

# ***Division One: Introduction and Organization***

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## CHAPTER 100

### TITLE AND CONTENTS

#### SECTIONS:

17.100.00	Title
17.100.05	Contents
17.100.10	List of Tables and Figures

**Section 17.100.00 Title.** Division One of Title 17 is entitled “Introduction and Organization”.

**Section 17.100.05 Contents.** Division One consists of the following chapters:

Chapter 100	Title and Contents
Chapter 102	Introduction
Chapter 104	Regulatory System
Chapter 106	Regulatory Land Use Districts
Chapter 108	Agricultural Preservation Overlay District
Chapter 110	Airport Overlay District
Chapter 112	(reserved - Planned Unit Development Overlay District)

**Section 17.100.10 List of Tables and Figures.**

Table 17.106.15-1	Comparable Land Use Districts
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## CHAPTER 102

### INTRODUCTION

#### SECTIONS:

17.102.00	Title
17.102.05	Applicability
17.102.10	Infrastructure
17.102.15	Conformance with Master Plan
17.102.20	Common Definitions

**Section 17.102.00 Title.** Title 17 of the Pershing County Code is entitled the “Pershing County Development Code.”

**Section 17.102.05 Applicability.** The authority to control land use and development comes from the State of Nevada as expressed in the Nevada Revised Statutes (NRS). All development and subdivision of land within the unincorporated area of Pershing County shall be subject to the provisions of the Pershing County Development Code (PCDC). Any use not specifically enumerated as permitted in a regulatory land use district (zone) pursuant to the Development Code, or interpreted by the Planning Director as permitted in a regulatory land use district pursuant to Section 17.304.15, Authority and Responsibility, shall be considered to be prohibited.

**Section 17.102.10 Infrastructure.** The provision of infrastructure to support and service development is subject to the provisions of the Development Code.

**Section 17.102.15 Conformance With Master Plan.** Pursuant to NRS 278, any action of the County relating to development, regulatory land use districts (zoning), the subdivision of land, or capital improvements must conform to the Pershing County Master Plan.

**Section 17.102.20 Common Definitions.** Unless otherwise provided, common definitions shall be used throughout the Development Code. These definitions are contained in Chapter 17.702, Definitions.



## CHAPTER 104

### REGULATORY SYSTEM

#### SECTIONS:

17.104.00	Purpose
17.104.05	Consistency with Pershing County Master Plan
17.104.10	Relationship to Other Regulations and Plans
17.104.15	Relationship to Private Restrictions
17.104.20	Pershing County Board of Commissioners
17.104.25	Pershing County Regional Planning Commission
17.104.30	Pershing County Master Plan
17.104.35	Pershing County Development Code

**Section 17.104.00 Purpose.** The purpose of Chapter 104, Regulatory System, is to establish the regulatory system for ensuring that growth within the county occurs in a responsible manner in order to protect the health, safety, and welfare of the public. These regulations are designed to:

- A. Implement the goals and objectives of the Master Plan;
- B. Preserve the quality of air and water resources in the County;
- C. Promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment;
- D. Provide for recreational needs;
- E. Protect life and property in areas subject to floods, landslides, and other natural disasters;
- F. Develop a timely, orderly and efficient arrangement of transportation and other public facilities and services;
- G. Ensure that the development of land is commensurate with the character and the physical limitations of the land;
- H. Take into account the immediate and long-range financial impact of particular kinds of land development, and the relative suitability of such land to promote health and the general welfare;
- I. Conserve the value of buildings and encourage the most appropriate use of land throughout the county; and
- J. Promote the health, safety, and the general welfare of the public.

**Section 17.104.05 Consistency with Pershing County Master Plan.** The provisions of this code are intended to implement the standards, goals and policies of the Pershing County

Master Plan and are hereby deemed to be consistent and in accordance with the adopted Master Plan for the County. Any amendments to the text or land use map or changes pursuant to such regulations shall be consistent with the Master Plan, as it may be amended from time to time.

- A. In adopting any ordinance or regulation relating to development, land use districts (zoning), the subdivision of land, or capital improvements, the County shall make a specific finding that the ordinance conforms to the Master Plan.
- B. Where development is permitted under the regulations that predate these regulations, such development shall not be deemed inconsistent with the Master Plan, as long as such development conforms to the requirements of Chapter 17.704 of this code.
- C. Within one year after adoption of any portion of the Master Plan, the Board of County Commissioners shall review and, if necessary, amend the existing Development Code to ensure its conformity with the provisions of the Master Plan.

**Section 17.104.10 Relationship to Other Regulations and Plans.** The use of buildings and land within the County shall be subject to the regulations established by the Development Code and all other applicable provisions of the Pershing County Code, regardless of whether or not such other provisions are specifically cross-referenced in these regulations. Cross-references in the Development Code to other provisions of the County Code are for the convenience of the reader. Lack of a cross reference shall not be construed as an indication that other provisions of the County Code do not apply.

In applying the provisions of these regulations, they shall be construed to be the minimum requirements necessary for the promotion of public health, safety and general welfare. Minimum values are not intended to be target values. In some instances, specific conditions may create the need to exceed stated minimum standards.

When the regulations of this code conflict with other local, State or Federal regulations, the more restrictive regulations shall be complied with.

**Section 17.104.15 Relationship to Private Restrictions.** The regulations established by this code are not intended to relate to any deed restriction, covenant, easement or any other private agreement or restriction regarding the use of land. When the regulations established by this code are more restrictive or impose higher standards than private restrictions, the regulations of this code shall be complied with. Private restrictions shall not be enforced by the County.

**Section 17.104.20 Pershing County Board of Commissioners.** The Pershing County Board of Commissioners is responsible for overall governance of the County. The Board is authorized to appoint members to entities such as the Regional Planning Commission. The Board of County Commissioners adopts the Master Plan and Development Code. It acts as an appeal body from decisions of the Regional Planning Commission and exercises other responsibilities as set forth in this Development Code, including action on amendments to the Master Plan and Development Code, final interpretation of development regulations, action on requests for waivers to improvement standards, determination of vested rights, extension/revocation of development approvals, action on maps, and action on abandonments.

**Section 17.104.25 Pershing County Regional Planning Commission.** The Pershing County Regional Planning Commission acts as an advisory body to the Board of County

Commissioners in such areas as adoption of the Master Plan and Development Code. It also makes recommendations on subdivision and parcel maps. The Regional Planning Commission makes decisions on special use permits and exercises other responsibilities as set forth in this Development Code.

**Section 17.104.30 Pershing County Master Plan.** The Pershing County Master Plan has been adopted by the Board of County Commissioners pursuant to NRS 278. This plan covers the entire unincorporated area of Pershing County and includes chapters that guide land use, transportation, public services and conservation of natural resources. The purpose of the Master Plan is to conserve and promote the public health, safety and general welfare of residents of Pershing County.

**Section 17.104.35 Pershing County Development Code.** The Development Code has been adopted by the Board of County Commissioners pursuant to NRS 278 and 278A. The Development Code regulates the subdivision and development of land, and the use of land structures. The Development code must conform to the Master Plan pursuant to NRS 278.



## CHAPTER 106

### REGULATORY LAND USE DISTRICTS

#### SECTIONS:

17.106.00	Purpose
17.106.05	Establishment of Land Use Categories and Regulatory Land Use Districts
17.106.10	Sale or Use of Land or Buildings
17.106.15	Transition Process
17.106.20	Minimum Acreage
17.106.25	Residential Land Use Category
17.106.30	Low Density Rural Regulatory Land Use District
17.106.35	Medium Density Rural Regulatory Land Use District
17.106.40	Low Density Suburban Regulatory Land Use District
17.106.45	Medium Density Suburban Regulatory Land Use District
17.106.50	High Density Suburban Regulatory Land Use District
17.106.55	Non-Residential Land Use Category
17.106.60	General Commercial Regulatory Land Use District
17.106.65	Neighborhood Commercial Regulatory Land Use District
17.106.70	Industrial Regulatory Land Use District
17.106.75	Public/Semi-Public Facilities Regulatory Land Use District
17.106.80	Other Land Use Category
17.106.85	Agricultural-Mining-Recreation Regulatory Land Use District
17.106.90	General Rural Regulatory Land Use District
17.106.95	Open Space Regulatory Land Use District
17.106.100	General Rural Non-Agricultural Preservation Regulatory Land Use District

**Section 17.106.00 Purpose:** The purpose of Chapter 106, Regulatory Land Use Districts, is to provide general descriptions of the Regulatory Land Use Districts of this Development Code, and the nature of the uses therein.

**Section 17.106.05 Establishment of Land Use Categories and Regulatory Land Use Districts.** The land use categories and regulatory land use districts described in Section 17.106.25 through Section 17.106.100 are hereby established.

- A. **Official Regulatory Land Use District Map.** The areas and boundaries of the regulatory land use districts established by this chapter are defined on the official Regulatory Land Use District Map. This map is stored and maintained on the County computer system as a part of the County's Geographic Information System (GIS). The most current version of this map is hereby adopted by reference.

(Reproductions of the official Regulatory Land Use District Map are published as part of the Master Plan as well as being posted in the Planning Department office and a few other county offices. Because the official map is subject to change, these sources may not be current. The most current information can only be obtained by visiting or contacting the Planning Department.)

B. Interpretation of Boundaries. When uncertainty exists as to the boundaries of the Regulatory Land Use Districts, the following rules shall apply in the order listed:

1. Boundaries shown as following or approximately following any street shall be construed as following the centerline of the dedicated right-of-way;
2. Boundaries shown as following or approximately following any lot line or other property line shall be construed as following such line;
3. Boundaries shown as following or approximately following section lines, half-section lines, or quarter-section lines shall be construed as following such line; and
4. Boundaries shown as following or approximately following natural features shall be construed as following such features.

C. Further Uncertainties. In the event of further uncertainty as to the boundaries of a Regulatory Land Use District, the Planning Director shall make an interpretation. All map interpretations, including minor technical clarifications that reflect prior Board of County Commissioner actions, shall be shown on the adopted Land Use Plan Map.

**Section 17.106.10 Sale or Use of Land or Buildings.** No person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all the applicable provisions of this Development Code. For purposes of this section, the “use” or “occupancy” of a building or land relates to anything and everything that is done to, on, or in that building or land.

**Section 17.106.15 Transition Process.** The following provisions apply to parcels of land in which the land use district (zoning) or the uses enumerated in those districts at the time this section originally became effective, January 17, 2003, are not consistent with the adopted land use designation for those parcels as shown in the Pershing County Master Plan:

A. Interim Period for Alternative Land Use. Except as provided herein, all uses of land, including the allowable residential densities (number of dwelling units per acre), shall be governed by the adopted land use designations of the Pershing County Master Plan.

1. Parcels with Land Use Designation Not Considered Comparable Pursuant to Table 17.106.15-1. A property owner may choose to utilize the density and allowable use provisions of Pershing County Code, Title 17, in effect prior to the original effective date of this Chapter, January 17, 2003, and adopted therein when the parcel has a land use district that is not shown as being comparable pursuant to Table 17.106.15-1.

B. Initiation of Amendment to the Master Plan. Should a property owner choose to utilize the alternative provisions of subsection A of this plan, which would properly reflect such use of the property. The amendment shall be initiated within one year of the approval and any such development (for example, a tentative subdivision map, a parcel map, a special use permit, or a building permit) will be considered on its merits by the Planning Commission and the Board of County Commissioners.

- C. Extension to Additional Permit or Approval. If, in order to construct a project approved pursuant to the provision of this article, an applicant must first obtain any permit or approval from Pershing County or another governmental agency before applying for a building permit, then, upon submission of appropriate documentation to the Planning Director, any time limit for a valid approval specified in this chapter shall be extended for the amount of time between the date the applicant submitted an application for the additional permit or approval and the date the additional permit or approval was granted.
  
- D. Notification of Inconsistent Prior Zoning Designation and New Land Use District. The Pershing County Planning and Building Department shall send individual written notice to all property owners whose property's land use district (zoning) is not consistent with the land use designation of the Pershing County Master Plan. Notice may be given to owners of real property in addition to those provided for in this subsection when the Planning Commission or Board of County Commissioners deems it necessary to protect the public interest. All owners of real property as provided in this section shall be those owners indicated by the latest County Assessor's ownership maps. The Planning and Building Department shall mail the same to the last-known addresses of such property owners. This notice shall be made on an annual basis through January 31, 2005.
  
- E. Comparable Land Use Designations and Land Use Districts. Table 17.106.15-1 sets forth the land use districts which are consistent with the land use designations of the Pershing County Master Plan.

**Table 17.106.15-1 Comparable Land Use Districts**

Master Plan Land Use	Land Use District
Low Density Rural	Low Density Rural (LDR)
Medium Density Rural	Medium Density Rural (MDR)
Low Density Suburban	Low Density Suburban (LDS)
Medium Density Suburban	Medium Density Suburban (MDS)
High Density Suburban	High Density Suburban (HDS)
Agricultural-Mining-Recreation	Agricultural-Mining-Recreation (AMR)
General Rural	General Rural (GR)
General Commercial	General Commercial (GC)
Neighborhood Commercial	Neighborhood Commercial (NC)
Industrial	Industrial (I)
Public/Semi-Public Facilities	Public/Semi-Public Facilities (PSF)
Open Space	Open Space (OS)

**Section 17.106.20 Minimum Acreage.** The minimum acreages for each land use district may include easements and roads.

**Sections 17.106.25 Residential Land Use Category.** The residential land use category includes the following regulatory land use districts: Low Density Rural, Medium Density Rural, Low Density Suburban, Medium Density Suburban, and High Density Suburban. The following criteria are common to the land use districts in the residential land use category:

- A. Site Suitability: The areas designated have slope, soil, geology and other physical conditions that make it suitable for the density of residential development.

- B. Noise: The following average daily noise levels are recommended for residential land uses. Sound attenuation measures shall be adhered to in areas where these levels are exceeded more than 10 percent of the time.

Residential Land Uses:	Outdoor	65 Ldn
	Indoor	50 Ldn

**Section 17.106.30 Low Density Rural Regulatory Land Use District.** The Low Density Rural (LDR) Regulatory Land Use District is intended to preserve areas where large lot single-family, detached residential, with or without agricultural and livestock uses predominate. These areas generally have limited public services and facilities available. The maximum number of dwelling units that may be located in this Regulatory Land Use District is one unit per 20 acres but provides for residential uses on lots smaller than 40 acres. The minimum lot area in this Regulatory Land Use District is 20 acres.

**Section 17.106.35 Medium Density Rural Regulatory Land Use District.** The Medium Density Rural (MDR) Regulatory Land Use District is intended to preserve areas where large lot single-family detached residential, with or without agricultural and livestock uses predominate. Single-family, detached residences in this area are generally on 10-acre lots and have limited public services and facilities available. Multi-family residences are not appropriate, but single-family homes may be clustered to retain open space and agricultural uses. Small neighborhood commercial uses may be permitted, subject to special use permit, when they serve the needs of the residents and are compatible with the residential character of the area. The maximum number of dwelling units that may be located in this Regulatory Land Use District is one unit per 10 acres but provides for residential uses on lots smaller than 20 acres. The minimum lot area in this Regulatory Land Use District is 10 acres.

**Section 17.106.40 Low Density Suburban Regulatory Land Use District.** The Low Density Suburban (LDS) Regulatory Land Use District is intended to create and preserve areas where single-family, detached homes on 2.5-acre lots are predominate. Livestock grazing and agricultural activities are common secondary uses. Small neighborhood commercial uses may be permitted by special use permit when they serve the needs of residents and are compatible with the residential character of the area. The maximum number of dwelling units that may be located in this Regulatory Land Use District is one unit per 2.5 acres but provides for residential uses on lots smaller than 10 acres. The minimum lot area in this Regulatory Land Use District is 2.5 acres.

**Section 17.106.45 Medium Density Suburban Regulatory Land Use District.** The Medium Density Suburban (MDS) Regulatory Land Use District is intended to create and preserve areas where the predominant dwelling type is single-family, detached units on one acre lots. Attached single-family units are also permitted, subject to a special use permit, but the overall density shall remain at one unit per acre. Small neighborhood commercial and civic uses may be permitted by special use permit when they serve the needs of the residents and are compatible with the residential character of the area. The maximum number of dwelling units that may be located in this Regulatory Land Use District is one unit per 1 acre but provides for residential uses on lots smaller than 2.5 acres. The minimum lot area in this Regulatory Land Use District is 1 acre.

**Section 17.106.50 High Density Suburban Regulatory Land Use District.** The High Density Suburban (HDS) Regulatory Land Use District is intended to create and preserve neighborhoods where the predominant housing type is single-family, detached units at four units

per acre. Attached single-family units are also permitted at seven units per acre, subject to special use permit approval. Small neighborhood commercial and civic uses may be permitted by special use permit when they serve the needs of the residents and are compatible with the residential character of the area. The maximum number of dwelling units that may be located in this Regulatory Land Use District is four units per 1 acre for single-family detached; and seven units per 1 acre for attached single family and mobile home parks. The minimum lot area in this Regulatory Land Use District is 1/4 acre (10,890 square feet).

**Section 17.106.55 Non-Residential Land Use Category.** The non-residential land use category includes the following Regulatory Land Use districts: General Commercial, Neighborhood Commercial, Industrial, Public and Semi Public Facilities, and Open Space. The following criteria are common to all non-residential land use categories:

- A. Site Suitability. The area designed has slope, soil, geology, and other physical conditions that make it suitable for the use being proposed.
  
- B. Noise. An average daily outdoor noise level of 65 LDN is recommended for nonresidential land uses adjacent to residential land uses. Sound attenuation measures shall be adhered to in areas where these levels are exceeded more than 10 percent of the time.

**Section 17.106.60 General Commercial Regulatory Land Use District.** The General Commercial (GC) Regulatory Land Use District is intended to create and preserve areas for businesses that provide a variety of wholesale and retail good and services, as well as business parks with professional services and serve a community or regional market. The primary uses may include wholesale and retail stores, shopping centers, specialty shops, personal services, and automobile services. Other uses include offices, restaurants, theaters, banking services, RV parking and other comparable activities. The minimum lot area for this Regulatory Land Use District is 10,000 square feet, unless the provisions of Section 17.106.55 are met.

**Section 17.106.65 Neighborhood Commercial Regulatory Land Use District.** The Neighborhood Commercial (NC) Regulatory Land Use District is intended to create and preserve areas for businesses that provide convenience goods (food, drugs and sundries) and personal services (insurance, travel, and consulting), and those which meet the daily needs of an immediate neighborhood trade area. Single-family residences are allowed by special use permit when used in conjunction with a neighborhood commercial business. Multi-family residential units including duplexes and group homes are also allowed by special use permit. The minimum lot area for this regulatory land use district is 10,000 square feet, unless the provisions of section 17.106.55 are met. Only limited gaming is allowed. Limited gaming is defined as an establishment which contains no more than 15 slot machines (and no other game or gaming device) where the operation of the slot machines is incidental to the primary business of the establishment.

**Section 17.106.70 Industrial Regulatory Land Use District.** The Industrial (I) Regulatory Land Use District is intended to create and preserve areas for high intensity activities such as manufacturing, warehousing, mining and construction. The Industrial designation is intended to create an environment in which industrial operations may be conducted with minimal impact on the natural environment and surrounding land uses. The minimum lot area for this Regulatory Land Use District is 10,000 square feet, unless the provisions of Section 17.106.55 are met.

**Section 17.106.75 Public/Semi Public Facilities Regulatory Land Use District.** The Public/Semi-Public Facilities (PSF) Regulatory Land Use District is intended for public or semi-public facilities such as schools, churches, fire stations, hospitals, civic and community buildings, and utility buildings and facilities. This designation includes uses developed either by public or private capital which may be public or may be restricted, as in the case of private clubs, but in both cases, a large number of people use the facility and the use is essentially public in nature. There is no minimum lot area for this regulatory land use district.

**Section 17.106.80 Other Land Use Category.** The other land use category includes the following land use districts: Agricultural-Mining-Recreation, General Rural, and Open Space.

**Section 17.106.85 The Agricultural-Mining-Recreation Regulatory Land Use District.** The Agriculture-Mining-Recreation (AMR) Regulatory Land Use District is intended to allow agricultural, mining, and recreational uses. This designation applies to open areas with limited or no road access, water, sewer, and emergency services.

- A. **Characteristics:** The Regulatory Land Use District identifies areas that may have one or more of the following characteristics:
1. **Public Ownership.** The parcel or area is under public ownership.
  2. **Remote Location Lacking Infrastructure.** The parcel or area is in a remote location that does not have public infrastructure adjacent to or near the site.
  3. **Slopes.** The parcel or area has moderate slopes (between 15 and 30 percent) or steep slopes (30 percent or greater) based on surveyed topographic information provided by owner or applicant.
- B. **Residential Uses Allowed:** One residential unit per  $\frac{1}{4}$  section is allowed in conjunction with agricultural, mining, and recreational uses. If the parcel is less than 160 acres (or  $\frac{1}{4}$  of a section if the section is less than 640 acres) and was created prior to June 30, 2007, the parcel has one residential building right which may be exercised in conjunction with agricultural, mining, and recreational uses.
- Any person desiring to construct a residence on a parcel in the AMR, which has a building right as set forth herein, regardless of the size of the parcel, must comply with the provisions of Chapter 17.503, Building Requirements for Residential Development in the Agricultural-Mining-Recreation Land Use District.
- C. **Divisions into Parcels Smaller Than  $\frac{1}{4}$  Section after June 30, 2007:** Subsequent to June 30, 2007, all maps, creating parcels in the AMR with less than 160 acres (or  $\frac{1}{4}$  of the section if the section has less than 640 acres), shall provide a provision explaining in clear language that the parcels which are less than 160 acres or  $\frac{1}{4}$  of a section, do not have any residential building rights.
- D. **Master Plan Amendments:** No Master Plan amendments as provided in this code may be granted changing property from AMR to a different residential land use district unless:
1. The proposed Master Plan amendment satisfies the requirements of Chapter 17.612; and

2. The applicant can show that the property:
  - a. Has an emergency response time as determined by the County that is less than 35 minutes away from the nearest County Fire House/Station (Emergency Response Time shall be determined by calculating the time it takes to travel from the nearest County Firehouse/Station to the parcel/home, traveling at the current speed limits on the most direct route over County or State roads);
  - b. Has a demonstrated supply of electricity and phone service;
  - c. Has an adequate source of potable water for domestic use;
  - d. Has road access that meets the requirements of Chapter 17.503; and
  - e. Has a plan for use of the property which will justify the change, and signs an agreement to implement and finalize the plan for new land use within two years.

E. Compatible Uses: Compatible uses with Agricultural-Mining-Recreational Land Use District are agricultural, mining and milling structures, recreation, and to the extent provided herein, residential. Civic, commercial, and industrial uses are permitted subject to special use permit approval. Radio, television, and telecommunication facilities and antennas and recreational pursuits are also allowed with a special use permit.

*[Section 17.106.85 amended by Ord. 228, passed 09/20/06, provisions eff. 10/27/06]*

**Section 17.106.90 General Rural Regulatory Land Use District.** The General Rural (GR) Regulatory Land Use District is intended to identify areas that are: (1) within the agricultural areas; (2) remote and will have no or very low density development (i.e. one dwelling unit per 40 acres), (3) in transition from agricultural-mining-recreational land use and rural residential (LDR and MDR) land use on the fringe of existing development, and (4) remote but where unique developments may occur (e.g. destination resorts, gun clubs, bed and breakfast inns, telecommunications, commercial stables, wholesale nursery, mining and recreational facilities). This Regulatory Land Use District identifies areas that may have one or more of the following characteristics:

- A. Floodplains. The parcel or area is within the 100-year floodplain identified on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM).
- B. Potential Wetlands. The parcel or areas are within a “potential wetland area” as identified by the Army Corps of Engineers (COE).
- C. Slopes. The parcel or area has moderate slopes (between 15 and 30 percent) or steep slopes (30 percent or greater) based on surveyed topographic information provided by owner or applicant.
- D. Public Ownership. The parcel or area is under public ownership.
- E. Remote Location Lacking Infrastructure. The parcel or area is in a remote location that does not have public infrastructure adjacent to or near the site.

**Section 17.106.95 Open Space Regulatory Land Use District.** The Open Space (OS) Regulatory Land Use District is intended to create and protect areas of undeveloped landscape, including but not limited to, ridges, stream corridors, natural shoreline, scenic views, viewsheds, agricultural or other land devoted exclusively to open-space uses including but not limited to the Humboldt River, Rye Patch, and Pitt Taylor Dams, and the Wildlife Refuge (see map on file with the County Clerk). There is no minimum lot area for this Regulatory Land Use District. Uses compatible with the Open Space Regulatory Land Use District designation include:

- A. Natural and Scenic Resource Preservation. The preservation of land to conserve and enhance natural or scenic resources;
- B. Sensitive Area Protection. The protection of streams and stream environment zones, watersheds, view-sheds, natural vegetation, and wildlife habitat zones;
- C. Flood Control. The maintenance of natural and man-made features that control floods;
- D. Historic Resource Preservation. The preservation of natural resources and sites that are designated as historic by the Division of Historic Preservation and Archaeology of the State Department of Conservation and Natural Resources; and
- E. Recreation. The development of recreational sites.

**Section 17.106.100 General Rural Non-Agricultural Preservation Regulatory Land Use District.** The General Rural Non-Agricultural Preservation (GRNA) Regulatory Land Use District is intended to identify areas that are: (1) Within agricultural areas; (2) Remote and will have no or very low density development (i.e. one dwelling unit per 40 acres); (3) In transition from AMR land use district on the fringe of existing development; and (4) Remote areas where unique developments may occur (e.g. destination resorts, gun clubs, bed and breakfast inns, telecommunications, commercial stables, wholesale nursery, mining and recreational facilities). The Regulatory Land Use District identifies areas that may have one or more of the following characteristics:

- A. Floodplains. The parcel or area is within the 100-year floodplain identified on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM).
- B. Potential Wetlands. The parcel or areas are within a “potential wetland area” as identified by the Army Corps of Engineers (COE).
- C. Slopes. The parcel or area has moderate slopes (between 15 and 30 percent), or steep slopes (30 percent or greater) based on surveyed topographic information provided by owner or applicant.
- D. Public Ownership. The parcel or area is under public ownership.
- E. Remote Location Lacking Infrastructure. The parcel or area is in a remote location that does not have all the public infrastructure associated with most residential land use districts, such as public water, power lines, gas, or telephone lines.

*[Section 17.106.100 added by Ord. 229, passed 10/04/06, provisions eff. 11/03/06]*

## CHAPTER 108

### AGRICULTURAL PRESERVATION OVERLAY DISTRICT

#### SECTIONS:

17.108.00	Purpose
17.108.05	Applicability
17.108.10	Areas Covered
17.108.15	Policy
17.108.20	Permitted Uses
17.108.25	Uses Permitted by Special Use Permit
17.108.30	Dimensional Standards for Residential Dwellings
17.108.35	Lot of Record Provision
17.108.40	Rules Governing Density of Residential Development within AP Overlay District

**Section 17.108.00 Purpose.** The purpose of Chapter 108, Agricultural Preservation (AP) Overlay District, is to superimpose special standards over the base land use district, which provide compatibility with the surrounding agricultural uses and protect the agricultural economic base of the county.

**Section 17.108.05 Applicability.** The areas within the Agricultural Preserve (AP) overlay district are those portions of Pershing County which have soils suitable for agricultural purposes including prime and nonprime farmland. The principal purposes of this Overlay District are to:

- A. Provide an economic benefit to farmers by permitting the use of nonprime farmland for non-farm dwellings and agricultural service establishments;
- B. Conserve and protect farms and other agricultural uses;
- C. Foster growth appropriate to rural areas.
- D. Prevent urban and agricultural land use conflicts;
- E. Discourage small lot or residential subdivisions where public facilities such as water, sewage disposal, parks and playgrounds, and governmental services such as police and fire protection are not available or could not reasonably be made available;
- F. Protect Agricultural, rural and urban forms of development from incompatible uses, and
- G. Encourage the clustering of single-family dwellings together in areas of other than prime farmland in order to preserve prime farmland and natural amenities,
- H. To provide housing opportunities for family members and other persons involved with agricultural operations on the site. (Ord. 126 §4, 1992).

**Section 17.108.10 Areas Covered.** The boundaries of the AP Overlay District are set forth on the Land Use Map adopted as part of this code and found on file in the office of the Planning Department, and are coterminous (Ord. 126 §4, 1992).

**Section 17.108.15 Policy.** The Pershing County Board of Commissioners declares the following policies to be applicable within the AP Overlay District:

- A. Right to Farm: The preservation of prime agricultural farmland within the AP District shall assure that the owners of such land have a continuing right to farm their property free from nuisance claims from non-compatible uses. Any person who requests a special use permit to place a non-farm dwelling on property which lies within the District is deemed to be aware of the normal agricultural uses and farming practices within the District, including night farming, noise from agricultural operations and other normal farming practices.
- B. Priority of Development On Nonprime Farmland: Wherever possible, these regulations shall be interpreted to require development of non-farm dwellings, agricultural service establishments and other uses permitted by special use permit on nonprime farmland prior to development of such uses on prime farmland (Ord. 126 §4, 1992).

**Section 17.108.20 Permitted Uses.** The following uses shall be permitted by right:

- A. Farm dwellings, at a density of not more than one dwelling per 40 acres, or one dwelling per 1/16 of a section if the section is less than 640 acres.
- B. Farms and uses associated with farm activities, including, without limitation:
  - 1. Commercial agricultural and horticulture;
  - 2. Corrals and noncommercial feed lots with less than 1,000 head (one-time capacity);
  - 3. Farm Buildings.
  - 4. Farm drainage and irrigation systems.
- C. The following accessory uses and structures, which are customary and clearly incidental and subordinate to permitted uses and structures, shall be permitted:
  - 1. Private garages;
  - 2. Playhouses, swimming pools and storage buildings appurtenant to single-family dwellings; and
  - 3. Landscaping and screening. (Ord. 126 §4, 1992).
  - 4. Accessory Uses and Structures as allowed in Chapter 17.306.
  - 5. Temporary Uses as allowed in Chapter 17.322.30 E, Temporary Occupancy for the Care of the Infirm.

**Section 17.108.25 Uses Permitted by Special Use Permit.** The following uses shall be permitted only where a special use permit has been approved by the Planning Commission in accordance with the standards and procedures of Chapter 17.606, Special Use Permits:

- A. Mining operations and industrial operations accessory to and integral with mining operations, provided that such operations are designed and operated in accordance with all requirements of Federal and State environmental regulations and may be conducted without interference with adjacent farming operations;
- B. Clustered development, subject to the following conditions:
  - 1. Where clustered development is to be located on prime farmland, a maximum of four dwelling units, including existing dwelling units, may be clustered for each 160 acres of contiguous land. The maximum lot size permitted shall be 1 acre. There shall be no more than four dwelling units per cluster.
  - 2. Where clustered development is to be located on nonprime farmland, the number of dwelling units, including existing dwelling units, as determined under subsection 17.108.20 A of this chapter shall not exceed a ratio of one dwelling unit per 40 contiguous acres. There shall be no more than four dwelling units per cluster. No minimum or maximum lot size requirement applies, provided that land area requirements for water supply and sewage disposal systems are met.
  - 3. Clustered dwelling units shall have suitable access, adequate draining and roadway facilities, utilities and potable water.
  - 4. Clustered development shall not be located on prime farmland, where suitable and equivalent nonprime farmland exists on the property. The availability of water rights, location of utilities and access for development shall be taken into consideration in determining relative suitability. In determining whether land within the AP District is prime farmland, the County may rely upon maps delineating prime farmland areas, or it may require investigation of site by State or Federal agencies.
  - 5. For each dwelling unit approved in a clustered development, the property owner of the land on which the units are clustered shall execute an agricultural preservation easement restricting at least 40 contiguous acres of the property from further residential development, in a form substantially similar to Appendix B of the ordinance codified in this chapter and found on file in the office of the Planning Department. The property owner may include the area of the lots on which the dwelling units are to be situated in calculating the amount of land to which the easement applies. The easement shall provide for termination in the event that more than 50 percent of the property in the AP District is rezoned to a district that does not have as its primary purpose the preservation of agricultural land, or in the event of annexation of the property to the City of Lovelock.
  - 6. A special use permit application shall be accompanied by a subdivision map or parcel map depicting each lot to be developed for clustered dwelling units and showing the location of agricultural preservation easements granted;

C. Non-farm dwelling unit which is not part of a clustered development, subject to the following conditions:

1. If the dwelling unit is located on prime farmland, the maximum lot size shall be one acre. If the dwelling unit is located on nonprime farmland, no maximum lot size applies.
2. The unit shall have suitable access, and shall be adequately served by water, wastewater, drainage and roadway facilities.
3. The property owner shall execute an agricultural preservation easement, restricting at least 40 contiguous acres of the property, including the lot on which the dwelling unit is to be located, from further residential development. The easement shall be in a form substantially similar to Appendix B of the ordinance codified in this chapter and found on file in the office of the Planning Department. In the event that the property owner subsequently requests to include the lot as part of a clustered development, the easement may be modified in accordance with the provisions of subsection B of this section. The easement shall provide for termination in the event that more than 50 percent of the property in the AP District is rezoned to a district that does not have as its primary purpose the preservation of agricultural land, or in the event of annexation of the property to the City of Lovelock.
4. The special use permit application shall be accompanied by a parcel map depicting the lot and the agricultural preservation easement granted.

D. Agricultural service establishments subject to the following conditions:

1. Agricultural service establishments shall be located on nonprime farmland wherever possible.
2. Agricultural service establishments shall be incidental and necessary to the conduct of agriculture within the AP District.
3. Agricultural service establishments shall be located at least 300 feet away from any driveway affording access to a farm dwelling or field and at least 500 feet away from any non-farm dwelling.
4. The Planning Commission may establish minimum acreage requirements and screening or buffering requirements on the perimeter of the agricultural service establishment, as may be necessary under the circumstances, taking into consideration whether the establishment is to be owned and operated by the farm owner presently and in the future;

E. Feedlots with 1,000 head or more one time capacity, commercial slaughterhouses, dairies, hog farms or other similar operations; provided, that such operation shall be located more than ½ mile from any dwelling, except those dwellings located on the owner's contiguous property and located at least two miles from the Lovelock city limits;

F. Public utility and public service structures, including electric transmission and distribution lines, substations, gas regulator stations, communications equipment building, pumping

stations and reservoirs; provided, that such facilities shall be located at such places and constructed in such manner that they will not segment land of any one farm, and will not interfere with the conduct of agriculture by limiting or interfering with the access to fields, or the effectiveness and efficiency of the farmer and farm equipment, including crop-spraying aircraft;

- G. Bunkhouse/cook house complexes and similar structures for use by farm workers in conjunction with farming operations;
- H. Temporary structures for housing seasonal farm workers, subject to requirements applicable to temporary structures and temporary parking of mobile homes under this Title;
- I. Outdoor recreation areas;
- J. Churches, cemeteries, school, local government buildings and facilities and government-owned facilities for the maintenance of roads and highways. (Ord. 126 §4, 1992).

**Section 17.108.30 Dimensional Standards for Residential Dwellings.** Dimensional standards for farm dwellings and non-farm dwellings shall be as follows:

- A. Distance: No part of any dwelling shall be closer than 20 feet from any other structure, except for customary accessory structures such as a garage, tool shed, etc.
- B. Setback Regulations: The required setbacks are as follows:
  - 1. Front yard: There shall be a front setback having a depth of not less than 30 feet from the property line.
  - 2. Side yard: There shall be a side setback on each side of a building having a width of not less than 10 feet from the property line.
  - 3. Rear yard: There shall be a rear setback having a depth of not less than 30 feet from the property line.
- C. Flag lots: Residential dwellings within the AP District shall not be located on flag lots. (Ord. 126 §4, 1992).

**Section 17.108.35 Lot of Record Provision.** Any lot less than 40 acres in size existing at the time of adoption of this Land Use Ordinance, which does not contain an existing dwelling unit, may be used for purposes of constructing one non-farm dwelling unit, provided that the following conditions are met:

- A. That the deed for the parcel had been recorded prior to the effective date hereof;
- B. Dimensional requirements set forth in Section 17.108.30 of this chapter are complied with; and
- C. The dwelling unit is provided with suitable access and is adequately served with water, wastewater, drainage and roadway facilities. (Ord. 126 §4, 1992).

**Section 17.108.40 Rules Governing Density of Residential Development within AP Overlay District.**

- A. Density of Farm Dwellings: Farm dwellings, at a density of not more than one dwelling unit per 40 acres or one dwelling unit per 1/16 of a section, if the section is less than 640 acres.
- B. Density:
  - 1. Except for development authorized on lots of record pursuant to Section 17.108.35 of this chapter, the number of residential units which may be developed on the effective date hereof for any parcel of land within the AP District shall be determined by multiplying the number of acres by the base density, one unit per 40 acres, reducing that number by existing dwelling units on the property and by the number of nonconforming lots pursuant to Section 17.108.35 of this chapter.
  - 2. For purposes of this Section, a complex of farm dwellings located on a single parcel of farm property which is used as part of farming operations shall be considered as a single dwelling unit. However, if any dwelling unit in such a complex subsequently becomes a separate lot for purposes of sale or division, such unit shall be counted in determining density allowed under this Section.
- C. Maximum Number of Dwelling Units: Not more than four dwelling units may be constructed on any 160 acres of contiguous land within the AP District.
- D. Special Use Permit: The number of dwelling units which may be developed on any parcel in the AP Overlay District shall be reduced by the number of building permits issued for dwelling units permitted by right or by the number of units authorized by the granting of a special use permit for the property.
- E. Record of Dwelling Units: The County shall keep a record of the number of dwelling units which may be developed on each parcel of land within the AP District (Ord. 126 §4, 1992).

## CHAPTER 110

### AIRPORT OVERLAY DISTRICT

#### SECTIONS:

17.110.00	Purpose
17.110.05	Definitions
17.110.10	Reserved
17.110.15	Reserved
17.110.20	Reserved
17.110.25	Derby Field Height Restriction Zoning

**Section 17.110.00 Purpose.** The purpose of the overlay district is to maintain, preserve, and enhance the viability of the County's airport operations while being sensitive to surrounding land uses.

**Section 17.110.05 Definitions.** As used in this chapter, unless the context otherwise requires:

**Airport** - Derby Field

**Airport Elevation** – The highest point of an airport's usable landing area measured in feet from mean sea level. This elevation is three thousand nine hundred three feet (3,903) MSL as of the date hereof.

**Approach Surface** – A surface longitudinally centered on the extended runway center line, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in section 17.110.25 of this chapter. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.

**Approach, Transition, Horizontal, and Conical Zones** – These zones are set forth in section 17.110.25 of this chapter.

**Board of Adjustment** – A board consisting of five (5) members appointed by the county commissioners.

**Conical Surface** – A surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty to one (20:1) for a horizontal distance of four thousand feet (4,000').

**Hazard to Air Navigation** – An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

**Height** – For the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

**Heliport Primary Surface** – The primary surface coincides in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.

**Horizontal Surface** – A horizontal plane one hundred fifty feet (150') above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

**Larger Than Utility Runway** – A runway that is constructed for and intended to be used by propeller driven aircraft of greater than twelve thousand five hundred (12,500) pounds maximum gross weight and jet powered aircraft.

**Nonconforming Use** – any preexisting structure, object of natural growth, or use of and which is inconsistent with the provisions of this chapter or an amendment thereto.

**Non-precision Instrument Runway** – A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight in, non-precision instrument approach procedure has been approved or planned. It also means a runway for which a non-precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

**Obstruction** – Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in section 17.110.25 of this chapter.

**Person** – An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

**Precision Instrument Runway** – A runway having an existing instrument approach procedure utilizing an instrument landing system (ILS), a precision approach radar (PAR) or a global positioning system (GPS). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

**Primary Surface** – A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred feet (200') beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in section 17.110.25 of this chapter. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway center line.

**Runway** – A defined area on a airport prepared for landing and takeoff of aircraft along its length.

**Structure** – An object, including mobile object, constructed or installed by man, including, but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

**Transitional** – These surfaces extend outward at ninety degree (90°) angles to the runway center line and the runway center line extended at a slope of seven feet (7') horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of five thousand feet (5,000') measured horizontally from the edge of the approach surface and at ninety degree (90°) angles to the extended runway center line.

**Tree** – Any object of natural growth.

**Utility Runway** – A runway that is constructed for and intended to be used by propeller driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight and less.

**Visual Runway** – A runway intended solely for the operation of aircraft using visual approach procedures. (Ord. 177§ 2,2000)

**Section 17.110.10 Reserved**

**Section 17.110.15 Reserved**

**Section 17.110.20 Reserved**

**Section 17.110.25 Derby Field Height Restriction Zoning.** In order to carry out the provisions of this chapter, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Derby Field. Such zones are shown on the Derby Field part "77" airspace drawing consisting of one sheet, prepared by Armstrong consultants, and dated January 5, 1994, which is attached to ordinance 177, on file and available for inspection in the office of the county clerk and made a part hereof. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation.

A. The various zones are hereby established and defined as follows:

1. Precision Instrument Runway Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is one thousand feet (1,000') wide. The approach surface expands outward uniformly to a width of sixteen thousand feet (16,000') at a horizontal distance of fifty thousand feet (50,000') from the primary surface. The center line of the approach zone is the continuation of the center line of the runway.
2. Non-precision Instrument Runway Approach Zone (Utility Runway): The inner edge of this approach zone coincides with the width of the primary surface and is five hundred feet (500') wide. The approach zone expands outward uniformly to a width of two thousand feet (2,000') at a horizontal distance five thousand (5,000') from the primary surface. Its center line is the continuation of the center line of the runway.

3. Non-precision Instrument Runway Approach Zone (Larger than Utility Runway): The inner edge of this approach zone coincides with the width of the primary surface and is five hundred feet (500') wide. The approach zone expands outward uniformly to a width of three thousand five hundred feet (3,500') at a horizontal distance ten thousand feet (10,000') from the primary surface. Its center line is the continuation of the center line of the runway.
4. Visual Runway Approach Zone (Utility Runway): The inner edge of this approach zone coincides with the width of the primary surface and is five hundred feet (500') wide. The approach surface expands uniformly to a width of one thousand two hundred and fifty feet (1,250') at a horizontal distance of five thousand feet (5,000') from the primary surface. The center line of the approach zone is a continuation of the center line of the runway.
5. Visual Runway Approach Zone (Larger than Utility Runway): The inner edge of this approach zone coincides with the width of the primary surface and is five hundred feet (500') wide. The approach surface expands uniformly to a width of one thousand five hundred feet (1,500') at a horizontal distance of five thousand feet (5,000') from the primary surface. The center line of the approach zone is a continuation of the center line of the runway.
6. Transitional Zones: The transitional zones are the areas beneath the transitional surfaces.
7. Horizontal Zones: The horizontal zone is established by swinging arcs of ten thousand feet (10,000') radii from the center of each end of the primary surface of the primary runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
8. Conical Zone: The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of four thousand feet (4,000'). (Ord. 177 §3, 2000).

B. Airport Zone Height Limitations. Except as otherwise provided in this chapter, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this chapter to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. Precision Instrument Runway Approach Zone: Slopes fifty feet (50') outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of ten thousand feet (10,000') and continues on for a distance of forty thousand feet (40,000) at a slope of forth feet (40') outward for each foot upward along the extended runway center line.
2. Non-precision Instrument Runway Approach Zone (Larger Than Utility Runway): Slopes thirty four feet (34') outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of ten thousand feet (10,000') along the extended runway center line.

3. Visual Runway Approach Zone: Slopes twenty feet (20') outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand feet (5,000') along the extended runway center line.
  4. Transitional Zones: Slopes seven feet (7') outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of one hundred fifty feet (150') above the airport elevation. In addition to the foregoing, there are established height limits sloping seven feet (7') outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect with the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet (7') outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of five thousand feet (5,000') measured at ninety degree (90°) angles to the extended runway center line.
  5. Horizontal Zone: Established at one hundred fifty feet (150') above the airport elevation or at a height of four thousand fifty three feet (4,053') above mean sea level (MSL).
  6. Conical Zone: Slopes twenty feet (20') outward for each foot upward beginning at the periphery of the horizontal zone and at one hundred fifty feet (150') above the airport elevation (4,053 feet MSL) and extending to a height of three hundred fifty feet (350') above the airport elevation (4,253 feet MSL). (Ord.177 §4, 2000).
- C. Use Restrictions: Notwithstanding any other provisions of this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport. (Ord. 177 §5, 2000).
- D. Nonconforming Uses:
1. Regulations Not Retroactive: The regulations prescribed by this chapter shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date hereof, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date hereof, and is diligently prosecuted.
  2. Marking and Lighting: Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by Pershing County to indicate to the

operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of Derby Field. (Ord. 177 §6, 2000).

E. Permit: Future Uses: Except as specifically provided in subsections A1 and A2 of this section, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the regulating use, structure, or tree would conform to the regulations herein prescribed. An FAA form 7460-1, notice of proposed construction or alteration, shall also be submitted with the permit application. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this chapter shall be granted unless a variance has been approved in accordance with subsection D of this section.

(a). An FAA form 7460-1 shall not be required for any tree or structure of vertical height less than 200 hundred feet (200') above ground level and lower in height than an imaginary surface sloping one foot (1') vertical for every one hundred feet (100') horizontal from the nearest point of the nearest runway; except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed in section 17.110.25 of this chapter.

(b). No permit shall be required for any tree or structure which meets the standards for exception of notification in subsection A1 of this section and is less than thirty five feet (35') in vertical height above the ground; except when such tree or structure would extend above the height limits prescribed in section 17.110.25 of this section.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this chapter.

1. Exiting Uses: No permit shall be granted that would allow the establishment or creation of any obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date hereof or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
2. Nonconforming Uses Abandoned or Destroyed: Whenever Pershing County determines that a nonconforming tree or structure has been abandoned or more than eighty percent (80%) torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.
3. Variances: Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this chapter, may apply to the board of adjustment for a variance from such regulations. The application for variance shall be accompanied by a

determination from the federal aviation administration as to the effect of a proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this chapter.

Additionally, no application for variance to the requirements of this chapter may be considered by the board of adjustment unless a copy of the application has been furnished to Pershing County for advice as to the aeronautical effects of the variance. If the city does not respond to the application within fifteen (15) days after receipt, the board of adjustment may act on its own to grant or deny said application.

4. **Obstruction Marking and Lighting:** Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this chapter and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as condition may be modified to require the owner to permit Derby Field at its own expense, to install, operate, and maintain the necessary markings and light. (Ord. 177§ 7, 2000).

F. **Enforcement:** It shall be the duty of Pershing County to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the county upon a form published for that purpose. Applications required by this chapter to be submitted to the county shall be promptly considered and granted or denied. Application for action by the board of adjustment shall be forthwith transmitted by Pershing County. (Ord. 177§ 8, 2000) 17.80.090:

G. **Board of Adjustment:**

1. There is hereby created a board of adjustment to have and exercise the following powers: 1) to hear and decide appeals from any order, requirements, decisions, or determination made by Pershing County in the enforcement of this chapter. 2) to hear and decide special exceptions to the terms of this chapter upon which such board of adjustment under such regulations may be required to pass; and 3) to hear and decide specific variances.
2. The Board of County Commissioners shall be the board of adjustment.
3. The board of adjustment shall adopt rules for its governance and in harmony with the provisions of this chapter. Meetings of the board of adjustment shall be held at the call of the chairperson and at such other times as the board of adjustment may determine. The chairperson or, in the absence of the chairperson, the acting chairperson may administer oaths and compel the attendance of witnesses. All hearings of the board of adjustment shall keep records of its examinations and other official actions all of which shall immediately be filed in the office of the Pershing County planner and on due cause shown.
4. The board of adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts

in reversing, affirming, or modifying any order requirement, decisions, or determination which comes before it under the provisions of this chapter.

5. The concurring vote of a majority of the members of the board of adjustment shall be sufficient to reverse any order, requirement, decisions, or determination of Pershing County or decide in favor of the application on any matter upon which it is required to pass under this chapter, or to effect variation to this chapter. (Ord. 177§9, 2000).
- H. Appeals: Any person aggrieved, or any taxpayer affected, by any decision of Pershing County made in the administration of this chapter, may appeal to the board of adjustment.
1. All appeals hereunder must be taken within a reasonable time as provided by the rules of the board of adjustment, by filing with the Pershing County clerk a notice of appeal specifying the grounds thereof. Pershing County shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the action appealed from was taken.
  2. An appeal shall stay all proceedings in furtherance of the action appealed from unless Pershing County certifies to the board of adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of Pershing County cause imminent peril to life or property. In such case, proceeding shall not be stayed except by the order of the board of adjustment on notice to Pershing County and on due cause shown.
  3. The board of adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
  4. The board of adjustment may, in conformity with the provisions of this chapter, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decisions, or determination as may be appropriate under the circumstances. (Ord 177§ 10, 2000).
- J. Judicial Review: Any person aggrieved, or any taxpayer affected, by any decision of the board of adjustment, may appeal to the sixth judicial district court.(Ord. 177§ 11, 2000),
- K. Penalties: Each violation of this chapter or of any regulations, order, or ruling promulgated hereunder shall constitute a misdemeanor and shall be punishable by a fine or not more than one thousand dollars (\$1,000.00) or imprisonment for not more than six (6) months or both; and each day a violation continues to exist shall constitute a separate offense. (Ord. 177§ 12,200).
- L. Conflicting Regulations: Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitations or requirements shall govern and prevail. (Ord. 177§ 13, 2000).

CHAPTER 112

**PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT**

(This chapter reserved for future ordinance.)