

BILL NO. _____

INTRODUCED BY COUNCIL

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 20 OF THE SPARKS MUNICIPAL CODE; TO ADD CHAPTER 20.05.1305 DEFINING QUANTITATIVE REQUIREMENTS; AMENDING CHAPTER 20.070.020 TO REVISE CRITERIA ASSOCIATED WITH MINOR DEVIATIONS; AND ADDING A NEW SECTION 20.09 TITLED "MAJOR DEVIATION", INCLUDING THE PROCESS, APPLICATION REQUIREMENTS AND FINDINGS TO ALLOW, IN CERTAIN CIRCUMSTANCES, DEVIATIONS UP TO FIFTY PERCENT (50%) FROM A QUANTITATIVE STANDARD; PROVIDING OTHER MATTERS PROPERLY RELATED THERETO.

THE CITY COUNCIL OF THE CITY OF SPARKS DOES ORDAIN:

Section 1. Section 20.05.1305: "Quantitative Requirements" is hereby added as follows:

"Quantitative requirements" means a regulation that is capable of being counted or measured.

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Section 2. Section 20.07.020: "Minor Deviations" is hereby amended as follows:

- A. The ~~Community Development Director~~Administrator may grant minor deviations from requirements ~~for land use established within a zoning district~~ without conducting a hearing if the applicant for a minor deviation obtains the written consent of the owner of any real property that would be affected by the minor deviation. If any neighbor will not consent to the minor deviation, then the applicant may apply for a minor deviation utilizing the major deviation process (Section 20.09). The minor deviation may be granted to permit an administrative adjustment of up to ten percent (10%) from any quantitative requirement. Minor deviations cannot be used for signs or parking. Minor deviations include, but are not limited to, adjustments of the location and/or dimensions of buildings, parking areas and internal roadways, providing such adjustments do not change any points of ingress or egress to the site, or exceed the density. The Administrator may only grant minor deviations for properties within Planned Developments if permitted by the Planned Development Standards Handbook.
- B. In granting minor deviations, the ~~Community Development Director~~Administrator shall ensure that the minor deviation will not impair the purpose of the zoning district or any regulations adopted thereto. Any grant of a minor deviation must be in writing to be effective. A minor deviation application and filing fee must be submitted. Any changes that might ~~be affected by~~ fire, building or health regulations must be reviewed and approved by those responsible agencies before any deviation is granted. The ~~Community Development Director~~Administrator may require mitigation measures to address potential impacts arising from the minor deviation.

(Ord. 2076, Added, 07/10/2000) (Ord. 2120, Amended, 01/14/2002; Ord. 2076, Added, 07/10/2000)

Title 20 Zoning and Land Use Amendment (October 2013)

Section 3. Section 20.09.: “Major Deviations” is hereby added as follows:

Section 4. Section 20.09.010: “Major Deviation Defined” is hereby added as follows:

As used in this chapter, “major deviation” means an adjustment greater than ten percent (10%) and not to exceed fifty percent (50%) for any quantitative requirement.

Section 5. Section 20.09.020: “Purpose” is hereby added as follows:

The development review procedures in this section are intended to provide flexibility in development. The intent of the City is to permit reductions or modifications from minimum standards of this Code only when the modification will not be materially detrimental to the public health, safety or welfare or injurious to property or improvements in the vicinity. The major deviation where the property is located must be consistent with the applicable zoning district and character of the neighborhood.

Section 6. Section 20.09.030: “Applicability” is hereby added as follows:

- A. A major deviation is not permitted for quantitative requirements pertaining to signs or parking.
- B. A major deviation is not permitted for planned developments unless permitted by the approved planned development handbook.
- C. Applications for multiple major deviations for the same property will be considered cumulatively based on their effect on the site and the adjacent properties.
- D. A separate application is required for each proposed major deviation from a quantitative requirement.

Section 7. Section 20.09.040: “Planning Commission Review of Major Deviation Applications: Findings” is hereby added as follows:

- A. The Planning Commission shall hear and take final action on major deviation applications.
- B. The Planning Commission may:
 - 1. Grant the major deviation, and may impose conditions as provided in subsection (C);
 - 2. Deny the major deviation, with or without prejudice; or
 - 3. Continue or table the application.
- C. The Planning Commission may impose or recommend the imposition of conditions on the major deviation to safeguard the public health, safety, morals and general welfare. Such conditions may address but are not limited to: compatibility, site design, architecture, landscaping, exterior building materials, assess, internal circulation, lighting, parking, the mitigation of potential impacts and any other criteria permitted by law.

Section 8. Section 20.09.050: “Application and Public Hearing Requirements” is hereby added as follows:

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- A. Any person seeking a major deviation must submit to the Administrator the required application and associated fee with the supporting materials as prescribed by the Administrator.
- B. The Administrator shall determine when an application may be filed with the Planning Commission.
- C. Application for a major deviation shall be made by the property owner, or his/her authorized agent, to the Administrator on forms prescribed for this purpose. The application shall include information as may be necessary as identified by the Administrator for adequate review of the application. Within fifteen (15) working days of receipt of an application, the Administrator shall review the application, determine whether the application is complete and send a written notice of such determination to the applicant. If the Administrator determines that the application is incomplete, the notice of determination shall specify the information necessary to make the application complete. Within fifteen (15) working days of receipt of additional submitted materials, the Administrator shall determine whether the application is then complete and send a written notice of such determination to the applicant. If following this additional submittal the Administrator has determined that the application is not complete, the applicant may appeal that determination to the Planning Commission by filing a written notice of appeal with the Administrator. The Notice of Appeal shall be filed within ten (10) days following the receipt of the written determination of the Administrator by the applicant. The Planning Commission shall issue a written determination on the appeal within sixty (60) days after receipt of the Notice of Appeal. Nothing in this section precludes an applicant and the City from mutually agreeing to an extension of any time limit provided by this section.
- D. Noticing requirements: The notice shall:
 - 1. Set forth the time, place and purpose of the property in question must be sent at least ten (10) days before the public hearing;
 - 2. Notify each owner, as listed on the County Assessor's records, of real property located within five hundred (500) feet of the property in question.
 - 3. Notify minimum of the thirty (30) separately owned parcels nearest the property in question as listed on the County Assessor's records; and
 - 4. Notify each tenant of a mobile home park located within five hundred (500) feet of the property in question.
- E. The Planning Commission shall hold a public hearing as provided in Section 20.07.050 on the complete application within sixty-five (65) days after the filing of the application, unless a longer time or different process of review is provided in an agreement entered into pursuant to NRS 278.0201.
- F. If granting the major deviation, the Planning Commission must make findings that the proposed major deviation will be compatible with the City of Sparks' zoning code and Master Plan. The Planning Commission must make the findings in Section 20.09.050 of this Chapter.
- G. Within eleven (11) days after final action and at the conclusion of any appeal period, the Planning Commission's Administrative Secretary must notify the applicant in writing of that action, including any conditions imposed by the Planning Commission. The Planning Commission's Administrative Secretary must also notify the City

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Clerk's Office if the Planning Commission takes final action.

Section 9. Section 20.09.060: "Findings" is hereby added as follows:

If granting the approval of the major deviation, the Planning Commission must make findings that the proposed major deviation will be compatible with the existing or permitted uses of adjacent properties and is consistent with the City of Sparks' Master Plan. The Planning Commission must conclude that:

- A. The request is consistent with the stated purposes of Title 20, Zoning and Land Use Controls;
- B. Granting the major deviation will not be materially detrimental to the public health, safety or welfare, or injurious to property or improvements in the vicinity;
- C. Granting the major deviation is necessary for the preservation and enjoyment of a property right possessed by other property owners in the same vicinity and land use district and is denied to the property for which the major deviation is sought; and
- D. Granting of the major deviation does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and land use district in which the property is located.

Section 10. Section 20.09.070: "Lapse of Major Deviation" is hereby added as follows:

- A. A major deviation shall automatically lapse and shall become void two (2) years following the date on which the major deviation became effective, unless prior to the expiration of two (2) years a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was subject of the major deviation.
- B. A major deviation may be extended for an additional period of one (1) year provided that prior to the expiration date when the major deviation became effective, an application for renewal of the major deviation is filed with the Administrator.
- C. The Planning Commission may grant or deny applications for extensions of major deviations.

Section 11. Section 20.09.080: "Revocation of Major Deviation" is hereby added as follows:

A major deviation may be revoked by the Planning Commission for any of the following reasons:

- A. The recipient or his successor in interest violates one (1) or more conditions of the major deviation.
- B. The major deviation was granted based on false statements or fraudulent application.
- C. The major deviation becomes a public nuisance.

Section 12. Section 20.09.090: "Reapplication Following Denial" is hereby added as follows:

If the Planning Commission denies an application for a major deviation, unless the denial is specifically stated to be without prejudice, a new application for substantially similar major deviation may not be submitted for at least six (6) months following the denial.

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SECTION 13: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 14: The City Clerk is instructed and authorized to publish the title to this ordinance as provided by law.

SECTION 15: This ordinance shall become effective upon passage, approval and publication.

SECTION 16: The provisions of this ordinance shall be liberally construed to effectively carry out its purposes in the interest of the public health, safety, welfare and convenience.

SECTION 17: If any subsection, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

SECTION 18: The City Council finds that this ordinance is **not** likely to impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business, or is otherwise exempt from Nevada Revised Statutes Chapter 237.

PASSED AND ADOPTED this ____ day of _____, 20__, by the following vote of the City Council:

AYES: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

APPROVED this ____ day of _____, 20__, by:

GENO MARTINI, Mayor

ATTEST:

TERESA GARDNER, City Clerk

APPROVED AS TO FORM AND LEGALITY:

CHESTER H. ADAMS, City Attorney