraphs follow three tabs.

One space follows two tabs after a sub-subparagraph.

Not shown above but which should be used as another set of formatting and spacing rules is: (1) the end of one sentence and the start of another should be separated by only one space; and (2) all ordinance documents in Microsoft Word should have default top, bottom, left and right margins set at 1".

Finally, the drafter should not use any additional special indentation such as hanging indents, automatic numbering or page breaks, and lines should be single spaced. Because Carson

City does not currently use any special legislative drafting software that would otherwise generate default margin and spacing settings, the drafter must ensure these settings are made manually.

Although the drafting rules associated with section numbering and spacing may seem unnecessarily onerous to a new drafter, the rules will quickly become second nature to the seasoned drafter. Consistency in drafting style coupled with uniformity in formatting and spacing equate to a more understandable and refined, aesthetically polished CCMC.

2.2. Use of Words

Word choice must be given special consideration. A primary objective of ordinance drafting is to make the law understandable. This is accomplished through the use of plain and unambiguous language. If an expression can be written in a shorter, more simplified fashion, that is how the drafter should draft the provision. Thus, in general: (1) never use a long word or phrase if a shorter word or phrase will convey the same meaning; (2) if it is possible to omit a word and preserve the desired meaning of a sentence without sacrificing grammatical accuracy, omit it; and (3) never use a foreign phrase, legal jargon or scientific expression if there is an everyday English equivalent that can be used instead.

Ordinance provisions should be written so it reads as a clear, concise, natural expression that is unstilted and carries the full legislative intent. However, ordinance language should not be so informal as to be conversational. Whereas in daily conversation, the speaker is able to explain what he or she means by what is said if the initial expression is not understood, the drafter does not enjoy that luxury. To the contrary, the drafter has one opportunity to express exactly what a word, phrase, sentence or provision is intended to mean. An ordinance, similar to a statute, should not contain examples to illustrate what is intended. Such a drafting tactic runs counter to the principle of legislative drafting that holds all laws should be of general application and, therefore, applicable in any circumstance that the provision is meant to affect. Resorting to the use of illustrative examples confined to specific facts necessarily implies that there may be other circumstances to which the provision does not apply. But an ordinance provision, if drafted correctly, should not be in danger of inadvertently applying to circumstances to which it is not intended to apply. A provision that does create such a danger is the very definition of a law which creates an unintended consequence.

Together, the drafter's careful selection of words, phrases, sentences and provisions serve to establish a regulatory process, grant a right or benefit or impose a mandate or prohibition in local government. Because a single word can change the entire meaning of an ordinance, the drafter must be discriminating when choosing words to achieve an exact purpose.

2.3. Tense

The law speaks in the present and therefore the drafter must write in the present tense. The present tense includes the future as well as the present. For example:

USE:

Any person who violates the provisions of this section is guilty of a misdemeanor.

AVOID:

Any person who violates the provisions of this section shall be guilty of a misdemeanor.

USE:

The rights and remedies provided by this section are in addition to any other rights or remedies that may exist at law or in equity.

AVOID:

The rights and remedies provided by this section will be in addition to any other rights or remedies that may exist at law or in equity.

2.4. Negatives

Do not use "neither" or "nor." Similarly, do not use "either." For example:

USE:

The application must not include the social security number or personal identifying information of any person other than the applicant.

AVOID:

The application must not include the social security number nor personal identifying information of any person other than the applicant.

AVOID:

The application must include neither the social security number or personal identifying information of any person other than the applicant.

AVOID:

The application must not include either the social security number or personal identifying information of any person other than the applicant.

Do not use double negatives. A double negative is the use of two negative words or phrases in the same sentence. The use of double negatives is grammatically incorrect, weakens the message being conveyed and can be confusing. For example:

USE:

As used in this section, "substantial evidence" means evidence that tends to reasonably support a conclusion that a person did not violate the provisions of this section.

AVOID:

As used in this section, "substantial evidence" means evidence that tends to reasonably support a decision not to conclude that a person did not violate the provisions of this section.

AVOID:

No person who is not a qualified applicant may be considered for appointment.

Similarly, do not use words or phrases that have the same effect of using a double negative. For example:

USE:

An application must contain the name and telephone number of the applicant.

AVOID:

An application must not be missing the name and telephone number of the applicant.

2.5. Numbers

Specific drafting rules apply to the use of a number to establish a date, time, quantity, measurement or monetary amount.

In general, use the Arabic numbering sequence for all numbers. Do not spell out a number and then include the Arabic number next to it in parentheses. For example:

USE*:*

As used in this section, a "dozen" means 12 eggs.

AVOID:

As used in this section, a "dozen" means twelve eggs.

AVOID:

As used in this section, a "dozen" means twelve (12) eggs.

If a number is used at the beginning of a sentence or at the beginning of a section, subsection, paragraph, subparagraph or sub-subparagraph, then the number should be spelled out. For example:

USE:

1. A rating issued pursuant to this section becomes final:
(a) Thirty days after the investigation of inspection on which the rating is based; or
(b) After the completion ……

AVOID:

1. A rating issued pursuant to this section becomes final:
(a) 30 days after the investigation of inspection …..

The same rules above apply to expressions of time (hours and minutes) and percentages (except "percentage" must always be spelled out in lieu of the symbol "%"; for fractions of percentages and mixed fractions, see additional examples below):

USE:

To be eligible for a grant from the Account for Aid for Victims of Domestic Violence, an applicant must receive at least 15 percent of its money from sources ……

USE:

"*Rapid test" means a test that provides a result in 30 minutes or less.*

To express a full dollar amount, do not use decimals. To express an amount and fractions thereof, use decimals, and such expressions should not be spelled out regardless of whether the amount is used at the beginning of a sentence:

USE:

The Board shall levy an ad valorem tax of not more than 1.92 cents on each $100 of assessed valuation upon all taxable property in the city.

USE:

1.10 cents of each 1.92 cents levied on each $100 of assessed valuation upon taxable property must be used for the installation of bee hives.

Ordinal numbers should not be abbreviated. For example:

USE:

The fees collected by the treasurer must be remitted to the general fund on or before the fifth day of each month.

USE:

There is hereby created a scholarship fund for students enrolled in the twelfth grade and attending a school within the Carson City School District.

AVOID:

The fees collected by the treasurer must be remitted to the general fund on or before the 5th day of each month.

The following are additional examples of how to correctly express numbers that may be helpful to the drafter:

Money

6 mills; 0.02 cents; 0.1 cent (use in lieu of 1/10 of 1 cent), 1 cent, 1 1/2 cents, 25 cents, $1, $10, $37.50, $100, $1,000, $1.25 million

Measurements

2 inches (feet, yards, meters, acres)
8 feet 2 inches
2 feet x 3 inches
7.5 milligrams
1.5 liters
5 pounds (gallons, barrels)
3 ounces
2 acres
75 degrees F
1 megawatt
1/2 mile
0.8% of alcohol by volume

Age

14 years of age
"a person who is 18 years of age or older" (not "over 18 years of age")
"a person who is under 6 years of age"
"a person who is 18 years of age or older and under 62 years of age" (not "between the ages of 18 and 65")

Time

3 days
First, second, third, fourth ….
2 weeks
1 week

2 1/2 months
2 fiscal years (or "a fiscal year")
Noon (not "12 noon")
Midnight (not "12 midnight")
9 a.m. (not "9:00 a.m." or "9:00 o'clock a.m.")
1 p.m.
1:30 p.m.
One-half hour before sunset

Percentages

0.5 percent
2 percent, 25 percent, 100 percent
1/2 of 1 percent or .5 percent (not "1/2 percent" or "1/2 %")
1/3 of 1 percent (not "0.333%" or "0.333 percent")

Unit-Modifiers (For fractions as unit-modifiers, see examples below)

5-day week
1-year, 2-year and 3-year terms (or "term of 2 years")
3-acre parcel

Ordinals

First term
Second fiscal year
Fifth calendar day
Sixth Amendment ("Sixth Amendment to the United States Constitution")

Fractions

Fractions standing alone or followed by "of a" or "of an" are spelled out:

One-half day
Three-fourths of an inch

Mixed fractions are written in numerals (except for percentages, above):

2 1/2 times

Fractions as a unit-modifier are expressed as figures:

1/2-inch pipe
3/4-ton truck

Classes and Grades

Some classifications are specific. For instance, certain drugs may be classified by the state or federal government as a "Schedule I" substance and state crimes may be punishable, for example, as a "category E felony." The drafter should maintain consistency when referencing any class or grade that is used by a state or federal system of classification.

Dates

Fiscal year (not "FY")
December 31 (not "December 31st of each year")

When expressing a number of days that is being used to establish a certain date by which a thing must be done, the drafter should be clear as to when that period begins to run and whether the last day within the period is counted. For example:

USE:

An appeal from a decision must be made in writing and submitted to the Director not later than 15 days after the date of the decision.

AVOID:

An appeal from the decision must be made in writing and submitted to the Director within 15 days after the decision.

The drafter should also refer to the "date" rather than the "time" of an event if the expression relates to a date; maintain consistency. For example:

AVOID:

An appeal from the decision must be made in writing and submitted to the Director not later than 15 days after the time of the decision.

2.6. Gender

Before 2009, NRS 0.030 provided that in reading statutes, "[t]he masculine gender includes the feminine and neuter genders." Passage of Assembly Bill No. 475 of the 75th (2009)

Legislative Session revised all statutes to reflect gender neutral expressions. CCMC should also be gender neutral. One way to do this is to simply avoid the use of pronouns based on gender. For example, instead of providing that "an applicant whose appeal is denied by the Director may submit his or her appeal to the Board," the drafter could write "an applicant whose appeal is denied by the Director may submit the appeal to the Board." Similarly, the drafter could repeat the noun or pronoun within the sentence. For example, instead of writing "If the Director determines that the permanent plan does not meet the requirements of NRS or CCMC, he or she may adopt an interim plan with the approval of the Board," the drafter could write "If the Director determines that the permanent plan does not meet the requirements of NRS or CCMC, the Director may adopt an interim plan with the approval of the Board."

Wherever appropriate, the drafter should use a combination of gender-specific pronouns. For example, it is acceptable for the drafter to write "him or her," "his or hers," "he or she" or "himself or herself." Theses combinations of gender-specific pronouns must be separated by the use of "and" or "or," and never with a backslash such as "he/she" to indicate the separation. In fact, he drafter should never use the backslash in any CCMC provision.

There are numerous instances of an existing or proposed use of a term that the drafter will easily identify as appropriate for expressing in a gender-neutral way. For example, the terms "brother or sister" can be modified to "sibling," "businessman" can be modified to "business person," "husband or wife" can be modified to "spouse" and "Chairman and Vice Chairman" can be modified to "Chair and Vice Chair." There are other terms that although appear to be non-neutral should not or cannot be revised for gender-neutrality because they have a defined meaning. For example, the terms "fraternity," "ombudsman," "manslaughter" or "journeyman" are all traditionally defined terms used for a specific context and should not be altered by the drafter. Because CCMC is intended to be modeled after NRS and NAC, the drafter should look to those provisions to identify appropriate gender-neutral replacement terms if it is not readily apparent to the drafter that an existing or proposed CCMC term can or should be replaced.

The following are some additional examples of terms that can be made gender-neutral or should remain the same as a traditionally defined or commonly used legal term:

Gender-specific	***Gender-neutral***
Actor	*No change*
Grandfather clause	*No change*
Husbandry	*No change*
Landlord	*No change*
Manhole	*No change*
Marksmanship	*No change*
Postmaster	*No change*
Workmanlike / workmanship	*No change*

Human	*No change*
Midwife	*No change*
Bondsman	*Bonding agent*
Brother / sister	*Sibling*
Mother / father	*Parent*
Husband / wife	*Spouse*
Grandmother / grandfather	*Grandparent*
Stepmother / stepfather	*Stepparent*
Daughter / son	*Child*
Brotherhood	*Fraternal organization*
Committeeman	*Committee member*
Craftsman	*Skilled worker or artisan*
Dairyman	*Dairy producer*
Draftsman	*Drafter*
Fireman	*Firefighter*
Policeman	*Police or peace officer*
Laymen's terms	*Plain language*
Maiden name	*Birth name*
Mankind	*Humanity / humankind / society*
Manmade	*"that is not" artificial / synthetic*
Manned / unmanned	*Staffed / unstaffed*
Manpower	*Personnel / staffing*
Repairman	*Repair worker / repairer / service provider*
Salesman / salesmen	*Salesperson / Salespeople*
Serviceman	*Service member*
Spokesman	*Spokesperson / representative*
Sportsman	*Angler / hunter / outdoor recreationist*
Tradesman	*Skilled worker*
Watchman	*Security guard*
Widow / widower	*Surviving spouse*

2.7. Nouns and Pronouns

In general, nouns should be used in the singular form, as all words and terms used in the singular number includes the plural, and the plural includes the singular. For example:

USE:

A subdivision may be proposed on land that is zoned for commercial development.

AVOID:

Subdivisions may be proposed on land that is zoned for commercial development.

USE:

An application may be submitted in person.

AVOID:

Applications may be submitted in person.

Pronouns should only be used if the antecedent is unmistakable; a pronoun must agree with its antecedent in number and person. Additionally, do not casually refer to an antecedent or antecedents using a general grouping term unless the antecedent or antecedents are obvious or they are related. For example:

USE:

A director, officer or employee of a business may file an application pursuant to the agency authority of the director, officer or agent if authorized by the operating agreement, bylaws or other governing document of the business.

AVOID:

The director, officer or employee of the business may file an application pursuant to their agency authority if authorized by the operating agreement, bylaws or other governing document of the business.

USE:

On or before July 1 of each year, the City Manager and his or her deputy shall each provide to the Board a self-evaluation summarizing his or her objectives and accomplishments.

AVOID:

On or before July 1 of each year, the City Manager and his or her deputy shall provide to the Board a self-evaluation summarizing their objectives and accomplishments.

USE:

An applicant whose business license has expired must submit an application for renewal or a request for exemption. An application for renewal or a request for exemption must be made in writing on a form prescribed by the business licensing division, signed and notarized.

AVOID:

An applicant whose business license has expired must submit an application for renewal or a request for exemption. The documents must be made in writing on a form prescribed by the business licensing division, signed and notarized.

USE:

A pineapple, kiwi or potato may be sold at an outdoor market if the pineapple, kiwi or potato has been inspected pursuant to subsection 2. A pineapple, kiwi or potato that has not been inspected pursuant to subsection 2 may be sold at an outdoor market only if the pineapple, kiwi or potato has been wrapped in plastic.

AVOID:

A pineapple, kiwi or potato may be sold at an outdoor market if they have been inspected pursuant to subsection 2. A fruit or vegetable that has not been inspected pursuant to subsection 2 may only be sold at an outdoor market if they have been wrapped in plastic.

2.8. Articles

The drafter's consistent use of articles when drafting ordinance language will result in clearer and more precise legislation. The articles "the," "a," "an" and "any" should be used in the correct context. Using the drafting rules previously addressed, the drafter now knows that the singular number includes the plural and the plural includes the singular. The drafter is now also familiar with the drafting rules relating to the proper use of nouns and pronouns and pronoun consistency.

For example:

USE:

A person who violates this section is guilty of a misdemeanor.

AVOID:

All persons who violate this section are guilty of a misdemeanor.

USE:

An application is complete if it contains the following information ….

AVOID:

All applications are complete if they contain the following information ….

Similarly, the terms "such," "said" or "subject" used in the context of "such person," "such board" or "subject property" should be avoided. Instead, the drafter should use the proper pronoun consistently. The term "such" may be used occasionally when identifying a thing to which "such" specifically refers and to avoid the excessive use of redundant or repetitive language within a provision, but in general the term should be avoided. For example:

USE:

An application must be submitted by not later than July 1 of each year. The application must contain the following information ….

AVOID:

An application must be submitted by not later than July 1 of each year. Such application must contain the following information ….

USE:

An applicant who submits a letter of appeal by not later than 10 days after the date on which the decision is issued does not forfeit his or her property. The applicant may request an administrative hearing regarding his or her property pursuant to subsection 5.

AVOID:

An applicant who submits a letter of appeal by not later than 10 days after the date on which the decision is issued does not forfeit his or her property. Said applicant may request an administrative hearing regarding the subject property pursuant to subsection 5.

2.9. Similar Things

To the greatest extent possible, the drafter should define terms and phrases to clearly indicate what thing is and is not included. There are certain circumstances, however, when a term or phrase is intended to include a series of related things with common characteristics and it is not feasible or practicable to identify every possible thing. In such an event, the drafter may enumerate a list of common items that follows a definition as an illustration of what is included or not included. For example:

CORRECT:

As used in this chapter, "personal identifying information" means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a person, including, without limitation:

1. The name, driver's license number, social security number, date of birth and photograph or computer-generated image of a person; and

2. A biometric identifier of a person.

At times, an illustrative list may be so potentially lengthy that the drafter may be well-advised to end the list with another description of a thing tying the illustrative examples together. For example:

CORRECT:

As used in this chapter, "airport structure" means any improvement made to an airport, including, without limitation, a runway, taxiway, air traffic control tower or any other permanent construction intended to improve the security or operation of an airport.

The example above uses the phrase "including, without limitation," to indicate the non-exhaustive list of illustrative "improvements." To maintain consistency throughout CCMC, the

drafter should avoid derivatives of that phrase such as "including, but not limited to." To illustrative an exhaustive list, the drafter must clearly identify those things that are included within the meaning of a term or phrase. Proper drafting is critical to differentiate between an exhaustive and non-exhaustive list. Whereas the example used above clearly denotes a non-exhaustive list of things that may constitute "personal identifying information," this next example denotes an exhaustive list using parallel units of text that identify what is and what is not included in the meaning of a term:

CORRECT:

As used in this chapter, "motor vehicle" means every vehicle that is self-propelled but not operated on rails. The term:

1. *Includes automobiles and motorcycles.*
2. *Does not include all-terrain vehicles.*

Because the example above does not indicate that the items listed are merely intended as illustrative examples through the use of the phrase "including, without limitation," the provision cannot, for example, be interpreted to include an electric scooter as a "motor vehicle" even though the term is not specifically excluded and even if it was the intent of the Board to include it. See chapter 1.2 for explanation of "*expression unius est exclusion alterius*" as a rule of ordinance construction.

2.10. Internal Citations

Purpose

Whenever appropriate, the use of internal citations within the provisions of an ordinance will help to tie together other related provisions that exist in another section, chapter or title of CCMC. The use of internal citations serves three essential functions: (1) it creates a logical sequence of CCMC parts where a linear connection does not or cannot exist; (2) it assists the reader in identifying related CCMC provisions that must also be read in conjunction with others so that the reader will comprehend the entire legislative intent of a framework of law; (3) and it serves as a guidepost for drafters who revise CCMC provisions by alerting them to related sections that must also be amended to reflect conforming changes.

Internal references to subsections, paragraphs, subparagraphs and sub-subparagraphs should be made in accordance with the organization and structure of CCMC sections as explained in chapter 2.1. Internal references to other sections of CCMC should be to "CCMC" and not to "Carson City Municipal Code," "the Code" or "ordinance."

The following examples illustrate the proper use of internal citations:

2. A residential ratepayer who satisfies the eligibility criteria established by subsection 1 and whose application for assistance has been approved pursuant to CCMC 12.035.080 may be eligible for assistance based on his or her annual household income from the year immediately preceding the next fiscal year in which assistance may be provided.

OR:

1. An applicant whose application for assistance been denied by the Third-Party Administrator pursuant to subsection 1 of CCMC 12.035.080, or a residential ratepayer whose assistance has been discontinued by the Director pursuant to subsection 6 of CCMC 12.035.080, may appeal the denial or discontinuance to the Board.

Note that in the two examples above, citations to subsections within the same section of CCMC are worded simply as "subsection 1" and not "subsection 1 of this section." Inclusion of "this section" would be redundant and is unnecessary. For example:

CORRECT:

1. The condition of the fund must be reported to the Board.
2. The report required by subsection 2 must be made in writing.

INCORRECT:

1. The condition of the fund must be reported to the Board.
2. The report required by subsection 2 of this section must be made in writing.

The level of specificity required for internal citations for cross-reference purposes depends on the reason the internal citation is being used. If, for example, the drafter is writing a provision that should cite to two particular paragraphs enumerated by one particular subsection of a section that contains several subsections, each with multiple paragraphs, it would be appropriate for the drafter to write "pursuant to paragraphs (a) and (d) of subsection 3." At other times, especially if an internal reference to the same section in which the reference is made is comprised of several subsections all relating to the same topic, it may be preferable to use a less specific citation. For example:

5. A Third-Party Administrator designated pursuant to this section must be duly organized under the laws of Nevada as a charitable organization.

Ultimately, it is left to the drafter to exercise discretion and good judgment when deciding whether it elevates the clarity of an ordinance provision by including an internal citation, and if so, to what degree of specificity.

Title, Chapter and Section References

The following examples illustrate the proper way to reference titles, chapters and sections of CCMC:

.... pursuant to title 18 of CCMC ....

.... in accordance with titles 17 and 18 of CCMC ....

.... as required by chapter 18 of CCMC ....

.... as set forth in CCMC 123.456 ....

.... as required by CCCM 123.456 and 123.987 ....

.... pursuant to subsections 3 and 4 of CCMC 123.456 ....

.... pursuant to paragraphs (a) and (b) of subsection 2 of CCCMC 123.456 and subsections 4 and 5 of CCMC 123.987 .....

When citing to more than three internal references that occur in sequential order, the drafter should "bookend" the sequence. For example:

…. pursuant to titles 3 to 9 of CCMC, inclusive ....

.... pursuant to CCMC 100.010 to 100.100, inclusive .....

.... as required by subsections 3 to 8 of CCMC 123.456 .....

.... in accordance with paragraphs (a) to (g) of subsection 2 of CCMC 123.456 ....

2.11. External Citations

Like internal citations, external citations to other bodies of law must be made in a consistent manner. Similarly, it is also left to the drafter to determine whether it is necessary or appropriate to include an external citation. External citations in CCMC are generally comprised of citations to provisions of Nevada Revised Statutes, Nevada Administrative Code, United States Code, Code of Federal Regulations, the United States Constitution and the Nevada Constitution. When incorporating such external citations, the drafter should apply the following drafting rules:

USE:	**AVOID:**
NRS	"Nevada Revised Statutes," "the NRS" or N.R.S.
NAC	"Nevada Administrative Code," "the NAC" or "N.A.C."
U.S.C.	"USC" or "U.S.C. Section"
C.F.R.	"CFR" or "C.F.R. Section"
Nevada Constitution	"State Constitution" or "Constitution of this State"
United States Constitution	"U.S. Constitution" or "federal Constitution"

When citing to specific provisions of any of the foregoing, the following formatting rules apply:

USE:

NRS 123.45

NAC 123.45

13 U.S.C. § 141(c)

28 C.F.R. § 31

Section 20 of Article 6 of the Nevada Constitution

Sixth Amendment to the United States Constitution

Because many ordinances are expressly required or authorized to be adopted pursuant to state law, the drafter should determine whether it is appropriate to reference the statutory provision. In many instances, including a reference to the NRS, NAC, U.S.C. or C.F.R. section requiring or authorizing a thing to be done will eliminate any confusion regarding the source of the Board's authority in adopting a proposed ordinance. Furthermore, such references will assist the drafter in making any required revisions to CCMC in the event an external source of law is amended.

Without an external citation, the drafter may have great difficulty in identifying those provisions of CCMC that were adopted pursuant to an external source of authority and those that were adopted pursuant to the City's limited grant of functional home rule authority. For example, a public body required to be created by the Board pursuant to state law may be written in the following manner: "There is hereby created a Beehive Advisory Committee pursuant to NRS 88.888." With this external citation, there is no question concerning the source from which the Board derives its power to create the "Beehive Advisory Committee" and the drafter or future drafters may easily cross-reference the NRS provision after each legislative session to determine whether any conforming changes must be made to CCMC.

2.12. Consistency

Noun and Pronoun Consistency

The drafter must be consistent in the use of words to avoid confusion or ambiguity. The use of a term or phrase in one section must be identically duplicated in another section, chapter or title of CCMC if the term or phrase means the same thing. Variety in word usage for the sake of creativity is improper. While ordinance drafting should be done artfully, the drafter does not have artistic license. For example, if the drafter uses the term "employee" in one section, the term "worker" should not be used in another section if both terms have the same meaning. Similarly, a term or phrase cannot be used to mean different things. For example, if the term "fruit" is defined or used to specifically mean "apples, oranges and bananas" in one section, the term should not be used in a different section to include "kiwis" as well unless the term "fruit" is properly defined for use in different contexts.

Redundancy

The drafter must also avoid redundant adjectives and adverbs. Unnecessary adjectives such as "true" or "real" express ideas that are inherent by implication and therefore do not need to be used. For example, consider the use of the word "true" in the following: "The applicant must submit a true written statement containing the required information." In this case, the

context must already assume that the "written statement" has to be true and therefore the word "true" is superfluous. To further illustrate, the use of the adverb "duly" in the following sentence is unnecessary: "The Board shall duly appoint the members of the committee." Clearly, an appointment by the Board must already be in accordance with the required or appropriate procedure and therefore the use of the word "duly" in this sentence is also superfluous. More importantly, a scattershot or otherwise inconsistent drafting approach with the use of certain adjectives and adverbs can create doubt that an implied meaning is intended elsewhere, creating further confusion when interpreting ordinance language.

Abbreviations and Acronyms

With certain exceptions, the drafter should not use abbreviations and acronyms. Abbreviations and acronyms are not all familiar to the reader and should therefore be fully spelled out. Other abbreviations and acronyms, even if understandable by the reader, are inconsistent with the NRS drafting style. For example, while "etc." will be generally understood as the short version of the adverb "et cetera," both "etc." and "et cetera" must be avoided because those terms are inconsistent with the objective of achieving clarity in language. "Et cetera" and "etc.", intended in normal speech or certain writings at the end of a list to express that other, similar items are included, creates vagueness with regard to what thing is or is not included for the purpose of a CCMC provision.

To illustrate, the phrase "'furniture' means a table, chair, sofa, desk, etc.," is vague because it is uncertain whether the word "furniture" necessarily includes a lamp or other lighting equipment. To further illustrate, the inclusion of familiar acronyms in an understood context is inappropriate, such as the phrase "any licensed provider of automobile insurance, including, without limitation, AAA, Progressive …." In this example, the full name "American Automobile Association" should be used in lieu of "AAA," and "the Progressive Corporation" should be used in lieu of "Progressive." The same rule applies to even more widely-known abbreviations. "HR Director" or "CEO" should be spelled out as "Human Resources Director" and "Chief Executive Officer." The drafter must not ignore clarity in favor of convenience or colloquialism.

It is also inconsistent with the correct drafting style to use an abbreviation or acronym by placing it as a parenthetical device. For example, "Human Resources ("HR")" as a device to later reference "Human Resources" as "HR" is improper drafting style. Legislation drafting is not the equivalent of contract drafting where the use of such grammatical devices may be acceptable.

Exceptions include the abbreviations identified in chapter 2.10. Another example of an acceptable abbreviation is "et seq." as a shortened version of the Latin "et sequentes" which means "and the following." This term is commonly used in legal writing to indicate numbered

lists, pages or sections after the first number, page or section and may be used by the drafter when including a legal citation to an external source such as "42 USC § 2000 et seq."

2.13. Shall, Must, Will and May

With the exception of the term "will," which is discussed later in this chapter, the terms "shall," "must" and "may" are used for the purposes of CCMC in the same manner they are used in NRS pursuant to NRS 0.025. Whenever possible, the drafter should also use language in the active voice rather than in the passive voice. Use of the active voice is more concise, unambiguously denotes a duty and uses fewer words to say the same thing.

"Shall" and "Shall not"

"Shall" imposes a duty to act and applies to both persons and entities. Conversely, "shall not" imposes a prohibition against acting. For example:

USE (natural person or entity and active voice):

A business licensed pursuant to this section shall keep its books and records, if any, at its principal place of business.

USE (natural person or entity and active voice):

The department shall submit its findings to the Board.

USE (natural person or entity and active voice):

The department shall issue a written decision after the appeal.

USE (natural person or entity and active voice):

The department shall not unreasonably withhold or delay approval of a request.

"Shall" Exception

The creation of a legal fiction or the prohibition against the creation of a legal fiction serves as exceptions to the rules governing the use of "shall" and "shall not." For example:

USE:

Nothing in this section shall be construed to mean an employee is not entitled to his or her full wages.

USE:

A response bearing the name and signature of the director shall be deemed to have originated from the department.

USE:

Nothing in this chapter shall be interpreted to limit the power of the Board.

"Must" and "Must not"

"Must" expresses a requirement when: (1) the subject is a thing, whether the verb is active or passive; and (2) the subject is a natural person and the verb is in the passive voice or only a condition precedent and not a duty is imposed. For example:

USE (subject is a thing):

The application must be signed by the applicant.

AVOID:

The application shall be signed by the applicant.

USE (subject is a thing):

The recording must not be reproduced or distributed.

AVOID:

The recording shall not be reproduced or distributed.

USE (natural person or entity but passive voice):

The committee shall establish a policy establishing the date by which the department must submit its findings.

AVOID:

The committee shall establish a policy establishing the date by which the department shall submit its findings.

USE (natural person or entity but condition precedent):

If a holder of a business license does not submit the renewal application by the date required by subsection 1, he or she must complete the additional form required by subsection 3 to renew an expired business license.

AVOID:

If a holder of a business license does not submit the renewal application by the date required by subsection 1, he or she shall complete the additional form required by subsection 3 to renew an expired business license.

"May," "May not" and "Entitled to"

"May" confers a right, privilege or power. Relatedly, "is entitled" confers a private right. "May not" or "no *** may" abridges or removes a right, privilege or power. For example:

USE:

The committee may adopt policies and procedures to carry out its duties.

USE:

Accrued interest may not be waived.

USE:

A person who purchases a raffle ticket is entitled to one drawing.

"Will" and "Will not"

The terms "will" and "will not" can be used in the same manner it is used in NAC. NAC is comprised of codified administrative regulations of state agencies that are promulgated

through the statutory rulemaking process. Because those regulations often time impose a duty on the same agency that proposes and adopts the regulation, it is more appropriate to use the term "will" rather than "shall" when expressing a self-imposed duty to act, similar to "I will do this thing" compared to "I shall do this thing." The latter is archaic.

Proposed ordinances are adopted by the Board. Therefore, when the Board imposes a duty onto itself, the term that is used to express the self-imposed duty is "the Board will" instead of "the Board shall" do a thing. Conversely, if an ordinance is adopted to impose a duty on a department, employee, board, commission or committee of the City, the proper term to impose the duty is "shall." For example:

USE:

The Board will issue the proclamation annually.

AVOID:

The Board shall issue the proclamation annually.

USE:

The Board will not issue a written decision.

AVOID:

The Board shall not issue a written decision.

The drafter must avoid the use of "should" or "ought." These terms are ambiguous and do not clearly denote a duty. For example, an ordinance providing that "a person should not encroach upon a right-of-way without a permit issued by the City" only arguably establishes a prohibited act because there is no clear expression of a prohibited act.

2.14. Exemptions

Exemptions from the application of law must be stated precisely so that it is clearly understood what person or thing is intended to be exempted. A person or thing can be exempted from the provisions of the CCMC section to which it specifically relates or more broadly to another provision of CCMC. Exemption language may also be used as exceptions to create a condition such that if a person or thing is "otherwise required" by another provision of CCMC or state or federal law to do or be something else, that other provision controls; in effect, this

resolves potential conflict where a conflict is not readily identified or in existence but could come into existence. For example:

CORRECT (to avoid conflict):

Except as otherwise required by state or federal law, records maintained by the holder of a license in its regular course of business may be kept on or by means of any information processing system or other information storage device or medium.

CORRECT (to create a chapter exception):

Except as otherwise provided in this chapter, the possession of any live amphibian is prohibited in a place of business.

CORRECT (to create an exception to another section):

Except as otherwise provided in CCMC 123.456, the possession of any live amphibian is prohibited in a place of business.

CORRECT (to create an exception within the same section):

1. Except as otherwise provided in subsection 2, the possession of any live amphibian is prohibited in a place of business.

2. A person may possess a live amphibian in a place of business if he or she is licensed as an amphibian handler pursuant to NRS 123.456.

2.15. Words to Avoid

This list provides a sampling of words and phrases that the drafter should avoid unless there is a special context or other reason for inclusion. Words and phrases that are archaic, redundant, flowery or vague have no place in a technically precise ordinance.

Avoid	***Use***
And of no effect	*Void*
Aforesaid / aforementioned	*The / that / those (antecedent reference)*
Afforded / accorded	*Given*
And/or	*"And" or "or" or "both"*
Any and all	*"Any" or "all"*
As (when used as clause of reason)	*Because*

At such time as	*When / whenever*
Attorney-at-law	*Attorney*
But for when	*Except*
Deal with	*Address / conduct*
Does not operate to	*Does not*
During such time as	*While / when*
Each and all	*"Each" or "all"*
Employ (meaning "to use")	*Use*
Every person / all persons	*A person*
Evince / Evidence (as verb)	*Show*
Fail, refuse or neglect	*Fail*
For the duration of	*During*
For the reason that	*Because*
Forthwith	*Immediately*
From and after	*After*
Give consideration to	*Consider*
Give recognition to	*Recognize*
Have need of	*Need*
Hereafter / hereinafter	*After*
In case of	*If*
In order to	*To*
In the event of	*If*
It is lawful to	*May*
It shall be the duty of	*Shall*
Make application	*Apply*
Make payment	*Pay*
Make provision for	*Provide*
Monies / moneys	*Money*
Necessitate	*Require*
Nexus	*Relation*
None whatsoever	*None / no*
Null and void	*Void*
Occasion (as verb)	*Cause*
Party	*Person (unless in the context of litigation)*
Per annum	*A year / each year*
Per day	*A day / each day*
Period of time	*Period / time*
Prior to	*Before / Immediately preceding (timing)*
Provided (as conjunction)	*If / but / unless*
Render (meaning "to give")	*Give*
Said (as adjective)	*The / that / those (proper article)*
Subject (as adjective)	*The / that / those (proper article)*

Same	*It*
Shall have the power to	*May*
Sole and exclusive	*Exclusive*
Subsequent to	*After*
Such (as adjective)	*(Use proper article to identify antecedent)*
Unless and until	*"Unless" or "until"*
Until such time as	*Until*
Whatsoever	*Whatever*
Whensoever	*When / if / whenever*
Wheresoever	*Where*
Whosoever / whomsoever	*Whoever*

Technical Form

3.1. Capitalization

When drafting legislative language, the drafter should remember that capitalization has no legal significance and should be avoided if unnecessary. For example, "Special Use Permit" has no need for capitalization as used in the text of a CCMC provision, and there is also no need for the term to be capitalized for definitional purposes. The drafter can apply the following as general rules of capitalization to maintain consistency throughout CCMC:

- Capitalize the first word of each sentence within a section, including the first word of a subsection, paragraph, subparagraph or sub-subparagraph even if the parallel text is being used to follow an opening word or clause. Refer to the same model used in chapter 2.1:

→ **000.000 Sample Section.**¶
→ 1. This is a subsection.¶
→ 2. Subsections are numbered with Arabic numerals and can be subdivided into paragraphs which:¶
→ (a) Are designated by a lowercase letter in parentheses;¶
→ (b) Are cited as "paragraphs (a) and (b) of subsection 2 of CCMC 000.000"; and¶
→ (c) Can be further subdivided into subparagraphs which:¶
→ → (1) Are designated by Arabic numerals in parentheses;¶
→ → (2) Are cited as "subparagraphs (1) and (2) of paragraph (c) of subsection 2 of CCMC 000.000"; and¶
→ → (3) Can be further subdivided into sub-subparagraphs which are:¶
→ → → (I) Designated by Roman numerals in parentheses which are:¶
→ → → (II) Cited as "sub-subparagraphs (I) and (II) of subparagraph (3) of paragraph (c) of subsection 2 of CCMC 000.000."¶

- Capitalize months and days of the week.

- Capitalize the names of specific publications, such as the "International Fire Code."

- Capitalize "Nevada" when referring to the "State of Nevada" or "this State." "State" is not capitalized in reference to "another state" or "states," unless it is a specific reference such as the "State of California."

- Capitalize "Carson City" but not "this city or "the city."

- Capitalize specific names or places, such as "Mills Park." Do not capitalize general geographic names such as "northern Nevada." Capitalize Carson City's specific geographic locations such as "Carson River" but do not capitalize common nouns such as "parcel," "plat," "application," "dam," "basin" or "reservoir."

- Capitalize names of historic events and holidays, such as "World War II" or "Christmas Day."

- Capitalize references to compilations of law, such as "NRS," "USC" and "CFR." See 2.10 for additional examples of appropriate abbreviations. Do not capitalize the words "title," "chapter" or "section" when referring to NRS, NAC or CCMC.

- Capitalize names of races, ethnicities, nationalities and languages, such as "Spanish."

- Capitalize words referring to a deity, such as "an act of God."

- Capitalize the names of particular acts of law, such as the "Uniform Arbitration Act."

- Capitalize official names of local, state and federal agencies, such as the "Human Resources Department," the "Department of Motor Vehicles" and the "Internal Revenue Service."

- Capitalize the names of Carson City's boards, commissions and committees, such as the "Utility Finance Oversight Committee."

- Do not capitalize official titles of local, state or federal officers, such as "supervisor," "district attorney, "sheriff," "mayor," "governor," "assemblyman," "congressman" or "president."

- Do not capitalize general references to the City's departments, such as "each department of the city" unless "department" has been defined. Similarly, do not capitalize general references to a "board," "commission" or "committee" unless those terms have been defined.

3.2. Punctuation

Punctuation, if used improperly, can alter the intended meaning of legislative language. Therefore, the drafter must use correct punctuation to clearly express legislative intent and avoid ambiguity or unintended consequences.

Commas

Words, phrases and clauses expressed in a series and within one sentence must be separated by commas, not semicolons. For example:

CORRECT:

The permit must contain the name of the applicant, the name of the employee who issued the permit, the date of approval and the date of expiration.

INCORRECT:

The permit must contain the name of the applicant; the name of the employee who issued the permit; the date of approval; and the date of expiration.

A comma should not be used before the conjunction connecting the last two items in a series within a sentence. For example:

INCORRECT:

The term includes a pen, pencil, crayon, and brush.

Semicolons

Semicolons are used to separate parallel units of text within a section. The use of commas for this purpose is improper. For example:

CORRECT:

An application must include, at a minimum, the applicant's:

1. *Name;*
2. *Driver's license number;*
3. *Telephone number; and*
4. *Residential address.*

Note in the example above that the article "and" should only be used as a conjunction between the last two sections. For example:

INCORRECT:

An application must include, at a minimum, the applicant's:
1. *Name; and*
2. *Driver's license number; and*
3. *Telephone number; and*
4. *Residential address.*

The drafter must be careful when deciding between the use of the conjunction "and" and "or." For example:

INCORRECT (if the intent is that an application must contain all the information):

An application must include, at a minimum, the applicant's:
1. *Name;*
2. *Driver's license number;*
3. *Telephone number; or*
4. *Residential address.*

In this example above, the use of the conjunction "or" makes it so that an application is not required to contain all of the information listed. Rather, by the placement of "or" as the conjunction, the provision would allow an applicant to elect which single item of information to include within the application.

The use of a semicolon, followed by "and" as the conjunction between the last two items or clauses in a series, is not always necessary. For example:

CORRECT:

An application must include, at a minimum, the applicant's:
1. *Name.*
2. *Driver's license number.*
3. *Telephone number.*
4. *Residential address.*

In this example above, ending each subsection containing a related item with a period indicates that each of the items must be included in the application.

A semicolon must not be used to join two clauses not otherwise joined by a simple conjunction such as “and,” “but” or “or.” For example:

INCORRECT:

An application must include 3 professional references; however, an applicant who was employed by the city within the immediately preceding 6 months before the date of application may submit only 1 professional reference.

Colons

Unless the drafter is citing an official publication that uses a colon, the only other time a colon may be used in legislative drafting is to introduce parallel text, as depicted in the example above. A colon should never be used in any other context. For example:

INCORRECT:

The picnic box must contain the following items: a spoon, fork and napkin.

Parentheses and Brackets

Do not use parentheses and brackets in legislative text. For example:

INCORRECT:

The application must contain 3 (three) professional references.

INCORRECT:

The application must contain 3 professional references. [See CCMC 123.456].

Quotation Marks

Quotation marks should only be used in legislative text to enclose a defined word or phrase or in other unique circumstances. For additional guidance on how to define terms and phrases, refer to chapter 3.11. For example:

CORRECT:

"Legislative drafting" means a fun way to spend the afternoon.

INCORRECT:

An applicant may submit supporting material in support of his or her request for a "special use permit."

If the drafter is including a citation reference to a publication, the name of the publication should be italicized without quotation marks. For example:

CORRECT:

The Board hereby adopts by reference the *2019 Conduct Rules* issued by the Financial Industry Regulatory Authority.

Quotation marks may be used if the drafter is prescribing by ordinance a form, questionnaire or other document that must contain specific questions for a person to fill in. For example:

CORRECT:

The form must include, at minimum, the following questions:

1. "Have you ever served on active duty in the Armed Forces of the United States?

2. "Have you ever served the Commissioned Corps of the United States Public Health Service?"

INCORRECT:

The form must include, at a minimum, questions relating to whether the person has ever:

1. "Served on active duty in the Armed Forces of the United States."

2. "Served the Commissioned Corps of the United States Public Health Service."

3.3. Headings or "Leadlines"

A heading or "leadline" follows a CCMC section number and describes the contents of that section. The leadline should succinctly summarize the provisions so that the reader can glean from it a general understanding of the law that is set forth in the section. Leadlines are not part of the law but provide guidance to the reader. Moreover, the drafter can use leadlines to assist himself or herself in organizing a section and determining, for example, when a leadline becomes too lengthy, and whether the section is more appropriately split up into separate sections.

Certain rules apply to the drafting of section leadlines. The leadline should be as brief as possible. And while a leadline should not be so specific as to address every concept in the section the leadline is describing, it should also not be so broad as to render the leadline useless. A leadline must always be in bold font and should never be written as a complete sentence. A leadline also does not include the use of articles. There should be one space after the last number in the CCMC section, then a hyphen followed by another space before the leadline ends with a period.

To illustrate, a leadline for a CCMC section that establishes several definitions can be simply written as "Definitions." Other, more complex CCMC sections require a lengthier leadline. For longer leadlines, concepts must be separated by a semicolon. For example:

CORRECT:

CCMC 123.456 - Definitions.

INCORRECT:

CCMC 123.456 - Definitions relating to utilities.

CORRECT:

CCMC 123.456 - Designation of Third-Party Administrator.

INCORRECT:

CCMC 123.456 - Designation of a Third-Party Administrator.

CORRECT:

CCMC 123.456 - Approval or denial of application; amounts of assistance.

The following shows how a series of CCMC sections relating to certain easements grouped together as a short chapter within a title might look:

CORRECT:

CCMC 100.010 - General Purpose.

CCMC 100.020 - Scope.

CCMC 100.030 - Definitions.

CCMC 100.040 - Creation; recording; duration; effect on existing interest in real property.

CCMC 100.050 - Actions affecting easements.

CCMC 100.060 - Validity.

CCMC 100.070 - Prohibitions; penalties.

To create a new chapter of CCMC, consider the following two examples (note that for chapter headings, all leadline text is capitalized in addition to being written in bold):

CORRECT:

Chapter 12.035 – UTILITY RATEPAYER ASSISTANCE PROGRAM

CORRECT:

Chapter 12.014 – SMALL CELL WIRELESS EQUIPMENT

3.4. Adding Language

All new language proposed for passage must be written using bold, underlined text. For example:

CORRECT:

There is hereby created the Advisory Board to Identify Potholes.

If, for example, the language already exists but the drafter is tasked with amending the name of the public body to the "Advisory Board to Identify and Assess Potholes," the drafter should add the new language as follows:

CORRECT:

There is hereby created the Advisory Board to Identify **and Assess** Potholes.

3.5. Amending Language

Often time, the drafter will find that it is faster, easier and more convenient to simply repeal an existing section and create a new section. However, repealing a section can have the effect of confusing the public through the constant removal and replacement of law. Therefore, as a general rule of ordinance drafting, the drafter must strive to retain as much of the original language as possible when amending legislative text. However, if the retention of existing language is not practical or made impossible by a complete revision in concept, the drafter must decide whether it is more appropriate to repeal and replace an existing section in its entirety.

To amend existing text, the drafter must use the strikethrough function in the Word document. Language proposed to be stricken must also be enclosed by brackets. For example:

CORRECT:

There is hereby created the Advisory Board to Identify [~~and Assess~~] Potholes.

The drafter must also apply the following additional rules:

1. In general, strike text to be deleted before adding new text. However, when adding new language comprised solely of a punctuation mark, the punctuation mark should be placed before the existing language to be stricken **except** when adding an end period to truncate a previously longer sentence, in which case the end period should be placed before language to be stricken regardless of whether new language immediately follows the end period. Additionally, a space should separate existing or stricken language and new punctuation.

CORRECT:

The director shall present to the Board a copy of any written material submitted by a member of the public in protest of a proposed assessment plat for a [~~commercial area vitalization~~] **neighborhood improvement** project.

INCORRECT:

The director shall present to the Board a copy of any written material submitted by a member of the public in protest of a proposed assessment plat for a **neighborhood improvement** [~~commercial area vitalization~~] project.

CORRECT:

The director shall present to the Board a copy of any written material submitted by a member of the public **.** [~~in protest of a proposed assessment plat for a commercial area vitalization project.~~]

INCORRECT:

The director shall present to the Board a copy of any written material submitted a member of the public [~~in protest of a proposed assessment plat for a commercial area vitalization project.~~] **.**

CORRECT:

"Adjuster" includes a person who works as an independent adjuster **,** [~~or as~~] a public adjuster[~~.~~] **, a company adjuster or staff adjuster.**

CORRECT:

"Adjuster" includes a person who works as an independent adjustor **.** [,] **The term does not include** a public adjuster, a company adjuster or staff adjuster.

CORRECT:

No person may act as, offer to act as or hold himself or herself out to the public as an administrator, unless [~~the~~] **:**

1. The person has obtained a certificate of registration as an administrator from the Commissioner pursuant to NRS 683A.08524[~~.~~] **;**

2. If the person is an individual and adjusts workers' compensation claims in this State, the person is licensed pursuant to chapter 684A of NRS; and

3. If any employee of the person adjusts workers' compensation claims in this State, each such employee who adjusts workers' compensation claims in this State is licensed pursuant to chapter 684A of NRS.

2. Do not strike a portion of a word or a portion of a "unit," such as a hyphenated word, a number with a symbol or an internal or external citation. Doing so makes the revised text confusing and difficult to decipher. Instead, strike the entire word or "unit."

Punctuation such as a comma, semicolon or end period should not be treated as a part of a "unit" and may be stricken individually. Quotation marks enclosing a defined term may be treated by the drafter as a part of a "unit" or not, but the preference is to strike the entire term.

CORRECT (preferred):

[~~"Advisory Board"~~] **"Board"** means the Carson Trails Advisory Board.

CORRECT (but not preferred):

[~~"Advisory~~] **"** Board" means the Carson Trails Advisory Board.

CORRECT:

The [~~Director~~] **director** shall report his or her findings to the Board.

INCORRECT:

The [~~D~~]**d**irector shall report his or her findings to the Board.

CORRECT:

The owner must pay a fee of [~~$100~~] **$150** on January 1 of each year.

INCORRECT:

The owner must pay a fee of $1[~~00~~]**50** on January 1 of each year.

CORRECT:

An [~~on-site~~] **onsite** survey must be conducted.

INCORRECT:

An on[-]site survey must be conducted. (striking only the hyphen)

CORRECT:

Pursuant to [~~NRS 123.456~~] **NRS 123.987** and subsection 2, the requirement may be waived.

INCORRECT:

Pursuant to NRS [~~123.456~~] **123.987** and subsection 2, the requirement may be waived.

CORRECT:

An appeal may be filed by:
1. The applicant; [~~or~~]
2. A representative of the applicant[~~.~~] **; or**
3. **Any person aggrieved by the decision.**

INCORRECT:

An appeal may be filed by:
1. The applicant; or
2. A representative of the [~~applicant.~~] **applicant; or**
3. **Any person aggrieved by the decision.**

3. To strike a subsection and renumber subsections (or paragraphs, subparagraphs or sub-subparagraphs), the strikethrough function should remain uninterrupted from the beginning to the end of the text to be stricken, but include the spacing that must also be removed. For example:

CORRECT:

The department shall submit a quarterly report to the Board. Except as otherwise provided by NRS 123.456, the report must:
1. Be made in writing and signed by the director.
2.[~~Contain the findings of the director.~~
~~3.~~] Include copies of paid invoices from the 3 months immediately preceding the date of the report.

CORRECT:

The department shall submit a quarterly report to the Board. Except as otherwise provided by NRS 123.456, the report must:

1. Be made in writing and signed by the director.

2.[~~ Contain the findings of the director.~~

~~3.~~] Include copies of paid invoices from the 3 months immediately preceding the date of the report.

[~~4.~~] **3.** Be made available free of charge on the Internet website of the department.

4. The drafter must avoid strikethroughs or deletions of existing text that will result in a "back-to-back" deletion. A back-to-back deletion occurs when the deletion of surrounding text causes only one word or other grammatical "unit" to be left remaining between stricken text. A back-to-back deletion also occurs when a new word or "unit" is placed between surrounding text that is stricken. Such back-to-back deletions make it confusing to the reader of a proposed legislative change and could cause the reader to inadvertently overlook language that is tucked between what is stricken. If the deletion or addition of a word or "unit" will result in a back-to-back deletion, the drafter must strike the entire string of words or "units" and place the new word or existing word intended to be retained after the stricken text. For example:

CORRECT:

The [~~document, report or paper~~] **report** must include all relevant information.

INCORRECT:

The [~~document,~~] report [~~or paper~~] must include all relevant information.

CORRECT:

The submission of a [~~paper shall~~] **report must** be recorded in the minutes of the meeting.

INCORRECT:

The submission of a [~~paper~~] **report** [~~shall~~] **must** be recorded in the minutes of the meeting.

3.6. Amending an Uncodified Ordinance

While uncommon, there may be times when an ordinance proposes to amend a section of a previously adopted ordinance that has not yet been placed into CCMC by MuniCode. Because there is usually a delay between passage of an ordinance and incorporation into CCMC by MuniCode, the drafter cannot simply amend the recently enacted CCMC section in the new ordinance because that section does not yet appear anywhere other than in the previously adopted ordinance. Therefore, the correct way to amend a new section of CCMC that has not yet been incorporated into CCMC is to amend the recently adopted text by referring to the ordinance section number and not the assigned CCMC section number. For example, imagine that the fictitious Ordinance No. 2019-100 was recently adopted with the following:

SECTION III:

That Title 12 (WATER, SEWERAGE AND DRAINAGE), Chapter 12.035 (UTILITY RATEPAYER ASSISTANCE PROGRAM) is hereby amended by adding thereto a new section (**bold, underlined text** is added, ~~[stricken]~~ text is deleted) as follows:

12.035.0100 – Prohibited Acts; penalties.

Any person who knowingly obtains or attempts to obtain assistance pursuant to this chapter for which he or she is not eligible through the submission of a false or fraudulent statement or document:

1. Is guilty of a misdemeanor; and

2. Shall repay any amount of assistance obtained through the submission of such a false or fraudulent statement or document; and

3. Shall forfeit eligibility for any assistance in the remainder of the fiscal year.

Imagine further that the drafter is tasked with preparing a new ordinance, before the section above is incorporated by MuniCode into CCMC, to strike the last subsection of that provision. The proper way to do so is demonstrated below:

SECTION I:

That SECTION III of Bill No. 123, Ordinance No. 2019-100 is hereby amended (**bold, underlined text** is added, ~~[stricken]~~ text is deleted) as follows:

12.035.0100 – Prohibited Acts; penalties.

Any person who knowingly obtains or attempts to obtain assistance pursuant to this chapter for which he or she is not eligible through the submission of a false or fraudulent statement or document:

1. Is guilty of a misdemeanor.
2. Shall repay any amount of assistance obtained through the submission of such a false or fraudulent statement or document.

[~~3. Shall forfeit eligibility for any assistance in the remainder of the fiscal year.~~]

Note that in the example above, the newly enacted CCMC 12.035.0100 is imported from Ordinance No. 2019-100 but without the font characteristics of new language. Instead, CCMC 12.035.0100, while not yet incorporated into CCMC, is treated as though it has been imported not from the ordinance but from CCMC for the purpose of amending it. Without removing the font characteristics of new language, it would be impossible for the drafter to distinguish between what is being revised and what is not. By following this rule to amend uncodified ordinances, the drafter can help avoid reader confusion because the reader will not be misled into searching for a section of local law when that section does not yet exist in CCMC.

3.7. Introductory Clause

The introductory clause identifies the legislative text that is proposed to be amended in an ordinance and also informs the reader how amended or added language will be presented. Each existing or new section of CCMC to be amended or added must be preceded by a corresponding introductory clause which is assigned its own roman numeral such as "SECTION I:".

The drafter must use the following introductory clauses:

To add a new title:

SECTION XXX:¶

→ That CCMC is hereby amended by adding thereto a new Title (**bold, underlined** text is added, [~~stricken~~] text is deleted) as follows:¶

To add a new chapter:

SECTION XXX:¶

→ That Title 12 (WATER, SEWERAGE AND DRAINAGE) is hereby amended by adding thereto a new Chapter (**bold, underlined** text is added, [~~stricken~~] text is deleted) as follows:¶

To add a new section:

SECTION XXX:¶

→ That Title 12 (WATER, SEWERAGE AND DRAINAGE), Chapter 12.035 (UTILITY RATEPAYER ASSISTANCE PROGRAM) is hereby amended by adding thereto a new Section (**bold, underlined** text is added, [~~stricken~~] text is deleted) as follows:¶

To add a new section to a new chapter in the same ordinance:

SECTION XXX:¶

→ That Title 12 (WATER, SEWERAGE AND DRAINAGE), new Chapter 12.035 (UTILITY RATEPAYER ASSISTANCE PROGRAM) is hereby amended by adding thereto a new Section (**bold, underlined** text is added, [~~stricken~~] text is deleted) as follows:¶

To amend an existing section:

SECTION XXX:¶

→ That Title 12 (WATER, SEWERAGE AND DRAINAGE), Chapter 12.035 (UTILITY RATEPAYER ASSISTANCE PROGRAM), Section 12.035.010 (Short Title) is hereby amended (**bold, underlined** text is added, [~~stricken~~] text is deleted) as follows:¶

To repeal an existing section (see chapter 3.14 for additional rules on repealing):

SECTION XXX:¶

→ That Title 12 (WATER, SEWERAGE AND DRAINAGE), Chapter 12.035 (UTILITY RATEPAYER ASSISTANCE PROGRAM), Section 12.035.010 (Short Title) is hereby repealed:¶

To amend an ordinance provision (not yet codified; see chapter 3.6):

SECTION XXX:¶

→ That SECTION III of Bill No. 123, Ordinance No. 2019-100 is hereby amended (**bold, underlined text** is added, [~~stricken~~] text is deleted) as follows:¶

3.8. Short Titles

A long series of CCMC sections that, when taken together, establish a clearly defined area of law which operate not independently but are instead intrinsically related to effectuate a common purpose may be grouped together under a short title. A short title can assist the reader and the legal practitioner in quickly identifying or referencing the entire CCMC framework of that area of local law. Although short titles are typically more appropriate for federal or state legislation, especially those modeled after a uniform act such as Nevada's "Uniform Arbitration Act of 2000," NRS 38.206 to 38.248, inclusive, there are some instances where it may be beneficial to use a short title for local legislation purposes.

If the drafter uses a short title as a grouping mechanism for a clearly defined area of CCMC, the drafter must remember to use only short descriptions for summary purposes. Otherwise, the purpose of having a "short title" is defeated. A short title cannot be further abbreviated. For example:

CORRECT:

SECTION II:

That Title 12 (WATER, SEWERAGE AND DRAINAGE), new Chapter 12.035 (UTILITY RATEPAYER ASSISTANCE PROGRAM) is hereby amended by adding thereto a new section (**bold, underlined** text is added, [~~stricken~~] text is deleted) as follows:

CCMC 12.035.010 – Short title.

This chapter may be cited as the Utility Ratepayer Assistance Program.

INCORRECT:

SECTION II:

That Title 12 (WATER, SEWERAGE AND DRAINAGE), new Chapter 12.035 (UTILITY RATEPAYER ASSISTANCE PROGRAM) is hereby amended by adding thereto a new section (**bold, underlined** text is added, [~~stricken~~] text is deleted) as follows:

CCMC 12.035.010 – Short title.

This chapter may be cited as the Utility Ratepayer Assistance Program (URAP).

3.9. Purpose Sections

The creation of a CCMC section to serve as a purpose statement or declaration of policy, while unnecessary, is at times appropriate to convey a particular message from the Board of Supervisors. The drafter must remember, however, that the adoption of such a statement or declaration does not negate the need for precise drafting of the substantive provisions to which the statement or declaration relates. As described in chapter 1.2, plain language is the best evidence of intent. The use of a purpose statement or declaration of policy may help further establish the intent of the enacting body if clearly articulated, and may be of particular help when certain legislative text is enacted and it is not easily understood by the reader what the overall objective was in adopting the ordinance.

For example, consider the following sections of NRS that may be used as models for drafting CCMC purpose statements and policy declarations:

NRS 287.0436 Creation; purpose.

1. The State Retirees' Health and Welfare Benefits Fund is hereby created as an irrevocable trust fund.
2. The purpose of the Retirees' Fund is to account for the financial assets designated to offset the portion of the current and future costs of health and welfare benefits paid pursuant to subsection 2 of NRS 287.046.

(Added to NRS by 2007, 3141; A 2009, 1591)

NRS 318A.080 Declaration of purpose.

1. The Legislature hereby determines and declares that the procedures contained in NRS 318A.090 to 318A.130, inclusive, are necessary for the coordinated and orderly creation of districts and for the logical extension of services for parks, trails and open space throughout the State.
2. It is the purpose of NRS 318A.090 to 318A.130, inclusive, to prevent unnecessary proliferation and fragmentation of services for parks, trails and open space, to encourage the extension of existing districts rather than the creation of new districts and to avoid excessive diffusion of local tax sources.

(Added to NRS by 2017, 2698)

NRS 432B.403 Purpose of organizing child death review teams. The purpose of organizing multidisciplinary teams to review the deaths of children pursuant to NRS 432B.403 to 432B.4095, inclusive, is to:

1. Review the records of selected cases of deaths of children under 18 years of age in this State;
2. Review the records of selected cases of deaths of children under 18 years of age who are residents of Nevada and who die in another state;
3. Assess and analyze such cases;
4. Make recommendations for improvements to laws, policies and practice;
5. Support the safety of children; and
6. Prevent future deaths of children.

(Added to NRS by 2003, 863; A 2007, 1508)

NRS 439.985 Legislative declaration of purpose. The Legislature hereby declares that the purpose of NRS 439.985 to 439.994, inclusive, is to enable the use of sterile hypodermic devices and other related material for use among people who inject drugs for the purpose of reducing the intravenous transmission of diseases. The provisions of NRS 439.985 to 439.994, inclusive, are intended to:

1. Ensure the availability and accessibility of sterile hypodermic devices by encouraging distribution of such devices by various means.
2. Provide for the effective operation of sterile hypodermic device programs that protect the human rights of people who use such programs.
3. Guarantee that sterile hypodermic devices and other sterile injection supplies are not deemed illegal.
4. Ensure that sterile hypodermic device programs operate in harmony with law enforcement activities.

(Added to NRS by 2013, 3171)

NRS 62G.410 Declaration of state policy.

1. It is the policy of this state to effectuate a system of youth interventions, in a civil arena, to improve outcomes for juveniles, to diminish juvenile criminality, to facilitate juvenile accountability and to improve juvenile health and welfare, fairly and equally in the best interest of the child and in furtherance of the public welfare of the citizens of this state.

2. It is the purpose of NRS 62G.400 to 62G.470, inclusive, to reduce the necessity for commitment of delinquent children to a state facility for the detention of children by strengthening and improving local supervision of children placed on probation by the juvenile court.

(Added to NRS by 2003, 1083; A 2013, 716)

NRS 125C.001 State policy. The Legislature declares that it is the policy of this State:

1. To ensure that minor children have frequent associations and a continuing relationship with both parents after the parents have ended their relationship, become separated or dissolved their marriage;

2. To encourage such parents to share the rights and responsibilities of child rearing; and

3. To establish that such parents have an equivalent duty to provide their minor children with necessary maintenance, health care, education and financial support. As used in this subsection, "equivalent" must not be construed to mean that both parents are responsible for providing the same amount of financial support to their children.

(Added to NRS by 2015, 2581)

3.10. Applicability Provisions

Applicability sections may be drafted to specifically establish what certain provisions of law do and do not apply to. Applicability sections are similar to exemption provisions (see chapter 2.14), but rather than being housed within a CCMC section or subsection, an applicability section is generally found at the beginning of a title or chapter and expresses the applicability of larger groupings of CCMC sections. In particular, the applicability section is a useful tool by which to carve out a class of persons or things that would otherwise be subject to certain provisions. The applicability section may also be used to establish a general resolution to a conflict in laws between titles, chapters or sections. In general, however, a standalone applicability section should not be used to declare to what persons or things legal provisions apply to unless there is another class of persons or things that those provisions do not apply to. It must be generally understand that if there is no exemption, then a person or thing is subject to a law and so therefore that does not need to be stated. For example:

CORRECT:

The provisions of this chapter:
1. Apply to departments of the city.
2. Do not apply to any board, commission or committee.

CORRECT:

The provisions of CCMC 100.010 to 100.090, inclusive, apply to any employee who is a member of an employee association.

CORRECT:

The provisions of this chapter do not apply to any record that is declared to be confidential pursuant to state or federal law.

INCORRECT:

This chapter applies to all employees of the city.

INCORRECT:

This chapter applies to all employees of the city unless otherwise provided.

When creating an applicability section, the drafter must exercise great care in identifying the scope of applicability. Drafted carelessly, the applicability section can inadvertently extend too great a reach or create too short a limitation.

3.11. Definitions

Terms and phrases that apply to an entire title should be housed in a general provisions chapter at the beginning of a title. Terms and phrases that only have chapter-wide applicability should be placed at the beginning of the chapter. Terms and phrases that are only used once or twice, and only in relation to one CCMC section, should be placed within that section unless the drafter determines that there is a likelihood the chapter in which the section is located will be expanded in the future to include further use of that term or phrase.

A term or phrase that is defined outside of a specific CCMC section should be enclosed in quotation marks and must follow the standard heading or "leadline" of: **CCCMC xxx.xxx – "This thing" defined.** The term or phrase itself should be defined stylistically in the following manner: "This thing" includes …." or "This thing" means ….. Unless the definition of a term or phrase is composed or two or more parallel units, the definition should be on the same line as the heading or "leadline."

Additionally, there must be a "clumping" section before the definitions, which is a section device used to indicate to what provisions of CCMC the definitions apply. For example:

CORRECT:

CCMC 100.010 – Definitions. *As used in this chapter, unless the context otherwise requires, the words and terms defined in CCMC 100.020 to 100.060, inclusive, have the meanings ascribed to them in those sections.*

CCMC 100.020 – "Lion" defined. *"Lion" means …..*

CCMC 100.030 – "Dog" defined. *"Dog" means …..*

CCMC 100.040 – "Scarecrow" defined. *"Scarecrow" means ….*

CCMC 100.050 – "Witch" defined. *"Witch" means …..*

CCMC 100.060 – "Ruby slipper" defined.
"Ruby slipper" means:
1. A light slip-on shoe that is of a deep crimson color.
2. Any type of shoe that possesses magical powers.

In the "clumping" and definitions example above, CCMC 100.010 indicates that the definition sections of CCMC 100.020 to 100.060, inclusive, have chapter-wide applicability. CCMC 100.020 to 100.050 illustrates definitions that are not composed of parallel units of text and therefore the definition is stated on the same line as the heading of the section. CCCMC 100.060, however, is composed of parallel units of text and therefore the definition begins on a separate line immediately below the section heading.

The following examples illustrate proper "clumping" and other rules that apply to the proper drafting of a definition:

For definitions that apply to an entire title (all definitions should be housed in a general provisions chapter at the beginning of the title):

CCMC 100.010 – Definitions. *As used in this title, unless the context otherwise requires, the words and terms defined in CCMC 100.020 to 100.060, inclusive, have the meanings ascribed to them in those sections.*

CCMC 100.020 – "Lion" defined. *"Lion" means …..*

CCMC 100.030 – "Dog" defined. *"Dog" means …..*

For definitions that apply to a specific section (including a definition within a definition if the latter included definition is used only for purposes of the former definition):

CCMC 100.010 – "Distribute" defined.
1. "Distribute" means:
(a) To offer for sale, sell, exchange or barter commercial feed; or
(b) To supply, furnish or otherwise provide commercial feed to a contract feeder.

2. As used in this section, "contract feeder" means a person who as an independent contractor feeds commercial feed to animals pursuant to a contract.

In the example above, the term "contract feeder" is used in the definition of "distribute"; because "contract feeder" is not used in any other section other than for the section defining "distributor," it is proper to create parallel text to define "contract feeder" for the purpose of the section defining "distribute." This method is improper if the term "contract feeder" is used separately in any other provision within the same grouping of sections to which the term "contract feeder" applies. In that case, the term "contract feeder" should be defined separately as its own standalone definition section.

For definitions that apply to a specific subsection:

1. The department shall apply a discount of 10 percent to any fee prescribed for an application that is submitted by a member of the military.
2. As used in this section, "member of the military" means a person who is presently serving in the Armed Forces of the United States, a reserve component thereof or the National Guard.

For definitions used identically in another CCMC section:

CCMC 100.010 – "Tiger" defined. *"Tiger" has the meaning ascribed to it in CCMC 10.050.*

The example above illustrates the preferred method of defining a term that is already defined in another chapter of CCMC. If the existing term and definition is identical to the term and definition the drafter intends to use, then a reference to the existing definition by citing that CCMC section helps to maintain consistency in the use of language and reduces unnecessary repetition throughout CCMC.

For definitions used identically in NRS or NAC:

CCMC 100.010 – "Tiger" defined. *"Tiger" has the meaning ascribed to it in NRS 123.456 and means a person who is fierce, determined or ambitious.*

The example above illustrates instances where the drafter is creating a definition that is intended to mimic identically the same term or phrase defined by NRS. By referencing "NRS 123.456" as the external citation, it becomes easier to track any changes in the statutory definition in the future by other drafters, the Board of Supervisors and the public. Without the

cross-reference, it becomes extremely difficult for another drafter, the Board of Supervisors or the public to recognize that the term "tiger" was specifically defined using a definition established by state law. However, as also shown in the example above, a mere reference such as "'Tiger' has the meaning ascribed to it in NRS 123.456" alone is insufficient because the reader would have to then separately locate the NRS term and definition through the use of a different database. By referencing the NRS section **and** copying the NRS definition, the reader can identify both the statutory provision and the full definition within CCMC.

To exclude a thing or meaning from a definition:

CCMC 100.010 – "Professional negligence" defined. *"Professional negligence" means a negligent act or omission to act by a provider of health care in the rendering of professional services, which act or omission is the proximate cause of a person injury or wrongful death. The term does not include services that are outside the scope of service for which the provider of health care is licensed or services for which any restriction has been imposed by the applicable regulatory board or health care facility.*

3.12. Parallel Sections

Parallel sections are used in an ordinance when a new or revised CCMC section expires by limitation (see chapter 4.6 for sunset provisions) either by a date specific or upon the happening of some defined event, and a new section immediately take effect in place of the expired section. This method is effective in avoiding the necessity of going through the ordinance adoption process two or more times to effectuate changes to the same sections that the Board already knows in advance will need to be amended. To properly draft one or more parallel sections, the ordinance should be organized in a sequence such that the first section to become effective appears first, followed by the first parallel section that will become effective after the first section expires. Additionally, the heading or "leadline" of each section must indicate the expiration and effective dates or the event as the condition for expiration or effectiveness. By including these explanations in the headings of sections, there will be no confusion regarding section applicability or which provisions constitute "good law." Finally, the headings of parallel sections must correspond with the effective date or sunset date provided at the end of an ordinance. For explanations concerning effective date and sunset date provisions, see chapters 4.5 and 4.6.

To illustrate parallel provisions:

CORRECT:

CCMC 100.100 – Renewal of license: Application; fee; continuing education. [Effective through June 30, 2020.]

1. Every holder of a license issued pursuant to this chapter may renew his or her license annually by submitting a renewal application to the department.

2. The department shall charge a fee of $50 for the processing of each renewal application.

CCMC 100.100 – Renewal of license: Application; fee; continuing education. [Effective July 1, 2020, through June 30, 2021.]

1. Every holder of a license issued pursuant to this chapter may renew his or her license annually by submitting a renewal application to the department.

2. The department shall charge a fee of $100 for the processing of each renewal application.

CCMC 100.100 – Renewal of license: Application; fee; continuing education. [Effective July 1, 2021.]

1. Every holder of a license issued pursuant to this chapter may renew his or her license annually by submitting a renewal application to the department.

2. The department shall charge a fee of $150 for the processing of each renewal application.

In the example above, three parallel sections are used to impose: (1) a $50 renewal fee from the effective date of the section through June 30, 2020; (2) a $100 renewal fee from July 1, 2020 through June 30, 2021; and (3) a $150 renewal fee from July 1, 2021. Although the first two sections, as codified, will remain in CCMC (as published on the Internet website of MuniCode), there is no confusion as to the dates of applicability of each section; obsolete provisions can be removed at a time convenient for the Board of Supervisors or if a "sunset committee" or procedure is established to routinely remove expired provisions of law from CCMC. But by using the illustrative parallel sections above, the Board would not have to adopt the same section with the changes in fees three separate times, and there is also no risk of failing to revise the fees in subsequent years when it was always the intent to do so from the effective date of the first section. Furthermore, although it may be possible to draft one section using parallel units of text to establish different fees in different years, that method mixes effective provisions with expired provisions and is therefore not preferable.

To illustrate parallel provisions conditioned upon an event:

CORRECT:

CCMC 100.100 – Report on unpaid amounts. [Effective until the date upon which NRS 123.456 requiring a report to be submitted to the Department of Taxation is repealed.]
The department shall submit to the Board and the Department of Taxation annually a report containing every delinquent payment that has not been collected.

CCMC 100.100 – Report on unpaid amounts. [Effective on the date of the repeal of NRS 123.456.]
The department shall submit to the Board annually a report containing every delinquent payment that has not been collected.

In this example above, the first parallel section requires a report to be submitted to both the Board of Supervisors and the Department of Taxation, as required by "NRS 123.456." However, the heading also clearly denotes that the section is only effective until that NRS provision is repealed, at which time the second parallel section becomes effective and only requires the report to be submitted to the Board and not to the Department.

3.13. Repealers and Source Notes

Chapter 3.7 illustrates the proper introductory clause that must be used in an ordinance to repeal a section of CCMC. After the introductory clause, a simple reference to the section number and the heading or "leadline" to be repealed, with the section number shown as stricken language but without duplication of the text, can be used to note the repeal. Additionally, the "repealer" must be sequenced as the second to last clause in an ordinance, immediately before the final section stating that "no other provisions" of the title to which the ordinance relates is "affected by this ordinance." See chapter 2.1 for the proper organization and sequential arrangement of ordinance sections. However, because it is important to show to the reader what text is being removed and also because text to be deleted is required to be denoted as stricken text in an ordinance (see chapter 4.2 for a discussion regarding City Charter requirements governing the ordinance adoption process), repealed text must appear towards the end of an ordinance immediately before the recordation of Board of Supervisor votes, the signature lines of the Mayor and the Clerk-Recorder and the effective dates.

Because the public may have relied on the existence of an existing CCMC section, to indicate to the reader that a section has been repealed if the reader searches for the text that no

longer exists in MuniCode, it is imperative to "reserve" the repealed CCMC section number and provide a "source note" explaining the repeal.

To illustrate, the following examples show the correct way to repeal one or more existing CCMC sections:

CORRECT (to repeal one section):

SECTION V:

That Title 21 (TAXATION), Chapter 21.06 (V & T Railroad Sales Tax), Section 21.06.040 (USE OF PROCEEDS OF THE TAX) is hereby repealed with reservation of the section number as follows:

CCMC 21.060.040 [~~– Use of proceeds of the tax.~~] Reserved.
(Editor's note: Ord. No. 2019-100, § V, adopted November 1, 2019, repealed CCMC 21.060.040 – Use of proceeds of the tax.)

SECTION VI:

That no other provisions of Title 21 of the Carson City Municipal Code are affected by this ordinance.

TEXT OF REPEALED SECTIONS

21.06.040 ~~[– Use of Proceeds of the tax.~~

~~The proceeds of the tax imposed pursuant to this chapter are to be pledged for payment of V & T historical bonds issued to refund the V & T historical bonds.~~]

CORRECT (to repeal two or more sections):

SECTION V:

That Title 21 (TAXATION), Chapter 21.06 (V & T Railroad Sales Tax), Sections 21.06.040 (USE OF PROCEEDS OF THE TAX) and 21.06.050 (PAYMENT OF PROCEEDS TO STATE DEPARTMENT OF TAXATION AND DISTRIBUTION) are hereby repealed with reservation of the section number as follows:

CCMC 21.060.040 [~~— Use of proceeds of the tax.~~] Reserved.
(Editor's note: Ord. No. 2019-100, § V, adopted November 1, 2019, repealed CCMC 21.060.040 – Use of proceeds of the tax.)

CCMC 21.060.050 [~~— Payment of proceeds to State Department of Taxation and Distribution.~~] Reserved.
(Editor's note: Ord. No. 2019-100, § V, adopted November 1, 2019, repealed CCMC 21.060.050 – Payment of proceeds to state department of taxation and distribution.)

SECTION VI:

That no other provisions of Title 21 of the Carson City Municipal Code are affected by this ordinance.

TEXT OF REPEALED SECTIONS

21.06.040 ~~[— Use of Proceeds of the tax.~~

~~The proceeds of the tax imposed pursuant to this chapter are to be pledged for payment of V & T historical bonds issued to refund the V & T historical bonds.~~]

21.06.050 ~~[— Payment of proceeds to State Department of Taxation and Distribution.~~

~~All fees, taxes, interest and penalties imposed and all amounts of a tax required to be paid to Carson City pursuant to this chapter must be paid to the department in the form of remittances payable to the department.~~]

Source notes also appear under enacted CCMC sections to indicate the source of the section, including the ordinance number containing the CCMC section, the section of the ordinance containing the CCMC section to be enacted and the year the ordinance was adopted. While MuniCode prepares these source notes for inclusion in CCMC, the drafter should know how to read them to track the enacting source authority for CCMC sections when it is necessary to review the entire text of an ordinance from which the CCMC section is sourced and to identify dates of adoption to review corresponding legislative history in the form of Board of Supervisors meeting minutes and audio and video archives. A typical example of a source note included in CCMC, as prepared by MuniCode, appears in this form:

21.06.030 - Creation of fund.

The Carson City treasurer shall create a fund to be known as the V&T special infrastructure fund into which all the proceeds of the tax received from the State Controller shall be deposited and from which all the proceeds of the tax shall be allocated in the manner provided for by this chapter. The money in the V&T special infrastructure fund shall be kept separate from all other Carson City funds and must not be a part of any other fund.

(Ord. 2005-31 § 5, 2005).

Using the source note above, the drafter can determine that CCCM 21.06.030 was enacted in 2005 as section 5 of Ordinance No. 2005-31.

Ordinance Parts

4.1. State Law Requirements

The provisions of NRS 244.095 to 244.115, inclusive, establish state requirements governing the process by which a local government may adopt an ordinance. It is important for the drafter to have a clear understanding of these laws, which set forth provisions relating to ordinance summaries, ordinance title composition, publication requirements, the public hearing process and specific rules of style. Those sections are reproduced below, but must be independently verified after each legislative session so that the drafter is certain that no changes in law have been made:

NRS 244.095 Enactment by bill; summary and title.

1. No ordinance shall be passed except by bill. When any ordinance is amended, the section or sections thereof shall be reenacted as amended, and no ordinance shall be revised or amended by reference only to its title.

2. Every ordinance shall:

(a) Bear a summary, which shall appear before the title and which shall state in brief the subject matter of the ordinance.

(b) Except one revising the county ordinances, embrace but one subject and matters necessarily connected therewith and pertaining thereto. The subject shall be clearly indicated in the title. In all cases where the subject of the ordinance is not so expressed in the title, the ordinance shall be void as to the matter not expressed in the title.

[1:296:1955]

NRS 244.100 Procedures for enactment; signatures; publication and effective date; publication of revised ordinance; hearing.

1. All proposed ordinances, when first proposed, must be read by title to the board, immediately after which at least one copy of the proposed ordinance must be filed with the county clerk for public examination. Notice of the filing, together with the title and an adequate summary of the ordinance and the date on which a public hearing will be held, must be published once in a newspaper published in the county or, if no newspaper is published in the county, in a newspaper having a general circulation in the county, at least 10 days before the date set for the hearing. The board shall adopt or reject the ordinance, or the ordinance as amended, within 35 days after the date of the close of the final public hearing, except that in cases of emergency, by unanimous consent of the whole board, final action may be taken immediately or at a special meeting called for that purpose.

2. After adoption, all ordinances must be:

(a) Signed by the chair of the board.

(b) Attested by the county clerk.

(c) Published by title only, together with the names of the county commissioners voting for or against their passage, in a newspaper published in and having a general circulation in the county, at least once a week for a period of 2 weeks before it goes into effect. Publication by title must also contain a statement to the effect that typewritten copies of the ordinance are available for inspection at the office of the county clerk by all interested persons.

3. Whenever a revision is made and the revised ordinances are published in book or pamphlet form by authority of the board of county commissioners, no further publication is necessary.

4. Except in an emergency, before acting upon a new or amendatory ordinance the board must hold a hearing at which interested persons may present their views. The public hearing may be held in conjunction with the meeting provided for in subsection 1.

[Part 2:296:1955]—(NRS A 1977, 408; 1979, 637; 1981, 473; 1983, 362)

NRS 244.105 Procedure for enactment of specialized or uniform code.

1. An ordinance which adopts:

(a) A specialized or uniform building, plumbing or electrical code printed in the form of a book or pamphlet;

(b) Any other specialized or uniform code; or

(c) Any portion of such a code,

↪ may adopt it by reference with such changes as may be necessary to make it applicable to conditions in the county, and with such other changes as may be desirable.

2. The code upon adoption need not be published as required by NRS 244.100 if an adequate number of copies of the code, either typewritten or printed, with the changes, if any, have been filed for use and examination by the public in the office of the county clerk. Notice of the filing must be given by one publication in a newspaper having a general circulation in the county, and the copies must be filed, at least 10 days before the passage of the ordinance.

[2.1:296:1955]—(NRS A 1983, 363)

NRS 244.110 Style. The style of ordinances shall be as follows:

The Board of County Commissioners of the
County of.....Do Ordain:
(Body of ordinance)
(Last section of ordinance)
Proposed on (month) (day) (year)
Proposed by Commissioner
Passed (month) (day) (year)

Vote:

Ayes: Commissioners
Nays: Commissioners
Absent: Commissioners

Attest:

County Clerk Chair of the Board

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

[Part 2:296:1955]—(NRS A 2001, 45)

NRS 244.115 Recording of ordinances; copy as prima facie evidence. The county clerk shall record all ordinances in a book kept for that purpose, together with the affidavits of publication by the publisher. The book, or a certified copy of an ordinance therein recorded and under the seal of the county, shall be received as prima facie evidence in all courts and places without further proof. If published in book or pamphlet form by authority of the board of county commissioners, the book or pamphlet shall be received as prima facie evidence without further proof.

[Part 2:296:1955]

4.2. City Charter Requirements

Article 2 of the Carson City Charter also establishes certain requirements concerning the passage of ordinances. The relevant sections of Article 2 are reproduced below:

Sec. 2.090 Power of Board: Ordinances, resolutions and orders.

1. The Board may make and pass all ordinances, resolutions and orders not repugnant to the Constitution of the United States or the State of Nevada, or to the provisions of Nevada Revised Statutes or of this Charter, necessary for the municipal government and the management of the affairs of Carson City, and for the execution of all the powers vested in Carson City.

2. When power is conferred upon the Board to do and perform any act or thing, and the manner of exercising such power is not specifically pointed out, the Board may provide by ordinance the manner and details necessary for the full exercise of such power.

3. The Board may enforce ordinances by providing penalties not to exceed those for misdemeanors as established by the Legislature.

4. The Board has all powers that are conferred upon the governing bodies of counties and cities by applicable laws which are not in conflict with the express or implied provisions of this Charter.

(Ch. 213, Stats. 1969 p. 295; A—Ch. 58, Stats. 1981 p. 148)

Sec. 2.100 Ordinances: Passage by bill; amendments; subject matter; title requirements.

1. No ordinance may be passed except by bill and by a majority vote of the whole Board of Supervisors. The style of all ordinances shall be as follows: "The Board of Supervisors of Carson City do ordain."

2. No ordinance shall contain more than one subject, which shall be briefly indicated in the title. Where the subject of the ordinance is not so expressed in the title, the ordinance is void as to the matter not expressed in the title.

3. Any ordinance which amends an existing ordinance shall set out in full the ordinance or sections thereof to be amended, and shall indicate matter to be omitted by enclosing it in brackets and shall indicate new matter by underscoring or by italics.

(Ch. 213, Stats. 1969 p. 296)

Sec. 2.110 Ordinances: Enactment procedure; emergency ordinances.

1. All proposed ordinances when first proposed must be read to the Board by title, after which an adequate number of copies of the proposed ordinance must be filed with the Clerk for public distribution. Except as otherwise provided in subsection 3, notice of the filing must be published once in a newspaper qualified pursuant to the provisions of chapter 238 of NRS and published in Carson City at least 10 days before the adoption of the ordinance. The Board shall adopt or reject the ordinance or an amendment thereto, within 45 days after the date of publication.

2. At a regular meeting or adjourned meeting of the Board following the proposal of an ordinance it must be read as first introduced, or as amended, and thereupon the proposed ordinance must be finally voted upon or action thereon postponed.

3. In cases of emergency or where the ordinance is of a kind specified in section 7.030, by unanimous consent of the Board, final action may be taken immediately or at a special meeting called for that purpose, and no notice of the filing of copies of the proposed ordinance with the Clerk need be published.

4. All ordinances must be signed by the Mayor, attested by the Clerk and published by title, together with the names of the Supervisors voting for or against passage, in a newspaper qualified pursuant to the provisions of chapter 238 of NRS and published in Carson City for at least one publication, before the ordinance becomes effective. The Board may, by majority vote, order the publication of the ordinance in full in lieu of publication by title only.

5. The Clerk shall record all ordinances in a book kept for that purpose together with the affidavits of publication by the publisher.

(Ch. 213, Stats. 1969 p. 296; A—Ch. 402, Stats. 1971 p. 813; Ch. 58, Stats. 1981 p. 149; Ch. 160, Stats. 1983 p. 367; Ch. 118, Stats. 1985 p. 475)

Sec. 2.120 Codification of ordinances; publication of Code.

1. The Board shall, without undue delay, codify and publish a Code of its municipal ordinances which must have incorporated therein a copy of this Charter and may contain such additional data as the Board may prescribe. When such a Code is published or amended, two copies must be filed with the Librarian of the Supreme Court Law Library.

2. The ordinances in the Code must be arranged in appropriate chapters, articles and sections, excluding the titles, enacting clauses, signature of the Mayor, attestations and other formal parts.

3. The codification must be adopted by an ordinance, which must not contain any substantive changes, modifications or alterations of existing ordinances; and the only title necessary for the ordinance is "An ordinance for codifying and compiling the general ordinances of Carson City."

4. The codification may be amended or extended by ordinance.

(Ch. 213, Stats. 1969 p. 297; A—Ch. 402, Stats. 1971 p. 814; Ch. 344, Stats. 1973 p. 428; Ch. 58, Stats. 1981 p. 150)

Sec. 2.130 Uniform codes: Procedure for adoption. Except as otherwise provided in NRS 707.375, an ordinance adopting a uniform building, plumbing, electrical, health, traffic or fire code, or any other uniform code or codes, printed in book or pamphlet form, may adopt such code or codes, or any portion thereof, with such changes as may be necessary to make such code or codes applicable to conditions in Carson City, and with such other changes as may be desirable, by reference thereto. Copies of such code or codes, either typewritten or printed, with such changes, if any, shall be filed for use and examination by the public in the Office of the Clerk at least 1 week prior to the passage of the ordinance adopting such code or codes.

(Ch. 213, Stats. 1969 p. 297; A—Ch. 237, Stats. 2003 p. 1252)

4.3. Ordinance Summary

As noted above, NRS 244.095 requires every ordinance to "[b]ear a summary, which shall appear before the title and which shall state in brief the subject matter of the ordinance." An ordinance summary should be written as one sentence which generally captures the scope and purpose of the ordinance through the reference to one subject matter. An ordinance summary should not summarize every provision or section of the ordinance. Because NRS 244.100 requires the summary and title of every proposed ordinance to be published in a newspaper before the public hearing and then once again after adoption, the summary should not be written with so much specificity that any revision which is made to the ordinance after the first publication necessitates a change to the summary before the second publication. Summaries can be written in a more specific manner if the ordinance proposes to do a very specific thing or establishes a new regulatory framework.

In general, the following examples may serve as guidelines for summary drafting:

Summary: Establishes provisions relating to business licenses.

Summary: Establishes provisions relating to medical marijuana establishments.

Summary: Establishes provisions governing liquor licensing.

Summary: Revises provisions relating to gaming licenses.

Summary: Makes various revisions to provisions governing public utilities.

Summary: Enacts the Utility Ratepayer Assistance Program.

Summary: Repeals the Utility Ratepayer Assistance Program.

Summary: Establishes fees for the issuance of an encroachment permit.

Summary: Revises provisions governing open space assessments.

4.4. Ordinance Title

NRS 244.095 also requires ordinances to "embrace but one subject and matters necessarily connected therewith and pertaining thereto. The subject shall be clearly indicated in the title. In all cases where the subject of the ordinance is not expressed in the title, the ordinance shall be void as to the matter not expressed in the title." To satisfy this "single-subject rule," an ordinance title should always begin with the statement "AN ORDINANCE RELATING TO ….. " in all capitalized font, followed by the single subject that describes the scope of the ordinance. An ordinance title must never contain more than one subject and, unlike certain ordinance summaries that may properly refer to a particular "Act" or "Program" that is being enacted, should avoid that degree of specificity. Additionally, the title should be written in incomplete sentences. For example:

CORRECT:

AN ORDINANCE RELATING TO TAXATION; …..

INCORRECT:

AN ORDINANCE RELATING TO THE V & T RAILROAD SALES TAX; …..

After the statement of the single subject, additional title descriptions must be included to further summarize the proposed ordinance sections. These additional title descriptions may be written with more specificity, including direct references to the titles and chapters of CCMC that are affected, but should still be drafted in summary form to identify the key provisions of the ordinance. To illustrate, whereas in one ordinance it would be unnecessary to identify in the title a new term and corresponding definition proposed for adoption because the term is not a key component of the ordinance, it would be necessary to identify the creation of a new term and definition in another ordinance where the sole or primary objective of the ordinance is to create that term. For example:

CORRECT (an ordinance where a definition is a key component):

AN ORDINANCE RELATING TO UTILITIES; AMENDING TITLE 15 (BUILDINGS AND CONSTRUCTION), CHAPTER 15.90 (DEVELOPMENT STANDARDS) TO DEFINE THE TERM "SUBSURFACE INSTALLATION"; ……

CORRECT (an ordinance where several definitions are key components):

AN ORDINANCE RELATING TO UTILITIES; AMENDING TITLE 12 (WATER, SEWERAGE AND DRAINAGE), CHAPTER 12.08 (WATER

DRAINAGE) TO DEFINE CERTAIN TERMS RELATING TO DISSOLVED MINERAL RESOURCES; ….

Every ordinance title must conclude with the following title description: " …; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO." This ending description is important to include in the title to convey that there may be other revisions related to the key components of the ordinance as described in the title but not expressly identified. The following examples help to illustrate how a complete ordinance title should be drafted:

AN ORDINANCE RELATING TO UTILITIES; REPEALING TITLE 12 (WATER, SEWERAGE AND DRAINAGE), CHAPTER 12.04 (SENIOR CITIZENS ASSISTANCE) OF THE CARSON CITY MUNICIPAL CODE AND REPLACING WITH A NEW CHAPTER 12.035 (UTILITY RATEPAYER ASSISTANCE PROGRAM) TO ESTABLISH VARIOUS PROVISIONS PERTAINING TO RATEPAYER ASSISTANCE TO DEFRAY COSTS ASSOCIATED WITH CITY UTILITY PAYMENTS; PROVIDING DEFINITIONS; CREATING AN ACCOUNT FOR RATEPAYER ASSISTANCE; ESTABLISHING VARIOUS PROVISIONS FOR THE APPROVAL AND DENIAL OF APPLICATIONS FOR ASSISTANCE; ESTABLISHING AN APPEAL PROCESS; ESTABLISHING PENALTIES; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO.

AN ORDINANCE RELATING TO TAXATION; AMENDING TITLE 21 (TAXATION), CHAPTER 21.06 (V & T RAILROAD SALES TAX) OF THE CARSON CITY MUNICIPAL CODE TO REVISE VARIOUS PROVISIONS RELATING TO THE PURPOSE, IMPOSITION, REFUND AND USE OF THE V & T RAILROAD TAX; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO.

4.5. Effective Dates

Pursuant to NRS 244.100(2)(c) and Article 2, section 2.110 of the Carson City Charter, an ordinance that is passed after second reading without a specified effective date becomes effective only after publication in a newspaper for a period of two weeks. When an ordinance or a certain section of an ordinance is intended to become effective on a date other than the default date, the drafter must include within the ordinance an effective date provision as the last section of the ordinance to establish the different effective date. If parallel sections are included in the ordinance (see chapter 3.12), the effective date section must correspond with the effective dates and expiration dates of those parallel sections contained within the main body of the ordinance. The following examples illustrative properly drafted effective date sections:

CORRECT:

SECTION XV:

This ordinance becomes effective on January 1, 2020.

CORRECT:

SECTION XV:

This ordinance becomes effective:

1. Upon adoption and required publication for the purpose of performing any preparatory administrative tasks to carry out the provisions of this ordinance; and

2. On February 1, 2020, for all other purposes.

CORRECT:

SECTION XV:

1. This section and sections IV, V and VI of this ordinance become effective on July 1, 2020; and

2. Sections I, II and III and VII to XIV, inclusive, of this ordinance become effective upon passage and adoption.

4.6. Sunset Dates

Sunset dates are similar to effective dates, only in the reverse; they establish dates by which one or more provision of an ordinance expires after adoption by the Board of Supervisors. Like effective date provisions, a sunset date provision must correspond with any parallel provision set forth in an ordinance. Sunset dates may also be combined with effective dates to reflect when an ordinance is effective and when the ordinance, or a section thereof, expires. The following examples illustrative properly drafted sunset date sections:

CORRECT:

SECTION XV:

This ordinance expires by limitation on January 1, 2020.

CORRECT:

SECTION XV:

This ordinance becomes effective on July 1, 2010, and expires by limitation on June 30, 2026.

CORRECT:

SECTION XV:

1. This ordinance becomes effective upon adoption after second reading.
2. Section V of this ordinance expires by limitation on June 30, 2020.
3. Section VI of this ordinance expires by limitation on June 30, 2022.

Ordinance Enactment

5.1. Business Impact Statement

An important part of the ordinance drafting process includes consideration of whether a business impact statement must be prepared. Pursuant to NRS 237.030 to 237.150, inclusive, the governing body of a local government must prepare a business impact statement before the adoption of "a proposed rule" under certain circumstances. Because the preparation of a legally sufficient business impact statement must comply with specific statutory notice and public comment periods, the drafter must determine at the time an ordinance drafting request form is received (see Appendix A) whether a business impact statement is necessary to calculate the time needed to prepare the ordinance, complete the statement, publish the ordinance and proceed through two readings of the ordinance before adoption.

The NRS provisions governing the preparation of a business impact statement are reproduced below:

NRS 237.030 Definitions. As used in NRS 237.030 to 237.150, inclusive, unless the context otherwise requires, the words and terms defined in NRS 237.040, 237.050 and 237.060 have the meanings ascribed to them in those sections.
(Added to NRS by 1999, 2072; A 2001, 755)

NRS 237.040 "Business" defined. "Business" means a trade or occupation conducted for profit.
(Added to NRS by 1999, 2072)

NRS 237.050 "Local government" defined. "Local government" means a political subdivision of this State, including, without limitation, a city, county, irrigation district, water district or water conservancy district.
(Added to NRS by 1999, 2072)

NRS 237.060 "Rule" defined.
1. "Rule" means:
(a) An ordinance by the adoption of which the governing body of a local government exercises legislative powers; and
(b) An action taken by the governing body of a local government that imposes, increases or changes the basis for the calculation of a fee that is paid in whole or in substantial part by businesses.
2. "Rule" does not include:
(a) An action taken by the governing body of a local government that imposes, increases or changes the basis for the calculation of:
(1) Special assessments imposed pursuant to chapter 271 of NRS;
(2) Impact fees imposed pursuant to chapter 278B of NRS;
(3) Fees for remediation imposed pursuant to chapter 540A of NRS;
(4) Taxes ad valorem;
(5) Sales and use taxes; or
(6) A fee that has been negotiated pursuant to a contract between a business and a local government.
(b) An action taken by the governing body of a local government that approves, amends or augments the annual budget of the local government.
(c) An ordinance adopted by the governing body of a local government pursuant to a provision of chapter 271, 271A, 278, 278A, 278B or 350 of NRS.
(d) An ordinance adopted by or action taken by the governing body of a local government that authorizes or relates to the issuance of bonds or other evidence of debt of the local government.
(Added to NRS by 1999, 2072; A 2001, 755; 2005, 2370)

NRS 237.070 Applicability. The provisions of NRS 237.030 to 237.150, inclusive, do not apply with respect to a rule for which a local government does not have the authority to consider less stringent alternatives, including, without limitation, a rule that the local government is required to adopt pursuant to a federal or state statute or regulation or pursuant to a contract or agreement into which the local government has entered.

(Added to NRS by 1999, 2072)

NRS 237.080 Prerequisites to adoption of rule by local government.

1. Before a governing body of a local government adopts a proposed rule, the governing body or its designee must make a concerted effort to determine whether the proposed rule will impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business. The governing body of a local government or its designee must notify trade associations or owners and officers of businesses which are likely to be affected by the proposed rule that they may submit data or arguments to the governing body or its designee as to whether the proposed rule will:

(a) Impose a direct and significant economic burden upon a business; or

(b) Directly restrict the formation, operation or expansion of a business.

➥ Notification provided pursuant to this subsection must include the date by which the data or arguments must be received by the governing body or its designee, which must be at least 15 working days after the notification is sent.

2. After the period for submitting data or arguments specified in the notification provided pursuant to subsection 1 has expired, the governing body or its designee shall determine whether the proposed rule is likely to:

(a) Impose a direct and significant economic burden upon a business; or

(b) Directly restrict the formation, operation or expansion of a business.

➥ If no data or arguments were submitted pursuant to subsection 1, the governing body or its designee shall make its determination based on any information available to the governing body or its designee.

3. If the governing body or its designee determines pursuant to subsection 2 that a proposed rule is likely to impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business, the governing body or its designee shall consider methods to reduce the impact of the proposed rule on businesses, including, without limitation:

(a) Simplifying the proposed rule;

(b) Establishing different standards of compliance for a business; and

(c) Modifying a fee or fine set forth in the rule so that a business is authorized to pay a lower fee or fine.

4. After making a determination pursuant to subsection 2, the governing body or its designee shall prepare a business impact statement.

(Added to NRS by 1999, 2072; A 2005, 1478; 2013, 2309)

NRS 237.090 Consideration of business impact statement at regular meeting held before meeting to adopt proposed rule required; inclusion of business impact statement on agenda before statement is available for public inspection prohibited.

1. A business impact statement prepared pursuant to NRS 237.080 must be considered by the governing body at its regular meeting next preceding any regular meeting held to adopt the proposed rule. The business impact statement must set forth the following information:

(a) A description of the manner in which comment was solicited from affected businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

(b) The estimated economic effect of the proposed rule on the businesses which it is to regulate, including, without limitation:

(1) Both adverse and beneficial effects; and

(2) Both direct and indirect effects.

(c) A description of the methods that the governing body of the local government or its designee considered to reduce the impact of the proposed rule on businesses and a statement regarding whether the governing body or its designee actually used any of those methods.

(d) The estimated cost to the local government for enforcement of the proposed rule.

(e) If the proposed rule provides a new fee or increases an existing fee, the total annual amount the local government expects to collect and the manner in which the money will be used.

(f) If the proposed rule includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

(g) The reasons for the conclusions regarding the impact of the proposed rule on businesses.

2. The county manager, city manager or other chief executive officer for the governing body of a local government shall sign the business impact statement certifying that, to the best of his or her knowledge or belief, the information contained in the statement was prepared properly and is accurate.

3. The governing body of a local government shall not include the consideration of a business impact statement on the agenda for a meeting unless the statement has been prepared and is available for public inspection at the time the agenda is first posted.

(Added to NRS by 1999, 2073; A 2005, 1479; 2013, 2309)

NRS 237.100 Objection to adopted rule: Petition; procedure.

1. A business that is aggrieved by a rule adopted by the governing body of a local government on or after January 1, 2000, may object to all or a part of the rule by filing a petition with the governing body that adopted the rule within 30 days after the date on which the rule was adopted.

2. A petition filed pursuant to subsection 1 may be based on the following grounds:

(a) The governing body of the local government or its designee failed to prepare a business impact statement as required pursuant to NRS 237.080 and 237.090; or

(b) The business impact statement prepared by the governing body or its designee pursuant to NRS 237.080 and 237.090 is inaccurate, incomplete or did not adequately consider or significantly underestimated the economic effect of the rule on businesses.

3. After receiving a petition pursuant to subsection 1, the governing body of a local government shall determine whether the petition has merit. If the governing body determines that the petition has merit, the governing body may take action to amend the rule to which the business objected.

4. Each governing body of a local government shall provide a procedure for an aggrieved business to object to a rule adopted by the governing body. The procedure must be filed with the clerk of the local government and available upon request at no charge.

(Added to NRS by 1999, 2073; A 2005, 1479; 2013, 2310)

NRS 237.110 Adoption of rule during emergency. The governing body of a local government may adopt a rule without complying with the provisions of NRS 237.030 to 237.150, inclusive, if the governing body declares, by unanimous vote, that emergency action is necessary to protect public health and safety. Such a rule may remain in effect for not more than 6 months after the date on which it was adopted.

(Added to NRS by 1999, 2074)

NRS 237.150 Nevada Tax Commission authorized to adopt certain regulations and required to advise local governments regarding procedures and forms required for compliance at request of Committee on Local Government Finance. At the request of the Committee on Local Government Finance, the Nevada Tax Commission:

1. May adopt regulations interpreting the provisions of NRS 237.030 to 237.150, inclusive, that are recommended by the Committee on Local Government Finance.

2. Shall advise officers of local governments regarding procedures and forms that are required for compliance with the provisions of NRS 237.030 to 237.150, inclusive, and any regulations adopted that interpret those provisions.

(Added to NRS by 2001, 755)

A "rule" is defined by NRS 237.060 as any "ordinance by the adoption of which the governing body of a local government exercises legislative powers"[1] and any "action taken by the governing body of a local government that imposes, increases or changes the basis for the calculation of a fee that is paid in whole or in substantial part by businesses." Based on that definition, certain actions other than the adoption of an ordinance may also trigger the need for a business impact statement.[2]

If an ordinance is proposed for adoption because the Board of Supervisors is required to adopt it "pursuant to a federal or state statute or regulation or pursuant to a contract or agreement into which the local government has entered," a business impact statement is not required. NRS 237.070. A business impact statement is also not required if the ordinance is expressly exempted under NRS 237.060(2)(a)-(d) or if it is adopted as an emergency ordinance pursuant to NRS 237.1110, in which case the ordinance may only be effective for a period of 6 months after the date of adoption.

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[1] The adoption of an ordinance is not always the result of a legislative act. For example, an ordinance may be merely the "manifestation of a contract." See Williams v. North Las Vegas, 91 Nev. 622, 626 (1975).

[2] This Manual is confined to a discussion of drafting techniques and state laws applicable to the preparation of local ordinances only; it does not address resolutions of the Board of Supervisors or other actions of the Board that may also necessitate the preparation of a business impact statement.

In every other instance, the drafter must ensure that a statement is prepared. Under NRS 237.080(1), the city must provide to "trade associations or owners and officers of businesses which are likely to be affected" notice of the proposed ordinance and "at least 15 days after the notification is sent" to submit "data or arguments" against the ordinance. While NRS does not require a copy of the proposed ordinance to be provided, it has been the practice of the city to do so, along with an explanation that the ordinance is in draft form and may be further amended before adoption. If it is determined that businesses are affected in the manner described by NRS 237.080, the Board of Supervisors must consider certain "methods to reduce the impact of the proposed rule on businesses"; these considerations should be made the Board of Supervisors, not the drafter, as questions of policy.

If, after careful consideration, the drafter in consultation with the ordinance requestor conclusively determines that no businesses are likely to be affected by the proposed ordinance, notification under NRS 237.080(1) is unnecessary. However, unless the ordinance is specifically exempted from the requirement of a business impact statement by the provisions of NRS 237.060(2), a statement must still be prepared and placed on an agenda of the Board of Supervisors to convey that while no notification was issued, the ordinance does not impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business.

The failure to prepare a business impact statement or the preparation of a legally deficient statement may be grounds for a business that is aggrieved by the adoption of the ordinance to object to all or part of the ordinance and petition the Board of Supervisors for an amendment. NRS 237.100. Thus, to ensure timely adoption, legal compliance and transparent government, the drafter must be mindful of the statutory provisions concerning business impact statements and when they must be prepared.

A copy of a business impact statement form and associated forms are included as Appendix D.

5.2. Ordinance Readings

The Board of Supervisors holds a minimum of two public hearings on a proposed ordinance before adoption of the ordinance. NRS 244.100 requires a proposed ordinance to be "read by title" to the Board of Supervisors and then a copy of the ordinance to be filed with the Carson City Clerk-Recorder. Notice of the filing, together with the ordinance title and summary and the date of the first hearing must be published in a newspaper at least 10 days before the date of the hearing. Except in the case of an emergency ordinance, the Board must take action to adopt a proposed ordinance "within 35 days after the date of the close of the final public

hearing." Article 2, Section 2.110 of the Carson City Charter establishes the same timing requirements for notice and adoption.

The Board of Supervisors holds its regular meetings on the first and third Thursdays of each month. Accordingly, the drafter must remember that after the "first reading" of a proposed ordinance, the drafter typically must make any ordinance revisions directed to be made by the Board during the first reading in time for placement on an agenda for the "second reading" within the next two meetings. If a proposed ordinance is not finalized for completion within that time for "second reading" and adoption, then the ordinance must be reintroduced on "first reading" at another meeting and in accordance with the same notice and publication requirements.

5.3. Amendments During Readings

Frequently, the drafter will be asked to make various revisions to a proposed ordinance during the first reading. When that happens, the drafter must remain sensitive to the statutory and City Charter timing requirement established for "second reading" of the ordinance, as discussed above. If revisions are so extensive that it is not possible for the drafter to finalize the ordinance within the required time for "second reading," the drafter must explain this fact either on the record during the "first reading," or as soon as possible thereafter so that the Board is informed of the possible need for another "first reading." If the magnitude of the changes and the amount of time needed to draft those changes are not fully understood until after the "first reading," the drafter must contact the requestor and, if appropriate, the City Manager and the Clerk-Recorder so all interested parties will be aware of any delays in ordinance adoption. At all times, the drafter should consult and coordinate closely with the requestor throughout the ordinance process.

Importantly, if revisions to be made between the first and second hearings, or during the second hearing, are to such an extent that the title and summary of the ordinance, as published pursuant to state law and City Charter requirements (see chapter 5.2) necessitate a revision to the title or summary, the ordinance should be reintroduced for "first reading." Although there is no specific statutory or City Charter provision requiring a new notice and publication period to run in the event revisions to a proposed ordinance necessarily alters the title or summary of the ordinance, it is the practice of the city and the advice of the District Attorney's Office to restart the ordinance adoption process under such circumstances in keeping with the spirit of the law and the objective of the city to maintain transparency in governmental action. Through republication of a revised title and summary that accurately reflects the proposed ordinance as revised, the public is clearly informed of anticipated changes in local laws and provided a meaningful opportunity to give public comment before passage. An opinion letter analyzing the authority of the Board to amend an ordinance during first and second reading is attached as Appendix E.