



## Carson City Planning Division

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### MEMORANDUM

Planning Commission meeting of April 28, 2010

**TO:** Planning Commission **Item H-1**

**FROM:** Lee Plemel, Director

**DATE:** April 16, 2010

**SUBJECT:** Discussion regarding the Growth Management Program

The purpose of this item is to provide a forum for discussion with the Growth Management Commission (Planning Commission) regarding the Growth Management Program. To help facilitate this discussion, staff offers the information included in this memo and attached.

Growth management, in one form or another, is used in some communities throughout the country to address service capacity issues, usually related to the ability to provide basic health and safety services such as water and wastewater treatment. The ability to manage growth through residential building permit limitations has been upheld as high as the U.S. Supreme Court, in certain instances.

However, it should be noted that the legal burden is generally on the City to justify the limitation of residential permits, not on the property owner to justify his or her right to develop their property. A government entity must show that such a regulation advances a legitimate public purpose.

The Carson City Growth Management Program started in the late 1970's as a result of the City's wastewater treatment facility exceeding capacity. The Nevada State Health Division would not permit any new subdivision maps. Growth management was implemented to limit the number of residential permits until adequate wastewater facilities were constructed to meet new growth demands.

The Carson City Municipal Code (CCMC) Section 18.12.015(2) identifies the "essential resources" that are to be considered for the managed growth of Carson City today (the complete Chapter 18.12 is attached). These are:

- a. City water: quantity, quality, supply, capacity, infrastructure;
- b. City sewer: treatment and disposal capacity; system or infrastructure ability to transport sewage from a residential dwelling unit of the treatment system;
- c. Sheriff protection services;
- d. Fire protection services;
- e. Traffic and circulation;
- f. Drainage and flooding;

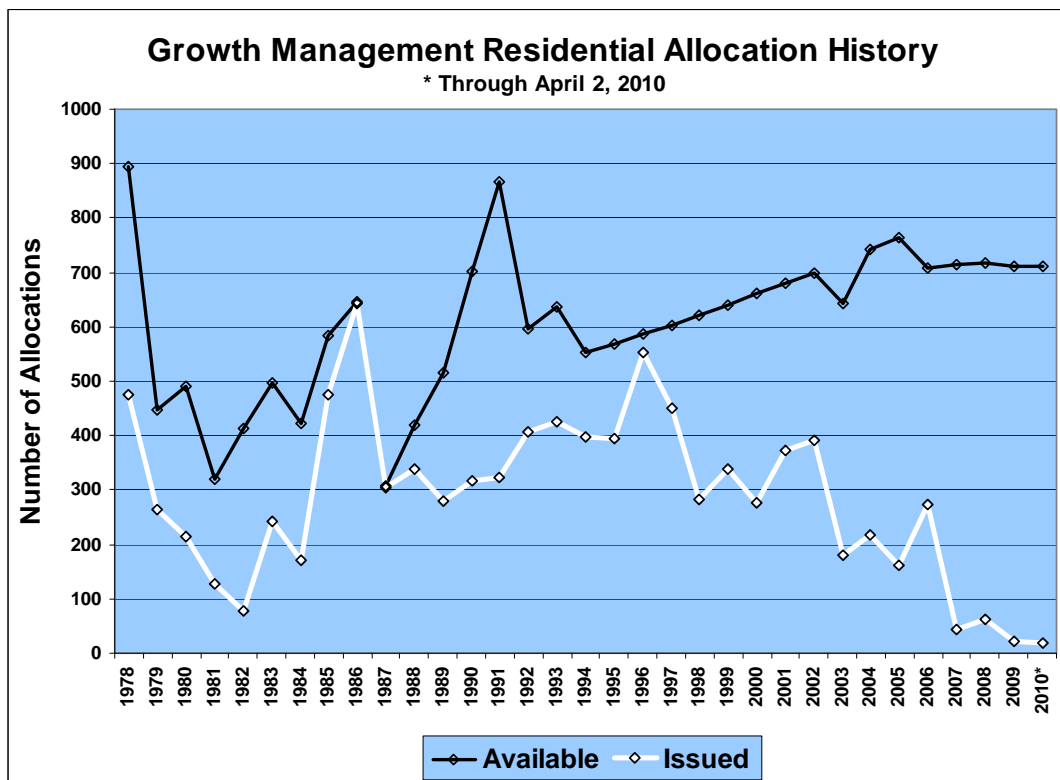
- g. School enrollment and capacity;
- h. Parks and recreation; and
- i. Other resources or services as determined by the Board.

The role of the Growth Management Commission is spelled out in CCMC Section 18.12.030. The Commission is required to submit a report to the Board of Supervisors detailing its recommendations concerning the number of residential building permits to be fixed for the following year. Planning staff is required to gather the information “of adequate depth and scope” for the Commission to make the recommendations.

Each year, Planning staff solicits comments from various City department and outside agencies to forward to the Commission. Attached is the letter that went out earlier in April. The Commission will review the information on May 26, 2010, and make recommendations to the Board of Supervisors at that time.

This is a discussion item only; no action will be taken. However, staff will be available to answer any questions and take comments regarding the Growth Management process.

If you have any questions regarding this information, please contact Lee Plemel at 887-2180 x30075 ([lplemel@ci.carson-city.nv.us](mailto:lplemel@ci.carson-city.nv.us)).



Attachments:

- A) CCMC 18.12
- B) 2010 Growth Management comment solicitation letter

18.12  
Growth Management

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**18.12.005 Short Title.** This Chapter shall be known and cited as the "Carson City 1988 Growth Management Ordinance."

**18.12.010 Application of Chapter.** This Chapter shall apply to all residential real property that is required to be served by city water and/or sewer service within the consolidated municipality of Carson City. No provision of this Chapter shall require the city to extend sewer or water service to a parcel of land.

Process-oriented standards are contained in this Section. Design-oriented standards are contained in the Development Standards which is parallel in authority to this Section.

**18.12.015 Purpose.**

1. The Board finds and declares:
  - a. A measure of sustained, balanced growth in Carson City is both desirable and necessary for the continued viability of the community; and
  - b. The health, safety and general welfare of the city's citizens dictate the continued availability of essential public facilities and services and adequacy of community resources; and
  - c. The ability to provide essential resource or service at the quality and quantity desired by the community is an integral part of the city's quality of life; and
  - d. Growth experienced in the past, and pressures for continued growth indicate that Carson City may reach capacity in the delivery of one or more of essential resources or services; and
  - e. If capacity to provide an essential service or resource is reached, the Board may cause total cessation of residential growth for an interim period of time; and
  - f. When the city sets the quantity of building permits available for a specific year, the Board declares that there are certain limits to the capacity or capability of the city to deliver water or sewer services.
2. The Board declares that the following essential resources shall be considered for the managed growth of Carson City:
  - a. City water: quantity, quality, supply, capacity, infrastructure;
  - b. City sewer: treatment and disposal capacity; system or infrastructure ability to transport sewage from a residential dwelling unit of the treatment system;
  - c. Sheriff protection services;
  - d. Fire protection services;
  - e. Traffic and circulation;
  - f. Drainage and flooding;
  - g. School enrollment and capacity;

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- h. Parks and recreation; and
  - i. Other resources or services as determined by the Board.
3. Upon declaration of these findings, the Board of the consolidated municipality of Carson City has determined that a workable and reasonably equitable system for the management of population growth shall be a part of the land development process. The provisions in this Chapter achieve this purpose.

### **18.12.020 Effect Upon Previously Issued Allotments.**

1. In the event that a holder of an allotment issued under the provisions of Chapter 15 does not desire to convert the valid allotment to an entitlement certificate, the following provisions shall be applicable:
  - a. Administration of this Subsection shall be in the manner as has been established under the provisions of Chapter 15 of the Carson City Municipal Code prior to the effective date of this Chapter.
  - b. For the sole purpose of administering growth management procedures for allotments that are not converted to new entitlement certificates, the text and content of Chapter 15 of the Carson City Municipal Code as amended shall be adopted by this reference concurrently with the enactment of this Chapter.
2. Forfeiture of allotments under provisions of Chapter 15 shall not prevent any property owner from applying for any building permits/entitlement certificates pursuant to this Chapter.

**18.12.025 Growth Management Commission.** There is established in Carson City a Growth Management Commission which shall consist of the Planning Commission.

1. The Growth Management Commission shall meet at least once each year. Other meetings may be held as needed. Meetings may be continued as necessary to accomplish the Growth Management Commission's business.
2. A majority of the members of the Growth Management Commission shall constitute a quorum, and each member shall have one (1) vote on any matter considered. The Chairman of the Planning Commission shall also chair the Growth Management Commission. A majority vote of the Commissioners present shall be required to approve a motion or resolution, other than a direction to the staff.
3. At any meeting the Growth Management Commission may, by motion, establish rules, procedures, time limitations, or other restrictions which appear best suited to accomplish its purpose of gathering and evaluating information and determining issues made pertinent by the provisions of this Chapter.

**18.12.030 Duties.** In addition to the duties established by the Growth Management Commission in its policies and procedures, the following duties are set forth for the Growth Management Commission:

1. At least fifteen days prior to the annual Growth Management Meeting, the Director shall receive information from any affected city department and may obtain information from any interested agency or party in order to prepare its report to the Growth Management Commission.

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2. The Growth Management Commission shall receive information of adequate depth and scope providing it with specific data to use in making a recommendation to the Board.
3. The Growth Management Commission shall compile and consider such information so that it is able to submit a written report to the Board at least two weeks prior to the last regular meeting of the Board in July detailing its recommendations concerning the number of residential building permits to be fixed for the second year following, and the number to be estimated for the third and fourth years following.

**18.12.035 Establishing Residential Building Permits.** A fixed number of residential building permits shall be established on a two year rolling calendar basis to aid the community in knowing the projected growth of residential dwelling units.

1. Not later than the last Board meeting in July, the Growth Management Commission shall recommend and the Board shall fix by resolution the number of residential building permits to be made available to eligible property owners for the second calendar year following the calendar year in which the resolution is adopted. In the same resolution, the Growth Management Commission shall recommend, and the Board shall estimate the number of residential building permits that may be made available in the third and fourth calendar years following.

**18.12.040 Building Permit Categories.** Building permits in fixed numbers shall be established in such categories and subcategories as the Board or Growth Management Commission deems necessary. Such categories shall include:

1. A maximum limit for real property owners within a calendar year. This category shall be called the "general property owner" category.
2. A maximum limit for development projects that are included on the project list. This category shall be called the "development project" category.

**18.12.045 Project List Qualifications, Procedures, Additions, Removals.**

1. Any development project for which one of the following city approvals has been granted shall qualify for inclusion on the project list:
  - a. A series of approved and recorded parcel maps representing thirty-one (31) or more dwelling units; or
  - b. An approved Final Map representing thirty-one (31) or more dwelling units; or
  - c. An approved final planned unit development approval representing thirty-one (31) or more dwelling units; or
  - d. An approved Special Use Permit for a residential project representing thirty-one (31) or more dwelling units; or
  - e. An approved mobile home park representing thirty-one (31) or more dwelling units; or
  - f. An approved apartment project containing thirty-one (31) or more units. Approval of a project shall be either an approval of a Special Use Permit as required by this Title or by the Director after completing the major project review process.

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2. Approvals for development projects shall be considered the same project, even if approvals by the city were at different chronological times, and even if the separate phases of the project have different names, numbers or other means of identification.
3. A development project meeting these requirements shall be placed on the project list upon receipt of a written petition from the project developer or property owner submitted to the Director. The petition shall be on the form provided by the Director. When approved, the petition shall be dated and signed by the Director.
4. To remain on the project list, the property owner shall reserve building permit application(s) pursuant to Subsection 2 of Title 18 (Obtaining a Building Permit) each year equal to at least ten percent (10%) of the maximum number permitted to be purchased for development projects, or one permit, whichever is greater. This number shall be called the "minimum annual requirement."
  - a. Failure to reserve the minimum annual requirement of building permits in the current calendar year shall result in automatic removal from the project list.
  - b. If a development project is removed from the project list, the development project shall not be eligible for reinstatement to the list until building permits/entitlement certificates equal to the annual minimum requirement have been reserved in a calendar year. The development project shall then be reinstated in the following calendar year. The development project shall be required to submit a new petition prior to reinstatement pursuant to this Section.

**18.12.050 Applicability of this Chapter to Property in the Highway 395 Right-of-Way.** The Nevada Department of Transportation (NDOT) shall be permitted to transfer entitlement certificates to property owners displaced by the acquisition of private property in the city approved route for the Highway 395 bypass. In order to execute the transfer, NDOT shall present an affidavit stating that it has acquired real property resulting in the displacement of a property owner. The affidavit shall state that the displaced property owner has acquired real property in the consolidated municipality of Carson City, and desires to construct a new residence. The affidavit shall be accompanied by the full amount of utility connection fee(s) and the growth management fee. Upon receipt of the affidavit and required fee(s), the Director shall issue an entitlement certificate in the name of the displaced property owner and for the specific parcel. The entitlement certificates issued under the provisions of this Section shall be exempt from the limits on building permits established in this Chapter. This exemption shall apply to a maximum of twenty (20) building permits/entitlement certificates.

### **18.12.055 Obtaining a Building Permit.**

1. To construct a residential building subject to the provisions of this Chapter, the following time frames shall apply:
  - a. Beginning on the first city working day in January and concluding on the last city working day in March, the Director shall make available the maximum number of residential building permits for development projects and private property owners in the city. This calendar time frame shall be called "Period 1."
    - (1) For development projects, each project shall be entitled to apply for the maximum number of building permits allocated to the development project category at any time during this period.

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- (2) For general property owners, any property owner may apply for the maximum number of building permits allocated to the general property owner category on a first-come first-served basis until the supply of building permits is exhausted.
  - b. Beginning on the first city working day in April and concluding on the last city working day in June, any building permits remaining from Period 1 to be issued by the city shall be combined into a single category for development projects and general property owners. Any development project shall be entitled, on a first come first served basis, to purchase an additional number of building permits not exceeding 50% above the original maximum number allocated to the specific category and any general category property owner shall be entitled, on a first-come, first-served basis, to purchase an additional number of building permits not exceeding 100% above the original maximum number allocated to the general category property owner in Period 1, whether or not the property owner or development project purchased the maximum number of permits allowed in Period 1. This calendar time frame shall be called "Period 2."
  - c. Beginning on the first city working day in July and concluding on the last city working day in December, any remaining building permits from Periods 1 or 2 shall be available on a first come first served basis whether or not a development project or general property owner has acquired the maximum number of building permits/entitlement certificates permitted in Periods 1 and/or 2. This calendar time frame shall be called "Period 3."
2. Requirements for reserving a building permit application:
- a. A complete set of building plans as required by the building official, shall be submitted along with the required building permit application forms, proof of property ownership if ownership is different than that shown on the assessor's rolls, and any additional materials normally required for application for a building permit.
  - b. At the time that an application for a building permit is submitted, the applicant shall pay the following fees:
    - (1) The applicable plan review fee(s) as adopted by the Building Code currently adopted by Carson City; and
    - (2) A growth management entitlement fee and the utility connection fee(s) may be paid at the building plan submittal date which will reserve a growth management entitlement for the parcel of land for which the building permit is being secured
  - c. When the building plans have been approved, the applicant must pay the building permit fee(s), a growth management entitlement fee and the utility connection fee(s) if not paid at time of submittal of building plans, and any additional applicable development fee(s), including the tap and meter fees.
  - d. The payment of the growth management entitlement fee and utility connection fee(s) when the building plans are approved will secure a growth management entitlement on the date the above fees are paid to Carson City; should any entitlements remain for that calendar year.



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3. Upon application for a building permit, the department shall issue an entitlement certificate for the specific development project or parcel for which the building permit is sought.
  - a. For development projects, the entitlements certificate may be transferred to any parcel within the development project upon written request and approval by the Director.
  - b. A development project may sell lots to a general property owner with the permit entitlements to be deducted against the maximum number of permits allowed to that general property owner.
  - c. For general property owners, the entitlement certificate shall be assigned to the specific assessor parcel.
  - d. An entitlement certificate shall run with the land.
    - (1) In the event that a property owner does not construct the dwelling for which a building permit was sought, the entitlement certificate shall remain valid even if the building permit expires. Once the building permit application or building permit expires, a future application for a building permit shall not require a new entitlement certificate. Future building plans shall comply with the building code in effect at the time of the future submittal.
    - (2) An entitlement certificate shall not be transferred except as provided in this Chapter.
4. Except as provided in this Chapter, there shall be no transfer of entitlement certificates. If the entitlement certificate holder does not start construction and withdraws the building permit application or the application expires, the growth management fee and utility connection fee(s) may be refunded upon written request to the Building Division, resulting in the applicable entitlement returning to the pool of available entitlements for the year in which it was issued. Refunds of building permit application or building permit fee(s) shall be based on the provisions of the Building Code currently adopted by Carson City.

### **18.12.060 Effect of Purchase of an Entitlement Certificate.**

1. Purchase of an entitlement certificate requires the future issuance of a building permit, if all required plans are approved and all required fee(s) is(are) paid, even if a moratorium is in effect at the time application is made for a building permit, if the moratorium is based solely on the unavailability of city sewer or city water service.
2. In the event that the moratorium is declared as the result of a local, regional, state or national emergency that concerns the capacity of an essential resource in effect at the time the entitlement certificate was issued, the property owner who holds an entitlement certificate, at the option of the Board, may be declared to be subject to the provisions of the moratorium.
3. An entitlement certificate does not vest property rights related to the density of a parcel of land at a quantity greater than the density permitted by the Master Plan or zoning code in effect at the time application is submitted for a building permit:

**BOS 4/5/07**

- a. The number of multiple entitlement certificates for a single parcel of land that a property owner

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may purchase shall be based on maximum density permitted by the Master Plan and zoning code in effect at the time an entitlement certificate is purchased.

- b. Use of an entitlement certificate to apply for future building permits shall be based on the zoning regulations in effect at the time the building plans are submitted.

**18.12.065 Administration.** A log shall be maintained by the Building Department recording the number of building permits issued, the corresponding assessor's parcel number and address, the date the building permits were issued, and the applicable file numbers of the building permit at the time one is issued. The log may also contain any other information deemed relevant by the Director for the keeping of records.

### **18.12.070 Commercial and Industrial Permits.**

1. In its annual resolution, the Board shall determine a maximum average daily water usage for commercial and industrial building permits which shall establish a threshold for Commission review. A project which equals or exceeds the maximum average daily water usage threshold established by the Board for water shall result in a consideration of the project before the Commission prior to issuance of a building permit. The Commission may approve the building permit, approve the permit with conditions, or deny the permit on the basis of the effect of the project on the City's essential resources. The Commission shall base its decision on the quantity of water consumed by the use for which the building is constructed compared to the availability of water; the ability of the City to deliver water service to the structure; and other effects of water usage; and/or the ability of the City's sewage disposal system to handle the quantity of wastewater generated, including the composition of the wastewater; the ability of the City's sewer system to carry the wastewater for treatment; and other effects of wastewater disposal.
2. This Section also applies to any phased developments, additions or expansions which would result in exceeding the maximum average daily water usage threshold per single parcel of land per year established by Board resolution.

### **18.12.075 Exceptions.**

1. Any person who has first demonstrated to the Board's satisfaction that a proposed project shall have no effect on any essential resource or service designated by the Board may apply for permits without complying with the terms of this Chapter. To obtain an exemption from this Chapter, a property owner shall apply to the Growth Management Commission and Board and receive the findings of the Growth Management Commission and Board by resolution approved by a majority vote.
2. Any exemptions to the previous growth management ordinance (former Chapter 15 of this code) granted by resolution of the Board remain in effect under the terms of the resolution of the Board.

**18.12.080 Effect of Building Permits Resolution.** Any building permit resolution adopted by the Board shall have full force and effect of law and shall be incorporated in full in this Chapter by reference in the resolution.

**18.12.085 Unsold Building Permits/Entitlements.** Any building permits/entitlement certificates authorized pursuant to this Chapter remaining since the end of 1988 and at the end of a calendar year shall be voided and returned to the utility manager unless a year end balance is added to the total number of the following year's allocation of building permits by resolution recommended by the Growth Management Commission and approved by the Board.

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### **18.12.090 Transfer of Entitlement Certificates.**

1. Entitlement certificates run with the land and may be transferred from one (1) property owner to another on the specific parcel without any review, hearing or approval of the city.
2. Under specific hardships in Subsection 7 of this Section, an entitlement may be transferred from the parcel to which it is allocated to another parcel of land pursuant to the provisions of this Section.
3. In order to transfer an entitlement, the property owner shall petition the Director by submitting a letter to the administering department containing such information deemed necessary by the Director. The petition shall be accompanied by an applicable service charge of one hundred dollars (\$100.00) to cover the costs of review and investigation.
4. The letter at a minimum shall contain the property owner's name, mailing address, and daytime phone number, the address of the subject property, the assessor parcel number, and the circumstances under which the transfer is being sought. In addition, the property owner shall submit proof that an entitlement certificate has been issued for the subject property.
5. The Director shall consider the petition and shall either approve, approve subject to conditions, or deny the petition. The Director shall base his decision on the criteria in Subsection 7 of this Section.
6. If a written appeal of the Director's decision is filed within fifteen (15) calendar days of the date of the Director's decision, the matter shall be referred to the Board for review within thirty (30) calendar days of the date the appeal is filed. The Board shall consider the petition and shall either uphold the Director's action, modify the Director's action, or overturn the Director's action. The Board shall base its decision on the criteria in Subsection 7 of this Section.
7. No transfer of an entitlement certificate shall be approved or conditionally approved unless it meets one of the following criteria:
  - a. The parcel of land to which the entitlement certificate is assigned is found to be unbuildable based on physical characteristics of the land, slope, seismic characteristics, potential for flooding, natural resources or other physical aspects of development applicable to the specific parcel which were not known at the time the entitlement was issued: or
  - b. An action of the city has resulted in a reduction of density applicable to the subject property and the entitlement certificates were purchased prior to the public announcement of a pending change in density; or
  - c. The property owner had complied in good faith with the procedures and policies of the city, and due to personal circumstances beyond the control of the property owner, is unable to proceed with construction of the approved dwelling. This provision is intended to apply to circumstances such as, and not limited to, death of a family member, serious or debilitating illness, loss of employment, or extraordinary change in personal financial circumstances which would preclude proceeding with construction. A relocation to accept new employment is generally not considered acceptable under the provisions of this Section, as the entitlement certificate can be transferred with the sale of the property.

### **18.12.095 Prohibitions and Penalties.**

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1. It shall be unlawful for any person to:
  - a. Construct, cause or initiate construction of any structure for which an entitlement certificate or building permit is required or to connect or cause the connection of any structure, mobilehome or vehicle with the Carson City water or sewer system without a valid entitlement certificate to do so;
  - b. Obtain, issue or transfer an entitlement certificate or any interest in any entitlement certificate except as provided in this Chapter;
  - c. Falsely certify or misrepresent any interest in realty or enter upon any fraudulent contract or contrived contract or transaction for selling or buying realty for purposes of evading any allocation limitation provided in response to this Chapter.
2. Any violation of this Section shall be punished as a misdemeanor. In addition, upon proof of conviction, the property owner convicted shall not be eligible to purchase an entitlement certificate or residential building permit in the current or following calendar year.
3. Enforcement of this Chapter shall be as provided herein or in the provisions of this Title.
4. Entitlement certificates shall be void and canceled by the Director if fees imposed by Title 18 (Obtaining a Building Permit) of the Carson City Municipal Code are paid by non-sufficient funds check.



## Carson City Planning Division

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April 6, 2010

Dear Carson City Growth Management Stakeholder:

The Carson City Growth Management Commission (Planning Commission) will hold its annual meeting on May 26, 2010, to recommend entitlements for the residential Growth Management program for the 2011 calendar year. The Board of Supervisors will take final action on the allocations on July 15, 2009, to establish the number of building permits for residential units that will be permitted in 2011.

This letter is intended to solicit your input in accordance with the Growth Management Ordinance to assemble data and comments relative to the effect that residential population growth has on services your department or agency provides to the citizens of Carson City. Specifically, the Growth Management Commission and Board of Supervisors are interested in determining how the allocation of permits for residential construction in 2011 will impact your department's or agency's ability to serve the citizens of Carson City and what level of residential growth could be accommodated. (Note: The number of residential permits made available annually generally corresponds to what would result in approximately 3% residential growth.)

To provide consistent comments addressing the issues related to Growth Management residential allocations, please address the following questions in your response:

1. *Does your department or agency have any extraordinary service capacity issues that would be negatively impacted by residential growth in 2011-12? If so, identify the issues.*
2. *Do you recommend limiting the number of residential building permits (new construction) that will be made available for the 2011 calendar year to address these issues? If so, what limit, and how will this limit on residential growth help resolve your service capacity problem?*
3. *What is needed by your department or agency to solve any service capacity issues identified above?*

**Thank you in advance for providing this valuable information to the Planning Division no later than Friday, May 7, 2010.** It is important that any issues are identified in advance of the public meetings so staff can incorporate appropriate Growth Management measures and alternatives.

Attached is the "Purpose" section of the Growth Management Ordinance to identify the scope of the Growth Management program and assist you assembling your information and comments. Also attached, for your information and reference, is a summary of the Growth Management residential allocation history and population projections for Carson City. If your agency or department sent comments last year, they are also attached for your reference.

Thank you again for your timely response in providing your comments and information. Please direct your correspondence to me at the Planning Division. If you have any questions regarding Growth Management or this information packet, feel free to contact me at 887-2180 x30075, or email at [lplemel@ci.carson-city.nv.us](mailto:lplemel@ci.carson-city.nv.us).

Sincerely,

Lee Plemel  
Planning Director

Attachments:

- 1) Growth Management Ordinance Except
- 2) Residential Allocation History Chart
- 3) Population History and Projections Chart
- 4) Letter distribution list

Copy: Attached Distribution List

## Growth Management Letter Distribution List

Byron Elkins  
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Carson City, NV 89701

Executive Director  
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Carson City, NV 89702

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Marena Works, Director  
Environmental Health Dept

Stacy Giomi  
Fire Department

Sheila Banister  
Juvenile Detention Department

Kevin Gattis  
Building & Safety

Roger Moellendorf  
Parks & Recreation

Ken Furlong  
Sheriff's Office

Andrew Burnham, Director  
Public Works

Ken Arnold  
Public Works Operations

Darren Schulz  
Deputy Public Works Director

Jeff Sharp  
City Engineer

Patrick Pittenger  
Regional Transportation

Larry Werner  
City Manager

Supervisor Molly Walt

Supervisor Shelly Aldean

Supervisor Robin Williamson

Supervisor Pete Livermore

Mayor Robert L. Crowell