

#### **40.560.020 Changes to Districts, Amendments, Alterations**

- A. Procedure, General. The UDC may be amended in any of the following ways:
1. By changing the boundaries of districts through a Type III map amendment (rezone) where the proposed zoning is consistent with the current comprehensive plan map designation;
  2. By adding or removing the surface mining overlay through a Type III map amendment.
  3. By changing the boundaries of districts through a Type IV comprehensive plan map and zoning map amendment pursuant to Section 40.560.010; or
  4. By changing code text through a Type IV text amendment, whenever the public health, safety and general welfare requires such an amendment. Such a change may be proposed by the board on its own motion or by motion of the planning commission, or by petition as hereinafter set forth. Any such proposed amendment or change shall first be submitted to the planning commission and it shall, within ninety (90) days after a hearing, recommend to the board approval, disapproval or modification of the proposed amendment.

*(Amended: Ord. 2007-09-13)*

- B. Application.
1. Type III Map Amendments. Type III map amendments shall follow the Type III application procedures described in Section 40.510.030.
  2. An application for amendment by a property owner or his authorized agent shall be filed with the responsible official. The application shall be made on forms provided by the county, accompanied by a site plan drawn to scale showing the property involved and adjacent land. A fee shall be paid to the county at the time of filing the application in accordance with the provisions of the county fee schedule.

*(Amended: Ord. 2007-09-13)*

- C. Public Hearings.
1. Type III Map Amendments. Type III map amendments shall follow the Type III public hearing procedures described in Section 40.510.030.
  2. Type IV Text Amendments.
    - a. Before taking final action on a proposed amendment, the planning commission shall hold a public hearing thereon. After receipt of the report on the amendment from the planning commission, the board shall hold a public hearing on the amendment. Public hearings by the planning commission shall be held in accordance with the provisions of Section 40.510.040.
    - b. Resubmittal. In a case where a petition for an amendment is denied by the board, said petition shall not be eligible for resubmittal for one (1)

year from the date of said denial, unless such denial was specifically stated to be without prejudice. A new petition affecting the same property must be, in the opinion of the planning commission and the board, substantially different from the petition denied to be eligible for consideration within one (1) year from the date of said denial, unless the first denial was denied without prejudice, or the planning commission finds that conditions have changed to an extent that further consideration is warranted.

*(Amended: Ord. 2007-09-13)*

D. Record of Amendments.

The signed copy of each amendment to the text and map of this title shall be maintained on file in the office of the responsible official.

*(Amended: Ord. 2007-09-13)*

E. Rezone Agreements.

1. The purpose of this subsection is to allow for the implementation of the comprehensive plan policies relating to future commercial centers and industrial developments, as appropriate. If, from the facts presented, and the findings, report and recommendations of the planning commission as required by this section thereof, the board determines that the public health, safety and general welfare will be best served by a proposed change of zone, the board may indicate its general approval, in principle, of the proposed rezoning by the adoption of a "resolution of intent to rezone" the area involved. This resolution shall include any conditions, stipulations or limitations which the board may feel necessary to require in the public interest as a prerequisite to final action. The fulfillment of all conditions, stipulations and limitations contained in said resolution, on the part of the applicant, shall make such a resolution a binding commitment on the board. Such a resolution shall not be used to justify spot zoning, to create unauthorized zoning categories by excluding uses otherwise permitted in the proposed zoning, or by imposing setback, area or lot coverage restrictions not specified in the code for the zoning classification, or as a substitute for a variance. Upon completion of compliance action by the applicant, the board shall, by ordinance, effect such rezoning. The failure of the applicant to meet any or all conditions, stipulations or limitations contained in the resolution, including the time limit placed in the resolution, shall render the resolution of intent to rezone null and void, unless an extension is granted by the board upon recommendation of the planning commission. Generally, the time limitation shall be one (1) year. The board may grant up to five (5) one (1) year extensions, after which the resolution shall be null and void if all conditions, stipulations and limitations have not been met by the applicant.
2. Concomitant Rezone Agreements.
  - a. Purpose. The purpose of this subsection is to explicitly provide for the use of agreements concomitant to rezone approvals. The agreement may call for performance by the applicant which is directly related to public needs which may be expected to result from the proposed usage

of the property. The performance called for will mitigate the public burden in meeting those resulting needs by placing it more directly on the party whose property use will give rise to such needs. The agreement shall generally be in the form of a covenant running with the land. The provisions of the agreement shall be in addition to all other pertinent Clark County Code requirements.

- b. **Applicability.** This agreement process will not generally be used for rezones to R1-6, R1-7.5, R1-10 or R1-20. It may, however, be used for any situation where extraordinary potential adverse impacts from a proposed rezone may be neutralized by the agreement. The agreement process may be employed for rezones in sensitive geographic areas such as critical transportation corridors. The agreement process will generally be used for rezones to commercial, industrial, and non-single-family residential not specifically identified by the comprehensive plan map. Airport zoning shall also generally be by concomitant rezone agreement. The intent is that concomitant rezone agreements shall only be used when normal review and approval procedures are not adequate to resolve the specific issues involved in the rezone proposal.
- c. **Mitigating Measures.** The agreement may include mitigating measures such as:
  - (1) Access control;
  - (2) Landscaping, screening, buffering;
  - (3) Improvements to public services including drainage, sewer, water and roads;
  - (4) Lot coverage, dimension;
  - (5) Phasing of development.
- d. **Concept Plan.** A concept plan may be required. When required, the concept plan shall be drawn to a one (1) inch to one hundred (100) foot scale and include:
  - (1) General location of structures;
  - (2) Location and number of access points;
  - (3) Approximate gross floor area of structures;
  - (4) Name of the proposal;
  - (5) Identification of areas requiring special treatment due to their sensitive nature;
  - (6) North directional arrow; and
  - (7) Names and location of all public streets or roads bordering the site.
- e. **Application Procedure.** The applicant may propose an agreement concomitant to rezone approval at the time of or after a pre-application conference with the responsible official. The proposed agreement shall include any proposed mitigating measures and concept plan as provided for by Sections [40.560.020\(E\)\(2\)\(c\)](#) and (d). In cases where a

specific project is to be considered in conjunction with a rezone request, the responsible official shall review the site plan.

- f. Modifications. Modifications which are minor and without major impact may be approved by the board or its duly authorized representative, administratively and without public hearing. Any other modifications shall only be approved after the same procedure applicable to all rezones has been followed, including a public hearing.
- g. Enforcement. The agreement shall provide for appropriate enforcement mechanisms and performance guarantees.

*(Amended: Ord. 2007-09-13)*

F. Release of Concomitant Rezone Agreements.

- 1. Upon petition by the property owner, a concomitant rezone covenant may be fully or partially released, or modified, by the hearing examiner following a public hearing with notice as prescribed by Section [40.510.030](#) and in accordance with the criteria set forth in this section; provided, that if no development has occurred pursuant to a covenant entered into prior to July 1, 1980, such covenant may be fully released and the property subjected to all applicable standards and provisions of the current zoning ordinance by the board at a public meeting if it appears that no substantive issues are raised under the following criteria.
- 2. In considering requests for release or modification of concomitant rezone covenants, the review authority shall consider the following:
  - a. In the case of full covenant release, whether development of the site would be consistent with current zoning regulations and comprehensive plan recommendations; and
  - b. In the case of either full or partial covenant release or covenant modification, whether adequate public/private services are available to support development of the site; and
  - c. In the case of either full or partial covenant release or covenant modification, whether the requested action would unreasonably impact development undertaken on nearby properties in reliance upon the covenant commitments; and
  - d. In the case of partial covenant release or covenant modifications, whether future development under current zoning will be consistent with existing and planned development.

*(Amended: Ord. 2007-09-13)*

G. Approval Criteria.

- 1. ~~Zone changes~~ Changes to the zoning map, except for changes to the Surface Mining Overlay, may be approved only when all of the following are met:
  - a. Requested zone change is consistent with the comprehensive plan map designation.

- b. The requested zone change is consistent with the plan policies and locational criteria and the purpose statement of the zoning district.
  - c. The zone change either:
    - i. Responds to a substantial change in conditions applicable to the area within which the subject property lies;
    - ii. Better implements applicable comprehensive plan policies than the current map designation; or
    - iii. Corrects an obvious mapping error.
  - d. There are adequate public facilities and services to serve the requested zone change.
2. The Surface Mining Overlay may be applied to an area if both of the following conditions are met:
- a. The site is 5 acres or larger.
  - b. The proponent submits data from test pits or borings which confirms the presence of a significant aggregate resource.
3. The Surface Mining Overlay may be removed from an area if one of the following conditions is met:
- a. The aggregate resources have been depleted; or
  - b. There is evidence that mining of the aggregate resource is not economically feasible; or
  - c. Environmental constraints make it impractical to mine the resource; or
  - d. The area has been brought into an urban growth boundary or adjacent land uses or developments are incompatible with mineral extraction.

*(Amended: Ord. 2008-06-02)*