



Nye County

Floodplain Damage Prevention

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CHAPTER 15.12 - FLOOD DAMAGE PREVENTION

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ARTICLE I: STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

15.12.005 STATUTORY AUTHORIZATION

The Legislature of the State of Nevada has in Nevada Revised Statute Chapters 278, 439, 444 and 445A conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry through regulations adopted by the Board of County Commissioners.

15.12.010 FINDINGS OF FACT

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

15.12.020 STATEMENT OF PURPOSE:

It is the purpose of this Chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by legally enforceable regulations applied uniformly throughout the community to all publicly and privately owned land within flood prone, mudslide (i.e., mudflow) or flood related erosion areas. These regulations are designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;

- G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

15.12.030 METHODS OF REDUCING FLOOD LOSSES:

In order to accomplish its purpose, this Chapter includes regulations to:

- A. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural flood plains, stream channels and natural protective barriers, which help accommodate or channel flood waters;
- D. Control, filling, grading, dredging and other development which may increase flood damage; and
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

ARTICLE II: DEFINITIONS

15.12.035 GENERALLY

The words and terms used in this Chapter shall be defined as follows. All words used in the singular shall include the plural and the plural the singular. Each gender shall include the others; any tense shall include the other tenses. The word “shall” is mandatory and the word “may” is permissive.

15.12.040 DEFINITIONS:

“A” ZONE: see “Special flood hazard area”.

ACCESSORY STRUCTURE: means a structure that is either:

1. Solely for the parking of no more than 2 cars; or
2. A small, low cost shed for limited storage, less than 150 square feet and \$1,500 in value.

ACCESSORY USE: means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

ALLUVIAL FAN: means a geomorphic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

APEX: means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

APPEAL: means a request for a review of the Floodplain Administrator’s interpretation of any provision of this chapter.

AREA OF SHALLOW FLOODING: means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet, a clearly defined channel does not exist; the path of the flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD: see “Special Flood Hazard Area”.

BASE FLOOD: means a flood having a one percent (1%) chance of being equaled or exceeded in any given year (also called the “100-year flood”). Base flood is the term used throughout this chapter.

BASE FLOOD ELEVATION: (BFE) means the elevation shown on the Flood Insurance Rate map for Zones AE, AH, A1-A30, VE, and V1-V30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

BASEMENT: means any area of the building having its floor sub grade – i.e., below ground level – on all sides.

BUILDING: see “Structure”.

DEVELOPMENT: means 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 equipment or materials.

ENCROACHMENT: means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before February 1, 1993.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: means the preparation of additional sites by the construction of facilities for servicing the lots in which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD, FLOODING, OR FLOOD WATER means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows); and
2. The condition resulting from flood-related erosion.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM): means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

FLOOD INSURANCE RATE MAP (FIRM): means the official map of a community, on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY: means an examination, evaluation and determination of flood hazards and if appropriate, corresponding water surface elevations or examination, evaluation and determination of mudslide (i.e., mudflow and/or flood related erosion hazards).

FLOODPLAIN OR FLOOD-PRONE AREA: means any land area susceptible to being inundated by water from any source – see “Flooding.”

FLOODPLAIN ADMINISTRATOR: is the community official designated by title to administer and enforce the floodplain management regulations.

FLOODPLAIN MANAGEMENT: means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

FLOODPLAIN MANAGEMENT REGULATIONS: means this chapter and other zoning chapters, subdivision regulations, building codes, health regulations, special purpose chapters (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

FLOODPROOFING: means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. For guidelines on dry and wet floodproofing, see FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93.

FLOODWAY: means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. (Also referred to as “Regulatory Floodway”.)

FLOODWAY FRINGE: is that area of the floodplain on either side of the “Regulatory Floodway” where encroachment may be permitted.

FRAUD AND VICTIMIZATION: as related to 15.12.220 of this chapter, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the Board of County Commissioners will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community

for fifty to one- hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

FUCNTIONALLY DEPENDENT USE: means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shop building and shop repair facilities, and does not include long-term storage or related manufacturing facilities.

GOVERNING BODY: means the Board of County Commissioners that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

HARDSHIP: as related to 15.12.220 of this chapter means the exceptional hardship that would result from a failure to grant the requested variance. The Board of County Commissioners required that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

HIGHEST ADJACENT GRADE: means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE: means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as

determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

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

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

LOWEST FLOOR: means the lowest floor of the lowest enclosed area, including basement (see “Basement” definition).

1. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than basement area is not considered a building’s lowest floor; provided it conforms to applicable non-elevation design requirements, including, but not limited to:

- a. The flood openings standard in 15.12.160 (C) (3);
- b. The anchoring standards in 15.12.160 (A);
- c. The construction materials and methods standards in 15.12.160 (B); and
- d. The standards for utilities in 15.12.170.

2. For residential structures, all sub grade enclosed areas are prohibited as they are considered to be basements (see “Basement” definition). This prohibition includes below-grade garages and storage areas.

MANUFACTURED HOME: means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

MANUFACTURED HOME PARK OR SUBDIVISION: means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

MARKET VALUE: is defined in the Nye County substantial damage/improvement procedures. See 15.12.130 (B) (1).

MEAN SEA LEVEL: means, for the purposes of the National Flood Insurance Program, the National Geodetic Vertical datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION: means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION: means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after February 1, 1993.

OBSTRUCTION: includes, but is not limited to, any dam wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

ONE-HUNDRED-YEAR FLOOD: or “100-year flood” – see “Base Flood”.

PROGRAM DEFICIENCY: means a defect in a community’s floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations.

PUBLIC SAFETY AND NUISANCE: as related to 15.12.220 of this chapter, means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

RECREATIONAL VEHICLE: means a vehicle which is:

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

REGULATORY FLOODWAY: means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

REMEDY A VIOLATION: means to bring the structure or other development into compliance with Federal, State or local floodplain management regulations, or if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the chapter or otherwise deterring future similar violations, or reducing State or Federal financial exposure with regard to the structure or other development.

RIVERINE: means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

SHEET FLOW AREA: see “Area of shallow flooding”.

SPECIAL FLOOD HAZARD AREA (SFHA): “Area of Special Flood Hazard” is the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed, in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.

START OF CONSTRUCTION: (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)). Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction meets the requirements.

STRUCTURE: for floodplain management purposes, means a walled and roofed building, including a gas or liquid storage tank, which is principally above ground as well as a manufactured home. Structure, for insurance purposes, means: (1) A building with two or more

outside rigid walls and a fully secured roof, that is affixed to a permanent site; (2) A manufactured home (a “manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported (incomplete sentence)

SUBSTANTIAL DAMAGE: means damage of any origin sustained by a structure whereby the cost of restoring the structure to it’s before damage condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: means any reconstruction, rehabilitation,, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the ”start of construction”. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations or state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

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

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

WATER SURFACE ELEVATION: means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

WATERCOURSE: means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

ARTICLE III: GENERAL PROVISIONS

15.12.050 LANDS TO WHICH THIS CHAPTER APPLIES:

This Chapter shall apply to all areas of special flood hazard within the jurisdiction of Nye County, Nevada.

15.12.060 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD:

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the "Flood Insurance Study (FIS) for Nye County, Nevada" dated June 8, 1998 with accompanying Flood Insurance Rate Maps (FIRM's) and Flood Boundary and Floodway Maps (FBFM's), and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the Board of County Commissioners by the Flood Plain Administrator. The FIS, FIRM's and FBFM's are on file with the Nye County Department of Planning, 250 N. Highway 160, Suite 1, Pahrump, NV 89060 and at 1114 Globemallow Lane, Tonopah, NV 89049.

15.12.070 COMPLIANCE:

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

15.12.080 ABROGATION AND GREATER RESTRICTIONS:

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

15.12.090 INTERPRETATION:

In the interpretation and application of this chapter, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

15.12.100 WARNING AND DISCLAIMER OF LIABILITY:

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Board of County Commissioners, any officer or employee thereof, the State of Nevada, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

15.12.110 SEVERABILITY:

This chapter and the various parts thereof are hereby declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional.

ARTICLE IV: ADMINISTRATION

15.12.120 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR:

The Manager of Building Safety and Code Compliance is hereby appointed to administer, implement, and enforce this chapter by granting or denying development permits in accordance with its provisions.

15.12.130 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR:

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

A. Development.

Review all development to determine:

1. Development requirements of this chapter have been satisfied, including determination of substantial improvement and substantial damage of existing structures;
2. All other required state and federal permits have been obtained.
3. The site is reasonable safe from flooding;
4. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than 1 foot at any point within Nye County; and
5. All Letters of Map Revisions (LOMR's) for flood control projects are approved prior to the development. Development must not be based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

B. Development of Substantial Improvement and Substantial Damage Procedures.

1. Using FEMA publication FEMA 213, "Answers to Questions About Substantially Damaged Buildings", develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining "Market Value".
2. Assure procedures are coordinated with other departments/divisions and implemented by community staff.

C. Review, Use and Development of Other Base Flood Data.

When base flood elevation data has not been provided in accordance with 15.12.060, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer 15.12.160.

NOTE: A base flood elevation shall be obtained using one of two methods from the FEMA publication, FEMA 265, “Managing Floodplain Development in Approximate Zone “A” Areas – A Guide for Obtaining and Developing Base (100-year) Flood Elevations” dated July 1995, as may be amended.

D. Notification of Other Agencies.

1. Alteration or relocation of a watercourse:
 - a. Notify adjacent communities and the Nevada Division of Water Resources prior alteration or relocation;
 - b. Submit evidence of such notification to the Federal Emergency Management Agency; and
 - c. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

2. Base Flood Elevation changes due to physical alterations:
 - a. Within 6 months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).
 - b. All LOMR’s for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR’s). Approved CLOMR’s allow construction of the proposed flood control project and land preparation as specified in the “start of construction” definition.

Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

3. Changes in corporate boundaries:

Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

E. Documentation of Floodplain Development.

Obtain and maintain for public inspection and make available as needed the following:

1. Certification required by 15.12.160 (C) (1) and 15.12.190 (lowest floor elevations);
2. Certification required by 15.12.160 (C) (2) (elevation of floodproofing of nonresidential structures);
3. Certification required by (wet floodproofing standard);
4. Certification of elevation required by 15.12.180 (A) (3) (subdivisions and other proposed development standards);
5. Certification required by 15.12.210 (B) (floodway encroachments); and
6. Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

F. Map Determination.

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in 15.12.150.

G. Remedial Action.

Take action to remedy violations of this chapter as specified in 15.12.070.

H. Biennial Report.

Complete and submit Biennial Report to FEMA.

I. Planning.

Assure community's General Plan is consistent with floodplain management objectives herein.

15.12.140 DEVELOPMENT APPROVAL:

Development approval shall be obtained before any construction or other development, including manufactured homes, within any area of special flood hazard established in 15.12.060. Application of development approval shall be made on forms furnished by Nye County. Approvals will be granted by the Floodplain Administrator. The applicant shall provide the following minimum information:

- A. Plans in duplicate, drawn to scale, showing:

1. Location, dimensions, and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their location;
 2. Proposed locations of water supply, sanitary sewer, and other utilities.
 3. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;
 4. Location of the regulatory floodway when applicable.
 5. Base flood elevation information as specified in 15.12.060 or 15.12.130 (C);
 6. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and
 7. Proposed elevation in relation to mean sea level to which any nonresidential structure will be flood proofed, as required in 15.12.160 (C) (2) of this chapter and detailed in FEMA Technical Bulletin TB 3-93.
- B. Certification from a registered civil engineer or architect that the nonresidential flood proofed building meets the floodproofing criteria in 15.12.160 (C) (2).
- C. For a crawl-space foundation, location and total net area of foundation openings as required in 15.12.160 (C) (3) of this chapter and detailed in FEMA Technical Bulletins 1-93 and 7-93.
- D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- E. All appropriate certifications listed in 15.12.130 (E) of this chapter.

15.12.150 APPEALS.

The Board of County Commissioners of Nye County shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this chapter.

ARTICLE V: PROVISIONS FOR FLOOD HAZARD REDUCTION

15.12.160 STANDARDS OF CONSTRUCTION.

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

A. Anchoring:

All new construction and substantial improvements of structures, including manufactured homes, shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

B. Construction Materials and Methods. All new construction and substantial improvements of structures, including manufactured homes, shall be constructed:

1. With flood resistant materials, and utility equipment resistant to flood damage for areas below the base flood elevation;
2. Using methods and practices that minimize flood damage;
3. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
4. Within Zones AH or AO so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

C. Elevation and Floodproofing.

1. Residential Construction.

All new construction or substantial improvements of residential structures shall have the lowest floor, including basement:

- a. In AE, AH, A1-A30 Zones, elevated to or above the base flood elevation.
- b. In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number, specified in feet on the FIRM, or elevated at least 30" above the highest adjacent grade if no depth number is specified.
- c. In an "A" zone, without BFE's specified on the FIRM [unnumbered "A" zone, where the subdivision is less than 5 acres or 50 lots], elevated 30" above highest adjacent grade.

Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

2. NONRESIDENTIAL CONSTRUCTION.

All new construction or substantial improvements of nonresidential structures shall either be elevated to conform to 15.12.160 (C) (1) or:

- A. Be flood proofed, together with attendant utility and sanitary facilities, below the elevation recommended under 15.12.160 (C) (1), so that the structure is watertight with walls substantially impermeable to the passage of water;
- B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and.
- C. Be certified by a registered civil engineer or architect that the standards of 15.12.160 (C) (2) (a, b) are satisfied. Such certification shall be provided to the Floodplain Administrator.

3. Flood openings.

All new construction and substantial improvements of structured with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must met the following minimum criteria:

- A. For non-engineered openings:
 - 1. Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - 2. The bottom of all openings shall be no higher than one foot above grade;
 - 3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; and
 - 4. Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter; or
- B. Be certified by a registered civil engineer or architect.

4. Manufactured homes.

- A. See 15.12.190

5. Garages and low cost accessory structures.
 - A. Attached garages.
 1. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry of flood waters, See 15.12.160 (C) (3). Areas of the garage below the BFE must be constructed with flood resistant materials. See 15.12.160 (B).
 2. A garage attached to a nonresidential structure must meet the above requirements or be dry flood proofed. For guidance on below grade parking areas, see FEMA Technical Bulletin TB-6.
 - B. Detached garages and accessory structures.
 1. "Accessory structures" used solely for parking (2 car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in 15.12.040, may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements.
 - a. Use of the accessory structure must be limited to parking or limited storage;
 - b. The portions of the accessory structure located below the BFE must be built using flood-resistant materials;
 - c. The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement.
 - d. Any mechanical and utility equipment in the accessory structure must be elevated or flood proofed to or above the BFE;
 - e. The accessory structure must comply with floodplain encroachment provisions in 15.12.210; and
 - f. The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with 15.12.160 (C) (3).
 2. Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in 15.12.160.

15.12.170 STANDARDS FOR UTILITIES:

- A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
 1. Infiltration of flood waters into the systems; and
 2. Discharge from systems into flood waters.
- B. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

15.12.180 STANDARDS FOR SUBDIVISIONS AND OTHER DEVELOPMENT:

- A. All new subdivision proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than 50 lots or 5 acres, whichever is the lesser, shall:
 - 1. Identify the Special Flood Hazard Areas (SFHA) and Base Flood Elevations (BFE).
 - 2. Identify the elevations of lowest floors of all proposed structures and pads on the final plans.
 - 3. If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by registered civil engineer or licensed land surveyor and provided as part of an application for a Letter of Map Revision based on Fill (LOMR-F) to the Floodplain Administrator.
 - a. Lowest floor elevation.
 - b. Pad elevation.
 - c. Lowest adjacent grade.
- B. All subdivisions proposals and other proposed development shall be consistent with the need to minimize flood damage.
- C. All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- D. All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.
- E. Rural undefined "A" zones with no development.
 - 1. The undefined "A" zone will be defined on the plat map and marked as "No Build Flood Zone."
 - 2. The notes places on the plat map will state the map and revision date ant the following statement: "If, in the future, any development occurs within the special flood hazard area (shown as a "No build flood Zone") development shall be in accordance with the local flood damage prevention chapter."
 - 3. The revised plat map must be recorded.

15.12.190 STANDARDS FOR MANUFACTURED HOMES:

- A. All manufactured homes that are placed or substantially improved, on sites located: (1) outside of a manufactured home park or subdivision; (2) in anew manufactured home park or subdivision; 3) in an expansion to an existing manufactured home park or subdivision; or (4) in an existing manufacture home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall:

1. Within Zones A1-A30, AH, and AE on the community's Flood Insurance Rate Map, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- B. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-A30, AH, and AE on the community's Flood Insurance Rate map that are not subject to the provisions of 15.12.190 (A) will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:
1. Lowest floor of the manufactured home is at or above the base flood elevation; or
 2. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and certification shall be provided to the Floodplain Administrator.

15.12.200 STANDARDS FOR RECREATIONAL VEHICLES:

- A. All recreational vehicles placed in Zones A1-A-30, AH, and AE will either:
1. Be on the site for fewer than 180 consecutive days; or
 2. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 3. Meet the permit requirements of 15.12.140 of this chapter and the elevation and anchoring requirements for manufactured homes in 15.12.190 (A)

15.12.210 FLOODWAYS:

Since floodways are an extremely hazardous due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. Until a regulatory floodway is adopted, no new construction, substantial development, or other development (including fill) shall be permitted within Zones A1-A30 and AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than 1 foot at any point within Nye County.

- B. Within an adopted regulatory floodway, Nye County shall prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered civil engineer is provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- C. If 15.12.210 (A,B) are satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of 15.12.160.

ARTICLE VI: VARIANCE PROCEDURES

15.12.220 NATURE OF VARIANCES:

The issuance of a variance is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.

The variance criteria set forth in this section of the chapter are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the Board of County Commissioners to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood chapter are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provide in this chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

15.12.230 CONDITIONS FOR VARIANCES:

- A. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of 15.12.120 and 15.12.160 of this chapter have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of “historic structures” (as defined in 15.12.040 of this chapter) upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued upon a determination that the variance is the “minimum necessary” considering the flood hazard, to afford relief. “Minimum necessary” means to

afford relief with a minimum of deviation from the requirements of this chapter. For example, in the case of variances to an elevation requirement, this means the Board of County Commissioners need not grant permission for the applicant to build at grade or even to whatever elevation the applicant proposes, but only to that elevation which the Board of County Commissioners believes will both provide relief and preserve the integrity of the local chapter.

- E. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
 - 1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 to \$100 of insurance coverage, and
 - 2. Such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Nye County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- F. The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

15.12.240 APPEAL BOARD:

- A. In passing upon requests for variances, the Board of County Commissioners shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and the :
 - 1. Danger that materials may be swept onto the lands to the injury of others;
 - 2. Danger of life and property due to flooding or erosion damage;
 - 3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner and before owners of the property
 - 4. Importance of the services provided by the proposed facility to the community;
 - 5. Necessity to the facility of a waterfront location, where applicable;
 - 6. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - 7. Compatibility of the proposed use with existing and anticipated development;
 - 8. Relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
 - 9. Safety of access to the property in times of flood for ordinary and emergency vehicles;
 - 10. Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site; and

11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

B. Variances shall only be issued upon a:

1. Showing of good and sufficient cause;
2. Determination that failure to grant the variance would result in exceptional “hardship” to the applicant; and
3. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (see “Public Safety and Nuisance”), cause “fraud and victimization” of the public, or conflict with existing local laws or chapters.

C. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of 15.12.240 (A, B, C, D) are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

D. Upon consideration of the factors of 15.12.230 and the purposes of this chapter, the Board of County Commissioners may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

ARTICLE VII: PERMIT REVIEWS AND FEES

15.12.250 PERMIT REVIEWS

Duties of a Nye County Flood Damage Inspector shall include, but not be limited to;

1. Review of the development after surveying, foundations, and final grading to ensure that the development is in compliance with this chapter.
2. Review all permits to determine that all necessary permits have been obtained from those Federal, State, or local government agencies from which prior approval is required.

15.12.260 FEES

The fee required to obtain a Flood Damage Prevention Permit is set by Resolution.

ARTICLE VIII: REPEAL

15.12.270:

All chapters and parts of chapters in conflict or inconsistent with this chapter are hereby repealed, but only to the extent of such conflict or inconsistency. The repeal of prior chapters provided in this section shall not affect any plea, defense for or matter existing before the time when such repeal takes effect. No chapter which has been repealed shall be revived by the repeals provided in this section.

ARTICLE IX: CONSTITUTIONALITY

15.12.280:

If any section; clause or phrase of this chapter shall be declared unconstitutional by a court of competent jurisdiction, the remaining provision of this chapter shall continue in full force and effect.

APPENDIX

15.12.290 ALLUVIAL FAN ADVISORY

Hazards of Alluvial Fan Development

Alluvial fans present a unique flood hazard environment where the combination of sediment, slope, and topography create an ultra hazardous condition for which elevation on fill will not provide reliable protection. Active alluvial fan flooding is characterized by flow path uncertainty combined with abrupt deposition and erosion. As a result, any area of an alluvial fan may be subject to intense flood hazards.

The technology of mathematically modeling the hydrodynamics of water and debris flows for alluvial fans is still in the early development stage. The Federal Emergency Management Agency (FEMA) has formulated a mapping procedure for the purpose of defining the likelihood of flood hazards on inundated alluvial fan zones to be used for flood insurance purposes and general floodplain regulation, referred to as the FEMA alluvial fan methodology.

An active alluvial fan flooding hazard is indicated by three related criteria.

- a. Flow path uncertainty below the hydrographic apex;
- b. Abrupt deposition and ensuing erosion of sediment as a stream or debris flow loses its competence to carry material eroded from a steeper, upstream source area; and
- c. An environment where the combination of sediment availability, slope, and topography creates an ultra hazardous condition for which elevation on fill will not reliably mitigate the risk.

Inactive alluvial fan flooding is similar to traditional riverine flood hazards, but occurs only on alluvial fans. It is characterized by flow paths with a higher degree of certainty in realistic assessments of flood risk or in the reliable mitigation of the hazard. Counter to active alluvial fan flooding hazards, an inactive alluvial fan flooding hazard is characterized by relatively stable flow paths. However, areas of inactive alluvial fan flooding, as with active alluvial fan flooding, may be subject to sediment deposition and erosion, but to a degree that does not cause flow path instability and uncertainty.

An alluvial fan may exhibit both active alluvial fan flooding and inactive fan flooding hazards. The hazards may vary spatially or vary at the same location, contingent on the level of flow discharge. Spatially, for example, upstream inactive portions of the alluvial fan may distribute flood flow to active areas at the distal part of the alluvial fan. Hazards may vary at the same location, for example, with a flow path that may be stable for lower flows, but become unstable at higher flows.

More detailed information can be found at FEMA's website: "Guidelines for Determining Flood Hazards on Alluvial Fans" at http://www.fema.gov/fhm/ft_afgd2.shtm#1.

Alluvial fans and LOMR's

The NFIP does not allow for the removal of land from the floodplain based on the placement of fill (LOMR-F) in alluvial fan flood hazard areas. The NFIP will credit a major structural flood control project, through the LOMR process, that will effectively eliminate alluvial fan flood hazards from the protected area. Details about map revisions for alluvial fan areas can be found in the Code of Federal Regulations at Title 44, Part 65.13.

15.12.300 MINIMUM STANDARDS

This chapter meets the minimum standards required to participate in the National Flood Insurance Program.

1 **NYE COUNTY RESOLUTION NO. 2008-58**

2 **A RESOLUTION TO AMEND THE WRITTEN PROCEDURES FOR ENFORCEMENT OF**
3 **THE NATIONAL FLOOD INSURANCE PROGRAM REGULATIONS IN NYE COUNTY;**
4 **AND PROVIDING OTHER MATTERS AS PROPERLY RELATED THERETO.**

5 **WHEREAS, the Legislature of the State of Nevada has in Chapters 278, 439, 444, and**
6 **445A conferred upon local governments the authority to adopt regulations designed to promote**
7 **the public health, safety, and general welfare of its citizenry through regulations adopted by the**
8 **Board of County Commissioners ("Board"); and**

9 **WHEREAS, the Board has, at Nye County Code Chapter 15.12, adopted regulations**
10 **addressing flood damage prevention in order to comply with FEMA regulations and to remain**
11 **eligible to participate in the National Flood Insurance Program;**

12 **WHEREAS, the Board must adopt written procedures of and enforcement for the**
13 **National Flood Insurance Program which must be legally enforceable and applied uniformly**
14 **throughout the County per 44 CFR 60.1b, and the Board's proposed procedures were reviewed**
15 **by FEMA representatives and found to be in compliance.**

16 **NOW THEREFORE, the Board of County Commissioners of the County of Nye, State of**
17 **Nevada, does hereby resolve as follows:**

18 **The Written Procedures for Enforcement of National Flood Insurance Regulations in Nye**
19 **County, attached as "Exhibit A", are hereby adopted, effective immediately.**

20 **ADOPTED this 5th day of August, 2008**

21
22 **NYE COUNTY BOARD OF**
23 **COUNTY COMMISSIONERS:**

24 *Joni Eastley 9-10-08*
25 Joni Eastley, Chairman

ATTEST:

Sandra "Sam" L. Merlino
Sandra "Sam" L. Merlino, Nye
County Clerk
And Ex-Officio Clerk of the Board *Jac*

“Exhibit A”

WRITTEN PROCEDURES FOR ENFORCEMENT OF NFIP REGULATIONS IN NYE COUNTY

1.0 PURPOSE OF ENFORCEMENT OF THE FLOOD DAMAGE PREVENTION ORDINANCE

The purpose of enforcement of the Nye County Flood Damage Prevention Ordinance (Nye County Code Chapter 15.12) is as follows:

- A. To protect human life and health;
- B. To minimize expenditures of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding generally undertaken at the expense of the public;
- D. To minimize prolonged business interruptions;
- E. To insure that those who occupy the areas of special flood hazard assume responsibility for their actions; and
- F. To bring Nye County into compliance with the National Flood Insurance Program and the Nye County Flood Damage Prevention Ordinance.

2.0 COMPLIANCE WITH NATIONAL FLOOD INSURANCE PROGRAM (hereinafter NFIP)

Although the procedures between the Pahrump Regional Planning District, (hereinafter PRPD) and the remainder of Nye County vary slightly, both the procedures for the PRPD and the remainder of Nye County are fully compliant with the regulations of the NFIP.

A. NYE COUNTY WITH THE EXCEPTION OF THE PAHRUMP REGIONAL PLANNING DISTRICT

3.0 FLOOD DAMAGE PREVENTION APPLICATION/PERMITTING (OR PERMIT EXEMPTION) AND INSPECTION PROCEDURE

The Nye County Flood Damage Prevention Ordinance is implemented in accordance with the National Flood Insurance Program (NFIP) regulations. These regulations require that no person shall be allowed to begin any construction or development (i.e., erection, addition, alteration or change in a building or land surface including grading) within any area of special flood hazard without first obtaining a Flood Damage Prevention Permit from Nye Count (see Exhibit 1). A building includes structures to be used for commercial, industrial, or residential purposes. Garages, pump houses, storage sheds and other structures not meant for residential, commercial or industrial use are subject to compliance with the regulations.

Additions to or alteration of structures means any addition or alteration which equals or exceeds 50% of the market value of the structure prior to the repair. Also, grading only applies when a substantial drainage channel would be altered. Brushing and clearing of land is not included.

3.1 PROCEDURE FOR OBTAINING A FLOOD DAMAGE PREVENTION PERMIT OR PERMIT EXEMPTION.

The permitting or permit exemption process begins with an application being filed on forms furnished by the Nye County Planning Department, 1114 Globemallow Lane, Tonopah, Nevada 89049. The application must include the following information:

The name(s), physical development site address, mailing address and telephone number and signature of the applicant or authorized agent, legal description, assessor's parcel number, written description of proposed work, time schedule, contractor's name (if any), license number, address, and telephone number.

3.2 PLOT PLAN WHICH MUST ACCOMPANY PERMIT APPLICATION

The following information must be shown on a plot plan (see Exhibit 3) submitted to Nye County for a Flood Damage Prevention Permit within a special flood hazard area:

- Exterior parcel boundaries and dimensions, rounded off to the nearest foot. The boundary should be drawn as near to scale as possible.
- An indication of north.
- Street that the parcel borders on.
- Existing and proposed structures, drainage facilities, wells, septic tank and leach fields. The proposed structure(s) should be drawn as close to scale as possible and indicate the "building footprint" or the exterior walls of the structure(s).
- "Highest Adjacent Grade" must be shown. This requirement is the most misunderstood in the permit process, and is the reason for this set of instructions. Highest Adjacent Grade is defined by the Federal Emergency Management Agency (FEMA) as "*the highest natural elevation of the ground surface prior to construction next to the proposed walls of the structure.*" This means that your plot plan must indicated with an arrow where on the perimeter of the building footprint the highest grade or original undisturbed ground immediately adjacent to the structure is found. Should you indicate the highest grade at a property corner, at the street centerline or any other point on the property your application will not be accepted. For Nye County's purposes you should begin with an assumed elevation of 100' unless a surveyor, architect or engineer obtains a mean sea level elevation and is willing to sign and stamp the plot plan.
- Proposed finished floor elevation. This information should be placed within the building footprint as shown on the example using elevations as described above. Most applicants

first call the Planning Department prior to submitting an application so that the plot plan indicates the correct finished floor elevation. Depending on the flood zone your property is in, finished floor elevation requirements are as follows:

<u>Zone</u>	<u>Elevation Minimums</u>
A01 (1' sheet flow depth)	101' (12 inches)
A02 (2' sheet flow depth)	102' (24 inches)
A03 (3' sheet flow depth)	103' (36 inches)
A (unknown depth) less than 5 acres or 50 lots	102.5' (30 inches)

The finished floor elevation is the minimum height the top of the first floor must be above the "highest adjacent grade".

3.3 APPLICATION REVIEW

The Nye County Planning Department working in conjunction with the Floodplain Administrator shall determine if the property is within an area of special flood hazard as shown on the Flood Insurance Rate Maps (FIRM). Based on that determination, alternative procedures shall apply as follows:

1. ISSUANCE OF PERMIT EXEMPTION FOR A LAND DEVELOPMENT PROPOSAL NOT WITHIN AN AREA OF SPECIAL FLOOD HAZARD.

Should the proposed development not be within an area of special flood hazard then the applicant will be exempt from compliance with this procedure. The exemption status information will be placed on the application/permit. The permit exemption must be posted on the development site while development is in progress.

2. ISSUANCE OF A PERMIT FOR A LAND DEVELOPMENT PROPOSAL WITHIN AN AREA OF SPECIAL FLOOD HAZARD

Upon determination that a proposed development is within an area of special flood hazard the applicant shall be required to comply with the following:

- A. A plot plan must be submitted showing the location and dimensions of the area in question; existing and proposed structures, drainage facilities and the location of the foregoing. The following information is also required:
 1. For residential or nonfloodproofed nonresidential structures located within zone A1-A30 (e.g., A2, A3, A4), AE, AH and unnumbered A (with base flood elevations) zones the proposed elevation in relation to mean sea level of the lowest floor of all structures, certified by an engineer or surveyor.
 2. For residential or nonfloodproofed nonresidential structures located within an unnumbered zone A (without base flood elevations), zone AO and zone B, the

proposed height of the lowest floor in relation the highest adjacent grade of all structures. "Highest Adjacent Grade" is defined as the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure, certified by an engineer or surveyor.

- B. For floodproofed nonresidential structures (i.e., commercial, industrial) certification must be provided by an engineer or architect (an architect may provide the following structure design and construction certification) that upon review of the structural design, specifications and plans that the design, materials and methods of construction are in accordance with accepted standards of practice to minimize flood damage.

Upon receipt of the above information the Floodplain Manager/Administrator will review the information and will approve, disapprove or require certain modifications to the proposal within 10 working days. If approved, the Administrator shall cause the Permit to be issued. The Permit shall be valid for a period of 180 days from the date issued and must be posted on the construction site. An extension of the permit for an additional 180 days may be granted for good cause, and shall not be unreasonable withheld by Nye County. If disapproved, the Administrator shall inform the applicant of the deficiencies / reasons for disapproval, and will advise the applicant of the appeal / variance procedure.

3.4 AMENDMENT TO PERMIT

The development as approved by the original Permit shall not be altered unless and until an amendment is approved by Nye County. A proposed amendment must include the submission of a new plot plan and design certification as required. Nye County shall review each proposed amendment, approve or disapprove all such proposed amendments and shall issue all such decisions in writing. The written approval must be posted on the development site while development is in progress.

4.0 COMPLETION OF CERTIFICATE OF ELEVATION

It is highly recommended that an Elevation Certificate (see Exhibit 4) be prepared while the mobile home is being set or a building is under construction prior to the completion of the pad. This will ensure that the pad is elevated to the proper height above the highest adjacent grade. A new Elevation Certificate will be required when construction of the building is complete.

If the owner submits an Elevation Certificate only at finished construction, and the structure fails to be properly elevated, the owner will be responsible for elevating the structure to be compliant with the standards of the NFIP as certified on the Elevation Certificate, and confirmed by a final inspection by the Floodplain Manager / Administrator, completing section G 6 of the Elevation Certificate. The Elevation Certificate shall be completed by a licensed surveyor or engineer. The Elevation Certificate is an important administrative tool of the National Flood Insurance Program (NFIP). It is to be used to provide elevation

information necessary to ensure compliance with community floodplain management ordinances, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F). The Elevation Certificate is required in order to properly rate post-FIRM buildings, which are buildings constructed after publication of the Flood Insurance Rate Map (FIRM), located in flood insurance Zones A1-A30, AE, AH, A (with BFE), VE, V1-V30, V (with BFE), AR, AR/A, AR/AE, AR/A1-A30, AR/AH, and AR/AO. The Elevation Certificate is not required for pre-FIRM buildings unless the building is being rated under the optional post-FIRM flood insurance rules. A copy of the Elevation Certificate shall be provided to the applicant and kept on file in the Planning Department.

5.0 VARIANCES AND APPEALS

The Nye County Board of County Commissioners shall hear and decide appeals and request for variances from the requirements of the Flood Damage Prevention Ordinance. In reaching a decision on variance applications, the Nye County Board of County Commissioners must consider all technical evaluations, all relevant factors, standards specified in the Ordinance, and,

- a. The danger that materials may be swept onto the lands to the injury of others;
- b. The danger to life and property due to flooding or erosion damage;
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- d. The importance of the services provided by the proposed facility to the community;
- e. The availability of alternative locations for the proposed development which are not subject to flooding or erosion damage;
- f. The compatibility of the proposed development with existing and anticipated development;
- g. The relationship of the proposed development to the Comprehensive Plan and flood plain management program for that area;
- h. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- i. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- j. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

Upon consideration of the factors above, and Article 6 of the Floodplain Management ordinance, the Nye County Board of County Commissioners will determine if a variance should be granted.

A variance may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, with regard to the procedures set forth in this section. A variance shall not be issued within a mapped regulatory floodway if any increase in flood levels during the base (100 year) flood discharge would result. A variance shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. A variance shall only be issued upon:

- A. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
 - 1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 to \$100 of insurance coverage, and
 - 2. Such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Nye County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

6.0 VIOLATIONS

Any person who violated any of the provisions of the Nye County Flood Damage Prevention Ordinance is guilty of a misdemeanor.

7.0 FEES

The fee required to be paid to obtain a Flood Damage Prevention Permit is set by resolution. This fee is not required for exempt properties.

B. THE PAHRUMP REGIONAL PLANNING DISTRICT

3.0 FLOOD DAMAGE PREVENTION APPLICATION/PERMITTING (OR PERMIT EXEMPTION) AND INSPECTION PROCEDURE

The Nye County Flood Damage Prevention Ordinance is implemented in accordance with the National Flood Insurance Program (NFIP) regulations. These regulations require that no person shall be allowed to begin any construction or development (i.e., erection, addition, alteration or change in a building or land surface including grading) within any area of special flood hazard without first obtaining a Flood Damage Prevention Permit from Nye County (see Exhibit 2). A building only includes structures to be used for commercial, industrial, or residential purposes. Garages, pump houses, storage sheds and other structures not meant for residential, commercial or industrial use are subject to compliance with the regulations.

Additions to or alteration of structures means any addition or alteration which equals or exceeds 50% of the market value of the structure prior to the repair. Also, grading only applies when a substantial drainage channel would be altered. Brushing and clearing of land is not included.

3.1 PROCEDURE FOR OBTAINING A FLOOD DAMAGE PREVENTION PERMIT OR PERMIT EXEMPTION.

The Permitting process begins with the application and approval of a Zoning Review Application (see Exhibit 5) approved by the Pahrump Regional Planning District. Non-residential property could also require a Tenant Improvement Application or Site Development Plan. The permit or permit exemption process begins with an application being filed on forms furnished by the Pahrump Building Safety Department, 1210 E. Basin Road, Suite 1, Pahrump, Nevada, 89060. The application (see Exhibit 2) must include the following information:

The name(s), physical development site address, mailing address and telephone number and signature of the applicant or authorized agent, legal description, assessor's parcel number, written description of proposed work, time schedule, contractor's name (if any), license number, address, and telephone number.

3.2 PLOT PLAN WHICH MUST ACCOMPANY THE ZONING REVIEW AND PERMIT APPLICATION

The following information must be shown on a plot plan (see Exhibit 3) submitted for Zoning approval and to Nye County for a Flood Damage Prevention Permit within a special flood hazard area:

- Exterior parcel boundaries and dimensions, rounded off to the nearest foot. The boundary should be drawn as near to scale as possible.
- An indication of north.
- Street that the parcel borders on.

- Existing and proposed structures, drainage facilities, wells, septic tank and leach fields. The proposed structure(s) should be drawn as close to scale as possible and indicate the “building footprint” or the exterior walls of the structure(s).
- “Highest Adjacent Grade” must be shown. This requirement is the most misunderstood in the permit process, and is the reason for this set of instructions. Highest Adjacent Grade is defined by the Federal Emergency Management Agency (FEMA) as “*the highest natural elevation of the ground surface prior to construction next to the proposed walls of the structure.*” This means that your plot plan must indicated with an arrow where on the perimeter of the building footprint the highest grade or original undisturbed ground immediately adjacent to the structure is found. Should you indicate the highest grade at a property corner, at the street centerline or any other point on the property your application will not be accepted. For Nye County’s purposes you should begin with an assumed elevation of 100’ unless a surveyor, architect or engineer obtains a mean sea level elevation and is willing to sign and stamp the plot plan.
- Proposed finished floor elevation. This information should be placed within the building footprint as shown on the example using elevations as described above. Applicants should first call the Planning Department prior to submitting an application to obtain the proper flood zone information so that the plot plan indicates the correct finished floor elevation. Depending on the flood zone your property is in, finished floor elevation requirements are as follows:

<u>Zone</u>	<u>Elevation Minimums</u>
A01 (1’ sheet flow depth)	101’ (12 inches)
A02 (2’ sheet flow depth)	102’ (24 inches)
A03 (3’ sheet flow depth)	103’ (36 inches)
A (unknown depth) less than 5 acres or 50 lots	102.5’ (30 inches)

The finished floor elevation is the minimum height the top of the first floor must be above the “highest adjacent grade”.

3.3 APPLICATION REVIEW

The Nye County Planning Department working in conjunction with the Floodplain Administrator shall determine if the property is within an area of special flood hazard as shown on the Flood Insurance Rate Maps (FIRM). Based on that determination, alternative procedures shall apply as follows:

1. ISSUANCE OF PERMIT EXEMPTION FOR A LAND DEVELOPMENT PROPOSAL NOT WITHIN AN AREA OF SPECIAL FLOOD HAZARD.

Should the proposed development not be within an area of special flood hazard then the applicant will be exempt from compliance with this procedure. The exemption status information will be placed on the application/permit. The permit exemption must be posted on the development site while development is in progress.

2. ISSUANCE OF A PERMIT FOR A LAND DEVELOPMENT PROPOSAL WITHIN AN AREA OF SPECIAL FLOOD HAZARD

Upon determination that a proposed development is within an area of special flood hazard the applicant shall be required to comply with the following:

- A. A plot plan must be submitted showing the location and dimensions of the area in question; existing and proposed structures, drainage facilities and the location of the foregoing. The following information is also required:
 1. For residential or nonfloodproofed nonresidential structures located within zone A1-A30 (e.g., A2, A3, A4), AE, AH and unnumbered A (with base flood elevations) zones the proposed elevation in relation to mean sea level of the lowest floor of all structures, certified by an engineer or surveyor.
 2. For residential or nonfloodproofed nonresidential structures located within an unnumbered zone A (without base flood elevations), zone AO and zone B, the proposed height of the lowest floor in relation the highest adjacent grade of all structures. "Highest Adjacent Grade" is defined as the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure, certified by an engineer or surveyor.
- B. For floodproofed nonresidential structures (i.e., commercial, industrial) certification must be provided by an engineer or architect (an architect may provide the following structure design and construction certification) that upon review of the structural design, specifications and plans that the design, materials and methods of construction are in accordance with accepted standards of practice to minimize flood damage.

Upon receipt of the above information the Flood Plain Manager/Administrator will review the information and will approve, disapprove or require certain modifications to the proposal within 10 working days. If approved, the Inspector shall cause the Permit to be issued. The Permit shall be valid for a period of 180 days from the date issued and must be posted on the construction site. An extension of the permit for an additional 180 days may be granted for good cause, and shall not be unreasonable withheld by Nye County. If disapproved, the Inspector shall inform the applicant of the deficiencies / reasons for disapproval, and will advise the applicant of the appeal / variance procedure.

3.4 AMENDMENT TO PERMIT

The development as approved by the original Permit shall not be altered unless and until an amendment is approved by Nye County. A proposed amendment must include the submission of a new plot plan and design certification as required. Nye County shall review each proposed amendment, approve or disapprove all such proposed amendments and shall issue all such decisions in writing. The written approval must be posted on the development site while development is in progress.

4.0 COMPLETION OF CERTIFICATE OF ELEVATION

It is highly recommended that an Elevation Certificate (see Exhibit 4) be prepared while the mobile home is being set or a building is under construction prior to the completion of the pad. This will ensure that the pad is elevated to the proper height above the highest adjacent grade. A new Elevation Certificate will be required when construction of the building is complete.

If the owner submits an Elevation Certificate only at finished construction, and the structure fails to be properly elevated, the owner will be responsible for elevating the structure to be compliant with the standards of the NFIP as certified on the Elevation Certificate, and confirmed by a final inspection by Pahrump Building Safety, completing section G 6 of the Elevation Certificate. The Elevation Certificate shall be completed by a licensed surveyor or engineer. The Elevation Certificate is an important administrative tool of the National Flood Insurance Program (NFIP). It is to be used to provide elevation information necessary to ensure compliance with community floodplain management ordinances, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F). The Elevation Certificate is required in order to properly rate post-FIRM buildings, which are buildings constructed after publication of the Flood Insurance Rate Map (FIRM), located in flood insurance Zones A1-A30, AE, AH, A (with BFE), VE, V1-V30, V (with BFE), AR, AR/A, AR/AE, AR/A1-A30, AR/AH, and AR/AO. The Elevation Certificate is not required for pre-FIRM buildings unless the building is being rated under the optional post-FIRM flood insurance rules. A copy of the Elevation Certificate shall be provided to the applicant and kept on file at Pahrump Building Safety.

5.0 VARIANCES AND APPEALS

The Nye County Board of County Commissioners shall hear and decide appeals and request for variances from the requirements of the Flood Damage Prevention Ordinance. In reaching a decision on variance applications, the Nye County Board of County Commissioners must consider all technical evaluations, all relevant factors, standards specified in the Ordinance, and,

- a. The danger that materials may be swept onto the lands to the injury of others'
- b. The danger to life and property due to flooding or erosion damage;
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- d. The importance of the services provided by the proposed facility to the community;
- e. The availability of alternative locations for the proposed development which are not subject to flooding or erosion damage;
- f. The compatibility of the proposed development with existing and anticipated development'
- g. The relationship of the proposed development to the Comprehensive Plan and flood plain management program for that area;

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- h. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - i. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
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