

STAFF REPORT

Date: November 8, 2017

To: Mayor and City Council

Thru: Sabra Newby, City Manager

Subject: 1.2. Staff Report (For Possible Action): Ordinance Introduction - Bill No. _____ Ordinance to amend Reno Municipal Code, Title 8, “Public Peace, Safety and Morals”, by adding Chapter 8.38, entitled “Odor Nuisances”; together with other matters properly relating thereto.

From: Alex Woodley, Customer and Code Enforcement Services Manager

Summary: This is a request to amend Reno Municipal Code (RMC), Title 8, “Public Peace, Safety and Morals”, by adding Chapter 8.38 “Odor Nuisances”, to address odors that may be deemed a public nuisance, to include potential marijuana odor nuisances.

Previous Council Action: The City Council last approved amendments to the Nuisance section of the RMC in 2012 and 2014, unrelated to this proposed addition.

Background: The Code Enforcement Division continues to amend the nuisance code to ensure the City’s ability to properly address nuisances that may negatively impact our residents and their ability to enjoy their property free of nuisances. The City Council has expressed interest to stay abreast of the new types of nuisances and to ensure the nuisance code is specific to avoid any misinterpretations or inconsistencies in enforcement.

Discussion: During the current process of creating new regulations related to the industry of retail marijuana, and in collaboration with the City Attorney’s Office, Business License Division, Planning Division, and City Manager’s Office, Code Enforcement staff has added a new section to the nuisance chapter of the Reno Municipal Code to mitigate the possible negative impacts of strong odors from businesses. The proposed chapter provides specific and measurable methods to identify and address odor nuisances, requiring the acquisition of an Olfactometer and all related training. This new chapter will address an odor which may be injurious to health, offensive to the senses of a reasonable person, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

Financial Implications: None.

Legal Implications: None.

Recommendation: Staff recommends adoption of the attached ordinance.

Proposed Motion:

First Reading: I move to refer Bill No. _____ to the Committee of the Whole.

Second Reading: I move to adopt Ordinance No. _____.

EXPLANATION: Matter underlined is new; matter in brackets and stricken [--] is material to be repealed.

BILL NO.

ORDINANCE NO.

ORDINANCE TO AMEND RENO MUNICIPAL CODE, TITLE 8, "PUBLIC PEACE, SAFETY AND MORALS", BY ADDING CHAPTER 8.38, ENTITLED "ODOR NUISANCES"; TOGETHER WITH OTHER MATTERS PROPERLY RELATING THERETO.

THE CITY COUNCIL OF THE CITY OF RENO DOES ORDAIN:

SECTION 1. Title 8, Chapter 8.38, of the Reno Municipal Code is hereby added to read as follows:

CHAPTER 8.38. – ODOR NUISANCES

Sec. 8.38.010 – Definitions.

As used in this Chapter, unless the context otherwise indicates, the following terms shall have the meanings ascribed to them:

"Animal husbandry" means the science of breeding and caring for farm animals.

"DT" is an abbreviation for dilution to threshold, which is an odor quantification unit.

"Hedonic tone" means the offensiveness of a particular odor.

"Nasal Ranger®" refers to a manufactured product used to quantify odor by diluting the air stream with odor categorizing the odor by dilutions to threshold.

"Odor" means the perceived experience when one or more chemicals come into contact with and stimulate the olfactory nerve.

"Odor episode" means the occurrence and perception of odor that may constitute an odor nuisance under this Chapter.

"Odor intensity" means the overall strength of an odor.

"Odor nuisance" means an odor which is injurious to health, offensive to the senses of a reasonable person, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

"Odorant" refers to any chemical in the air that is part of the perception of odor.

"Olfactometer" means a device used in the field to measure or quantify odor or odor intensity, including a scentometer or Nasal Ranger®;

"Ppbv" means parts per billion by volume, a common gas phase compound quantitative unit.

"Ppmv" means parts per million by volume, a common gas phase compound quantitative unit.

"Scentometer" means a measurement device used to quantify odor intensity using a calibration standard.

Sec. 8.38.020 - Odor nuisances prohibited.

- (A) Except as otherwise provided in this Chapter, no person shall cause or knowingly allow to be caused an odor nuisance.
- (B) When a complaint regarding an odor episode is received, an authorized official may contact the complainant, gather specific information regarding the odor episode, and conduct an investigation accordingly. An authorized official may also conduct an investigation in a case where he or she independently perceives the existence of odor that might constitute an odor nuisance. As part of the investigation, the official may attempt to identify and quantify the odor intensity using an olfactometer and may also define or describe the hedonic tone of the odor associated with the odor episode.
- (C) An authorized official may process an odor episode as a public nuisance under Chapter 8.22 if, on a parcel adjacent to or nearby the parcel that is the source of the odor, an objective measurement is made as follows:
- (1) The ambient odor has a persistent odor intensity measured at 7 DT or greater and measured as such at least three times in a forty-eight hour time period; or
 - (2) The existence of hydrogen sulfide or ammonia is measured as follows:
 - (a) Hydrogen sulfide: One hundred ppbv (instantaneous), thirty ppbv (thirty-minute average), ten ppbv (one hour average); or
 - (b) Ammonia: Ten ppmv (instantaneous), three ppmv (thirty-minute average), one ppbv (one hour average).
- (D) An objective measurement that qualifies under Subsection (C) shall be based on appropriate technology, including without limitation the use of olfactometers, instruments that measure the presence of specific chemicals or odorants (such as color-changing tubes and Jerome analyzers), and air monitoring equipment for compounds emitted into the air. An objective measurement that qualifies under Subsection (C) presumptively establishes the existence of an odor nuisance under this Chapter and Chapter 8.22.

Sec. 8.38.030 - Applicability—Exceptions.

(A) Except as otherwise provided in Subsection (B), this Chapter applies to all business locations and non-residential operations within the City, including residential business operations.

(B) This Chapter does not apply to:

- (1) Residential animal husbandry locations or other rural residential sites that include the presence of animals or agricultural operations, but only to the extent they are operating in compliance with all applicable City ordinances.
- (2) Only the food preparation operations of restaurants.
- (3) Regulated natural gas utility operations, including odorized natural gas and the chemicals or products used to achieve the required odorization of natural gas.

Sec. 8.38.040 - Marijuana odor nuisances.

In the case of an odor episode that qualifies under Subsection (D) of Section 8.38.020, where the source of the odor is a marijuana establishment licensed pursuant to Title 5 of the Reno Municipal Code and the operator or owner disagrees with the objective measurement, an authorized official may require the operator or property owner to conduct air monitoring, at the operator's or owner's cost, in accordance with the Code Enforcement Division's procedures manual for testing and measurement of odor, noise and lighting complaints.

SECTION 2. The Reno City Council hereby finds that this ordinance is not subject to the requirements of Chapter 237 of NRS, Business Impact Statement process.

SECTION 3. This Ordinance shall be in effect from and after its passage, adoption and publication in one issue of a newspaper printed and published in the City of Reno.

SECTION 4. The City Clerk and Clerk of the City Council of the City of Reno is hereby authorized and directed to have this Ordinance published in one issue of the Reno-Gazette Journal, a newspaper printed and published in the City of Reno.

PASSED AND ADOPTED this ____ day of _____, 2017, by the following vote of the Council:

AYES: _____
NAYS: _____
ABSTAIN: _____ ABSENT: _____

APPROVED this ____ day of _____, 2017.

MAYOR OF THE CITY OF RENO

ATTEST:

CITY CLERK AND CLERK OF THE CITY COUNCIL
OF THE CITY OF RENO, NEVADA

EFFECTIVE DATE: