

**City of Carson City
Agenda Report**

Date Submitted: August 27, 2012 **Agenda Date Requested:** September 6, 2012
Time Requested: 15 minutes

To: Board of Supervisors

From: Neil Rombardo, District Attorney

Subject Title: For Possible Action: To introduce, on first reading, Bill No.____, AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE TITLE 8, PUBLIC PEACE, SAFETY AND MORALS, CHAPTER, 8.04 PROHIBITED CONDUCT, SECTION 8.04.25 ASSAULT- DEFINITION- PENALTY, BY ADDING THE ALTERNATIVE DEFINITION OF INTENTIONALLY PLACING ANOTHER PERSON IN REASONABLE APPREHENSION OF IMMEDIATE BODILY HARM TO THE DEFINITION OF ASSUALT, AND OTHER MATTERS PROPERLY RELATED THERETO.

Staff Summary: The proposed change to Title 8, Chapter 8.04, makes the Carson City Municipal Code's definition more consistent with the existing definition of assault under NRS 200.471.

Type of Action Requested: (check one)
 Resolution Ordinance First Reading
 Formal Action/Motion Other (Specify) Information Only

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to introduce on first reading, Bill No.____, AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE TITLE 8, PUBLIC PEACE, SAFETY AND MORALS, CHAPTER, 8.04 PROHIBITED CONDUCT, SECTION 8.04.25 ASSAULT- DEFINITION- PENALTY, BY ADDING THE ALTERNATIVE DEFINITION OF INTENTIONALLY PLACING ANOTHER PERSON IN REASONABLE APPREHENSION OF IMMEDIATE BODILY HARM TO THE DEFINITION OF ASSUALT, AND OTHER MATTERS PROPERLY RELATED THERETO.

Explanation for Recommended Board Action: This ordinance adds an additional definition to the current assault definition, making the Municipal Code's definition consistent with the existing definition of assault under NRS 200.471

Applicable Statute, Code, Policy, Rule or Regulation: CCMC Title 8; NRS 200.471

Fiscal Impact: Impact neutral


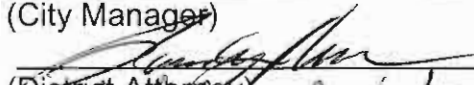
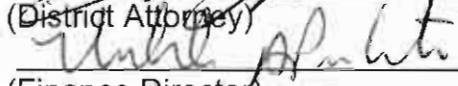
Explanation of Impact: n/a

Funding Source: n/a

Alternatives: Not accept the proposed change.

Supporting Material: 1) CCMC Title 8, Chapter 8.04
2) NRS

Prepared By: Tina Russom, Deputy D.A.

Reviewed By:	_____	Date: _____
(Department Head)		
(City Manager)	_____	Date: <u>8/28/12</u>
(District Attorney)		Date: <u>8/28/12</u>
(Finance Director)		Date: <u>8/28/12</u>

Board Action Taken:

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

(Vote Recorded By)

ORDINANCE NO. _____

BILL NO. _____

AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE TITLE 8, PUBLIC PEACE, SAFETY AND MORALS, CHAPTER, 8.04 PROHIBITED CONDUCT, SECTION 8.04.25 ASSAULT- DEFINITION- PENALTY, BY ADDING THE ALTERNATIVE DEFINITION OF INTENTIONALLY PLACING ANOTHER PERSON IN REASONABLE APPREHENSION OF IMMEDIATE BODILY HARM TO THE DEFINITION OF ASSUALT, AND OTHER MATTERS PROPERLY RELATED THERETO.

THE BOARD OF SUPERVISORS OF CARSON CITY DO ORDAIN:

Section I: Title 8, Chapter 4 of the Carson City Municipal Code ("CCMC") is hereby amended as follows:

Chapter 8.04 – PROHIBITED CONDUCT

Sections:

- 8.04.010 - Disorderly conduct.
- 8.04.015 - Harassment.
- 8.04.016 - Improper telephone calls.
- 8.04.020 - Indecent conduct.
- 8.04.025 - Assault—Definition—Penalty.
- 8.04.030 - Battery—Definition—Penalty.
- 8.04.035 - Trespass on land, on land or in building of another after warning—Warning by posting, fencing.
- 8.04.040 - Loud noises and indecent language.
- 8.04.045 - Injury to property of another.
- 8.04.050 - Interference with city officers, sheriff's officers or firemen.
- 8.04.060 - Restricted areas near fires.
- 8.04.070 - Interference with fire fighting equipment.
- 8.04.080 - Interference with fire alarm apparatus—False alarms.
- 8.04.090 - Rout.
- 8.04.100 - Riot.
- 8.04.110 - Prostitution and related offenses.
- 8.04.120 - Evidence.
- 8.04.121 - Theft offenses—Definitions—Punishment.
- 8.04.122 - Defrauding commercial proprietors, taxicab operators.
- 8.04.125 - Possession, sale, obtaining a drug which may not be introduced into interstate commerce.
- 8.04.126 - Possession or use of drug paraphernalia.

- 8.04.127 - Marijuana possession without medical privilege card is a misdemeanor.
- 8.04.128 - Contributory neglect or delinquency—Definitions.
- 8.04.129 - Contributing to the delinquency or neglect of a child—Penalties.
- 8.04.130 - Penalties.
- 8.04.131 - Acts or omissions constituting contempts.
- 8.04.132 - Summary punishment of contempt committed in immediate view and presence of court; affidavit or statement to be filed when contempt committed outside immediate view and presence of court; disqualification of judge.
- 8.04.133 - Penalty for contempt.

Section II: Title 8, Chapter 4, Section 8.04.025 of the Carson City Municipal Code is hereby amended as follows:

8.04.025 - Assault—Definition—Penalty.

1. As used in this section, "assault" means an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another[;] or intentionally placing another person in reasonable apprehension of immediate bodily harm. ~~[however it]~~ It does not include assault made with use of a deadly weapon or the present ability to use a deadly weapon or assault with intent to kill, commit sexual assault, mayhem, robbery, or grand larceny.

2. Any person convicted of an assault, as defined in subsection 1, is guilty of a misdemeanor and shall be punished as provided in CCMC 1.08.010

Section III: That no other provisions of the Carson City Municipal Code are affected by this ordinance.

PROPOSED on _____ (month) _____ (day), 2012.

PROPOSED by _____.

PASSED _____ (month) _____ (day), 2012.

VOTE: AYES: SUPERVISORS: _____

NAYS: SUPERVISORS: _____

ABSENT: SUPERVISORS: _____

Robert Crowell, Mayor

ATTEST:

ALAN GLOVER
CLERK/RECORDER.

This ordinance shall be in force and effect from and after the ___ day of the month of _____ of the year, 2012.

NRS 200.471 Assault: Definitions; penalties. [Effective January 1, 2012.]

1. As used in this section:

(a) "Assault" means:

- (1) Unlawfully attempting to use physical force against another person; or
- (2) Intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) "Officer" means:

- (1) A person who possesses some or all of the powers of a peace officer;
- (2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;
- (3) A member of a volunteer fire department;
- (4) A jailer, guard or other correctional officer of a city or county jail;
- (5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require the employee to make home visits.

(c) "Provider of health care" means a physician, a perfusionist or a physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a medication aide - certified, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern, a licensed dietitian and an emergency medical technician.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the

use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(Added to NRS by 1971, 1384; A 1981, 903; 1985, 248; 1989, 1010; 1991, 124, 774; 1995, 21, 1190, 1321; 1997, 434; 1999, 140; 2001, 380, 986, 987; 2003, 354; 2005, 176; 2007, 1848, 3078; 2009, 74, 2991; 2011, 1336, 1513, effective January 1, 2012)