

**Parks and Recreation Commission
Staff Report**

Meeting Date: July 7, 2015

Agenda Item Number: 3C

Applicant: Jennifer Mayhew

Request: **Discussion Only:** Review of Assembly Bill 25-
amendments to the Residential Construction Tax

General Discussion: The 2015 Nevada Legislature passed Assembly Bill 25 which amends language contained in the Residential Construction Tax. The amendment to the Residential Construction Tax includes a definition for improvements and further provides uses for which the tax must be expended on. To aid in this process staff has included the following item as an attachment:

- Assembly Bill 25- Residential Construction Tax
-

Assembly Bill No. 25—Committee
on Government Affairs

CHAPTER.....

AN ACT relating to the residential construction tax; revising provisions governing the authorized uses of the tax; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the city council of any city or the board of county commissioners of any county which has adopted a master plan and recreation plan which includes, as a part of the plan, future or present sites for neighborhood parks to impose, by ordinance, a residential construction tax. Money collected through the tax may only be used for the acquisition, improvement and expansion of neighborhood parks or the installation of facilities in existing or neighborhood parks and must be expended for the benefit of the neighborhood from which it was collected. (NRS 278.4983) This bill additionally authorizes the use of money collected through the tax for the improvement of park facilities and specifies that improvement includes the expansion, modification, redesign, redevelopment or enhancement of existing facilities or the installation of new or additional facilities. This bill clarifies that the parks and related facilities that are acquired, improved, expanded or installed, as applicable, with the money collected through the tax must be attributable to the new construction or development for which the money was collected. This bill also specifies that the money collected through the tax: (1) must be expended within the park district from which it was collected; and (2) must not be expended for maintenance or operational expenses.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 278.4983 is hereby amended to read as follows:

278.4983 1. The city council of any city or the board of county commissioners of any county which has adopted a master plan and recreation plan, as provided in this chapter, which includes, as a part of the plan, future or present sites for neighborhood parks may, by ordinance, impose a residential construction tax pursuant to this section.

2. If imposed, the residential construction tax must be imposed on the privilege of constructing apartment houses and residential dwelling units and developing mobile home lots in the respective cities and counties. The rate of the tax must not exceed:

(a) With respect to the construction of apartment houses and residential dwelling units, 1 percent of the valuation of each building permit issued or \$1,000 per residential dwelling unit,



whichever is less. For the purpose of the residential construction tax, the city council of the city or the board of county commissioners of the county shall adopt an ordinance basing the valuation of building permits on the actual costs of residential construction in the area.

(b) With respect to the development of mobile home lots, for each mobile home lot authorized by a lot development permit, 80 percent of the average residential construction tax paid per residential dwelling unit in the respective city or county during the calendar year next preceding the fiscal year in which the lot development permit is issued.

3. The purpose of the tax is to raise revenue to enable the cities and counties to provide neighborhood parks and facilities for parks which are required by the residents of those apartment houses, mobile homes and residences.

4. An ordinance enacted pursuant to subsection 1 must establish the procedures for collecting the tax, set its rate, and determine the purposes for which the tax is to be used, subject to the restrictions and standards provided in this chapter. The ordinance must, without limiting the general powers conferred in this chapter, also include:

(a) Provisions for the creation, in accordance with the applicable master plan, of park districts which would serve neighborhoods within the city or county.

(b) A provision for collecting the tax at the time of issuance of a building permit for the construction of any apartment houses or residential dwelling units, or a lot development permit for the development of mobile home lots.

5. All residential construction taxes collected pursuant to the provisions of this section and any ordinance enacted by a city council or board of county commissioners, and all interest accrued on the money, must be placed with the city treasurer or county treasurer in a special fund. Except as otherwise provided in subsection 6, the money in the fund may only be used for ~~the~~:

(a) *The* acquisition, improvement and expansion of neighborhood parks ; or ~~the~~

(b) *The* installation *or improvement* of facilities in existing or neighborhood parks in the city or county ~~+~~,
↳ *that are attributable to the new construction or development for which the money was collected.* Money in the fund must be expended ~~for the benefit of the neighborhood~~ *within the park district* from which it was collected ~~+~~ *and must not be expended for maintenance or operational expenses.*



6. If a neighborhood park has not been developed or facilities have not been installed in an existing park in the park district created to serve the neighborhood in which the subdivision or development is located within 3 years after the date on which 75 percent of the residential dwelling units authorized within that subdivision or development first became occupied, all money paid by the subdivider or developer, together with interest at the rate at which the city or county has invested the money in the fund, must be refunded to the owners of the lots in the subdivision or development at the time of the reversion on a pro rata basis.

7. The limitation of time established pursuant to subsection 6 is suspended for any period, not to exceed 1 year, during which this State or the Federal Government takes any action to protect the environment or an endangered species which prohibits, stops or delays the development of a park or installation of facilities.

8. For the purposes of this section:

(a) "Facilities" means turf, trees, irrigation, playground apparatus, playing fields, areas to be used for organized amateur sports, play areas, picnic areas, horseshoe pits and other recreational equipment or appurtenances designed to serve the natural persons, families and small groups from the neighborhood from which the tax was collected.

(b) *"Improvement of facilities" means the expansion, modification, redesign, redevelopment or enhancement of existing facilities or the installation of new or additional facilities.*

(c) "Neighborhood park" means a site not exceeding 25 acres, designed to serve the recreational and outdoor needs of natural persons, families and small groups.

Sec. 2. This act becomes effective upon passage and approval.



17.40.050 Enforcement. Responsibility for enforcement of this chapter shall be the duty of the public works director or his/her authorized representative. (Ord. 1990-6 §6, 1990).

17.40.060 Conflicting regulations. Whenever any provisions of this chapter impose more stringent regulations, requirements, or limitations than are required by the provisions of any other law or ordinance, the provisions of this chapter shall govern. (Ord. 1990-6 §7, 1990).

17.40.070 Penalty. It is unlawful for any person to construct, convert or alter any off-street parking facility in violation of any provision of this chapter without written approval from the public works director or his/her authorized representative and payment of any required review fee. (Ord. 1990-6 §8, 1990).

Chapter 17.44

RESIDENTIAL CONSTRUCTION TAX

Sections:

- 17.44.010 Short title.
- 17.44.020 Authority.
- 17.44.030 Declaration of purpose.
- 17.44.040 Definitions.
- 17.44.045 Carson City as one neighborhood park and park facilities district.
- 17.44.050 Imposition and rate of the residential construction tax.
- 17.44.060 Procedure for collecting tax.
- 17.44.070 Residential construction tax fund.
- 17.44.080 Use of revenue in fund.
- 17.44.090 Previously dedicated land for parks.
- 17.44.100 Severability.

17.44.010 Short title. This chapter shall be known as the "Carson City residential construction tax ordinance." (Ord. 1979-1 §1(part), 1979).

17.44.020 Authority. This chapter is enacted pursuant to Sections 278.497 to 278.4987 inclusive of the Nevada Revised Statutes. (Ord. 1979-1 §1(part), 1979).

17.44.030 Declaration of purpose. The board of supervisors has found:

1. That the public interest, convenience, health, safety, and welfare require that certain amounts of land in Carson City be devoted to neighborhood parks and facilities for parks; and

2. That the imposition of a residential construction tax on the privilege of constructing apartment houses and residential dwelling units and developing mobilehome lots is a desirable method of acquiring, improving and expanding park and recreation facilities. (Ord. 1988-14 §1, 1988: Ord. 1979-1 §1(part), 1979).

17.44.040 Definitions. The following words and terms when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning.

1. "Apartment house" means a building arranged in several suites of connecting rooms, each suite designed for independent housekeeping, but with certain mechanical conveniences, such as air conditioning, heat, light or elevator services shared in common by all families occupying the building.

2. "Facilities" means turf, trees, irrigation, playground apparatus, playing fields, play areas, picnic areas, horseshoe pits and other recreational equipment or appurtenances designed to serve the natural persons, families and small groups from the neighborhood from which the tax was collected.

3. "Master plan" means the master plan of Carson City as adopted and amended from time to time by the board of supervisors upon recommendations of the planning commission or the park and recreation commission. The master plan is also known as the general development plan for Carson City and as the general plan.

4. "Mobilehome" means a vehicle without motive power designed or equipped for living purposes and to carry property or passengers wholly on its own structure and to be drawn by motor vehicle.

5. "Mobilehome lot" means any area or tract of land designated, designed or used for the occupancy of a mobilehome.

6. "Neighborhood park" means a site not exceeding twenty-five acres, designed to serve the recreational and outdoor needs of natural persons, families and small groups.

7. "Residential dwelling unit" means a building or structure or a portion of a building or structure planned, designed or used as a residence for one family only, living independently of other families or persons and having its own bathroom and housekeeping facilities included in the unit.

8. "Residential use" means the capability of permanent occupation of a building or mobilehome by one or more persons

for sleeping or eating purposes. (Ord. 1988-14 §2, 1988: Ord. 1979-1 §1(part), 1979).

17.44.045 Carson City as one neighborhood park and park facilities district. The entirety of Carson City, the boundaries of which are designated in Section 1.030 of the Carson City Charter, is designated as one neighborhood park and park facilities district. (Ord. 1988-21 §1, 1988).

17.44.050 Imposition and rate of the residential construction tax. 1. Prior to the issuance of any building permit for construction of any residential dwelling unit, including an apartment house suite, development of any mobilehome lot or the remodeling of any nonresidential structure within Carson City for the purpose of residential use, the applicant shall pay to Carson City one-half of a residential construction tax fee which shall be equal to one percent of the valuation of each building permit issued or one thousand dollars per residential dwelling unit, apartment house suite or mobilehome lot, whichever is less. Building permit valuation shall be based on the actual costs of residential construction in the area as determined by the city's building official in accordance with Marshall-Swift formulas. The balance of the residential construction fee shall be paid to Carson City prior to the occupancy or final inspection of the above-described residential dwelling unit(s), whichever occurs first.

2. The minimum residential construction tax fee shall be three hundred dollars for each dwelling unit or mobilehome lot.

3. On and after January 1, 1989 the total residential tax fee shall be collected prior to the issuance of any building permit for construction. (Ord. 1988-29 §1, 1989: Ord. 1988-14 §3, 1988: Ord. 1987-6 §1, 1987: Ord. 1980-39 §3, 1980: Ord. 1979-1 §1(part), 1979).

17.44.060 Procedure for collecting tax. The residential construction tax shall be paid to the Carson City public works department which shall maintain a record of all moneys collected. (Ord. 1979-1 §1(part), 1979).

17.44.070 Residential construction tax fund. All residential construction taxes collected pursuant to this chapter shall be submitted to the Carson City clerk-treasurer for placement in a special fund to be known as the "Carson City Residential Construction Tax Fund." (Ord. 1979-1 §1(part), 1979).

17.44.080 Use of revenue in fund. 1. The fund shall be used only for the acquisition, improvement, or expansion of neighborhood parks or the installation of facilities in

existing parks or neighborhood parks in Carson City. Moneys in the fund shall be expended, for the benefit of the neighborhood from which they are collected.

2. The board of supervisors shall authorize expenditures from the fund after consideration of the master plan, growth trends, and any recommendation from the public works department, planning department, regional planning commission, or park and recreation board. (Ord. 1988-14 §4, 1988; Ord. 1979-1 §1(part), 1979).

17.44.090 Previously dedicated land for parks. The applicant for a building permit in any existing subdivision, planned unit development or apartment house development, which as been specifically required by Carson City as a condition of approval to dedicate or develop and dedicate land for park, playground, or recreation purposes, shall be allowed a setoff in the residential construction tax, to be determined by the following formula:

1. The building department shall determine the total number of residential dwelling units which can be built within the subdivision or development.

2. The assessor shall determine the fair-market value of the land and improvements, if any, developed by the subdivider or developer, as of the date of acceptance of dedication by Carson City. If the dedication has not yet occurred, the date of valuation shall be the date of final approval of the subdivision, planned unit development or apartment house development, provided that in no event shall the date of valuation be earlier than January 1, 1979.

3. The amount of setoff will be the fair market value as determined in subsection 2 hereof, divided by the total number of dwelling units as determined in subsection 1.

4. If the amount of setoff is greater than the amount of residential construction tax, no refunds shall be made.

5. If the developer or subdivider is the applicant for a building permit within the subdivision or development, he may choose to take a setoff equal to the residential construction tax. When the total amount of residential construction tax setoffs obtained by the subdivider or developer equals the fair market value as determined herein, then any further building permits issued within the subdivision or development shall be subject to the full amount of residential construction tax with no setoff allowed.

6. If the subdivider or developer objects to the determination of fair market value, he may, at his own expense, obtain an appraisal by a qualified real estate appraiser, mutually agreed upon by the subdivider or developer and the public works department, which appraisal shall be considered in determining the fair market value by averaging the independent appraisal with the assessor's appraisal. (Ord. 1979-1 §1(part), 1979).

17.44.100 Severability. In the event that any section, subsection or portion of this ordinance shall be declared invalid by any competent court, such declaration of invalidity shall not affect the validity of the remaining portions of this ordinance. (Ord. 1979-1 §1(part), 1979).