

ORDINANCE NO. 3340  
(ZOA-16-500153 – Development Code Update 2016)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HENDERSON, NEVADA, TO AMEND TITLE 19 - DEVELOPMENT CODE - OF THE HENDERSON MUNICIPAL CODE BY AMENDING PORTIONS OF CHAPTERS 19.3, 19.6, 19.7, AND 19.12 TO MAKE VARIOUS CORRECTIONS, REVISIONS AND UPDATES AS NECESSARY, AND MATTERS PROPERLY RELATED THERETO.

WHEREAS, it is the intent of the City of Henderson to maintain a zoning ordinance for the safe and orderly development of property; and

WHEREAS, the City of Henderson adopted a new zoning ordinance on January 19, 2010; and

WHEREAS, a zoning ordinance is considered a “living document” and will invariably need amending to make minor corrections, revisions, and updates as necessary; and

NOW, THEREFORE, the City Council of the City of Henderson, Nevada, does ordain:

SECTION 1. Chapters 19.3 - Nonresidential, Mixed-Use, and Special Purpose; 19.6 - Administration; 19.7 - Development and Design Standards; and 19.12 - Measurement and Definitions; of the Henderson Development Code are hereby amended, as represented in Exhibit A, hereto attached consisting of 23 pages.

SECTION 2. If any section, subsection, sentence, clause, phrase, provision or portion of this Ordinance, or the application thereof to any person or circumstances, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or provisions of this Ordinance or their applicability to distinguishable situations or circumstances.

SECTION 3. All ordinances, or parts of ordinances, sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Henderson, Nevada, in conflict herewith are repealed and replaced as appropriate.

SECTION 4. A copy of this Ordinance shall be filed with the office of the City Clerk, and notice of such filing shall be published once by title in the Review Journal, a newspaper having general circulation in the City of Henderson, at least ten (10) days prior to the adoption of said Ordinance, and following approval shall be published by title (or in full if the Council by majority vote so orders) together with the names of the Councilmen voting for or against passage for at least one (1) publication before the Ordinance shall become effective. This Ordinance is scheduled for publication on May 20, 2016, in the Review Journal.

PASSED, ADOPTED, AND APPROVED THIS 17<sup>TH</sup> DAY OF MAY, 2016.



Andy Hafen, Mayor

ATTEST:

Sabrina Mercadante, MMC, City Clerk

The above and foregoing Ordinance was first proposed and read in title to the City Council on April 19, 2016, which was a Regular Meeting, and referred to a Committee of the following Councilmen:

“COUNCIL AS A WHOLE”

Thereafter on May 17, 2016, said Committee reported favorably on the Ordinance and forwarded it to the Regular Meeting with a do-pass recommendation. At the Regular Meeting of the Henderson City Council held May 17, 2016, the Ordinance was read in title and adopted by the following roll call vote:

Those voting aye:      Andy Hafen, Mayor  
                                 Councilmembers:  
                                 Sam Bateman  
                                 Debra March  
                                 John F. Marz  
                                 Gerri Schroder

Those voting nay:      None  
Those abstaining:      None  
Those absent:          None



Andy Hafen, Mayor

ATTEST:

Sabrina Mercadante, MMC, City Clerk



Exhibit A  
Title 19 - Henderson Development Code Update

### **19.3.20. PC: PLANNED COMMUNITY**

#### **A. PURPOSE**

1. The purpose of the Planned Community (PC) district is to implement any Master Plan (MP) Overlay or development agreement that the City Council, in its sole discretion, has determined is the appropriate vehicle for development of the property.
2. Upon determination of the appropriateness of a development agreement, the PC district may be utilized to ensure Comprehensive Planning of large areas of land and to create efficient and stable developments offering a combination of planned land uses. This district is designed to provide for maximum flexibility in the development of planned communities.
3. In order to effectuate the purposes of the development agreement, the developer or applicant shall:
  - (a) Ensure adequate provision of public facilities and services;
  - (b) Provide for a creative arrangement of land uses with respect to each other to the entire planned community and to all adjacent land;
  - (c) Provide for a variety of housing types, employment opportunities, and commercial services to achieve a balanced community for families of a wide variety of ages, sizes, and levels of income;
  - (d) Provide for a planned and integrated transportation system for pedestrian and vehicular traffic, which includes provisions for transportation and roadways, bicycle and/or equestrian paths, pedestrian walkways, and other similar transportation facilities;
  - (e) Provide sensitive site planning and design with enhanced landscaping and other site amenities; and
  - (f) Provide high-quality structures in terms of community design standards, materials, and layout.
4. If the Planned Community (PC) zoning designation is accompanied by the Master Plan Overlay District, the developer must comply with all requirements of Section 19.4.4.

#### **B. ALLOWED USES**

The permitted uses for any development in the PC district shall be in accordance with the approved development agreement or project development standards.

#### **C. ADDITIONAL USE STANDARDS**

1. General



(a) If it is determined that a development agreement is necessary to accommodate the Planned Community District prior to, or concurrent with, the processing of an application for a Planned Community district approval, the developer shall enter into a development agreement with the City in accordance with Section 19.6.10.A.

(b) No land division in an area subject to a PC district shall be permitted without an approved Master Plan (MP) Overlay or an approved development agreement.

(c) Except as otherwise provided in an approved development agreement, subsequent development applications shall be initiated and processed in accordance with Chapter 19.6: Administration, Sections 19.6.5, Land Division Applications, 19.6.4.D Rezoning to MP or PUD Overlay District, or 19.6.6.B, Design Review.

## 2. Amendments

The development of the property within the PC district may proceed only in strict accordance with the approved master development plan as part of the Master Plan (MP) Overlay or an approved development agreement.

### (a) Master Plan Overlay

Amendments to the Master Plan Overlay and/or the related master development plan shall be in accordance with 19.4.4.

### (b) Development Agreements

Minor or major modifications to the approved development within the PC district shall be in accordance with the amendment provisions as defined in the approved development agreement and subject to NRS 278.0201 et seq.

(1) Upon receipt of an application for a minor modification, the Director of Community Development and Services shall forward a copy of the application to the Development Agreement Advisory Committee. Any member of the Development Agreement Advisory Committee can request in writing may determine that the application be treated as a major modification, in which case the modification shall proceed as a major modification in accordance with the development agreement. Otherwise, the Director of Community Development and Services shall process and make an administrative decision regarding the minor modification.

(2) Minor or major modifications to the approved development within the PC district shall be in accordance with the amendment provisions as defined in the approved development agreement. The Community Development Director shall process and make an administrative decision regarding all minor modifications. In the event that an individual is aggrieved by a decision of the Community Development Director as it relates to administrative decision concerning a minor

modification, such an individual may appeal in accordance with Section 19.6.9.E, Appeals.

**D. INTENSITY AND DIMENSIONAL STANDARDS**

**1. General**

Intensity and dimensional standards for any development in the PC district shall be in accordance with the approved master development plan as part of a Master Plan (MP) Overlay or in a development agreement.

**2. Minimum District Size**

The PC district shall only be applied to an area of contiguous property of at least 500 gross acres in size, or as defined in either the approved master plan or the approved development agreement.

**3. Conflicting Provisions**

**(a) Development Agreements**

Should a City Council approved development agreement fail to regulate any element of a Planned Community Development Plan, the Henderson Municipal Code (HMC) in effect at the time the development agreement is approved shall govern. Any entitlement granted under the terms of a development agreement shall be subject to such amendments, changes or additions required to protect the health, safety, or welfare of the citizens of Henderson.

**(b) Master Plan Overlay**

Conflicting provisions shall be addressed as part of the master development plan or in compliance with 19.1.5.



### **19.6.3. COMMON REVIEW PROCEDURES**

The common review procedures in this section provide a foundation for the specific review and approval procedures in Sections 19.6.4 through 19.6.9. See 19.6.4 through 19.6.9 to determine which of these common procedures apply to an individual application for development review.

#### **A. PRELIMINARY APPLICATION PROCEDURES**

The procedures in this section shall apply to all applications for development permits or approvals under this Code at the beginning of the review process, unless otherwise stated.

##### **1. Authority to File Applications**

Applications for review and approval under this Code may be initiated by any of the following:

- (a) Petition of all the owners of the land that is the subject of the application;
- (b) The owners' authorized agent(s);
- (c) The official representatives of a homeowner's or property-owner's association in a master-planned development where the master developer has ceded control of the development to the association;
- (d) A lot owner or developer of a portion of a master-planned development provided the application is limited to the land under their ownership or control;
- (e) City of Henderson staff acting under the direction of the Planning Commission or City Council; or
- (f) Public or private utility providers.

##### **2. Form of Application and Application Filing Fees**

Applications required under this chapter shall be submitted in a form and in such numbers as required by the official responsible for accepting the application. Applications shall be accompanied by the fee amount that has been established by the City Council. Fees are not required with applications submitted by the City Council, Planning Commission, Clark County School District, or City agencies or staff. Application fees are nonrefundable, unless otherwise expressly stated.

##### **3. Concept Plans**

- (a) ~~(a)~~ Purpose

The purpose for the concept plan is to allow for a general review of a proposed development before a formal application is submitted.

- (b) Applicability

(1) Unless waived by the Community Development Director, concept plan review by the Development Review Committee shall be required prior to submission of an application for:

- i. ~~(1)~~ Comprehensive Plan future land use map amendments (Section 19.6.4.A);
  - ii. ~~(2)~~ Rezoning to Planned Unit Developments (PUD) or to the Master Plan (MP) Overlay (Section 19.6.4.D);
  - iii. ~~(3)~~ A use with 50,000 square feet or more of floor area (Section 19.6.6.B.3);
  - iv. ~~(4)~~ Redevelopment on lots within the redevelopment overlay (Section 19.6.6.C, Redevelopment Area Review, and Section 19.4.7, Redevelopment Overlay);
  - v. ~~(5)~~ Projects of Significant Impact (subsection (4) below);
  - vi. ~~(6)~~ Projects of Regional Significance (subsection (5) below); ~~and~~
  - vii. ~~(7)~~ Hillside projects, or projects with slopes greater than 15 percent; ~~and/or~~
  - viii. ~~(8)~~ Any Wireless Communication Facility as defined by Section 19.5.4.T.
- (2) Concept plan review by the Development Agreement Advisory Committee shall be required prior to submission of an application for any development that meets the development agreement criteria in Section 19.6.10.A.1.

(c) Pre-Application Meetings

Applicants are entitled and encouraged to schedule and attend pre-application meetings with the Community Development Department staff prior to submitting a concept plan application for review under this Code.

(d) Application Filing

Applications for concept plan review shall be submitted in the form required by the City to the Community Development Director.

(e) Community Development Director's Responsibilities

Upon receipt of a concept plan review application, the Community Development Director shall, within three days from the deadline date, set a time and place for a meeting of the Development Review Committee and provide notice of the meeting and one copy of all plans and materials to each member of the Development Review Committee. Notice of the meeting time shall also be provided to the applicant. The Development Review Committee meeting shall be held within ten business days of the date that a complete application is received, unless the applicant requests a later date.

(f) Development Review Committee Action

At the Development Review Committee meeting, the Community Development Director shall describe the requirements of the review process. Committee members shall:

- (1) Ask questions of the applicant to clarify their understanding of the applicant's intent;
- (2) Ensure the applicant understands all required steps in the development review process; and



(3) State their concerns based on preliminary review of project plans and materials.

(g) Meeting Notes Provided

Within three days after the Development Review Committee meeting, the committee shall provide notes from the meeting to the applicant summarizing the Development Review Committee's comments.

**4. Project of Significant Impact**

(a) Applicability

A Project of Significant Impact as defined by this Code shall be required to submit impact statements for review and comment by the Development Review Committee prior to, or in conjunction with, an application for concept plan review and prior to submittal of a subsequent application.

(b) Exemption

Projects having obtained land use, zoning, tentative map, design review, or final map approvals prior to July 1, 1999, shall be exempt from the provisions of this section.

(c) Required Impact Statements

Impact statements shall be required for a Project of Significant Impact and prepared on a form as established by the Community Development Director.

(d) Subsequent Applications

Subsequent applications for land use, zoning, tentative map, design review, or final map shall not be accepted until the concept plan review has been completed and all impact statements required by this section have been submitted.

**5. Projects of Regional Significance**

(a) Determination

(1) General

A Project of Regional Significance, as defined in Chapter 19.12: *Measurement and Definitions*, shall be identified as such by the applicant prior to application submittal. An application that does not provide this information, or provides incorrect information, shall be deemed incomplete.

(2) Regional Infrastructure Projects

Regional Infrastructure Projects shall be identified as such by the agency proposing the project (proposing agency), in accordance with Southern Nevada Regional Planning Coalition (SNRPC) regulations.

(3) Exemption

Site-specific or Regional Infrastructure Projects that have obtained approval pursuant to this process, unless they contain material changes or substantial additional information is provided, such that the Community Development Director or proposing agency determines that additional assessment, referral, and comment is merited, shall be exempt from the

provisions of this section. This exemption includes Regional Infrastructure Projects that have been reviewed under the SNRPC conformity review process.

**(b) Timing of Review**

Review of Projects of Regional Significance by affected local governments shall take place following a determination of application completeness, but shall be completed prior to review of the application by a decision-making body established in this Code.

**(c) Assessment and Referral**

If the Community Development Director determines that the threshold criteria for a site-specific Project of Regional Significance is met, the Community Development Director shall immediately notify the affected jurisdiction(s) and provide the affected local government with copies of any application materials, as well as an impact assessment that includes at a minimum:

- (1)** The number of vehicle trips that the project will generate, estimated by applying to the proposed project the average trip rates for the peak days and hours established by the Institute of Transportation Engineers (ITE) or its successor.
- (2)** The estimated number of additional pupils for each elementary school, junior high or middle school, and high school that the project will cause to be enrolled in local schools.
- (3)** The distance from the site on which the project will be located to the nearest facilities from which fire-fighting, police and emergency services are provided, including, without limitation, facilities that are planned, but not yet constructed, and facilities that have been included in a plan for capital improvements prepared by the appropriate local government pursuant to NRS 278.0226.
- (4)** A brief statement setting forth the anticipated effect of the project on housing, mass transit, common open space, and recreation.
- (5)** The proposing agency of a regional infrastructure project shall provide an assessment of the regional and multi-jurisdictional impacts of the proposed project directly to the SNRPC prior to application submittal. The proposing agency shall cooperate with the SNRPC in providing information and communicating about the proposed project.

**(d) Comment**

Upon receipt of the referral, the affected local government shall have 15 calendar days within which to provide mitigation comments to the Community Development Director. The mitigation comments may propose ways in which the affected local government believes any negative impacts of the project on the affected local government can be mitigated.

- 6.** Upon receipt of notice of a regional infrastructure project and the assessment by a proposing agency, the SNRPC will review the proposed project and assessment and take necessary action, including comments on ways in which negative impacts of the proposed project can be mitigated.

**(a) Mitigation**



The Community Development Director shall give consideration to the mitigation comments and require mitigation of potential negative impacts on the affected local government to the maximum practical extent. The Community Development Director shall make written findings of the way in which the mitigation comments were addressed.

7. "Maximum practical extent" means that reasonable efforts have been undertaken to comply with the regulations, that the costs of compliance clearly outweigh the potential benefits to the public or would unreasonably burden the proposed project, and reasonable steps have been undertaken to minimize any potential harm or adverse impacts resulting from noncompliance with the regulation.
8. In addition, all local regulatory provisions that relate to separations of certain types of land uses from others shall be interpreted to apply to land uses in adjacent jurisdictions.
9. For regional infrastructure projects, the proposing agency shall, upon receipt of any mitigation comments from the SNRPC, give consideration to the comments prior to application submittal. The proposing agency shall make written findings of the way in which the mitigation comments have been addressed.

(a) Approval Criteria

Projects of Regional Significance shall meet all of the following approval criteria, in addition to any approval criteria required for the project's respective application type(s):

The affected local government was notified of the proposed project by the Community Development Director, and was afforded 15 calendar days to comment.

10. The proposed project does not impose undue negative impacts on any neighboring jurisdiction(s).
11. The applicant has mitigated any negative impacts, as identified by the affected local government, to the maximum practical extent.
12. Public hearing notices were sent to the owners of all affected properties, regardless of jurisdiction, in accordance with this Development Code and NRS Section 278.315(4).

#### **19.6.4.A.7 – Community Development Director Review and Report**

The Community Development Director shall review each proposed Comprehensive Plan amendment in light of the approval criteria of this Section 19.6.4.A.10, *Comprehensive Plan Amendment Approval Criteria*, and, as deemed necessary, distribute the application to other reviewers. In addition, pursuant to NRS 277, to the extent possible the Community Development and Services Director will inform state agencies that may be affected by the proposed amendment and solicit and consider comments from those state agencies. Based on the results of ~~these~~ the reviews~~;~~ and the consideration of comments from affected state agencies, the Community Development and Services Director shall provide a report and recommendation to the Planning Commission.



## **F. INTERPRETATIONS**

### **1. Request Filing**

Requests for written interpretations of this Development Code shall be submitted to the Community Development and Services Director.

### **2. Community Development Director's Review and Decision**

Within 30 days of receipt of a complete request for a written interpretation, the Community Development and Services Director shall:

- (a) Review and evaluate the request in light of this Development Code, the Comprehensive Plan, and any other relevant documents;
- (b) Consult with ~~the City Attorney and~~ other staff, as necessary;
- (c) Consult with the City Attorney on any interpretation that may require the application or interpretation of state or federal law; and
- (ed) Render a written interpretation with a copy of the written interpretation sent to the members of the Development Review Committee.

### **3. Form**

The interpretation shall be provided to the applicant in writing and shall be filed in the official record of interpretations.

### **4. Official Record of Interpretations**

An official record of interpretations shall be kept on file in the office of the Community Development and Services Director. The record of interpretations shall be available for public inspection in the Community Development and Services Department during normal business hours.

### **5. Appeals**

Appeals of the Community Development and Services Director's written interpretation shall be taken to the Planning Commission in accordance with the appeal procedures of Section 19.6.9.E, *Appeals*. If the appeal results in a change of interpretation, the new interpretation shall be filed in the official record of interpretations.

## **19.6.10. OTHER PROCEDURES**

### **A. DEVELOPMENT AGREEMENTS**

#### **1. Applicability**

A ~~Development Agreement may be utilized to plan~~ development agreement is appropriate for development of those parcels that ~~, due to size, location, or uses,~~ should, at the discretion of the City Council, as recommended by the Development Agreement Advisory Committee, be developed in accordance with a ~~Development Agreement.~~ development agreement. Development projects that include one or more of the following are subject to development pursuant to a development agreement unless otherwise determined by the Development Agreement Advisory Committee:

- (a) A local improvement district or modification to a local improvement district pursuant to NRS Chapter 271;
- (b) A refunding agreement entered into pursuant to HMC 14.16;
- (c) A request to waive residential construction tax;
- (d) An annexation of any size;
- (e) Projects with a Sensitive Lands overlay or projects requiring a plan for environmental remediation;
- (f) A project requiring the preservation or renovation of historic structures;
- (g) A project for which a request for redevelopment funds or tax-increment financing is made;
- (h) A project that includes one or more of the following: 250 or more single-family dwelling units; 500 or more multifamily dwelling units; 200 or more hotel rooms; 40 or more acres of nonresidential development; or a project that generates over 3000 average daily trips (commercial/industrial only);
- (i) A project that includes one or more of the following: a facility that generates more than 50 megawatts of electricity; a natural gas storage or peak-shaving facility; or a gas regulator station or main that operates or is capable of operating at over 200 pounds per square inch;
- (j) Property proposed for a master plan development overlay where existing infrastructure is not of sufficient capacity to support the proposed development;
- (k) Property acquired through a Bureau of Land Management (BLM) land sale;



- (l) Property acquired through a City of Henderson sale pursuant to NRS 268.048 et seq.;
- (m) Property located within the West Henderson Land Use Plan boundary;
- (n) Property located within a public facilities needs assessment area;
- (o) Development of a property currently or previously subject to an inactive, non-compliant, or cancelled development agreement; or
- (p) Proposed amendments or development changes to property currently subject to any one or more of the above.

## **2. Requests for Development Agreement**

For any project described in 19.6.10.A.1, the applicant shall submit an application for a concept plan review pursuant to 19.6.3.A.3(b)(2) to the Community Development and Services Department, which shall collaborate with the Development Agreement Advisory Committee to either:

- (a) Make a determination that a development agreement is the appropriate method for development of the project, in which case the applicant shall submit an application for a development agreement. The Development Agreement Advisory Committee will then prepare and negotiate the development agreement; or

~~A request for a development agreement shall be submitted to the Community Development Department, who shall be directed to collaborate with other departments in preparation and negotiation of such agreement.~~

- (b) Make a determination that a development agreement is not appropriate for development of the project.

## **3. Development Agreement Terms**

~~A Development Agreement shall:~~ development agreement shall conform to the applicable requirements of NRS 278.0201 et seq. and NRS 278.02591 et seq., and:

- (a) Must contain provisions:
  - (1) Describing the land that is the subject of the development agreement;
  - (2) Specifying the duration of the development agreement;
  - (3) Specifying events that constitute breach of the development agreement; and

~~(a) Describe the land subject to the development agreement and provide a land-use development plan.~~

(4) Providing periods during which any breach may be cured.

(b) ~~(b) Provide land-use and~~ May contain provisions specific to the type of development regulations, including:

~~(1) Use regulations;~~

~~(2) Intensity and dimensional standards;~~

~~(3) Subdivision design and improvement standards;~~

~~(4) General development standards;~~

~~(5) Standards for signs;~~

~~(6) Provisions for nonconformities; and~~

~~(7) Definitions.~~

(1) ~~(c) Provide, where appropriate, for~~ The reservation or dedication of any portion of the land for public purposes use or for the payment of fees in lieu thereof, including, but not limited to rights-of-way, easements or public facilities, as may be required or permitted pursuant to laws, ordinances, resolutions, rules or plans adopted by the City and in effect at the time of entering into the development agreement;

(2) The protection of environmentally sensitive lands;

(3) The preservation and restoration of historic structures;

(4) The phasing or timing of construction or development on the land, including, without limitation, the dates on which all or any part of the construction or development must commence and be completed, and the terms on which any deadline may be extended. Each portion or phase of development or improvement contemplated should be able to stand alone, independent of proposed further phases or improvements. Subsequent phases of development may be added to completed phases to achieve independent status;

(5) The conditions, terms, restrictions and requirements for infrastructure on the land and the financing of the public infrastructure by a person having a legal or equitable interest in the land;

(6) The conditions, terms, restrictions and requirements for annexation of land by the city or county and the phasing or timing of annexation by the city or county;



- (7) The conditions, terms, restrictions and requirements relating to the intent of the governing body to include the land in an improvement district created pursuant to chapter 271 of NRS;
- (8) The conditions, terms, restrictions and requirements relating to any applicable public needs assessment approved for the area in which the subject property is located;
- ~~(d) Specify the duration of the agreement and, if desired, terms for modification and extension of the agreement; provided that the parties shall not be precluded from extending the termination date by mutual agreement or from entering into subsequent development agreements or supplements thereto.~~
- (9) A schedule of fees and charges;
- (10) ~~(e) Specify~~ A description of the laws, ordinances, codes, resolutions, rules, regulations, plans, design, and improvement standards by name and date of adoption applicable to the project. Unless specified in the development agreement or unless directly in conflict with what is specified in the development agreement, the laws, ordinances, codes, resolutions, rules, regulations, plans, and design and improvement standards adopted by the City Council and in effect at the time of issuance of any required construction or building permit shall apply;
- ~~(f) Specify other conditions, terms, restrictions, and requirements for other discretionary actions.~~
- ~~(g) Contain a description of the final resolution proposed for each of the issues identified, and any other information identified and deemed necessary as a result of any action by the City Council.~~
- ~~(h) Specify the manner in which amendments, modifications, or additional terms to the agreement will be reviewed and approved.~~
- ~~(i) Provide for a review of compliance with the development agreement terms and conditions every 24 months, or as specified in the approved development agreement. If the terms of the development agreement are not being complied with, the City may cancel or amend the development agreement without the consent of the breaching party, per NRS 278.0205.~~

#### ~~4. Optional Elements~~

~~A Development Agreement may:~~

- ~~(a) Provide for commencement and completion of various portions of the proposed development. Each portion or phase of development or improvement contemplated should be able to stand alone, independent of proposed further phases or improvements. Subsequent~~

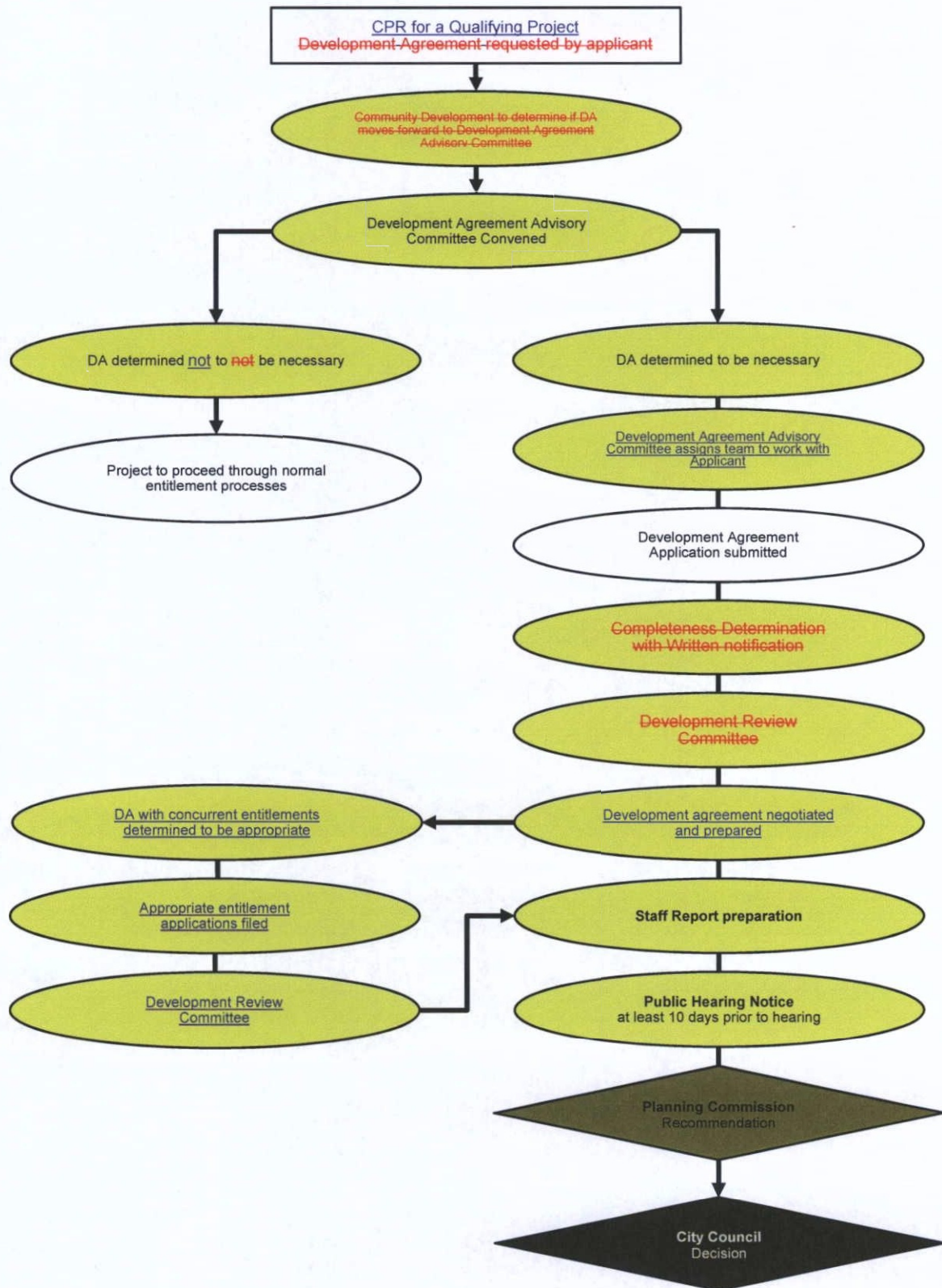
~~phases of development may be added to completed phases to achieve independent status.~~

- (11) ~~(b) — include~~ Any conditions imposed by other land use and permit approvals allowed by law as of the effective date of the ~~Development Agreement.~~ development agreement;
- (12) Security for the construction of the required common area and public improvements in an amount sufficient to complete all required improvements and to remove all rubbish, trash, debris, surplus material and equipment from the area, as determined by the Development Agreement Advisory Committee. Security shall be by such good and sufficient bond or other security as is deemed appropriate by the City Council to protect the public interest;
- (13) An indemnity and insurance clause requiring the developer, applicant, and property owner to indemnify the City against certain claims arising out of the development;
- (14) An allowance for the waiver of any other provision of the HMC consistent with the purpose of the development agreement;
- (15) A review of compliance with the development agreement terms and conditions every 24 months or sooner as specified in the approved development agreement;
- (16) Any other matters relating to the development of the land; and
- (17) The permitted uses of the land and development regulations, including:
1. A land use development plan;
  2. Subdivision design and improvement standards;
  3. General development standards;
  4. Standards for signs;
  5. Provisions for nonconformities;
  6. The density or intensity of the use of the land; and
  7. The maximum height and size of any proposed buildings.
- (c) Nothing in sections 19.6.10.A.3(a) or (b) shall be construed to preclude the City from concurrently utilizing any other entitlement process or processes described in this Code in conjunction with the development agreement prepared pursuant to this chapter.



#### 4. Amendment and Cancellation

- ~~(c) If required by the City Council, be accompanied by a bond, posted by the property owner, to ensure provision of some or all of the public facilities:~~
- (a) A development agreement may be amended or cancelled in whole or in part, with or without the consent of the other parties to the development agreement or their successors in interest, for any reason set forth in NRS 278.0205 and in accordance with procedures set forth in NRS 278.0205.
- ~~(d) Contain an indemnity or insurance clause requiring the developer, applicant, and/or property owner to indemnify the City against certain claims arising out of the development process:~~
- (b) If a development agreement has been cancelled in whole or in part pursuant to NRS 278.0205, and unless a new development agreement is entered into to replace the cancelled development agreement or portion thereof, the property previously the subject of the development agreement shall maintain its zoning unless otherwise specified in the development agreement. The property is then subject to a City-initiated zone change application, or an applicant-initiated zone change application in conformance with the requirements set forth in Section 19.6.10.A.





## **19.7.10. RESIDENTIAL CONSTRUCTION TAX**

### **A. IMPOSITION OF RATE OF RESIDENTIAL CONSTRUCTION TAX**

There is hereby imposed and shall accrue and be collected a residential construction tax, as provided for in this section, upon the privilege of constructing residential dwelling units, including, without limitation, conventionally constructed houses, apartments, mobile homes, nonresidential structures remodeled for use as dwelling space, room additions, mobile home parks, and mobile home estates within the City of Henderson. The residential construction tax shall be calculated at the current legal rate for each residential dwelling unit, per NRS. The residential construction tax shall not exceed the limits provided for in NRS.

### **B. COLLECTION OF RESIDENTIAL CONSTRUCTION TAX**

Prior to the issuance of any building permit for the construction of any apartment house, residential dwelling unit, installation of a mobile home on any mobile home estates lot, development of any mobile home park, or prior to the issuance of any building permit for any residential addition or for the remodeling of any nonresidential structure for the purpose of residential dwelling use, the applicant for such building permit shall pay to the City of Henderson the residential construction tax in the amount specified per NRS.

### **C. RESIDENTIAL CONSTRUCTION TAX FUND**

1. All of the residential construction ~~impact-fees tax~~ that ~~are~~is collected pursuant to this section, and all of the interest that accrues thereon, shall forthwith be forwarded to the City Finance Director who shall credit the same to the special revenue fund that is created to receive and account for the same.
2. The money in such special revenue fund shall be accounted for separately according to the respective park districts from which it was derived and may be used in accordance with NRS.

### **D. PARK DISTRICT BOUNDARIES**

The City shall be divided into park districts depicted on the map that is entitled "Park District Boundaries," copies of which are maintained for public inspection in the Office of the City Clerk. Such park districts may, from time-to-time, be amended by the City Council by resolution that is duly passed, adopted, and approved.

### **E. REFUND OF FEE**

Refund shall be as provided in Nevada Revised Statute or through a park agreement or a development agreement.

### **F. PARTIAL CREDIT**

1. A developer shall be entitled to a partial credit toward the required residential construction tax, or waiver of the residential construction tax, if the City accepts; public dedication for a "turnkey" park ~~that satisfies~~or determines that a developer has provided alternative recreational facilities of sufficient value to satisfy all or a portion of that developer's land requirement, as set forth in this section. ~~To qualify for this partial credit, the park must:~~
  - ~~(a) — Be constructed and/or dedicated per an approved park agreement;~~
  - ~~(b) — Be offered for dedication as a public park;~~



~~(c) Be a "turn-key" park fully developed with all necessary furniture, structures, equipment, landscaping, and irrigation per City Parks and Recreation Standards prior to acceptance by the City; and~~

~~(d) Be reviewed first by the Parks and Recreation Board, whereupon they shall forward their recommendations to the Planning Commission. The Planning Commission shall consider the board's recommendations as the Planning Commission reviews the project in its entirety prior to making final recommendation on the project to the City Council.~~

2. ~~The calculation of the credit available under this section is made by comparing the net lot area of the dedicated park to the square foot area requirement set forth in this section. Appraised value and improvement costs are not to be considered in the calculation of this credit. The value of the credit available under this section shall be determined by staff, subject to final approval by City Council, and shall be the approximate difference between the value of the recreational facilities proposed and the amount of expected value of the residential construction tax to be generated by the development.~~

#### **G. POSTING BOND FOR PARK OR RECREATION FACILITY IMPROVEMENTS**

A developer constructing a park or other recreation facilities as required by a park agreement or a development agreement shall post a bond as required by the City.

#### **~~H. REVIEW BY HENDERSON PARKS AND RECREATION BOARD~~**

~~In order to assist the City Council in the administration of this ordinance, the City Council establishes the Henderson Parks and Recreation Board as the initial reviewing board for all public park plans proposed to satisfy the requirements of this section. The Henderson Parks and Recreation Board shall review the park's proposal to determine compliance with the adopted Parks and Recreation Plan element of the Henderson Comprehensive Plan and shall make recommendations that will ensure compliance with the intent of the Parks and Recreation Plan and this ordinance. The Henderson Parks and Recreation Board shall also recommend park development standards and amendments for adoption by the City Council, which address the needs of the City's residents and that shall apply to all public and private parks. At any time there is a conflict between a park proposal and the adopted City standards, or where there is no applicable adopted standard, the proposed park must be reviewed by the Henderson Parks and Recreation Board before being sent to the Planning Commission for their recommendation to the City Council. When the Parks and Recreation Board is required to review a park proposal, they shall forward their recommendations to the Planning Commission. The Planning Commission shall consider the board's recommendations as the Planning Commission reviews the project in its entirety prior to making final recommendation on the project to the City Council.~~

#### **TAXES IN ADDITION TO OTHER REAL ESTATE**

##### **TAXES**

The residential construction tax that is provided for in this section shall be in addition to any and all other real estate taxes that are imposed upon any real property that is the subject of the residential construction.

#### **~~J. REPORT TO CITY COUNCIL BY PARKS AND RECREATION DIRECTOR~~**

~~The Parks and Recreation Director shall report on collection and use of the fee, and the City Council shall review this section bi-annually.~~



## **19.7.12. AIRSPACE COMPATIBILITY REQUIREMENTS**

### **A. HEIGHT LIMITS**

Except as otherwise provided, no structure shall be permitted to be erected, altered or maintained within the City of Henderson that (a) would constitute a hazard to air navigation, or (b) would result in an increase to minimum flight altitudes during any phase of flight, or (c) would otherwise be determined to pose a significant adverse impact on airport or aircraft operations. However, nothing in this section shall be construed as prohibiting the construction, alteration or maintenance of any structure to a height up to 35 feet above the surface of the land or in any zone created by this Code which has received all necessary airspace approvals as required by the City of Henderson.

### **B. NOTICES OF CONSTRUCTION OR ALTERATION**

Notice must be filed with the Federal Aviation Administration (FAA) if specifically requested by the FAA, or if any of the following types of construction or alterations are proposed:

1. Any construction or alteration that is more than 200 ft. above ground level at its site;
2. Any construction or alteration that meets other notification requirements as outlined by Title 14, Code of Federal Regulations, Part 77.

## **19.7.13. LOCAL IMPROVEMENT DISTRICTS**

### **A. PAYMENT OF ASSESSMENTS PRIOR TO ISSUANCE OF PERMITS**

1. A property within a City of Henderson local improvement district shall not receive zoning or land use entitlements, conditional use permits, building permits, or any permit for development, nor shall any land division be approved for such property, if any part of such property has been marked delinquent on the local improvement district's assessment roll pursuant to NRS 271.545.
2. Before a land division is approved, a property owner may be required to pay one future assessment installment prior to recordation.

## **CHAPTER 19.12 MEASUREMENT AND DEFINITIONS**

### **Section 19.12.4 Defined Terms**

#### **DEVELOPMENT AGREEMENT**

An agreement for the development of land pursuant to NRS 278.0201 et seq. and HMC 19.6.10.A. ~~A discretionary process where an applicant proposes an alternative set of development standards intended for application to a specific development which are reviewed and approved by the City Council~~

#### **DEVELOPMENT AGREEMENT ADVISORY COMMITTEE**

A committee charged with determining the applicability of development agreements and the subsequent negotiation of development agreements on behalf of the City. The Development Agreement Advisory Committee is composed of the directors of Community Development and Services, who shall act as chair; Public Works, Parks and Recreation; and Utility Services, along with the City Manager and City Attorney, or their designees.

#### **DEVELOPMENT CODE TEXT AMENDMENT**

The process by which the text of this Development Code text is revised in accordance with all City and State laws.

#### **DEVELOPMENT PERMIT**

For the purposes of Sec. 19.7.9 Multiple Species Habitat Conservation only, "development permit" means an onsite or offsite permit issued by the City that authorizes the development of a parcel of land that has not previously been improved in accordance with all applicable City ordinances including, but not limited to, building permits and grading permits for construction activities. Demolition permits and temporary power permits do not constitute a development permit.

#### **DEVELOPMENT REVIEW COMMITTEE**

A committee of City staff charged with review of several application types as established in Table 19.6.2-1, *Summary Table of Development Review Procedures*, and composed of the following persons or their representatives:

- A. The Community Development and Services Director, who shall act as chair;
- B. The Public Works Parks and Recreation Director;
- C. The Building Official;
- D. The Fire Chief;
- E. The Police Chief;
- F. The Director of Utility Services;
- G. The City Attorney; and
- ~~GH.~~ A secretary to the committee.

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## PROJECT

Any proposal for new or changed use, or for new construction, alteration, <sup>—</sup>or enlargement or expansion of any property or structure, that is subject to the provisions of this Code.

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## PUBLIC FACILITIES NEEDS ASSESSMENT

An analysis that identifies existing public facilities and the structure of network used for the delivery of goods, services and public safety, including, without limitation, communications facilities, water systems, sanitary sewer systems, storm sewer systems, streets and roads, traffic control systems, sidewalks, parks and trails, recreational facilities, fire, police and flood protection and all related appurtenances, equipment and employee costs, or any combination thereof, intended for use by the general public, or land approved for such use, and evaluates the need for and phasing of additional facilities and services required. A public facilities needs assessment is approved upon adoption by ordinance by the City Council.