

ORDINANCE NO. 2016-08-12

An emergency interim zoning ordinance relating to land use, suspending exemptions to the Concurrency Standards under CCC 40.350.020.

1           WHEREAS, the Council finds that Clark County code attempts to delay development in  
2 areas served by roads failing concurrency; and

3           WHEREAS, recent amendments applied to intersections may not achieve that goal; and,

4           WHEREAS, developments may be approved even though served by roads that have  
5 failed to achieve safe levels of service; and

6           WHEREAS, immediate suspension of these exemptions is necessary, due to  
7 Washington's vesting laws, to provide time to reevaluate the road standards and protect the  
8 public health and safety; and

9           WHEREAS, RCW 36.70A.390 and RCW 35.63.200 authorize the Board to adopt an  
10 interim zoning ordinance without holding a public hearing, provided, a duly-noticed public  
11 hearing is held within 60 days of adoption; and

12           Whereas, the Board is considering this interim ordinance to further the public health,  
13 safety, and welfare; it is now, therefore,

14           ORDERED, RESOLVED AND DECREED BY THE BOARD OF COUNTY  
15 COUNCILORS OF CLARK COUNTY, STATE OF WASHINGTON, AS FOLLOWS:

16           **Section 1. Findings.** RCW 35.63.200 authorizes adoption of interim zoning  
17 measures with certain limitations. In compliance with the requirements of this statute, the Board  
18 of County Commissioners adopts as findings the pronouncements contained in the above recital  
19 provisions.

20           **Section 2.     Amendatory.** Sec. 1 (Ex. A) of Ord. 2000-10-03, as most recently  
21 amended by Ordinance 2010-08-06 and codified as 40.350.020, are each amended to read:

22 **40.350.020    Transportation Concurrency Management System**

23 A.     Purpose.

24           This section implements the requirements in RCW 36.70A.070 that counties:

- 25           1.     Establish level of service standards for arterial and transit routes; and  
26           2.     Ensure that such standards are met or reasonably funded before new development  
27           is approved.

28           B.     Applicability.

29           This section applies to applications for subdivision, short subdivision, conditional use  
30 permit approvals, and site plan review, except for those site plan reviews for unoccupied utility  
31 and wireless communication facilities which have a potential vehicular impact on the level of  
32 service of a segment or intersection of either:

- 33           1.     Any county roadway with a comprehensive plan functional classification of  
34 arterial or collector; or  
35           2.     Any state highway of regional significance.

36           C.     Review Authority.

37           The review authority shall approve, approve with conditions, or deny proposed  
38 developments in accordance with the provisions of this section.

39           D.     Transportation Impact Study.

40           1.     A transportation impact study shall be required for all development applications  
41 in which the proposed development is projected to have an impact upon any affected  
42 transportation corridor or intersection of regional significance, unless the development  
43 application is exempt from the provisions of this section as provided for in Section  
44 40.350.020(D)(7), or the requirement for a study has been waived by the Public Works Director.

45           2.     A transportation impact study shall include, at a minimum, an analysis of the  
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- a. Trip generation, modal split, distribution, and assignment for the proposed development; and
- b. An analysis of the projected impact of the proposed development upon the current operating level and safety of affected transportation corridors and intersections of regional significance. The analysis shall also include an accounting of trips assigned to all collector and arterial roadways.

3. A transportation impact study shall be prepared by and/or under the supervision of a registered professional engineer in the state of Washington.

4. A transportation impact study shall be based on traffic counts obtained within twelve (12) months of the fully complete date of the development application as determined under Sections 40.510.010(B), 40.510.020(C), and 40.51.030(C). The traffic counts shall reflect representative traffic conditions on collector and arterial roadways, and at intersections of regional significance. Intersections of regional significance are those intersections where at least three (3) legs are collector or arterial classification roadways.

5. A transportation impact study shall not be required to analyze impacts on affected transportation corridors or intersections of regional significance located at least the following distances from the proposed development (as measured by straight-line distance):

- a. Fifty (50) or less new peak period trips at development site: one (1) mile;
- b. Fifty-one (51) to two hundred fifty (250) new peak period trips at development site: two (2) miles;
- c. Two hundred fifty-one (251) or more new peak period trips at development site: three (3) miles.

6. The Public Works Director reserves the right to require an applicant to provide additional data and/or analysis as part of a particular transportation impact study, where the Public Works Director determines that additional information or analysis is required to implement the standards and requirements contained in this section.

7. No traffic impact study shall be required, pursuant to the provisions of this section, where the proposed development will generate less than ten (10) peak period vehicle trips. However, these proposed developments are still subject to concurrency reviews and require concurrency approvals.

8. Upon the written request of an applicant, the Public Works Director may waive the requirement for a transportation impact study, or limit the scope of analysis and required elements of a traffic impact study where the Public Works Director determines that the potential transportation impacts upon the affected transportation corridor(s) and/or intersection(s) of

100 regional significance have been adequately analyzed in prior research or reports and/or are not  
101 projected to cause a reduction in the operating level of affected transportation corridors and/or  
102 intersections.

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104 E. Requirements for Concurrency Approval.

105 1. Each development application subject to the provisions of this section shall  
106 require a concurrency review. No development application may be approved by the review  
107 authority until such time as a concurrency approval or conditional concurrency approval has  
108 been issued by the Public Works Director.

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110 2. The concurrency determination for multiple development applications impacting  
111 the same transportation corridors or intersections shall be tested chronologically in accordance  
112 with the respective applications' fully complete dates as determined under Sections  
113 40.510.010(B), 40.510.020(C), and 40.510.030(C) (but not the contingent vesting provisions of  
114 Sections 40.510.010(D), 40.510.020(G), and 40.510.030(G)). For the purpose of this subsection  
115 only, the fully complete date for an application delayed in processing for sixty (60) days or  
116 longer due to actions or inaction of the applicant (as determined by the responsible official) shall  
117 be adjusted according to the length of such delay. Preapplication concurrency reviews shall be  
118 tested in the order they are received.

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120 3. The Public Works Director shall issue a concurrency approval where the Public  
121 Works Director determines that the proposed development's impacts upon all affected  
122 transportation corridors and intersections of regional significance do not result in the operating  
123 levels for the transportation corridors, signalized intersections, and unsignalized intersections  
124 falling below the adopted level of service standards established in Section 40.350.020(G).

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126 4. A concurrency review and approval shall not be required for those affected  
127 transportation corridors and intersections of regional significance further away than the distances  
128 identified in Section 40.350.020(D)(5).

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130 5. The Public Works Director may approve and condition mitigation (if volunteered  
131 by the applicant) where the Public Works Director determines that the proposed development's  
132 projected impacts upon an affected transportation corridor or intersection of regional significance  
133 can be offset by the mitigation such that the operating levels will not further deteriorate because  
134 of the additional traffic generated by the proposed development. The review authority may  
135 approve a development when the Public Works Director determines that achieving the level of  
136 service standards would cause significant negative environmental impacts as identified in a  
137 SEPA review.

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139 6. Appeals to the determination of the Public Works Director with respect to  
140 concurrency shall be made in accordance with Sections 40.510.010(E), 40.510.020(H), and  
141 40.510.030(H). Applications reviewed as Type I and Type II procedures shall be appealed as

142 Type II procedures. For applications reviewed as Type III procedures, the Public Works  
143 Director’s determination shall be treated as a recommendation to the review authority.

144  
145 F. Determination of Operating Levels.

146 The operating level for a transportation corridor, signalized intersection, and/or  
147 unsignalized intersection shall be defined as the traffic characteristics of those roadways and  
148 intersections with consideration of the following factors:

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- 150 1. The existing traffic levels on the roadways and intersections;
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  - 152 2. Any mitigation measures proposed by the applicant.
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    - 154 a. For site plans, mitigation measures shall be completed and/or implemented  
155 prior to occupancy or commencement of the use.
    - 156
    - 157 b. For land divisions, mitigation measures shall be completed and/or  
158 implemented prior to:
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      - 160 (1) Final plat approval; or
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      - 162 (2) Issuance of the first building permit for any newly recorded lot,  
163 provided:
        - 164
        - 165 (a) The improvements are secured by a performance bond or  
166 financial guarantees acceptable to the county prior to final  
167 plat.
        - 168
        - 169 (b) Construction plans shall be approved, and any needed  
170 right-of-way for the mitigation improvements have been  
171 obtained prior to final plat approval.
        - 172
        - 173 (c) “Model home” building permits issued subject to the  
174 requirements of Section 40.260.175 do not require bonding  
175 or right-of-way acquisition necessary for transportation  
176 concurrency mitigation measures.
  - 177 3. Any mitigation measures conditioned to other approved developments which will  
178 be completed and/or implemented prior to occupancy of the proposed development;
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  - 180 4. The traffic impacts of the proposed development on the affected transportation  
181 corridors and intersections;
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  - 183 5. The traffic impacts of other approved developments not yet fully built-out on the  
184 affected transportation corridors and intersections;

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186           6. Any improvements being implemented as part of the county's transportation  
187 improvement program that are reasonably funded and scheduled for completion of construction  
188 within six (6) years of the final date for a decision upon the development application;  
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190           7. Any capacity which has been assigned or reserved to other and/or future  
191 developments pursuant to the terms of a development agreement or capacity reservation  
192 authorized and executed under the provisions of this chapter;  
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194           8. Any background traffic growth or traffic from developments exempt from the  
195 requirements of this chapter that the Public Works Director determines could have an impact on  
196 the operating level of the transportation corridors or intersections;  
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198           9. Any other factors that the Public Works Director has determined could have an  
199 impact on the operating level of the transportation corridors or intersections.  
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201 G. Level of Service Standards.

202           1. Level of service or LOS standards shall be as follows:  
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204           a. The maximum volume to capacity ratio for each roadway segment shall  
205 not exceed nine-tenths (0.9), when measured independently for each  
206 direction of travel. Measurements shall be made for all collector and  
207 arterial roadway segments located within the Vancouver Urban Growth  
208 Area, but outside of the City of Vancouver. Measurements shall also be  
209 made for state highways of regional significance. In calculating the  
210 volume to capacity ratio, the volume shall be determined based on the  
211 factors described in Section 40.350.020(F). In determining the capacity for  
212 roadways built-out to county standards, the capacity shall be based on the  
213 factors described in Table 40.350.020-1, Roadway Capacities. For  
214 roadways not fully built-out to county standards, the capacity shall be  
215 determined based on the current roadway condition. For roadways with  
216 lane widths twelve (12) feet and greater, and with paved shoulder widths  
217 two (2) feet and greater, the lane capacity shall be eight hundred (800)  
218 vehicles per hour. For roadways with lane widths between eleven (11) and  
219 twelve (12) feet and with paved shoulder widths two (2) feet and greater,  
220 the lane capacity shall be seven hundred (700) vehicles per hour. For  
221 roadways with lane widths less than eleven (11) feet, the lane capacity  
222 shall be six hundred (600) vehicles per hour.  
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Table 40.350.020-1 Roadway Capacities				
Roadway Type			County Designation	Single Direction Capacity/Hour
Urban	Arterials	Parkway	Pa-4b	2000
		Principal	Pr-4cb	1800
		Minor, 4-lane	M-4cb	1800
		Minor, 2-lane	M-2cb	900
	Collector	Urban	C-2cb	900
		Urban	C-2	800
		Urban	C-2b	800
Rural	Arterial		RA	800
	Collector	Major	R-2	800
		Minor	Rm-2	800

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- b. Individual movements at each signalized intersection of regional significance in the unincorporated county shall not exceed an average of two (2) cycle lengths or two hundred forty (240) seconds of delay (whichever is less).
  
- c. All unsignalized intersections of regional significance in the unincorporated county shall achieve LOS E standards or better (if warrants are not met). If warrants are met, unsignalized intersections of regional significance shall achieve LOS D standards or better. The signalization of unsignalized intersections shall be at the discretion of the Public Works Director and shall not obligate the county to meet this LOS standard. However, proposed developments shall not be required to mitigate their impacts in order to obtain a concurrency approval unless:
  - (1) The proposed development adds at least five (5) peak period trips to a failing intersection approach; and
  - (2) ~~The projected volume to capacity ratio for the worst lane movement on the approach with the highest delay exceeds nine-tenths (0.9) during the peak traffic period; and~~
  - (3) That same movement is worsened by the proposed development.

252 d. The LOS standards identified in this subsection shall be applied during  
253 peak period traffic conditions, as defined by the responsible official and  
254 published in the administrative manual.  
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256 2. The LOS standards established in this subsection shall be applied and interpreted  
257 as stated in the administrative manual prepared pursuant to Section 40.350.020(N).  
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259 3. The LOS standards and the operating levels for each transportation corridor and  
260 intersection of regional significance shall be evaluated and reviewed on an annual basis by the  
261 board.  
262

263 4. Notwithstanding the provisions for the annual review of LOS standards pursuant  
264 to this section, the board reserves the authority to enact and renew emergency moratoria and  
265 interim zoning or other official controls upon development approvals affecting designated  
266 transportation corridors and intersections of regional significance pursuant to RCW 36.70A.390,  
267 and may specify qualifications or conditions for the application of such moratoria and interim  
268 zoning or other official controls.  
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270 H. Exemptions from Concurrency Requirements.

271 The following types of development applications shall not be subject to a concurrency  
272 denial:  
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274 1. K – 12 public schools incorporating commitments to commute trip reduction  
275 consistent with Chapter 5.50;  
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277 2. Fire/police stations;  
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279 3. Public transit facilities;  
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281 4. Neighborhood parks.  
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283 I. Concurrency Survey.  
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285 1. For purposes of monitoring the cumulative transportation-related impacts of  
286 developments which are exempt from the requirements of this section, such development  
287 applications shall be required to submit a concurrency survey for review by the Public Works  
288 Director.  
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290 2. Submittals of concurrency surveys shall be made upon written forms provided by  
291 the Director and shall be filed with the Public Works Director. The concurrency survey shall  
292 indicate, at a minimum:  
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294 a. The type and location of the development;

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296           b.     An identification of all affected transportation corridors and intersections  
297                 of regional significance;  
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299           c.     The specific reason the development is exempt from the provisions of this  
300                 section;  
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302           d.     An estimate of the projected total peak period trips that will be generated  
303                 by the development; and  
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305           e.     An estimate of the date of occupancy of the development.  
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307           3.     The Public Works Director shall review and approve the concurrency survey, and  
308                 may require the submission of additional information prior to approving the survey.  
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310           4.     No development application may be approved by the review authority until such  
311                 time as the applicant has complied with the requirements of this subsection, and the Public  
312                 Works Director has approved the concurrency survey.  
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314     J.     Reservation of Capacity.

315           1.     Upon issuance of a concurrency approval by the Public Works Director, the  
316                 transportation capacity allocated by the Public Works Director to the development application  
317                 shall become encumbered capacity. This encumbered capacity shall not be considered for use by  
318                 another development application until such time as the concurrency approval expires pursuant to  
319                 Section 40.350.020(J)(4).  
320

321           2.     Upon issuance of a development approval by the review authority, this  
322                 encumbered capacity shall become reserved capacity and shall not be considered for use by  
323                 another development application.  
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325           3.     Reserved capacity shall not be transferable to another development upon another  
326                 site. Reserved capacity from a previous development approval shall not be transferable to a  
327                 different land use development upon the same site.  
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329           4.     Concurrency approvals shall be valid for the same period of time as the  
330                 development approval, and shall expire upon the date the development approval expires.  
331                 Notwithstanding the provisions of this subsection, a concurrency approval shall expire upon the  
332                 date the development application for which the concurrency approval was required is:  
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- 334           a.     Withdrawn by the applicant;  
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336           b.     Denied approval by the review authority; provided, that for purposes of  
337                 this section, an application shall not be deemed to be denied by the review

338 authority until a final decision has been issued pursuant to any  
339 administrative appeal under Sections 40.510.010(E), 40,510.020(H), and  
340 40.510.030(H); or until a final decision has been rendered by a superior  
341 court with competent jurisdiction, where such judicial appeal has been  
342 filed in a timely way; or  
343

344 c. Not found to be fully complete within one hundred eighty (180) days of a  
345 pre-application concurrency approval.  
346

347 K. Capacity Reservation for Development Agreements.

348 The board may reserve capacity, prior to approval of a development application by the  
349 review authority, through the approval of a development agreement authorized and executed  
350 under the provisions of RCW 36.70B.170. This reserved capacity shall be accounted for in  
351 establishing and reviewing LOS standards and in the determination of operating levels for  
352 transportation corridors and intersections.  
353

354 L. Capacity Reservation for a Preferred Land Use.

355 1. Where the board finds that there is a significant public interest or need to provide  
356 for the approval of a preferred land use that would affect the transportation corridors and/or  
357 intersections of regional significance, the board following a public hearing may provide for the  
358 reservation of capacity for such land use. The board may direct, by ordinance, that the  
359 transportation capacity necessary to accommodate such land use be reserved for the future  
360 approval of such land uses.  
361

362 2. Such reservation shall be for an identified period of time and shall be subject to  
363 annual review by the board. This reserved capacity shall be accounted for in establishing and  
364 reviewing LOS standards and in the determination of operating levels for the transportation  
365 corridors and intersections.  
366

367 M. Deferral of Reserved Capacity.

368 If reserved trips from a development agreement (Section 40.350.020(K)) are not  
369 scheduled to be utilized for at least five (5) years, the board by administrative resolution may  
370 direct that all or a portion of such out-year trips be excluded in concurrency testing of other  
371 project applications where anticipated transportation improvement projects, whether or not  
372 deemed reasonably funded, are expected to increase capacity on the impacted  
373 corridor(s)/intersection(s) by at least the volume of the out-year trips so deferred. When deferring  
374 use of reserved trips, the reserved trips will remain vested with the original party to the developer  
375 agreement and will be available for use by that party consistent with any conditions in the  
376 development agreement.  
377

378 N. Establishment of Administrative Manual.

379 1. The Public Works Director shall establish and adopt the methodology and criteria  
380 to be used to identify transportation corridors and evaluate the operating level for each  
381 transportation corridor and intersection of regional significance.  
382

383 2. The Public Works Director shall establish and adopt the methodology and criteria  
384 to be used to identify and evaluate the transportation impacts of developments which are required  
385 to be addressed in the transportation impact studies required by Section 40.350.020(D).  
386

387 3. The Public Works Director shall publish and regularly update an administrative  
388 manual setting forth the methodology and criteria adopted for the purposes described in Sections  
389 40.350.020(N)(1) and (N)(2).  
390

391 4. A copy of the most recent version of the administrative manual shall be made  
392 available for public inspection and review.  
393

394 5. The provisions of the administrative manual shall be consistent with and  
395 implement the provisions of this section. To the extent the provisions of the manual are  
396 inconsistent with the provisions of this section, the provisions of this section shall control.  
397

398 O. Mitigated Level of Service for Master Planned Developments.

399 Mitigated level of service standards may be established, for master planned industrial,  
400 university or office uses, which the review authority finds:  
401

402 1. Are approved for master plan development under Section 40.520.070 for  
403 properties zoned light industrial (IL) or are approved as a master development plan under Section  
404 40.230.050 for properties zoned university (U), or if previously approved, are found to  
405 substantially comply with Section 40.230.050 or 40.520.070;  
406

407 2. Are served by a transportation corridor which incorporates measures to mitigate  
408 traffic congestion, such as high occupancy vehicle lanes, fifteen (15) minute or better peak hour  
409 transit service, freeway ramp metering, or traffic signal coordination; and  
410

411 3. Incorporates a commitment to commute trip reduction for all industrial, university  
412 and office on-site employers, consistent with Chapter 5.50.  
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414 P. Application of SEPA to the Director's Determinations.

415 Any determination made by the Public Works Director pursuant to this section shall be an  
416 administrative action that is categorically exempt from the State Environmental Policy Act.  
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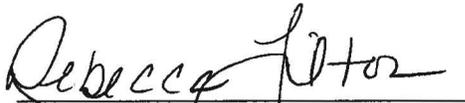
418           **Section 3. Effective Date.** This ordinance shall be effective upon adoption and shall  
419 expire upon adoption of a new ordinance following consideration of this matter by the Clark  
420 County Council or 60 days of adoption whichever is earlier.

421           **Section 4. Instructions to Clerk.** The Clerk to the Board shall:

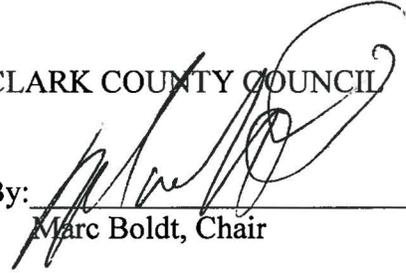
- 422           1. Record a copy of this ordinance with the Clark County Auditor.
- 423           2. Transmit a copy of this ordinance to the state within ten days of its adoption,  
424 pursuant to RCW 36.70A.106.
- 425           3. Cause notice of adoption of this ordinance to be published forthwith pursuant to  
426 RCW 36.70A.290.
- 427           4. This ordinance is temporary in nature and is not to be codified.

428           ADOPTED BY ROLL CALL this 30<sup>th</sup> day of August, 2016.

Attest

  
Clerk to the Board

CLARK COUNTY COUNCIL

By:   
Marc Boldt, Chair

By: \_\_\_\_\_  
Jeanne E. Stewart, Councilor

By: \_\_\_\_\_  
Julie Olson, Councilor

Approved as to form only:

  
Christopher Horne  
Deputy Prosecuting Attorney

By: \_\_\_\_\_  
David Madore, Councilor

By: \_\_\_\_\_  
Tome Mielke, Councilor

