

City of Carson City
Agenda Report

Item # 10

Date Submitted: March 23, 2007

Agenda Date Requested: April 5, 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, 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 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. The petitions request the City to assume the maintenance of certain 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, 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 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 has been brought to the Parks and Recreation Commission on two occasions; July 18, 2006 and March 20, 2007. During the March 20, 2007 meeting, the Commission approved action to recommend the ordinance to the

Board of Supervisors by a vote of 6-2. Several concerns voiced by the Commission included: 1) the length of the ordinance, 2) the amount of staff time the procedure will require, 3) the definition of "Furnishings" should be consistent with items listed in the Parks and Recreation Master Plan, and 4) concern regarding the petition requirements include that the petition must be signed by a majority (51% or more) of the owners in the development whose property will be assessed. The concern is that the percentage is too low.

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:

- 1) "Revised Draft 3/20/07, Title 17 Chapter 17.18, Landscape Maintenance Districts"
- 2) Nevada Revised Statutes: Chapter 278, NRS 278.4787 Assumption of maintenance by governing body

Prepared By: R. Moellendorf **Date:** 3/27/07
Roger Moellendorf, Parks & Recreation Director

Reviewed By: Linda Ritter **Date:** 3/27/07
Linda Ritter, City Manager

Melanie Rubetta **Date:** 3/27/07
District Attorney's Office

[Signature] **Date:** 3/27/07
Finance Department

Board Action Taken:

Motion: _____ 1: _____ Aye/Nay

2: _____

(Vote Recorded By)

(Revised Draft 3/2/07)

TITLE 17

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

LANDSCAPE MAINTENANCE DISTRICTS

17.18.010 Purpose.

The purpose of Landscape Maintenance Districts is to provide through the cooperation of petitioners of LMDs and Carson City well maintained and attractive parks, recreation facilities,

trails, landscaping improvements and open space areas that provide for the citizen's general welfare and healthy recreational opportunities.

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.

17.18.030 Definitions.

1. Unless otherwise defined herein, the terms listed in CCMC 17.18.010 through 17.18.113 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:

Agreement (within initial Petition). A written agreement provided with the initial petition that includes but is not limited to verbiage acceptable to Carson City granting Carson City, its agents, employees, and contractors an exclusive right to enter and access the maintenance district property, warranty for all installations and indemnification. See 17.18.050(2).

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

Assessment Amount. The annual amount established by Carson City that is necessary to pay the proportionate share of 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 Period. Each successive period of time running from and including July 1 to and including June 30 of the following year.

Assessment Roll. A roll provided for in the petition containing a list of property within the proposed maintenance district.

Assessed Property. Each lot, parcel, or residential dwelling in the maintenance district whose value will be determined in order to pay for a portion of the project costs. Property within a

maintenance district which is owned by a school district, city or the federal government shall not be assessed property.

Assessment Unit. Each legal lot or parcel of real property included within the boundaries of the maintenance district and upon which a single family dwelling unit exists or may be constructed.

Board. Carson City Board of Supervisors.

CC&Rs. Covenants, Conditions and Restrictions.

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.

Development. Land divided for transfer or development into four or more lots pursuant to NRS 278.360 to 278.460 (Subdivision of Land: Final Map), inclusive, or chapter 278A of NRS (Planned Development).

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

Developer. The subdivider in NRS 278.360 to 278.460, or the landowner in NRS Chapter 278A.

Finance 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 capital improvement plan.

Furnishings. Amenities associated with trails, parks and open space, consisting of but not limited to items as listed in the "Parks and Recreation Master Plan" adopted April 6, 2006.

Improvements. Improvements consist of but are not limited to, landscaping; public lighting; security walls; and trails, parks and open space, all of which are constructed by the petitioner pursuant to the petitioner's approved improvement plan.

Improvement Plan. The plan approved by Carson City that details the installation of improvements in a maintenance district by petitioner.

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.

Maintenance. To care for and provide upkeep of improvements which includes, without limitation, repair and replacement of materials in the maintenance district.

Maintenance Association. Homeowners' Association or Landscape Maintenance Association created to assume maintenance of the improvements.

Maintenance District. Assessed property in a development that 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 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 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 and the estimated time and expense that may be involved and any other information as required by the Parks Director.

Master Maintenance District. The improvement plan for a series of phased developments within a development where individual units of the development are added, 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.

Petition. A developer or, pursuant to NRS 278.4787(7), owners of affected tracts of land or residential units, may, through a petition, request Carson City to create a maintenance district. The petition must contain, without limitation, an Allocation Plan, Assessment Roll, Finance Plan, Maintenance Plan and Agreement. The petition must be signed by a majority of the owners whose property will be assessed and must set forth descriptions of all tracts of land or residential units that will be subject to such assessment.

Petitioner. The developer or, pursuant to NRS 278.4787(7), owners of affected tracts of land or residential units who petition Carson City to create a maintenance district.

Planning Director. The Planning Director 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 and maintained within 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 but not limited to stone, brick, concrete blocks, masonry or similar building material, together with footings, pilasters, outriggers, grillwork, gates and other appurtenances, constructed around the perimeter of a development to protect the several tracts in the development. The maintenance of a security wall excludes the sides facing private property.

17.18.040 Parks Director's Responsibilities.

1. The Parks Director is hereby designated pursuant to NRS 278.4787(3) to approve or disapprove all petitions submitted.
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.

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 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 consisting of a series of developments within a development where individual units of the development are added, by petition, as they are developed. The master maintenance district petition shall include (I) all of the requirements for a single development 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 developments.

2. Petition Requirements:

- (a) Signatures. The petition must be signed by a majority (51% or more) of the owners in the development whose property will be assessed. In addition, the petition must provide documentation that the developer notified all prospective home buyers in writing upon entering the contract to purchase the property, of the maintenance district and the amount of the assessments. Said notification shall be signed by the home buyer and a copy of signed notification shall be submitted to Carson City through the petition.
- (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) A minimum of a two-year obligation to maintain improvements;
 - (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) Assessment Roll. The petition must provide an assessment roll for that portion of

costs to be paid by the owners of assessed properties, which includes the amount of assessment for each assessed property calculated in accordance with Section 17.18.080 and payable through the assessed property's tax.

- (g) **Financial Plan.** The petition must provide a financing plan which must provide, without limitation:
 - (i) Detailed project costs;
 - (ii) District set 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 each phase of development; and
 - (vi) A projected five year capital 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 an assessment deposit that will cover the first six months of assessments and start up costs for the maintenance district.
- (j) **Right of Entry and Access.** The petitioner must submit a written agreement acceptable to Carson City granting Carson City, its agents, employees, and contractors an exclusive right to enter and access the maintenance district property to the extent necessary to inspect and/or maintain the improvements in the maintenance district property.
- (k) **Warranty.** The petitioner must submit a written agreement acceptable to Carson City providing a warranty for all installations including but not limited to live plants, irrigation equipment, furnishings, structures and playgrounds for a period of 24 months, or less, if agreed to by Carson City.
- (l) **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 arising out of or in any way related to ownership and/or maintenance including, but not limited to, damage or loss resulting from petitioner's or petitioner's agent's improper or defective materials, installation or design of the improvements. 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.

- (m) Existing Development or Subdivision. If an existing development or subdivision 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 project.
- (n) Dedication or Grant of Easement of Maintenance District Land to Carson City.
 - (i) Dedication. Carson City requires public access and unless otherwise agreed, maintenance district land shall be dedicated to Carson City which may be accomplished either by notation in the development agreement and on the final recorded subdivision map (which notation shall include a reference to this Chapter) or by separate deed.
 - (ii) Easement. If the land is not to be dedicated, an easement shall be granted by the maintenance district land owner(s) sufficient to enable Carson City to maintain the project.
 - (iii) Existing Development or Subdivision. Dedication or easement allocation will be determined by the petitioner and the Parks Director within the petition.
- (o) Additional Information. The petition must provide any additional information required by the Parks Director.
- (p) Timelines. Petitions for new developments must be submitted to the Parks Director 60 days before the approval of the final map for the development unless waived by the Parks Director. Existing developments may submit petitions to the Parks Director at any time under the conditions set forth in NRS 278.4787(7).
- (q) Fee. A filing fee as set by resolution of 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 cause.

17.18.060 Procedures for Review of Maintenance District Petitions.

1. Petition Must Comply with this Chapter.

(a) **Petitions 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 fails to reject the petition within twenty (20) working days after it is received, the petition will be deemed accepted.

(b) **Petitioner Rejected.**
If the Parks Director determines the petition does not comply with this Chapter, the petition shall be rejected. 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(c).

2. **Parks Director's Preliminary Determination.**

(a) Within 60 days after the petition is accepted, the Parks Director shall make a preliminary determination as to if it is desirable to accept the petition to establish a maintenance district. The following noninclusive 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 proposed maintenance district would interfere with Carson City's ability to efficiently and effectively maintain improvements on the subject 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; and
 - (xii) Any other relevant matters.
- (b) If the Parks Director makes a preliminary determination that it is desirable to accept the petition to establish a maintenance district, he/she may have the City's Finance Director, the City's Planning Director, the Fire Chief and the City Engineer or their designees review the petition to determine whether they believe it would be desirable for Carson City to assume the maintenance of the proposed improvements and establish a maintenance district. The City Directors may consider the noninclusive list of factors provided in subsection 17.18.060(2)(a). The City Directors will forward their recommendations to the Parks Director for his/her final determination. The Parks Director shall place the petition and his recommendation on the next regularly scheduled Board of Supervisors meeting agenda for action by the Board of Supervisors.
- (c) 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 of Supervisors meeting agenda for action by the Board of Supervisors.

3. Board of Supervisor's Public Hearing.

After the Parks Director's determination, he/she shall schedule the petition with his/her recommendation before the Board at their next regularly scheduled meeting to review the foregoing 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 area; (ii) a statement whether a separate maintenance district will be established or whether the 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 annual assessments or a description of where the proposed assessment roll 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 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 and assume the maintenance of the applicable improvements within the maintenance district, the City shall file with the Carson City County Recorder a notice of the creation of the maintenance district. 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.

17.18.070 Procedures for Establishment of the Board Approved Maintenance District.

1. Notice of Board Decision.

Once the approved petition has been filed with the Carson City County 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 the 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. Major changes would require the approval of the Board;
- (b) Contain the approved assessment roll that states that assessment amounts are subject to change by the Parks Director. Major changes of 10% or more to the assessment roll would require the approval of the Board;
- (c) Show proof of petitioner's notification to all assessed property owners of their inclusion in a new maintenance district or inclusion of new units of assessed property in an existing maintenance district;
- (d) Notify all assessed owners that their assessment shall be paid in conjunction with their property taxes. Nonpayment of the assessment has the same priority as a lien for property taxes, or as may otherwise be provided by law;
- (e) State that the maintenance district shall be administered in accordance with this Chapter;
- (f) List all conditions which must be met before Carson City assumes the maintenance responsibilities; and
- (g) 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 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.

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 project by Carson City will benefit the assessed properties and the public. The Parks Director may evaluate each proposed project on its own merits to determine if a different proportion is warranted based on information presented to him/her by the petitioner or otherwise available to him/her.

2. Landscaping Projects. The installation, construction and costs of providing landscaping shall be borne by the petitioner.

(a) Interior Streets. Landscaping projects 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 projects along arterial streets and major thoroughfares are 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. However, the Parks Director may determine that there is some additional benefit to persons outside the development if the landscaping project includes a sidewalk that connects other developments with commercial facilities, in which case the Parks Director may increase allocations to other developments in the same district, or to Carson City based on expected pedestrian use along the development frontage.

3. Public Lighting Projects. The installation, construction and costs of providing public lighting shall be borne by the petitioner.

(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 projects along arterial streets and major thoroughfares are 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. However, the Parks Director may determine that there is some additional benefit to persons outside the development if the public lighting includes a sidewalk that connects other developments with commercial facilities, in which case the Parks Director may increase allocations to other developments in the same district, or to Carson City based on expected pedestrian use along the development frontage.

4. Security Walls. The installation, construction and costs of providing security walls shall be

borne by the petitioner.

All Security wall projects 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. The maintenance of a security wall excludes the sides facing private property.

5. Trails. The installation, construction and costs of providing trails shall be borne by the petitioner.

(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%. This presumption is based on the fact that while these facilities 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. However, the Parks Director may determine that there is some additional benefit to persons outside the development if the regional trail connects other developments with commercial facilities, in which case the Parks Director may increase allocations to other developments in the same district, or to Carson City based on expected pedestrian use along the development frontage.
- (ii) Associated landscaping are presumed to benefit the development 100% and the public 0%. This presumption is based on the fact that the landscaping provides an aesthetic buffer between the development and the trail, and provides a greenbelt for the development.

(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 installation, construction and costs of providing parks, open space and defensible space shall be borne by the petitioner.

(a) Parks and Open Space. Parks and open space projects 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. However, the Parks Director may determine that there is some additional benefit to

persons outside the development if the parks and open space projects include features, facilities and improvements that have broad or general appeal to the public at large. Examples may include but are not limited to athletic fields, aquatic features, equestrian facilities and trail heads.

- (b) Defensible Space. Defensible space projects are 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.

17.18.090 Assessments

1. Generally. 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 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 (noninclusive list):

- (a) Assessments shall be made only against assessed property that is or will be benefitted by the project as determined by the Parks Director. In the case of a lot line adjustment or parcel split, the Parks Director will be responsible for allocating the assessment between the resulting parcels. The individual circumstances or desires of a particular property owner do not determine the benefit to the assessed property.
- (b) Each residential dwelling (including apartments and units in multifamily complexes) shall be assessed an equal amount.
- (c) The sum of assessments may not exceed project cost.
- (d) If the costs and expenses are increased within the maintenance district by 10% or more, the assessment amount per Board approval 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 parcel.

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

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 proposed improvements, shall be the direct costs

plus overhead allocated pursuant to the assessments determined within section 17.18.080. Direct costs plus overhead include, but are not limited to:

1. Costs of city employees or independent contractors (including professional services);
2. Cost of all materials, supplies, replacements, and parts used;
3. Utility costs for water, sewage disposal and electrical power;
4. Annual contributions to or replenishment of reserves for long term maintenance costs such as painting, replacements, repaving, repairs, and the like;
5. Cost of providing insurance for public liability;
6. 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;
7. Administrative fees, including accounting fees, supervision fees, legal fees and other administrative costs for administering the district and maintaining the project; and
8. Repayment of reserves, loans or advances, with interest, made to cover any shortfalls for the previous year.

17.18.111 Review and Dissolution of Maintenance District.

1. By Carson City.

Upon notice to the owners of property located within the maintenance district, 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 property owners within the maintenance district shall within six months of dissolution form a maintenance association approved by the City to assume the responsibility for maintenance of the improvements. The maintenance district shall continue to be in force until the Board approves dissolution and a private maintenance association is created. Once the Board approves dissolution the City shall be responsible for dissolving the easements.

2. By Petitioner.

If a majority of the property owners of the maintenance district's assessed property request

dissolution of the maintenance district, the petitioner may apply to the Parks Director to dissolve the maintenance district and allow the petitioner to assume all maintenance responsibilities for the maintenance district. The Parks Director shall investigate the request and make a determination as to if relinquishment of Carson City's maintenance responsibilities to petitioner: (i) will result in equal or better maintenance of the maintenance district; (ii) is in the best interest of Carson City not to maintain the maintenance district; (iii) is in the best interest of the general public; and (iv) if petitioner is capable of forming, within six months, a maintenance association approved by the City to assume the responsibility for maintenance of the improvements.

If the Parks Director determines that the considerations herein are in favor of dissolving the maintenance district, he/she shall place an item on the next regularly scheduled Board of Supervisor's meeting agenda for Board approval. The Board item shall specify the procedures for dissolution of the district. The maintenance district shall continue to be in force until the Board approves dissolution and a private maintenance association is created. Once the Board approves dissolution the petitioner shall be responsible for dissolving the easements.

17.18.112 Appeal Procedures. The procedure for a petitioner or other aggrieved person to appeal to the Board of Supervisors a decision of the Parks Director to approve or disapprove a petition is provided automatically in subsection 17.18.060.

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)