

Division Seven: General Provisions

CHAPTER 700

TITLE AND CONTENTS

SECTIONS:

17.700.00 Title
17.700.05 Contents

Sections 17.700.00 Title. Division Seven of Title 17 is entitled “General Provisions”.

Section s 17.700.05 Contents. Division Seven consists of the following chapters:

Chapter 700 Title and Contents
Chapter 702 Definitions
Chapter 704 Nonconformance
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CHAPTER 702

DEFINITIONS

SECTIONS:

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| 17.702.05 | Applicability |
| 17.702.10 | Rules of Interpretation |
| 17.702.15 | General Definitions |

Section 17.702.00 Purpose. The purpose of the definitions section is to define terms that may be unfamiliar to the user of these Regulations. Words contained in this chapter are those having a special meaning relative to the purposes of this Code. Words not listed in this section shall be defined by reference to Webster's Third new International Dictionary, unabridged, 1993.

Section 17.702.05 Applicability. Certain words and phrases are defined and certain provisions shall be construed as set out in this Chapter unless it shall be apparent from the context that they have a different meaning. All words used in the present tense include the future; all words in the singular include the plural; the word "building" includes the word "structure", the word "shall" is mandatory; the word "person" includes a "firm", association," "corporation," partnership" and "natural person"; the word "used" includes the words "arranged" "designed" or "intended to be used"; the word "construct" includes the words "erect," "reconstruct," "after," "move," and "move upon."

Sections 17.702.10 Rules of Interpretation. The following general rules of interpretation shall apply to the textual provisions of the Development Code:

- A. **Section Reference.** "Section" means a section of the ordinance codified in this Development Code unless some other ordinance is specifically mentioned. "Subsection" means the subsection of the section in which the term occurs unless some other section is specifically mentioned.
- B. **Definitions.** The Director of Planning and Building shall have the authority to determine the applicable definitions source (i.e., Webster's Collegiate Dictionary, Uniform Building Code, Uniform Fire Code, etc.) in the event of a conflict.
- C. **Shall and May.** "Shall" is mandatory and "may" is permissive.
- D. **Statutory References.** Whenever reference is made to any portion of the ordinance codified in this Development code, or of any other ordinance of this County or of any law of this state, the reference applies to all amendments and additions now and hereafter made.

Section 17.702.15 General Definitions.

Accessory Building – An "accessory building" is a subordinate building or part thereof, the use of which is incidental to that of the main building or a potential main building.

Accessory Use – A use that: a) is clearly incidental to and customarily found in connection with a principal building or use; b) is subordinate to and serves a principal building or a principal use; c) is subordinate in area, extent, or purpose to the principal building, structure or use served; d) contributes to the comfort, convenience, or necessity of occupants, business or industry in the principal building, structure, or use served; and e) is located on the same lot as the principal building, structure or use served.

Acre – A measure of land area containing 43,560 square feet.

Adult Day Care – Adult day area, as defined in NRS 449.004 is a facility for the care of adults during the day in which aged or infirm adults received care on a temporary or permanent basis.

Agriculture – “Agriculture” means the production, keeping or maintenance of plants and animals useful to man including, but not limited to, forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, or any mutations or hybrids thereof, including the breeding and grazing of any such animals; bees and apiary products; fur bearing animals; trees and forest products; fruits of all kinds, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program.

Agricultural, Commercial. “Commercial agriculture” means the use of land for the purpose of producing an agricultural commodity for economic purposes.

Agricultural Commodity. “Agricultural commodity” means any and all plant and animal products produced in the state of Nevada for commercial purposes.

Agricultural Preservation District – An overlay district for which the main purpose is the preservation of agricultural lands.

Agricultural Service – “Agricultural service” means establishments providing services that are primarily related to agricultural, such as:

- A. Establishments engaged in performing agricultural, animal husbandry or horticultural services on a fee or contract basis;
- B. Hay baling and thrashing, sorting, grading and packing for the grower;
- C. Agricultural produce, milling and processing;
- D. Crop dusting;
- E. Grain or seed cleaning;
- F. Land grading (solely in connection with agricultural or horticultural activity);
- G. Harvesting and plowing;
- H. Farm equipment service and repair;
- I. Boarding and training of horses;

- J. Farm stands for the sale of an agricultural commodity;
- K. Farm chemical sales;
- L. Farm equipment sales;
- M. Bee keeping;
- N. Operation of game reserves; and
- O. Veterinary services.

Alley – A minor public right-of-way or minor private easement other than a street not intended for general traffic circulation and which provides only a secondary means of public access to abutting property which also has principal access to a street.

Animal Kennel – Any structure or premises in which animals are boarded, groomed, bred, or trained for commercial gain.

Annexation – The incorporation of land area into an existing community with a resulting change in the boundaries of that community.

Apartment House – “Apartment House” means the same as dwelling, multiple.

Automobile Parking Area – “Automobile parking areas” means a fully accessible space for the parking of an automobile (Ord. 70 Art. 3 (B)(4), 1980).

Automobile Repair Establishment – Any business establishment where a substantial portion of the work performed involves the body, engine or window repair, modification or restoration of automobiles, trucks or other motor vehicles, including motorcycles and motor-operated boats, such repair is exclusive of oil and lubricant changes, tire and battery maintenance and installation.

Berm – A mound of earth, or the action of moving earth into a mound.

Bill Board – “Billboard” means an outdoor advertisement making a material or service known, such advertisement being remote from point of sale of such material or service.

Board – The Board is formally known as the Pershing County Board of County Commissioners.

Bond – A form of security including a cash deposit, surety bond, or instrument of credit in an amount and form satisfactory to the County’s Attorney.

Building – “Building” means any structure having a roof supported by columns or walls and used for the enclosure of persons, animals or chattels, but not including a trailer or mobile home, but including a manufactured home or modular home.

Building, Farm – “Farm Building” means any building or accessory structure other than a farm or non-farm dwelling which is used in farming operation, including, without limitation, a barn, granary, silo, shop, farm implement storage building or milk house.

Building, Main - “Main building” means a building devoted to the principal use of the lot upon which it is situated.

Building Permit – Written permission issued by the County for the construction, repair, alteration, or addition to a structure.

Building, Principal – “Principal building” means a building or group of buildings, including a mobile home, within which is conducted the principal use of the lot on which the building is located.

Building Setback – “Building setback” means the distance between the property line and the nearest portion of a building on the property.

Buffer – Open spaces, landscaped areas, fences, walls, berms or any combination thereof used to physically separate or screen one use of property from another so as to visually shield or block noise, lights, or other nuisances.

Caretaker – One who resides on property full or part time for the purpose of maintaining and protecting the property.

Carport – “Carport” means an accessory building having two or more open sides, used by occupants for the parking of an automobile. (Ord. 70 Art. 3(B) (11), 1980).

Cemetery – “Cemetery” means land used for the interment of the dead, including crematoriums, mausoleums and mortuaries, when operated in conjunction with and within the boundary of such cemetery. (Ord. 70 Art. 3 (B)(11), 1980).

Child Care Facility – A child care facility, as defined by NRS 432A.024, is an establishment which is compensated for the purpose of furnishing care on a temporary basis or permanent basis, during the day or overnight, to five or more children under 18 years of age. A child care facility as defined by the State does not include the home of a natural parent or guardian, foster home as defined in NRS 424 or a maternity home or a home in which a person provides care for children of a friend or neighbor for not more than 4 weeks and that person is not normally engaged in the care of children.

Church – A building or structure, or groups of buildings or structures that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

Clustered Development – “Clustered Development” means two or more dwelling units.

Clustered Development in the Agricultural Preservation Overlay District – “Clustered development” means two or more non-farm dwelling units, which may be combined with a farm dwelling unit, developed on small lots within the AP Overlay District. The maximum number of units in any cluster will be four.

Commercial – Of, in, or relating to commerce; a zoning classification for business use.

Commercial Slaughterhouse – A commercial establishment for the butchering and processing of animals to be used for consumption by humans and other animals.

Community Service – Uses providing services to the general public through the sponsorship of a government or not-for-profit agency.

Conditional Use Permit - A permit issued by the proper governmental authority that must be acquired for operation of facility for use, manufacturing, processing transfer or storage of explosives or certain other substances.

County – Means Pershing County, Nevada.

Dairy – Any establishment for the processing of dairy products, including cheese and milk.

Density – The average number of dwelling units per unit of land; the density is usually expressed as dwellings per acre.

Development – Any man-made 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 materials or equipment or any other activity which requires the issuance of a permit.

Development, Rural – Development not requiring centralized water or wastewater service, such as any residential lot smaller than two acres.

Development, Urban – Development requiring centralized water and/or wastewater service, such as any residential lot smaller than two acres.

Director – The Director is also referred to as the Director of the Planning and Building Department and is appointed by the Board of County Commissioners. The definition of Director shall also include his/her designee.

Drainage – (1) Surface water runoff; (2) the removal of surface water or groundwater from land by drains, grading, or other means, which include runoff controls to minimize erosion and sedimentation during and after construction or development.

Drainage System – Pipes, swales, natural features, and man-made improvements designed to carry drainage.

Dwelling – Dwelling means any building, or portion thereof, which is designed and used exclusively for residential purposes, but not including hotels, clubs, boarding or rooming houses or institutions.

Dwelling, Farm – “Farm Dwelling” means, within the AP district only, a single-family dwelling located on a farm which is used or intended for use by the farm’s owner, a relative of the owner, or a person employed thereon for farm-related purposes situated on at least a forty-acre parcel of land. (Ord. 126§ 2 (part) 1992).

Dwelling Unit – “Living Unit Dwelling” means a building, manufactured home, or portion thereof containing one kitchen, designed and/or used to house not more than one family, including necessary employees of such family. (Ord. 70 Art 3 (B) (16), 1980).

Dwelling, Multiple – “Multiple dwelling” means a building or manufactured home designed and/or used to house two or more families, living independently of each other, including necessary employees of such families. (Ord. 70 Art. 3 (B) (15), 1980).

Dwelling, Non-farm – “Non-farm Dwelling” means, within the AP district only, a single family detached dwelling located on a farm or other land which is not a farm dwelling. (Ord. 126 §2 (part), 1992).

Dwelling, Single-Family – “Single-Family Dwellings” means a building or manufactured home containing one kitchen, designed and/or used to house not more than one family, including necessary employees of such family. (Ord. 70 Art. 3 (B) (14), 1980).

Easement – A permanent or temporary grant of right by a landowner to the public, a corporation or other persons, of the use of a portion of a lot or tract of land for specified purposes where title to a portion of the lot or tract of land remains with the landowner.

Easement, Conservation – The grant of property right stipulating that the described land will remain in its natural state precluding future or additional development.

Egress – An exit.

Electricity Generating Plant – Any plant designed to produce electricity.

Family – “Family” means one person living alone, or two or more persons related by blood, marriage or legal adoption, or a group not exceeding six persons living as a single housekeeping unit.

Farm – “Farm” means real property used for producing a commercial agricultural commodity comprising at least 40 continuous acres and which may contain other contiguous or noncontiguous acreage. (Ord. 126 § 2 (part) , 1992).

Farm Stand – “Farm Stand” means a booth or stall located on a farm from which produce and farm products are sold to the general public. (Ord. 126 §2 (part), 1992).

Farmland, Prime – “Prime Farmland” means all land which qualifies as prime farmland as defined by the National Soil Conservation Service General Manual 310-401.10 (June 1984) and land which qualifies as farmland of statewide importance as defined by the Nevada Department of Conservation and Natural Resources (file 310-11, Oct. 1983). These definitions are attached by reference as Appendix A, found on file in the office of the Pershing County Clerk.

Feedlot – “Feedlot” means a confined area or structure used for feeding, breeding or holding livestock for eventual sale, but not including barns, pens or other structures used in a dairy farm operation.

Feedlot, Commercial – Any feedlot with more than 1,000 head for the purpose of feeding, breeding or holding livestock for eventual sale, but not including barns, pens or other structures used in a dairy farm operation.

Fence – A freestanding structure intended to provide privacy, prevent escape or intrusion or to redirect a person’s direction of travel. A fence may be constructed of posts, wire, boards, stone or any standard building materials. Fence section 16 feet or less in cumulative horizontal

lengths, 4 feet or less in height and unattached to a fence shall be considered a landscape element and not a fence. Property line fencing for open range areas shall be as defined in NRS 569.431.

Final Development Plan – A final development plan for a Planned Unit Development is a blueprint for the development of a PUD project over the length of time the project is in development and is based on the approved Tentative Plan.

Final Map – A final map of all or a portion of a subdivision is presented for review to the approving authority for final approval to allow subdivision of a parcel or parcels, or in the case of a Planned Unit Development, for the approval of a planned unit development project. It is preceded by a Tentative Map, and in the case of a PUD, a Tentative Plan precedes the Map.

Floodplain – That area within the floodway and the floodway fringe.

Floodway – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge a flood having a one percent chance of being equaled or exceeded in any given year without cumulatively increasing the water surface elevation more than one foot at any point assuming equal conveyance reduction outside the channel from the two sides of the floodplain.

Floodway Fringe – The area outside the floodway that is subject to a one percent chance of flooding in any given year.

Fuel – Any flammable liquid or gas that is used in the operation of combustion-engine machinery or for heat production; any material that is used to create heat or power, such as coal, coke, peat or wood.

General Services – Establishments primarily engaged in providing assistance, as opposed to products, to individuals, business, industry, government and other enterprises, including hotels and other lodging places; personal business, repair and amusement services; health, legal, engineering and other professional services; educational services; membership organization; and other miscellaneous services.

Group Homes – Group homes, as defined in NRS 435.007 and NRS 449.017, are a residential facility for groups which, in a homelike atmosphere, furnish food, shelter, assistance and limited supervision to any aged or infirm persons with disabilities; or four or more females during pregnancy or after delivery.

Group Living – Residential uses for groups of unrelated individuals not living as families.

Hearing – A trial or scheduled meeting in which an individual or individuals are given notice and opportunity to respond to particular matters.

Hog Farm – Any agricultural unit in which pigs, hogs or swine are fed, raised and processed.

Horticulture – “Horticulture” means the use of land for the growing or production of fruits, vegetables, flowers, nursery stock, including ornamental plants and trees, and cultured sod. (Ord. 126§2(part), 1992).

Household Living – Residential uses catering to families.

HUD Code – The National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. §§ 5401 *et seq.*, as amended) and the regulations promulgated by the United States Department of Housing and Urban Development thereto (24 C.F.R. part 3282), commonly known as the “HUD Code”.

Impervious Area - Any area covered with material that prevents the absorption of storm water into the ground.

Industrial – The classification of certain activities which are intensive in nature and may cause harm to the environment, including the use of chemicals and man-made substances, petroleum and the emission of byproducts from burning, refining, manufacturing or producing products and services; a zoning classification which groups uses which may involve heavy machinery, create excessive noise or dust, generate large amounts of commercial traffic, or otherwise have the potential for being a nuisance.

Industrial – Carrying out business which is industrial in nature.

Ingress – Access or entry.

Irrigation System – “Irrigation system” means any structure or equipment, mechanized or other, used to supply water for commercial agriculture or horticulture, including, but not limited to, wells, pumps, motors, pipes, culverts, gates, dams, ditches, tanks, ponds and reservoirs.

Junkyard – “Junkyard means any space used for storage, abandonment or sale of junk, scrap material or similar waste, including the dismantling, demolition or abandonment of automobiles, other vehicles, machinery or parts.

Kennel – Any place, area, building or structure where cats or dogs are kept, boarded, bred or trained, whether or not for commercial gain or as pets pursuant to Pershing County Code 6.08.

Landscaping – (1) An expanse of natural scenery; (2) lawns, trees, plants, and other natural materials, such as rocks and wood chips, and decorative features, including sculpture, patterned walks, fountains and pools.

Lot – “Lot” means a distinct part of parcel of land with the intent to transfer ownership or for building purposes and which abuts upon a means of legal access. (Ord. 70 Art. 3 (B) (20), 1980).

Lot Depth – “Lot Depth” means the distance between the front and rear lot lines, measured between the side lot lines.

Lot Front Line – “Lot front line” means the narrowest lot dimensions fronting on a street.

Lot Line – A line of record bounding a lot which divides one lot from another lot or from a street right-of-way or easement line or any other public space.

Lot Width – “Lot Width” means the distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear line.

Manufactured Home – Factory-built, single-family structures that are certified under the HUD Code.

Manufactured Home Park – Any site, lot, or tract of land upon which two or more occupied manufactured homes, which are either wholly or are in substantial part manufactured at an offsite location to be wholly or partially assembled on the site in accordance with regulations adopted by the division pursuant to N.R.S. 461.170 (but does not include a mobile home as defined in N.R.S. 461A.050), are harbored, either free of charge, or for revenue purpose.

Manufactured Home, Single-Section – A manufactured home assembled in one section not exceeding 16 feet in width.

Manufactured Home Subdivision. A subdivision of land where the individual lots are sold for the placement of manufactured homes, and upon which the lot and structure are intended to be owned by the same party.

Material or Substantial Change – “Material or Substantial Change” means any modification or amendment to a development application or permit that involves a change in density or intensity of residential uses, substantial change to the floor area of nonresidential uses, provision for adequate public facilities, buffer requirements established to protect use of adjoining property, or change to special conditions attached to the original application or permit to protect environmental resources or to prevent harm to the public health, safety and welfare. (Ord. 126 §2(part), 1992).

Mining – “Mining” means the act of extracting ore from the earth; also the operation of a mill site and exploration for ore. (Ord. 70 Art. 3(B)(24), 1980).

Minor Change – “Minor change” means any modification or amendment to a development application or permit which is not a material or substantial change. (Ord. 126 §2(part), 1992).

Mobile Home – A single-family dwelling, factory-built and factory-assembled residence which is not certified pursuant to the HUD Code.

Modular Home – As defined in N.R.S. 461.1143, a factory-build structure, which is wholly manufactured or in substantial part manufactured at an offsite location to be wholly or partially assembled on the site, under the authority of N.R.S. 461.170, and is to be used as a place for human habitation as defined by a dwelling unit.

Nonconforming Use, Building, Lot or Yard – A use, building, lot or yard which does not, by reason of design, use or established dimensions, conform to these regulations for the district in which the use, building, lot or yard is situated; which complied with the applicable regulations at the time it was established; and which existed as such on the date of adoption of these regulations.

Nuisance – An interference with the enjoyment and use of property.

Offices or Office Building – A building used primarily for conducting the affairs of a business, profession, service, industry, or government, or like activity, and may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper stand and child-care facilities.

Off-street Parking – A temporary storage area for a motor vehicle that is directly accessible to an access aisle and that is not located on a dedicated street right-of-way.

Overlay District – The purpose of the overlay district is to superimpose special standards over the base land use district, which serve to complement and enhance the character of the community and to provide compatibility with surrounding uses consistent with the master plan. The individual purpose statement for each overlay district is found within the respective district chapter of this development code.

Open Space – Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such open space.

Outdoor Recreation Area – Any area designated for outdoor recreation including parks, sports playing fields and open spaces.

Parcel or Parcel of Land – “Parcel” or “Parcel of Land” means any unit or contiguous units of land in the possession of or recorded as the property of a person.

Parcel Map – A map utilized for the division of a portion of land into four or less lots, parcels, sites, units, plots or interests.

Personal Services – Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel. Personal services include, but are not limited to: laundry, including pressing and cleaning service, linen supply, diaper service, beauty shops, barber shops, shoe repair, funeral services, steam baths, reducing salons and health clubs, clothing rental, locker rental, porter service and domestic services.

Phased Development – Developments planned to be constructed in two or more distinct phases, to be completed at different times.

Planned Unit Development – means an area of land controlled by a landowner, which is to be developed as a single entity for one or more public, quasi-public, commercial or industrial areas, or both. Unless otherwise stated, “planned unit development” includes the term “planned unit residential development.”

Planning Commission – “Planning Commission” means the county regional planning commission. (Ord. 88(part), 1988: Ord. 70 Art. 3(B)(32), 1980).

Plat – A map or drawing to scale showing a division or divisions of a tract of real property or showing the boundaries of a lot or lots resulting from the subdivision of a tract of real property as provided in these regulations.

Pollutant – Any introduced gas, liquid or solid that makes a resource unfit for a specified purpose.

Preliminary Approval – Preliminary approval means the conferral of certain rights, prior to final approval, after specific elements of a development have been approved by the approving authority and agreed to by the applicant.

Preliminary Plan – A plan indicating the proposed layout of site plan, which is submitted to the approving authority for preliminary approval.

Prohibited Use – A use that is not permitted in a land use district.

Public Hearing – A hearing in which the general public is invited to attend and submit comments and opinions.

Public Improvement – Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established. All improvements must be properly secured.

Public Service and Utility Structure - Any structure designed for the benefit of the general public, including utility facilities, buildings, structures, and facilities, including electric transmission and distribution lines, substations, gas regulator stations, generating and switching stations, poles, lines, pipes, pumping stations, repeaters, antennas, communications equipment buildings or equipment cabinets, transmitters and receivers, valves, reservoirs, and all buildings and structures relating to the furnishing of utility services, such as electric, gas, telephone, water, sewer, and public transit, to the public.

Public Sewer – Any system, other than an individual septic tank, tile field, that is operated by a municipality, county, government agency, or a public utility for the collection, treatment, and disposal of wastes.

Public Water – Any system providing water service that is operated by a municipality, county, government agency, or a public utility.

Public Utility – A regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety, and welfare.

Required Area – “Required Area” means minimum area of a lot or parcel necessary to permit its use under the provisions of this title.

Required Width – “Required Width” means the minimum width as required by this title.

Reserve Strip – A privately owned tract of land between the dead end of a street and the property boundary of the parcel in which the street was created.

Residential – A zone classification designated for homes, or places where individuals live at a specific point in time.

Rezoning – To change the zoning classification of particular lots or parcels of land.

Salvage Yard – (also wrecking yard or junk yard) – Any yard in which materials are collected in order to be disposed of or for future reuse.

School – Any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge.

Section – A portion of land measured as 640 acres, one square mile, or one thirty-sixth of a township.

Setback – The minimum required distance between a building and any lot line.

Sewer System – Any pipe or conduit used to collect and carry away sewage or storm water runoff from the generating source to treatment plants or receiving streams.

Sign – “Sign” means an outdoor advertisement making a material or service known and located at the place of business.

Single-Family Residence – “Single-Family Residence” means a dwelling in which persons related by blood, adoption or marriage or not more than six unrelated persons live.

Site Plan – The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, floodplains, wetlands, and waterways; landscaping and open spaces; walkways; means of ingress and egress; circulation; utility services; structures and buildings; signs and lighting; berms, buffers, and screening devices; surrounding development; and any other information that reasonably may be required in order that an informed decision can be made by the approving authority.

Special Use Permit – A permit issued by the proper governmental authority that must be acquired before a special exception use can be operated or constructed.

Storm water Facility – A facility used for the retention, detention and conducting of storm water to, through and from drainage areas to points of final outlet including, but not limited to, any of the following: conduits and appurtenant features, canals, ditches, streams, gullies, flumes, culverts, streets, gutters and pump stations. A storm water detention facility includes dry basins, parking lots, infiltration basins and buffer strips. A storm water detention facility includes permanent retention in a wet basin, pond or lake.

Street – “Street” means a public thoroughfare 30 feet or more in width which affords a primary means of access to abutting property.

Structure – “Structure” means any construction except a fence, tent, or vehicle.

Structure, Temporary – “Temporary structure” means a structure intended and installed not to exceed one year’s duration and to be removed entirely at the expiration thereof.

Subdivision – Any land or portion of land, vacant or unimproved, which is divided or proposed to be divided into five or more lots, parcels, sites, units or plots for the purpose of any transfer or development or of any proposed transfer or development, whether immediate or future, unless exempted by NRS 278.320.

Tentative Map – Means a map made to show the design of a proposed subdivision and the existing conditions in and around it.

Travel Trailer – means a mobile unit either less than 30 feet long or with a gross weight less than 4,500 lbs and used as a temporary dwelling for travel, recreation or vacation with a body width of not more than eight feet and permanently identified as a travel trailer by caption on the unit by the manufacturer.

Urbanizing – The process of making or becoming urban over time.

Utility – See Public Service and Utility Structures.

Variance – Permission to depart from the literal requirements of a zoning ordinance.

Watershed Area – The drainage basin, catchments, or other area of land that drains water, sediment, and dissolved materials to a common outlet at some point along a stream channel.

Yard – “Yard” means an open space on the same lot or parcel with the building, extending from the building to the nearest lot line, to be unoccupied and unobstructed except as provided by this title. (Ord. 88(part), 1988: Ord. 70 Art. 3(B)(42), 1980).

Yard, Front – “Front Yard” means a yard lying between the front of the building and the front line and extending across the full width of the lot or parcel. (Ord. 88(part), 1988: Ord. 70 Art.3(B)(43), 1980).

Yard, Rear – “Rear Yard” means a yard between the building and the rear line and extending across the full width of the lot or parcel. (Ord. 88(part), 1988: Ord. 70 Art. 3(B)(45), 1980).

Yard, Side – “Side Yard” means a yard lying between the side lot line and the building extending from the front yard line to the rear yard line.

Zone or Regulatory Zone – A specifically delineated area or district in the County within which uniform regulations and requirements govern the use, placement, spacing, and size of land and buildings.

CHAPTER 704

NONCONFORMANCE

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Section 17.704.00 Purpose. The purpose of Chapter 704, Nonconformance, is to regulate lots, structures and uses of land and structures which were lawful before the adoption or amendment of this Development Code, but which no longer comply.

Section 17.704.05 Finding of Incompatibility. Nonconforming uses and structure are declared to be incompatible with permitted uses, structure and standards in the regulatory zone(s) involved. They shall not be enlarged upon, expanded, extended or replaced, not be used as ground for adding other structures or uses prohibited elsewhere in the same regulatory land use district, except as may be expressly permitted in this Chapter.

Section 17.704.10 Types of Nonconformance. This section regulates the categories of nonconformance listed below. If a nonconforming use falls into two or more categories, it shall be subject to the regulations of each category.

- A. **Nonconforming Lot.** A lot which was legal when brought into existence but does not conform to the current lot size or shape requirements of the regulatory land use where it is located. A nonconforming lot is subject to the provisions of Section 17.704.15
- B. **Nonconforming Use of Land.** A use which does not involve a structure and which was legal when brought into existence but does not conform to the current uses allowed in the regulatory zone where it is located. A nonconforming use of land is subject to the provisions of Section 17.704.20.
 - 1. Any structure associated with such use shall not be enlarged or increased by more than 20 percent than was occupied on the effective date of this chapter. Expansions in structural area must be accompanied by sufficient increases in on- and off-street parking and landscaping as may be required by this Development Code.

2. Except for agricultural activities, if such a use ceases for any reason for a period of more than 12 consecutive months, any subsequent use of such land shall conform to the requirements of this Development Code for the regulatory land use district in which it is located.
 3. A non-conforming mobile home or manufactured home not located in a manufactured home park and having been removed from its foundation or pad for a period of one year or longer shall constitute abandonment of the use and must comply with the provisions of this code. Evidence of intent to abandon the non-conforming mobile home or manufactured home use is not required; and
 4. The storage of inoperable vehicles in contravention to the provisions of the Development Code shall not be considered a nonconforming use and shall be required to conform to the provisions of this Development Code.
- C. Adding New Uses or Structures. When a nonconforming use exists on any lot, no new use or structure shall be established or built on such lot unless the lot area, dimensions and yards provided for each existing and proposed use or structure conform to the requirements of this Development Code for the regulatory land use district in which the lot is located.
- D. Change to Another Nonconforming Use. A nonconforming use of land shall not be changed to another nonconforming use of land.
- E. Notification of Expansion and Protest. Upon receipt of the application, the property shall be posted with notification of the proposed expansions. If protests are received from 35 percent or more of the property owners within the 300-foot limit within 20 days of the posting, the requested expansions shall require processing in accordance with Chapter 17.606, Special Use Permits.

Section 17.704.15 Nonconforming Lot. A nonconforming lot containing a building or structure may continue to be used as a building site as long as other provisions of this Chapter, including yard, coverage, sewer, water and drainage requirements are met. A nonconforming lot may be used as a building site, provided the access requirements, building setback requirements and infrastructure requirements of this Development Code are met. The owner must also demonstrate to the satisfaction of the Director that the parcel was lawful at the time it was created and no reasonable alternative exists to make the non-conforming lot conforming, i.e., the addition of adjoining land under the property owner's control.

Section 17.704.20 Nonconforming Use of Land. The nonconforming use of land shall be subject to the provisions of this section.

- A. Application Required. Application for expansion shall be submitted to the Director of Planning and Building, in writing, together with a site plan showing the existing uses, detailing the type and amount of the proposed expansion and the names and addresses of all adjacent property owners (see Definitions) within 300 feet of the property.
- B. Continuation. A nonconforming use of land may be continued as long as it remains otherwise lawful, subject to the following provisions:

1. Any structure associated with such use shall not be enlarged or increased by more than 20 percent than was occupied on the effective date of this chapter. Expansions in structural area must be accompanied by sufficient increases in on-and off-street parking and landscaping as may be required by this Development Code.
 2. Except for agricultural activities, if such a use ceases for any reason for a period of more than 12 consecutive months, any subsequent use of such land shall conform to the requirements of this Development Code for the regulatory land use district in which it is located;
 3. A non-conforming residential use which has been unoccupied for a period of one year or more shall not be considered discontinued unless the structure has been lawfully changed to a non-residential use. No such non-conforming residential use shall be allowed to increase the number of dwelling units without complying to the provisions of this chapter;
 4. A non-conforming mobile home or manufactured home not located in a manufactured home park and having been removed from its foundation or pad for a period of one year or longer shall constitute abandonment of the use and must comply with the provisions of this code. Evidence of intent to abandon the non-conforming mobile home or manufactured home use is not required; and
 5. The storage of inoperable vehicles in contravention to the provisions of the Development Code shall not be considered a nonconforming use and shall be required to conform to the provisions of this Development Code.
- C. Adding New Uses or Structures. When a nonconforming use exists on any lot, no new use or structure shall be established or built on such lot unless the lot area, dimensions and yards provided for each existing and proposed use or structure conform to the requirements of this Development Code for the regulatory land use district which the lot is located.
- D. Change to Another Nonconforming Use. A nonconforming use of land shall not be changed to another nonconforming use of land.
- E. Notification of Expansion and Protest. Upon receipt of the application, the property shall be posted with notification of the proposed expansion. If protests are received from 35 percent or more of the property owners within the 300-foot limit within 20 days of the posting, the requested expansion shall require processing in accordance with Chapter 17.606, Special Use Permits.

Section 17.704.25 Nonconforming Use of Structure. The nonconforming use of a structure shall be subject to the provisions of this section.

- A. Application Required. Application for expansions shall be submitted to the Director of Planning and Building, in writing, together with a site plan showing the existing uses, detailing the type and amount of the proposed expansions and the names and

addresses of all adjacent property owners (see Definitions) within 300 feet of the property.

B. Continuation. A nonconforming use of a structure may be continued as long as it remains otherwise lawful, subject to the following provisions:

1. Such structure shall not be enlarged or increased by more than 20 percent than was occupied on the effective date of this chapter or altered except as specifically provided for by this section.
2. If the use of the structure is discontinued or abandoned for any reason for a period of more than 12 consecutive months, any subsequent use of the structure shall conform to the regulations of the regulatory zone in which it is located;
3. If the structure is partially or totally destroyed, the nonconforming use of the structure may be rebuilt provided a building permit is acquired within six months of the damaging event. If the structure is destroyed by more than 50 percent of the fair market value, the structure shall not be repaired or reconstructed except in conformity with this Development Code and applicable Building and Fire Codes. All work shall be commenced within one year from the date of the damage and completed within one year thereafter.
4. Should such structure be moved for any reason any distance whatever, it shall thereafter conform to the regulations for the regulatory land use district in which it is located;
5. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part there declared to be unsafe by any county or state official charged with protecting the public health or safety, upon order or such official.

C. Adding New Structures. When a nonconforming structure exists on any lot, no new use or structure shall be established or built on such lot unless the lot area, dimensions and yards provided for each existing and proposed use or structure conform to the requirements of this Development Code for the regulatory land use district in which the lot is located.

Section 17.704.30 Nonconforming Development. A nonconforming development shall be subject to the provisions of this section. Existing conforming buildings or uses whose off-street parking and loading do not conform to the provisions of this Development Code may be expanded or have facilities added, and one conforming use may be changed to another, provided that the requirements for off-street parking and loading spaces are complied within accordance with this Development Code.

Section 17.704.35 Nonconforming Parking. The maintenance, repair and alterations of a use with nonconforming parking is permitted without limitation provided the use does not increase the need for off-street parking. If required, additional off-street parking shall be in accordance with the following guidelines:

- A. Where the modifications result in an increase in the applicable unit of measurement (dwelling unit, floor area, capacity number of seats, etc.) which is 50 percent or less of

the original total, additional parking shall be required only for this new or modified part of the development.

- B. Where the modifications result in an increase in the applicable unit of measurement which is over 50 percent of the original total, sufficient off-street parking shall be provided to bring the entire development into conformance with the requirements of the regulatory land use district in which the use is located.

Section 17.704.40 Nonconforming Signs. All non-conforming signs shall be removed in accordance with the 1994 Uniform Sign Code (Ordinance 153, April 18, 1997). Any non-conforming sign which has been damaged in excess of 50 percent of its replacement cost by fire, wind or other cause except vandalism shall not be restored without conformance with the provisions of this Development Code and the adopted Uniform Sign Code.

Section 17.704.45 Replacement Cost. In the absence of proof to the contrary, replacement cost as used in this article shall mean the assessed value of the building or structure at the time of destruction.

Section 17.704.50 Requirement for Bringing a Nonconforming Use of Land or Structure into Compliance with the Development Code. Except as provided for in this Chapter, a nonconforming use of land or a nonconforming use of a structure shall be brought into conformance with the provisions of this Development Code at the time that a ministerial permit (i.e., building permit) is issued, or at the time that an approved discretionary permit (i.e., special use permit) becomes effective.

Section 17.704.55 Exceptions Exception to these provisions shall be as follows:

- A. Residences. Non-conforming residences shall be allowed to provide private garages or sanitary facilities without complying with this section as long as the garage or sanitary facility is in conformance with all other adopted codes. Such additions shall comply with all requirements of the regulatory land use district in which they are located.
- B. Variance. The Director of Planning and Building may vary the provisions of this section when all of the criteria set forth in this section have been affirmatively satisfied by the applicant. Application and processing shall be in accordance with the provisions of this Development Code.

CHAPTER 706

ENFORCEMENT

SECTIONS:

| | |
|-----------|---------------------------------|
| 17.706.00 | Purpose |
| 17.706.05 | Responsibility for Enforcement |
| 17.706.10 | Applicability |
| 17.706.15 | Identification of Director |
| 17.706.20 | Inspection by Director |
| 17.706.25 | Types of Violation |
| 17.706.30 | Continuing Violation |
| 17.706.35 | Enforcement Procedures |
| 17.706.40 | Remedies and Enforcement Powers |
| 17.706.45 | Penalties |

Section 17.706.00 Purpose. The purpose of Chapter 706, Enforcement, is to provide guidelines for the enforcement of the Development Code.

Section 17.706.05 Responsibility for Enforcement. The following shall enforce the provisions of the Development Code.

- A. All officials charged with the issuance of licenses and permits;
- B. The Director of Planning and Building or his/her designee; and/or
- C. All officials possessing citation powers applicable to the enforcement of land development regulations.

Section 17.706.10 Applicability. Any building or structure erected or maintained or any use of property contrary to the provisions of the Development Code shall be and is declared to be unlawful and a public nuisance.

Section 17.706.15 Identification of Director. The Director shall be that person designated by the Board of County Commissioners. The Director is authorized to establish Department standards of operation and procedures consistent with the intent of this Code, and is further empowered to delegate the duties and powers granted to, and imposed upon, the Director by this Code. As used in this Code, "Director" shall include staff authorized by the Director.

Section 17.706.20 Inspection by Director. The Director is hereby empowered to enter or inspect any building, structure, premises, or real property in the County upon which, or in connection with which, a development or land use is located or proposed for the purpose of inspection to ensure compliance with the provisions of this Code. Such inspections shall be carried out during business hours unless the Director determines that an emergency exists. Entry onto private property for the purpose of inspection shall be made only after contact with the owner of the premises, whose permission for the inspection shall be secured. Application for any development approval shall constitute permission to inspect a property.

Section 17.706.25 Types of Violation.

- A. Unlawful Sale or Transfer of Divided Land; Penalties; Remedies. It is unlawful for any person to contract to sell, to sell or to transfer any subdivision or any part thereof, or land divided pursuant to a parcel map or map of division into large parcels, until the required map thereof, in full compliance with appropriate provisions of NRS 278.010 to 278.630, inclusive, and any local ordinance, has been recorded in the office of the recorder of the county in which any portion of the subdivision or land divided is located.
1. A person who violates the provisions of subsection A is guilty of a misdemeanor and is liable for a civil penalty of not more than \$300 for each lot or parcel sold or transferred.
 2. This section does not bar any legal, equitable or summary remedy to which any aggrieved municipality or other political subdivision, or any person, may otherwise be entitled, and any such municipality or other political subdivision or person may file suit in the district court of the county in which any property attempted to be divided or sold in violation of any provisions of NRS 278.010 to 278.630, inclusive, is located to restrain or enjoin any attempted or proposed division or transfer in violation of those sections.
- B. Unlawful Recording of Map by Recorder; Penalty. Any county recorder who records a map contrary to the provisions of NRS 278.010 to 278.630, inclusive, or of any local ordinance adopted pursuant thereto is guilty of a misdemeanor.
- C. Unlawful to Erect, Alter, or Change Use of Building Without Building Permit; Requirements for Obtaining Permit; School District Exempt in Certain Circumstances. Except as otherwise provided in this section, after the establishment of the position of building inspector and the filling of the position as provided in NRS 278.570, it is unlawful to erect, construct, reconstruct, alter or change the use of any building or other structure within the territory covered by the building code or land use regulations without obtaining a building permit from the building inspector.
1. The building inspector shall not issue any permit unless the plans of and for the proposed erection, construction, reconstruction, alteration or use fully conform to all building code and zoning regulations then in effect.
 2. The provisions of subsection a. do not apply to a school district to which the state public works board has delegated its power and duties under NRS 393.110.
- D. Violation of Provisions Concerning Maps; Report of County Assessor; Investigation and Prosecution. When there is not final map, parcel map or map of division into large parcels as required by the provisions of NRS 278.010 to 278.630, inclusive, then the county assessor shall determine, as lands are placed upon the tax roll and maps of the county assessor's office, any apparent discrepancies with respect to the provisions of NRS 278.010 to 278.630, inclusive, and shall report his findings in writing to the governing body of the county or city in which such apparent violation occurs.
1. Upon receipt of the report the governing body shall cause an investigation to be made by the district attorney's office when such lands are within an unincorporated area, or by the city attorney when such lands are within a city, the

county recorder and any planning commission having jurisdiction over the lands in questions.

2. If the report shows evidence of violation of the provisions of NRS 278.010 to 278.630, inclusive, with respect to the division of lands or upon the filing of a verified complaint by any municipality or other political subdivision or person, firm or corporation with respect to violation of the provisions of those sections, the district attorney of each county in this state shall prosecute all such violations in respective counties in which the violations occur.

Section 17.706.30 Continuing Violation. Each day that a violation remains uncorrected after receiving notice of the violation from the County shall constitute a separate violation of the Code. Any 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 other order or regulation is committed, continued or otherwise maintained.

Section 17.706.35 Enforcement Procedures. The following procedure shall apply to enforce the provisions of the Development Code:

- A. **Order to Comply.** In the event of a violation of the Development Code, any of the persons listed in Section 17.706.05 may deliver to the person or persons in violation of the Development Code a written order to comply with the provisions within 20 days of receipt of same.
- B. **Immediate Threat.** In the event of a violation of the Development Code that is deemed by the Director to be an immediate threat to the health, safety or welfare to the public, any of the persons listed in Section 17.706.05 may deliver to the person or persons in violation of the Development Code a written order to comply immediately. The order to comply may provide for the complete or partial cessation of activities that create the immediate threat to the health, safety or welfare of the public.
- C. **Failure to Comply.** Upon failure of the party or parties in violation of the Development to comply, any of the persons listed in Section 17.706.05 may deliver to the person in violation of the Development Code a citation issued by the District Attorney to appear before the County Commissioners, to show cause why the Pershing County Commission should not order the District Attorney to proceed with civil and/or criminal action. The District Attorney shall receive a written statement signed by the Director setting forth the violation, the parties involved, the date of delivery of a notice to comply and the date of inspection in which it was determined that the party or parties had not complied within the time limit allowed for compliance prior to issuing a citation.
- D. **Enjoining Activity.** Upon failure of any person in violation of the Development Code to comply with an order issued pursuant to a finding that an immediate threat of the health, safety or welfare of the public exists, the District Attorney shall immediately commence action or actions for the abatement, removal and enjoinder of such violation as a public nuisance and/or a criminal action in the manner provided by law.

Section 17.706.40 Remedies and Enforcement Powers. All remedies provided in the Development code shall be cumulative and not exclusive. The conviction and punishment of any person hereunder shall not relieve such person from the responsibilities of correcting prohibited conditions or removing prohibited building, structures or improvements nor prevent the enforced

correction or removal thereof. The following remedies and enforcement powers may be used to administer and enforce the Development Code in addition to any other remedies authorized by State Law.

A. Deny or Withhold Permit.

1. The County may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements thereon upon which there is an uncorrected violation of a provision of this code or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the County. This enforcement provision shall apply regardless of whether the current owner or applicant is responsible for the violation in question.
2. The County may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements owned or being developed by a person who owns, developed or otherwise cause an uncorrected violation of this code. These provisions shall apply regardless of whether the property for which the permit or other approval is sought is the property in violation.

B. Permits Approved with Conditions. Instead of withholding or denying a permit or other authorization, the County may grant such authorization subject to the condition that the violation be corrected.

C. Revoke Permits. Any development permit or other form of authorization required under the Development Code may be revoked when the Director determines:

1. That there is departure from the plans, specifications, or conditions as required under terms of the permit,
2. That the development permit was procured by false representation or was issued by mistake, or
3. That any of the provisions of the Development Code are being violated.

Written notice of such revocation shall be served upon the owner, the owner's agent or contractor, or upon any person employed on the building or structure for which such permit was issued, or shall be posted in a prominent location. After such notice has been served no such construction shall proceed.

D. Stop Work. With or without revoking permits, the County may stop work on any building or structure on any land on which there is an uncorrected violation of a provision of this Code or of a permit or other form of authorization issued hereunder, in accordance with its power to stop work under its building codes.

E. Revoke Plan or Other Approval. Where a violation of this code involves a failure to comply with approved plans or conditions to which the approval of such plans was made subject, the Board may, upon notice to the applicant and other known parties in interest (including any holders of building permits affected) and after a public hearing, revoke the plan or other approval or condition its continuance on strict compliance with this code,

the provisions of security to ensure that construction is completed in compliance with approved plans, or such other conditions as the Board may reasonably impose.

- F. Injunction and Abatement. The county, through its authorized agents, may initiate injunction or abatement proceedings or other appropriate action in District Court or another court of competent jurisdiction against any person who fails to comply with any provision of this code, or any requirement or conditions imposed pursuant to this code, to prevent, enjoin, abate, or terminate violations. The County may seek a court order in the nature of mandamus, abatement, injunction or other action for proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.

Section 17.706.45 Penalties.

- A. Misdemeanor. Any person, whether as principal, agent, employee or otherwise violating any provision of the Development Code or violating or failing to comply with any other regulation made there under, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1,000 dollars and/or a joint sentence of not more than six months. In lieu of all or a part of the punishment which may be imposed, the convicted person may be sentenced to perform a fixed period of work to the benefit of the community pursuant to the conditions prescribed in NRS 176.087.
- B. Separate Offense. Such person shall be deemed guilty of a separate offense of each day during which such violation of the Development Code or failure to comply with any other regulation is committed, continued or otherwise maintained.

CHAPTER 708

NOTICING

SECTIONS:

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|-----------|---------------------------------------|
| 17.708.00 | Purpose |
| 17.708.05 | Applicability |
| 17.708.10 | Procedures |
| 17.708.15 | Compliance with Noticing Requirements |

Section 17.708.00 Purpose. The purpose of Chapter 708, Noticing, is to establish the regulations and procedures for the noticing of public hearings when required by the Development Code.

Section 17.708.05 Applicability. This chapter provides the required procedures for giving public notice except when specific procedures are provided elsewhere in this code.

Section 17.708.10 Procedures. Notice for public hearings shall be given in accordance with the provisions of this section, except when specific procedures are provided elsewhere in this code.

- A. **Notice of Property Owners by Mail.** A notice setting forth the time, date, location, and purpose of the hearing, along with a map or physical description of the subject property shall be sent by mail at least 10 days before the hearing to:
1. The applicant(s) and/or the legal owner(s) of the subject property;
 2. All owners of real property, as listed in the County Assessor's records, located within 300 feet of the subject property;
 3. All tenants of any mobile home parks located within 300 feet of the subject property;
 4. Any advisory board which has been established for the affected area by the Board of County Commissioners.
- B. **Notice of Property Owners by Electronic Means.** If requested by a party to whom notice must be provided pursuant to sub-section A of this section, and if receipt can be verified, notice shall be provided by electronic means (i.e. fax, email, etc). Such notice shall be provided at least 10 days before the hearing and shall contain all information required by sub-section A.
- C. **Notice in Newspaper.** A notice setting forth the time, date, place and purpose of the hearing, along with a map or physical description of the involved property shall be published in a newspaper of general circulation in Pershing County at least 10 days before the hearing.

Section 17.708.15 Compliance with Noticing Requirements. Owners of all real property to be noticed pursuant to this section shall be those owners identified on the latest County Assessor's ownership maps and records. Such notice is complied with when notice is sent to the last known addresses of such real property owners as identified in the latest County Assessor's records. Any person who attends the public hearing shall be considered to be legally noticed unless those persons can provide evidence that they were not notified according to the provisions of this section.

CHAPTER 710

APPEALS

SECTIONS:

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|-----------|---|
| 17.710.00 | Purpose |
| 17.710.05 | Applicability |
| 17.710.10 | General Provisions |
| 17.710.15 | Appeal Period |
| 17.710.20 | Submittal Requirements and Procedures |
| 17.710.25 | Review Procedures |
| 17.710.30 | Notice of Public Hearings |
| 17.710.35 | Appeal of a Decision of the Board of County Commissioners |

Section 17.710.00 Purpose. The purpose of Chapter 710, Appeals, is to establish the regulations and procedures for the appeal of decisions made by representatives of the county.

Section 17.710.05 Applicability. Any person who is aggrieved by a decision of the Regional Planning Commission, the Planning Director, a member of the Planning Department staff, or any other person appointed or employed by the county who is authorized to make administrative decisions regarding the use of land, may appeal such decision to the Board of County Commissioners, pursuant to the requirements of Sections 17.710.10 through 17.710.30.

Any person who has appealed a decision to the Board of County Commissioners in accordance with Sections 17.710.10 through 17.710.30 of this chapter, and is aggrieved by the Board's decision on the appeal, may appeal that decision to the district court in accordance with Section 17.710.35.

Section 17.710.10 General Provisions.

- A. Appeals shall comply with the provisions of the Development Code, Nevada Revised Statutes and other applicable regulations.
- B. The party responsible for initiating an appeal request shall be responsible for the payment of all fees associated with the processing and review of the appeal. These fees may include, but are not limited to, the filings fee established by the county or district court.

Section 17.710.15 Appeal Period. An appeal must be made within 10 days after the date of the decision. If the end of the appeal period falls on a non-business day, the appeal period shall be extended to include the next business day.

Section 17.710.20 Submittal Requirements and Procedures. Requests for appeals shall be made in conformance with the requirements listed in this section. Appeal requests that do not comply with these requirements will not be accepted.

- A. An appeal request shall be made in writing as a formal letter, and shall be submitted to the Planning Director.

- B. The letter shall be submitted within 10 days after the date of the decision for which the appeal is requested, as established in Section 17.710.15.
- C. Payment of the filing fee, as established by the Board of County Commissioners, shall be submitted with the letter.
- D. The letter shall include the appellant's name and contact information and shall specify the decision for which the appeal is being requested.
- E. The letter shall state the basis of the appeal, by citing the inadequacy of the reasons or findings for the decision, as made by the Planning Commission or administrative official.
- F. The reasons for the appeal shall be based upon the information presented to the Planning Commission or administrative official at the original hearing(s) or during the administrative review process. Information which was not addressed at the original public hearing(s) or during the administrative review process may not be used as a basis for the appeal unless there is substantial new information which became available after the hearing(s) or the review process, and evidence can be provided that the new information was not available at the time of the original hearing(s) or review.
- G. In the letter, the appellant shall provide applicable evidence and information, which supports the appellant's contention that the Planning Commission or administrative official erred in making its decision and the findings or reasons supporting such decision.
- H. All evidence and information that the appellant wishes to be considered at the appeal hearing shall be included in the letter. Only the information included in the letter shall be considered during the appeal hearing.

Section 17.710.25 Review Procedures. The review procedures for appeals are as follows:

- A. Review for Completeness. Upon receipt of an appeal request, the Planning Director shall have five working days to review the submitted materials. The Planning Director shall determine if the request is in conformance with the requirements of Section 17.710.20, and shall accept or reject the request as complete.

If an appeal request is found to be incomplete it will be returned to the applicant and/or the applicant will be notified of any additional information needed. Once an appeal request has been determined complete, a public hearing by the Board of County Commissioners shall be scheduled to review the appeal.

- B. Board of County Commissioners Public Hearing and Action. The Board of County Commissioners shall hold a public hearing to review the appeal.

In reviewing the appeal, the Board of County Commissioners shall consider only the reasons for the appeal and applicable supporting information that are stated in the appeal letter. The Board may refer to the written record of the original public hearing(s), the application materials from the original project, the regulations that apply to the original project, or other information which may aid in review of the appeal. The Board shall be guided by the statement of purpose underlying the regulation of the improvements of land expressed in NRS 278.020.

At the conclusion of the public hearing or within 60 days after the acceptance of the complete appeal request, the Board of County Commissioners shall take action to affirm, modify or reverse the appealed decision. The decision by the County Commissioners on an appeal shall be effective immediately and such decision shall be final for the purpose of judicial review.

Section 17.710.30 Notice of Public Hearings. Notice of all public hearings required by this chapter shall be given in accordance with the provisions of Chapter 17.708, Noticing.

Section 17.710.35 Appeal of a Decision of the Board of County Commissioners. Any person who has appealed a decision to the Board of County Commissioners in accordance with Sections 17.710.10 through 17.710.30 of this chapter, and is aggrieved by the Board's decision on the appeal, may appeal that decision to the district court in accordance with this section.

Subject to the terms and conditions contained in NRS 278.3195 and pursuant to the authority granted in NRS 278.3195, it is hereby authorized that any person or entity, who: (1) Has appealed a decision by the Planning Commission or other party listed in Section 17.710.05 to the Board of County Commissioners; and (2) Is aggrieved by a decision of the Board of County Commissioners, may appeal that decision to the district court by filing a petition for judicial review with the court within 25 days after the date of filing of notice of the Board's decision with the clerk or secretary of the Board of County Commissioners, as set forth in NRS 278.0235.

CHAPTER 712

MORATORIUM ON LAND USE DESIGNATION CHANGES FOR CERTAIN AGRICULTURAL - MINING-RECREATION LAND USE AREAS

SECTIONS:

- 17.712.00 Purpose
- 17.712.05 Moratorium on Requests to Amend Master Plan in Certain AMR Land Use Areas
- 17.712.10 Board of County Commissioners to Evaluate Continued Need for Moratorium

Section 17.712.00 Purpose. The Board of Pershing County Commissioners has determined that due to problems in the Pershing County Code with respect to Division into Large Parcels in the AMR Land Use areas in certain areas of Pershing County and a need to make a more detailed plan on growth patterns in the AMR Land Use areas in certain areas of Pershing County a moratorium should be placed while the Board of Pershing County Commissioners have hearings and develop a plan to address these issues. The Division into Large Parcels in AMR Land Use areas has created forty-acre parcels that have no residential building rights. The Board of Pershing County Commissioners (herein after "The Board") has also noted that there have been increased requests to change the land use designation in AMR parcels to residential lots. The Board specifically finds that the Pershing County Master Plan provides for a limited availability of land use changes and reaffirms the propositions contained in the Pershing County Master Plan. The Board also specifically finds that the Pershing County Development Code allows for less than 160 acre parcels in the AMR Land Use areas, but does not allow, with certain limited exceptions, for the construction of residential dwellings on parcels in the AMR Land Use areas where the parcels are less than 160 acres. Accordingly, a moratorium is appropriate so that public hearings can be held before the Pershing County Regional Planning Commission and the public can provide input into how the issues should be addressed.

Section 17.712.05 Moratorium on Requests to Amend Master Plan in Certain AMR Land Use Areas. The following is hereby implemented:

A Moratorium is hereby placed on all requests for Master Plan Amendments on land in the AMR Land Use Areas in the following area:

The area east of Interstate 80 in the Oreana Groundwater Basin in the Curtailment of Water Appropriation and Designation of Preferred Use of Ground Water Map and Description attached hereto.

The moratorium will be temporarily stayed for those parcels in Humboldt River Ranch Phase B-1A subject to the condition that the owners of the parcels must apply to have their land use changed from AMR to residential use prior to December 31, 2008. After December 31, 2008, no further amendments will be considered during the term of this moratorium. As part of this stay, the individuals seeking to have land use changes in Humboldt River Ranch Phase B-1A must seek the change from AMR to residential within the time frame allotted and in accordance with the land use as set forth in the plan for development relating to the parcels in Humboldt River Ranch Phase B-1A and any fees for the changes will be waived.

Section 17.812.10 Board of County Commissioners to Evaluate Continued Need for Moratorium. The Board of County Commissioners should evaluate the continued need for the moratorium established by Section 17.712.05 every six years after the adoption of Bill No. 251, Ordinance No. 251. Failure to have a hearing shall not be construed in a negative manner.

[Chapter 17.812 added by Ord. 223, passed 01/18/06]

[Chapter 17.812 amended by Ord. 251, passed 06/04/08]