



Planning Commission Staff Report

Meeting Date: September 5, 2017

Subject: Development Code Amendment Case Number WDCA17-0004

Applicant: Planning and Building Division

Agenda Item Number: 8B

Summary: To initiate an amendment and subsequently amend Washoe County Code Section 110.310.35(g), *Temporary Occupancy for the Care of the Infirm*, to allow more flexibility within the standards governing where the caregiver or infirm person may live.

Recommendation: Initiate the amendment, and recommend approval and authorize the Chair to sign the attached resolution

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Washoe County
Commission District: All Commission Districts

Description

Development Code Amendment Case Number WDCA17-0004 (Temporary Occupancy for Care of the Infirm) – For possible action, hearing and discussion to initiate an amendment to Washoe County Code Chapter 110 (Development Code) within Article 310, *Temporary Uses and Structures*, to update the standards within Section 110.310.35(g), *Temporary Occupancy for the Care of the Infirm*; and other matters necessarily connected therewith and pertaining thereto. The Code currently allows for temporary occupancy of a recreational vehicle (RV) or travel trailer by a person who provides care to an infirm resident of a single-family dwelling. The proposed update eliminates the requirement that it be the caregiver who temporarily occupies the RV or travel trailer and instead allows either the caregiver or the infirm person to occupy the RV or travel trailer.

If the proposed amendment is initiated, public hearing and further possible action to deny or recommend approval of the proposed amendment and, if approval is recommended, to authorize the Chair to sign a resolution to that effect.

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Development Code Amendments

The Washoe County Development Code is Chapter 110 of the Washoe County Code. 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 Board of Commissioners (Board), the Washoe County Planning Commission (PC), or an owner of real property. Development Code amendments are initiated by resolution of the Board or the PC. Real property owners may submit an application to initiate a Development Code amendment.

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

The Board hears all amendments recommended for approval, and amendments recommended for denial upon appeal. The Board 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

Washoe County Code (WCC) Section 110.310.35(g) currently allows for the temporary occupancy of a recreational vehicle (RV) or fully contained travel trailer by person(s) who provide care to an infirm resident of a single-family dwelling, subject to the issuance of an Administrative Permit. The Code is specific in that it is the caregiver, not the person with an infirmity, who may reside in the RV or travel trailer.

Washoe County recently received an application for this temporary use type. However, it is the infirm person who is seeking permission to live in his RV on his caregivers' property, and the Code does not currently allow for this arrangement. Staff recognizes that the Code should offer flexibility in this regard, and is therefore requesting this Development Code amendment. The proposed update eliminates the requirement that it be the caregiver who temporarily occupies

the RV or travel trailer, and permit either the caregiver or the infirmed person to temporarily occupy the RV or travel trailer.

Staff believes that there would be a negligible difference in the impact of whether it is the caregiver or infirmed person who resides in the RV or travel trailer. Any overall impacts of the use would be reviewed and addressed during the Administrative Permit review process.

The proposed amendment is described below and also included with the Resolution (Attachment A).

Proposed Amendment

As proposed, this Development Code amendment would update Article 310, *Temporary Uses*, by eliminating the requirement that it be the caregiver who temporarily resides in the RV or travel trailer. The complete existing and proposed language for Section 110.310.35(g) is below. New text is bold red. Deleted text is shown in strikethrough. For example: **New text.** ~~Deleted text.~~

- (g) Temporary Occupancy for the Care of the Infirm. One self-contained travel trailer or recreational vehicle may be **temporarily** occupied as a legal use ~~for person(s) responsible when it is necessary~~ for the care of an infirm resident ~~of on-site.~~ **This use is reserved for properties containing a permanent single-family dwelling occupied by either the infirm person or the person responsible for the care of the infirm person. The self-contained travel trailer or recreational vehicle may be occupied by either the infirm person or the person responsible for the care of the infirm person.** Prior to the establishment of this use, the requirements of Article 808, Administrative Permits, must be satisfied. The administrative permit application shall include a signed affidavit from a Nevada licensed physician identifying the need for such on-premise care. The administrative permit must be renewed on an annual basis to ensure that the need for such on-premise care still exists. The travel trailer or recreational vehicle shall be located on the parcel to provide as much screening as practical from being viewed from the street. No discharge of any litter, sewage, effluent or other matter shall occur except into sanitary facilities designed to dispose of the material. Any temporary utility connections shall be to the satisfaction of the **Washoe County Health District and the Building Program of the Planning and Safety Building** Division.

Findings

WCC Section 110.818.15(e) requires the PC make at least one of the following findings of fact for approval of the amendment. Staff provides the following evaluation for each of the findings and recommends that the PC make all four findings in support of the proposed amendment.

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

Staff comment: The Master Plan establishes policies governing uses on properties in Washoe County, which are then regulated through the Development Code. These specific amendments are in alignment with appropriate Master Plan policies and will allow for flexibility in the living arrangements associated with temporary occupancies for care of the infirm.

2. Promotes the Purpose of the Development Code. 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: The proposed amendment will provide for flexibility in the living arrangements between an infirm individual and his or her caregiver(s). It will not adversely impact the health, safety or welfare of the public. Additionally, an Administrative Permit will still be required for this use, which will ensure appropriate conditions of approval are placed to mitigate impacts to neighboring properties.

3. Response to Changed Conditions. 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 changed conditions to which this amendment responds are related to the recognition that an infirm individual needing a caregiver to live on-site may desire options in terms of living arrangements. This amendment would provide flexibility needed in those situations where perhaps the infirm individual has a friend or family member willing to provide temporary care at their own property, but where it is not desired or feasible to reside in the same structure. Additionally, with the current scarcity of affordable housing in the region, it is not reasonable to assume that individuals needing an on-site caregiver are already owners of a single-family dwelling.

The proposed amendment would allow for a more desirable use of the land by eliminating the restriction that only the caregiver can reside in the RV/travel trailer. This would provide the infirm individual the option to remain in their own RV or travel trailer if desired, and work out the specifics of the living arrangements directly with their caregiver.

4. No Adverse Affects. 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.

Staff comment: The Conservation Element and the Population element are not impacted by this proposed amendment.

Public Notice

Pursuant to WCC Section 110.818.20, notice of this public hearing was published in the newspaper at least 10 days prior to this meeting, and the Chair and membership of all Citizen Advisory Boards were likewise notified of the public hearing.

Recommendation

It is recommended that the PC initiate and subsequently recommend approval of WDCA17-0004, to amend the Development Code within Article 310, *Temporary Uses and Structures* as described in this staff report. The following motions are provided for the PC's consideration:

Motions

Initiation

I move that, after giving reasoned consideration to the information contained in the staff report and received during the public hearing, the Washoe County Planning Commission initiate the amendment of Washoe County Code Chapter 110 within Article 310, *Temporary Uses and Structures*, as described in the staff report for WDCA17-0004.

Amendment

I move that, after giving reasoned consideration to the information contained in the staff report and received during the public hearing, the Washoe County Planning Commission recommend approval of WDCA17-0004, to amend Washoe County Code Chapter 110 within Article 310, *Temporary Uses and Structures*. I further move to authorize the Chair to sign the resolution contained in Attachment A on behalf of the Planning Commission and to direct staff to present a report of this Commission's recommendation to the Washoe County Board of Commissioners within 60 days of today's date. This recommendation for approval is based on all of the following four findings in accordance with Washoe County Code Section 110.818.15(e):

1. Consistency with Master Plan. The proposed Development Code amendment is in substantial compliance with the policies and action programs of the Washoe County Master Plan;
2. Promotes the Purpose of the Development Code. 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. Response to Changed Conditions. 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; and,
4. No Adverse Affects. 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

An appeal of the Planning Commission's denial of a Development Code amendment may be made to the Washoe County Board of Commissioners within 10 calendar days from the date that the Planning Commission's decision is filed with the Secretary to the Planning Commission, pursuant to WCC Sections 110.818.25 and 110.912.20.

Staff Report and Action Order xc: David M. Solaro, Assistant County Manager
 Nathan Edwards, Deputy District Attorney



RESOLUTION OF THE WASHOE COUNTY PLANNING COMMISSION

INITIATING AND RECOMMENDING APPROVAL OF AN AMENDMENT TO WASHOE COUNTY CODE CHAPTER 110 (DEVELOPMENT CODE) WITHIN ARTICLE 310, *TEMPORARY USES AND STRUCTURES*, TO UPDATE THE STANDARDS WITHIN SECTION 110.310.35(G), *TEMPORARY OCCUPANCY FOR THE CARE OF THE INFIRM*; AND OTHER MATTERS NECESSARILY CONNECTED THEREWITH AND PERTAINING THERETO. THE CODE CURRENTLY ALLOWS FOR TEMPORARY OCCUPANCY OF A RECREATIONAL VEHICLE (RV) OR TRAVEL TRAILER BY A PERSON WHO PROVIDES CARE TO AN INFIRM RESIDENT OF A SINGLE-FAMILY DWELLING. THE PROPOSED UPDATE ELIMINATES THE REQUIREMENT THAT IT BE THE CAREGIVER WHO TEMPORARILY OCCUPIES THE RV OR TRAVEL TRAILER AND INSTEAD ALLOWS EITHER THE CAREGIVER OR THE INFIRM PERSON TO OCCUPY THE RV OR TRAVEL TRAILER.

Resolution Number 17-08

WHEREAS

- A. Washoe County Code Section 110.818.05 requires that amendments to the Washoe County Code Chapter 110 (Development Code) be initiated by resolution of the Washoe County Board of Commissioners or the Washoe County Planning Commission; and
- B. The Washoe County Planning Commission initiated amendments to the Washoe County Code Chapter 110 (Development Code) Article 310, *Temporary Uses and Structures*, on September 5, 2017 as fully described in Attachment A-1 to this resolution; and
- C. Development Code Amendment Case Number WDCA17-0004, came before the Washoe County Planning Commission for a duly noticed public hearing on September 5, 2017; and
- D. The Washoe County Planning Commission gave reasoned consideration to the information it received regarding the proposed Development Code Amendment; and
- E. Whereas, pursuant to Washoe County Code Section 110.818.15(e), the Washoe County Planning Commission made the following findings necessary to support its recommendation for adoption of the proposed Development Code amendment Case Number WDCA17-0004:
 - 1. Consistency with Master Plan. The proposed amendment is in substantial compliance with the policies and action programs of the Washoe County Master Plan;
 - 2. Promotes the Purpose of the Development Code. 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. Response to Changed Conditions. 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; and,
4. No Adverse Affects. 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.

NOW, THEREFORE, BE IT RESOLVED that pursuant to Washoe County Code Sections 110.818.05(a) and 110.818.15(d) and (g):

- 1) The Washoe County Planning Commission does hereby initiate and recommend approval of WDCA17-0004 as set forth in Attachment A-1 to this resolution to amend Washoe County Code Chapter 110 (Development Code) within Article 310, *Temporary Uses and Structures*, to update the standards within Section 110.310.35(g), *Temporary Occupancy for the Care of the Infirm*; and other matters necessarily connected therewith and pertaining thereto. The Code currently allows for temporary occupancy of a recreational vehicle (RV) or travel trailer by a person who provides care to an infirm resident of a single-family dwelling. The proposed update eliminates the requirement that it be the caregiver who temporarily occupies the RV or travel trailer and instead allows either the caregiver or the infirm person to occupy the RV or travel trailer.
- 2) A report describing this amendment, discussion at this public hearing, this recommendation, and the vote on the recommendation will be forwarded to the Washoe County Board of Commissioners within 60 days of this resolution's adoption date.

ADOPTED on September 5, 2017.

WASHOE COUNTY PLANNING COMMISSION

ATTEST:

Carl R. Webb, Jr., AICP, Secretary

Sarah Chvilicek, Chair

DRAFT: August 21, 2017

WORKING COPY
INFORMATION ONLY

REGULAR TEXT: NO CHANGE IN LANGUAGE

~~STRIKEOUT TEXT: DELETE LANGUAGE~~

BOLD TEXT: NEW LANGUAGE

Notice: Per NRS 239B.030, this document does not contain personal information as defined in NRS 603A.040

Summary: *Amends the Development Code by updating the standards within Section 110.310.35(g), Temporary Occupancy for the Care of the Infirm, to allow more flexibility within the standards governing where the caregiver or infirm person may live.*

BILL NO. _____

ORDINANCE NO. _____

Title:

An ordinance amending the Washoe County Code at Chapter 110 (Development Code), within Article 310, *Temporary Uses and Structures*, to update the standards within Section 110.310.35(g), *Temporary Occupancy for the Care of the Infirm*; and other matters necessarily connected therewith and pertaining thereto. The Code currently allows for temporary occupancy of a recreational vehicle (RV) or travel trailer by a person who provides care to an infirm resident of a single-family dwelling. The proposed update eliminates the requirement that it be the caregiver who temporarily occupies the RV or travel trailer and instead allows either the caregiver or the infirm person to occupy the RV or travel trailer.

WHEREAS:

- A. This Commission desires to amend Article 310 of the Washoe County Code Chapter 110 (Development Code) in order to update the standards within Section 110.310.35(g), *Temporary Occupancy for the Care of the Infirm* and,
- B. This Commission adopted Ordinance No. XXXX and,

- C. The Washoe County Planning Commission initiated the proposed amendments to Washoe County Code Chapter 110 (Development Code) by Resolution Number 17-08 on September 5, 2017; and,
- D. The amendments and this ordinance were drafted in concert with the District Attorney, and the Planning Commission held a duly noticed public hearing for WDCA17-0004 on September 5, 2017, and adopted Resolution Number 17-08 recommending adoption of this ordinance; and,
- E. Following a first reading and publication as required by NRS 244.100 (1), and after a duly noticed public hearing, this Commission desires to adopt this Ordinance; and,
- F. This Commission has determined that this ordinance is being adopted pursuant to requirements set forth in Chapter 278 of NRS, therefore it is not a "rule" as defined in NRS 237.060 requiring a business impact statement.

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

SECTION 1. Section 110.310.35(g) of the Washoe County Code is hereby amended to read as follows:

- (g) Temporary Occupancy for the Care of the Infirm. One self-contained travel trailer or recreational vehicle may be **temporarily** occupied as a legal use ~~for person(s) responsible when it is necessary~~ for the care of an infirm resident ~~of on-site.~~ **This use is reserved for properties containing a permanent single-family dwelling occupied by either the infirm person or the person responsible for the care of the infirm person. The self-contained travel trailer or recreational vehicle may be occupied by either the infirm person or the person responsible for the care of the infirm person.** Prior to the establishment of this use, the requirements of Article 808, Administrative Permits, must be satisfied. The administrative permit application shall include a signed affidavit from a Nevada licensed physician identifying the need for such on-premise care. The administrative permit must be renewed on an annual basis to ensure that the need for such on-premise care still exists. The travel trailer or recreational vehicle

shall be located on the parcel to provide as much screening as practical from being viewed from the street. No discharge of any litter, sewage, effluent or other matter shall occur except into sanitary facilities designed to dispose of the material. Any temporary utility connections shall be to the satisfaction of the **Washoe County Health District and the Building Program of the Planning and Safety Building** Division.

SECTION 2. 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. 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.

DRAFT: August 21, 2017

Passage and Effective Date

Proposed on _____ (month) _____ (day), 2017.

Proposed by Commissioner _____.

Passed on _____ (month) _____ (day), 2017.

Vote:

Ayes:

Nays:

Absent:

Robert Lucey, Chair
County Commission

ATTEST:

Nancy Parent, County Clerk

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