

City of Carson City
Agenda Report

Item # 11

Date Submitted: June 12, 2007

Agenda Date Requested: June 21, 2007

Time Requested: 20 minutes

To: Mayor and Supervisors

From: Parks and Recreation Department

Subject Title: Action to introduce on first reading, Bill No. _____, an ordinance amending the Carson City Municipal Code Title 17, by establishing Chapter 17.18 Landscape Maintenance Districts and repealing section 17.01.020, City Maintenance. Section 17.18.010, establishes the Purpose; section 17.18.020, establishes Authority; section 17.18.030, establishes Definitions; section 17.18.040, establishes Parks Director's Responsibilities; section 17.18.050, establishes Procedures for Applying to Create a Maintenance District; section 17.18.060, establishes Procedures for Review of Maintenance District Petitions; section 17.18.070, establishes Procedures for Establishment of the Board Approved Maintenance District; section 17.18.080, establishes Determination of Benefit and Cost Allocations Between Assessed Property and City; section 17.18.090, establishes Assessments; section 17.18.110, establishes Allocation of Public Money to Pay the Costs Incurred by Carson City in Assuming Maintenance; section 17.18.111, establishes Review and Dissolution of Maintenance District; and section 17.18.112, establishes Appeal Procedures.

Staff Summary: Nevada Revised Statutes 278.4787 requires that the City adopt an ordinance to consider approval of petitions to create a Landscape Maintenance District submitted by developers who propose to divide land in Carson City for transfer or development into four or more lots. An existing section of the Carson City Municipal Code, section 17.01.020, provides for a developer to petition the City to maintain landscaping, public lighting and security walls. However, NRS 278.4787 requires that the ordinance also permit the City to assume the maintenance of trails, parks and open space. Additionally, the existing provisions of section 17.01.020 do not establish the procedures through which the City will review a petition. Pursuant to the provisions established by this ordinance, the petitions request the City to assume the maintenance of all of the required improvements located on the land. This proposed ordinance also establishes the procedures for making such requests and, if approved, for establishing and administering maintenance districts within Carson City.

Type of Action Requested: (check one)

Resolution

Ordinance - First Reading

Formal Action/Motion

Other (Specify)

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to introduce on first reading of Bill No. _____, an ordinance amending the Carson City Municipal Code Title 17, by establishing Chapter 17.18 Landscape Maintenance Districts and repealing section 17.01.020, City Maintenance. Section 17.18.010, establishes the Purpose; section 17.18.020, establishes Authority; section 17.18.030, establishes Definitions; section 17.18.040, establishes Parks Director's Responsibilities; section 17.18.050, establishes Procedures for Applying to Create a Maintenance District; section 17.18.060, establishes Procedures for Review of Maintenance District Petitions; section 17.18.070, establishes Procedures for Establishment of the Board Approved Maintenance District; section 17.18.080, establishes Determination of Benefit and Cost Allocations Between Assessed Property and City; section 17.18.090, establishes Assessments; section 17.18.110, establishes Allocation of Public Money to Pay the Costs Incurred by Carson City in Assuming Maintenance; section 17.18.111, establishes Review and Dissolution of Maintenance District; and section 17.18.112, establishes Appeal Procedures.

Explanation for Recommended Board Action: The Board of Supervisors, pursuant to Carson City Municipal Code, is required to take final action on all code amendments. The proposed ordinance was brought to the Board of Supervisors for its first reading on April 5, 2007. During discussion at this meeting, the Board had several concerns, and staff responded by making changes. The revised ordinance was brought back to the Board for first reading and was approved at their April 19, 2007 meeting. After the first reading of the ordinance, representatives from the building industry expressed concerns. As a result, the Board approved rejection of the second reading of the ordinance during their May 17, 2007 meeting, and directed staff to work with the building industry regarding their concerns. This has resulted in significant changes to the ordinance. The ordinance has been revised and it now is being brought back for re-introduction of it's first reading. The Parks and Recreation Commission reviewed the current revised ordinance during their June 19, 2007 meeting.

Applicable Statute, Code, Policy, Rule or Regulation: Nevada Revised Statutes 278.4787

Fiscal Impact: N/A


Explanation of Impact: N/A

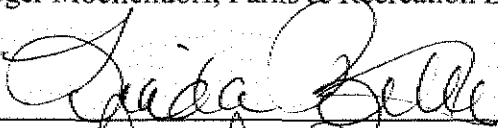
Funding Source: N/A

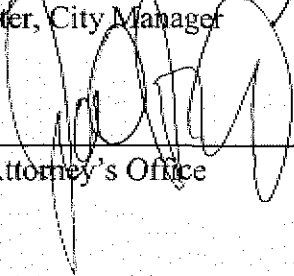
Alternatives: 1) Deny the ordinance
2) Refer the matter back to staff for further work.

Supporting Material:

Nevada Revised Statutes: Chapter 278, NRS 278.4787 Assumption of maintenance by governing body. "Revised Draft 5/22/07, Title 17 Chapter 17.18 Landscape Maintenance Districts."

Prepared By:  **Date:** 6/12/07
Roger Moellendorf, Parks & Recreation Director

Reviewed By:  **Date:** 6/12/07
Linda Ritter, City Manager

 **Date:** 6/12/07
District Attorney's Office

Board Action Taken:

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

(Vote Recorded By)

NRS 278.4787 Assumption of maintenance by governing body.

1. Except as otherwise provided in subsection 5, a person who proposes to divide land for transfer or development into four or more lots pursuant to NRS 278.360 to 278.460, inclusive, or chapter 278A of NRS, may, in lieu of providing for the creation of an association for a common-interest community, request the governing body of the jurisdiction in which the land is located to assume the maintenance of one or more of the following improvements located on the land:

(a) Landscaping;

(b) Public lighting;

(c) Security walls; and

(d) Trails, parks and open space which provide a substantial public benefit or which are required by the governing body for the primary use of the public.

2. A governing body shall establish by ordinance a procedure pursuant to which a request may be submitted pursuant to subsection 1 in the form of a petition, which must be signed by a majority of the owners whose property will be assessed and which must set forth descriptions of all tracts of land or residential units that would be subject to such an assessment.

3. The governing body may by ordinance designate a person to approve or disapprove a petition submitted pursuant to this section. If the governing body adopts such an ordinance, the ordinance must provide, without limitation:

(a) Procedures pursuant to which the petition must be reviewed to determine whether it would be desirable for the governing body to assume the maintenance of the proposed improvements.

(b) Procedures for the establishment of a maintenance district or unit of assessment.

(c) A method for:

(1) Determining the relative proportions in which the assumption of the maintenance of the proposed improvements by the governing body will:

(I) Benefit the development or subdivision in which the improvements are located; and

(II) Benefit the public;

(2) Assessing the tracts of land or residential units in the development or subdivision to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements, in the proportion that such maintenance will benefit the development or subdivision in which the improvements are located; and

(3) Allocating an amount of public money to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements, in the proportion that such maintenance will benefit the public.

(d) Procedures for a petitioner or other aggrieved person to appeal to the governing body a decision of the person designated by the governing body by ordinance adopted pursuant to this subsection to approve or disapprove a petition.

4. If the governing body does not designate by an ordinance adopted pursuant to subsection 3 a person to approve or disapprove a petition, the governing body shall, after receipt of a complete petition submitted at least 120 days before the approval of the final map for the land, hold a public hearing at least 90 days before the approval of the final map for the land, unless otherwise waived by the governing body, to determine the desirability of assuming the maintenance of the proposed improvements. If the governing body determines that it would be undesirable for the governing body to assume the maintenance of the proposed improvements, the governing body shall specify for the record its reasons for that determination. If the governing body determines that it would be desirable for the governing body to assume the maintenance of the proposed improvements, the governing body shall by ordinance:

(a) Determine the relative proportions in which the assumption of the maintenance of the proposed improvements by the governing body will:

(1) Benefit the development or subdivision in which the improvements are located; and

(2) Benefit the public.

(b) Create a maintenance district or unit of assessment consisting of the tracts of land or residential units set forth in the petition or include the tracts of land or residential units set forth in the petition in an existing maintenance district or unit of assessment.

(c) Establish the method or, if the tracts or units are included within an existing maintenance district or unit of assessment, apply an existing method for determining:

(1) The amount of an assessment to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements. The amount of the assessment must be determined in accordance with the proportion to which such maintenance will benefit the development or subdivision in which the improvements are located.

(2) The time and manner of payment of the assessment.

(d) Provide that the assessment constitutes a lien upon the tracts of land or residential units within the maintenance district or unit of assessment. The lien must be executed, and has the same priority, as a lien for property taxes.

(e) Prescribe the levels of maintenance to be provided.

(f) Allocate to the cost of providing the maintenance the appropriate amount of public money to pay for that part of the maintenance which creates the public benefit.

(g) Address any other matters that the governing body determines to be relevant to the maintenance of the improvements, including, without limitation, matters relating to the ownership of the improvements and the land on which the improvements are located and any exposure to liability associated with the maintenance of the improvements.

5. If the governing body requires an owner of land to dedicate a tract of land as a trail identified in the recreation plan of the governing body adopted pursuant to paragraph (j) of subsection 1 of NRS 278.160, the governing body shall:

(a) Accept ownership of the tract; and

(b) Assume the maintenance of the tract and any other improvement located on the land that is authorized in subsection 1.

6. The governing body shall record, in the office of the county recorder for the county in which the tracts of land or residential units included in a petition approved pursuant to this section are located, a notice of the creation of the maintenance district or unit of assessment that is sufficient to advise the owners of the tracts of land or residential units that the tracts of land or residential units are subject to the assessment. The costs of recording the notice must be paid by the petitioner.

7. The provisions of this section apply retroactively to a development or subdivision with respect to which:

(a) An agreement or agreements between the owners of tracts of land within the development or subdivision and the developer allow for the provision of services in the manner set forth in this section; or

(b) The owners of affected tracts of land or residential units agree to dissolve the association for their common-interest community in accordance with the governing documents of the common-interest community upon approval by the governing body of a petition filed by the owners pursuant to this section.

(Added to NRS by 1997, 3009; A 2001, 744)

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE TITLE 17, ESTABLISHING CHAPTER 17.18 LANDSCAPE MAINTENANCE DISTRICTS. SECTION 17.18.010, ESTABLISHES THE PURPOSE; SECTION 17.18.020, ESTABLISHES AUTHORITY; SECTION 17.18.030, ESTABLISHES DEFINITIONS; SECTION 17.18.040, ESTABLISHES PARKS DIRECTOR'S RESPONSIBILITIES; SECTION 17.18.050, ESTABLISHES PROCEDURES FOR APPLYING TO CREATE A MAINTENANCE DISTRICT; SECTION 17.18.060, ESTABLISHES PROCEDURES FOR REVIEW OF DISTRICT PETITIONS; SECTION 17.18.070, ESTABLISHES PROCEDURES FOR ESTABLISHMENT OF THE BOARD APPROVED MAINTENANCE DISTRICT; SECTION 17.18.080, ESTABLISHES DETERMINATION OF BENEFIT AND COST ALLOCATIONS BETWEEN ASSESSED PROPERTY AND CITY; SECTION 17.18.090, ESTABLISHES ASSESSMENTS; SECTION 17.18.110, ESTABLISHES ALLOCATION OF PUBLIC MONEY TO PAY THE COSTS INCURRED BY CARSON CITY IN ASSUMING MAINTENANCE; SECTION 17.18.111, ESTABLISHES REVIEW AND DISSOLUTION OF MAINTENANCE DISTRICT; and SECTION 17.18.112, ESTABLISHES APPEAL PROCEDURES AND OTHER MATTERS PROPERLY RELATED THERETO.

The Board of Supervisors of Carson City do ordain.

SECTION I:

That Title 17 of the Carson City Municipal Code is hereby amended as follows:

Title 17 DIVISION OF LAND, SUBDIVISION OF LAND

Chapter 17.01 GENERAL PROVISIONS

Chapter 17.02 DEFINITIONS

Chapter 17.03 PARCEL MAPS, LOT LINE ADJUSTMENTS
AND DELETIONS, REVERSION TO ACREAGE MAPS, AND
MERGER AND RESUBDIVISION OF LAND

Chapter 17.04 LAND DIVISION MAPS

Chapter 17.05 TENTATIVE MAPS

Chapter 17.06 SUBDIVISION FINAL MAPS

- Chapter 17.07 FINDINGS
- Chapter 17.08 DEVELOPMENT AGREEMENTS
- Chapter 17.09 PLANNED UNIT DEVELOPMENT
- Chapter 17.10 COMMON OPEN SPACE DEVELOPMENT
- Chapter 17.11 IMPROVEMENT AND PROCEDURE
- Chapter 17.12 SURVEYS
- Chapter 17.13 CONTROL MONUMENTS
- Chapter 17.14 DEVELOPMENT STANDARDS
- Chapter 17.15 ABANDONMENT OF RIGHT-OF-WAY
- Chapter 17.16 ADMINISTRATIVE EASEMENT
ABANDONMENT
- Chapter 17.17 RESIDENTIAL CONDOMINIUMS
- Chapter 17.18 LANDSCAPE MAINTENANCE DISTRICTS

SECTION II:

That Chapter 17.18 is hereby added to the Carson City Municipal Code as follows:

CHAPTER 17.18 LANDSCAPE MAINTENANCE DISTRICTS

17.18.010 Purpose

17.18.020 Authority

17.18.030 Definitions

17.18.040 Parks Director's Responsibilities

17.18.050 Procedures for Applying to Create a Maintenance District

17.18.060 Procedures for Review of Maintenance District Petitions

17.18.070 Procedures for Establishment of the Board Approved Maintenance District

17.18.080 Determination of Benefit and Cost Allocations Between Assessed Property and City

17.18.090 Assessments

17.18.110 Allocation of Public Money to Pay the Costs Incurred by Carson City in Assuming Maintenance

17.18.111 Review and Dissolution of Maintenance District

17.18.112 Appeal Procedures

SECTION III:

That Section 17.18.010 is hereby added to the Carson City Municipal Code as follows:

17.18.010 Purpose.

The purpose of maintenance districts is to provide through the cooperation of petitioners of maintenance districts and Carson City well maintained and attractive parks, recreation facilities, trails, landscaping and open space areas that provide for the citizen's general welfare and healthy recreational opportunities.

SECTION IV:

That Section 17.18.020 is hereby added to the Carson City Municipal Code as follows:

17.18.020 Authority.

Under Nevada Revised Statutes (hereinafter referred to as "NRS"), 278.4787, a person who proposes to divide land in Carson City for transfer or development into four or more lots pursuant to NRS 278.360 to 278.460, inclusive, or Chapter 278A of NRS, may, in lieu of providing for the creation of an association for a common-interest community, request Carson City to assume the maintenance of certain improvements located on the land. This chapter establishes the procedures for making such requests and, if approved, for establishing and administering maintenance districts within Carson City.

SECTION V:

That Section 17.18.030 of the Carson City Municipal Code is hereby added as follows:

17.18.030 Definitions.

1. Unless otherwise defined herein, the terms listed in CCMC 17.18.010 through 17.18.112 shall have the meanings ascribed to them in those sections.

2. As used in this chapter, the following words and terms shall have the meanings provided as follows:

Allocation Plan. A plan provided for in the petition that assesses the relative benefits and allocates costs between the City and the assessed property.

Arterial Street and Major Thoroughfare. Streets that generally accommodate longer trips by motorists and higher traffic volumes, serve as connections between highways, other highly traveled roads, over geographic areas, or between regions or areas of Carson City, provide connectivity to regional facilities, or ensure continuity in the traffic patterns of the region.

Assessment. The proportionate share of the assessed properties of the annual amount established by Carson City that is necessary to pay the cost to maintain the improvements located in the maintenance district which includes, without limitation, Carson City's administrative costs; the actual cost for contracted services performed; and the associated labor, equipment, insurance, utility, and material costs.

Assessment Amount. The proportionate share of the assessment of each owner of assessed property.

Assessment Period. The period from the creation of the maintenance district through the next-occurring July 1, and each successive period of time running from and including July 1 to and including June 30 of the following year.

Assessed Property. Each lot, parcel, or residential dwelling in the maintenance district. Notwithstanding the foregoing, property within a maintenance district which is owned by a school district, city or the federal government shall not be assessed property.

Board. Carson City Board of Supervisors.

CC&Rs. Covenants, Conditions and Restrictions.

City Directors. The Finance Director of the Carson City Finance Department, the Planning Director of the Carson City Planning Division, the Fire Chief of the Carson City Fire Department, the City Engineer of the Development Engineering Division, and the Carson City Treasurer, or the designee of any of the foregoing.

Defensible Space. The area between a house and an oncoming wildfire where vegetation has been managed to reduce the wildfire threat and allow firefighters to safely defend the house.

Developer. The subdivider, as defined in Section 17.02.020, or the landowner in NRS Chapter 278A.

Development. A subdivision, as defined in NRS 278.320, or any other area of real property to be or having been developed pursuant to a common plan or design scheme.

Development Agreement. The written agreement provided with the petition that includes the information required by Section 17.18.050(2)(c).

Development Standards. The development standards adopted by Carson City contained in Carson City Municipal Code Title 18.

Financial Plan. A plan provided for in the petition detailing project costs, district set up costs, reserve studies stipulating initial reserves to be established, allocation of initial and annual costs, projected revenues and expenses for the first five years of operations and a projected five year improvement plan.

Furnishings. Amenities associated with trails, parks and open space, consisting of but not limited to benches, trash receptacles, water fountains and bicycle racks.

Improvements. Improvements consist of but are not limited to, landscaping; public lighting; security walls; and trails, parks and open space.

Improvement Plan. The plan submitted by petitioner pursuant to Section 17.18.050(2)(g)(vi) detailing the installation of improvements in a maintenance district by petitioner.

Interior Streets. Streets located within the boundaries of a development that principally serve the residents of such development, and their guests, by providing access to and from the residences within the development.

Landscaping. Includes, without limitation,

(1) ground cover, trees, shrubs, grass and other ornamentation, whether natural or artificial, located:

(a) On the perimeter of a development or subdivision.

(b) On a median strip on the perimeter of a development or subdivision.

(2) Irrigation systems, electrical systems, conduits, separate metering equipment, and drainage, acceptable to Carson City, that do not exceed the water usage or energy conservation principles of xeriscape located in the maintenance district.

List of Assessed Properties. A list provided for in the petition containing a list of the properties within the proposed maintenance district that will be assessed the assessment amount.

Maintenance. To care for and provide upkeep of improvements which includes, without limitation, repair, reconstruction and replacement.

Maintenance Association. Homeowners' Association or Landscape Maintenance Association

created to assume maintenance of the improvements.

Maintenance District. An area comprised of assessed property in a development, which area is created, formed, and established, pursuant NRS 278.4787 and this chapter, where Carson City will assume the maintenance of one or more of the following improvements located thereon:

- (a) Landscaping;
- (b) Public Lighting;
- (c) Security Walls; and
- (d) Trails, parks and open space which provide a substantial public benefit or which are required by the Board of Supervisors for the primary use of the public. Trails described in NRS 278.4787(5) are not included in this definition.

Maintenance Plan. A plan provided for within the petition that details the improvements to be maintained, the schedule and levels of maintenance, the estimated time and expense that may be involved and any other information as reasonably required by the Parks Director.

Master Maintenance District. A maintenance district formed for a development to be developed in phases where subsequent phases of the development are added to the maintenance district by petition, as they are developed.

Non-Regional Interior Trails. Trails that provide internal non-motorized transportation and recreation to the development.

Parks Director. The Director of Carson City's Parks and Recreation Department, or his or her designee.

Petition. The written request of a developer or, pursuant to NRS 278.4787(7), owners of affected tracts of land or residential units, to Carson City for the creation of a maintenance district or master maintenance district.

Petitioner. The party or parties requesting in writing the creation of a maintenance district or master maintenance district by Carson City.

Planning Director. The Planning Director of the Carson City Planning Division or his/her designee.

Property. The sum of all legal parcels of real property (including fixtures) containing improvements requested by the petitioner to be included within and maintained by the maintenance district.

Public Benefit. The general public's benefit and use of the improvements within the maintenance district.

Public Lighting. Works or improvements useful in lighting a street, sidewalk or other place used for a public purpose.

Regional Trails. Trails that are part of the City's Unified Pathways Master Plan or that provide regional connectivity through a trail system or network.

Security Walls. Any wall composed of materials including, but not limited to, stone, brick, concrete blocks, masonry or similar building material, together with footings, pilasters, outriggers, grillwork, gates and other appurtenances, and constructed around the perimeter of a development for the purposes of security or protection of the property with the development.

SECTION VI:

That Section 17.18.040 of the Carson City Municipal Code is hereby added as follows:

17.18.040 Parks Director's Responsibilities.

1. The Parks Director shall approve or disapprove the form and content of all petitions submitted, and shall recommend to the Board the approval or denial of a petition.
2. The Parks Director shall administer approved maintenance districts in accordance with the provisions of Chapter 17.18.
3. The Parks Director shall provide all the logistics for the administration of the maintenance districts and the establishment of budgets under this ordinance.
4. The Parks Director shall utilize Development Standards as adopted by Carson City.

SECTION VII:

That Section 17.18.050 of the Carson City Municipal Code is hereby added as follows:

17.18.050 Procedures for Applying to Create a Maintenance District.

1. A petitioner may request, in the form of a petition:
 - (a) that Carson City establish a maintenance district and assume the maintenance of one or more of the following improvements located in the development:
 - (i) Landscaping;
 - (ii) Public Lighting;
 - (iii) Security Walls; and
 - (iv) Trails, parks and open space which provide a substantial public benefit or which are required by the Board of Supervisors for the primary use of the public; or
 - (b) that a master maintenance district be established for a development to be developed

in phases, where subsequent phases of the development may be added, by petition, as they are developed, and that Carson City assume the maintenance of improvements within the development and any property subsequently added to the master maintenance district. The master maintenance district petition shall include (i) all of the requirements for a maintenance district petition provided in this section, and (ii) a copy of the CC&Rs and the conditions of approval for the development which must include, to the satisfaction of the Parks Director, provisions allowing maintenance districts to be established for all subsequent phases of the development.

2. Petition Requirements. In connection with the filing of the petition, petitioner shall provide the following items, information or agreements, and to the extent such item, information or agreement is not reasonably available to petitioner, petitioner shall provide in good faith a draft or estimate of the item, information or agreement, which shall be subject to cooperative review and amendment by the petitioner and Parks Director subsequent to the filing of the petition.

- (a) Signatures. The petition must be signed by owners of sixty-seven percent (67%) or more of the lots or units within the development petitioning for the creation of the maintenance district. In addition, a developer petitioner must provide a copy of the public offering statement required by Chapter 116 of the Nevada Revised Statutes notifying home buyers, in writing, of the maintenance district and the current or estimated assessment amount.
- (b) Property Described. The petition must set forth descriptions of all tracts of land or residential units that would be subject to the assessment. The description of the new assessed property shall include the assessor's parcel number and legal description prepared in form and with sufficient detail suitable for recording in the official records of Carson City.
- (c) Development Agreement which shall include, without limitation:

 - (i) An obligation to maintain improvements for (A) a period of two years from the installation of such improvements, or (B) if less than two years from the installation of such improvements, until the maintenance of such improvements is assumed by the City;
 - (ii) Construction schedules;
 - (iii) Deadlines for improvements;
 - (iv) Warranties; and
 - (v) Dedicated property or easements.
- (d) Development Standard Requirements. The petition must provide details and construction information consistent with the requirements of the Development Standards within Carson City Municipal Code's Title 18, regarding the proposed improvements, including: landscape; public lighting; security walls; and trails, parks and open space plans within the development and, if required, a defensible

space/fuels management plan.

- (e) Allocation Plan. The petition must provide an allocation plan which determines the relative benefits and allocates costs between Carson City and the assessed property in accordance with Section 17.18.080.
- (f) List of Assessed Properties. The petition must provide a list of assessed properties that sets forth (i) the total amount of the assessment, and (ii) the assessment amount to be paid by each owner of assessed property.
- (g) Financial Plan. The petition must provide a financial plan which must provide, without limitation:
 - (i) Detailed costs of the maintenance of improvements within the maintenance district;
 - (ii) Maintenance district start up costs;
 - (iii) Reserve studies stipulating initial reserves to be established;
 - (iv) Initial and annual maintenance district cost allocation;
 - (v) Projected revenues and expenses for the first five years of operations of the maintenance district; and
 - (vi) A projected five year improvement plan.
- (h) Maintenance Plan. The petition must provide a maintenance plan detailing the improvements to be maintained, the schedule and levels of maintenance (including long term maintenance and replacement costs), and the estimated time and expense that may be involved.
- (i) Assessment Deposit. Petitioner shall agree to pay or furnish, and shall pay or furnish upon approval of the petition:

(i) Upon terms and conditions agreed to by and between Carson City and Petitioner, an amount agreed to by and between Carson City and petitioner that consists of the sum of:

(A) A deposit which shall be returned to petitioner in the manner agreed to by and between Carson City and petitioner; and

(B) The start-up costs of the maintenance district; or

(ii) (A) A deposit in the amount of one-sixth of the assessment, which deposit shall be returned to petitioner in the manner agreed to by and between Carson City and petitioner.

(B) a bond in the amount of one-third of the assessment, which bond shall be released in the manner agreed to by and between Carson City and petitioner; and

(C) the amount of the start-up costs of the maintenance district.

- (j) Warranty. The petitioner must submit a written agreement acceptable to Carson City providing a warranty for all improvements on the property including but not limited to live plants, irrigation equipment, furnishings, structures and playgrounds for, unless otherwise agreed to by petitioner and Carson City, (i) the period specified in the Development Agreement, (ii) in the event no such period is specified in the Development Agreement, a period of 24 months from the time of the installation of such improvements, or (iii) in the event that the property contains an existing development, a period of 24 months from the time of the assumption of the maintenance of the property by Carson City. Under such written agreement, Carson City shall agree to maintain the improvements diligently, in good repair and in such condition as existed at the time that Carson City assumed the maintenance of such improvements.

- (k) Indemnification. Petitioner, must agree for itself, its successors and assigns that it, its successors and assigns shall indemnify, defend at Carson City's option and by counsel approved by the City, and hold harmless Carson City, its officers, representatives, employees and agents from and against any and all actions, penalties, liability, claims, demands, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature brought by a third party and arising out of damage or loss resulting from petitioner's or petitioner's agent's improper or defective materials, installation or design of the improvements. In no event shall petitioner be required to indemnify Carson City for any actions, penalties, liabilities, claims, demands, losses, damages, expenses, or costs (including without limitation costs and fees of litigation) of any nature arising from or related to negligent, reckless, knowing, intentional or willful conduct or actions of Carson City or its officers, representatives, employees, agents or independent contractors. This provision does not prevent Carson City from joining in as a party or obtaining a settlement in any suit against a developer, contractor or subcontractor for improper or defective materials, installation or design of any improvement dedicated to Carson City.

- (l) Existing Development. If an existing development petitions Carson City to create a maintenance district, an analysis must be provided as to whether existing property owners in the district will be benefitted by Carson City's assumption of maintenance and whether the amount of new assessments allocated to them is reasonably related to the benefits received from the assumption of maintenance of improvements by Carson City.

- (m) Dedication and Grant of Easements to Carson City.
 - (i) Dedication. Unless Carson City requests an easement under Section

17.18.050(2)(m)(ii) in lieu of a dedication of the property hereunder, the property shall be dedicated to Carson City with a restriction providing that the property and improvements subject to the maintenance district shall be open and available for public access. Unless otherwise agreed to by the petitioner and Carson City, such dedication of the property may be accomplished by notation in the development agreement and on the final recorded subdivision map (which notation shall include a reference to this Chapter and the foregoing restriction providing for public access) or by separate deed, which deed shall include the foregoing restriction providing for public access.

(ii) Easements.

(A) If the property is not dedicated to Carson City, the petitioner must grant Carson City, its agents, employees, and contractors a nonexclusive right, for so long as the maintenance district maintains the property, to enter and access the property to the extent necessary to inspect and/or maintain the improvements to the property.

(B) If the property is not dedicated to Carson City, a nonexclusive easement shall be granted to Carson City by the petitioner sufficient to allow for the use of the property by the general public.

(C) Where access to additional real property of the petitioner is necessary or reasonable to carry out the maintenance of the property, the petitioner shall grant to Carson City, its agents, employees, and contractors, for so long as the maintenance district maintains the property, an easement for access, ingress and egress across, through, over and under such additional real property of the petitioner for the purpose of maintaining the property and the improvements thereon.

(iii) Existing Development. The dedication of property or the grant of easements thereon shall be determined by the petitioner and the Parks Director within the petition.

(n) Additional Information. The petition must provide any additional information reasonably required by the Parks Director.

(o) Timelines. Unless waived by the Parks Director, petitions for a development that is not yet subdivided by a final subdivision map under NRS Chapter 278 must be submitted to the Parks Director no later than 90 days prior to approval of the first final subdivision map for the development. Existing developments may submit petitions to the Parks Director at any time under the conditions set forth in NRS

278.4787(7).

- (p) Fee. A filing fee, as set by a schedule of fees to be adopted by the Board, shall be due and payable to Carson City as a prerequisite to any official consideration of the petition. No part of the filing fee will be refunded in the event that the petition is not approved or for any reason other than cause.

3. Estimate of Assessment and Assessment Amounts. The good faith estimate of the assessment and assessment amounts provided to Carson City by petitioner under Section 17.18.050(2) in connection with the petition shall have been conducted by a person licensed as a community manager and/or reserve study specialist under Chapter 116A of the NRS. If the Board has conditioned the approval of a tentative subdivision map of a development upon the assumption of the maintenance of the property by a maintenance district, such condition of approval shall be removed or otherwise waived by the Board in the event that the assessment or assessment amounts estimated by Carson City to be incurred in connection with the assumption of the maintenance of the property exceeds the good faith estimate of the assessment or assessment amounts provided by petitioner by an amount greater than thirty-three and one-third percent of the good faith estimate of the assessment or assessment amounts provided by petitioner.

SECTION VIII:

That Section 17.18.060 of the Carson City Municipal Code is hereby added as follows:

17.18.060 Procedures for Review of Maintenance District Petitions.

1. Petition Must Comply with this Chapter.

(a) Petition Accepted.

Within twenty (20) working days after receiving a petition, the Parks Director shall determine whether the petition complies with this Chapter. If the Parks Director determines that the petition complies with the requirements of this Chapter the petition shall be accepted. If the Parks Director fails to accept the petition within twenty (20) working days after it is received, the petition will be deemed rejected.

(b) Petitions Rejected.

If the Parks Director determines that the petition does not comply with this Chapter, the petition shall be rejected. Upon such rejection, the Parks Director shall notify petitioner of the rejection in writing and shall set forth the reasons for such rejection. Petitions which have been rejected can be resubmitted within 60 days after the Parks Director's notification of rejection with the additional information requested. Should petitioner choose not to submit the petition with the additional information within the 60 days and requests an appeal of the Park Director's decision, the Parks Director shall proceed as if he/she determined that it is not desirable to accept the petition.

See subsection 17.18.060 2(d).

2. Parks Director's Preliminary Determination.

- (a) Immediately upon the acceptance of the petition by the Parks Director, the Parks Director shall forward the petition to the City Directors for their review, consideration and recommendation as to whether such City Director believes it would be desirable for Carson City to assume the maintenance of the improvements and establish a maintenance district. The City Directors may consider the nonexclusive list of factors provided in subsection 17.18.060(2)(c). Within 20 days of receipt of the petition from the Parks Director, the City Directors shall forward their recommendations to the Parks Director for his/her preliminary determination. If a City Director fails to forward a recommendation to the Parks Director with 20 days, such City Director shall be deemed neutral as to the recommendation of the petition.

- (b) Upon the expiration of the 20 day period for review by the City Directors, the Parks Director shall forward the petition, along with the recommendations of the City Directors, to the Parks and Recreation Commission for its review, consideration and recommendation as to whether the Parks and Recreation Commission believes it would be desirable for Carson City to assume the maintenance of the improvements and establish a maintenance district. The Parks and Recreation Commission may consider the nonexclusive list of factors provided in subsection 17.18.060(2)(c). Within 40 days of receipt of the petition from the Parks Director, the Parks and Recreation Commission shall forward its recommendations to the Parks Director for his/her preliminary determination. If the Parks and Recreation Commission fails to forward a recommendation to the Parks Director within 40 days, the Parks and Recreation Commission shall be deemed neutral as to the recommendation of the petition.

- (c) Within 60 days after the petition is accepted, the Parks Director shall make a preliminary determination as to whether it is desirable to accept the petition to establish a maintenance district. The following nonexclusive list of factors may be considered:
 - (i) Whether all or any portion of the improvements should be included within the maintenance district;

 - (ii) The type of improvements to be maintained in the maintenance district and the level of standards to which the improvement maintenance will be considered acceptable;

 - (iii) The amount by which the public will benefit from the maintenance of the improvements by Carson City and the amount Carson City will contribute in

direct relation to that benefit pursuant to section 17.18.080;

- (iv) The assessment to be paid to Carson City for expenses associated with the costs of the maintenance district;
 - (v) The basis of the assessment amount for each parcel of real property on a periodic basis;
 - (vi) Whether all or a portion of the parcels of real property should be included within the maintenance district in accordance with the petition;
 - (vii) Whether the maintenance of the improvements in a single development, or cumulatively with other maintenance districts in Carson City, would create an unreasonable administrative or financial burden upon Carson City;
 - (viii) Whether the location of the maintenance district would interfere with Carson City's ability to efficiently and effectively maintain improvements on the property;
 - (ix) Whether the improvement plan submitted by the petitioner is consistent with the requirements of Carson City Municipal Code, Carson City Design Standards, and Carson City's Master Plan and its sub-elements;
 - (x) Whether the proposed improvements are compatible with the character of the area of Carson City in which the improvements will be located;
 - (xi) Whether the landscape improvements are constructed to the standards of and are acceptable to Carson City and all improvements are constructed to applicable codes and standards;
 - (xii) The recommendations of the City Directors and Parks and Recreation Commission; and
 - (xiii) Any other relevant matters.
- (d) If the Parks Director makes a preliminary determination that it is not desirable to accept the petition to establish a maintenance district, he/she shall inform the petitioner in writing explaining the reasons why the determination was made, and shall place the petition and his recommendation on the next regularly scheduled Board meeting agenda for action by the Board.
3. Board of Supervisor's Public Hearing.

After the Parks Director makes his/her preliminary determination, the Parks Director shall schedule the petition with his/her recommendation before the Board at its next regularly scheduled meeting to review and take action upon the petition and any other matters provided for in this Chapter.

(a) Notice.

The Parks Director shall give notice of the Board's public hearing to the petitioner and to all owners of assessed property by mailing a copy of the notice by first class U.S. mail, postage prepaid, not less than ten, nor more than 30 days before the public hearing. The notice shall include: (i) a map or description of the maintenance district and property; (ii) a statement whether a separate maintenance district will be established or whether the maintenance district will be included in an established maintenance district; (iii) a description of the maintenance services to be performed; (iv) a description of the assessed property; (v) the proposed amount of the total assessment and the assessment amount of each owner of assessed property or a description of where the proposed list of assessed properties may be obtained; and (vi) the date, time, and location of the public hearing and a statement that all persons may present their views at the hearing. A copy of the notice shall be published in a newspaper of general circulation once, not less than ten, nor more than 30 days before the public hearing.

(b) Board's Action at Public Hearing

(i) Denial of Petition.

At the end of the public hearing if the Board decides to deny the petition for any reason not arbitrary, capricious or otherwise unreasonable, and not assume the maintenance of the applicable improvements within the maintenance district, the Parks Director shall inform the petitioner in writing, and shall explain the decision of the Board.

(ii) Adoption of Petition.

At the end of the public hearing if the Board decides to adopt the petition for any reason and assume the maintenance of the applicable improvements within the maintenance district, the City shall file with the Carson City Recorder a notice of the creation of the maintenance district, which notice shall include the petition in the form adopted. The costs of recording the notice must be paid by the petitioner.

(iii) Continuance

At the end of the public hearing the Board may continue a consideration of the petition for up to 60 days from the initial public hearing. Upon expiration of such 60 day period, the Board may not further continue consideration of the petition without the consent of petitioner, and, without such consent, must adopt or deny the petition.

SECTION IX:

That Section 17.18.070 of the Carson City Municipal Code is hereby added as follows:

17.18.070 Procedures for Establishment of the Board Approved Maintenance District.

1. Notice of Board Decision.

Once the notice of creation of the maintenance district has been filed with the Carson City Recorder and a maintenance district has been created, the Parks Director shall issue a Notice of Board Decision which the Parks Director shall send, by first class U.S. mail, postage prepaid, to each owner of assessed property, as indicated in the records of the Carson City Assessor. The Notice of Board Decision shall:

- (a) Contain the adopted petition on file with the Carson City Recorder that states that the maintenance district is subject to change by the Parks Director;
- (b) Contain the approved list of assessed properties that states that assessment amounts are subject to change by the Parks Director;
- (c) Notify all owners of assessed property that such owner's assessment amount shall be paid in conjunction with such owner's property taxes. Nonpayment of the assessment amount has the same priority as a lien for property taxes, or as may otherwise be provided by law;
- (d) State that the maintenance district shall be administered in accordance with this Chapter;
- (e) List all conditions which must be met before Carson City assumes maintenance of the property; and
- (f) Address any other matters that the Parks Director determines to be relevant to the maintenance district.

2. Petition Expiration.

- (a) A petition approved by the Board of Supervisors shall expire in one year from the date of approval by the Board of Supervisors, unless all conditions of approval of the petition are met and construction of improvements is commenced within that time period.
- (b) The Board of Supervisors shall have the discretion to establish alternative time limits than those established by this Section.

3. Additional Requirements. The Board of Supervisors may impose other conditions deemed necessary and appropriate at the time of the public hearing creating the maintenance district.

4. Amendment of a Maintenance District. The maintenance district is subject to change by the Parks Director, in his/her discretion, upon the filing of a notice of such change with the Carson City Recorder. Notwithstanding the foregoing, any and all significant or substantial changes to the maintenance district, including but not limited to a 10% change in the amount of the assessment or a cessation or change in maintenance, must be duly approved by the Board.

SECTION X:

That Section 17.18.080 of the Carson City Municipal Code is hereby added as follows:

17.18.080 Determination of Benefit and Cost Allocations Between Assessed Property and City.

1. The Parks Director shall use the following criteria listed below to determine the relative proportions in which the maintenance of the property by Carson City will benefit the assessed properties and the public. The Parks Director may evaluate each proposed maintenance district on its own merits to determine if a different allocation is warranted based on information presented to him/her by the petitioner or otherwise available to him/her, and may adjust such allocation based on such information.

2. Landscaping. The initial installation, construction and costs of providing landscaping shall be borne by the petitioner, and Carson City and the assessed property shall bear the costs incurred in maintaining the landscaping in the allocations that follow, or as such allocations are adjusted by the Parks Director.

- (a) Interior Streets. Landscaping along interior streets of developments are presumed to benefit the development 100% and the public 0%. This presumption contemplates that the enhanced land values and pedestrian safety benefit only the residents in the development and their invitees.
- (b) Arterial Streets and Major Thoroughfares. Landscaping along arterial streets and major thoroughfares is presumed to benefit the development 70% and the

public 30%. This presumption contemplates that the enhanced land values and pedestrian safety benefit mainly the residents in the development and their invitees.

3. Public Lighting. The initial installation, construction and costs of providing public lighting shall be borne by the petitioner, and Carson City and the assessed property shall bear the costs incurred in maintaining the public lighting in the allocations that follow, or as such allocations are adjusted by the Parks Director.

(a) Interior Streets. Public lighting along interior streets of developments is presumed to benefit the development 100% and the public 0%. This presumption contemplates that the security and safety benefit only the properties within the illumination sphere of the light.

(b) Arterial Streets and Major Thoroughfares. Public lighting along arterial streets and major thoroughfares is presumed to benefit the development 70% and the public 30%. This presumption contemplates that the enhanced land values and pedestrian safety benefit mainly the residents in the development and their invitees.

4. Security Walls. The initial installation, construction and costs of providing security walls shall be borne by the petitioner, and Carson City and the assessed property shall bear the costs incurred in maintaining the security walls in the allocations that follow, or as such allocations are adjusted by the Parks Director. The maintenance of a security wall excludes maintenance of the sides of the wall facing assessed property, but expressly includes reconstruction of the security wall in the event of structural damage to the security wall not arising from, related to or caused by actions of the owner of the assessed property adjacent to the damaged portion of such security wall.

All Security walls are presumed to benefit the development 100% and the public 0%. This presumption contemplates that the security and sound protective walls benefit only the residences within the development.

5. Trails. The initial installation, construction and costs of providing trails shall be borne by the petitioner, and Carson City and the assessed property shall bear the costs incurred in maintaining the trails in the allocations that follow, or as such allocations are adjusted by the Parks Director.

(a) Regional Trails. Regional trails shall be presumed to benefit the development and the public as follows:

(i) Trails' surfaces and furnishings are presumed to benefit the development 70% and the public 30%.

(ii) Associated landscaping is presumed to benefit the

development 70% and the public 30%.

(b) Non-Regional Interior Trails. Non-regional trails are presumed to benefit the development 100% and the public 0%. This presumption is based on the fact that these trails will be used primarily by residents of the development for non-motorized transportation throughout the development.

6. Parks and Open Space. The initial installation, construction and costs of providing parks, open space and defensible space shall be borne by the petitioner, and Carson City and the assessed property shall bear the costs incurred in maintaining the parks and open space in the allocations that follow, or as such allocations are adjusted by the Parks Director.

(a) Parks and Open Space. Parks and open space are presumed to benefit the development 70% and the public 30%. This presumption is based on the fact that while parks and open space projects can be used by the public and city residents at large, they will be primarily used by residents of the development and the development will derive direct benefit from their installation and maintenance.

(b) Defensible Space. Defensible space is presumed to benefit the development 70% and the public 30%. This presumption is based on the fact that the costs of creating and maintaining defensible space areas, including but not limited to hazardous wildland fuel reduction work, is provided for the prevention of wildland fires and the protection of the development's residents.

SECTION XI:

That Section 17.18.090 of the Carson City Municipal Code is hereby added as follows:

17.18.090 Assessments

1. Generally. The assessment amount constitutes a lien upon an assessed property. The lien must be executed, and have the same priority, as a lien for property taxes. Assessment amounts shall be collected in the same form and manner as other real property taxes.

2. Assessment Standards (nonexclusive list):

(a) Only assessed property that is or will be benefitted by the maintenance district, as determined by the Parks Director, shall be assessed. In the case of a lot line adjustment or parcel split, the Parks Director shall reallocate the assessment between the assessed properties. The individual circumstances or desires of a particular property owner do not determine the benefit to such owner's assessed property.

- (b) The assessment amount of each assessed property shall be an equal amount of the assessment.
- (c) The assessment may not exceed the costs incurred by Carson City in maintaining the property, including but not limited to the costs set forth in Section 17.18.110(1).
- (d) If the costs and expenses set forth in Section 17.18.110(1) increase by 10% or more, upon approval of the Board, the assessment shall be increased accordingly during the remainder of the assessment period.
- (e) The Parks Director shall submit to the Carson City Treasurer by June 1st of each year a list of parcel numbers and the assessed amount for each assessed property.

SECTION XII:

That Section 17.18.110 of the Carson City Municipal Code is hereby added as follows:

17.18.110 Allocation of Public Money to Pay the Costs Incurred by Carson City in Assuming Maintenance.

1. The method for allocating an amount of public money to pay the costs that will be incurred by Carson City in assuming the maintenance of the property, shall be the costs and expenses, plus overhead, directly incurred by Carson City as a result of the maintenance of such property, which costs and expenses shall include, but are not limited to:

- a. Costs of city employees or independent contractors (including professional services);
- b. Cost of all materials, supplies, replacements, and parts used;
- c. Utility costs for water, sewage disposal and electrical power;
- d. Annual contributions to or replenishment of reserves for long term maintenance costs such as painting, replacements, repaving, repairs, and similar long term costs;
- e. Cost of providing insurance for public liability;
- f. Administrative costs, including, but not limited to, mailing and publication costs, copy costs, computer costs (including hardware and software), costs of collecting and enforcing liens, legal fees, consulting fees;

- g. Administrative fees, including accounting fees, supervision fees, legal fees and other administrative costs for administering the district and maintaining the project; and
 - h. Repayment of reserves, loans or advances, with interest, made to cover any shortfalls for the previous year.
2. Carson City shall pay the portion of the costs and expenses of the maintenance of the property allocated to the City under this Chapter.
3. The costs, expenses and overhead allocated under Section 1 to the assessed property shall not include the portion of a cost, expense, expenditure or overhead incurred or utilized by Carson City for a purpose other than maintaining the property.

SECTION XIII:

That Section 17.18.111 of the Carson City Municipal Code is hereby added as follows:

17.18.111 Review and Dissolution of Maintenance District.

1. By Carson City.

Upon notice to the owners of assessed property, the Parks Director may request a public hearing to review and determine whether it is desirable to continue the maintenance district in accordance with Chapter 17.18. If the Parks Director determines it is not desirable to continue the maintenance district, he/she shall place an item on the next regularly scheduled Board of Supervisor's meeting agenda for Board approval to dissolve the maintenance district. The Board item shall specify the procedures for dissolution of the district. This shall include at a minimum the requirement that the owners of assessed property shall within six months of dissolution of the maintenance district form a maintenance association approved by the City to assume the responsibility for maintenance of the property. The maintenance district shall continue to be in force until the Board approves dissolution and a maintenance association is created. Once the Board approves dissolution, the City shall be responsible for conveying the property to the maintenance association or terminating or otherwise abandoning the easements.

2. By Petitioner.

If owners of sixty-seven percent (67%) or more of the assessed properties request dissolution of the maintenance district, such owners may petition the Parks Director for dissolution of the maintenance district. The Parks Director shall investigate the request and make a preliminary determination, within 20 days of the receipt of the petition, as to whether the relinquishment of Carson City's maintenance responsibilities to a maintenance association: (i) will result in equal or better maintenance of the property; (ii) is in the best interest of the assessed properties; (iii) is in the

best interest of the general public; and (iv) if such owners are capable of forming, within six months, a maintenance association approved by the City to assume the responsibility for maintenance of the property.

Upon the preliminary determination of the Parks Director, the Parks Director shall schedule the petition before the Board at its next regularly scheduled meeting. The Board item shall specify (i) the recommendation of the Parks Director, and (ii) the procedures for dissolution of the maintenance district. The maintenance district shall continue to be in force until the Board approves dissolution and a maintenance association is created. Except as otherwise provided by a statute, ordinance, regulation or other law, once the Board approves dissolution, the City shall be responsible for conveying the property to the maintenance association or terminating or otherwise abandoning the easements.

SECTION XIV:

That Section 17.18.112 of the Carson City Municipal Code is hereby added as follows:

17.18.112 Appeal Procedures.

In addition to, and without limiting, the right to automatically have a petition heard by the Board under Section 17.18.060, a person aggrieved by a decision, finding, action or recommendation of the Parks Director, which decision, finding, action or recommendation was made after the approval of a petition by the Board, may appeal such decision, finding, action or recommendation to the Board by filing a notice of appeal with the Board setting forth the reasons for such appeal and requesting that such appeal be placed on the agenda of the next regularly scheduled meeting of the Board. The Board shall hear and take action upon such appeal at such next regularly scheduled meeting.

SECTION XV:

That the provisions of Section 17.01.020, City Maintenance, are hereby repealed.

SECTION XVI:

That no other provisions of Title 17 of the Carson City Municipal Code are amended by this ordinance.

Proposed on _____ (month) _____ (day) _____ (year)

Proposed by Supervisor _____

Passed _____ (month) _____ (day) _____ (year)

Vote:

Ayes: Supervisors _____

Nays: Supervisors _____

Absent: Supervisors _____

Attest:

ALAN GLOVER
Clerk/Recorder

MARV TEIXEIRA
Mayor