



# Planning Commission Staff Report

Meeting Date: February 3, 2015

Subject: Development Code Amendment Case Number DCA14-007

Applicant: Planning and Development Division

**Agenda Item Number: 9C**

Summary: To amend Washoe County Code, Chapter 110, Development Code, Article 821, Amendment of Regulatory Zone, to clarify actions and findings by the Washoe County Planning Commission and the Washoe County Board of County Commissioners on such amendments, to include minor amendments of Regulatory Zone maps

**Recommendation: Recommend approval and authorize the Chair to sign the attached resolution**

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## Description

**Development Code Amendment Case Number DCA14-007** – To amend Washoe County Chapter 110 (Development Code) at Article 821, *Amendment of Regulatory Zone*, to add a new Section 110.821.02, *Definitions*; to amend Section 110.821.05, *Requirements for Application*, to correct references to the Director and Division and to add a provision for pre-application meetings; Section 110.821.10, *Supplemental Guidelines, Standards and Criteria*, to correct references to the Director; Section 110.821.15, *Review Procedures*, to clarify notice for the public hearing and procedures for concurrent application processing, to provide for adoption, denial and no action on the amendment by the Commission, and to remove findings for a denial; Section 110.821.20, *Notice*, to reference NRS for noticing and to add provisions for notice to GIDs and military installations; Section 110.821.25, *Appeal of Denial*, and Section 110.821.30, *Action by Board of County Commissioners on Appeal*, to amend procedures for Board action on amendments to be consistent with other Development Code provisions; Section 110.821.35, *Written Record*, to provide provisions for Board findings when the Commission makes no findings; Section 110.821.45, *Modification of Regulatory Zone Amendment*, and Section 110.821.50, *Moratorium*, for minor grammar changes; and, Section 110.821.60, *Minor Amendment of a Regulatory Zone map*, to modify procedures for Board Action on minor amendments to be consistent with other Development Code provisions and to define the content of the Board's adopting resolution; and, providing for matters properly related thereto.

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**Development Code Amendments**

The Washoe County Development Code is Chapter 110 of the Washoe County Code (WCC). The Development Code broadly regulates allowable and permitted land uses, subdivision of land, planning permit requirements and procedures, signage, infrastructure availability, land use development standards, and other related matters. Because the Development Code covers so many varying aspects of land use and development standards, it is expected that from time to time it may be necessary to change or amend one or more portions of the Development Code to keep it up to date with the most current and desirable trends in planning and development.

The Development Code amendment process provides a method of review and analysis for such proposed changes. Development Code amendments may be initiated by the Washoe County Commission, the Washoe County Planning Commission, or an owner of real property. Development Code amendments are initiated by resolution of the Washoe County Commission or the Planning Commission. Real property owners may submit an application to initiate a Development Code amendment.

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

The Washoe County Commission hears all amendments recommended for approval, and amendments recommended for denial upon appeal. The County Commission will hold a first reading and introduction of the ordinance (proposed amendment), followed by a second reading and possible ordinance adoption in a public hearing at a second meeting at least two weeks after the first reading. Unless otherwise specified, ordinances are effective 10 days after adoption.

**Background and Proposed Amendments**

Article 821, Amendment of Regulatory Zone, currently requires findings for both the recommendation of approval of and the denial of a proposed regulatory zone amendment (WCC

Section 110.821.15). Applying the findings for a denial of a proposed regulatory zone amendment have been problematic, particularly since the findings are counter intuitive to the process used to apply findings for all other discretionary actions within the Development Code. Findings for the other discretionary actions are only provided for an approval of the action. The Development Code also provides for the total number of findings which must be made in order for the action to be approved. If that total number of findings cannot be made, then the action must be denied.

The proposed amendments would remove the denial findings for regulatory zone amendment applications, and would further stipulate that all of the six findings must be made in order to approve the amendment. The seventh finding, effect on a military installation, would only need to be made if a military installation is required to be noticed about the application (noticing and distance requirements are contained in WCC Section 110.821.20).

The current Development Code does not provide direction on the sequence and approval of concurrent Master Plan and Regulatory Zone amendment requests. The Development Code does allow concurrent processing of these amendments. However, a Regulatory Zone amendment can only be finally approved once the Master Plan amendments are adopted by the Washoe County Board of County Commissioners (BCC) and the plan subsequently is found to be in conformance with the Truckee Meadows Regional Plan. The proposed amendments will clearly outline this sequence of approvals for both the PC and the BCC, and also enable concurrent processing of Regulatory Zone amendments with other types of discretionary permit applications (e.g., a Special Use Permit application).

The current Development Code is silent on the three kinds of action that the Planning Commission (PC) may take on a Regulatory Zone amendment. The three kinds of action include a recommendation of adoption to the BCC, a denial, or no action. A no action could occur if no motion is made, if all motions die for lack of a second, or if a tie vote occurs and the applicant does not request a postponement until the next PC meeting. The proposed amendments will provide appropriate regulations on the three kinds of action.

The proposed amendments will also add an additional criterion for the requirements of a minor amendment of a Regulatory Zone map. That new criterion is for Regulatory Zone amendments required when properties are being included or removed from a Sphere of Influence as adopted in the Truckee Meadows Regional Plan.

Additionally, in response to a change in the law, the ordinance clarifies voting requirements for approvals of zoning amendments by the BCC and by the PC. Under NRS 241.0355, a vote of a simple majority of the BCC's full membership is required to take action on a regulatory zone amendment. However, the PC can take action based on the vote of a simple majority of those present at the meeting. Accordingly, Sections 110.821.30(i), 110.821.60(e)(3), and 110.821.50(i) are changed to require a simple majority vote of the entire membership of the BCC to take action, and Sections 110.821.15(c) and 110.821.50(d) are changed to reflect that the PC can take action on a simple majority vote of those present at the hearing.

Finally, the proposed amendments will provide for the following consistency and "clean-up" matters:

1. Provide for definitions of terms used within the Article.
2. Reflect the current organization of the Planning and Development Division, Community Services Department.
3. Encourage pre-application meetings.
4. Establish that a simple majority vote of the PC's membership is required for a recommendation of approval or for a denial.
5. Add general improvement districts and military installations to the noticing requirements.

6. Stipulate that appeals are heard by the BCC following the procedures established in WCC Section 110.912.20.
7. Establish how written notice of the BCC's action is to be prepared, by whom, and that such written notice must be provided to the applicant. Additionally, stipulate that the action (written notice) is final for the purpose of judicial review.
8. Require resolutions of the BCC's actions for Regulatory Zone amendments and minor amendments of Regulatory Zone maps.
9. Establish that BCC public hearings on minor amendments of Regulatory Zone maps follow the provisions of WCC Section 110.821.20.

Amendments to Article 821 were initiated by the PC under Resolution Number 14-11 (DCA14-007) on April 1, 2014. The proposed amendments (DCA14-007) are included as Exhibit A to the resolution (Attachment A) included with this staff report.

### **Findings**

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

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

*Staff comment: Table 110.106.05.1 in Article 106, Master Plan Categories and Regulatory Zone, establishes the regulatory zones allowed within each Master Plan category. Regulatory zone amendment requests must follow this table, so that adopted amendments are in conformance with the Washoe County Master Plan.*

2. Promotes the Purpose of the Development Code. The proposed Development Code amendment will not adversely impact the public health, safety or welfare, and will promote the original purposes for the Development Code as expressed in Article 918, Adoption of Development Code.

*Staff comment: Part of the purpose of the Development Code is to provide due process rights afforded by the constitution, state statutes, and the County Code. The proposed amendments establish and refine a process for requesting changes to an adopted regulatory zone. The proposed changes are considered in the context of the overlying Master Plan category, and further evaluated for any potential impacts to the public health, safety and/or welfare of the surrounding property owners and the community at large. Therefore, this amendment strengthens both the purpose of the Development Code and provides a method to evaluate amendment requests in the context of the public's health, safety and welfare.*

3. Response to Changed Conditions. The proposed Development Code amendment responds to changed conditions or further studies that have occurred since the Development Code was adopted by the Board of County Commissioners, and the requested amendment allow for a more desirable utilization of land within the regulatory zones.

*Staff comment: Planning Commission members and planning staff have struggled over the past years with the findings for denial of a regulatory zone amendment request. Several PC members commented that the denial findings are not logical, in that if a member believes they cannot make a finding for approval then it follows that they must recommend denial. Planning staff, particularly legal counsel for the Commission, agree and subsequently began efforts to amend Article 821 to remove the denial findings. The*

*amendments also incorporate changes to the Division's organization, which happened after this Article was last amended in 2010. The amendment itself does not provide for more desirable land uses within regulatory zones, as that analysis occurs specific to each amendment request. The amendment does, however, establish the processes and procedures by which the PC can determine if individual amendment requests provide for more desirable land uses.*

4. **No Adverse Affects.** The proposed Development Code amendment will not adversely affect the implementation of the policies and action programs of the Conservation Element or the Population Element of the Washoe County Master Plan.

*Staff comment: The amendments relate to process and procedures for regulatory zone amendment requests and do not directly affect the policies and action programs of the Conservation or Population Elements of the Washoe County Master Plan. The amendment does, however, establish the processes and procedures by which the PC can determine if individual amendment requests affect the implementation of either Element.*

### **Public Notice**

The Development Services Forum (DSF) discussed the proposed amendments at their January 8, 2015 meeting. Four members of the DSF were present at the meeting. The only comment specific to these proposed amendments was to change reference to a "section" in Code to a "subsection" as that is the correct term. That change was made at Ordinance Section 13, Section 110.821.60(d)(1).

Staff hosted a public workshop on January 13, 2015, to discuss the proposed amendment and invited all current members of the County's Citizen Advisory Boards (CAB) to attend. Four citizens attended the workshop. The only comment specific to these proposed amendments concerned notice to CABs. Section 110.821.20 requires notice of a Regulatory Zone amendment be made following the provisions of NRS 278.260. However, the Code section does not specifically require that CABs be noticed. NRS 278.260 addresses zoning regulations, restrictions and boundaries. NRS 278.260(4) requires notice of a hearing to change a zoning boundary at least 10 days prior to the hearing to:

1. The applicant;
2. Each owner of real property within 750 feet of the portion of the boundary being changed;
3. Each owner of 30 separately owned parcels nearest to the portion of the boundary being changed (not duplicating the notice in number 2 above);
4. Each tenant of a mobile home park if the park is located within 750 of the property in question; and,
5. Any advisory board established for the affected area by the governing body.

Therefore, CABs will be noticed, if required, as part of a Regulatory Zone amendment.

Pursuant to Washoe County Code Section 110.818.20, notice of this public hearing was published in the newspaper at least 10 days prior to this meeting, and the Chair and membership of all Citizen Advisory Boards were likewise notified of the public hearing. Such notification was accomplished and staff can provide proof of notification if requested.

### **Recommendation**

It is recommended that the Washoe County Planning Commission recommend approval of DCA14-007, to amend Washoe County Chapter 110 (Development Code) at Article 821, *Amendment of Regulatory Zone*, to clarify actions and findings by the Washoe County Planning

Commission and the Washoe County Board of County Commissioners on such amendments, to include minor amendments of Regulatory Zone maps. The following motion is provided for your consideration:

### **Motion**

I move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Planning Commission recommend approval of DCA14-007, to amend Washoe County Chapter 110 (Development Code) at Article 821, *Amendment of Regulatory Zone*, to clarify actions and findings by the Washoe County Planning Commission and the Washoe County Board of County Commissioners on such amendments, to include minor amendments of Regulatory Zone maps. I further move to authorize the Chair to sign the resolution contained in Attachment A on behalf of the Washoe County Planning Commission and to direct staff to present a report of this Commission's recommendation to the Washoe County Board of County Commissioners within 60 days of today's date. This recommendation for approval is based on all of the following four findings in accordance with Washoe County Code Section 110.818.15(e):

1. Consistency with Master Plan. The proposed Development Code amendment is in substantial compliance with the policies and action programs of the Washoe County Master Plan;
2. Promotes the Purpose of the Development Code. The proposed Development Code amendment will not adversely impact the public health, safety or welfare, and will promote the original purposes for the Development Code as expressed in Article 918, Adoption of Development Code;
3. Response to Changed Conditions. The proposed Development Code amendment responds to changed conditions or further studies that have occurred since the Development Code was adopted by the Board of County Commissioners, and the requested amendment allow for a more desirable utilization of land within the regulatory zones; and,
4. No Adverse Affects. The proposed Development Code amendment will not adversely affect the implementation of the policies and action programs of the Conservation Element or the Population Element of the Washoe County Master Plan.

### **Appeal Process**

An appeal of the Planning Commission's denial of a Development Code amendment may be made to the Washoe County Board of County Commissioners within 15 days after the date of the decision, pursuant to Washoe County Code Section 110.818.25. If the end of the appeal period falls on a non-business day, the appeal period shall be extended to include the next business day.

Staff Report and Action Order xc: Greg Salter, Deputy District Attorney



## RESOLUTION OF THE WASHOE COUNTY PLANNING COMMISSION

### RECOMMENDING APPROVAL OF AMENDMENTS (DCA14-007) TO THE WASHOE COUNTY CODE AT CHAPTER 110, DEVELOPMENT CODE, ARTICLE 821, AMENDMENT OF REGULATORY ZONE, TO CLARIFY ACTIONS AND FINDINGS BY THE WASHOE COUNTY PLANNING COMMISSION AND THE WASHOE COUNTY BOARD OF COUNTY COMMISSIONERS ON SUCH AMENDMENTS, TO INCLUDE MINOR AMENDMENTS OF REGULATORY ZONE MAPS

Resolution Number 15-02

#### WHEREAS

- A. Development Code Amendment Case Number DCA14-007, came before the Washoe County Planning Commission for a duly noticed public hearing on February 3, 2015; and
- B. The Washoe County Planning Commission heard public comment and input from both staff and the public regarding the proposed Development Code amendment; and
- C. The Washoe County Planning Commission gave reasoned consideration to the information it received regarding the proposed Development Code Amendment; and
- D. Pursuant to Washoe County Code Section 110.818.15(e), the Washoe County Planning Commission made the following findings necessary to support its recommendation for adoption of the proposed Development Code amendment, Case Number DCA14-007:
  1. Consistency with Master Plan. The proposed amendment is in substantial compliance with the policies and action programs of the Washoe County Master Plan;
  2. Promotes the Purpose of the Development Code. The proposed Development Code amendment will not adversely impact the public health, safety or welfare, and will promote the original purposes for the Development Code as expressed in Article 918, Adoption of Development Code;
  3. Response to Changed Conditions. The proposed Development Code amendment responds to changed conditions or further studies that have occurred since the Development Code was adopted by the Board of County Commissioners, and the requested amendment allow for a more desirable utilization of land within the regulatory zones; and,
  4. No Adverse Affects. The proposed Development Code amendment will not adversely affect the implementation of the policies and action programs of the Conservation Element or the Population Element of the Washoe County Master Plan.

**NOW, THEREFORE, BE IT RESOLVED** that pursuant to Washoe County Code Section 110.818.15(d):

1. The Washoe County Planning Commission does hereby recommend APPROVAL of DCA14-007, an amendment to the Washoe County Code at Chapter 110, Development Code, Article 821, *Amendment of Regulatory Zone*, to clarify actions and findings by the Washoe County Planning Commission and the Washoe County Board of County Commissioners on such amendments, to include minor amendments of Regulatory Zone maps as set forth in Exhibit A; and,
2. A report describing this amendment, discussion at this public hearing, this recommendation, and the vote on the recommendation be forwarded to the Washoe County Board of County Commissioners within 60 days of this resolution's adoption date.

ADOPTED on February 3, 2015.

WASHOE COUNTY PLANNING COMMISSION

ATTEST:

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Carl R. Webb, Jr., AICP, Secretary

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Roger M. Edwards, Chair



WORKING COPY  
INFORMATION ONLY

REGULAR TEXT: NO CHANGE IN LANGUAGE

~~STRIKEOUT TEXT: DELETED LANGUAGE~~

**BOLD TEXT: NEW LANGUAGE**

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

**Summary: Amends procedures for Regulatory Zone amendments to clarify actions and findings by the Washoe County Planning Commission and the Washoe County Board of County Commissioners on such amendments, to include minor amendments of Regulatory Zone maps.**

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

An ordinance amending the Washoe County Code at Chapter 110 (Development Code) at Article 821, *Amendment of Regulatory Zone*, to add a new Section 110.821.02, *Definitions*; to amend Section 110.821.05, *Requirements for Application*, to correct references to the Director and Division and to add a provision for pre-application meetings; Section 110.821.10, *Supplemental Guidelines, Standards and Criteria*, to correct references to the Director; Section 110.821.15, *Review Procedures*, to clarify notice for the public hearing and procedures for concurrent application processing, to provide for adoption, denial and no action on the amendment by the Commission, and to remove findings for a denial; Section 110.821.20, *Notice*, to reference NRS for noticing and to add provisions for notice to GIDs and military installations; Section 110.821.25, *Appeal of Denial*, and Section 110.821.30, *Action by Board of County Commissioners on Appeal*, to amend procedures for Board action on amendments to be consistent with other Development Code provisions; Section 110.821.35, *Written Record*, to provide provisions for Board findings when the Commission makes no findings; Section 110.821.45, *Modification of Regulatory Zone Amendment*, and Section 110.821.50, *Moratorium*, for minor grammar changes; and, Section 110.821.60, *Minor Amendment of a Regulatory Zone map*, to

modify procedures for Board Action on minor amendments to be consistent with other Development Code provisions and to define the content of the Board's adopting resolution. Recommendations include other matters properly relating thereto.

WHEREAS:

- A. Changes to Article 821 (Amendment of Regulatory Zone) of the Washoe County Development Code (Chapter 110) are desired to improve procedures for Regulatory Zone amendments and to implement statutory provisions and decisions of the Nevada Supreme Court;
- B. As authorized by Washoe County Code Section 110.818.05, the Washoe County Planning Commission initiated amendments to the Development Code for Article 821 by resolution on April 1, 2014. The amendments and this ordinance were drafted by the District Attorney, and the Planning Commission held a duly noticed public hearing for DCA 14-007 on February 3, 2015, and adopted a resolution recommending adoption of this ordinance.
- C. Following a first reading and publication as required by NRS 244.100 (1), and after a duly noticed public hearing, this Board of County Commissioners desires to adopt this Ordinance; and
- D. This Commission has determined that this ordinance is being adopted pursuant to requirements set forth in Chapter 278 of NRS, therefore is not a "rule" as defined in NRS 237.060 requiring a business impact statement.

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

SECTION 1. A new Section 110.821.02 (definitions) is added to read in its entirety as follows:

**Section 110.821.02 Definitions**

- (a) "Board" means the Board of County Commissioners.
- (b) "Commission" means the Planning Commission.
- (c) "Director" means the Director of the Division or the person or persons designated by the Director to do the action.

- (d) “Division” means the Planning and Development Division of the Department of Community Services for Washoe County, or other entity that administers land use planning policies and procedures for the county.
- (e) “Secretary” means the Secretary to the Planning Commission.

SECTION 2. Section 110.821.00 (purpose) is hereby amended to read as follows:

**Section 110.821.00 Purpose.** The purpose of this article, Article 821, Amendment of Regulatory Zone, is to provide for the method for amending the Regulatory Zone map, **including** requests to change a **Regulatory Zone** zone affecting a parcel of land, or a portion of a parcel, ~~are processed under Article 821, Amendment of Regulatory Zone.~~

SECTION 3. Section 110.821.05 (requirements for application) is hereby amended to read as follows:

**Section 110.821.05 Requirements for Application.**

- (a) Initiation of Amendments. A Regulatory Zone amendment may be initiated by the Board of ~~County Commissioners~~ or the Planning Commission through action by a simple majority vote, **or by the Director.** An owner of real property or the property owner's authorized agent may initiate an amendment through an application filed with the ~~Division-Department of Community Development.~~
- (b) Frequency of Amendment. Only the Board of ~~County Commissioners~~ or **the Planning Commission** may initiate an amendment of ~~a the~~ Regulatory Zone for a parcel within twelve (12) months after an amendment on that parcel has been adopted or denied.
- (c) Completeness. No **application for a** Regulatory Zone amendment shall be processed until the information necessary to review and decide upon the proposed Regulatory Zone amendment is deemed complete by the Director ~~of Community Development.~~ The Director shall make this determination within three (3) working days of receipt of an application. **Pre-application meetings between the applicant and the Director, or his/her designee, are encouraged.**

SECTION 4. Section 110.821.10 (supplemental guidelines, standards and criteria) is hereby amended to read as follows:

**Section 110.821.10 Supplemental Guidelines, Standards and Criteria.** In addition to the standards and findings set forth in the Development Code, the Director ~~of Community Development~~ may prepare supplemental guidelines for the submission of applications and minimum standards and criteria for approval applications.

SECTION 5. Section 110.821.15 (review procedures) is hereby amended to read as follows:

**Section 110.821.15 Review by Planning Commission Procedures.** The Planning Commission shall review a Regulatory Zone amendment in conformance with this section.

- (a) General Provisions. The Planning Commission shall conduct ~~at least one (1)~~ public hearing ~~to with notification for the purpose of receive~~ receiving oral and written evidence relative to the application. **Notice for the hearing shall be provided as specified in section 110.821.20 below. Public comments and** The evidence shall be reviewed to determine **whether or not the findings specified in subsection (d) below can be made** ~~if the proposed amendment is internally consistent with existing policies and standards of the Master Plan and the Regulatory Zone map.~~ The Planning Commission shall recommend adoption, modification, or denial of the application to the Board of County Commissioners based on the results of this review.
- (b) Concurrent Processing of Applications. **If a Master Plan amendment is necessary to authorize the proposed Regulatory Zone amendment, the Master Plan amendment and Regulatory Zone amendment may be processed and heard concurrently; however, the resolution recommending approval of the Regulatory Zone amendment must be expressly contingent on adoption of the Master Plan amendment and subsequent determination that it is in conformance with the Regional Plan as required by NRS 278.0282. Regulatory Zone amendments may also be processed concurrently with other applications (such as special use permits) and the Director shall decide the order of review** ~~proposed project requires more than one (1) application under the provisions of the Development Code, the applications may be filed at the same time and processed concurrently. If more than one review authority is involved, the Director of Community Development shall determine the sequence for action by the review authorities.~~
- (c) Action. The Planning Commission may **do any of the following. A simple majority vote of the members of the Commission present at the hearing is required for a recommendation of adoption or a denial of the amendment** ~~take action to recommend adoption, adoption with modifications or denial of the Regulatory Zone amendment request. Recommendations for approval or modification may include conditions deemed appropriate to address issues raised as part of the public hearing. The recommendation for approval, modification or denial by the Planning Commission shall be by the affirmative votes of a simple majority of the membership. A recommendation for approval shall refer expressly to the maps, descriptive matter, or other matter intended by the Planning Commission to constitute the amendment.~~
- (1) Recommend Adoption. **The Commission may adopt a resolution making the required findings and recommending adoption of the Regulatory Zone amendment to the Board. The resolution shall refer expressly to the maps, descriptive matter, or other matter intended by the Commission to constitute the amendment. Since it is only a recommendation that must be acted on by the Board, the resolution is not a final action for purposes of appeal or judicial review.**
- (2) Denial. **If a motion to adopt the Regulatory Zone amendment does not achieve the required number of votes, or if a motion to deny the adoption is approved, the Regulatory Zone amendment is denied. If a Regulatory Zone amendment is denied, the Commission may (by separate motion if**

necessary) determine if the denial is with or without prejudice. When a Regulatory Zone amendment is denied, the Commission must give a reason why, including an explanation of which of the required findings cannot be made, either as a part of the motion, or by individual comments of the Planning Commissioners made for the record. A denial is a final action on the application and will not be referred to the Board unless appealed. A written notice of the denial shall be prepared by and filed with the Secretary, and sent to the applicant, at which time the denial may be appealed to the Board as provided in Section 110.912.20 of the Development Code.

- (3) **No Action.** If no action is taken on a motion (i.e., no motion is made, all motions die for lack of a second, or a tie vote occurs and the applicant has not asked for a postponement under Commission Rules), any person aggrieved by the non-action may appeal to the Board for a decision. A written notice describing the attempts to take action shall be prepared by and filed with the Secretary, and sent to the applicant and when that is done, the non-action may be appealed to the Board as provided in Section 110.912.20 of the Development Code.

- (d) **Findings.** To make a recommendation for approval, all of the following findings must be made by ~~When making its recommendation for approval, or modification of an amendment, or denial, the Planning Commission shall make the following findings:~~

- (1) **Consistency with Master Plan and Regulatory Zone map.** The proposed amendment is in substantial compliance with the policies and action programs of the Master Plan.
- (i) ~~Approval:~~ The proposed amendment is in substantial compliance with the policies and action programs of the Master Plan and the Regulatory Zone map.
- (ii) ~~Denial:~~ The proposed amendment is not in substantial compliance with the policies and action programs of the Master Plan and the Regulatory Zone map.
- (2) **Compatible Land Uses.** The proposed amendment will provide for land uses compatible with (existing or planned) adjacent land uses, and will not adversely impact the public health, safety or welfare.
- (i) ~~Approval:~~ The proposed amendment will provide for land uses compatible with (existing or planned) adjacent land uses, and will not adversely impact the public health, safety or welfare.
- (ii) ~~Denial:~~ The proposed amendment would result in land uses which are incompatible with (existing or planned) adjacent land uses, and would adversely impact the public health, safety or welfare.
- (3) **Response to Change Conditions; more desirable use.** The proposed amendment responds to changed conditions or further studies that have occurred since the plan was adopted by the Board of County Commissioners, and the requested amendment represents a more desirable utilization of land.

- (i) ~~Approval:~~ The proposed amendment responds to changed conditions or further studies that have occurred since the plan was adopted by the Board of County Commissioners, and the requested amendment represents a more desirable utilization of land.
- (ii) ~~Denial:~~ The proposed amendment does not identify and respond to changed conditions or further studies that have occurred since the plan was adopted by the Board of County Commissioners, and the requested amendment does not represent a more desirable utilization of land.
- (4) Availability of Facilities. **There are or are planned to be adequate transportation, recreation, utility, and other facilities to accommodate the uses and densities permitted by the proposed amendment.**
- (i) ~~Approval:~~ There are or are planned to be adequate transportation, recreation, utility, and other facilities to accommodate the uses and densities permitted by the proposed amendment.
- (ii) ~~Denial:~~ There are not nor are planned to be adequate transportation, recreation, utility, and other facilities to accommodate the uses and densities permitted by the proposed amendment.
- (5) No Adverse Affects. **The proposed amendment will not adversely affect the implementation of the policies and action programs of the Washoe County Master Plan.**
- (i) ~~Approval:~~ The proposed amendment will not adversely affect the implementation of the policies and action programs of the Washoe County Master Plan.
- (ii) ~~Denial:~~ The proposed amendment will adversely affect the implementation of the policies and action programs of the Washoe County Master Plan.
- (6) Desired Pattern of Growth. **The proposed amendment will promote the desired pattern for the orderly physical growth of the County and guides development of the County based on the projected population growth with the least amount of natural resource impairment and the efficient expenditure of funds for public services.**
- (i) ~~Approval:~~ The proposed amendment will promote the desired pattern for the orderly physical growth of the County and guides development of the County based on the projected population growth with the least amount of natural resource impairment and the efficient expenditure of funds for public services.
- (ii) ~~Denial:~~ The proposed amendment does not promote the desired pattern for the orderly physical growth of the County. The proposed amendment does not guide development of the County based on the projected population growth with the least amount of natural resource impairment and the efficient expenditure of funds for public services.

- (7) Effect on a Military Installation When a Military Installation is Required to be Noticed. **The proposed amendment will not affect the location, purpose and mission of a military installation.**
- (i) ~~Approval:~~ The proposed amendment will not affect the location, purpose and mission of the military installation.
- (ii) ~~Denial:~~ The proposed amendment will affect the location, purpose and mission of the military installation.

SECTION 6. Section 110.821.20 (notice) is hereby amended to read as follows:

**Section 110.821.20 Notice.** Notice for a Regulatory Zone amendment shall be given as required by NRS 278.260. Owners of all real property to be noticed pursuant to this section shall be those owners identified on the latest County Assessor's ownership maps and records. Such notice is complied with when notice is sent to the last known addresses of such real property owners as identified in the latest County Assessor's records. Any person who attends the public hearing shall be considered to be legally noticed unless those persons can provide evidence that they were not notified according to the provisions of this section. ~~Notice for a zoning regulation, restriction, boundary or an amendment thereto, shall be given in accordance with the provisions of Nevada Revised Statutes 278.260 as amended.~~

- (a) **In addition, a copy of the written notice shall be sent to the chief operating officer of any general improvement district serving the property.** ~~Compliance with Noticing Requirements.~~ Owners of all real property to be noticed pursuant to this section shall be those owners identified on the latest County Assessor's ownership maps and records. Such notice is complied with when notice is sent to the last known addresses of such real property owners as identified in the latest County Assessor's records. Any person who attends the public hearing shall be considered to be legally noticed unless those persons can provide evidence that they were not notified according to the provisions of this section.
- (b) **In addition, if any part of the property is within 3,000 feet of a military installation, written notice must be given to the commander of the military installation.**

SECTION 7. Section 110.821.25 (appeal of denial) is hereby amended to read as follows:

**Section 110.821.25 Appeals to Board of County Commissioners of Denial.** Any person who is aggrieved by a final decision or non-action of the Planning Commission may appeal to the Board as provided in Section 110.912.20 of the Development Code. ~~A denial action of the Planning Commission made pursuant to this article may be appealed in accordance with the provisions of this section.~~

- (a) ~~Appeal Period.~~ An appeal of the Planning Commission's denial of a Master Plan amendment request may be made to the Board of County Commissioners within ten (10) days after the date of the decision. If the end of the appeal period falls on a non-business day, the appeal period shall be extended to include the next business day.

- (b) ~~Who Can Appeal.~~ Appeals may be filed by any aggrieved person as defined in Nevada Revised Statutes 278.3195, as amended.
- (c) ~~Appeal Application.~~ An appeal shall be filed with the Director of Community Development, accompanied by a filing fee. The appeal shall be in writing and state the basis of the appeal by citing the inadequacy of the findings made by the Planning Commission. Such reasons shall be based upon the evidence presented to the Planning Commission at the original hearing. Failure of the appellant to present such reasons shall be deemed cause for denial of the appeal.
- (d) ~~Action on Appeal.~~ The appeal of the Planning Commission's denial of a Master Plan amendment request shall be processed pursuant to this article.

SECTION 8. Section 110.821.30 (action by the board of county commissioners on an appeal) is hereby amended to read as follows:

**Section 110.821.30 Action by Board of County Commissioners on an Appeal.** If the Commission recommends approval of a Regulatory Zone amendment, a copy of the resolution shall be filed with the County Clerk, and the Board of County Commissioners shall review the a-Regulatory Zone amendment in accordance with the provisions of this section.

- (a) Notice of Hearing. A The public hearing shall be noticed as set forth in Section 110.821.20 of this article.
- (b) Time Period for Hearing. The **County Clerk** Department of Community Development shall schedule a public hearing before the Board of County Commissioners on the recommendation of the Planning Commission **to occur** within sixty (60) days of the filing of the appeal or the Planning Commission's **Resolution with the County Clerk** action.
- (c) Board of County Commissioners' Action.
- (1) The Board of County Commissioners shall act to adopt, adopt with modifications, or deny the proposed amendment. The Board will consider any conditions of approval as recommended by the Planning Commission. Prior to making a final decision, the Board of County Commissioners shall be required to conduct a public hearing and notice this hearing pursuant to Section 110.821.20 of this article. An adoption or denial of a proposed Regulatory Zone amendment shall requires an affirmative vote of a simple majority of the total membership of the Board. **If the Board denies an amendment, the reason for the denial (i.e., findings which cannot be made) shall either be stated in the motion or discussed on the record by individual Board members.**
  - (2) Adoption of a Regulatory Zone amendment shall be by resolution of the Board, which shall refer expressly to the maps, descriptive matter, or other matter intended by the Board to constitute the amendment. If the Regulatory Zone amendment is processed concurrently with a Master Plan amendment, the approving motion shall state that the approval is subject to adoption of the Master Plan amendment and the resolution approving the Regulatory Zone amendment shall not be executed by the chair until the Master Plan amendment is adopted and a determination is made by the Regional Planning Commission that the proposed Master Plan amendment



~~conforms to the Regional Plan. If the Board of County Commissioners is considering an appeal from a denial of a Regulatory Zone amendment request, it may use the record and any additional evidence relative to the application and may confirm or reverse the denial based upon its interpretation of the findings required and the evidence submitted. Final action to approve the amendment shall require a simple majority of the total membership of the Board.~~

- (3) **If the Board denies an amendment for a Regulatory Zone amendment, a written notice shall be prepared by the Director and sent to the applicant.**
- (4-3) The final action (**actual execution of a resolution to approve, or approval of a motion to deny**) by the Board of County Commissioners shall be final for purposes of judicial review. **A written notice of the action by the Board shall be prepared by the Director and mailed to the applicant and a copy shall be filed with the County Clerk. The period for petitioning for judicial review then starts.**

SECTION 9. Section 110.821.35 (written record) is hereby amended to read as follows:

**Section 110.821.35 Findings Written Record.** When taking final action on the Planning Commission's recommendation, the Board of County Commissioners shall make part of the record ~~its~~ **its** their affirmation, modification or rejection of the findings of fact ~~by provided in the Planning Commission's final recommendation,~~ as well as any other findings of fact that the Board of County Commissioners deems to be relevant. **If the Commission made no findings, the Board shall either make the findings required for adoption of the Regulatory Zone amendment, or determine which findings cannot be made in the case of a denial either as a part of the motion or by comments of the individual Board members.**

SECTION 10. Section 110.821.45 (modification of a regulatory zone amendment) is hereby amended to read as follows:

**Section 110.821.45 Modification of a Regulatory Zone Amendment.** Proposed modifications of an adopted Regulatory Zone map amendment shall require a new application following the same procedure required for the initial application.

SECTION 11. Section 110.821.50 (name) is hereby amended to read as follows:

**Section 110.821.50 Moratorium.** The Board of County Commissioners may declare a moratorium on the acceptance and processing of planning applications and/or issuance of building permits for a specific geographical area and for a specified length of time for the purposes of preparing an amendment to the Regulatory Zone map.

- (a) **Initiation.** Only the Board of County Commissioners or the Planning Commission through resolution may initiate the process for declaring a moratorium for this purpose. If the Board of County Commissioners initiates the process to declare a moratorium, it shall refer the matter to the Planning Commission for a recommendation. A moratorium of no more than ~~ninety (90)~~ **ninety (90)** days shall exist from the date of approval of a resolution.

- (b) Planning Commission Hearing. The ~~Planning~~ Commission shall conduct a public hearing within ~~sixty (60)~~ days after it has resolved to declare a moratorium or within ~~sixty (60)~~ days from the date of referral by the ~~Board of County Commissioners~~.
- (c) Notice of Planning Commission Hearing. Notice of the date, time and place of the public hearing shall be published in a newspaper of general circulation in Washoe County not less than ~~ten (10)~~ days prior to the date of the public hearing to be conducted by the ~~Planning~~ Commission. Such notice shall describe why the moratorium is being proposed, what the proposed moratorium shall affect, the area that is affected by the moratorium, the anticipated length of time of the moratorium, and other pertinent information in such a manner that the moratorium and its effects can be clearly identified.
- (d) Planning Commission Recommendation. After completion of the public hearing by the ~~Planning~~ Commission, it may recommend that the ~~Board of County Commissioners~~ adopt a moratorium, modify the extent and area of the moratorium, or that the moratorium not be imposed. A recommendation to declare a moratorium shall require a simple majority vote of the ~~entire membership~~ **members** of the ~~Planning~~ Commission **present at the hearing**.
- (e) Findings. When making its recommendation for approval or modification, the ~~Planning~~ Commission shall, at a minimum, make the following findings of fact:
- (1) The moratorium is necessary to promote the health, safety and welfare of the area described in the moratorium declaration;
  - (2) The moratorium is necessary to permit the staff, ~~Planning~~ Commission, ~~Board of County Commissioners~~ and public to focus on the efficient and effective preparation of an amendment to the Regulatory Zone map; and
  - (3) The moratorium is necessary because continued development during the proposed moratorium period possibly would result in development that may conflict with the ~~plan~~ amendment.
- (f) Planning Commission Report. Within ~~sixty (60)~~ days of the action by the ~~Planning~~ Commission, a report describing the proposed moratorium, discussion at the public hearing, and the action and vote by the ~~Planning~~ Commission shall be transmitted to the ~~Board of County Commissioners~~. Failure to report within the time limit provided in this subsection or failure to schedule a hearing within ~~sixty (60)~~ days of the date of referral of the matter by the ~~Board of County Commissioners~~ to the ~~Planning~~ Commission shall constitute a recommendation not to declare a moratorium.
- (g) Board Hearing. The **County** Clerk of the ~~Board of County Commissioners~~ shall schedule a public hearing before the ~~Board of County Commissioners~~ within ~~thirty (30)~~ days of receipt of the report describing the ~~Planning~~ Commission's action.
- (h) Notice of Board Hearing. Notice of the date, time and place of the public hearing shall be published in a newspaper of general circulation in Washoe County not less than ~~ten (10)~~ days prior to the public hearing date. Such notice shall describe why the moratorium is being proposed, what the proposed moratorium shall affect, the area that is affected by the moratorium, the anticipated length of time of the moratorium, and other pertinent information in such a manner that the moratorium and its effects can be clearly identified.
- (i) Required Vote. After completion of the public hearing by the ~~Board of County Commissioners~~, **the Board** may declare a moratorium by a simple majority vote of its

entire membership. The final action of the Board of County Commissioners shall be considered final for purposes of judicial review.

- (j) Affirmation of Findings. In declaring a moratorium, the Board of County Commissioners shall, at a minimum, affirm the findings of fact contained in the Planning Commission's recommendation or, if the Planning Commission did not make these findings, shall, at a minimum, make the findings of fact in subsection (e) of this section.
- (k) Period in Effect. A moratorium declared by the Board of County Commissioners shall be in effect for a period of no less than ~~ninety (90)~~ days and no more than ~~one hundred and eighty (180)~~ days from the date that the Board of County Commissioners takes action on the recommendation of the Planning Commission. The Board of County Commissioners may extend the moratorium, upon an affirmation of findings as required under (j) hereinabove, for two ~~(2)~~ additional consecutive periods before holding another public hearing pursuant to the provisions of this section.

SECTION 12. Section 110.821.55 (certification of maps by electronic means) is hereby amended to read as follows:

**Section 110.821.55 Certification of Maps by Electronic Means.** Adopted Regulatory Zone maps may be certified by the Director of Community Development as true and accurate originals and copies through an electronic signature.

SECTION 13. Section 110.821.60 (minor amendment of regulatory zone map) is hereby amended to read as follows:

**Section 110.821.60 Minor Amendment of Regulatory Zone map.**

- (a) Purpose of Minor Amendment. The purpose of the minor amendment section is to provide a streamlined process for adopting changes to the Regulatory Zone map that do not have a substantive effect on the intent of the plan.
- (b) Requirements for Inclusion. To qualify as a minor amendment under this section, the change must be:
  - (1) A change in a boundary that is based on a geographical feature, including, without limitation, topography, slopes, hydrographic features, wetland delineation and floodplains, when evidence is produced that the mapped location of the geographical feature is in error;
  - (2) A change made to reflect the alteration of the name of a jurisdiction, agency, department or district by the governing body, governing board or other governing authority of the jurisdiction, agency, department or district, as applicable, or by another entity authorized by law to make such an alteration; and
  - (3) An update of statistical information that is based on a new or revised study.
  - (4) **A change made to reflect Master Plan category amendments due to properties being included in or removed from a Sphere of Influence as established in the Truckee Meadows Regional Plan.**

- (c) Administrative Process.
- (1) Initiating the Process. ~~The Director of Community Development shall have the sole authority to initiate a minor amendment to the Regulatory Zone map.~~
  - (2) Transmittal to Board of County Commissioners. Upon making the findings required under subsection (d) of this section, the Director of ~~Community Development~~ shall forward the minor amendment to the Board of ~~County Commissioners~~.
- (d) Findings.
- (1) The Director of ~~Community Development~~ must find that the proposed technical revision meets one of the conditions enumerated under **subsection (b)**.
  - (2) The Director of ~~Community Development~~ must also find that the proposed minor amendment is consistent with all of the following:
    - (i) Nevada Revised Statutes;
    - (ii) The Truckee Meadows Regional Plan; and
    - (iii) The Washoe County Master Plan.
- (e) Action by Board of County Commissioners. The Board of ~~County Commissioners~~ shall review proposed minor amendments to the Regulatory Zone map in conformance with this section.
- (1) Time Period for Hearing. **The Board shall conduct a public hearing on the proposed** ~~Public hearings conducted by the Board of County Commissioners on the recommendation of approval by the Director of Community Development of a minor amendment to the Regulatory Zone map within sixty (60) days of the filing of the **proposed** recommended minor amendment with the County Clerk.~~
  - (2) Notice of Public Hearing of Minor Amendment to the Regulatory Zone map. The notice of the public hearing on the minor amendment shall be **in accordance with Section 110.821.20 of this Article.** ~~provided as follows:~~
    - (i) ~~Notice to Citizen Advisory Boards.~~ A notice setting forth the date, time and place of the public hearing on the minor amendment to the Regulatory Zone map shall be sent either by mail, or if requested by a Citizen Advisory Board (CAB) member, by electronic means if receipt of such an electronic notice can be verified, to every member of the affected CAB not less than ten (10) days prior to the scheduled public hearing on the minor amendment. The notice shall describe the proposed minor amendment to the Regulatory Zone map, including the specific language and other pertinent information, in such a manner that the proposed minor amendment to the Regulatory Zone map and its effect(s) can be clearly identified. Any objections or comments from members of the CAB must be provided to the Director of Community Development no later than the date of the public hearing on the minor amendment.

~~(ii) Notice to affected General Improvement District. A notice setting forth the date, time and place of the public hearing on the minor amendment to the Regulatory Zone map shall be sent either by mail, or if requested by a general improvement district, by electronic means if receipt of such an electronic notice can be verified, to the chief operating officer of the general improvement district not less than ten (10) days prior to the scheduled public hearing on the minor amendment. The notice to the general improvement district shall describe the proposed minor amendment to the Regulatory Zone map, including the specific language and other pertinent information, in such a manner that the proposed minor amendment to the Regulatory Zone map and its effect(s) can be clearly identified. Any objections or comments from a general improvement district must be provided to the Director of Community Development no later than the date of the public hearing on the minor amendment.~~

~~(iii) Notice in Newspaper. A notice setting forth the date, time and place of the public hearing shall be published in a newspaper of general circulation in Washoe County not less than ten (10) days prior to the public hearing date. The notice shall describe the proposed minor amendment to the Regulatory Zone map and other pertinent information in such a manner that the Regulatory Zone amendment request and its effect(s) can be clearly identified.~~

~~(iv) Notice of Property Owners by Mail. For a minor amendment pursuant to subsection (b)(1), a notice setting forth the time, place, purpose of hearing, map or physical description of the land involved, existing and proposed land use designations, and a brief summary of the proposed change shall be sent by mail at least ten (10) days before the public hearing on the minor amendment to the following persons:~~

~~(1) All owners of real property that are the subject of the minor amendment;~~

~~(2) All owners of real property within seven hundred fifty (750) feet of the portion of the boundary being changed which is the subject of the minor amendment; and~~

~~(3) All tenants of any mobile home park that is located within seven hundred fifty (750) feet of the property which is the subject of the minor amendment.~~

~~(4) The commander or administrator of a military installation, as defined in Article 902, that is within three thousand (3,000) feet of the property which is the subject of the minor amendment.~~

(3) Board of County Commissioners' Action. The Board of County Commissioners may take final action to adopt or deny the minor amendment to the Regulatory Zone map. Final action to adopt the **minor amendment** technical revision shall **be by a resolution approved by** require a simple majority vote of the total membership of the Board of County Commissioners. **The resolution shall refer expressly to the maps, descriptive matter, or other matter intended by the Board to constitute the minor amendment.**

SECTION 14. General Terms.

1. All actions, proceedings, matters, and things heretofore taken, had and done by the County and its officers not inconsistent with the provisions of this Ordinance are ratified and approved.
2. The Chairman of the Board and officers of the County are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance. The District Attorney is authorized to make non-substantive edits and corrections to this Ordinance.
3. All ordinances, resolutions, bylaws and orders, or parts thereof, in conflict with the provisions of this Ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw or order, or part thereof, heretofore repealed.
4. This Ordinance shall be in effect after it is signed by the Chair of the Board of County Commissioners, attested by the County Clerk and published by title as required by NRS 244.100.
5. Each term and provision of this Ordinance shall be valid and shall be enforced to the extent permitted by law. If any term or provision of this Ordinance or the application thereof shall be deemed by a court of competent jurisdiction to be in violation of law or public policy, then it shall be deemed modified, ipso facto, to bring it within the limits of validity or enforceability, but if it cannot be so modified, then the offending provision or term shall be excised from this Ordinance. In any event, the remainder of this Ordinance, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected.

Passage and Effective Date

This Ordinance was proposed on \_\_\_\_\_ by Board Member  
\_\_\_\_\_.

This Ordinance was passed on \_\_\_\_\_.

Those voting "aye" were \_\_\_\_\_.

Those voting "nay" were \_\_\_\_\_.

Those absent were \_\_\_\_\_.

Those abstaining were \_\_\_\_\_.

\_\_\_\_\_  
Marsha Berkbigler, Chair  
County Commission

ATTEST:

\_\_\_\_\_  
Nancy Parent, County Clerk

This Ordinance shall be in force and effect immediately upon the date of the second publication as required by NRS 244.100, which is \_\_\_\_\_.