

**City of Carson City
Agenda Report**

Date Submitted: October 8, 2013

Agenda Date Requested: October 17, 2013

Time Requested: 5 minutes

To: Mayor and Board of Supervisors

From: Community Development - Planning Division

Subject Title: For Possible Action: To introduce, on first reading, Bill No. _____, an ordinance amending the Carson City Municipal Code Title 17, Division of Land at Chapter 17.08 Development Agreements by adding Section 17.08.011, Agreement Fees and Service Charges, and other matters properly related thereto. (ZCA-13-049) (Lee Plemel)

Summary: At the direction of the Board of Supervisors, the Planning Division is bringing forward proposed revisions to Title 17 that would add a section for Agreement Fees and Charges to Title 17.08, Development Agreements. This is general language and supports new fees for Development Agreements that are proposed in Title 18 under separate ordinance.

Type of Action Requested:

- Resolution
 Formal Action/Motion

- Ordinance-First Reading
 Other (Specify)

Does This Action Require A Business Impact Statement: () Yes (X) No

Planning Commission Action: Recommended approval on July 31, 2013 by a vote of 6 ayes, 0 nays, and 1 absent.

Recommended Board Action: I move to introduce, on first reading, Bill No. _____, an ordinance amending the Carson City Municipal Code Title 17, Division of Land at Chapter 17.08 Development Agreements by adding Section 17.08.011, Agreement Fees and Service Charges, and other matters properly related thereto.

Explanation for Recommended Board Action: The Board of Supervisors considered this ordinance on September 5, 2013, but took no action and directed staff to get comments from the Builders Association of Western Nevada (BAWN). Planning staff met with BAWN staff to discuss the proposed ordinance, and the BAWN Board of Directors met on Wednesday, September 25. BAWN staff contacted City staff and indicated that the BAWN Board has no opposition to the proposed ordinance and a representative will be present at the Board of Supervisors meeting to affirm this.

Based on comments from the Board of Supervisors, staff modified the proposed ordinance amending Title 18 to clarify that fees for requests of extension of time do not apply to any extension requests associated with an approved development agreement.

Applicable Statute, Code, Policy, Rule or Regulation: 18.02.075 Zoning Code Amendments

Fiscal Impact: N/A

Explanation of Impact: N/A

Funding Source: N/A

Alternatives:

- 1) Approve the Zoning Code Amendment
- 2) Deny the Zoning Code Amendment.
- 3) Refer the matter back to Planning Commission for further review.

Supporting Material:

- 1) Ordinance
- 2) Planning Commission Case Record
- 3) Staff Report and Planning Commission packet

Prepared By: Susan Dorr Pansky, Planning Manager

Reviewed By: 	Date: <u>10-8-13</u>
(Community Development Director)	
	Date: <u>10/8/13</u>
(City Manager)	
	Date: <u>10/8/13</u>
(Deputy City Manager)	
	Date: <u>10/8/13</u>
(District Attorney's Office)	
	Date: <u>10/8/13</u>
(Finance Director)	

Board Action Taken:

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

(Vote Recorded By)

BILL NO. _____

ORDINANCE No. 2013 - _____

AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE TITLE 17, DIVISION OF LAND AT CHAPTER 17.08 DEVELOPMENT AGREEMENTS BY ADDING SECTION 17.08.011, AGREEMENT FEES AND SERVICE CHARGES, AND OTHER MATTERS PROPERLY RELATED THERETO.

Fiscal Effect: None

The Board of Supervisors of Carson City does ordain:

SECTION I:

That Title 17 Division of Land, Chapter 17.08 (Development Agreements) is hereby amended as follows (**bond, underlined** text is added, ~~{stricken}~~ text is deleted) to add requirements for fees to be paid to process a Development Agreement or Development Agreement Amendment:

Chapter 17.08

DEVELOPMENT AGREEMENTS

Sections:

- 17.08.005 Agreement Concerning Development of Land
- 17.08.010 Contents of Agreement
- 17.08.011 Agreement Fees and Service Charges**
- 17.08.015 Approval of Agreement by ordinance; Filing and Recording
- 17.08.020 Amendment or Cancellation
- 17.08.025 Additional Agreements

17.08.005 Agreement Concerning Development of Land. The Board may, upon application of any person having a legal or equitable interest in land, enter into an agreement with that person concerning the development of that land.

17.08.010 Contents of Agreement. The development agreement must:

1. Describe the land which is the subject of the agreement;
2. Specify the duration of the agreement;
3. Specify the permitted uses of the land, the density or intensity of the land use, and the maximum height and size of any proposed buildings; and
4. Include provisions for dedication of any portion of land for public use;

5. Fix the period within which construction must commence and provide for an extension of that deadline; and
6. Require the land developer to make any and all improvements as required by the Board, the Development Engineering Services Department, Planning and Community Development, or other City departments. Said improvements shall be completed by the developer at his own expense and within the specified time. In addition, the agreement may require the developer to secure his promise to make improvements by providing a bond, cash deposit, or other approved security.

17.08.011 Agreement Fees and Service Charges.

1. **Filing fees as established in Title 18 shall be due and payable to Carson City as a prerequisite to the filing for a development agreement or development agreement amendment prior to any official consideration thereof as set by the Board.**
2. **No part of the filing fee will be refunded in the event that the development agreement or development agreement amendment is not approved or for any other cause.**

17.08.015 Approval of Agreement by Ordinance; Filing and Recording.

1. The Board may, if it finds that the provisions of the development agreement are consistent with Carson City's master plan, approve the agreement by ordinance.
2. Within a reasonable time after approval of the agreement, the City Clerk shall cause the original agreement to be filed with the Carson City Recorder for recording.
3. Upon recordation, the agreement binds all parties and their successors in interest for the duration of the agreement.
4. A certified copy of the Board's ordinance adopting the development agreement and any amendments thereto must be recorded in the office of the Carson City Recorder.

17.08.020 Amendment or Cancellation. A development agreement may be amended or canceled in accordance with the provisions set forth in NRS 278.0205.

17.08.025 Additional Agreements.

1. Deferred Improvement Agreement.
2. Participation Agreement
 - a. City paying portion of cost of improvements
 - b. City paying for oversizing or additional capacity

3. Reimbursement Agreement

a. Sewer line

b. Water line

SECTION II:

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

PROPOSED on _____ (month) _____ (day), 2013.

PROPOSED by _____.

PASSED _____ (month) _____ (day), 2013.

VOTE: AYES: SUPERVISORS: _____

NAYS: SUPERVISORS: _____

ABSENT: SUPERVISORS: _____

Robert Crowell, Mayor

ATTEST:

ALAN GLOVER
CLERK/RECORDER

This ordinance shall be in force and effect from and after the _____ day of the month of _____ of the year 2013.

CARSON CITY PLANNING COMMISSION

CASE RECORD

MEETING DATE: July 31, 2013

AGENDA ITEM NO.: G-3

APPLICANT(s) NAME: N/A
PROPERTY OWNER(s): N/A

FILE NO. ZCA-13-049

ASSESSOR PARCEL NO(s): N/A
ADDRESS: N/A

APPLICANT'S REQUEST: For Possible Action: To make a recommendation to the Board of Supervisors regarding a Zoning Code Amendment application to amend Carson City Municipal Code, Title 17, Division of Land, Chapter 17.08, Development Agreements, to add a section for Agreement Fees and Charges and to amend Carson City Municipal Code, Title 18, Zoning, Chapter 18.02, Administrative Provisions, Section 18.02.055, Fees and Charges to add fees for Development Agreements, Development Agreement Amendments, Modifications to Zoning and Land Division Approvals, Public Hearing Extensions and Administrative Extensions.

COMMISSIONERS PRESENT: KIMBROUGH ESSWEIN SATTLER
 DHAMI STEELE OWENS WENDELL

STAFF REPORT PRESENTED BY: Susan Dorr Pansky **REPORT ATTACHED**
STAFF RECOMMENDATION: **CONDITIONAL APPROVAL**
APPLICANT REPRESENTED BY: Susan Dorr Pansky

APPLICANT/AGENT WAS PRESENT AND SPOKE

APPLICANT/AGENT INDICATED THAT HE/SHE HAS READ THE STAFF REPORT, AGREES AND UNDERSTANDS THE FINDINGS, RECOMMENDATIONS, AND CONDITIONS, AND AGREES TO CONFORM TO THE REQUIREMENTS THEREOF.

No persons spoke in favor or in opposition of the proposal.

DISCUSSION, NOTES, COMMENTS FOR THE RECORD:

Questions about:
What are development agreements?
Is there a separate "Division of Land" Department?
Where does money go and how does it help to recover staff costs?

MOTION WAS MADE TO RECOMMEND APPROVAL WITH THE FINDINGS AND CONDITIONS AS ENUMERATED ON THE STAFF REPORT

MOVED: Kimbrough **SECOND:** Steele **PASSED:** 6/AYE 0/NO 0/ABSTAIN 1/ABSENT

SCHEDULED FOR THE BOARD OF SUPERVISORS

DATE: September 5, 2013

STAFF REPORT FOR THE PLANNING COMMISSION MEETING OF JULY 31, 2013

FILE NO: ZCA-13-049

AGENDA ITEM: G-3

STAFF AUTHOR: Susan Dorr Pansky, Planning Manager

REQUEST: Action to recommend to the Board of Supervisors approval of an ordinance amending Carson City Municipal Code Title 17, Division of Land, Chapter 17.08, Development Agreements, to add a section for Agreement Fees and Service Charges and to amend Carson City Municipal Code, Title 18, Zoning, Chapter 18.02, Administrative Provisions, Section 18.02.055, Fees and Charges to add fees for Development Agreements, Development Agreement Amendments, Modifications to Zoning and Division of Land Approvals, Public Hearing Extensions and Administrative Extensions.

RECOMMENDED MOTION: "I move to recommend to the Board of Supervisors approval of an ordinance amending the Carson City Municipal Code Title 17, Chapter 17.08, Development Agreements to add a section for Agreement Fees and Service Charges and to amend Carson City Municipal Code, Title 18, Zoning, Chapter 18.02, Administrative Provisions, Section 18.02.055, Fees and Charges to add fees for Development Agreements, Development Agreement Amendments, Modifications to Zoning and Division of Land Approvals, Public Hearing Extensions and Administrative Extensions."

DISCUSSION:

The proposed amendments to Title 17 and Title 18 are intended to create fees for planning applications that are currently processed by staff at no charge. During a recent Board of Supervisors meeting where a Development Agreement was presented by staff for approval, the Board requested that staff consider adding fees for planning applications such as Development Agreements and Extensions. During staff's review of the City's current fee structure, staff determined that a fee for Modifications to existing Zoning and Division of Land approvals would also be appropriate to allow applicants to pay a percentage of the current application fee for a modification. Currently, the Planning Division charges applicants the complete initial application fee for requested modifications.

The proposed modification to Title 17 is to include a new section in Chapter 17.08, Development Agreements that will address Agreements Fees and Charges. The addition of this section is consistent with other chapters in Title 17 and addresses fees and charges for Development Agreements in general terms as follows:

Agreement Fees and Service Charges:

1. Filing fees as established in Title 18 shall be due and payable to Carson City as a prerequisite to the filing for a Development Agreement or Development Agreement Amendment prior to any official consideration thereof as set by the Board.
2. No part of the filing fee will be refunded in the event that the Development Agreement or Development Agreement Amendment is not approved or for any other cause.

The proposed modifications to Title 18 include new fees for planning applications as follows:

Division of Land Fees

Development Agreement	\$1,800
Development Agreement Amendment	\$800

General Planning Division Fees

Modification to Zoning or Division of Land Approvals	75% of Current Application Fee
Time Extension, Administrative	\$100
Time Extension, Public Hearing	\$600

Due to the unstable development market over the past several years, Development Agreements and Time Extensions have become increasingly more common for applicants wishing to preserve the approval of their projects while waiting for the market to improve. The City had not previously charged applicants for these requests, but has recognized that there is a certain amount of staff time associated with processing each of these applications that could be offset with application fees. Development Agreements and Development Agreement Amendments typically involve staff members from several departments to review the proposed agreement including, but not limited to, the Planning Division, Development Engineering, the Building Division and the District Attorney's office. Time Extensions are not as resource-intensive and typically involve the Planning Division staff only. Staff has proposed fees for Development Agreements, Development Agreement Amendments, Administrative Time Extensions and Time Extensions that required a Public Hearing that are appropriate to the level of staff involvement, but are comparable to those fees charged by other jurisdictions surrounding Carson City. Surrounding jurisdictions surveyed by staff included Douglas County, Lyon County, Washoe County, the City of Reno and the City of Sparks. Additionally, staff notes that in the case of Time Extensions, the fees proposed are consistent with existing Carson City fees that are similar in type of request and staff hours required. The \$600 fee proposed for a Time Extension for a Public Hearing is the same as the fee for a Continuance. Likewise, the \$100 fee proposed for an Administrative Time Extension is similar to the fee for an Administrative Zoning Letter at \$60.

In addition, staff occasionally receives a request from an applicant to modify a previously approved application. This could include, for example, such requests as the modification to a condition of approval for a Special Use Permit, the modification of a Tentative Map, the modification of a Planned Unit Development Handbook, and a variety of other Zoning and Division of Land applications that require conditional approval. The Planning Division currently charges the applicant the total application fee when a request for modification is made. Staff feels that, because the modification of a previously approved application does not utilize as much staff time and resources as the initial application, a reduced fee would be appropriate. Modifications would, however, be subject to the same noticing and hearing requirements as the original application, therefore staff has recommended a reduction to 75% of the current application fee for that specific application. For example, if an applicant requests to modify a condition of approval for a previously approved residential Special Use Permit (minor), the fee would be \$1,650 or 75% of the current fee of \$2,200. The proposal to charge a reduced fee for

a modification is consistent with what the majority of the jurisdictions surrounding Carson City do.

Please contact Susan Dorr Pansky in the Planning Division at 283-7076 with questions regarding the proposed amendments to Titles 17 and 18.

Attachments:

- A) Analysis of Surrounding Jurisdiction Fees – July 2013
- B) Draft Ordinance – Title 17
- C) Draft Ordinance – Title 18

Analysis of Surrounding Jurisdiction Fees - July 2013
July 2013

	<u>Carson City Proposed</u>	<u>Douglas County</u>	<u>Lyon County</u>	<u>City of Reno</u>	<u>City of Sparks</u>	<u>Washoe County</u>
Development Agreement	\$1,800	\$4,400 (plus consultant costs)	\$2,000	\$1,480 to \$17,065 (depending on agreement)	\$1,900 plus \$120/hr	\$3,500 to \$5,000 (depending on size)
Development Agreement - Amendment or Revision	\$800	\$550 to 80% of Current Application Fee (depending on request)	\$1,000	\$854 Per Condition	\$88/hr	\$1,290
Time Extension	\$100 (Admin) or \$600 (Public Hearing)	\$192 (Admin) or \$743 (Public Hearing)	\$500	\$614	\$0	\$340 (Subdivision) or \$546 (Non-Subdivision)
Modification of Zoning or Division of Land Approval	75% of Current Application Fee	\$550 to 80% of Current Application Fee (depending on request)	\$750	\$854 Per Condition	0	\$1,290