



Planning Commission Staff Report

Meeting Date: July 1, 2014

Agenda Item: 10B

Subject: Development Code Amendment Case Number DCA14-006

Applicant: Planning and Development Division

Summary: To amend Washoe County Code, Chapter 110, Development Code, Article 820 (Amendment of Master Plan) to clarify Planning Commission procedures concerning master plan amendments.

Recommendation: **Recommend approval and authorize the Chair to sign the attached resolution.**

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Washoe County
 Commission District: All Commission Districts

Description

PUBLIC HEARING: Development Code Amendment Case Number DCA14-006 (Amendment of Master Plan) – Discussion and possible recommendation to amend Washoe County Development Code Article 820 (Amendment of Master Plan) to clarify Planning Commission procedures for adopting or denying proposed master plan amendments; to change findings of fact required when Planning Commission denies a master plan amendment; to establish the procedures, change voting requirements, and clarify possible actions when a decision of the Planning Commission is appealed to the Board of County Commissioners; to clarify procedures and standards for the Board of County Commissioners when adopting, modifying, or denying Master Plan amendments; to provide for conditional resolutions approving Master Plan Amendments pending conformance review by regional planning commission; to change names and titles to reflect the reorganization of the Community Development Department; and to provide for other matters properly related thereto.

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Development Code Amendments

The Washoe County Development Code is Chapter 110 of the Washoe County Code (WCC). The Development Code broadly regulates allowable and permitted land uses, subdivision of land, planning permit requirements and procedures, signage, infrastructure availability, land use development standards, and other related matters. Because the Development Code covers so many varying aspects of land use and development standards, it is expected that from time to time it may be necessary to change or amend one or more portions of the Development Code to keep it up to date with the most current and desirable trends in planning and development.

The Development Code amendment process provides a method of review and analysis for such proposed changes. Development Code amendments may be initiated by the Washoe County Commission, the Washoe County Planning Commission, or an owner of real property. Development Code amendments are initiated by resolution of the Washoe County Commission or the Planning Commission. Real property owners may submit an application to initiate a Development Code amendment.

After initiation, the Planning Commission considers the proposed amendment in a public hearing. The Planning Commission may recommend approval, approval with modifications or denial of the proposed amendment. The Planning Commission records its recommendation by resolution.

The Washoe County Commission hears all amendments recommended for approval, and amendments recommended for denial upon appeal. The County Commission will hold a first reading and introduction of the ordinance (proposed amendment), followed by a second reading and possible ordinance adoption in a public hearing at a second meeting at least two weeks after the first reading. Unless otherwise specified, ordinances are effective 10 days after adoption.

Background

Over the past few months, staff has discovered that some changes need to be made to Development Code Article 820 (Amendment of Master Plan) in order to comply with Nevada law (including some recent Supreme Court rulings) and correct some procedural flaws in the master plan amendment process and requests that the Planning Commission recommend approval of an ordinance to make the changes.

To resolve these matters, staff proposes the following amendments to Article 820 (Amendment of Master Plan):

1. Definitions.

Add a new Subsection 110.802.02 to define key words used throughout the Code.

2. Applications.

- a. *Modifications to applications.* Amend Section 110.820.05 (Requirements for applications) to provide that an application for a master plan amendment may be modified at any time before final action is taken on it by the Planning Commission, but an amended application package (including a new analysis of the impacts and findings) must be submitted. Applications may also be modified during the review by the Board of County Commissioners but an amended application package (including a new analysis of the impacts and findings) must be submitted and referred to the Planning Commission for action or a report if the modification results in a change of, or addition to, the master plan as adopted by the Planning Commission.
- b. *Neighborhood meetings.* Amend Sections 110.820.05 and 110.820.20 to provide that after an application for a master plan amendment has been submitted and deemed complete by the Director, and before the application is reviewed by the Planning Commission, the applicant must hold a neighborhood meeting as required by NRS 278.210(2). However, the Division shall (at applicant's expense) provide notice of that neighborhood meeting in accordance with law. A report must be submitted to the Planning Commission indicating notice for the meeting and what happened at the meeting, including a summarization of any remarks made.

3. Procedures and findings required for adopting or denying master plan amendments by Planning Commission. Amend Section 110.820.15 to provide that:

- a. *Public Hearing and Comments by Commissioners.* The Planning Commission shall hold at least one public hearing on the proposed amendment and, at the conclusion of public comments, one or more of the Planning Commissioners must comment on the record why he/she believes the proposed amendment should be adopted or denied.
- b. *Adoption* of a master plan amendment must be by resolution approved by a 2/3 vote of the total membership of the Planning Commission and conditioned on the future conformance review of the amendment by the Regional Planning Commission. A person aggrieved by the amendment adoption may either formally appeal to the Washoe County Board of County Commissioners (BCC) or appear at the BCC public hearing.
- c. *Denial.* A proposed amendment is deemed denied:
 - (i) if a motion to adopt it fails to get a 2/3 vote, or
 - (ii) if a motion to deny is approved by a simple majority, or
 - (iii) if a motion to adopt or deny results in a tie vote and the applicant chooses not to continue the matter to another meeting in accordance with Planning Commission Rules, or
 - (iv) if a motion is not made or seconded.

When a proposed amendment is denied, a reason must be given, including discussion by Commissioners of any findings that cannot be made. Written notice of the denial must be given to the applicant who may appeal the action to the Board of County Commissioners.

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- d. *No negative findings.* Eliminate the need to make specific “negative” findings in order to deny a master plan amendment. Under the present code, the Planning Commission is required to make at least three (of a possible six¹) “positive” findings before it can adopt the master plan amendment, or three “negative” findings before it can deny an amendment. So what happens if the Planning Commission cannot do either, or can do both? It’s a dilemma that creates an impossible predicament for County staff, may create a violation of procedural and substantive due process rights for an applicant, and may rob the Board of County Commissioners of the expert guidance it expects from the Planning Commission when considering master plan amendments.

The burden of proof and persuasion is on an applicant who seeks a master plan amendment. The applicant must provide substantial evidence to support at least three required “positive” findings and in doing so will understandably provide to the Planning Commission only positive facts and evidence thus making it unlikely that an application will provide any evidence that would support any negative findings. If the applicant falls short of proving three positive findings, the Commission cannot adopt the amendment, but it cannot deny the amendment unless someone proves up three negative findings. It is unlikely that the applicant will be so motivated, so the burden falls on staff to present substantial evidence supporting three “negative” findings or the Planning Commission becomes hopelessly deadlocked and unable to do its job as gatekeeper of master plan amendments.

This predicament pits County staff against an applicant even if staff supports the amendment, and obligates the County staff to do investigative work it has no resources to do and behind the back of the applicant. If both the applicant and County staff fail in their burdens, the Planning Commission becomes paralyzed and the applicant may be denied his/her constitutional rights to due process (a timely decision) and perhaps also equal protection of the laws.

In deciding land use discretionary approvals, the customary rule (supported by the courts) is to approve them if certain findings can be made, and to deny them if they cannot be made. See *Redrock Valley Ranch v. Washoe County*, 127 Nev. Adv.Op.No. 38 (July 2011) (inability to make a required finding is sufficient grounds to deny a special use permit). Accordingly, the proposed ordinance repeals the requirement for negative findings and retains the required positive findings for approval of master plan amendments so that if three positive findings can be made, then the amendment may be approved, Conversely, if three positive findings cannot be made, the amendment is deemed denied.

¹ The six possible findings, stated in both positive and negative format are listed in WCC 110.820.15(d) and relate to (1) consistency with the master plan, (2) compatibility with adjacent land uses, (3) response to changed conditions, (4) availability of facilities, (5) desired pattern of growth, and (6) effect on a military installation.

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4. Appeals to the Board of County Commissioners: Amend Section 110.820.25 to provide as follows:

- a. *Appeal period starts when written notice is given.* The present rule is that appeals must be filed within ten days from the date of the hearing and decision. However, custom is that actions and decisions must be reduced to writing and filed with the deciding body in order to be “final” for purposes of judicial review or appeal. If the County forces the appellant to file an appeal before the decision is written down, the appeal may be based on faulty memories and hearsay. The action should be adequately memorialized before starting the appeal “clock.” For example, NRS 278.0235 provides that the period for filing judicial review of a zoning decision starts when the decision is written and filed with the clerk of the body that took the action. Staff proposes to mirror that language for appeals of planning commission decisions to the board of county commissioners.
- b. *New procedures and standards when BCC considers appeals.* Amend Section 110.820.25 to provide as follows:
 - (i) 60 day time limit. As required by NRS 278.3195, the BCC must render its decision on the appeal within 60 days from the date of appeal.
 - (ii) Procedures. As required by NRS 278.3195, the proposed ordinance establishes a procedure to be followed on appeals. A written appeal is to be delivered to the County Clerk who must schedule a hearing before the BCC within 60 days. The Director prepares a staff report and a record on appeal and opens the hearing with a brief explanation of the matter being appealed. During hearings, the appellant may be represented by counsel and each party may comment on or refute the evidence. The BCC Chair may administer oaths and make rulings regarding evidence. Public Comment will be heard before a decision is made. When the BCC takes action, the Director prepares a written decision, files it with the BCC and mails a copy to the applicant, which starts the time period for judicial review.
 - (iii) New evidence. The BCC may consider new evidence and materials presented at the public hearing as well as the record of the Planning Commission proceedings, and must (as required by NRS 278.3195) be guided by the principles set out in NRS 278.020.
 - (iv) Actions on appeals where Planning Commission denies a master plan amendment. If the Planning Commission *denies* a master plan amendment and the denial is appealed to the BCC, the BCC may affirm the denial (which is a final decision subject to judicial review) or may reverse the denial and send the proposed amendment (with or without modifications proposed by the BCC) back to the Planning Commission for action or for a report [under NRS 278.220(4)] after which the BCC may take action directly on the amendment.
 - (v) Actions on appeals where Planning Commission adopts master plan amendments. If the Planning Commission *adopts* a master plan amendment and that adoption is appealed to the BCC, the BCC may:
 - (1) affirm the adoption and, if proper notice was given, proceed to adopt the proposed amendment itself;
 - (2) propose a modification to the amendment and send the modification to the Planning Commission for a report, and after receiving the report, take action on the amendment as modified; or,

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(3) reverse the adoption, which is a final action subject to judicial review.

- (vi) Eliminate the 2/3 voting requirement to overrule Planning Commission denials. Section 110.820.30(c)(1) currently requires a 2/3 vote for the BCC to override a Planning Commission's denial of a master plan amendment. The Nevada Supreme Court struck down a similar provision in the Douglas County Code because the 2/3 vote requirement was not authorized by Nevada statute [see *Falke v. Douglas County* 116 Nev.583, 3 P.3d. 661 (2000) (2/3 super majority requirement for board of county commissioners to approve a master plan amendment conflicts with state statute and cannot stand)]. Thus, this provision is proposed to be removed from the Development Code.

5. Board actions on amendments adopted by the Planning Commission. Amend Section 110.820.30 to provide that when the Planning Commission adopts a master plan amendment, it will certify the adopting resolution to the BCC, and the BCC will schedule and notice a public hearing on the adopted amendment, and may take any of the following actions.

- a. *Conditionally adopt* the adopted master plan amendment by resolution approved by a simple majority of the BCC. The resolution would be conditioned on a determination by the Regional Planning Commission that the amendment conforms to the Comprehensive Regional Plan, as explained in item 6 below. If the Regional Planning Commission determines that the proposed amendment conforms to the Comprehensive Regional Plan, the BCC Chair may execute the resolution and it becomes final. This will solve the "chicken or egg" dilemma caused by the requirement that before certain amendments can be adopted by the BCC, they must be reviewed by the Regional Planning Commission, but before the Regional Planning Commission can review them they must be approved by the BCC. This delayed resolution practice was approved in *City of Reno vs. Citizens for Cold Springs* 126 Nev. Ad. Op. 21 (2010).
- b. *Modify* the adopted master plan amendment. If the BCC desires to modify the amendment adopted by the Planning Commission, it must send the proposed modification back to the Planning Commission for a report as required by NRS 278.220 (4). The Planning Commission must submit the report within 90 days after which the BCC may take action on the amendment as modified.
- c. *Deny* the adopted master plan amendment, by failing to pass a motion to adopt the amendment, approving a motion to deny the amendment, or casting a tie vote. If a tie vote occurs, the applicant for the master plan amendment may ask for a new vote on the amendment at the next regular meeting of the BCC when an odd number of commissioners is present. In all cases of denial, at least one County Commissioner must state for the record the reason for his/her vote.

6. Actions upon conformance review by Regional Planning Commission. Amend Section 110.820.40 to provide what happens when conformance review is completed by the Regional Planning Commission.

- a. *Conformance.* If the Regional Planning Commission determines that the adopted master plan amendment conforms to the Comprehensive Regional Plan, the BCC's adopting resolution may be executed by the Chair and becomes a final action by the BCC, subject to judicial review.

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- b. *Non-conformance.* If the Regional Planning Commission determines that the adopted master plan amendment does not conform to the Comprehensive Regional Plan, the BCC's approving resolution may not be executed by the Chair, and the BCC may ask for reconsideration and appeal in accordance with the rules of the Regional Planning Commission and the Regional Governing Board.

7. ***Changes caused by reorganization of the Department of Community Development function.*** There is no longer a Department of Community Development or a Department of Community Development Director, so the Article is proposed to be changed throughout to state Planning and Development Division and Planning and Development Director, where appropriate.

Findings

Washoe County Code Section 110.818.15 requires the Planning Commission to make at least one of the following findings of fact. Staff provides the following evaluation for each of the findings of fact and recommends that the Planning Commission make all four findings in support of the proposed Development Code amendment.

1. The proposed Development Code amendment is in substantial compliance with the policies and action programs of the Washoe County Master Plan.

Staff comment: The proposed ordinance is entirely procedural and deals with subjects not in the master plan, and therefore does not offend any of the policies and action programs.

2. The proposed Development Code amendment will not adversely impact the public health, safety or welfare, and will promote the original purposes for the Development Code as expressed in Article 918, Adoption of Development Code.

Staff comment: None of the substantive land use provisions in the Development Code are changed by the proposed ordinance. Procedures are changed in order to better comply with state law including court decisions, thereby improving substantive and procedural due process rights of citizens of Washoe County.

3. The proposed Development Code amendment responds to changed conditions or further studies that have occurred since the Development Code was adopted by the Board of County Commissioners, and the requested amendment allow for a more desirable utilization of land within the regulatory zones.

*Staff comment: The proposed procedural changes respond to statutory requirements and decisions of the Nevada Supreme Court as explained above such as *Falke v. Douglas County, City of Reno vs. Citizens for Cold Springs, and Redrock Valley Ranch v. Washoe County*, and provide for clarified and streamlined procedures to amend the master plan land use plans.*

4. The proposed Development Code amendment will not adversely affect the implementation of the policies and action programs of the Conservation Element or the Population Element of the Washoe County Master Plan.

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Staff comment: As the ordinance changes procedures only, it does not impact or adversely impact the Conservation or Population Elements of the Washoe County Master Plan.

Public Notice

Notice of this public hearing was published in the newspaper at least 10 days prior to this meeting as required by Washoe County Code Section 110.818.15 and 110.818.20. The Chair and membership of all Citizen Advisory Boards were likewise notified of the public hearing.

Recommendation

Staff recommends that the Planning Commission recommend approval of DCA14-006, to amend the Washoe County Code at Chapter 110, Development Code, at Article 820 (Amendment of Master Plan) to clarify Planning Commission procedures concerning master plan amendments. The following motion is provided for your consideration:

Motion

“After giving reasoned consideration to the information contained in the staff report and information received during the public hearing, I move to recommend approval of DCA14-006, to amend the Washoe County Code at Chapter 110, Development Code, Article 820 (Amendment of Master Plan) to clarify Planning Commission procedures concerning master plan amendments. I further move to authorize the Chair to sign the resolution contained in Exhibit B on behalf of the Washoe County Planning Commission and to direct staff to present a report of this Commission’s recommendation to the Washoe County Commission within 60 days of today’s date. This recommendation for approval is based on all of the following findings in accordance with Washoe County Code Section 110.818.15(e):”

1. The proposed Development Code amendment is in substantial compliance with the policies and action programs of the Washoe County Master Plan.
2. The proposed Development Code amendment will not adversely impact the public health, safety or welfare, and will promote the original purposes for the Development Code as expressed in Article 918, Adoption of Development Code.
3. The proposed Development Code amendment responds to changed conditions or further studies that have occurred since the Development Code was adopted by the Board of County Commissioners, and the requested amendment allow for a more desirable utilization of land within the regulatory zones.
4. The proposed Development Code amendment will not adversely affect the implementation of the policies and action programs of the Conservation Element or the Population Element of the Washoe County Master Plan.

Appeal Process

The Planning Commission’s adoption of the resolution is only a recommendation and final action on the Development Code Amendment will be taken by the Washoe County Board of

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County Commissioners. Persons aggrieved by or objecting to the adoption of the resolution may appear before the Board of County Commissioners and raise objections as a part of the regular process of adopting the proposed ordinance. An appeal is not necessary.

However, an appeal of the Planning Commission's denial of a Development Code amendment may be made to the Washoe County Commission within 15 days after the date of the decision, pursuant to WCC Section 110.818.25. If the end of the appeal period falls on a non-business day, the appeal period shall be extended to include the next business day.

Attachment: Exhibit A, Proposed Code amendments (Ordinance)
Exhibit B, Resolution

xc: Gregory Salter, Esq., District Attorney's Office



RESOLUTION OF THE WASHOE COUNTY PLANNING COMMISSION

RECOMMENDING APPROVAL OF AN ORDINANCE AMENDING WASHOE COUNTY DEVELOPMENT CODE ARTICLE 820 (AMENDMENT OF MASTER PLAN) TO CLARIFY PLANNING COMMISSION PROCEDURES FOR ADOPTING, DENYING OR NOT TAKING ACTION ON A PROPOSED MASTER PLAN AMENDMENT; TO CHANGE FINDINGS OF FACT REQUIRED WHEN PLANNING COMMISSION DENIES A MASTER PLAN AMENDMENT; TO ESTABLISH THE PROCEDURES, CHANGE VOTING REQUIREMENTS, AND CLARIFY POSSIBLE ACTIONS WHEN A DECISION OF THE PLANNING COMMISSION IS APPEALED TO THE BOARD OF COUNTY COMMISSIONERS; TO CLARIFY PROCEDURES AND STANDARDS FOR THE BOARD OF COUNTY COMMISSIONERS WHEN ADOPTING, MODIFYING, OR DENYING MASTER PLAN AMENDMENTS; TO PROVIDE FOR CONDITIONAL RESOLUTIONS APPROVING MASTER PLAN AMENDMENTS PENDING CONFORMANCE REVIEW BY REGIONAL PLANNING COMMISSION; TO CHANGE NAMES AND TITLES TO REFLECT THE REORGANIZATION OF THE COMMUNITY DEVELOPMENT DEPARTMENT; AND TO PROVIDE FOR OTHER MATTERS PROPERLY RELATED THERETO.

Resolution Number 14-

WHEREAS:

- A. Under Section 110.818.05 of the Washoe County Code, the Washoe County Planning Commission adopted Resolution 14-10 to initiate amendments to the Washoe County Development Code Article 820 (Amendment of Master Plan), and an ordinance has been drafted by the District Attorney's Office; and,
- B. The Planning Commission has reviewed and discussed a proposed ordinance at a duly noticed public hearing and believes that the ordinance is worthy of adoption;

NOW THEREFORE BE IT RESOLVED by the Planning Commission of Washoe County:

- A. That based on information contained in the staff report for DCA14-006 at the July 1, 2014 Planning Commission meeting, and information presented and discussed at the public hearing, the Washoe County Planning Commission finds as follows with respect to the proposed ordinance attached as Exhibit A to the staff report:
 1. The proposed Development Code Amendment is in substantial compliance with the policies and action programs of the Washoe County Master Plan.
 2. The proposed Development Code Amendment will not adversely impact the public health, safety or welfare, and will promote the original purposes for the Development Code as expressed in Article 918, Adoption of Development Code.
 3. The proposed Development Code amendment responds to changed conditions or further studies that have occurred since the Development Code was adopted

by the Board of County Commissioners, and the requested amendment allow for a more desirable utilization of land within the regulatory zones.

4. The proposed Development Code amendment will not adversely affect the implementation of the policies and action programs of the Conservation Element or the Population Element of the Washoe County Master Plan.
- B. Based on the foregoing findings, the Washoe County Planning Commission recommends to the Washoe County Board of County Commissioners that it adopt the Ordinance amending Article 820 of the Development Code.

ADOPTED on July 1, 2014

WASHOE COUNTY PLANNING COMMISSION

ATTEST:

Carl R. Webb, Jr. AICP, Secretary

Chairman

WORKING COPY
INFORMATION ONLY

REGULAR TEXT: NO CHANGE IN LANGUAGE

~~STRIKEOUT TEXT: DELETED LANGUAGE~~

BOLD TEXT: NEW LANGUAGE

SUMMARY: *Amends Washoe County Code Chapter 110 (Development Code), Article 820 (Amendment of Master Plan) to establish and clarify procedures and requirements for Planning Commission consideration of Master Plan amendments (including a change in findings required), and for the Board of County Commissioners when considering appeals (including a change of voting requirements) of Planning Commission decisions and when considering Master Plan amendments that have been adopted by the Planning Commission; also changes definitions and terms to reflect the reorganization of the Community Development Department as the Planning and Development Division of the Community Services Department; and provides for matters properly relating thereto.*

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING WASHOE COUNTY CODE CHAPTER 110 (DEVELOPMENT CODE), ARTICLE 820 (AMENDMENT OF MASTER PLAN) TO CLARIFY PLANNING COMMISSION PROCEDURES FOR ADOPTING, DENYING OR NOT TAKING ACTION ON A PROPOSED MASTER PLAN AMENDMENT; TO CHANGE FINDINGS OF FACT REQUIRED WHEN PLANNING COMMISSION DENIES A MASTER PLAN AMENDMENT; TO ESTABLISH THE PROCEDURES, CHANGE VOTING REQUIREMENTS, AND CLARIFY POSSIBLE ACTIONS WHEN A DECISION OF THE PLANNING COMMISSION IS APPEALED TO THE BOARD OF COUNTY COMMISSIONERS; TO CLARIFY PROCEDURES AND STANDARDS FOR THE BOARD OF COUNTY COMMISSIONERS WHEN ADOPTING, MODIFYING, OR DENYING MASTER PLAN AMENDMENTS; TO PROVIDE FOR CONDITIONAL RESOLUTIONS APPROVING MASTER PLAN AMENDMENTS PENDING CONFORMANCE REVIEW BY REGIONAL PLANNING COMMISSION; TO CHANGE NAMES AND TITLES TO REFLECT THE REORGANIZATION OF THE COMMUNITY DEVELOPMENT DEPARTMENT; AND TO PROVIDE FOR OTHER MATTERS PROPERLY RELATED THERETO.

WHEREAS :

- A. Changes to Article 820 (Amendment of Master Plan) of the Washoe County Development Code (Chapter 110) are desired to improve procedures for Master Plan amendments and implement statutory provisions and decisions of the Nevada Supreme Court;
- B. As authorized by Washoe County Code Section 110.818.05, the Washoe County Planning Commission initiated amendments to the Development Code by resolution on April 1, 2014. The amendments and this ordinance were drafted by the District Attorney, and the Planning Commission held a duly noticed public hearing on July 1, 2014, and adopted a resolution recommending adoption of this ordinance.
- C. Following a first reading and publication as required by NRS 244.100 (1), and after a duly noticed public hearing, this Board of County Commissioners desires to adopt this Ordinance; and
- D. This Ordinance is adopted pursuant to the provisions of NRS Chapter 278 (Planning and Zoning) and therefore is not a rule requiring a business impact statement under NRS 239.060;

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WASHOE DOES ORDAIN:

SECTION 1. Section 110.820.02 of the Washoe County Code is hereby added to read as follows:

Section 110.820.02 Definitions

- (a) **“Board” means the Board of County Commissioners.**
- (b) **“Commission” means the Planning Commission.**
- (c) **“Director” means the Director of the Division or the person or persons designated by the Director to do the action.**
- (d) **“Division” means the Planning and Development Division of the Department of Community Services for Washoe County.**
- (e) **“Secretary” means the Secretary to the Planning Commission.**

SECTION 2. Section 110.820.00 of the Washoe County Code is hereby amended to read as follows:

Section 110.820.00 Purpose. The purpose of this article, Article 820, Amendment of Master Plan, is to provide for the method for amending the Master Plan, **including** ~~Requests to change a master plan designation affecting a parcel of land, or a portion of a parcel, are processed under Article 820, Amendment of Master Plan.~~

[Amended by Ord. 873, provisions eff. 6/7/93; Ord. 1447, provisions eff. 9/9/10.]

SECTION 3. Section 110.820.05 of the Washoe County Code is hereby amended to read as follows:

Section 110.820.05 Requirements for Application.

- (a) **Timing of Amendments.** Each element and each area plan of the Master Plan may be amended by the Board of County Commissioners no more than four ~~(4)~~ times per calendar year. Applications for Master Plan amendments shall only be accepted in January, May and September of each calendar year. Specific dates within these months shall be determined by the Director of ~~Community Development~~. For the purposes of this article, the restriction on the number of times that the Master Plan may be amended does not restrict the number of applications that may be submitted, but only refers to the number of times each component of the Master Plan may be modified by the Board of County Commissioners. The restriction on the number of times the Master Plan may be amended does not apply to:
 - ~~(1) —~~ **Minor amendments to the Master Plan as defined in Section 110.820.70.**
- (b) **Initiation of Amendments.** A Master Plan amendment may be initiated by the Board of County Commissioners or the Planning Commission through resolution. An owner of real property or the property owner's authorized agent may initiate an amendment through an application filed with the ~~Department of Community Development Division~~. **Citizen advisory boards established by the Board may petition the Commission to initiate an amendment.** The Director of ~~Community Development~~ may initiate a minor amendment as defined in NRS 278.225 and **Section 110.820.70**. ~~Citizen advisory boards established by the Board of County Commissioners may petition the Planning Commission to initiate an amendment.~~
- (c) **Frequency of Amendment.** Only the Board of County Commissioners or Planning Commission may initiate an amendment of the Master Plan for a parcel within twelve (12) months after an amendment on that parcel has been approved or denied.
- (d) **Completeness.** No Master Plan amendment shall be processed until the information necessary to review and decide upon the proposed Master Plan amendment is deemed complete by the Director of ~~Community Development~~. The Director shall make this determination within three (3) working days of receipt of an application.
- (e) **Neighborhood Meeting.** **Before the application is submitted to the Planning Commission for a public hearing, the applicant must conduct a neighborhood meeting as required in Section 110.820.20, and the materials submitted to the Commission must include a report of the noticing for the meeting and comments received during the meeting.**
- (f) **Referral to Planning Commission.** **Following the neighborhood meeting, the Director shall prepare a report and recommendations and submit the application to the Commission.**

[Amended by Ord. 873, provisions eff. 6/7/93; Ord. 1156, provisions eff. 3/22/02; Ord. 1288, provisions eff. 3/24/06; Ord. 1447, provisions eff. 9/9/10.]

SECTION 4. Section 110.820.10 of the Washoe County Code is hereby amended to read as follows:

Section 110.820.10 Supplemental Guidelines, Standards and Criteria. In addition to the standards and findings set forth in the Development Code, the Director of ~~Community Development~~ may prepare supplemental guidelines for the submission of applications and minimum standards and criteria for approval applications.

[Amended by Ord. 873, provisions eff. 6/7/93.]

SECTION 5. Section 110.820.15 of the Washoe County Code is hereby amended to read as follows:

Section 110.820.15 Review Procedures. The Planning Commission shall review a Master Plan amendment in conformance with this section.

- (a) ~~General Provisions. The Planning Commission shall conduct at least one (1) public hearing with notification for the purpose of receiving oral and written evidence relative to the application. The evidence shall be reviewed to determine if the proposed amendment is internally consistent with existing policies and standards of the Master Plan. The Planning Commission shall adopt, modify or deny the application based on the results of this review.~~ **Notice and Hearing; Comments by Planning Commissioners. The Commission shall hold at least one (1) public hearing on a Master Plan amendment and may hold more in its discretion, especially if modifications are proposed at a public hearing and an amended application is required. Notice for each public hearing shall be given in accordance with Section 110.820.23. Following the public hearing, at least one (1) Commissioner shall state for the record his/her comments on the proposed amendment and which findings under Section 110.820.15 (d) that he/she can or cannot make.**
- (b) ~~Concurrent Processing of Applications. If a proposed project requires more than one (1) application under the provisions of the Development Code, the applications may be filed at the same time and processed concurrently. If more than one review authority is involved, the Director of Community Development shall determine the sequence for action by the review authorities.~~
- (c) ~~Action. The Planning Commission may take action to adopt the resolution to amend the Master Plan or deny the Master Plan amendment request. Adoption of the Master Plan amendment shall be by resolution of the Planning Commission carried by the affirmative votes of not less than two-thirds (2/3) of the membership. The resolution shall refer expressly to the maps, descriptive matter, or other matter intended by the Planning Commission to constitute the amendment. The action taken must be recorded on the map, plan, and descriptive matter by the identifying signatures of the secretary and chairman of the Planning Commission.~~ **do any of the following:**
 - (1) **Adopt the Amendment. The amendment may be adopted by resolution which must be approved by an affirmative vote of at least two-thirds (2/3) of the Commission's total membership. The resolution shall refer expressly to the maps, descriptive matter or other matter intended by the**

Commission to constitute the amendment, must include all the required findings, and shall be conditioned on:

- (i) Adoption of the amendment by the Board, and
- (ii) A determination by the Truckee Meadows Regional Planning Commission or, if required, the Tahoe Regional Planning Agency, as the case may be, that the amendment conforms to the applicable regional plan.

The action taken must be recorded on the map, plan, and descriptive matter with the signatures of the Chairman and Secretary to the Commission. A copy of the resolution shall be certified and sent to the Board, a copy shall be sent to the applicant and any other person who requests a copy, and a copy shall be date stamped and filed with the Secretary to the Commission. Adoption of a Master Plan amendment by the Commission is a final action subject to appeal to the Board, but failure to appeal does not preclude an aggrieved person from appearing before the Board when it considers the Master Plan amendment.

- (2) Deny the Amendment. A denial is deemed to occur when any of the following occurs. Each such denial is appealable to the Board but is not a final action subject to judicial review:

- (i) A motion to adopt the amendment fails to receive the required votes for adoption. In this case, each member of the Commission should comment for the record the reason behind his/her vote and which findings could or could not be made. The statements will be included in the record if appealed to the Board.

- (ii) A motion to deny the amendment is approved by a majority of the members of the Commission present at the meeting. The motion must state the reason for the denial and which findings cannot be made. If there is a disagreement on the reason for denial or which findings cannot be made, each Commissioner should comment on the reason and state which finding he/she cannot make, and the motion may state that it is based on the individual comments.

- (iii) A motion to adopt or deny the amendment results in a tie vote and the applicant elects not to continue the matter under Planning Commission Rules. In this case, each member of the Commission should comment for the record the reason behind his/her vote and which findings could or could not be made. The statements will be included in the record if appealed to the Board.

- (iv) No motion is made and seconded. In this case, since no action has been taken by the Commission, if it is appealed to the Board, it will be heard de novo by the Board. Individual Planning Commissioners may comment on the application for the record, but it is not required.

- (3) Written notice of any denial shall be sent to the applicant by regular mail or electronic communication if authorized by the applicant, and a copy shall be date stamped and filed with the Secretary to the Commission. The denial may be appealed to the Board.

- (d) Findings. When making its recommendation to the Board of County Commissioners for adoption, modification of **adopting** an amendment or denial, the Planning Commission shall make all required findings contained in the area plan for the planning area in which

the property that is the subject of the Master Plan amendment is located and, at a minimum, make at least three (3) of the following findings of fact unless a military installation is required to be noticed, then in addition to the above, a finding of fact pursuant to subsection (6) shall also be made:

- (1) Consistency with Master Plan.
 - (i) Approval: The proposed amendment is in substantial compliance with the policies and action programs of the Master Plan.
 - ~~(ii) Denial: The proposed amendment is not in substantial compliance with the policies and action programs of the Master Plan.~~
- (2) Compatible Land Uses.
 - (i) Approval: The proposed amendment will provide for land uses compatible with (existing or planned) adjacent land uses, and will not adversely impact the public health, safety or welfare.
 - ~~(ii) Denial: The proposed amendment would result in land uses which are incompatible with (existing or planned) adjacent land uses, and would adversely impact the public health, safety or welfare.~~
- (3) Response to Change Conditions.
 - (i) Approval: The proposed amendment responds to changed conditions or further studies that have occurred since the plan was adopted by the Board of County Commissioners, and the requested amendment represents a more desirable utilization of land.
 - ~~(ii) Denial: The proposed amendment does not identify and respond to changed conditions or further studies that have occurred since the plan was adopted by the Board of County Commissioners, and the requested amendment does not represent a more desirable utilization of land.~~
- (4) Availability of Facilities.
 - (i) Approval: There are or are planned to be adequate transportation, recreation, utility, and other facilities to accommodate the uses and densities permitted by the proposed Master Plan designation.
 - ~~(ii) Denial: There are not nor are planned to be adequate transportation, recreation, utility, and other facilities to accommodate the uses and densities permitted by the proposed Master Plan designation.~~
- (5) Desired Pattern of Growth.
 - (i) Approval: The proposed amendment will promote the desired pattern for the orderly physical growth of the County and guides development of the County based on the projected population growth with the least amount of natural resource impairment and the efficient expenditure of funds for public services.
 - ~~(ii) Denial: The proposed amendment does not promote the desired pattern for the orderly physical growth of the County. The proposed amendment does not guide development of the County based on the projected population growth with the least amount of natural resource impairment and the efficient expenditure of funds for public services.~~
- (6) Effect on a Military Installation.

- (i) ~~Approval:~~ The proposed amendment will not affect the location, purpose and mission of the military installation.
- (ii) ~~Denial:~~ The proposed amendment will affect the location, purpose and mission of the military installation.
- (g) ~~Effect of Planning Commission Denial:~~ In the event the Planning Commission denies a Master Plan amendment application, that action is final unless appealed to the Board of County Commissioners.

[Amended by Ord. 873, provisions eff. 6/7/93; Ord. 1347, provisions eff. 11/2/07; Ord. 1447, provisions eff. 9/9/10.]

SECTION 6. Section 110.820.20 of the Washoe County Code is hereby amended to read as follows:

Section 110.820.20 Notice of Neighborhood Meeting. ~~When applicable~~ If the proposed amendment applies to a particular area of land, a neighborhood meeting shall be noticed and conducted in accordance with this section.

- (a) **Notice and Meeting.** ~~The~~ County shall ~~require~~ **provide notice (at applicant's expense) and the applicant shall conduct** a neighborhood meeting ~~to be held in~~ accordance with the provisions of Nevada Revised Statutes **NRS 278.210(2)** as amended. The purpose of the neighborhood meeting is for the person who requested the proposed amendment to provide an explanation of the proposed amendment. **A report on the neighborhood meeting shall be given to the Commission in the staff report for the public hearing on the proposed amendment.**
- (b) **Compliance with Noticing Requirements.** Owners of all real property to be noticed pursuant to this section shall be those owners identified on the latest County Assessor's ownership maps and records. Such notice is complied with when notice is sent to the last known addresses of such real property owners as identified in the latest County Assessor's records. Any person who attends the public hearing shall be considered to be legally noticed unless those persons can provide evidence that they were not notified according to the provisions of this section.

[Added by Ord. 1288, provisions eff. 3/24/06. Amended by Ord. 1447, provisions eff. 9/9/10.]

SECTION 7. Section 110.820.23 of the Washoe County Code is hereby amended to read as follows:

Section 110.820.23 Notice. Public Notice for a Master Plan amendment shall be given **by the Commission** in accordance with the provisions of Nevada Revised Statutes **(NRS) 278.210(1)**, ~~as amended~~ **and by the Board in accordance with NRS 278.220 (3).** The published notice shall give the date, time and place of the hearing, which provisions in the Master Plan are being considered for amendment, the areas that will be affected by the amendment(s), a brief description of the proposed amendment, and a statement that the Commission/Board may adopt the proposed amendment, may significantly modify the proposed amendment and adopt it as modified, or may deny the proposed amendment after the public hearing without further notice.

- (a) ~~Compliance with Noticing Requirements.~~ Owners of all real property to be noticed pursuant to this section shall be those owners identified on the latest County Assessor's

~~ownership maps and records. Such notice is complied with when notice is sent to the last known addresses of such real property owners as identified in the latest County Assessor's records. Any person who attends the public hearing shall be considered to be legally noticed unless those persons can provide evidence that they were not notified according to the provisions of this section.~~

[Amended by Ord, 873, provisions eff. 6/7/93; Ord. 1088, provisions eff. 1/28/00; Ord. 1156, provisions eff. 3/22/02; Ord. 1288, provisions eff. 3/24/06; Ord. 1347, provisions eff. 11/2/07; Ord. 1447, provisions eff. 9/9/10.]

SECTION 8. Section 110.820.25 of the Washoe County Code is hereby amended to read as follows:

Section 110.820.25 Appeal of Denial. A denial action of the Planning Commission made pursuant to this article may be appealed **person who is aggrieved by a decision of the Commission on a Master Plan amendment may appeal to the Board** in accordance with the provisions of this section.

- (a) Appeal Period. An appeal of the Planning Commission's denial of a Master Plan amendment request may be made to the Board of County Commissioners within ten (10) days after the date of the decision **must be filed with the Division not later than close of business of the tenth calendar day after the Resolution or written notice is filed with the Secretary to the Commission.** If the end of the appeal period falls on a non-business day, the appeal period shall be extended to include the next business day.
- (b) Who Can Appeal. Appeals may be filed by any aggrieved person as defined in Nevada Revised Statutes 278.3195 as amended **Section 110.910.02, unless otherwise defined by a Nevada Court in applying NRS 278.3195.**
- (c) Appeal Filing. An appeal shall be filed with the Director of Community Development, accompanied by a filing fee. The appeal shall be in writing and state the basis of the appeal by citing the inadequacy of the findings made by the Planning Commission. Such reasons shall be based upon the evidence presented to the Planning Commission at the original hearing. ~~Failure of the appellant to present such reasons shall be deemed cause for denial of the appeal~~ **reasons why the appellant believes that the Commission erred and should be overturned.** The Director shall review the appeal within three (3) working days and if the Director determines that the information in the appeal is incomplete, the Director shall notify the appellant and the appellant shall have ten (10) days to resubmit the appeal.
- (d) Action on Appeal. ~~The appeal of the Planning Commission's denial of a Master Plan amendment request shall be processed pursuant to this article~~ **Scheduling of Hearing before Board.** When an appeal is deemed complete by the Director, a copy of the appeal shall be immediately delivered to the County Clerk who shall schedule a public hearing on the appeal at the next available regular meeting of the Board consistent with scheduling policies and practices, but not later than sixty (60) days from the date that the appeal is received by the County Clerk. The public hearing may be delayed by agreement with the appellant, and the appeal may be withdrawn by the appellant at any time. The Director shall prepare a staff report including a copy of all material submitted to the Commission, a report on the hearing and proceedings from the recording, a copy of the appeal material, and a discussion of the appeal process including possible motions. The Director's report may include recommendations. A copy shall be given to the appellant as soon as it is prepared.

- (e) **Action Deadline.** As required by NRS 2678.3195(2), the Board must take final action on the appeal within sixty (60) days from the filing of the appeal with the County Clerk.
- (f) **Hearing Procedures.** During the hearing:
- (1) The appellant may be represented by counsel.
 - (2) The Chair may decide evidence issues before or at the hearing, and may administer oaths. Any one or combination of the Nevada Rules of Evidence may be used as a guideline at the discretion of the Chair.
 - (3) The Director shall first explain the nature of the appeal, and what happened at the Commission hearing, the findings of the Commission, and the evidence supporting those findings. The Appellant shall be given an opportunity to respond and present his/her viewpoints.
 - (4) Each party shall be afforded an opportunity to comment and rebut the evidence. Questions of witnesses shall be conducted through the Chair.
 - (5) Public Comment will be heard before the Board moves into deliberation on the appeal.
- (g) **Decision by the Board.** The Board shall consider the appeal based on the record submitted and testimony and materials submitted at the public hearing. As required by NRS 278.3195(2)(f), the Board shall be guided by the statement of purpose underlying the regulation of improvement of land expressed in NRS 278.020 and other applicable provisions in NRS Chapter 278.
- (1) The Board may affirm, modify or reverse the decision of the Commission, as explained in the subsections (h) and (i) below and may make its decisions based on its own interpretations of the findings, evidence and law.
 - (2) Decisions of the Board shall be by motion which must be approved by a simple majority of the total membership of the Board. The motion shall state the reasons for the motion. For the record, Board members should discuss their individual thoughts, conclusions and reasons.
 - (3) Decisions on appeals under this Section 110.820.25 are separate and independent from actions to adopt an amendment under Section 110.820.30. When the Board takes final action on an appeal, the Director shall prepare written notice thereof and shall file the notice with the County Clerk and mail a copy to the applicant. The filing with the County Clerk starts the time period for filing for a judicial review of the Board's action.
 - (4) As provided below, after taking final action on the appeal, the Board may then commence to consider adopting the proposed amendment under Section 110.820.30. If a judicial review is sought on the Board's decision on an appeal, then proceedings are suspended until the judicial review is completed.
- (h) **Appeals of the Planning Commission's Denial of a Proposed Amendment.** When considering an appeal of the Commission's denial of a proposed amendment, the Board may:
- (1) **Affirm the Commission's denial.** This would be a final decision subject to judicial review.
 - (2) **Reverse the Commission's denial.** This would be a final decision subject to judicial review. The Board may schedule a hearing to consider adopting

the amendment under Section 110.820.30, but since a certified resolution has not been submitted by the Commission under NRS 278.210(6) and NRS 278.220(1), the Board must first send the proposed amendment (with any modifications desired by the Board) to the Commission for a report as required by NRS 278.220(4) and Section 110.820.35.

- (i) Appeals of the Planning Commission's Adoption of a Proposed Amendment. When considering an appeal of the Commission's adoption of a proposed amendment, the Board may:
- (1) Affirm the Commission's Adoption. This would be a final decision subject to judicial review. The Board may directly proceed to consider adoption of the amendment in accordance with NRS 278.220 and Section 110.820.30. If proper notice has been given, as provided in Section 110.820.23 by the Board, the adoption of the amendment may be considered at the same meeting when the appeal is heard.
 - (2) Modify the Commission's Adoption. The Board may consider modifying and approving the amendment adopted by the Commission, but must first send the proposed modification to the Commission for a report as required by NRS 278.220(4) and Section 110.820.35, and conducting a public hearing as required by NRS 278.220(3). The subsequent adoption/denial of the modified amendment is a final action subject to judicial review.
 - (3) Reverse the Commission's Adoption. This would be a final action subject to judicial review, and no further action can be taken on the proposed amendment by the Board unless the Board desires to modify the proposed amendment as provided next above.

[Amended by Ord. 873, provisions eff. 6/7/93; Ord. 1447, provisions eff. 9/9/10.]

SECTION 9. Section 110.820.30 of the Washoe County Code is hereby amended to read as follows:

Section 110.820.30 Action by Adoption of Master Plan Amendments by the Board of County Commissioners. After the Planning Commission has adopted a proposed Master Plan amendment under Section 110.820.15 or filed a report as required by Section 110.820.25, the Board of County Commissioners shall review a Master Plan amendment for possible adoption in accordance with the provisions of this section.

- (a) Time Period for Public Hearing. The County Clerk of the Board of County Commissioners shall schedule a public hearing before the Board of County Commissioners on the appeal of a denial or recommendation of approval by the Planning Commission within sixty (60) days of the filing of the appeal or receipt of the Planning Commission's action.
- (b) Notice of Hearing. The public hearing shall be noticed as required by this article **Section 110.820.23.**
- (c) Board of County Commissioners' Action. The Board shall consider the recommendations, findings and reports of the Commission, and as authorized under NRS 278.220(1) may adopt any Master Plan amendment that the Board determines can practicably be applied to the development of the County within a reasonable period of time. Upon a motion to adopt or deny an approving resolution, members of the Board should individually discuss the reasons for their

vote and which findings by the Commission can be affirmed, modified, or rejected by the Board.

- (d) **Adoption by the Board.** The Board may adopt the Master Plan amendment by resolution approved by a majority of the total membership of the Board. The resolution shall refer expressly to the maps, descriptive matter or other matter intended by the Board to constitute the amendment. The resolution shall be referred for conformance review in accordance with Section 110.820.40. The resolution is not considered as a final action until a favorable conformance review is received, the resolution is executed by the Chair and the County Clerk, and a copy is date stamped and filed with the County Clerk.
- (e) **Modification/adoption.** If the Board desires to modify a Master Plan amendment from what was adopted by the Commission, it must first send the modified amendment to the Commission for a report as required by NRS 278.220(4) and Section 110.820.35. If the Board desires to adopt the Master Plan amendment as modified, it shall do so by resolution approved by a majority of the total membership of the Board. The resolution shall be referred for conformance review as provided in Section 110.820.40 and is not considered as a final action until a favorable conformance review is received, the resolution is executed by the Chair and County Clerk, and a copy is date stamped and filed with the County Clerk.
- (f) **Deny the amendment.** A denial is deemed to occur when any of the following events occurs. Each such denial is a final action subject to judicial review:
- ~~(1) If the Board of County Commissioners is considering an appeal from a denial of a Master Plan amendment request, it may use the record and any additional evidence relative to the application and may confirm or reverse the denial based upon its interpretation of the findings required and the evidence submitted. Final action to approve the amendment shall require a two-thirds (2/3) vote of the total membership of the Board.~~
- (1) A motion to adopt the amendment fails to receive the required votes for adoption. In this case, each member of the Board should comment for the record the reason behind his/her vote and which findings could or could not be made. The statements will be included in the record on appeal if judicial review is sought.
- ~~(2) If the Board of County Commissioners is considering a recommendation of approval, it may take final action to adopt the Master Plan amendment as recommended by the Planning Commission if no modification of the Planning Commission's recommendation is proposed. Final action to approve the amendment shall require a simple majority vote of the total membership of the Board.~~
- (2) A motion to deny the amendment is approved by a majority of the Board. The motion must state the reason for the denial and which findings cannot be made. If there is a disagreement on the reason for denial or which findings cannot be made, each Board member should comment on the reason and state which finding he/she cannot make, and the motion may state that it is based on the individual comments.
- ~~(3) If the Board of County Commissioners proposes to modify the recommendation of approval from the Planning Commission, the proposed modification shall be referred to the Planning Commission for consideration. The Planning Commission shall not be required to hold a public hearing on the modification. The Planning Commission shall submit a report on the proposed modification to the Board of County Commissioners within ninety (90) days from the date of~~

~~referral by the Board of County Commissioners. Failure to report shall be deemed a recommendation of approval. Prior to making a final decision, the Board of County Commissioners shall be required to conduct a public hearing and notice this hearing pursuant to this article. If the Planning Commission does not recommend approval of the modification, approval of the proposed modification shall require a two thirds (2/3) vote of the total membership of the Board.~~

- (3) **A motion to adopt or deny the amendment results in a tie vote. In this case, the applicant may ask to have the application reheard at the next regular meeting of the Board where an odd numbered of commissioners may be present. If the applicant does not request a rehearing, each member of the Board should comment for the record the reason behind his/her vote and which findings could or could not be made.**
- (4) **No motion is made, seconded or voted upon. If the matter is not tabled or continued to another date, this would be a final action subject to judicial review or other judicial proceeding.**
- ~~(4) The final action by the Board of County Commissioners shall be final for purposes of judicial review~~

- (g) **Written notice of any denial shall be sent to the applicant by regular mail or electronic communication if authorized by the applicant, and a copy shall be date stamped and filed with the County Clerk. The time period for commencing an action for judicial review starts when the resolution or notice is filed with the County Clerk.**

[Amended by Ord. 873, provisions eff. 6/7/93; Ord. 1156, provisions eff. 3/22/02; Ord. 1447, provisions eff. 9/9/10.]

SECTION 10. Section 110.820.35 of the Washoe County Code is hereby amended to read as follows:

Section 110.820.35 Written Record Report by the Planning Commission. ~~When taking final action on the Planning Commission's recommendation, the Board of County Commissioners shall make part of the record their affirmation, modification or rejection of the findings of fact provided in the Planning Commission's final recommendation, as well as any other findings of fact that the Board of County Commissioners deems to be relevant. If a modification to a proposed Master Plan amendment is referred to the Commission for a report under NRS 278.220(4), the Commission is not required to hold a public hearing on the modification and shall submit a report within ninety (90) days from the date of referral. Failure by the Commission to submit a report within ninety (90) days shall be deemed as a recommendation of approval.~~

SECTION 11. Section 110.820.40 of the Washoe County Code is hereby amended to read as follows:

Section 110.820.40 Projects of Regional Significance Referral for Conformance Review. ~~A As required by applicable law, a resolution adopting a Master Plan amendment that meets one of the thresholds for a project of regional significance as described in Article 812, Projects of Regional Significance, shall require additional review as set forth in that article before a final approval is effective~~

be submitted to the Truckee Meadows Regional Planning Commission or the Tahoe Regional Planning Agency, as applicable, for appropriate conformance review.

- (a) If the reviewing agency determines that the proposed amendment conforms to the comprehensive regional plan, the adopting resolution shall be executed by the Chair and filed with the County Clerk which constitutes final action on the amendment.
- (b) If the reviewing agency determines that the proposed amendment does not conform to the comprehensive plan, the matter shall be immediately referred to the Board to ask for reconsideration or appeal. If the non-conformance determination by the reviewing agency becomes a final determination, the non-conforming amendment is deemed denied by the Board without prejudice. The Board may initiate a new amendment under Section 110.820.05(c) and direct the Division to receive a new application.

[Amended by Ord. 1447, provisions eff. 9/9/10.]

SECTION 12. Section 110.820.45 of the Washoe County Code is hereby amended to read as follows:

Section 110.820.45 Effective Date. A Master Plan amendment shall become effective upon signing of the adopting resolution by the Board of County Commission Chairman after a determination by the **Truckee Meadows Regional Planning Commission or the Tahoe Regional Planning Agency** that the amendment is in conformance with the **applicable Regional Plan**. **The resolution is deemed a final action when executed and a copy is filed with the County Clerk.**

[Amended by Ord. 1447, provisions eff. 9/9/10.]

SECTION 13. Section 110.820.50 of the Washoe County Code is hereby amended to read as follows:

Section 110.820.50 One Year Wait on Denials. **Except as provided in Section 110.820.05 (c),** After the denial of a Master Plan amendment, no application for a Master Plan amendment for the same or similar amendment may be accepted for one (1) year immediately following the denial. This section shall not apply to applications denied without prejudice, which may be refiled within one (1) year.

[Amended by Ord. 1447, provisions eff. 9/9/10.]

SECTION 14. Section 110.820.55 of the Washoe County Code is hereby amended to read as follows:

Section 110.820.55 Modifications of a Master Plan Amendment. ~~Proposed modifications of an approved Master Plan amendment shall require a new application following the same procedure required for the initial application.~~

- (a) **At Planning Commission.** An application for a Master Plan amendment may be amended or modified at any time by the applicant before final action is taken on it by the Commission. However, unless otherwise directed by the Director for minor modifications, an amended application package must be submitted with all exhibits and a full analysis of the impacts and findings as a new application. The Director may also charge additional fees based on the need for noticing and staff

review of the amended application package. Unless otherwise directed by the Commission, new public hearings will be held on modified Master Plan amendments.

- (b) If the Commission has already adopted a Master Plan amendment and a subsequent modification is being considered by Board, unless otherwise directed by the Board, an amended application package must be submitted with all exhibits and a full analysis of the impacts and findings as a new application. If the modification includes a new change or addition to the master plan, the Board must either send the amended application back through the Commission proceedings, or request a report as allowed by NRS 278.220(4) and Section 110.820.30(e).

[Amended by Ord. 1447, provisions eff. 9/9/10.]

SECTION 15. Section 110.820.60 of the Washoe County Code is hereby amended to read as follows:

Section 110.820.60 Moratorium by the Board of County Commissioners. The Board of County Commissioners may declare a moratorium on the acceptance and processing of planning applications and/or issuance of building permits for a specific geographical area and for a specified length of time for the purposes of preparing an amendment to the Master Plan.

- (a) Initiation. Only the Board of County Commissioners or the Planning Commission through resolution may initiate the process for declaring a moratorium for this purpose. If the Board of County Commissioners initiates the process to declare a moratorium, it shall refer the matter to the Planning Commission for a recommendation. A moratorium of no more than ninety (90) days shall exist from the date of approval of a resolution.
- (b) Planning Commission Hearing. The Planning Commission shall conduct a public hearing within sixty (60) days after it has resolved to declare a moratorium or within sixty (60) days from the date of referral by the Board of County Commissioners.
- (c) Notice of Planning Commission Hearing. Notice of the date, time and place of the public hearing shall be published in a newspaper of general circulation in Washoe County not less than ten (10) days prior to the date of the public hearing to be conducted by the Planning Commission. Such notice shall describe why the moratorium is being proposed, what the proposed moratorium shall affect, the area that is affected by the moratorium, the anticipated length of time of the moratorium, and other pertinent information in such a manner that the moratorium and its effects can be clearly identified.
- (d) Planning Commission Recommendation. After completion of the public hearing by the Planning Commission, it may recommend that the Board of County Commissioners approve a moratorium, modify the extent and area of the moratorium, or that the moratorium not be imposed. A recommendation to declare a moratorium shall require a simple majority vote of the entire membership of the Planning Commission.
- (e) Findings. When making its recommendation for approval or modification, the Planning Commission shall, at a minimum, make the following findings of fact:
- (1) The moratorium is necessary to promote the health, safety and welfare of the area described in the moratorium declaration;
 - (2) The moratorium is necessary to permit the staff, Planning Commission, Board of County Commissioners and public to focus on the efficient and effective preparation of an amendment to the Master Plan; and

- (3) The moratorium is necessary because continued development during the proposed moratorium period possibly would result in development that may conflict with the plan amendment.
- (f) Planning Commission Report. Within sixty (60) days of the action by the Planning Commission, a report describing the proposed moratorium, discussion at the public hearing, and the action and vote by the Planning Commission shall be transmitted to the Board of County Commissioners. Failure to report within the time limit provided in this subsection or failure to schedule a hearing within sixty (60) days of the date of referral of the matter by the Board of County Commissioners to the Planning Commission shall constitute a recommendation not to declare a moratorium.
- (g) Board Hearing. The **County** Clerk of the Board of County Commissioners shall schedule a public hearing before the Board of County Commissioners within thirty (30) days of receipt of the report describing the Planning Commission's action.
- (h) Notice of Board Hearing. Notice of the date, time and place of the public hearing shall be published in a newspaper of general circulation in Washoe County not less than ten (10) days prior to the public hearing date. Such notice shall describe why the moratorium is being proposed, what the proposed moratorium shall affect, the area that is affected by the moratorium, the anticipated length of time of the moratorium, and other pertinent information in such a manner that the moratorium and its effects can be clearly identified.
- (i) Required Vote. After completion of the public hearing by the Board of County Commissioners, it may declare a moratorium by a simple majority vote of its entire membership. The final action of the Board of County Commissioners shall be considered final for purposes of judicial review.
- (j) Affirmation of Findings. In declaring a moratorium, the Board of County Commissioners shall, at a minimum, affirm the findings of fact contained in the Planning Commission's recommendation or, if the Planning Commission did not make these findings, shall, at a minimum, make the findings of fact in subsection (e) of this section.
- (k) Period in Effect. A moratorium declared by the Board of County Commissioners shall be in effect for a period of no less than ninety (90) days and no more than one hundred and eighty (180) days from the date that the Board of County Commissioners takes action on the recommendation of the Planning Commission. The Board of County Commissioners may extend the moratorium, upon an affirmation of findings as required under (j) hereinabove, for two (2) additional consecutive periods before holding another public hearing pursuant to the provisions of this section.

[Amended by Ord. 1156, provisions eff. 3/22/02; Ord. 1447, provisions eff. 9/9/10.]

SECTION 16. Section 110.820.65 of the Washoe County Code is hereby amended to read as follows:

Section 110.820.65 Certification by Electronic Means. Adopted Master Plan maps may be certified by the Director of ~~Community Development~~ as true and accurate originals and copies through an electronic signature.

[Added by Ord. 1156, provisions eff. 3/22/02; Ord. 1447, provisions eff. 9/9/10.]

SECTION 17. Section 110.820.70 of the Washoe County Code is hereby amended to read as follows:

Section 110.820.70 Minor Amendment of Master Plan.

- (a) Purpose of Minor Amendment. The purpose of the minor amendment section is to provide a streamlined process for adopting changes to the Master Plan that do not have a substantive effect on the intent of the plan.
- (b) Requirements for Inclusion. To qualify as a minor amendment under this section, the change must be:
 - (1) A change in a boundary that is based on a geographical feature, including, without limitation, topography, slopes, hydrographic features, wetland delineation and floodplains, when evidence is produced that the mapped location of the geographical feature is in error;
 - (2) A change made to reflect the alteration of the name of a jurisdiction, agency, department or district by the governing body, governing board or other governing authority of the jurisdiction, agency, department or district, as applicable, or by another entity authorized by law to make such an alteration; and
 - (3) An update of statistical information that is based on a new or revised study.
- (c) Administrative Process.
 - (1) Initiating the Process. The Director of ~~Community Development~~ shall have the sole authority to initiate a minor amendment to the Master Plan.
 - (2) Transmittal to Board of County Commissioners. Upon making the findings required under subsection (d) of this section, the Director of ~~Community Development~~ shall forward the minor amendment to the Board of County Commissioners.
- (d) Findings.
 - (1) The Director of ~~Community Development~~ must find that the proposed technical revision meets one of the conditions enumerated under section (b).
 - (2) The Director of ~~Community Development~~ must also find that the proposed minor amendment is consistent with all of the following:
 - (i) Nevada Revised Statutes;
 - (ii) The Truckee Meadows Regional Plan; and
 - (iii) The Washoe County Master Plan.
- (e) Action by Board of County Commissioners. The Board of County Commissioners shall review proposed minor amendments to the Master Plan in conformance with this section.
 - (1) Time Period for Hearing. The **County** Clerk of the ~~Board of County Commissioners~~ shall schedule a public hearing before the Board of County Commissioners on the recommendation of approval by the Director of ~~Community Development~~ of a minor amendment to the Master Plan within thirty ~~(30)~~ days of the filing of the recommended minor amendment with the **County** Clerk of the ~~Board of County Commissioners~~.
 - (2) Notice of Public Hearing of Minor Amendment to the Master Plan. The notice of the public hearing on the minor amendment shall be provided as follows:
 - (i) Notice to Planning Commission and Citizen Advisory Boards. A notice setting forth the date, time and place of the public hearing on the minor amendment to the Master Plan shall be sent either by mail, or if requested by a Commission member or Citizen Advisory Board (“CAB”) member, by electronic means if receipt of such an electronic notice can

~~be verified~~ **communication if authorized by the recipient**, to every member of the Washoe County Planning Commission and of the affected CAB not less than ten (10) days prior to the scheduled public hearing on the minor amendment. The notice shall describe the proposed minor amendment to the Master Plan, including the specific language and other pertinent information, in such a manner that the proposed minor amendment to the Master Plan and its effect(s) can be clearly identified. Any objections or comments from members of the Planning Commission or CAB must be provided to the Director of ~~Community Development~~ or the Board of ~~County Commissioners~~ no later than the date of the public hearing on the minor amendment.

- (ii) Notice to General Improvement District. A notice setting forth the date, time and place of the public hearing on the minor amendment to the Master Plan shall be sent either by mail, or if requested by a general improvement district, by electronic means if receipt of such an electronic notice can be verified, to the chief operating officer of the general improvement district not less than ten (10) days prior to the scheduled public hearing on the minor amendment. The notice to the general improvement district shall describe the proposed minor amendment to the Master Plan, including the specific language and other pertinent information, in such a manner that the proposed minor amendment to the Master Plan and its effect(s) can be clearly identified. Any objections or comments from a general improvement district must be provided to the Director of ~~Community Development~~ or the Board of County Commissioners no later than the date of the public hearing on the minor amendment.
- (iii) Notice in Newspaper. A notice setting forth the date, time and place of the public hearing shall be published in a newspaper of general circulation in Washoe County not less than ten (10) days prior to the public hearing date. The notice shall describe the proposed minor amendment to the Master Plan and other pertinent information in such a manner that the Master Plan amendment request and its effect(s) can be clearly identified.
- (iv) Notice of Property Owners by Mail. For a minor amendment pursuant to subsection (b) (1), a notice setting forth the time, place, purpose of hearing, map or physical description of the land involved, existing and proposed land use designations, and a brief summary of the proposed change shall be sent by mail at least ten (10) days before the public hearing on the minor amendment to the following persons:
 - (1) All owners of real property that are the subject of the minor amendment;
 - (2) All owners of real property within seven hundred fifty (750) feet of the property which is the subject of the minor amendment; and
 - (3) All tenants of any mobile home park that is located within seven hundred fifty (750) feet of the property which is the subject of the minor amendment.
 - (4) The commander or administrator of a military installation, as defined in Article 902, that is within three thousand (3,000) feet of the property which is the subject of the minor amendment.
- (3) Board of County Commissioners' Action. The Board of County Commissioners may take final action to adopt or deny the minor amendment to the Master Plan.

Final action to approve the technical revision shall require a simple majority vote of the total membership of the Board.

[Added by Ord. 1288, provisions eff. 3/24/06. Amended by Ord. 1347, provisions eff. 11/2/07; Ord. 1447, provisions eff. 9/9/10.]

SECTION 18. General Terms.

1. All actions, proceedings, matters, and things heretofore taken, had and done by the County and its officers not inconsistent with the provisions of this Ordinance are ratified and approved.

2. The Chairman of the Board and officers of the County are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance. The District Attorney is authorized to make non-substantive edits and corrections to this Ordinance.

3. All ordinances, resolutions, bylaws and orders, or parts thereof, in conflict with the provisions of this Ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw or order, or part thereof, heretofore repealed.

4. This Ordinance shall be in effect after it is signed by the Chair of the Board of County Commissioners, attested by the County Clerk and published by title as required by NRS 244.100.

5. Each term and provision of this Ordinance shall be valid and shall be enforced to the extent permitted by law. If any term or provision of this Ordinance or the application thereof shall be deemed by a court of competent jurisdiction to be in violation of law or public policy, then it shall be deemed modified, ipso facto, to bring it within the limits of validity or enforceability, but if it cannot be so modified, then the offending provision or term shall be excised from this Ordinance. In any event, the remainder of this Ordinance, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected.

Passage and Effective Date (DCA14-006, Amendment of Master Plan)

This Ordinance was proposed on _____ by Board Member
_____.

This Ordinance was passed on _____.

Those voting "aye" were _____.

Those voting "nay" were _____.

Those absent were _____.

Those abstaining were _____.

David Humke, Chairman
County Commission

ATTEST:

Nancy Parent, County Clerk

This Ordinance shall be in force and effect immediately upon the date of the second publication as required by NRS 244.100, which is _____.

Master Plan Amendments

DCA14-006

Applications

- Modifications to Applications
 - At Planning Commission
 - Can be made any time before adoption
 - Amended Application with new analysis may be required and new public hearings may be required
 - At Board of County Commissioners
 - Can be made at any time before adoption
 - Amended application with new analysis may be required
 - Must send to Planning Commission for report

Neighborhood Meetings

- If MPA applies to a particular area of land.
- Must be before PC Presentation
- Division will provide notice at applicant's expense.
- Applicant must conduct
- Report to Planning Commission

Actions by Planning Commission

- **Adopt**

- By 2/3 vote, conditioned on BCC adoption and conformance review

- **Deny**

- Motion to approve does not get 2/3 vote
- Motion to deny approved by simple majority
- Tie Vote & Applicant doesn't want to postpone
- No motion made or voted on.

- Either action appealable to BCC. Commissioners should discuss their vote

Findings by Planning Commission

- Present Code requires 3 positive findings to adopt or 3 negative findings to deny
 - Consistency with Master Plan
 - Compatible Land Uses
 - Response to changed conditions
 - Availability of facilities
 - Desired Pattern of Growth
 - Effect on Military Installation
- New code:
 - If Three positive findings can be made ⇨ Adopt
 - If three positive findings cannot be made ⇨ Deny

Notice of Public Hearings

- By Planning Commission
 - Publish in newspaper per (NRS 278.210 (1))
- By Board of County Commissioners
 - Publish in newspaper per NRS 278.220 (3).
- Contents of Notice

Appeals to Board of Commissioners

- Any aggrieved person may appeal any decision (adopt or deny)
- Must appeal within 10 days from date written notice is mailed and filed with Secretary. Extra 10 days if appeal is incomplete
- County Clerk schedules hearing.
- Final action must be made within 60 days.
- New hearing procedures

Appeals to Board of Commissioners

- BCC decides by simple majority vote.
- Appeal of PD *adoption* of MPA, BCC can:
 - **Affirm** PC's adoption and proceed to adopt the MPA
 - **Modify** PC's adoption: must send to PC for report, then can adopt as modified.
 - **Reverse** PC's adoption. Final action

Appeals to Board of Commissioners

- Appeal of PC *denial* of MPA, BCC can:
 - **Affirm** PC's denial. Final Action.
 - **Reverse** PC's denial.
 - Must send it back to PC for a report (may modify)
 - Then can schedule public hearing to adopt.
- All BCC actions subject to judicial review.

Adoption of MPA by Board

- PC must adopt and certify to Board first.
- By simple majority vote, Board can:
- **Adopt** all or part of proposed MPA, and refer to Regional Planning Commission for conformance review.
- **Modify** the MPA, but must refer to PC for report, then can adopt and refer to RPC.
- **Deny** MPA. Final action.

Referral to Planning Commission for Report

- NRS 278.220 (4) – No change in or addition to master plan adopted by PC may be made without first referring to PC for a report.
- Revised WCC Section 110.820.35
 - No public hearing required
 - PC must act within 90 days or deemed approved by PC

Regional Conformance Review

- Board adoption subject to conformance review. (Chairman does not sign resolution)
- If RPC determines that the MPA conforms, BCC Chairman signs adopting resolution.
- If RPC determines that MPA does not conform
 - BCC decides whether to appeal to RPGB
 - Chair does not sign resolution & MPA denied without prejudice.

New Definitions

- Community Development Department ⇒ Planning & Development Division.
- Director ⇒ Division Director or designee.

Findings to adopt DCA

- Substantial Compliance with Master Plan
- Will not adversely impact public health, safety or welfare and will promote original purpose of Development Code.
- Responds to changed conditions.
- Will not adversely affect the implementation of Conservation Element & Population elements of MP.

Motion to Recommend Approval

- See Page 8 of Staff Report
- Appeal Procedure
 - Aggrieved person may appeal to BCC within 15 days or may just appear at BCC when it considers the PC recommendation.