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30.66 Landscape Maintenance Districts

30.66.010 **Definitions.** Defined terms set forth in Chapter 30.66 shall have the meanings provided as follows:

Acceptance Date	The date upon which the County accepts access to real property upon which the improvements are located as provided in Section 30.66.210(b) of this Chapter.
Assessment	The monetary amount levied against each assessment unit as an assessment against a lot or parcel of real property within a residential subdivision for any given assessment period.
Assessment Amount	The monthly amount established by the County as the unit amount necessary to pay the proportionate share of the cost to maintain the improvements located in the maintenance district in accordance with Section 30.66.205 hereof to include, without limitation, the County's administrative costs; the actual cost for contracted services performed; and the associated labor, equipment, insurance, utility, and material costs.
Assessment Period	Each successive period of time running from and including July 1 to and including June 30 of the following year in accordance with the provisions of Section 30.66.205.
Assessment Unit	Each legal lot or parcel of real property comprising and being included within the boundaries of the maintenance district and upon which a single family dwelling unit may be constructed, whether such building unit has been constructed or not.
Improvements	For the purpose of this Chapter the term improvements shall mean landscaping, public lighting, and security walls located along the perimeter of a residential subdivision, which are constructed by the applicant pursuant to the applicant's approved improvement plans.
Improvements Plan	The plan approved by the County that details the installation of improvements proposed to be maintained within the maintenance district.
Landscaping	Ground cover, trees, shrubs, and other ornamentation, whether natural or artificial and including irrigation systems, electrical system, conduits, separate metering equipment, and drainage, acceptable to the County, that do not exceed the water usage or energy conservation principles of xeriscape located along the perimeter boundary of a residential subdivision.
Maintenance	To care for and provide upkeep of improvements including normal repair and replacement of materials and items to sustain an improvement standard or acceptable level of quality.
Maintenance District	The maintenance assessment district created, formed, and established pursuant to this Chapter to provide maintenance of improvements located along the perimeter of a residential subdivision.

Maintenance District Property	The sum of all legal parcels of real property containing improvements requested by the applicant to be included and maintained within the maintenance district. The maintenance district property shall be shown as common area on the final map for a residential subdivision. The ownership of the maintenance district property will be ownership in common shared by the applicant and all future owners of property within the residential subdivision.
Maintenance Standards	Those maintenance standards adopted by the County for the improvements maintained pursuant to this Chapter.
Public Benefit	The public benefit of the County maintaining perimeter landscaping, public lighting, and security walls located along the perimeter of a residential subdivision is the assurance to the immediate neighborhood that the improvements will receive the proper care in the future if a maintenance association is not established when the land is divided.
Public Lighting	Improvements used in lighting the landscaping and/or the surface of a security wall which are located on the perimeter of a residential subdivision.
Security Walls	The perimeter wall of a residential subdivision located immediately abutting the maintenance district, but not including gates. The "maintenance of a security wall" shall be limited only to the maintenance of the surface treatment on the maintenance district side of the wall and does not include the repair of any structural damages to the wall. (Ord. 2656 § 1, 2001)

30.66.020 **Authority.** The provisions of this article are enacted pursuant to NRS 278.4787 governing the development of maintenance districts for landscaping, public lighting, and security walls. (Ord. 2656 § 1, 2001)

30.66.030 **Applicability.** Pursuant to NRS 278.4787, an applicant, who is creating a residential subdivision with perimeter improvements only, may petition the County to create a maintenance district within areas of the County that are residentially zoned. (Ord. 2656 § 1, 2001)

30.66.100 **Procedures for Applying to Create a Maintenance District.** An application to create a maintenance district will be considered by the County for new residential subdivisions, for perimeter improvements only, when a property owner or owners who propose to divide land for transfer or development into four or more lots submit a petition pursuant to this ordinance, 120 days before the approval of the final map, requesting the creation of a maintenance district. The applicant shall submit the following:

a. A petition setting forth legal descriptions of all tracts of real property that would be subject to the maintenance assessment;

b. A landscape, public lighting, and security wall plan with details and construction information acceptable to the County;

c. An executed agreement signed by all of the owners of the subject property agreeing to the terms provided for in Section 30.66.240; and

d. An instrument granting the County, its officers, agents, employees, and contractors the right to enter and access the maintenance district property to the extent necessary to inspect the improvements which are proposed to be maintained within the maintenance district. (Ord. 2656 § 1, 2001)

30.66.105 **County's Determination to Form a Maintenance District.** The application for a maintenance district must be considered 90 days before the approval of the final map, unless waived by the Board of County Commissioners. The maintenance assessments shall not, however, be effective until the County accepts the constructed improvements for maintenance. The Board of County Commissioners shall determine the desirability of assuming the maintenance of the proposed improvements.

a. In determining if it is desirable to assume maintenance of the improvements, the following factors may be considered:

1. Whether the maintenance of the improvements on the subject property alone, or cumulatively with other maintenance districts in unincorporated Clark County, would create an unreasonable administrative or financial burden upon the County;

2. Whether the location of the proposed maintenance district would interfere with the County's ability to efficiently and effectively maintain improvements on the subject property;

3. Whether the improvement plan submitted by the applicant is consistent with the requirements of the Clark County code, County policies, and the County's master plan, including the applicable land use guide approved by the County;

4. Whether the proposed improvements are compatible with the character of the area of the County in which the improvements will be located;

5. Whether the landscape improvements are constructed to the standards of and are acceptable to the County, and all improvements are constructed to applicable codes and standards; and

6. Any other factor deemed by the Board of County Commissioners as relevant to the application before it.

b. If the County makes a determination that it is desirable to assume the maintenance of the improvements, the County will form a maintenance district by ordinance. For each maintenance district that is approved, the County will determine:

1. Whether all or a portion of the tracts and/or parcels of real property will be included within the maintenance district in accordance with the applicant's petition;

2. The basis of the assessment amount for each tract and/or parcel of real property on a periodic basis;

3. The time of payment of the assessment;

4. The type of the improvements to be maintained in the maintenance district, and the level of standards to which the improvement maintenance will be considered acceptable;

5. The amount by which the public will benefit from the maintenance of the improvements by the County, in lieu of private maintenance, and the amount the County will contribute in direct relation to that benefit. The County hereby determines that there will be a minimal or no public benefit resulting from the County providing maintenance in lieu of private persons or entities. Absent satisfactory proof otherwise, the cost of providing the maintenance shall be paid solely by the affected owners of the residential units within the maintenance district;

6. The portion of the assessment to be paid to the County for expenses associated with the costs of the maintenance district; and

7. Any other relevant matters. (Ord. 2656 § 1, 2001)

30.66.200 Conditions of Approval.

a. As a condition of approval the applicant shall be required to:

1. Submit an agreement acceptable to the County granting the County, its officers, agents, employees, and contractors an exclusive right to enter and access the maintenance district property to the extent necessary to maintain the improvements in the maintenance district property;

2. Submit a written agreement acceptable to the County providing a warranty for all live plants and irrigation equipment for a period of 12 months, or less if agreed to by the County, and indemnifying the County for damage or loss resulting from the applicant's or applicant's agent's improper installation or defective design of the improvements. The warranty and indemnification agreement may be included as part of the agreement described in (a)(1) in Section 30.66.200;

3. Provide an assessment deposit that will cover the first six months of assessments and start up costs for the maintenance district; and

4. Notify all prospective home buyers in writing, upon entering the contract to purchase the property, of the maintenance district and the amount of the assessments. This notification shall be signed by the home buyer.

b. The Board of County Commissioners may impose other conditions deemed necessary and appropriate at the time of the public hearing creating the maintenance district. (Ord. 2656 § 1, 2001)

30.66.202 Application Expiration.

a. An application approved by the Board of County Commissioners shall expire in one year from the date of approval, unless all conditions of approval are met and construction of improvements are commenced within that time period.

b. The Board of County Commissioners shall have the discretion to establish alternative time limits than those established by this Section. (Ord. 2656 § 1, 2001)

30.66.205 Assessments.

a. The assessment amount for each assessment unit, including billing cycle, shall be determined for each assessment period; subject however, to an annual adjustment. The maintenance district may be considered for creation annually and the assessment amount shall be adjusted accordingly based upon the bids received and the actual contracts approved by the County. Additionally, if costs and expenses are increased within the maintenance district by ten percent (10%) or more, the assessment amount

shall be increased accordingly during the remainder of the assessment period.

b. Assessment amounts shall be payable according to the payment schedule adopted with the establishment of the maintenance district. The County shall mail to the property owner of the assessment unit a bill for the assessment amount to the same address for the property owner of such assessment unit as billings for real property taxes are sent by the Clark County Assessor's Office.

c. Assessment amounts for any partial assessment period shall be prorated based on a 365-day-year.

d. The County shall assess a 10% penalty for each assessment not paid within 60 days from the due date. Interest shall accrue on delinquent payments at the legal rate with unpaid principal, penalties, and accrued interest compounded semi-annually. (Ord. 2656 § 1, 2001)

30.66.210 Improvement Installation.

a. The improvements shall be installed by the applicant in accordance with the County approved improvement plan supplied by the applicant and the County's adopted standards in a good, workmanlike, and lien free manner prior to the creation of a maintenance district. Once the improvements are installed, the applicant shall notify the County, so that the County may inspect the improvements for compliance with the approved landscape plan and other legal requirements.

b. The County shall accept a right-of-entry for access purposes at such time as the maintenance district is created pursuant to Section 30.66.105.

c. The County shall undertake or cause to be undertaken the maintenance of the improvements consistent with the levels and standards approved by the County upon the County's creation of the maintenance district and acceptance of the public access rights. The maintenance of the improvements will be provided by a contract approved and administered by the County, or its agent, under the provisions of NRS Chapters 271, 332 and 338 where applicable. (Ord. 2656 § 1, 2001)

30.66.220 County Lien Rights. Once levied, the assessment amount shall constitute a lien upon and against each respective assessment unit. Each such lien shall be executed by the property owner and shall have the same priority as a lien for real property taxes with respect to each assessment unit. (Ord. 2656 § 1, 2001)

30.66.230 Expansion of Maintenance District. Upon the filing of a petition, by the acceptance of the petition by the County, and by compliance with all provisions of this Chapter 30.66, the maintenance district may be expanded to include future phases of a residential subdivision provided that the same conditions as required for the creation of the original maintenance district are satisfactorily fulfilled. (Ord. 2656 § 1, 2001)

30.66.235 Recorded Notice. Concurrently with the recording of the final residential subdivision map, or prior to the creation of a maintenance district as provided for in NRS 278.4787, for property located within the maintenance district, there shall be recorded against the properties located within the maintenance district a notice of the inclusion of said property in the maintenance district, with a true and accurate copy of the ordinance creating the maintenance district together with a copy of this Chapter 30.66 of the County Code attached thereto. Such notice shall be in such form and content so as to encumber the property located within the maintenance district and run with the title thereto. The costs of recording the notice must be paid by the petitioner. (Ord. 2656 § 1, 2001)

30.66.240 **Review of Continuation of Maintenance District.** Upon notice to the owners of property located within the maintenance district, the County or at least fifty percent (50%) of the property owners of the maintenance district may request a public hearing to review and determine whether it is desirable to continue the maintenance district in accordance with Chapter 30.66. If the County determines it is not desirable to continue the maintenance district, such maintenance district may be dissolved. In such event, the owners, or portion thereof as necessary, within the maintenance district shall within six (6) months form a maintenance association to assume the responsibility for maintenance of the improvements. The maintenance district shall continue to be in force until the private maintenance association is created. (Ord. 2656 § 1, 2001)

30.66.245 **Dissolution of a Maintenance District.** A maintenance district for improvements may be dissolved by the County if one of the following conditions exist:

a. The County determines that it is no longer desirable for the County to maintain the improvements within the maintenance district or the improvements are no longer necessary; or

b. If a majority of the property owners of assessment units request that the County dissolve the maintenance district, and an association for a common-interest community has been formed to maintain landscaping, public lighting, and security walls in lieu of a maintenance district under NRS 278.4787. (Ord. 2656 § 1, 2001)

30.66.250 **Maintenance District Coordination Team and Creation of a Revolving Fund.**

a. There is created a maintenance district coordination team which shall establish policies and procedures for implementing, operating, and fulfilling the County's obligations for any maintenance districts created pursuant to this Chapter of the County Code. The coordination team shall be composed of one representative each from Clark County Parks and Recreation, Clark County Public Works, and Clark County Comprehensive Planning.

b. There is hereby created a maintenance district special revenue fund that will account for funds paid for the operating costs of all maintenance districts, and into which shall be deposited the funds collected from each maintenance district created by the County. The special revenue fund shall be established with the creation of the first maintenance district, and the County shall initially fund from the General Fund six (6) months of estimated operating costs of the maintenance districts which are proposed to be implemented during that first fiscal year. The special revenue fund will reimburse the general fund at a later date. The County may, as necessary supplement this fund from the general fund to cover costs, and the special revenue fund will reimburse the general fund at a later date. (Ord. 2656 § 1, 2001)