

## Title 8

### PLANNING COMMISSION

**Title 8: PLANNING COMMISSION**

**Chapter 10: Planning Commission Board**

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## Chapter 10 - PLANNING COMMISSION BOARD

### .010 Establishment

A County Planning Commission for the County of Eureka is ordained under and by virtue of the Nevada Revised Statutes Section 278.030.

### .020 Appointment of members

- A. The County Planning Commission shall be known as the “Eureka County Planning Commission,” and shall consist of seven (7) members to be appointed by the Board of County Commissioners when practicable to follow the Board of County Commissioners’ districts.
- B. The appointment of each member shall be for a term of four (4) years, or until his/her successor takes office. Alternates will be considered first when appointing successors to regular members.

### .030 Appointment of alternates; voting

- A. The Board of County Commissioners may designate alternates at large for the Planning Commission, for a four (4) year term. The alternates will receive salary and mileage for attending meetings regardless of whether all regular members are present.
- B. Alternates who attend a meeting in which less than seven (7) regular members are present shall have full member powers, including the power to vote, provided the Planning Commission shall not be comprised of greater than seven (7) voting members in any meeting.



## Chapter 20 - DIVISION OF LANDS

### .010 Policy and purpose

- A. The purpose of this Title is to safeguard the public health, safety, convenience and general welfare and to bring about an orderly, coordinated, and economic development of the area, by establishing minimum standards of design and improvement for any land hereafter divided in the County. In addition, this Title serves as one of the key elements of the Eureka County Master Plan, adopted in December, 1998, and from time to time amended and updated, to guide the future development of the County.
- B. It is declared to be the policy of the County to consider the division of land and the subsequent development of the land as subject to the control of the County pursuant to the Master Plan for the orderly, planned, efficient, and economical development of the County. N.R.S. 278.020 & 278.150
- C. Land to be divided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, slope instability or other menace, and land may not be divided until adequate public facilities and improvements exist and proper provision has been made for drainage, water, sewerage, and capital improvements such as schools, parks, recreation facilities, transportation facilities, and improvements in accordance with the provisions of the County Code.
- D. The existing and proposed public improvements shall conform to and be properly related to the proposals shown in the Master Plan and it is intended that the regulations shall supplement and facilitate the enforcement of the provisions and standards contained in the Master Plan, Land Use Plan, and capital improvements plan and programs of the County. N.R.S. 278.020 & 278.170
- E. The general purpose of this Title is to safeguard the public health, safety and general welfare by regulating the division of land and requiring certain necessary improvements as a consequence of the division of land. The specific purposes of this Title are as follows:
  - 1. To promote public health, safety, convenience and general welfare by ensuring development of land in a manner consistent with community objectives as set forth in the Master Plan and community plans; and
  - 2. To preserve and protect the natural environment, including the water and air; and to safeguard against excessive storm water run-off, erosion, flooding, wildfire and the depletion or pollution of water resources; and

3. To safeguard the general welfare by limiting the division of land in areas where excessive costs and low efficiency services may result; and
4. To review at the time of land division the provision of adequate water supply, storm drainage, sewer disposal, electricity, and other utilities, services and improvements needed as a consequence of any change or intensification of the land use; and
5. To ensure that governmental maintenance costs are minimized by requiring the installation of improvements adequate in size and quality; and
6. To encourage an organized pattern of urban development and efficient provision of utilities and public services; and
7. To conserve agricultural areas designated in the Eureka County Master Plan; and
8. To safeguard the water table; and to encourage the wise use and management of natural resources throughout the County in order to preserve the value of the land.

**.020 Construction; variances**

- A. The provisions of this Title shall be held to be minimum requirements only, and are not intended to repeal, abrogate, annul or in any manner interfere with any existing laws, covenants or rules. Where the provisions of this Title impose a greater restriction than is required by existing laws, covenants or rules, the provisions of this Title shall govern. When, in the opinion of the Board of Commissioners, the public health, safety, convenience or general welfare require imposition of requirements in addition to the minimum requirements set forth herein, this Title shall be construed to permit the County to impose such additional requirements as may be found necessary after an appropriate public hearing.
- B. Unless otherwise expressly mandated by Nevada Revised Statutes, any provision of this Title may be varied by the Planning Commission, subject to appeal to the County Commission, subject to the following conditions:
  1. Any variance granted subject to this chapter and section shall not materially derogate the provisions of this Title; and
  2. A variance may be denied if the need for variance results from the action(s) of a land owner or his predecessor(s) in interest; and

3. No variance shall be granted which would have a substantial and material adverse effect on public health, safety, convenience or general welfare; and
4. Economic benefit to a landowner is not, standing alone, sufficient reason to grant a variance.

**.030 Conditions, covenants, and restrictions**

The provisions of this Title do not prevent property owners from voluntarily imposing conditions, covenants and restrictions (CC&Rs) on their property and successors in interest to that property, and enforcing such CC&Rs. The County, as a political subdivision, need not enforce CC&Rs except in the case of planned unit developments (PUDs) where CC&Rs are imposed running in favor of both the County and landowners within the PUD. In such cases the County may, but is not required to, enforce CC&Rs. Where CC&Rs conflict with the provisions of this Title, the provisions of this Title shall govern.

**.040 Repeal of conflicting ordinances**

All County ordinances which conflict with this ordinance are repealed as of the effective date hereof.

**.050 Map filing procedures and fees**

- A. Before any proposed division of land will be considered filed for the purposes of time limits to take action with the Eureka County Planning Commission and/or the Board of Eureka County Commissioners and/or other County agencies, the proponent of the land division must submit sufficient copies of maps in compliance with this Title and all applicable fees and application materials. No proposed division of land will be considered filed for action until such compliance is complete, and the appropriate agencies have submitted comments, if any, to the appropriate County agency; unless, in the sole discretion of the Planning Commission or the County Commissioners, an emergency justifies proceeding despite a lack of full compliance with these procedures.
- B. The number of copies of maps required shall be as specified from time to time by the Eureka County Department of Public Works, and may vary depending upon the complexity and/or location of the proposed land division. At a minimum, sufficient copies shall be provided for review by:
  1. Department of Public Works; and
  2. County Engineer; and

3. Planning Commission (12 copies); and
  4. Crescent Valley Town Advisory Board, if applicable; and
  5. Nevada State Engineer; and
  6. Nevada Department of Environmental Protection; and
  7. Each public utility serving the proposed land division.
- C. All applicable review fees shall be paid at the time the maps are submitted to the Department of Public Works. Fee amounts shall be determined from time to time by the Board of Eureka County Commissioners, and adopted by resolution. Subdivisions N.R.S. 278.330, Parcel Maps N.R.S. 278.461 & Division of Land into Large Parcels N.R.S. 278.4713
- D. The Department of Public Works shall forward map copies to the appropriate agencies for review.
- E. After receipt of agency comments, or after any statutory time for review has passed if comments are not received, the proposed division of land shall be filed with the Planning Commission secretary and placed on the agenda of the next subsequent meeting of the Planning Commission for consideration and action in accordance with the provisions of this Title and the applicable Nevada Revised Statutes.

#### .060 Topography information

Unless otherwise waived by the Planning Commission, the land division proponent shall include on any division of land map an inset that includes a topographical depiction of the land subject to division. The topography information shall be supplied in this format:

Topography map must be 20' contours, at a minimum. The Planning Commission has the discretion to require closer elevations. US Geological Survey maps will not be accepted.

In cases where the Planning Commission waives the topography map, the elevations, real or assumed, will be required to be on all lot corners.

#### .070 Recordation of final map

After the Board of County Commissioners has approved the final map, the developer has ninety (90) days to record the map, in the Eureka County Recorder's Office.

.080 Basis of bearing

The basis of bearing must be physically shown on all division of land maps.

.090 Vicinity map

A Vicinity map must accompany all final maps.

## Chapter 30 - DEFINITIONS

### .010 Definitions (N.R.S. 278.010 - 278.0195)

As used in this Title, the following words and terms shall have the meanings ascribed to them in this chapter unless the usage and context clearly requires a different meaning:

**Alley** means a minor way which is used primarily for vehicular service access to the backside of property otherwise abutting on a street.

**Bond or performance bond** means an obligation executed by a corporate security company authorized to do so in Nevada; or, in the alternative, a cashier's check or certified check of the owner made payable to the County, or a cash deposit with the County in lawful money of the United States, to secure the performance of the agreement of which the bond or performance bond is required. No part of any cash deposit shall be released to the owner for any reason whatsoever until completion of the land division agreement and acceptance of all matters provided herein by the County; and, provided further, that under no circumstances shall said words be construed to authorize or permit a personal bond or any security other than that described herein.

**Condominium** means an estate in real property consisting of an undivided interest in common in portions of a parcel of real property together with a separate interest in space in a residential, industrial, or commercial building on such real property, such as, but not restricted to, an apartment, office space or retail space. A condominium may include in addition a separate interest in other portions of such real property as defined in Nevada Revised Statutes Chapter 117.

**County** means Eureka County, a political subdivision of the State of Nevada, and (when the context indicates) the Board of Commissioners and/or the Planning Commission.

**County Clerk** means the County Clerk of the County of Eureka.

**County Commission, Board of Commissioners, Board of County Commissioners** means the Board of Commissioners of the County of Eureka.

**County Engineer** means the County Engineer of the County of Eureka.

**Cul-de-sac** means a dead-end street no longer than a reasonable length, terminating in a vehicular turn-around area.

**Design standards** means the design standards adopted by the County providing certain minimum construction standards, methods of construction, kind and use of materials, the preparation of lands for construction of streets, alleys, structures, drainage, sewerage, street lighting and water supply facilities in the County.

**Engineer** means any person or persons, firm, partnership or corporation employed as a consultant by the owner and legally authorized to practice civil engineering in Nevada pursuant to Chapter 625 of the Nevada Revised Statutes.

**Final map** means a map prepared as a final map pursuant to the provisions of Chapter 278 of the Nevada Revised Statutes. N.R.S. 278.0145

**Flaglot** means an irregularly designed lot or parcel obviously intended to provide ingress (entrance) or egress (exit).

**Lot** means any distinct parcel or portion of real property divided with the intent to enable the transfer of ownership, or for building development. N.R.S. 278.0165

**Map of division into large parcels** means a division of land into parcels not less than forty (40) acres nor greater than six hundred forty (640) acres as defined by Chapter 278 of the Nevada Revised Statutes. N.R.S. 278.471

**Master Plan** means the comprehensive long-range general plan for physical development of Eureka County. N.R.S. 278.160

**Must** is mandatory.

**Owner** means the individual, firm, association, syndicate, partnership or corporation having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to divide the same under this Title, and while used in this Title masculine gender and singular numbers include the feminine or neuter gender and plural numbers whenever required.

**Owner's statement** means a form prepared by the owner or his agent showing tract names or numbers, names and addresses of the record owner or owners, existing use or uses of the property, name, address and certificate number of the registered engineer and licensed land surveyor, statement of proposed use of the property, provisions for sewers and sewage disposal, the area in acres of the tract, and the number of lots for each contemplated use, as may be required for a particular project.

**Parcel** means the same as lot.

**Parcel map** is a division of land into four (4) or fewer parcels for the purpose of transfer or development, as defined by Nevada Revised Statutes Chapter 278 authorizing division by parcel map. N.R.S. 278.017

**Pedestrian way** is a pedestrian walkway located within a block interior and constructed on a dedicated right of way.

**Planned unit development** means a division of land for the purpose of transfer or

development pursuant to the provisions of Nevada Revised Statutes Chapter 278A. The term “planned unit development” includes the term “planned unit residential development.”

**Planning act** means Chapter 278 of the Nevada Revised Statutes, as from time to time amended, and, if the context so requires, N.R.S. Chapter 278A.

**Planning Commission** means the Eureka County Planning Commission.

**Print** means a blueprint, photostat, direct process print or other copy which reproduces exactly the original drawing from which it is made.

**Reasonable requirements** means those requirements which, in the Planning Commission’s judgment, are appropriate to that division of land.

**Shall** is mandatory.

**Sidewalk** means a pedestrian walkway located between the curb or edge of a street and property line.

**Street** means a way for vehicular or pedestrian traffic, whether designated as a street, freeway, highway, thoroughfare, parkway, throughway, road, avenue, drive, lane, boulevard, place, or however otherwise designated, but not including alleys. N.R.S. 278.018

**Subdivision** means any land, vacant or improved, which is divided or proposed to be divided into five (5) or more lots, parcels, sites, units, or plots, for the purpose of any transfer, development or any proposed transfer or development unless exempted by those provisions contained in Chapter 278 of the Nevada Revised Statutes and this Title. “Subdivision” does not include a planned unit development.

**Surveyor** means a person who is employed by the owner and is currently licensed as a land surveyor pursuant to Chapter 625 of the Nevada Revised Statutes.

**Tentative map** means a map prepared pursuant to Nevada Revised Statutes Chapters 278 and 278A, made for the purpose of showing the design of a proposed division of land or planned unit development and the existing conditions in and around the proposed division. A tentative map need not be based on an accurate or detailed final survey of the land. N.R.S. 278.019

**Townhouse** means an estate in real property including both the physical structure and ground that it occupies and the garage, carport and patio area.



Chapter 40 - SUBDIVISIONS - TENTATIVE MAPS (N.R.S. 278.330 - 278.353)

.010 Pre-conference meeting

- A. The first step in any subdivision of land is the preparation of a tentative map. (N.R.S. 278.330) No work can be started until approval of the tentative map by the Planning Commission and County Commissioners, and all work must be bonded. See the section on Completion and Inspection. Prior to preparing the map the owner or owner's agent shall contact the Department of Public Works to discuss the elements and features of the County Master Plan for the area, specific engineering requirements, and other features which may influence the design and improvements of the area.
- B. Each owner shall compile information and data of the site to be subdivided, including topography, study suitable use of the site and prepare an outline sketch plan for submission to the Department of Public Works for advice and assistance.
- C. The Department of Public Works shall examine the outline sketch map and inform the owner of design standards, provisions of the County Master Plan and any other regulations which may affect the development of the area.
- D. The owner, after reaching preliminary conclusions as to economy and feasibility, may commence work on the tentative map procedure.

.020 Filing, review, and recommendations

- A. Each owner shall file with the Department of Public Works twelve (12) prints of each proposed map and a statement of application at least thirty-five (35) days prior to the date of the meeting of the Planning Commission at which approval of the tentative map is requested. The application shall include a list of all adjoining property owners of the impending division of land. The tentative map shall contain sufficient topographic data to disclose all drainage patterns. A receipt of such filing shall be issued to the owner by the Department of Public Works.
- B. Within five (5) days from the date of filing, the Department of Public Works shall transmit one print of each tentative map and one copy of the proposed restrictive covenants to the State Health Division, State Division of Water Resources, State Division of Environmental Protection (N.R.S. 278.335), Board of Trustees of the Eureka School District (N.R.S. 278.346), and to any other public agency which may be affected by the proposed subdivision and to such other persons and agencies as the Planning Commission may designate. Such persons and agencies shall have fifteen (15) days in which to review the tentative maps and proposed restrictive covenants, and shall report to the

Planning Commission not less than five (5) days prior to its next regular meeting.

C. The Planning Commission shall:

1. Examine the tentative map for compliance with laws and ordinances of the County and the State, the approved County Master Plan, other official plans of the County and accepted planning principles; and
2. Analyze and coordinate the recommendations submitted by other persons and agencies for use at the next regular meeting.

#### .030 Fees

Each map filed with the Department of Public Works shall be accompanied by the review fee, the amount of which shall be from time to time established by resolution of the County Commission. (N.R.S. 278.330 Subsection 2)

#### .040 Action by Planning Commission

- A. The Planning Commission shall consider all the evidence presented by the owner, the public agency review information, and make such findings relative to the tentative map as are not inconsistent with the laws of Nevada or this Title. The findings, in the form of a written report and a recommendation of approval, conditional approval or disapproval, shall be transmitted to the County Commission within sixty (60) days from the date of acceptance as a complete application for a tentative map. (N.R.S. 278.330 Subsection 5)
- B. The time limit for acting and reporting on the tentative map may be extended by mutual consent of the owner and the Planning Commission. (N.R.S. 278.350 Subsection 1) If no action is taken by the Planning Commission within the sixty (60) day time limit a tentative map as filed shall be deemed approved. (N.R.S. 278.350 Subsection 2)
- C. The Planning Commission, acting on its own initiative or upon petition by any County resident or neighboring property owner, may, prior to acting on the tentative map, hold a public hearing at such time and upon such notice as the Planning Commission may designate.
- D. The Planning Commission shall disapprove or conditionally approve any tentative map if any proposed use of property within the subdivision is made unlawful by ordinance or statute or other valid law or regulation, or if the map does not demonstrate full compliance with this Title or any other ordinance of the County or statute of Nevada. If a tentative map is disapproved or conditionally approved, the Planning Commission shall return to the owner

one (1) copy of the map with a statement of the reasons for its action and what changes would be necessary to render the map acceptable. One copy of the statement shall be retained in the permanent files of the Planning Commission and one copy sent to the County Commission.

#### .050 Modification

When strict compliance with the requirements of this Title is impracticable or impossible, the Planning Commission may recommend variances which are not in violation of the purposes and policy of this Title. In such case, the Planning Commission shall submit with the report on the approved or conditionally approved tentative map a report in writing to the County Commission stating in detail the nature of each such variance(s) and the facts pertinent thereto.

#### .060 Decision appeal

- A. The owner of a parcel proposed to be subdivided, any resident of the County, or any adjoining property owner of a proposed subdivision may appeal a decision or report of the Planning Commission. (N.R.S. 278.3195) This appeal shall be filed with the Department of Public Works within five (5) working days of the decision by the Planning Commission. The appeal shall be heard with due consideration for N.R.S. 278.020 by the County Commission at its next regularly scheduled meeting after notice in compliance with the Nevada Open Meeting Law and only relevant testimony or evidence may be submitted. A decision by the Planning Commission may be overturned only by the County Commission, and is a final decision for purposes of judicial review.
- B. The amount of the fee for the appeal shall be established by the County Commission and may be changed from time to time by resolution. (N.R.S. 278.3195)

#### .070 Dedication of land for public use

- A. Dedications or granting of easements for watercourse channels, streams or creeks in an amount and location consistent with the proposed character and location of the subdivision may be required by the Planning Commission.
- B. Dedication of land for parks, recreation, schools or other public purposes, in an amount and location consistent with the proposed character and location of the subdivision, may also be required by the Planning Commission. The Department of Public Works is designated the agent to select the location of the land to be dedicated for parks and playgrounds, to determine the public interest in either accepting parkland dedication or payments in lieu of dedication, and to establish and provide regulations containing standards to determine the amount, quality, and location of land that is required to be

dedicated, or the amount of payments in lieu of dedication.

- C. The subdivision of land or dedication of land for streets, highways, alleys or other public uses shall conform to the Master Plan of streets and highways or appropriate portions of the County overall plan, and shall make adequate provisions for the appropriate relation of the subdivision to such portion or portions of the Master Plan.

.080 Action by County Commission

- A. The County Commission, by a majority vote of the members present, shall approve, conditionally approve or disapprove a tentative map within thirty (30) days after receipt of the Planning Commission's recommendations.
- B. The time limit for acting and reporting on a tentative map may be extended by mutual consent of the owner and the County Commission. If no action is taken within an additional thirty (30) days time a tentative map as filed shall be deemed to be approved.

## Chapter 50 - SUBDIVISIONS - DESIGN REQUIREMENTS

### .010 Conformance required

- A. Each street and highway shall conform in width and alignment to the specifications of the County plan of streets and highways or as otherwise contained in the County Master Plan, and the division shall in all other particulars conform in design and land uses to such other plan or plans as may be adopted by the County. (N.R.S. 278.349)
- B. All mobile home subdivisions shall comply with this Title and the County mobile home ordinance.
- C. All manufactured home subdivisions shall comply with this Title.
- D. Any and all public works construction shall conform to the Standard Specifications and Standard Details for Public Works Construction (Orange Book Standards) as amended, and any other specifications adopted by the County.

### .020 Future streets

- A. If the Planning Commission determines that a street is necessary for the future division of land shown on the division of land map or of adjoining property, or that such street is necessary for public safety or convenience, but that the immediate dedication or improvement of such street is not warranted, the Planning Commission shall require that such street be shown on the final map and be offered for dedication for public purposes. Such offer for dedication shall be continuing until accepted by the County.
- B. No improvement of a future street shall be required until the County Commission has accepted it as a public street. The owners of lots abutting on a future street may use the street for any and all ordinary uses of land, except the erection, construction or moving of buildings thereon, until the street is accepted for street purposes.
- C. If the Planning Commission determines that additional width of any street shown on the final map may be necessary for future street purposes but that such additional width is not immediately warranted, such additional width as the Planning Commission may require, or as is required by County plans, shall be shown as a future street, subject to the provisions of this chapter and section.

### .030 Special intersections

Wherever any street or highway is proposed requiring a separation of grades or any special form of intersection design at its intersection with any street, highway or railway, the subdivision shall be so designed as to conform to the plan of the intersection with suitable access elsewhere.

### .040 Plan specifications

All plans submitted to the Planning Commission for approval shall clearly indicate all proposed improvements in both plan and profiles. Existing grades and final grades shall be certified by a licensed engineer. Each sheet of plans shall carry in the lower right-hand corner a title block which shall contain the name of the subdivision, the owners, and the type of design shown on the plans, the name of the licensed engineer, the date, the sheet number, the total number of sheets and all information necessary to clarify the design. Each sheet of plans shall have a north arrow and shall indicate the scale used. Each sheet of plans shall have the previous map(s) Eureka County Recorder's File No. in the title block. The plans shall be on standard twenty-four (24) inches by thirty-two (32) inches original or reproducible sheets.

### .050 Street design

Each street and highway shall follow the intent of the County Master Plan pertaining to street design and alignment and shall conform to the following minimum requirements:

- A. All streets in residential subdivisions shall provide a right-of-way of at least sixty (60) feet. All residential streets shall be at least twenty-four (24) feet in surface width. All streets in commercial subdivisions shall provide a right-of-way of at least seventy (70) feet. All commercial streets shall be at least twenty-four (24) feet in surface width.
- B. Maximum length of cul-de-sac streets shall be reasonable, taking into account the policy and purpose of this Title. Dedicated rights-of-way exclusive of the turnaround shall be at least sixty (60) feet. Each cul-de-sac shall be provided with a turnaround, which shall have a minimum dedicated right-of-way radius of seventy-five (75) feet, and an improved radius of forty-five (45) feet.
- C. In industrial or commercial subdivisions all streets shall have a minimum grade of three-tenths percent (0.3%) where L-type gutters are used or a minimum of four-tenths percent (0.4%) slope where roll-type curbs are used. Vertical curves shall be provided in all changes in grade where the algebraic difference is two percent (2%) or more.

- D. No centerline curve radius of less than one hundred (100) feet shall be permitted on any street.
- E. Curves on streets shall be designed to accommodate traffic at the speed designated for that street.
- F. In mountainous or difficult areas where it is impossible or impracticable to construct streets to the standards set forth, reduced street widths may be permitted by variance. Such widths may be recommended by the Planning Commission and approved by the County Commission, provided that no such street shall have a grade exceeding twelve percent (12%) and then for a limited distance only. The Planning Commission may require additional off-street parking areas as a condition of approval of reduced street widths and steeper grades.
- G. No street or highway shall have a grade of more than eight percent (8%) nor less than three-tenths of one percent (0.3%) unless such street is subject to subsection F of this section.
- H. Any street or highway intersecting any other street or highway shall intersect at an angle as near to a ninety degree (90°) right angle as is practicable, but in no event shall streets or highways intersect at an angle of less than sixty degrees (60°).
- I. At each right angle intersection, the property line at each block corner shall be rounded with a curve having a radius of not less than twenty (20) feet on collector streets. Where streets intersect at angles of less than right angles or where other peculiar conditions of traffic or intersections occur, the Planning Commission may require a different radius.
- J. Reserve strips of land controlling access to or egress from other property or to or from any street or alley shall not be permitted with any subdivided area.
- K. All streets as shown on subdivision maps, including access streets as required by the County Planning Commission located within townsites of Eureka County, and all subdivisions within Eureka County, and including those properties adjacent thereto, shall be topped and finished with asphalt paving in accordance with and as stated in the Standard Specifications for Public Works Construction and as directed by the Department of Public Works.
- L. All street dimensions, pavement, drainages, structural sections, improvements, pedestrian ways and other developments and standards shall conform to the Eureka County Regulations for Development Standards, which shall be maintained by the Department of Public Works.

M. Flaglots created for access will not be permitted.

.060 Street names

- A. No street names shall be used which will be duplicated or be confused with the names of existing streets in the County.
- B. New streets which are extensions of or obviously in alignment with existing streets shall bear the name of the existing street.
- C. All street names shall be approved by the Department of Public Works.
- D. The developer shall install street signs as required by the Planning Commission in accordance with the Standard Specifications for Public Works Construction (Orange Book Standards) as amended, and any other specifications adopted by the County.

.070 Public roads

Eureka County, a political subdivision of the State of Nevada, holds title as trustee for the public, to all public roads, trails, pathways, traces, highways, byways and similar public travel corridors situated in Eureka County, of every kind whatsoever, except for State and Federal highways, however such roads may have come into being. Title to those roads commonly known as R.S. 2477 roads, irrevocably granted to the public by Act of Congress (Mining Law of 1866), is held in trust by Eureka County as the unit of government closest to the people.

Private Roads will be permitted only at the discretion of the Planning Commission. Whenever a private road is included on a map, the following jurat must appear:

Eureka County hereby accepts the offer of dedication for public purposes of the public utility rights-of-way shown on this map. The County accepts no responsibility and will provide no services upon the Private Road described, including but not limited to snow removal.

.080 Alleys

- A. Alleys shall be provided in commercial and industrial subdivisions except where other definite and assured provisions are made for service access, such as off-street loading and unloading and parking adequate for the proposed use. Determining the adequacy of proposed exceptions shall be at the discretion of the County Planning Commission.



- B. No alleys shall contain a right-of-way of less than twenty (20) feet in width and all alley construction shall comply with the standards set forth in the Eureka County Regulations for Development Standards maintained by the Department of Public Works.

.090 Curbs and gutters

All construction for curbs and gutters, sidewalks, driveway approaches and curb cuts (if they are required) shall comply with the specifications of the County.

.100 Pedestrian ways

- A. Pedestrian ways of not less than three (3) feet in width on dedicated rights-of-way may be required through blocks where deemed necessary for circulation and access to schools, playgrounds or similar public facilities.
- B. All pedestrian ways shall be appropriately surfaced to the specifications of the County.

.110 Easements for drainage and utilities, and previously recorded easements

- A. The owner shall grant easements not less than a total of ten (10) feet in width for public utility, sanitary sewer and drainage, and other public purposes on yard or open areas wherever necessary. Easements of lesser widths are permissible provided further that in such determination the County shall prescribe the width of such easements.
- B. All natural drainage ways shall be preserved with appropriate easements and/or pedestrian walkways where necessary.
- C. A conservation easement of a width to be determined by stream flow requirements shall be provided along all drainages that from time to time transport water to contain the channel during flood stages. This easement shall be open to public access, but no tree or bush removal, gravel excavating, filling or side casting of materials shall be allowed within the area and no construction of any kind shall be allowed except as required by an agency of the United States government, by the State or by the County.
- D. Easements to accommodate snow storage may be required in an amount and in a location as necessary to the situation.
- E. In areas of possible fire hazards, unobstructed fire protection equipment and access easements shall be located, designed, and graded as determined by the Planning Commission in cooperation with the local fire protection district.

- F. Electricity supply: All subdivisions shall be served by an electrical public utility company.
- G. Street lights and signs: All streets shall be properly signed and lighted in a manner approved by the County.
- H. All previously recorded easements and well locations must be shown on the map.

.120 Water supply and fire hydrants

- A. An accessible, adequate, safe and potable supply of water for domestic purposes shall be provided to each lot and proof of same shall be provided to the County Planning Commission before approval of any plan, map, or permit. Such supply of water shall be in conformance with any applicable statutes and ordinances and any regulations of the Nevada State Health Department and the State Engineer.
- B. Fire hydrants, if required, shall be located according to the specifications of the National Board of Fire Underwriters.

.130 Sewer and garbage

- A. Sewerage facilities: An adequate and safe sewer system shall be provided to each lot. Such sewer system shall be in conformance with any applicable statutes and ordinances and any regulations of the Nevada State Health Department.
- B. Refuse and garbage: Storage, collection and disposal of garbage and refuse shall be in accordance with any applicable statutes and ordinances and any regulations of the Nevada State Health Department.

.140 Property drainage

- A. Each owner shall provide the necessary means to assure complete drainage of the property, making use of existing drains, natural watercourses or constructed tributaries, and shall comply with the requirements of the County.
- B. Each owner of residential lands may be required to submit a development plan for the subdivision showing clearly the drainage for each lot. Each lot should be designed so that no water will run off onto adjacent lots. The lots shall be graded so that water runs to the front of the lot and into the street or into other drainage facilities provided by the owner.

.150 Minimum lot sizes

- A. No lot which will utilize both an individual sewage disposal system (ISDS) and an individual domestic well may be less than two and one-half (2.5) acres, including public streets, alleys, public easements and other public rights-of-way.
- B. No lot which will utilize a municipal or similar water system and ISDS may be less than one (1) acre (43,560 sq. ft.) including public streets, alleys, public easements and other public rights-of-way.
- C. No lot which will use municipal water and sewer shall be less than one-quarter ( $\frac{1}{4}$ ) acre (10,890 sq. ft.), outside Eureka Townsite, including public streets, alleys, public easements and other public rights-of-way.

Chapter 60 - SUBDIVISIONS - FINAL MAPS (N.R.S. 278.360-378.460)

.010 Filing procedure

- A. The owner shall within two (2) years of the date of approval of the tentative map, unless extended by the Planning Commission or County Commission, file the final map with the Department of Public Works in conformance with Nevada Revised Statutes 278.360.
- B. Not less than ten (10) days prior to the filing of any final map with the County Commission, the owner shall submit two (2) prints of the final map to the Department of Public Works or the County Engineer. The Department of Public Works or County Engineer shall check the map for accuracy of dimensions, placing of monuments, establishment of survey records shown on the map, and conformance of the map with the approved tentative map.
- C. The prints shall be accompanied by:
  - 1. A worksheet showing the closure of the exterior boundaries of the proposed subdivision and/or lots and blocks therein (N.R.S. 278.372 Subsection 8); and
  - 2. A complete set of construction plans as required by the County.
- D. The minimum allowable error of closure shall be one ten-thousandth. Temperature and tension correction shall be applied to all measured distances according to the standards adopted by the Federal Board of Surveys and Maps in May, 1925.

.020 Filing and fees of complete plans

- A. After a final map has been submitted to the Department of Public Works, the County Engineer, and the Planning Commission, the owner shall file with the Department of Public Works at least thirty (30) days prior to the meeting of the County Commission at which approval of the subdivision is sought, complete plans as required by the Department of Public Works.
- B. The plans shall include:
  - 1. The original of the final map; and
  - 2. If required, a plan and profile of each street showing clearly existing grades and finished grades, distances, elevations, topography and other pertinent features; and

3. If required, a plan and profile of each storm drain and sewer line showing manhole locations, distances and grades, top of manhole elevations and the invert of manhole elevations. Storm drain and sewer line plan and profile may be combined with street plan profiles; and
  4. If required, a grading plan showing the drainage for each lot with existing ground elevations and proposed finished lot grade elevations; and
  5. If required, plans for streets, storm drains or sanitary sewers which may be extended in the future shall include sufficient information to assure that such extension of improvements can be accomplished by continuing approximately the same alignment and grade as the proposed improvements; and
  6. The time schedule for construction of off-site improvements; and
  7. Plans and profiles of all utilities showing the location of all surface-mounted equipment. These plans may be shown with the street plans and profiles or other appropriate plans.
- C. The owner shall pay the County a plan check fee for final map check, review, and acceptance. This fee shall be paid to the Department of Public Works prior to any action. The fee shall be set from time to time by resolution of the County Commission.

**.030 Monumentation**

- A. The survey, monumentation and final map shall be made by a land surveyor licensed in Nevada (N.R.S. 278.371 Subsection 1).
- B. The final monuments shall be set prior to the recordation of the final map (N.R.S. 278.371 Subsection 2).
- C. The final monuments shall, except as provided in subsections E and F of this section, have a nonferrous tablet, disc or cap securely attached to the top of a metallic shaft solidly embedded at ground level, having a minimum diameter of five-eighths-inch and length of embedment sufficient to resist removal, with a mark for the exact point and the stamp "PLS" followed by the surveyor's registration number (N.R.S. 278.371 Subsection 3). The County may specify equal or greater standards for final monuments, which shall be placed at:
  1. A subdivision boundary corner and at any point necessary to ensure that each monument on a given boundary can be seen from the next monument on that boundary (N.R.S. 278.371 Subsection 4 (a)); and

2. On intersections of street centerlines (N.R.S. 278.371 Subsection 4 (b)); and
  3. A street centerline at an angle point, cul-de-sac radius point or a point which defines a curve (the beginning of a curve, end of a curve or a point of tangent intersection), and at any subdivision boundary or an appropriate offset (N.R.S. 278.371 Subsection 4 ( c)); and
  4. A position for a corner of the system of rectangular surveys directly relevant to property lines and corners of the subdivision (N.R.S. 278.371 Subsection 4 (d)).
- D. A final monument required by subsection C of this section, which falls in a paved area, shall be set in:
1. A survey monument well with cover lid and placed with the top of the monument tablet, disc or cap being not less than four (4) inches below the pavement surface (N.R.S. 278.371 Subsection 5 (a)); or
  2. A comparable permanent monument as required by the County (N.R.S. 278.371 Subsection 5 (b)).
- E. If a point designated in subsection C of this section falls on solid bedrock or on a concrete or stone roadway, curb, gutter, or walk, a durable nonferrous metal tablet, disc or cap shall be securely anchored in the rock or concrete and marked as required in subsection C (N.R.S. 278.371 Subsection 6).
- F. If a monument required by subsection C cannot be set because of steep terrain, water, marsh land or existing structures, or if it would be lost as a result of proposed construction, one or more reference monuments shall be set. In addition to the physical requirements for a monument set forth in subsections C, D, and E of this section, the letters “RM” or “WC” shall be stamped on the tablet, disc or cap. If only one reference monument is used, it shall be set on the actual line or a prolongation thereof. Otherwise, at least two (2) reference monuments shall be set. These monuments shall be deemed final monuments (N.R.S. 278.371 Subsection 7).
- G. Each lot corner monument shall be set by a licensed land surveyor in the manner approved by the County (N.R.S. 278.371 Subsection 8).

.040 Contents

- A. The final map shall be clearly and legibly drawn in black waterproof ink upon mylar or produced by the use of other materials of a permanent nature generally used for such purpose in the engineering profession, but affidavits, certificates and acknowledgments shall be legibly stamped or printed upon the map with opaque ink (N.R.S. 278.372 Subsection 1).
- B. The size of each sheet of the map shall be twenty-four (24) by thirty-two (32) inches. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one (1) inch at the top, bottom and right edges, and of two (2) inches at the left edge along the twenty-four (24) inch dimension (N.R.S. 278.372 Subsection 2).
- C. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end (N.R.S. 278.372 Subsection 3).
- D. The particular number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown (N.R.S. 278.372 Subsection 4).
- E. The final map shall show all survey and mathematical information and data necessary to locate all monuments, and to locate and retrace any and all interior and exterior boundary lines appearing thereon, including bearings and distances of straight lines, central angle and radii and arc length for all curves, and such information as may be necessary to determine the location of the centers of curves (N.R.S. 278.372 Subsection 5).
- F. Each lot shall be numbered or lettered (N.R.S. 278.372 Subsection 6).
- G. Each street shall be named (N.R.S. 278.372 Subsection 7).
- H. Each block shall be numbered or lettered (N.R.S. 278.372 Subsection 7).
- I. The exterior boundary of the land included within the subdivision shall be indicated by graphic border (N.R.S. 278.372 Subsection 8).
- J. The map shall show the definite location of the subdivision, and particularly its relation to surrounding surveys (N.R.S. 278.372 Subsection 9).
- K. The final map shall also satisfy any additional survey and map requirements of the County (N.R.S. 278.372 Subsection 11).

- L. All rights-of-way easements shall be clearly designated. Roadways with limited access shall be so designated on the final map. Public utility easements outside dedicated rights-of-way shall be clearly indicated. A symbol, indicating the location of surface-mounted utility equipment (other than street lights) shall be placed on the final map to clearly indicate the locations of all surface-mounted installations.

**.050 Certificates required**

The final map shall include, but not be limited to, the following certificates as specified by Nevada Revised Statutes Sections 278.373 through 278.378 inclusive and jurats on the title sheets:

- A. Certificate of ownership and offers of dedication (N.R.S. 278.374);
- B. Certificate of State Health Division (N.R.S. 278.377 Subsection 1 (a));
- C. Certificate of State Division of Water Resources (N.R.S. 278.377 Subsection 1 (b));
- D. Certificate of utility easements and approval (N.R.S. 278.374 Subsection 1 (d));
- E. Certificate of licensed land surveyor (N.R.S. 278.375);
- F. Certificate of County Planning Commission;
- G. Certificate of County surveyor (N.R.S. 278.376);
- H. Necessary jurats of acknowledgment;
- I. Certificate of Clerk of County Commission (N.R.S. 278.378).



## Chapter 70 - SUBDIVISIONS - IMPROVEMENTS

### .010 Improvement requirements

The owner shall agree to install and complete improvements that were conditions of tentative map approval at the owner's expense and must be completed and inspected prior to the approval and recordation of the final map (bonding requirements are set forth in the Section entitled "Surety bonds and cash deposits").

## Chapter 80 - SUBDIVISIONS - COMPLETION AND INSPECTION

### .010 Surety bonds and cash deposits

- A. All improvements and final map procedures required by this Title shall be completed.
- B. In lieu of filing a surety bond, the subdivider may deposit cash or a letter of credit issued by a bank which is authorized under the provisions of Nevada law to do business in Nevada and has capitalization of more than one million (\$1,000,000.00) dollars.
- C. The bond or cash deposit shall be in an amount fixed by the County to ensure that all improvements required are in fact provided and installed by the subdivider within a period established by the County (N.R.S. 278.371 Subsection 2 and N.R.S. 278.380 Subsection 3).
- D. At the end of each twelve (12) month period a bond may be renegotiated or cash deposit reduced on the approval of the County in consideration for improvements already installed.
- E. If the owner fails to complete the provisions and installation of the improvements required within the time allowed, the County may cause the bond or cash deposit to be forfeited in the amount necessary to finish the uncompleted portion of the improvements.

### .020 Inspections

- A. The owner shall notify the Department of Public Works of the date and hour work on any of the required improvements is expected to begin. Such notification shall be given not less than twenty-four (24) hours in advance, and if thereafter conditions develop to delay the start of work, the owner shall notify the Department of Public Works of the delay not less than two (2) hours before the work was to begin.
- B. All improvements to be made under the provisions of this Title shall be inspected to assure satisfactory work. The final completion of all such improvements shall be subject to the approval of the County.

### .030 Indemnification

During the entire period of construction, the County shall be held harmless by the owner for any damage occurring within the subdivision or adjacent areas as a result of the owner's (or agents of the owner) activities.

## Chapter 90 - PARCEL MAPS (N.R.S. 278.461-N.R.S. 278.469)

### .010 Intent, purpose and limitation

- A. The intent and purpose of this chapter is to set forth the procedure for division of land by the parcel map process authorized by Nevada Revised Statutes 278.461, et. seq., a process which shall inure but once to each parcel of land. The parcel process is not to be used to evade the chapters of the Eureka County Code governing subdivisions, and the County reserves the right to impose any or all subdivision standards and regulations of this Title on any division by parcel map if the County determines in its discretion that the public health, safety and welfare so require, or the policy and purpose of this Title so require.
- B. No land owner shall have the right to divide by parcel map more than once any parcel existing as of the date of the enactment hereof of this Title. If a parcel existing as of the date of enactment hereof has been created by parcel map prior to this enactment, no automatic right to further division by parcel map shall exist.
- C. Where it shall appear that a second or subsequent division by parcel map could be allowed without harm to the policy or purpose of this Title or the public health, safety and welfare, the County in its discretion may authorize such second or subsequent division by parcel map.

### .020 Filing and review

A person who proposes to divide any land within the County into four (4) or fewer lots, at least one (1) of which is less than forty (40) acres, may do so through the parcel map process set forth in Nevada Revised Statutes 278.461 et. seq. Twelve (12) copies of the proposed parcel map shall be filed with the Department of Public Works. If the parcel map concerns land located within the boundaries of the Town of Crescent Valley or within a three (3) mile radius thereof, the Crescent Valley Town Board shall review the parcel map at a duly noticed public hearing for its impact on Town services, including, but not limited to streets, drainage, fire protection, parks, recreation, and solid waste management, and recommend approval, conditional approval or disapproval to the Planning Commission within thirty (30) days of receipt of the map from the Department of Public Works. Any failure to act within the thirty (30) day limit may be construed as approval of the parcel map and a waiver of any objections thereto. The Planning Commission shall review all parcel maps and within thirty (30) days of receipt thereof from the Department of Public Works, recommend approval, conditional approval or disapproval to the County Commission for its final action.

### .030 Form and contents of parcel map

A parcel map shall be in the form prescribed by Nevada Revised Statutes 278.461 et seq., and shall provide sufficient topographic data to clearly disclose all terrain, drainage

patterns, and other topographic concerns raised by the Planning Commission, and all pre-recorded easements and well locations, if any. In addition, the parcel map shall carry such jurats as from time to time may be prescribed by the County Commission by ordinance or resolution. Each parcel map shall include jurats as follows:

A. Jurat for public roads:

Eureka County hereby accepts the offer of dedication for public purposes of the street, road and public utility rights-of-way shown on this map. Street and road rights of way are not accepted by the County for maintenance until they are improved to County standards, approved by the Eureka County Department of Public Works, and expressly accepted by resolution of the Board of Eureka County Commissioners.

\_\_\_\_\_  
Chairman, Eureka County Commission

\_\_\_\_\_  
ATTEST: Eureka County Clerk

B. Jurat for private roads:

Eureka County hereby accepts the offer of dedication for public purposes of the public utility rights of way shown on this map. The County accepts no responsibility and will provide no services upon the Private Road(s) described, including but not limited to snow removal.

C. Acceptance of this parcel map by Eureka County does not constitute a guarantee that each or any lot shown thereon contains a lawful building site.

D. Further re-parceling of any parcel created by this map may be subject to the provisions of Nevada Revised Statute 278.462(3) and Eureka County Code Title 8 permitting imposition of reasonable improvement standards, but not more than would be required if the subsequent parcel were a subdivision.

E. STATE OF NEVADA )  
County of Eureka ) ss.  
County of Eureka )

Being first duly sworn, the undersigned \_\_\_\_\_ affirms and says that (he) (she) (they) (is) (are) the sole owner(s) of the land to be divided by this map, and (I) (we) consent to this land division.

Subscribed and sworn to before me, a Notary Public in and for said state and County, this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

.040 Minimum lot sizes

Larger parcels may be divided into four (4) or fewer lots, provided that no lot which will utilize both an Individual Sewage Disposal System (ISDS) and an individual domestic well may be less than two and one-half (2.5) acres, including public streets, alleys, public easements and other public rights-of-way; and no lot which will utilize a municipal or similar water system and an ISDS may be less than one (1) acre (43,560 sq. ft.), including public streets, alleys, public easements and other public rights-of-way.

.050 Streets and road improvements

To the extent permitted by Nevada law (N.R.S. 278.462) and all applicable ordinances:

- A. All streets shown on a parcel map shall be improved to the County's minimum road and street specifications as set forth in this Title. No street or road shall be accepted for maintenance or maintained by the County until it is improved to County standards, approved by the Department of Public Works, and accepted by the County Commission. The County is not required to accept any road for maintenance.
- B. No dead-end streets shall be permitted except as expressly allowed in the specifications set forth in this Title.
- C. The Planning Commission shall require all streets shown on parcel maps to be completed and require a letter of completion, in compliance with Eureka County Road Construction standards, from the Department of Public Works.
- D. The County may ensure completion of streets and roads, and other improvements, to the design shown on a parcel map by:
  - 1. Denial of recordation of an otherwise approved parcel map until improvements shown on the map are completed; or
  - 2. Through the use of a performance bond.

.060 Design requirements

- A. The design requirements for subdivisions set forth in this Title are adopted by reference as design requirements for the division of land by parcel map.
- B. If subdivision design requirements are clearly unreasonable for a particular division of land by parcel map, the County in its discretion may vary those requirements and substitute other, less stringent requirements, or design standards.

.070 Monumentation

The monument requirements for subdivisions set forth in this Title are adopted by reference as the monumentation requirements for the division of land by parcel map (N.R.S. 278.371).

.080 Waiver of requirements

The County may waive the requirements of a parcel map for divisions of land described in Nevada Revised Statutes 278.461 or for a survey for a parcel map as authorized by Nevada Revised Statutes 278.463.

.090 Plan check fee

The land owner or applicant shall pay a plan check fee for final map check, review and acceptance. This fee shall be paid to the Department of Public Works upon submission of the parcel map. The fee shall be set from time to time by resolution of the County Commission.

.100 Unusual situations

The unusual division of land, division of small areas, division of existing recorded lots, or land development not covered by this chapter or not clearly defined in the Nevada Revised Statutes shall be considered individually on its merits and the Planning Commission and County Commission will make decisions based upon reasonable conformity with this chapter.

.110 Appeals, Grievances, Variances

- A. An aggrieved person regarding a parcel map may appeal any decision of the Planning Commission to the County Commission. The County Commission shall set a fee for such appeal, the amount of which shall be set by resolution from time to time (N.R.S. 278.464 Subsection 6).
- B. All grievances and requests for variances from this chapter shall be presented to the Planning Commission. Any appeal from the decision of the Planning Commission shall be taken as provided in subsection A of this section.

.120 Protection of existing uses

- A. The County declares that division of land by parcel map shall not be allowed to adversely affect the utilization of adjacent or nearby land for purposes which existed prior to such parcelization.

- B. The prior use of adjacent or nearby land for agricultural, mining, industrial or commercial purposes, and expansion or modification of such use, shall not constitute a nuisance to after-established residential uses.
1. For the purposes of this section, recordation of a mining claim on the records of the County Recorder shall be sufficient to establish a use of property for mining purposes; and
  2. Any prior use shall be continuing unless:
    - a. Abandoned, or
    - b. Expressly terminated in writing by the owner of such adjacent or nearby land, and such termination is recorded on the records of the County Recorder, or
    - c. Terminated by operation of law.

Chapter 100 - DIVISION OF LAND INTO LARGE PARCELS

(N.R.S. 278.471-278.4725)

.010 Intent, purpose, and limitations

- A. The intent and purpose of this chapter is to provide for division of land into large parcels of forty (40) acres or more as permitted by Nevada Revised Statutes 278.471 et seq.
- B. The following is exempt from this chapter:
  - 1. Division of land into lots or parcels, each of which contains not less than six hundred forty (640) acres or one (1) gross section as described by a federal government land office survey (N.R.S. 278.471).
  - 2. Any smaller division of land made by a federal government land office as part of a land office survey unless federal law expressly authorizes a local government to regulate such division.
- C. This chapter shall not be used to evade the provisions of this Title governing subdivisions and the division of land by parcel map. If it shall appear to the County, in its sole discretion, that this chapter is being used to evade the provisions of this Title governing subdivisions and the division of land by parcel map, the County will impose subdivision standards or parcel map standards on any division of land into large parcels.
- D. If land in gross is divided into parcels of forty (40) acres or more pursuant to this chapter regarding division of land into large parcels, an owner of any one (1) or more parcel(s) created may divide such parcel equally but once pursuant to the division by parcel map provisions of this Title.

.020 Filing and review

- A. Any person who proposes to divide any land in the County into parcels of not less than forty (40) acres, including roads and easements, or one-sixteenth (1/16) of a section as described by a government land office survey, may do so by use of the provisions of Nevada Revised Statutes 278.471 et seq.
- B. Twelve (12) copies of a tentative map of the proposed land division, containing sufficient topographic data to clearly disclose terrain, all drainage patterns, and other topographic concerns requested by the Planning Commission, shall be filed with the Planning Commission, which shall review the same and within thirty (30) days recommend approval, conditional approval or disapproval to the County Commission for its final decision. The Planning Commission may waive the requirement of a tentative map and



accept for filing and review a final map of the proposed land division (N.R.S. 278.4715). The map shall not be considered a final map until approved by the Planning Commission. The Planning Commission shall recommend approval, conditional approval or disapproval to the County Commission within thirty (30) days after the map is filed.

- C. The final map shall contain a jurat as for a parcel map noting that the County does not guarantee that any parcel created by the division of land into large parcels contains a usable building site, and a jurat warning that the County may not permit more than once by parcel map the redivision of the parcel created by the division into large parcels, and a sworn jurat by the owner(s) consenting to the division. If the County has not accepted for maintenance any roads shown on the final map, a jurat as for a parcel map shall so state.

### .030 Roads and rights-of-way

- A. Within thirty (30) days after a tentative map of the division of land into large parcels is filed, the Planning Commission may order designation on the map of such additional public rights-of-way for roads and services as may reasonably appear necessary for the future development of the area (N.R.S. 278.472 Subsection 4 (b)).
- B. The Planning Commission may require that the map of the division of land into large parcels designate spring, stream and flowage easements and ditch easements for the benefit of the public and/or holders of valid water rights as permitted by Nevada law (N.R.S. 278.472 Subsection 4 (d)).
- C. The County Commission may accept dedication for public purposes of road rights-of- way shown on a map of the division of land into large parcels without accepting such roads for maintenance by the County.
- D. County will not accept for maintenance or maintain any road until it is improved to County standards, approved by the Department of Public Works and accepted for maintenance by the County Commission. The County is not required to accept any road for maintenance.
- E. Access roads as required by N.R.S. 278.4725(5) and (6) suitable for use by emergency vehicles shall be brought up to the following minimum standards:

The right of way shall be sixty (60) feet in width, and shall contain a twenty-four (24) foot surface area within the centerline of the right-of-way. The surface shall have a subgrade compacted to eighty-five percent (85%) of density, and an aggregate base of three (3) inch minimum depth of pit run gravel compacted to eighty percent (80%) density. The road shall

include adequate ditching on each side to carry runoff, and culverts where necessary. The County may from time to time conduct a core test to ensure compliance with these requirements.

## Chapter 110 - PLANNED UNIT DEVELOPMENT (N.R.S. 278A.010-278A.370)

### .010 Intent, purpose and limitations

This chapter is intended to provide a basis and framework for planned unit developments as authorized by Nevada Revised Statutes Chapter 278A. The purpose of planned unit development is to allow more efficient and flexible use of land than may be permitted by the subdivision chapter(s) of this Title. However, overall density of land use and quality and quantity of land improvements, as set forth in the subdivision chapter(s) of this Title, shall be maintained, subject to variance(s) authorized by the County. Planned unit developments shall be allowed only by specific agreement or contract between the County and the developer, and the agreement or contract shall provide security satisfactory to the County that the development will be completed as proposed.

### .020 Definitions

The following definitions shall apply to this chapter, unless usage and context clearly requires another definition:

**Common open space** means a parcel or parcels of land or an area of water or a combination of land and water or easements, licenses or equitable servitudes within the site designated for a planned unit development which is designed and intended for the use or enjoyment of the residents or owners of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of the residents or owners of the development (N.R.S. 278A.040).

**Landowner** means the legal or beneficial owner or owners of all the land proposed to be included in a planned unit development. The holder of an option or contract of purchase, a lessee having a remaining term of not less than thirty (30) years, or another person having an enforceable proprietary interest in the land is a landowner for the purposes of this chapter (N.R.S. 278A.050).

**Plan** means the provisions for development of a planned unit development, including a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, private streets, ways and parking facilities, common open space and public facilities. The phrase “provisions of the plan” means the written and graphic materials referred to in this section (N.R.S. 278A.060).

**Planned unit development** means an area of land controlled by a landowner, which is to be developed as a single entity for one (1) or more planned unit residential developments, one (1) or more public, quasi-public, commercial or industrial areas, or both. Unless otherwise stated, “planned unit development” includes the term “planned unit residential development” (N.R.S. 278A.065).

**Planned unit residential development** means an area of land controlled by a landowner, which is to be developed as a single entity for a number of dwelling units, the plan for which does not correspond in lot size, bulk or type of dwelling, density, lot coverage and required open space to the regulations established in any one (1) residential district created from time to time, under the provisions of any ordinance which may be enacted by the County pursuant to state law (N.R.S. 278A.070).

**.030 Standards and conditions**

A planned unit development shall be evaluated by the standards established by this Title for subdivisions, with due allowance for the flexibility of development which is the hallmark of a PUD.

**.040 Permitted uses**

A planned unit development may be designed to include any or all land uses permitted by the County, including single-family residential, multiple residential, public, quasi-public, commercial or industrial uses.

**.050 Density and intensity of use of land**

- A. Density or intensity of land use in a planned unit development shall be the same as authorized by this Title, except that a pro rata share of commonly owned open space shall be considered together with the actual area of a lot to measure density or intensity of use.
- B. When a PUD is to be developed in sections or phases over a period of one (1) or more years, the County may authorize greater or lesser density or intensity of use for particular sections or phases, so long as the density or intensity of use of the overall plan conforms to the provisions of this Title.
  - 1. As a condition of authorizing greater density or intensity of use for a particular section or phase, the County may require appropriate reservation of common open space on the remaining land by a grant of easement or by covenant in favor of the County.
  - 2. So far as practicable, the County will defer such a reservation until an application for final approval is filed so that flexibility of development can be maintained.

**.060 Amount and location of common open space (N.R.S. 278A.120)**

- A. Common open space set aside in return for authorization to increase density or intensity of use of a particular section or phase shall be set aside for the use and benefit of the residents or owners of the development.

- B. At a minimum, common open space shall be sufficient, when considered together with actual lot sizes, to satisfy the density and intensity of use requirements of the subdivision chapter(s) of this Title.
- C. The planned unit development agreement submitted by the developer shall include provisions to secure the development and maintenance of all common open space.

.070 Common open space dedication, development (N.R.S. 278A.130)

- A. The County shall not require that common open space be dedicated or made available for public use, but the County may accept dedication of land or any interest therein for public use and maintenance.
- B. If any land is set aside for common open space, the planned unit development must be organized as a common-interest community in one of the forms permitted by Nevada Revised Statutes Chapter 116.
  - 1. The association for the common-interest community may not be dissolved or dispose of any common open space, by sale or otherwise, without first offering to dedicate the common open space to the County. The County shall accept or reject such offer within one hundred twenty (120) days after it is made.

.080 Procedure for enforcing payment of assessments for common open space (N.R.S. 278A.170)

- A. The developer of a planned unit development shall record notice that all landowners in the development are subject to the procedures provided in Nevada Revised Statutes 116.3116 to 116.31168, inclusive, for enforcing payment of a pro rata assessment for maintenance of common open space, and shall record all necessary declarations of restrictions, deed restrictions, restrictive covenants or equitable servitudes.
- B. Assessments for maintenance of common open space shall constitute a lien upon all properties that have a right of enjoyment of the common open space.

.090 Maintenance by the County upon failure to maintain common open space

- A. If common open space is not maintained in a reasonable order and condition in accordance with the plan, the County may, but is not required to, proceed as authorized by Nevada Revised Statute 278A.180 to enforce and provide maintenance (N.R.S. 278A.180).
- B. The total cost of any maintenance undertaken by the County shall be assessed

pro rata against the properties within the planned unit development that have a right of enjoyment of the common open space, and becomes a tax lien on such properties. At the time the County enters upon the common open space to maintain it, the County must file a notice of the lien in the Office of the County Recorder upon the properties affected by the lien (N.R.S. 278A.190).

.100 Public facilities (N.R.S. 278A.210)

The provisions of the subdivision chapter(s) of this Title concerning standards for location, width, course and surfacing of public streets and highways, alleys, ways for public service facilities, curbs, gutters, sidewalks, street lights, parks, playgrounds, school grounds, storm water drainage, water supply and distribution, sanitary sewers and sewage collection and treatment, apply to planned unit developments. The County may grant a variance for any such standard so long as the public health and safety are not affected adversely.

.110 Evaluation of design, bulk and location of buildings (N.R.S. 278A.220)

The standards and criteria by which the County will evaluate design, bulk and location of buildings in a planned unit development shall be the same as may be provided within the subdivision chapter(s) of this Title.

.120 Minimum design standards adopted

- A. Minimum standards of design as hereinafter set forth hereby are adopted. The County Commission may allow variance from any minimum standard so long as the variance does not adversely affect the health, safety, convenience or welfare of the public.
- B. Any duty or exercise of power set forth in the minimum standards of design shall be exercised, seriatim, by the Planning Commission, Department of Public Works, and County Commission.

.130 Types of units (N.R.S. 278A.240)

A planned unit residential development may consist of attached or detached single-family units, town houses, cluster units, condominiums, garden apartments or any combination thereof.

.140 Minimum site (N.R.S. 278A.250)

The minimum permitted site area is five (5) acres within any town site and ten (10) acres outside any town site.

.150 Drainage (N.R.S. 278A.270)

Drainage on the internal private and public streets shall be as required by the Public Works Department. All common driveways shall drain to either storm sewers or a street section.

.160 Fire hydrants (N.R.S. 278A.280)

Fire hydrants shall be provided and installed as required by the fire department and Department of Public Works.

.170 Fire lanes (N.R.S. 278A.290)

Fire lanes shall be provided as required by the fire department and Department of Public Works. Fire lanes may be grass areas.

.180 Exterior lighting (N.R.S. 278A.300)

Exterior lighting within the development shall be provided on private common drives and on public streets. The lighting on all public streets shall conform to requirements of the Department of Public Works and the County Commission.

.190 Parking (N.R.S. 278A.320)

A minimum of one (1) parking space shall be provided for each dwelling unit. Parking for public, commercial and industrial areas shall be as required by the Department of Public Works and the County Commission.

.200 Maintenance and use of jointly owned areas (N.R.S. 278A.310)

Whenever any property or facility such as parking lots, storage areas, swimming pools or other common areas is owned jointly, a proper maintenance and use agreement shall be recorded as a covenant with the property.

.210 Building setbacks (N.R.S. 278A.330)

Setback of buildings and other sight restrictions at the intersection of public streets shall comply with requirements of the Department of Public Works and the County Commission.

.220 Sewage facilities (N.R.S. 278A.340)

Individual Sewage Disposal Systems (ISDS) shall be installed as required by the Public Works Department and state health authorities. Sanitary sewers to be maintained by the County, and not located in public streets, shall be located in easements and shall comply with the requirements of the Public Works Department and the County Commission.

.230 Utilities (N.R.S. 278A.370)

Installation and type of utilities shall comply with the requirements of the Public Works Department and County Commission.

.240 Street construction, design and signage

- A. Streets within a planned unit development will be public.
- B. All streets shall be constructed and inspected as required by the Public Works Department and the County Commission (N.R.S. 278A.350).
  - 1. All public streets shall be named and numbered as required by the Public Works Department and the County Commission (N.R.S. 278A.360).
  - 2. The developer shall install traffic control signs as required by the Public Works Department and the County Commission.

.250 Enforcement and modification procedures (N.R.S. 278A.380)

Enforcement of the provisions of the plan as finally approved, whether these are recorded by plat, covenant, easement or otherwise, or are not recorded, are subject to the provisions of this chapter and the provisions of Nevada Revised Statutes 278A.390 through 278A.410, inclusive.

.260 Intent of enforcement and modification procedures

Procedures to enforce and modify the plan shall be interpreted as intended to further the mutual interest of the residents and owners of the planned unit development and of the public in the preservation of the integrity of the plan as finally approved. The procedures shall not be interpreted to impair the reasonable reliance of the residents and owners upon the provisions of the plan or to allow changes that would adversely affect the public interest.

.270 Enforcement by County (N.R.S. 278A.390)

The provisions of the plan relating to (1) the use of land and the use, bulk and location of buildings and structures; and (2) the quantity and location of open space; and (3) the intensity of use of the density of residential units; and (4) the ratio of residential to nonresidential uses, shall run in favor of the County, and are enforceable in law by the County without any limitation on the County's powers of regulation.



.280 Enforcement by residents (N.R.S. 278A.400)

- A. All provisions of the plan shall run in favor of the residents of the planned unit residential development, but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and to that extent such provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or equity by the residents, acting individually, jointly, or through an organization designated in the plan to act on their behalf.
- B. No provision of the plan exists in favor of residents of the planned unit residential development except as to those portions of the plan, which have been finally approved by the County and have been recorded.

.290 Modification of plan by the County (N.R.S. 278A.410)

- A. All provisions of the plan authorized to be enforced by the County may be modified, removed or released by the County, except grants or easements relating to the service or equipment of a public utility, unless expressly consented to by the public utility, subject to the following conditions:
  - 1. No such modification, removal or release by the County of provisions of the plan may affect the rights of the residents of the PUD to maintain and enforce those provisions.
  - 2. No provisions of the plan may be modified, removed or released by the County except upon a finding by the County, following a public hearing, that it:
    - a. Is consistent with the efficient development and preservation of the entire planned unit development; and
    - b. Does not adversely affect either the enjoyment of land abutting upon or across a street from the planned unit development or the public interest; and
    - c. Is not granted solely to confer a private benefit upon any person.

.300 Modification by residents (N.R.S. 278A.420)

Residents of the planned unit residential development may, to the extent and in the manner expressly authorized by the provisions of the plan, modify, remove or release their rights to enforce the provisions of the plan, but no such action may affect the right of the County to enforce the provisions of the plan.

.310 General applicability and purpose

The provisions for authorization of planned unit development hereinafter set forth are intended to be consistent with Nevada Revised Statutes 278A.440 through 278A.590, inclusive, and to supersede conflicting provisions of this Title, if any.

.320 Application to be filed by landowner (N.R.S. 278A.440)

An application for tentative approval of the plan for a planned unit development shall be filed by or on behalf of the landowner with the Director of Public Works.

.330 Application: Form, filing fees, place of filing, tentative map (N.R.S. 278A.450)

- A. An application by a landowner for a planned unit development shall be in the form of a proposed agreement setting forth all facts and proposed provisions for the PUD. Prior to submitting the application, a landowner or his representative may meet with the Public Works Department, Planning Commission, and/or County Commission to seek advice regarding the plan.
- B. A filing fee, as determined from time to time by resolution of the County Commission, shall be paid upon submission of the PUD application. The filing fee shall be sufficient to cover all County costs incurred in processing and reviewing the application.
- C. A tentative map must be included as part of the application. Tentative approval shall not be granted until the tentative map has been submitted for review to the agencies specified in Nevada Revised Statute 278.335, and the time for those agencies to comment has expired.

.340 Planning and subdivisions determined by the County (N.R.S. 278A.460)

All planning and subdivision matters relating to the platting, use and development of the planned unit development and subsequent modifications of the regulations relating thereto, to the extent modification is vested in the County, shall be determined and established by the County.

.350 Application: Contents (N.R.S. 278A.470)

The application shall contain all information reasonably necessary to disclose to the County:

- A. The location and size of the site and the nature of the landowner's interest in the land proposed to be developed; and
- B. The density of land use to be allocated to parts of the site to be developed; and

- C. The location and size of any common open space and the form of organization proposed to own and maintain any common open space; and
- D. The use and the approximate height, bulk and location of buildings and other structures; and
- E. The ratio of residential to nonresidential use; and
- F. The feasibility of proposals for disposition of sanitary waste and storm water; and
- G. The substance of covenants, grants or easements or other restrictions proposed to be imposed upon the use of land, buildings and structures, including proposed easements or grants for public utilities; and
- H. The provisions for parking of vehicles and the location and width of proposed streets and public ways; and
- I. The required modifications in the land use regulations otherwise applicable to the subject property; and
- J. In the case of plans which call for development over a period of years, a schedule showing the proposed times within which applications for final approval of all sections of the planned unit development are intended to be filed; and
- K. How performance of the PUD agreement will be guaranteed; and
- L. A tentative map.

**.360 Public hearing: Notice; time limited for concluding hearing, extension of time (N.R.S. 278A.480)**

- A. After the filing of a PUD application and the time for comment by agencies specified in Nevada Revised Statute 278A.490 has expired, the County Commission shall hold a public hearing on the application following notice given as for public hearings on adoption of a County ordinance.
- B. The County may continue the hearing from time to time and may refer the matter to the Public Works Department and Planning Commission for a further report, but the public hearing or hearings shall be concluded within sixty (60) days after the date of the first public hearing unless the landowner consents in writing to an extension of time within which the hearings shall be concluded.

.370 Grant, denial or conditioning of tentative approval by minute order; specifications for final approval (N.R.S. 278A.490)

- A. The County, following conclusion of the hearing provided for in Section .360 of this Chapter and Title, shall by minute action:
  - 1. Grant tentative approval of the plan as submitted; or
  - 2. Grant tentative approval subject to specified conditions not included in the plan as submitted; or
  - 3. Deny tentative approval of the plan.
- B. If tentative approval is granted, the County shall specify the drawings, specifications and form of performance bond that shall accompany an application for final approval.

.380 Minute order: Findings of fact required (N.R.S. 278A.500)

- A. The grant or denial of tentative approval by minute action must set forth the reasons for the grant, with or without conditions, or for the denial, and the minutes shall set forth with particularity in what respects the plan would or would not be in the public interest, including but not limited to findings on the following:
  - 1. In what respects the plan is or is not consistent with the statement of objectives of a planned unit development set forth in Nevada Revised Statute 278A.020.
  - 2. The extent to which the plan departs from subdivision regulations otherwise applicable to the property, including but not limited to density, bulk and use, and the reasons why these departures are or are not deemed to be in the public interest.
  - 3. The ratio of residential to nonresidential use in the planned unit development.
  - 4. The purpose, location and amount of the common open space in the planned unit development, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development.
  - 5. The physical design of the plan and the manner in which the plan does

or does not make adequate provision for public services, provide adequate control over vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment.

6. The relationship, beneficial or adverse, of the proposed PUD to the neighborhood in which it is proposed to be established.
7. In the case of a plan which proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public, residents and owners of the planned unit development in the integrity of the plan.

.390 Minute order: Specification of time for filing application for final approval (N.R.S. 278A.510)

Unless the time is specified in an agreement entered into pursuant to Nevada Revised Statute 278.0201, if a plan is granted tentative approval, with or without conditions, the County shall set forth, in the minute action, the time within which an application for final approval of the plan shall be filed or, in the case of a plan which provides for development over a period of years, the periods within which application for final approval of each part thereof shall be filed.

.400 Status of plan after tentative approval; revocation of tentative approval (N.R.S. 278A.520)

- A. A copy of the minutes of the public hearing, the motion granting or denying tentative approval, and the minute order shall be mailed to the landowner.
- B. Tentative approval of a plan does not qualify a plat of the planned unit development for recording or authorize development. A plan which has been given tentative approval as submitted, or which has been given tentative approval with conditions which have been accepted by the landowner, may not be modified, revoked, or otherwise impaired by action of the County pending an application for final approval, without the consent of the landowner. Impairment by action of the County is not stayed if an application for final approval has not been filed, or in the case of development over a period of years applications for approval of the several parts have not been filed, within the time specified in the County Commission minutes granting tentative approval.
- C. Tentative approval shall be revoked, and the portion of the area included in the plan for which final approval has not been given shall revert to be governed by the subdivision and parcel map chapters of this Title, if:
  1. The landowner elects to abandon the plan or any part thereof, and so

notices the County in writing; or

2. The landowner fails to file application for the final approval within the required time.

**.410 Application for final approval; public hearing not required if final plan substantially complies with approved tentative plan (N.R.S. 278A.530)**

- A. An application for final approval may be for all the land included in an approved tentative plan or to the extent set forth in the tentative approval for a section thereof. The application shall be made to the County within the time specified by the minutes granting tentative approval.
  1. The application for final approval shall include such maps, drawings, specifications, covenants, easements, conditions and form of performance bond as were set forth in the minutes at the time of the tentative approval and a final map if required by the provisions of Nevada Revised Statutes 278.010 through 278.630, inclusive.
  2. A public hearing on an application for final approval of the plan, or any part thereof, is not required if the plan, or any part thereof, submitted for final approval is in substantial compliance with the plan which has been given tentative approval.

**.420 Substantial compliance (N.R.S. 278A.540)**

- A. The plan submitted for final approval shall be deemed in substantial compliance with the plan previously given tentative approval if any modification by the landowner of the plan as tentatively approved does not:
  1. Vary the proposed gross residential density or intensity of use; or
  2. Vary the proposed ratio of residential to nonresidential use; or
  3. Involve a reduction of the area set aside for common open space or the substantial relocation of such area; or
  4. Substantially increase the floor area proposed for nonresidential use; or
  5. Substantially increase the total ground areas covered by buildings or involve a substantial change in the height of buildings.
- B. A public hearing need not be held to consider minor modifications in the location and design of streets or facilities for water and for disposal of storm water and sanitary sewage.

.430 Plan not in substantial compliance: Alternative procedures; public hearing; final action (N.R.S. 278A.550)

- A. If the plan submitted for final approval is not in substantial compliance with the plan given tentative approval, the County, within thirty (30) days of the date of the filing of the application for final approval, shall notify the landowner in writing, setting forth the particular ways in which the plan is not in substantial compliance.
- B. The landowner may:
  - 1. Treat the notification as denial of final approval; or
  - 2. Refile the plan in a form which is in substantial compliance with the plan as tentatively approved; or
  - 3. File a written request with the County that it hold a public hearing on the application for final approval.
- C. If the landowner elects an alternative set out in subsections 1 or 2 immediately preceding, the landowner may refile the plan or file a request for a public hearing, as the case may be, on or before the last day of time within which he was authorized by the minutes granting tentative approval to file for final approval, or thirty (30) days from the date the landowner receives notice of such refusal, whichever is later.
- D. Any such public hearing shall be held within thirty (30) days after request for the hearing is made by the landowner, and notice thereof shall be given and hearings conducted as for enactment of an ordinance.
- E. Within twenty (20) days after conclusion of the hearing, the County shall, by minute action, either grant final approval to the plan or deny final approval to the plan. The grant or denial of final approval of the plan shall, in cases arising under this Section, contain the matters required by the section entitled "Modification of plan by the County".

.440 Action upon failure of the County to grant or deny final approval (N.R.S. 278A.560)

If the County fails to act either by grant or denial of final approval of the plan within the time prescribed, the landowner may, after thirty (30) days written notice to the County, file a petition for mandamus in the Seventh Judicial District Court in and for the County of Eureka.

.450 Certification and recordation of plan; effect of recordation; modification of approved plan; fees of County Recorder (N.R.S. 278A.570)

- A. A plan which has been given final approval by the County shall be certified without delay by the County and filed of record in the Office of the County Recorder before any development occurs in accordance with that plan.
- B. The County Recorder shall not file for record any final plan unless it includes:
  - 1. A final map of the entire final plan or an identifiable phase of the final plan if required by the provisions of Nevada Revised Statutes 278.010 to 278.630, inclusive; and
  - 2. The certifications required pursuant to Nevada Revised Statute 116.2109; and
  - 3. The same certificates of approval as required under Nevada Revised Statute 278.377 or evidence that:
    - a. The approvals were requested more than thirty (30) days before the date the request for filing is made; and
    - b. The agency has not refused its approval.
- C. Except as otherwise provided in this subsection, after the plan is recorded, the subdivision regulations otherwise applicable to the land included in the plan cease to apply. If the development is completed in identifiable phases, then each phase can be recorded. The subdivision regulations cease to apply after the recordation of each phase to the extent necessary to allow development of that phase.
- D. Pending completion of the planned unit development, or of the plan that has been finally approved, no modification of the provisions of the plan, or any part finally approved, may be made, nor may it be impaired by any act of the County except with the consent of the landowner.
- E. The County Recorder shall collect a fee per lot or unit mapped, for the recording or filing of any final map, plat or plan. This fee amount may be changed by resolution from time to time by the County Commission.

.460 After abandonment of or failure to carry out approved plan (N.R.S. 278A.580)

- A. No further development may take place on the property included in the plan until the property is re-subdivided, and



1. The plan, or a section thereof, is given approval and, thereafter, the landowner abandons the plan or the section thereof as finally approved and gives written notification thereof to the County; or
2. The landowner fails to carry out the planned unit development within the specified period of time after the final approval has been granted.

.470 Decisions subject to judicial review; time limitations (N.R.S. 278A.590)

- A. Any decision of the County under this chapter granting or denying tentative or final approval of the plan or authorizing or refusing to authorize a modification in a plan is a final administrative decision and is subject to judicial review in properly presented cases.
- B. No action or proceeding may be commenced to seek judicial relief or review from or with respect to any final action, decision or order of the County Commission unless the action or proceeding is commenced within twenty-five (25) days after the date of filing of notice of the final action, decision or order with the County Clerk.

## Chapter 120 - ENFORCEMENT PROCEDURES AND PENALTIES

### .010 Enforcement procedures

Any building or structure erected or maintained or located on, or any use of property contrary to the provisions of this Title, shall be and is declared to be unlawful and a public nuisance. The following procedures shall apply to enforce the provisions of this Title:

- A. Whenever the Planning Commission becomes aware of a violation of this Title, insofar as it pertains to construction of buildings or use of land, the Planning Commission shall cause to be delivered to the party or parties in violation of the provisions of this Title, a written order to comply with its provisions within ten (10) days of receipt of same.
- B. Upon failure of the party or parties in violation of this Title to comply within ten (10) days of receipt of said notice, and upon receipt by the District Attorney of a written statement signed by the Planning Commission Chairman setting forth the violation, the background of the violation, the parties involved, the date of delivery of a notice to comply, and the date on which it was determined that the party had not complied within the time allowed by the Commission, the party or parties shall be cited by the District Attorney to appear before the County Commissioners to show cause why the Board should not order the District Attorney to proceed with civil and/or criminal action as hereinafter provided.
- C. Upon order of the County Commission, after a hearing as provided above, the District Attorney shall forthwith commence action or actions for the abatement, removal and enjoinder of such violation as a public nuisance and/or criminal action in the manner provided by law.

### .020 Remedies cumulative and nonexclusive

All remedies provided for herein shall be cumulative and not exclusive. The conviction and punishment of any person hereunder shall not relieve such person from responsibility for correcting prohibited conditions or removing prohibited buildings, structures or improvements nor prevent the enforced correction or removal thereof.

### .030 Permit revocation

Permits may be revoked by the County following reasonable notice and hearing for failure to comply with the provisions of this Title.

.040 Obligation to comply with other ordinances

Nothing herein shall remove the obligation of compliance with any other applicable ordinance or statute.

.050 Higher standards to prevail

In any case where a provision of this Title is found to be in conflict with a provision of any other ordinance or Code of the County, the provision which establishes the higher standard shall prevail.

.060 Violation penalty

In addition to any other penalties which may be specified by Nevada statute, any person, firm or corporation, whether as principal, agent, employee or otherwise, violating any provision of this Title or violating or failing to comply with any order or regulation made hereunder shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine as provided for misdemeanors by Nevada Revised Statutes or by imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment. Such person, firm or corporation shall be deemed guilty of a separate offense for each and every day during which such violation of this Title or failure to comply with any order or regulation is committed, continued or otherwise maintained.

.070 Protection of existing uses

- A. The County expressly declares that any division of land shall not be allowed to adversely affect the utilization of adjacent or nearby land for purposes which existed prior to such division. The prior use of adjacent or nearby land for ranching, farming, agriculture, mining, industrial or commercial purposes, and the expansion or modification of such use, shall not constitute a nuisance to after established or subsequent in time residential uses. For purposes of this section, recordation of a mining claim on the records of the County Recorder shall be sufficient to establish a use of property for mining. All prior uses shall be deemed continuing in nature unless abandoned; or expressly terminated in writing by the owner of the adjacent or nearby land, and recorded on the records of the County Recorder; or terminated by operation of law.
- B. When a residential, commercial or industrial structure is erected on land within 1/4 of a mile from any land owned or utilized by a different person for agricultural activity or livestock, the parcel where the structure is erected must be enclosed by a legal fence defined by N.R.S. 569.431, or a fence equally impervious to livestock. Maintenance of the fence is the responsibility of the owner or occupant of the residential, commercial or industrial structure, even if the fence existed prior to the time of development as described by N.R.S. 569.461 and N.R.S. 569.471.

- C. Where fencing may interfere with the public's right of ingress or egress on a right-of-way, the owner or occupant shall install cattle guards instead of gates to continue the fence line over the public right-of-way.

## Chapter 130 - FLOOD DAMAGE PREVENTION

### .010 Purpose

The purpose of this chapter is to establish the planning and zoning for the flood plain management for the County.

### .020 Statutory authorization

The Legislature of the State of Nevada has in Nevada Revised Statutes 278.020, 244A.057, and 543.020 enabled the County to adopt regulations to promote the public health, safety, and general welfare of its citizenry.

### .030 Findings

- A. The flood hazard areas of the County are subject to periodic inundation which could result in loss of life and property damage, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

### .040 Statement of purpose

It is the purpose of this chapter to enhance the public safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

- F. Help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard;
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions; and
- I. Maintain eligibility for state disaster relief.

#### .050 Flood loss reduction – Methods

In order to accomplish its purposes, this chapter includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases by erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to flood be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D. Controlling fill, grading, dredging, and other operations which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

#### .060 Definitions

Unless specifically defined in this section, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

**Appeal** means a request for a review of the flood plain administrator’s interpretation of any provisions of this chapter or a request for a variance.

**Areas of shallow flooding** means a designated AO zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity

flow may be evident.

**Base flood** means the flood having a one percent (1%) chance of being equaled or exceeded in any given year; commonly referred to as the one hundred (100) year flood.

**Basement** means any area of the building having its floor subgrade (below ground level) on all sides.

**Critical feature** means an integral and readily identifiable part of a flood protection system without which the flood protection provided by the entire system would be compromised.

**Development** means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the areas of special flood hazard.

**Financial assistance** means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, disaster assistance, loan or grant, or any other form of direct or indirect federal assistance, other than general or special revenue-sharing or formula grants made to states.

**Flood or flooding** means a general and temporary condition of partial or complete inundation of normally dry areas from:

- A. The overflow of floodwaters;
- B. The unusual and rapid accumulation or runoff of surface waters from any source; and/or
- C. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels in a natural or manmade body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which result in flooding as defined in this definition.

**Flood Insurance Rate Map (FIRM)** means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the County.

**Flood insurance study** means the official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the Flood Boundary Floodway Map, and the water surface elevations of the base flood.

**Flood plain or flood-prone area** means any land area susceptible to being inundated by water from any source (see definition of “flooding”) as delineated on the Flood Boundary Floodway Map.

**Flood plain administrator** means the employee of the County who is authorized by the Flood Plain Board to administer the provisions of this chapter.

**Flood Plain Board** means the Board of County Commissioners at such times as they are engaged in the enforcement of this chapter.

**Flood plain management** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and flood plain management regulations.

**Flood plain management regulations** means zoning ordinances, subdivision regulations, building Codes, health regulations, special purpose ordinances (such as flood plain ordinances, grading ordinances and erosion control ordinances) and other applications of police power. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Flood protection system** means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a special flood hazard and the extent of the depths of associated flooding. Such a system typically includes dams, reservoirs, levees or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

**Flood proofing** means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Flood-related erosion** means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents or water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural or manmade body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

**Floodway** means the channel of a river or other watercourse and the adjacent land areas necessary in order to discharge the base flood without cumulatively increasing the water surface elevations.

**Functionally dependent use** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or



passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Hardship** as related to the Variance Procedure of this chapter means the exceptional hardship that would result from a failure to grant the requested variance. The flood plain Board requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preference, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

**Highest adjacent grade** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic structure** means any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of Interior in states without approved programs.

**Levee** means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**Levee system** means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**Lowest floor** means the lowest floor of the lowest enclosed area (including basement).

- A. An unfinished or floor resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor provided it conforms to applicable non-elevation design requirements, including but not limited to:
  - (i) The flood proofing standard in the section entitled "Elevation and Flood Proofing";
  - (ii) The anchoring standards in the section entitled "Anchoring";
  - (iii) The construction materials and methods standards in the section entitled "Construction Materials and Methods Below Regulatory Flood Level"; and
  - (iv) The standards for utilities in the section entitled "Utilities".
- B. For residential structures, all sub-grade enclosed areas are prohibited as they are considered to be basements (see "Basement" definition). This prohibition includes below-grade garages and storage areas.

**Manufactured home** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

**Manufactured home park or subdivision** means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for sale, rent or lease.

**Mean sea level** means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on the County's Flood Insurance Rate Map are referenced.

**New construction** means, for flood plain management purposes, structures for which the start of construction commenced on or after June 19, 1997, the effective date of the flood plain management regulations adopted by the County.

**Person** means an individual or his agent, firm, partnership, association or corporation, or agent of the aforementioned groups, or the State or its agencies or political subdivisions.

**Program** means the National Flood Insurance Program (NFIP) authorized by 42 USC

**Program deficiency** means a defect in a community's flood plain management regulations or administrative procedures that impairs effective implementation of those flood management technologies or of the NFIP standards.

**Recreational vehicle** means a vehicle which is:

- A. Built on a single chassis;
- B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light-duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

**Regulatory flood elevation** means an elevation one (1) foot above the base flood elevation.

**Remedy a violation** means to bring the structure or other development into compliance with state or local flood plain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance in ways that other affected development is protected from flood damages, implementing the enforcement provisions of this chapter or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

**Riverine** means relating, formed by, or resembling a river (including tributaries), a stream, brook, etc.

**Special flood hazard areas** means an area in the flood plain subject to a one percent (1%) or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-30, AE, A99, AH, or AR.

**Start of construction** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual starts means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placing of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; does not include the installation of streets and/or walkways; nor does it include

excavation for a basement, footings, piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not a part of the main structure.

**Structure** means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**Substantial damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

**Substantial improvement** means:

- A. Any repair, reconstruction, rehabilitation, addition or other proposed new development of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure, either:
  - (i) Before the improvement or repair is started; or
  - (ii) If the structure has been damaged and is being restored, before the damage occurred.
- B. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
- C. The term does not, however, include either:
  - (i) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety Code specifications which are solely necessary to assure safe living conditions; or
  - (ii) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

**Variance** means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

**Violation** means the failure of a structure or other development to be fully compliant with the County flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

## .070 Applicability

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the County.

## .080 Establishment of areas of special flood hazard

- A. The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated February 18, 1998, and accompanying Flood Insurance Rate Maps (FIRMs), dated February 18, 1998, and all subsequent revisions, are hereby adopted by reference and declared to be a part of this chapter.
- B. The FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of the chapter and which are recommended to the County flood plain Board by the flood plain administrator. The study and FIRMs are on file with the Director of Public Works in the County Administration Building.

## .090 Compliance

No structure or land shall be constructed, located, extended or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the flood plain Board from taking such lawful action as is necessary to prevent or remedy any violation.

## .100 Abrogation and greater restrictions

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another provision of this Code, ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

## .110 Interpretation

In the interpretation and application of this chapter, all provisions shall be considered as minimum requirements, liberally construed in favor of the governing body, and deemed neither to limit nor repeal any other powers granted under State statutes.

## .120 Liability

The degree of flood protection required by this chapter is considered reasonable for

regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damage. This chapter does not create liability on the part of the County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

.130 Statutory exemptions

- A. In accordance with Nevada Revised Statutes, nothing in this chapter shall:
  - 1. Affect existing uses or property or the right to continuation of the use under conditions which existed on the effective date of the ordinance codified in this chapter;
  - 2. Affect repair or alteration of property for the purposes for which such property was used on the effective date of the ordinance codified in this chapter; provided such repair or alteration does not exceed fifty percent (50%) of the value of the property prior to the repair or alteration; and provided the repair or alteration does not decrease the carrying capacity of the watercourse;
  - 3. Affect or apply to facilities constructed or installed pursuant to a certificate of environmental compatibility issued under the authority of the Nevada Revised Statutes.
  
- B. In accordance with the Nevada Revised Statutes, written authorization shall not be required, nor shall the Flood Plain Board prohibit:
  - 1. The construction of storage dams for watering livestock or wildlife, structures on banks of a creek, stream, river, wash, arroyo, or other watercourse to prevent erosion or damage to adjoining land, or dams for the conservation of flood waters as permitted by state law;
  - 2. The construction of bridges, culverts, dikes and other structures necessary to the construction of public highways, roads and streets intersecting a watercourse;
  - 3. Construction of tailing dams and waste disposal areas for use in connection with mining and metallurgical operations. This subsection does not exempt those sand and gravel operations which will divert, retard or obstruct the flow of waters in any watercourse;
  - 4. Any flood control district, or other political subdivision from exercising

powers granted to it under the Nevada Revised Statutes.

- C. Before any construction authorized by subsection A2 of this section may begin, a person must submit plans for the construction to the flood plain administrator for review and comment.
- D. These exemptions do not preclude any person from liability if that person's actions increase flood hazards to any other person or property.

.140 Declaration of public nuisance

Every new structure, building, fill, excavation or development located or maintained within any area of special flood hazard after March 18, 1980, in violation of this chapter is a public nuisance per se.

.150 Abatement of violations

Within thirty (30) days of discovery of a violation of this chapter, the flood plain administrator shall submit a report to the Flood Plain Board which shall include all information available to the flood plain administrator which is pertinent to said violation. Within thirty (30) days of receipt of this report, the Flood Plain Board shall either:

- A. Take any necessary action to effect the abatement of such violation; or
- B. Issue a variance to this chapter in accordance with the provisions of the Nevada Revised Statutes; or
- C. Order the owner of the property upon which the violation exists to provide whatever additional information may be required for the administrator's determination. Such information must be provided within thirty (30) days of such order, and he shall submit an amended report to the Flood Plain Board within twenty (20) days. At their next regularly scheduled public meeting, the Flood Plain Board shall either order the abatement of said violations or they shall grant a variance in accordance with the provisions of the section on variance procedures of this chapter; or
- D. Submit to the administrator of Federal Insurance Administration a declaration for denial of insurance, stating that the property is in violation of a cited state or local law, pursuant to section 1316 of the National Flood Insurance Act of 1968 as amended.

.160 Unlawful acts

- A. It is unlawful for any person to divert, retard or obstruct the flow of waters in any watercourse whenever it creates as hazard to life or property without

securing the authorization of the flood plain Board.

- B. Any person violating the provisions of this chapter shall be guilty of a misdemeanor.

#### .170 Development permit

A development permit shall be obtained before construction or development begins in any area of special flood hazard established in the section entitled “Establishment of areas of special flood hazard”. Application for a development permit shall be made on forms furnished by the flood plain administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- A. Proposed elevation in relation to mean sea level of the lowest floor (including basement) of all structures; in Zone AO, elevation of existing grade and proposed elevation of the lowest floor for all structures; and
- B. Proposed elevation in relation to mean sea level to which any non-residential structure has been flood proofed; and
- C. All appropriate certifications listed in section .210 of this chapter entitled “Elevation and flood proofing”; and
- D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

#### .180 Designation of the flood plain administrator

The Director of Public Works is hereby appointed to administer, implement and enforce this ordinance by granting or denying development permits in accord with its provisions.

#### .190 Flood plain administrator - Duties and responsibilities

The duties of the flood plain administrator shall include, but not be limited to:

- A. Review of all development permits to determine that:
  - 1. The permit requirements of this chapter have been satisfied;
  - 2. All other required State and Federal permits have been obtained;
  - 3. The site is reasonably safe from flooding;



4. The proposed development does not adversely affect the carrying capacity of the floodway. For purposes of this chapter “adversely affect” means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one (1) foot at any point.
- B. Use of other base flood data. When base flood elevation data has not been provided, the flood plain administrator shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer this chapter. Any such information must be submitted to the Flood Plain Board for adoption.
- C. Obtain and maintain for public inspection and make available as needed for flood insurance policies:
1. The certified elevation required in section .210 entitled “Elevation and flood proofing”;
  2. The certification required for new construction and substantial improvement in section .210 entitled “Elevation and flood proofing”;
  3. The flood proofing certification required in section .210 entitled “Elevation and flood proofing”;
  4. The non-elevation venting requirements in section .210 entitled “Elevation and flood proofing”;
  5. The certified elevation required in section .240 entitled “Subdivisions”;
  6. The floodway certification required in section .270 entitled “Floodways”.
- D. Whenever a watercourse is to be altered or relocated:
1. Notify adjacent communities and the Nevada Division of Water Resources, prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency (FEMA);
  2. Require that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.
- E. Within one hundred twenty (120) days after completion of construction of any flood control protective works which changes the rate of flow during the flood

or the configuration of the flood plain upstream or downstream from or adjacent to the project, the person or agency responsible for installation of the project shall provide to the governing bodies of all jurisdictions affected by the project a new delineation of all flood plains affected by the project. The new delineation shall be done according to the criteria adopted by the director of the Federal Emergency Management Agency (FEMA).

- F. Advise the flood control district of the County and any adjunct jurisdictions having responsibility for flood plain management in writing, and provide a copy of the development plan of all applications for flood plain use permits or variances to develop land in a flood plain or floodway within one (1) mile of the unincorporated limits of the town of Eureka. Also, advise the flood control district of the County in writing and provide a copy of any development plan of any major development proposed within a flood plain or floodway which could affect flood plains, floodways or watercourses within the district's area of jurisdiction. Written notice and copy of the plan of development shall be sent to the district no later than three (3) working days after having been received by the County flood plain administrator.
- G. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in the variance procedure of this chapter.
- H. Take actions on violations of this chapter.

## .200 Appeals

The Flood Plain Board of Eureka County shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the flood plain administrator in the enforcement or administration of this chapter.

## .210 Standards - Generally

In all areas of special flood hazards the following standards are required:

- A. Anchoring.
  - 1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

2. All manufactured homes shall meet the anchoring standards of the section entitled “Manufactured homes”.

B. Construction materials and methods below regulatory flood level.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage;
3. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
4. All new construction and substantial improvements shall be constructed within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

C. Elevation and flood proofing.

1. New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or above the regulatory flood elevation. Nonresidential structures may meet the standards in subdivision three (3) of this subsection. Upon the completion of the structure the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor and provided to the flood plain administrator;
2. New construction and substantial improvement of any structure in Zone AO shall have the lowest floor, including basement, higher than the highest adjacent grade at least one (1) foot higher than the depth number of the FIRM, or at least two (2) feet if no depth number is specified. Nonresidential structures may meet the standards of subdivision three (3) of this subsection. Upon completion of the structure a registered professional engineer, architect or surveyor shall certify to the flood plain administrator that the elevation of the structure meets this standard;
3. Nonresidential construction shall either be elevated in conformance with subdivisions one (1) or two (2) of this subsection or together with attendant utility and sanitary facilities;

4. All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are useable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must exceed the following minimum criteria:
  - a. Be certified by a registered professional engineer or architect; or
  - b. Have a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves or other covering or devices provided that they permit the automatic entry and exit of flood water.
5. Manufactured homes shall meet the above standards and also the standards in the section entitled “Manufactured homes”.

**.220 Storage of materials and equipment**

- A. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
- B. Storage of other material or equipment may be allowed if not subject to major damage by floods and if firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

**.230 Utilities**

- A. All new and replacement water supply and sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from systems into flood waters.
- B. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- C. Waste disposal systems shall not be installed wholly or partially in a floodway.

**.240 Subdivisions**

- A. All preliminary subdivision proposals shall identify the flood hazard area and

the elevations of the base flood.

- B. All final subdivision plans will provide the elevation of proposed structures and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the flood plain administrator.
- C. All subdivision proposals shall be consistent with the need to minimize flood damage. All subdivisions proposed shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage. All subdivisions shall provide adequate draining to reduce exposure to flood hazards.

#### .250 Manufactured homes

All new and replacement manufactured homes and additions to manufactured homes shall:

- A. Be elevated so that the bottom of the structural frame or the lowest point of any attached appliances, whichever is lower, is at the regular flood elevation; and
- B. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.

#### .260 Recreational vehicles

All recreational vehicles placed on sites within Zones A1-30, AM, and AE on the Flood Insurance Rate Map will either:

- A. Be on the site for fewer than one hundred eighty (180) consecutive days, and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
- B. Meet the permit requirements of this chapter and the elevation and anchoring requirements for manufactured homes in the section entitled “Manufactured homes”.

#### .270 Floodways

Located within areas of special flood hazards are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of the flood waters which carry debris, potential projectiles, and erosion potential, the following provisions

apply:

- A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. In no event may an encroachment upon a stream for which a regulatory floodway has not been designated, increase the base flood level more than one (1) foot.
- B. If subsection A of this section is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of this chapter.

.280 Requests for variance

- A. The Flood Plain Board of the County shall hear and decide requests for variance from the requirements of this chapter.
- B. The variance criteria set forth in this section are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a piece of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristics must pertain to the land itself, not to the structure, its inhabitants, or the property owners. It is the duty of the flood plain Board to help protect the citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.
- C. In passing upon such applications, the Flood Plain Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
  - 1. The danger that materials may be swept onto other lands to the injury of others; and

2. The danger to life and property due to flooding or erosion damage; and
  3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners; and
  4. The importance of the services provided by the proposed facility to the community; and
  5. The necessity to the facility of a waterfront location, where applicable; and
  6. The availability of alternative locations for the proposed use which are not subject to flooding or excessive damage; and
  7. The compatibility of the proposed use with existing and anticipated development; and
  8. The relationship of the proposed use to the comprehensive plan and the flood plain management program for that area; and
  9. The safety of access to the property in time of flood for ordinary and emergency vehicles; and
  10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site, and
  11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- D. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (.50) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subdivisions one (1) through eleven (11) of subsection C of this section have been fully considered. As the lot size increases beyond one-half (.50) acre, the technical justification required for issuing the variance increases.
- E. Upon consideration of the factors of subsection C of this section and the purpose of this chapter, the flood plain Board may attach such conditions to the granting of variance as it deems necessary to further the purposes of this chapter.
- F. Any applicant to whom a variance is granted shall be given written notice over

the signature of a community official that:

1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage, and
  2. Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the flood plain administrator in the office of the Eureka County Recorder and shall be recorded in such a manner so that it appears in the chain of title of the affected parcel of land. Such notice will also state that the land upon which the variance is granted shall be ineligible for exchange of state land pursuant to the flood relocation and land exchange program.
- G. The flood plain administrator shall maintain the records of all appeal and variance actions, including justification for their issuance, and report any variances to the Federal Insurance Administration, Federal Emergency Management Agency, and in the County's biennial report.

#### .290 Conditions for variance

- A. Variances may be issued for the repair, rehabilitation, or restoration of "historic structures" as defined in this chapter upon a determination that the proposed repair, rehabilitation or restoration will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this ordinance. For example, in the case of variances to an elevation requirement, the Flood Plain Board need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposed, but only to that elevation which the Flood Plain Board believes will both provide relief and preserve the integrity of the ordinance.
- D. Variances shall only be issued upon:
  1. A showing of good and sufficient cause;
  2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and



3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

### .300 Severability

If any section, provision or portion of this chapter is deemed unconstitutional or invalid by a court with jurisdiction to consider the matter, the remainder of this chapter shall remain in full force and effect.

## Chapter 140 - MOBILE HOMES

### .010 Applicability

For dwellings located outside mobile home and RV parks, the regulations set out in this chapter shall apply.

### .020 Density

Dwelling structures shall be placed at a density no greater than one (1) per parcel, if the parcel is not greater than one (1) acre.

### .030 Minimum setback

Minimum setback from all structures shall be seven and one-half (7.5) feet from the dripline to the property line of the adjoining property.

### .040 Recreational vehicles as dwelling units

RVs smaller than three hundred twenty (320) square feet shall not be placed on lots as dwelling units for a period that exceeds thirty (30) days unless made permanent.

### .050 Recreational vehicle storage

Nothing herein shall be deemed to prohibit the storage of a recreational vehicle. Any vehicle hooked to a sewer system must have a permit.

### .060 Installation permit - Generally

Dwellings located outside mobile home parks or RV parks shall be required to obtain an installation permit from the County Director of Public Works, subject to the provisions set out in this chapter.

### .070 Permanent installation permit

For dwellings greater than three hundred twenty (320) square feet, a permanent installation permit shall be obtained. The office of the County Director of Public Works shall inspect the proposed lot to ensure that all the provisions of this chapter, other County ordinances and regulations are complied with. Upon such a determination the office of the County Director of Public Works shall issue a permanent installation permit. The period for this permit shall be indefinite.

### .080 Temporary installation permit

For RV's at or smaller than three hundred twenty (320) square feet that are to be used as a dwelling unit, an office, or similar place of human habitation, a temporary installation

permit shall be obtained. The County Director of Public Works shall inspect the proposed lot to ensure that all the provisions of this chapter, other County ordinances and regulations are complied with. Upon such a determination the County Director of Public Works shall issue a temporary installation permit. The period of this temporary permit shall not exceed thirty (30) days and is not subject to renewal. A permanent permit may be issued at any time.

.090 Permit required for utility connection

It is unlawful for any utility to be connected to and provide service to any dwelling not located in a mobile home park unless a valid County installation permit has been issued by the County Director of Public Works for said lot.

.100 Permit fee

There will be a twenty five (\$25.00) dollar permit fee. This fee may be changed from time to time by resolution of the Eureka County Commission.

.110 Grievance and variances

All grievances and variances shall be decided first by the Planning Commission then confirmed or rejected by the Eureka County Commission at their next regularly scheduled meeting.

.120 Existing structures

This chapter shall not affect any existing structure, but any replacement structure must fully comply with this chapter.

.130 Violation - Penalty

- A. A violation of this chapter shall be treated as a misdemeanor, and the minimum fine for a violation of this chapter shall be five hundred (\$500.00) dollars.
- B. After a period of thirty (30) days if the violation has not been removed it shall be treated as a subsequent offense.

.140 Conversion of a mobile home to real property

- A. According to Nevada Revised Statute 361.244:

Classification of mobile homes and factory-built housing as real property.

- 1. A mobile home is eligible to become real property if the running gear is removed and it becomes, on or after July 1, 1979, permanently affixed to land which is owned by the owner of the mobile home.

2. A mobile home becomes real property when the Assessor of the County in which the mobile home is located has placed it on the tax roll as real property. The Assessor shall not place a mobile home on the tax roll until:
    - (a) He has received verification from the Manufactured Housing Division of the Department of Business and Industry that there is no security interest in the mobile home or the holders of security interests have agreed in writing to the conversion of the mobile home to real property and he has received a “Real Property Notice”;
    - (b) The unsecured personal property tax has been paid in full for the current fiscal year;
    - (c) An affidavit of conversion of the mobile home from personal to real property has been recorded in the County Recorder’s Office of the County in which the mobile home is located; and
    - (d) The dealer or owner has delivered to the division a copy of the recorded affidavit of conversion and all documents relating to the mobile home in its former condition as personal property.
  3. A mobile home which is converted to real property pursuant to this section shall be deemed to be a fixture and an improvement to the real property to which it is affixed.
  4. Factory-built housing, as defined in N.R.S. 461.080, constitutes real property if it becomes, on or after July 1, 1979, permanently affixed to land which is owned by the owner of the factory-built housing.
  5. For the purposes of this section, “land which is owned” includes land for which the owner has a possessory interest resulting from a life estate, lease or contract for sale.
- B. A request for inspection to convert a mobile home to real property must be submitted to the Public Works Department indicating the name, phone number, and mailing address of the owner of the mobile home, as well as the address of the mobile home. An inspection fee of one hundred (\$100.00) dollars must be paid (prior to or after the completion of inspection) to the Public Works Department. This fee may be changed from time to time by resolution of the Eureka County Commission. All inspections of mobile home conversion will be made by the Public Works Department, and the following must be present:
1. All mobile homes shall be set up as required by N.R.S. Chapter 489 and

shall have a current State of Nevada inspection certificate for that location.

2. All installations to be converted to real property shall have continuous poured in place footings under each support frame. Footings shall be a minimum sixteen inches (16") x six inches (6") with two (2) number four (#4) rebar in each footing, running continuous.
3. Tie-downs shall be placed in the outside footings ten feet (10') o.c. maximum, and twenty four inches (24") from the ends of all footing.
4. On existing mobile homes where poured-in-place runners exist, approved drive-in anchors may be allowed. The maximum distance between drive-in anchors shall be six feet (6') o.c.
5. Perimeter enclosure must be constructed of concrete or concrete block, with a minimum width of four inches (4").
6. All perimeter concrete placed shall extend a minimum of thirty six inches (36") below grade where subject to freezing and thawing conditions.
7. Two access holes must be provided, minimum eighteen inches (18") x twenty four inches (24") or larger.
8. Crawl space must be provided with adequate ventilation.
9. All wheels, axles, and tongues must be removed.
10. Upon approval from the Public Works Department, alternate systems may be allowed. Minimum standards as set forth above must be met. Engineering and/or other supporting facts shall be supplied to the Public Works Department.

All design and construction must incorporate good engineering standards and construction practices and shall not void the mobile home manufacturer's requirements.

When all the above requirements have been met, contact the Eureka County Assessor's Office, P.O. Box 88, Eureka, Nevada, 89316 or (775) 237-5270, to complete the conversion requirements.

- C. The Assessor shall, without regard to whether the homeowner has made a request, place a manufactured home on the tax roll as real property if, on or after July 1, 2001, the manufactured home is permanently affixed to a residential lot outside a mobile home park pursuant to N.R.S. 361.244(5).

.150 Conversion of mobile home from real property to personal property

According to Nevada Revised Statute 361.2445:

- A. A mobile home which has been converted to real property pursuant to N.R.S. 361.244 may not be removed from the real property to which it is affixed unless, at least thirty (30) days before removing the mobile home:
  1. The owner:
    - a. Files with the division an affidavit stating that the sole purpose for converting the mobile home from real to personal property is to effect a transfer of the title to the mobile home;
    - b. Files with the division the affidavit of consent to the removal of the mobile home of each person who holds any legal interest in the real property to which the mobile home is affixed; and
    - c. Gives written notice to the County Assessor of the County in which the real property it situated; and
  2. The County Assessor certifies in writing that all taxes for the fiscal year on the mobile home and the real property to which the mobile home is affixed have been paid.
- B. The County Assessor shall not remove a mobile home from the tax rolls until:
  1. He has received verification that there is no security interest in the mobile home or the holders of security interests have agreed in writing to the conversion of the mobile home to personal property; and
  2. An affidavit of conversion of the mobile home from real to personal property has been recorded in the County Recorder's Office of the County in which the real property to which the mobile home was affixed is situated.
- C. A mobile home which is physically removed from real property pursuant to this section shall be deemed to be personal property immediately upon its removal.
- D. The department shall adopt:
  1. Such regulations as are necessary to carry out the provisions of this section; and

2. A standard form for the affidavits required by this section.
- E. Before the owner of a mobile home that has been converted to personal property pursuant to this section may transfer ownership of the mobile home, he must obtain a certificate of ownership from the division.
  - F. For the purposes of this section, the removal of a mobile home from real property includes the detachment of the mobile home from its foundation, other than temporarily for the purpose of making repairs or improvements to the mobile home or the foundation.
  - G. As used in this section:
    1. “**Division**” means the Manufactured Housing Division of the Department of Business and Industry.
    2. “**Owner**” means any person who holds an interest in the mobile home or the real property to which the mobile home is affixed evidenced by a conveyance or other instrument which transfers that interest to him and is recorded in the Office of the County Recorder of the County in which the mobile home and real property are situated, but does not include the owner or holder of a right-of-way, easement or subsurface property right appurtenant to the real property.

Chapter 150 - WATER RIGHTS DEDICATION

.010 Required water dedication

- A. Prior to accepting for review any tentative subdivision, planned unit development, parcel map, or division of land into large parcels application which creates additional parcels within the County, except for the areas of Eureka townsite and Crescent Valley townsite, the applicant shall submit a written and binding statement of intent to dedicate to Eureka County at the time the application is approved the type and amount of water rights necessary to serve each parcel created, according to the following chart:

<u>USE</u>	<u>ACRE FEET REQUIRED</u>
Single family residential, per dwelling unit	2.0 AF
Other use	To be determined

- B. The form and type of water rights, should the application be approved, must be valid and acceptable to Eureka County in all respects.
- C. Prior to recordation of any map which creates additional parcels within the County, the transfer of water rights shall be completed.

.020 Water right retention

Eureka County, in its discretion, may continue to hold the water rights received from parceling of property, or may revert the water rights to the source by making application to the Water Engineer in accordance with NRS Chapter 534 to reserve the water right for credit to a public water system at the time a public water system serves the parcel or parcels.