



# CITY OF ELKO

## Planning Department

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1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7219

### PUBLIC MEETING NOTICE

The City of Elko Planning Commission will meet in a regular session on Tuesday, August 7, 2018 in the Council Chambers at Elko City Hall, 1751 College Avenue, Elko, Nevada, and beginning at 5:30 P.M., P.D.S.T.

Attached with this notice is the agenda for said meeting of the Commission. In accordance with NRS 241.020, the public notice and agenda were posted on the City of Elko Website at <http://www.elkocitynv.gov/>, the State of Nevada's Public Notice Website at <https://notice.nv.gov>, and in the following locations:

ELKO COUNTY COURTHOUSE– 571 Idaho Street, Street, Elko, NV 89801

Date/Time Posted: August 1, 2018 2:10 p.m.

ELKO COUNTY LIBRARY – 720 Court Street, Elko, NV 89801

Date/Time Posted: August 1, 2018 2:05 p.m.

ELKO POLICE DEPARTMENT– 1448 Silver Street, Elko NV 89801

Date/Time Posted: August 1, 2018 2:15 p.m.

ELKO CITY HALL– 1751 College Avenue, Elko, NV 89801

Date/Time Posted: August 1, 2018 2:00 p.m.

Posted by: Shelby Archuleta, Planning Technician  
Name Title

Shelby Archuleta  
Signature

The public may contact Shelby Archuleta by phone at (775) 777-7160 or by email at [sarchuleta@elkocitynv.gov](mailto:sarchuleta@elkocitynv.gov) to request supporting material for the meeting described herein. The agenda and supporting material is also available at Elko City Hall, 1751 College Avenue, Elko, NV.

Dated this 1<sup>st</sup> day of August, 2018.

### NOTICE TO PERSONS WITH DISABILITIES

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the City of Elko Planning Department, 1751 College Avenue, Elko, Nevada, 89801 or by calling (775) 777-7160.

Cathy Laughlin  
Cathy Laughlin, City Planner

**CITY OF ELKO**  
**PLANNING COMMISSION**  
**REGULAR MEETING AGENDA**  
**5:30 P.M., P.D.S.T., TUESDAY, AUGUST 7, 2018**  
**ELKO CITY HALL, COUNCIL CHAMBERS,**  
**1751 COLLEGE AVENUE, ELKO, NEVADA**

**CALL TO ORDER**

The Agenda for this meeting of the Elko City Planning Commission has been properly posted for this date and time in accordance with NRS requirements.

**ROLL CALL**

**PLEDGE OF ALLEGIANCE**

**COMMENTS BY THE GENERAL PUBLIC**

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

**APPROVAL OF MINUTES**

June 5, 2018 – Regular Meeting **FOR POSSIBLE ACTION**

July 9, 2018 – Special Meeting **FOR POSSIBLE ACTION**

**I. UNFINISHED BUSINESS**

**A. PUBLIC HEARING**

1. Review, consideration, and possible action on Variance No. 7-18, filed by HCPI/UTAH, LLC for a reduction of the required setback from any Street Line from 22.5' to 0' on the Cedar St. Street Line, from 19.5' to 5.1' on the Golf Course Drive Street Line, and from 19.5' to 9.7' on the 14<sup>th</sup> St. Street Line, and a reduction of the required interior side setback from 26' to 10.3', within a PQP (Public, Quasi-Public) Zoning District, in conjunction with a zone change application, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the west side of Golf Course Drive, approximately 205' south of Cedar Street. (855 Golf Course Drive - APN 001-200-005)

## II. NEW BUSINESS

### A. MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS

1. Review, consideration, and possible initiation to amend Title 3, Chapter 3, of the Elko City Code entitled "Subdivisions", with the repeal and replacement of the chapter, and matters related thereto. **FOR POSSIBLE ACTION**
2. Review, consideration, and possible action to change the time of the regular Planning Commission Meetings, and matters related thereto. **FOR POSSIBLE ACTION**

## III. REPORTS

- A. Summary of City Council Actions.
- B. Summary of Redevelopment Agency Actions.
- C. Professional articles, publications, etc.
  1. Zoning Bulletin
- D. Preliminary agendas for Planning Commission meetings.
- E. Elko County Agendas and Minutes.
- F. Planning Commission evaluation. General discussion pertaining to motions, findings, and other items related to meeting procedures.
- G. Staff.

## COMMENTS BY THE GENERAL PUBLIC

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

**NOTE:** The Chairman or Vice Chairman reserves the right to change the order of the agenda and if the agenda is not completed, to recess the meeting and continue on another specified date and time. Additionally, the Planning Commission reserves the right to combine two or more agenda items, and/or remove an item from the agenda, or delay discussion relating to an item on the agenda at any time.

## ADJOURNMENT

Respectfully submitted,



Cathy Laughlin  
City Planner

**CITY OF ELKO**  
**PLANNING COMMISSION**  
**REGULAR MEETING MINUTES**  
**5:30 P.M., P.D.S.T., TUESDAY, JUNE 5, 2018**  
**ELKO CITY HALL, COUNCIL CHAMBERS,**  
**1751 COLLEGE AVENUE, ELKO, NEVADA**

**CALL TO ORDER**

David Freistroffer, Chairman of the City of Elko Planning Commission, called the meeting to order at 5:30 p.m.

**ROLL CALL**

**Present:** David Freistroffer  
Jeff Dalling  
John Anderson  
Stefan Beck

**Excused:** Ian Montgomery  
Kevin Hodur  
Tera Hooiman

**City Staff:** Scott Wilkinson, Assistant City Manager  
Jeremy Draper, Development Manager  
Cathy Laughlin, City Planner  
Bob Thibault, Civil Engineer  
John Holmes, Fire Marshal  
Shelby Archuleta, Planning Technician

**PLEDGE OF ALLEGIANCE**

**COMMENTS BY THE GENERAL PUBLIC**

*There were no public comments made at this time.*

**APPROVAL OF MINUTES**

May 1, 2018 – Regular Meeting **FOR POSSIBLE ACTION**

**\*\*\*Motion: Approve the minutes from May 1, 2018 as presented.**

**Moved by Jeff Dalling, Seconded by John Anderson.**

*\*Motion passed unanimously. (4-0)*

**I. NEW BUSINESS**



## A. PUBLIC HEARING

1. Review and consideration of Preliminary Plat No. 7-18, filed by DDS Properties, LLC, for the development of a subdivision entitled Humboldt Hills involving the proposed division of approximately 9.443 acres of property into 26 lots for residential development within the R1 (Single-Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the east side of W Jennings Way, approximately 120' north of Courtney Drive. (APN 001-01H-001).

Scott Wilkinson, Assistant City Manager, recommended tabling the item. He explained that portions of some of the lots in the subdivision included City owned right-of-way. Staff has no indication from the City Council that that would be acceptable, until a vacation application is processed. There is not enough information to consider the item.

Dusty Shipp, DDS Properties, owner/developer, wanted to express some frustration on their part on the project. He thought it seemed like they were hitting a lot of road blocks from getting the project moving. They were working on the project since last summer/fall. They had met with City Staff on what would be required. The lot has a lot of topography, so there are some water feed issues to try to get all the lots serviced with water. They went through a lot of design to try to figure out how to make that work, and moving thousands of yards of material to make it function for this project. In recent months, March 12<sup>th</sup> they had a Stage 1 Meeting. They thought they had everything cleared up. It seemed to go well and everyone seemed to be on the same page and headed in the right direction. After the meeting they were struggling with grading a lot, so Mr. Shipp decided that it would be better to remove three lots, because of the topography and all the issues with trying to get enough setback between homes to be able to have flow lines. The City required them to have a second Stage 1 meeting, which happened on April 17<sup>th</sup>. At that meeting there was a large discussion, mainly from Mr. Wilkinson, regarding lessening the amount of lots. Mr. Wilkinson stated that it was not working well with the Master Plan. They found out even though that was such an issue it was never brought up in the first meeting. They were told at that point that they would not have support from City Staff because of that. They decided to go ahead and pursue that and move forward, because they felt they had enough evidence to support what they were trying to do. During the second meeting they also discussed the fact that they were crunched for time to get the asphalt done before fall. They were told that if they could get the required documentation turned in by the next day that they could potentially get on the May Planning Commission meeting. Ms. Carter worked through the night and got it turned in by 8 o'clock the next morning. When she turned it in she was told they couldn't do that for some reason. Now were here at the June meeting. A few days ago they had to deal with the vacation issue. Nothing was said since April's meeting. They scrambled and got the vacation application turned in within a few days. He thought it seemed like they are scrambling on their end, trying to make sure that everything that is wanted by staff is met, but they aren't getting anywhere. He thought it was too late to get the project out of the ground this year, which is sad because there is a lot of demand for housing in Elko right now. He thought it was going to be another year and half until this project hits the ground, because of timings. He wanted to voice his frustration. He didn't think it mattered whether the Commission tabled the item, or not, to the end result. Commissioner Dalling was at both of the Stage 1 meetings and he seemed to get the concept of what they were trying to do, and was supportive.

Commissioner Jeff Dalling asked if they moved the item forward, if Mr. Shipp still couldn't get the project going this year.

Mr. Shipp said based on the time frame it sounded like if it was tabled tonight it wouldn't go to City Council until the end of July. By the time they get approvals it would be August. To build a 26 lot subdivision in two months is not going to happen.

Jeremy Draper, Development Manager, explained that for the vacation process the City has received the application for vacation. It will be on the June 12<sup>th</sup> City Council meeting. City Council has to accept the application. If they accept it, then it will come to the Planning Commission. The Planning Commission will consider the application on July 9<sup>th</sup>. If the Planning Commission approves the vacation, their recommendation will go back to the City Council on July 24<sup>th</sup>. The approval of the Preliminary Plat would be conditioned on the final vacation being accepted by the City Council and the right-of-way being vacated for the lots that are shown. It is possible that July 24<sup>th</sup>, City Council could hear the final vacation, and also consider the Preliminary Plat with any conditions. That would give Mr. Shipp the opportunity to come back in August for Final Plat, and get the approvals for the Final Plat in August. In the meantime Mr. Shipp has a grading permit to move a whole bunch of dirt. That is the timeline to get the vacation and the Preliminary Plat through.

Mr. Wilkinson wanted to discuss the developer's responsibility to understand and coordinate their project. When there is a Stage 1 meeting and the Developer changes their mind, and they present something under an application that differs from the Stage 1 meeting, then there needs to be another Stage 1 meeting. They had to go through that process. Staff didn't change the layout of the subdivision, the Developer chose to do that. It's a responsibility of the Developer to have a good understanding of their project when they come to the City of Elko under a Stage 1. They are to present their plans to the City of Elko. When they go back and reconsider their grading plan, and they have to change their subdivision plans, then they have to go through the process again. Fundamentally, staff doesn't process applications where people don't have permission to have any type of action taken on their property. Staff supports the vacation of the right-of-way, they believe that is an appropriate process, but until the City Council takes action, indicating that the City is willing to move that direction, Mr. Wilkinson didn't think the Commission could consider the application at this point in time. The City Manager's office recommended tabling the item. As Mr. Draper indicated, in order to even have a final approval on the Preliminary Plat you have to have the vacation approved. Both those can occur. We cannot have a final approval on the vacation until the end of July. The Preliminary Plat and the Vacation can run concurrent with each other.

Cathy Laughlin, City Planner, clarified that the Preliminary Plat was not on the May Planning Commission agenda because it is a public hearing and there are NRS requirements that have to be followed. After the second Stage 1 meeting it was beyond the time to get the public hearing notifications out in order to make it for the May meeting.

Commissioner Stefan Beck asked Mr. Shipp if he was up against a weather limitation for his paving. He also asked if that milestone was removed if he would be able to continue on, assuming everything fell into place at the August meeting.

Mr. Shipp didn't think, at this point, that they could make it. Whether this is tabled or not, he thought it was too late. If it would have been on April meeting, then there would have potentially been a chance for the project to happen this year. It doesn't make a lot of sense to grade, and spend all the money to grade, if it's going to sit. They had discussed the timeframe of mailings at the second Stage 1 meeting. Everyone felt like it was tight, but if they could get it in the next day that it could still happen.

Commissioner Dalling stated he was at the Stage 1 and he thought they had discussed that it would be on the May meeting. He didn't know why the other stuff didn't come up. They had talked about the City right-of-way, so he didn't know how it got missed.

Chairman David Freistroffer explained that staff had recommended tabling this item. He said he heard Mr. Shipp's concerns about what transpired.

**\*\*\*Motion: Table the item.**

**Moved by Stefan Beck, Seconded by John Anderson.**

*\*Motion passed. (3-1, Commissioner Dalling voted no)*

## **B. MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS**

1. Review, consideration, and possible approval of Final Plat No. 8-18, filed by Parrado Partners, LP, for the development of a subdivision entitled Great Basin Estates Phase 2 involving the proposed division of approximately 13.907 acres divided into 19 lots and 1 remainder parcel for residential development within the R (Single Family and Multiple Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally between Opal Drive and Flagstone Drive on Granite Drive. (001-633-030).

Bob Morley, 640 Idaho Street, explained that he was filling in for Mr. Capps, who is the owner of Parrado Partners. This project is pretty straight forward. It is the second phase of the subdivision. It is for 19 lots. Ms. Laughlin sent him the conditions from staff. Mr. Capps reviewed those and is in agreement with the conditions.

Ms. Laughlin explained that the Final Plat was for Great Basin Estates Phase 2. She then went over the City of Elko Staff Report dated May 29, 2018. Staff recommended approval of the subdivision Preliminary Plat based on the conditions listed in the Staff Report.

Mr. Draper said the Development Department agreed with Ms. Laughlin's presentation. He wanted to highlight a couple of the conditions from the Development Department. The Performance Agreement shall be secured in accordance with 3-3-45 and it shall be for the full amount of the improvements. Mr. Capps is aware of that. The Performance Agreement shall be approved by the City Council. The developer shall enter into the Performance Agreement within 30 days of approval by City Council. All other conditions are standard conditions. The Engineers

Estimate be provided prior to City Council to finalize Performance Agreement. With those conditions Mr. Draper recommended approval.

Bob Thibault, Civil Engineer, stated that the Engineering Department recommended approval as presented by staff.

John Holmes, Fire Marshal, recommended that the subdivision follow the 2012 IFC Appendix D. He recommended approval.

Mr. Wilkinson recommended approval as presented by Staff.

Chairman Freistroffer said it looked like a good project.

**\*\*\*Motion: Forward a recommendation to City Council to conditionally approve Final Plat 8-18 subject to the conditions listed in the City of Elko Staff Report dated May 29, 2018 listed as follows:**

**Development Department:**

1. The Developer shall execute a Performance Agreement in accordance with Section 3-3-44 of city code. The Performance Agreement shall be secured in accordance with Section 3-3-45 of city code. In conformance with Section 3-3-44 of city code, the public improvements shall be completed within a time of no later than two (2) years of the date of Final Plat approval by the City Council unless extended as stipulated in city code.
2. The Performance Agreement shall be approved by the City Council.
3. The Developer shall enter into the Performance Agreement within 30 days of approval of the Final Plat by the City Council.
4. The Final Plat is approved for 19 single family residential lots and 1 remainder lot.
5. The Utility Department will issue a Will Serve Letter for the subdivision.
6. State approval of the subdivision is required.
7. Conformance with Preliminary Plat conditions is required.
8. Civil improvements are to comply with Chapter 3-3 of City code.
9. The Owner/Developer is to provide the appropriate contact information for the qualified engineer and engineering firm contracted to oversee the project along with the required inspection and testing necessary to produce an As-Built for submittal to the City of Elko. The Engineer of Record is to ensure all materials meet the latest edition Standard Specifications for Public Works. All Right-of-Way and utility improvements are to be certified by the Engineer of Record for the project.
10. An engineer's estimate for the public improvements shall be provided prior to the final plat being presented to the City Council to allow for finalization of the required Performance Agreement.

**Fire Department:**

1. Follow the 2012 International Fire Code Appendix D, Section D106 regarding Access Roads within Residential Developments.

**Commissioner Dalling's findings to support his recommendation was the Final Plat for Great Basin Estates Phase 2 has been presented before expiration of the subdivision proceedings in accordance with NRS 278.360(1)(a)(2) and City Code. The Final Plat is in conformance with the Preliminary Plat. The proposed subdivision is in conformance with the Land Use Component of the Master Plan. The proposed subdivision is in conformance with Transportation Component of the Master Plan. Based on the modification of**

standards for lot dimensions granted under the Preliminary Plat Application, the proposed development conforms to Sections 3-3-20 through 3-3-27 (inclusive). The Subdivider shall be responsible for all required improvements in conformance with Section 3-3-40 of City Code. The subdivider has submitted civil improvement plans in conformance with Section 3-3-41 of City Code. The plans have been approved by city staff. The Subdivider has submitted plans to the City and State Agencies for review to receive all required permits in accordance with the requirements of Section 3-3-42 of City Code. The Subdivider has submitted civil improvement plans, which are in conformance with Section 3-3-43 of City Code. The Subdivider will be required to enter into a Performance Agreement to conform to Section 3-3-44 of City Code. The Subdivider will be required to provide a Performance Guarantee as stipulated in the Performance Agreement in conformance with Section 3-3-45 of City Code. Based on the Modifications of Standards for lot dimensions granted under the Preliminary Plat Application, the proposed development conforms to Sections 3-2-3, 3-2-4, 3-2-5(E), 3-2-5(G), and 3-2-17 of City Code. The proposed development is in conformance with Section 3-8 of City Code. The subdivision is in conformance with 3-8 Floodplain Management.

Moved by Jeff Dalling, Seconded by Stefan Beck.

*\*Motion passed unanimously. (4-0)*

2. Review, consideration and possible granting of Parking Waiver 1-18, filed by Charm Hospitality, LLC to waive eleven required off-street parking spaces in connection with a hotel expansion within the C (General Commercial) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the north side of Idaho Street, approximately 595 feet east of E Jennings Way (3019 Idaho Street).

Michelle Leedy, Charm Hospitality, explained that they were proposing an expansion to the North side of the building, which would take out some of the parking spots. They currently have 77 rooms and she thought the current requirement was 20 spaces more than the rooms in the hotel with meeting space, which would put them at a 97 parking spot requirement.

Chairman Freistroffer asked if they were sharing some of the parking lot with the adjacent property.

Ms. Leedy explained that the 9 spaces on the High Desert Inn side are shared.

Ms. Laughlin explained that the applicant was the property owner. The applicant has submitted a set of plans to the Building Department for an expansion to their existing facility. The proposed addition will result in about 4,306 sq. ft. added to the existing structure. The proposed addition includes an indoor pool, meeting room, fitness center, and a small kitchen to serve the existing dining area. She then went over the City of Elko Staff Report dated May, 29 2018. Staff recommended approval.

Mr. Draper stated that the Development Department agreed with the findings and the presentation, and recommended approval of the waiver.

Mr. Thibault recommended approval.

Mr. Holmes recommended approval for the parking waiver only

Mr. Wilkinson recommended approval as presented by staff.

Chairman Freistroffer asked if the dining area was primarily used by the guests. (Yes)

Commissioner Dalling thought they needed parking. He thought before the Commission determined that they didn't need to have the required parking, sometimes they have to look at the grey area. He felt that this would be a good fit, because it's a hotel, and the hotel guests will be eating in the restaurant.

Chairman Freistroffer was in agreement. He thought the daytime use, the dining area and the meeting room, were complimentary and not at the same time as the night time use, which the hotel is, and the hotel guests are the main patrons of the restaurant. It seems like they are caught in the engineering calculation recommendation for parking spaces.

Commissioner Dalling pointed out that there were places in town that have horrific parking, because they got around the parking requirements. This situation doesn't feel like it's trying to skirt the requirements.

Chairman Freistroffer understood that there was some shared parking spaces along the property boundary. That flexibly helps alleviate some of the parking issue, but those spaces can't be counted because they are on the other property. He didn't think they would be creating a problem with this parking waiver.

**\*\*\*Motion: Grant Parking Waiver 1-18.**

**Commissioner Dalling's findings to support his recommendation was that the existing use and proposed expansion are in conformance with the Land Use Component of the Master Plan. The existing use and proposed use is compatible with the Transportation Component of the Master Plan and is consistent with the existing Transportation infrastructure. The property is not located in the Redevelopment Area. The existing use and proposed use is in conformance with the Wellhead Protection Plan. The existing use and proposed use is in conformance with Section 3-2-10 of City Code. The proposed expansion includes amenities that are typically associated with the existing use and is not expected to generate additional traffic resulting in a parking deficit.**

**Moved by Jeff Dalling, Seconded by Stefan Beck.**

*\*Motion passed unanimously. (4-0)*

## **II. REPORTS**

### **A. Summary of City Council Actions.**

*Ms. Laughlin reported on May 8<sup>th</sup> the City Council held the 1<sup>st</sup> reading for Zoning Ordinance Amendment 1-18, which was the modification to the development standards for the IC District. The 2<sup>nd</sup> reading was held and approved for the annexation of the JoyGlobal/Netherton properties. On May 22 City Council approved a bike rack project for the downtown area with the Elko Velo Group, the Kimber Rezone was approved, and approved the rezone for the JoyGlobal/Netherton parcels. The 2<sup>nd</sup> reading was held and approved the Zoning Ordinance Amendment 1-18 for the IC Zoning District.*

B. Summary of Redevelopment Agency Actions.

C. Professional articles, publications, etc.

1. Zoning Bulletin

D. Preliminary agendas for Planning Commission meetings.

*Ms. Laughlin reminded the Commission that the July Meeting would be held on Monday, July 9<sup>th</sup>. On the June 26<sup>th</sup> City Council meeting John Anderson and Stefan Beck would be considered for reappointment for four years to the Planning Commission.*

E. Elko County Agendas and Minutes.

F. Planning Commission evaluation. General discussion pertaining to motions, findings, and other items related to meeting procedures.

G. Staff.

*Chairman Freistroffer said with the two Stage 1 meetings that they had. His understanding was that some City Staff objected to the comments made by a Planning Commission representative at the Stage 1 meeting. The Planning Commission's job is to ask layman's questions, help make the entire process better for the City, and to act as a layman's accountability for City staff by asking tough questions. He said he was distressed by having the representative, which was Commissioner Dalling, be asked not to attend the meetings anymore. He hasn't had time to take care of it since it happened, because it was the end of school. He wanted to have a talk about what the point of the meetings are. He wondered if they could make the process better. He explained that he can't cancel college classes to be at the Stage 1 Meetings. He has to be able to send people from the Planning Commission.*

*Mr. Wilkinson wanted to know who said Jeff Dalling couldn't attend another meeting.*

*Chairman Freistroffer said he had heard it from two sources, including Mr. Dalling.*

*Mr. Wilkinson asked if Mr. Dalling was told at the meeting that he couldn't attend any other meeting.*

*Commissioner Dalling said it was not at that meeting, he was told by several City Staff.*



*Ms. Laughlin thought there was a comment made that was in reference to the Subdivision not being in conformance to the Master Plan, that Mr. Dalling liked the subdivision and the way it was presented and it didn't matter if it was part of the Master Plan Density or not. There was never any comment made at that meeting, or after that meeting that Mr. Dalling wasn't welcome to come to any other meetings. Staff stated that it was important to know what the Master Plan has in it.*

*Commissioner Dalling said he had left the meeting and everyone else was told to stay behind. He said he was not a city employee. He represented everyone, he had the City's interest in mind, but he was also there to represent the City of Elko, as in the people. His job isn't to just do what staff tells him to do. He thought there was a reason the Planning Commission had to be at the Stage 1 meetings, so that there is a check and balance.*

*Mr. Wilkinson said that there is code that has to be enforced. The Code required the Planning Commission to be represented. What is to be done in those meetings is have the developer convey their intentions, and they need to demonstrate how they are in conformance with code. Subdivisions are to be in conformance to the Master Plan, which includes the density. It's not appropriate to, especially when having a discussion about whether a development is in conformance with Master Plan or not, and when the density has gone from a certain density to even less, to disregard the Master Plan. It is up to the Developer to demonstrate that. It's not appropriate for anyone from the Planning Commission, or staff, to say were not going to conform to the Master Plan. If there are individuals, whether they're staff, or representatives from the Planning Commission, that are going to disregard the code, there will be a discussion about who starts attending those meetings. There is nothing in the code about the day or time of the Stage 1 meetings. The developer needs to make themselves available based on a variety of circumstances. This developer had been supported through the annexation process, the zoning process, and all of that. This developer has been given a grading permit early on. They actually started grading the property without a grading permit, which caused storm water issues for the City of Elko. No one has decided who from the Planning Commission is going to attend a meeting. There was some comment about the inappropriateness of stating "We don't care about the Master Plan."*

*Commissioner Dalling stated he never said he didn't care about the Master Plan.*

*Mr. Wilkinson said that was inappropriate and that was a discussion in the meeting. The code requires us to strive to conform to the Master Plan.*

*Chairman Freistroffer apologized for having to bring the concern up. He thought the bottom line was the person he picked felt unwelcome at future meetings. That is still a problem, and let's work through it.*

*Mr. Wilkinson wanted to know who from staff conveyed that message.*

*Chairman Freistroffer thought that they could have any representative of the Planning Commission at the meeting.*

*Mr. Wilkinson thought the committee was defined in the code.*

*Commissioner Beck said he had a soft spot, because he spent a lot of time in the mining industry trying to get under deadlines. He didn't know what happened and wasn't taking sides. When someone comes up and voices frustration because they think they are doing everything. If there's something they could do to help the contractors and make it as smooth as they can, so they can come to Elko and its user friendly.*

*Chairman Freistroffer said it took him a couple times attending the Phase 1 meetings to understand what they were about. It's on the Developer to present and to follow code and rules, and to ask City Staff for advice. Staff isn't able to answer all the questions right then, but they are able to identify all the probabaly's, and maybe's.*

*Mr. Wilkinson said that was correct. Then when the developer makes application, which is Stage 2, they should be going through all of the Code and checking off their conformance. Then it becomes staff's responsibility to evaluate and verify that the application is complete, or if there are any issues. Mr. Wilkinson said he didn't look at an application until he got a staff flow sheet.*

*Commissioner Dalling said he went to the meeting, and he thought it went well. There was a lot of give and take for the Developer. Mr. Dalling thought they had a good product. Mr. Wilkinson was against it, but everyone else was in agreeance. They ended it with the thought that it would be on the May Planning Commission agenda.*

*Mr. Wilkinson objected to Commissioner Dalling saying he was against the subdivision.*

*Commissioner Dalling clarified that Mr. Wilkinson was against the density.*

*Mr. Wilkinson said they needed to strive to meet the Master Plan. This is a good project if they can justify their density because of grading issues. It is not incumbent on staff to just accept, without any information, that that's an acceptable layout of a subdivision. That was the discussion. Initially they had more lots, then they came back with less lots, so that is going further away from the objectives and goals of the Master Plan. He objected to the fact of someone stating on the record that he was against a project. This was a good project, and he was in support of the annexation, the rezone, subdividing the property, but there are steps to take and rules to follow.*

## **COMMENTS BY THE GENERAL PUBLIC**

*There were no public comments made at this time.*

## **ADJOURNMENT**

There being no further business, the meeting was adjourned.

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David Freistroffer, Chairman

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Tera Hooiman, Secretary

**CITY OF ELKO**  
**PLANNING COMMISSION**  
**SPECIAL MEETING MINUTES**  
**5:30 P.M., P.D.S.T., MONDAY, JULY 9, 2018**  
**ELKO CITY HALL, COUNCIL CHAMBERS,**  
**1751 COLLEGE AVENUE, ELKO, NEVADA**

**NOTE:** The order of the minutes reflects the order business was conducted.

**CALL TO ORDER**

David Freistroffer, Chairman of the City of Elko Planning Commission, called the meeting to order at 5:47 p.m.

**ROLL CALL**

**Present:** David Freistroffer  
Evi Buell  
Jeff Dalling  
Tera Hooiman

**Excused:** Ian Montgomery  
John Anderson  
Stefan Beck

**City Staff:** Curtis Calder, City Manager  
Scott Wilkinson, Assistant City Manager  
Cathy Laughlin, City Planner  
Bob Thibault, Civil Engineer  
John Holmes, Fire Marshal  
Shelby Archuleta, Planning Technician

**PLEDGE OF ALLEGIANCE**

**COMMENTS BY THE GENERAL PUBLIC**

*There were no public comments made at this time.*

**APPROVAL OF MINUTES**

June 5, 2018 – Regular Meeting **FOR POSSIBLE ACTION**

**\*\*\*Motion:** Table the minutes to the next meeting.

Moved by Jeff Dalling, Seconded by Evi Buell.

*\*Motion passed unanimously (4-0).*

## I. UNFINISHED BUSINESS

### A. PUBLIC HEARING

1. Review and consideration of Preliminary Plat No. 7-18, filed by DDS Properties, LLC, for the development of a subdivision entitled Humboldt Hills involving the proposed division of approximately 9.443 acres of property into 26 lots for residential development within the R1 (Single-Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the east side of Jennings Way, approximately 120' north of Courtney Drive. (APN 001-01H-001).

Cathy Laughlin, City Planner, went through the City of Elko Staff Report dated June 27, 2018. Staff recommended approval subject to the conditions and findings listed in the Staff Report.

Bob Thibault, Civil Engineer, recommended approval of the Preliminary Plat as presented. He explained that he had one condition, which was listed in the Staff Report.

John Holmes, Fire Marshal, recommended approval as presented.

Curtis Calder, City Manager, recommended approval.

Chairman David Freistroffer had a question on the containment, or flow reducing devices. He asked if it was a seal containment system that would let the flow out gradually. He asked what types of devices could work for that type of situation.

Mr. Thibault explained that the City would be looking for something that would let the flow out gradually.

Chairman Freistroffer asked if it needed to be sealed, so it wouldn't infiltrate.

Mr. Thibault said that was correct. He explained that an example would be a large pipe underground with a smaller pipe outlet. The Engineer may have other thoughts. There are systems that can function and reduce peak flow and not infiltrate.

**\*\*\*Motion: Forward a recommendation to City Council to conditionally approve Preliminary Plat No. 7-18 subject to the conditions found in the City of Elko Staff Report dated June 27, 2018, listed as follows:**

#### **Planning Department:**

1. The Preliminary Plat is to be revised showing the Jennings Way right-of-way to be vacated rather than "straightened".
2. The Preliminary Plat is to be revised, prior to Council consideration of the preliminary plat, to include the relevant information such as parcel map identification or name, book and page is not shown for abutting or across the street properties.
3. City Council approval of the proposed Jennings Way right-of-way vacation is required prior to City Council approval of the preliminary plat.
4. Preliminary Plat approval of the preliminary constitutes authorization for the sub-

- divider to proceed with preparation of the final plat and associated engineering plans.
5. Preliminary Plat approval does not constitute authorization to proceed with site improvements prior to approval of the engineering plans by the City and the State.

**Engineering Department:**

1. Total post-construction peak runoff from the site should not exceed pre-construction peak runoff. Infiltration is not recommended due to complaints of ground water seepage in this area. Consider other types of flow reducing devices.

**Development Department:**

1. The applicant submits an application for Final Plat within a period of four (4) years in accordance with NRS 278.360(1)(a). Approval of the Preliminary Plat will automatically lapse at that time.
2. A soils report is required with Final Plat submittal.
3. Final Plat civil improvements are to comply with Chapter 3-3 of City code.
4. The subdivision shall comply with Chapter 9-8 of City code.
5. The Utility Department will issue an Intent to Serve Letter.
6. A note shall be added to the **final plat** restricting the access for lots 1, 16, 17, 18, 19, and 20 to be limited to Eagle Ridge Loop. Driveway access for lot 20 shall be restricted to the east property line, or the front yard as defined by Elko City Code 3-3-2.

**Commissioner Dalling's findings to support his recommendation was that the proposed subdivision and development is in general conformance with the Land Use Component of the Master Plan. The proposed subdivision and development is in conformance with the Transportation Component of the Master Plan. The proposed subdivision and development does not conflict with the Airport Master Plan. The proposed subdivision does not conflict with the City of Elko Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure, and Annexation Potential Report – November 2012. The property is not located within the Redevelopment Area. The proposed subdivision and development are in conformance with the Wellhead Protection Program. The sanitary sewer will be connected to a programmed sewer system and all street drainage will report to a storm sewer system. The proposed subdivision and development have been designed in accordance with the existing zoning. A zoning amendment is not required. The proposed subdivision is in conformance with Section 3-3-5(A) of City Code. In accordance with Section 3-3-5(E)(2) the proposed subdivision and development will not result in under water or air pollution based on the following: The area is not located within a designated flood zone. Potential for water damage from concentrated storm water runoff has been addressed as shown on the grading plan. The proposed subdivision and development will be connected to the City's programmed sanitary sewer system, therefore the ability of soils to support waste disposal does not require evaluation prior to preliminary plat approval. Extensive grading is proposed, minimizing the slopes area and possible negative effects on effluent discharged from the area. No long term issues associated with erosion are anticipated. There is adequate capacity at the Water Reclamation Facility to support the proposed subdivision and development. There are no obvious considerations are concerns, which indicate the proposed subdivision would not be in conformance with all applicable environmental and health laws and regulations. There is adequate capacity within the City's water supply to accommodate the proposed subdivision. The proposed subdivision and development is not expected to result in**

unreasonable erosion or reduction in the water holding capacity of the land, thereby creating a dangerous or unhealthy condition. The proposed subdivision and development will not create an unreasonable burden on the existing water supply. The proposed subdivision and development will not cause unreasonable traffic congestion or unsafe conditions with respect to existing or proposed streets. The proposed subdivision and development is in conformance with applicable zoning ordinances and is in general conformance with the Master Plan based on the constraints of establishing reasonable grades for roadways, lot grading, and slope maintenance. Utilities are available in the immediate area and can be extended for the proposed development. Schools, Fire and Police, and Recreational Services are available throughout the community. The proposed subdivision submittal is in conformance with Section 3-3-7 of City Code with the following exception: Existing Conditions Data (C)(5). The proposed subdivision is in general conformance with Section 3-3-20 of City Code. The proposed subdivision is in conformance with Section 3-3-21 of City Code. The proposed subdivision is in conformance with Section 3-3-22 and 3-3-23 of City Code. The proposed subdivision is in conformance with Section 3-3-24 of City Code with the approval of Lots 1 and 16 through 20 as double front lots abutting an arterial and access restricted to Eagle Ridge Loop. The proposed subdivision is in conformance with Section 3-3-25 and 3-3-26 of City Code. The proposed subdivision and development is in conformance with Section 3-2-3 and 3-2-4 of City Code. The proposed subdivision and development is in conformance with Section 3-2-5(B)(2). Conformance with Section 3-2-5(B) is required as the subdivision develops. The proposed subdivision and development is in conformance with Section 3-2-5(G) of City Code. The proposed subdivision and development is in conformance with Section 3-2-17. Conformance with Section 3-2-17 is required as the subdivision develops. The proposed subdivision and development is in conformance with Section 3-2-28 of City Code. The proposed subdivision and development is not located in a designated special flood hazard area and is in conformance with Section 3-8 of City Code. The proposed subdivision, with approval of Vacation 1-18, is in conformance with Section 8-7 of City Code.

Moved by Jeff Dalling, Seconded by Evi Buell.

*\*Motion passed unanimously (4-0).*

## **II. NEW BUSINESS**

### **A. PUBLIC HEARING**

1. Review, consideration, and possible action on Variance No. 5-18, filed by Golden Gate Petroleum of Nevada, LLC, to allow for a second freestanding sign on the parcel, for an increase in allowable sign area from 200 sq. ft. to 678.5 sq. ft. and the allowed sign height from 45' to 60', within an C -General Commercial Zoning District, (APN 001-679-011), and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the north side of West Idaho Street, approximately 742 feet east of I-80, Exit 298. (3600 W. Idaho Street - APN 001-679-011)

Tom Weatherby, YESCO, explained that they have worked with Golden Gate Petroleum for 10 years on all of their projects. Golden Gate started with Mr. Weatherby in Lovelock when they moved to Nevada. He showed an image of that location's sign, which is 100 ft. They had typical building signage. He then showed a photo of the Carson City location. At that location they had to go through the special use process to get a freeway sign. The proposed location for Elko will be on Idaho Street just before Exit 298. The property has an Idaho Street entrance, but it also has a freeway presence. The proposed sign was going to be on top of a hill originally, but it was cost prohibitive. The FAA approved the previous location. The FAA approved the same sign at the current proposed location. The building is currently under construction. They have several other signs on the property, which have already been permitted. Mr. Weatherby explained the other signs. They need a variance because the City Code doesn't acknowledge I-80 as a street frontage, so to get two freestanding signs you have to have two street frontages. They were asking that the Planning Commission consider the freeway as a street frontage and give them a secondary freestanding sign. They are also asking to allow an addition 15 ft. over the 45 ft. height that is allowed in the Code, in order to see it from the freeway in time to make a safe exit. The Code allows 2 sq. ft. per 1 ft. of building frontage. They have a very large parcel with a small building. The building is only 100 ft. across the front. He explained that there was a science for determining the size of the sign they needed. Sinclair requires a 176 sq. ft. logo sign on the top. The gas price is 89". There are also some advertising signs below for a casino and a Port of Subs restaurant. They went out to site and did a "Flagging", which is hanging a flag from a boom truck at the proposed location for the sign. Coming from the west the sign is almost completely visible, but coming from the east the only portion of the sign that is visible is the Sinclair on the top. Originally Sinclair was not agreeable to having the gas prices beside their logo, but once they saw the rendering they agreed to have the prices beside their logo. The sign would still be the same height, but allowing for the prices to be next to the logo would allow the prices to be seen from the east. He then gave a brief overview of his presentation.

Chairman Freistroffer thought they were only approving the variance for the size of the sign, not the design.

Ms. Laughlin explained that the variance would be for the size, the height, and the second sign on the parcel. She also expressed that the Planning Commission would have to modify the staff recommended condition, which states that conformance to plans approved as part of the variance.

Scott Wilkinson, Assistant City Manager, asked if the square footage would be the same.

Mr. Weatherby stated yes, that they would be using exactly the same signs in a different configuration.

Ms. Laughlin went through the City of Elko Staff Report dated June 28, 2018. One of the key elements is that the property is so much lower than the freeway. The 60 foot sign is 33 feet higher than the east bound lane and 30 feet higher than the west bound lane. There are nine billboards in the vicinity and they are all 35 to 45 feet tall. This sign will not be taller than any of the billboards in the vicinity. Staff recommended conditional approval subject to the conditions and findings listed in the Staff Report.

Mr. Thibault recommended approval as presented.



Mr. Holmes recommended approval.

Mr. Calder recommended approval. He noted that Condition No. 2 from the Staff Report was not necessary, since the June 22<sup>nd</sup> FAA study did not address the approach or departure procedures.

Ms. Laughlin explained that that condition was removed prior to the report going into the agenda packet.

Mr. Weatherby thanked staff for all the work they did.

Chairman Freistroffer thought with all variances it was important to make sure that they were adhering to the application standards. He thought those standards were being upheld in this case. There was a special condition regarding the topography. The first location was prohibitive. Those are special conditions that don't generally apply to other properties in the vicinity or zone. He thought that if the Commission approved the variance it was based on a special condition that this property has.

Commissioner Evi Buell thought it was a reasonable accommodation for the use of the land.

Commissioner Jeff Dalling said he was looking at the FAA approval and it didn't look like it was going to do anything to the GPS approach to Runway 6.

**\*\*\*Motion: Conditionally approve Variance No. 5-18 based on facts, findings, and conditions as presented in the City of Elko Staff Report dated June 28, 2018.**

**Moved by Evi Buell, None seconded.**

Mr. Wilkinson suggested they change Condition No. 3 to "as approved by staff," which would give Ms. Laughlin the flexibility to work with the applicant.

**\*\*\*Motion: Modified the motion to conditionally approve Variance No. 5-18 subject to the conditions in the City of Elko Staff Report dated June 28, 2018, with a modification to Condition No. 3, listed as follows:**

**Planning Department:**

1. Commencement within one year and completion within eighteen (18) months.
2. A sign permit is required for the work.
3. Conformance to plans as approved by staff as a part of the variance.
4. Subject to review in two (2) years if determined necessary by the Planning Commission.

**Commissioner Buell's findings to support her recommendation was that the proposed sign, with variance approval is in conformance with the Land Use Component of the Master Plan. The proposed sign, with variance approval, is in conformance with the City of Elko Airport Master Plan. The property is no located within the Redevelopment Area. There are no signage regulations stipulated in Section 3-2-10 of the City Code. In accordance with Section 3-2-22, the applicant has demonstrated that the canopy for the gas pumps can't be**

considered in the allowable square footage calculation and therefore requiring a variance for the allowable size of sign. In accordance with Section 3-2-22, the applicant has demonstrated that the visibility from eastbound and westbound I-80 traffic with distance required prior to exit is an important consideration for the business. The lower elevation of the store makes it difficult for visibility from I-80. In accordance with Section 3-2-22, the adjacent parcel fronting West Idaho Street is undeveloped and the cited conditions therefore do not generally apply to other properties in the area. Granting of the variance will not result in material damage or prejudice to other properties in the vicinity. This finding is based on the zoning of the adjacent properties, as well as distance separation due to large parcels. Granting of the variance will not substantially impair the intent or purpose of the zoning ordinance. The proposed signage will not result in distractions and obstructions that may adversely affect or conflict with traffic control signs, signals, and other traffic control devices. In addition, granting of the variance will not result in visual clutter along streets and roadways and will provide each sign user an opportunity for effective identification and advertising by addressing the quantity, height and area of freestanding signs on all sites. Granting of the variance will not impair natural resources, nor be detrimental to the public health, safety, and general welfare.

Moved by Evi Buell, Seconded by Tera Hooiman.

*\*Motion passed unanimously. (4-0)*

2. Review, consideration, and possible recommendation to City Council for Rezone No. 5-18, filed by High Desert Engineering, on behalf of Elko County, HCPI/UTAH, LLC, and Veterans of Foreign Wars, for a change in zoning from R (Single-Family and Multiple-Family Residential) to PQP (Public, Quasi-Public), approximately 2.797 acres of property, and matters related thereto. **FOR POSSIBLE ACTION**

The subject properties are located generally on the northeast side of 14<sup>th</sup> Street between Cedar Street and College Avenue. (APNs 001-200-004, 001-200-005, 001-200-001).

Bob Morley, High Desert Engineering, 640 Idaho Street, explained that he was representing the County, HCPI, and the VFW. The property is located where the old clinic building, the surgical center, and the VFW Hall is. Staff was contacted about improvements to the VFW and the Clinic, during the review staff decided that the Zoning was improper for the use of the buildings that are on the property, being Residential rather than PQP. Staff suggested that the proper zoning would be PQP. As required with a rezone a survey was conducted and a site plan prepared that shows the locations of the buildings on the property. If the rezone for PQP is approved it raises some other issues with that zoning that pertains to the location of the buildings on the property. Those items follow in the agenda directly after this item, which are some variances for setback issues, and occupancy of the right-of-ways. What they are trying to do is rezone the property to the proper zoning for the use and the variance and revocable permits be granted to have the properties, as they exist now, be conforming.

Ms. Laughlin thought Mr. Morley summed it up really well. It all started with VFW wanting to expand their sign, because YESCO gave them a reader board to add to their sign. With the

property zoned residential signs are not allowed. It remains as it is today as a legal non-conforming use, but any expansion upon the sign would have had to be denied. She then went over the City of Elko Staff Report dated June 5, 2018. Staff recommended conditional approval subject to the conditions and findings in the Staff Report.

Chairman Freistroffer asked what the Commission was considering for the accessory structures.

Ms. Laughlin explained that on the VFW parcel there are two accessory structures, a shed and an awning. Under the PQP Zoning District accessory structures do not have setback requirements, but the location of them must be approved by the Planning Commission.

Mr. Thibault recommended approval as presented.

Mr. Holmes recommended approval.

Mr. Calder had no comments or concerns on this item.

Chairman Freistroffer explained that they needed to include, in the motion, that they approve the current location of the accessory structures if they agree with that.

**\*\*\*Motion: Approve the location of the existing accessory structures as shown on the site plan for VFW parcel APN 001-200-001 and forward a recommendation to City Council to adopt a resolution which conditionally approves Rezone No. 5-18, subject to the conditions listed in the City of Elko Staff Report dated June 5, 2018, listed as follows:**

**Development Department:**

1. A parcel map be recorded modifying the boundary of parcels 001-200-004 and -005 to follow the building walls and keep each building on their own properties so portions of the building do not cross a property line.
2. The Planning Commission consider the location of all accessory structures per ECC 3-2-8

**Planning Department:**

1. Variance applications 6-18, 7-18 and 8-18 are approved and all the conditions are satisfied.
2. VFW parcel APN 001-200-001 be approved a revocable permit to occupy the right-of-way and enter into a license agreement with the City of Elko.
3. All conditions for the rezone are satisfied prior to the Mayor signing the resolution to rezone the property

**Commissioner Buell's findings to support her motion was that the proposed rezone is in conformance with the Master Plan Land Use Component. The proposed rezone is compatible with the Master Plan Transportation Component and is consistent with the existing transportation infrastructure. The properties are not located in the Redevelopment Area. The proposed zone district is consistent with City of Elko Wellhead Protection Plan. The proposed zone district is in conformance with City Code 3-2-4(B). The proposed zone district is in conformance with Section 3-2-8 PQP – Public, Quasi-Public District with the approval of the variance applications. Existing Development meets the requirements under 3-2-17, or will be considered a legal non-conforming use. The proposed zone district is**

consistent with surrounding land uses. Development under the proposed zone district will not adversely impact natural systems, or public/federal lands, such as waterways, wetlands, drainages, floodplains, etc., or pose a danger to human health and safety.

Moved by Evi Buell, Seconded by Jeff Dalling.

*\*Motion passed unanimously. (4-0)*

3. Review, consideration, and possible action on Variance No. 6-18, filed by Veterans of Foreign Wars for a reduction of the required setback from any street line; VFW Drive street line 18' required to 1.3', College Avenue street line 19.5' required to 15.4', 14<sup>th</sup> St. street line 16.5' required to 2.7', in conjunction with a zone change from R (Single Family and Multiple Family Residential) to PQP (Public, Quasi-Public), and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the west corner of the intersection of College Avenue and VFW Drive. (646 VFW Drive - APN 001-200-001)

Ms. Laughlin went over the City of Elko Staff Report dated June 25, 2018. Staff recommended conditional approval subject to the conditions and findings in the Staff Report. The practical difficulty of this is directly related to the fact that the property is developed as an improperly zoned use.

Mr. Thibault recommended approval.

Mr. Holmes recommended approval

Mr. Calder recommended approval.

Commissioner Dalling disclosed that he was a member of VFW, but he didn't think that would affect decision.

Chairman Freistroffer thought the special circumstances and the hardship were being met, and the other of the six points that needed to be met as well.

**\*\*\*Motion: Conditionally approve Variance No. 6-18 subject to the condition in the City of Elko Staff Report dated June 25, 2018, listed as follows:**

- 1. Approval of rezone application 5-18.**

Commissioner Buell's findings to support her recommendation was that the proposed variance approval is in conformance with the Land Use component of the Master Plan. The property is not located within the Redevelopment Area and consideration of the plan is not required. Approval of Variance 6-18, in conjunction with approval of Rezone 5-18, will bring the property into conformance with Section 3-2-8 of City Code. The special circumstance is directly related to the property being improperly zoned for the developed use of the property. The exceptional practical difficulty is directly related to the fact the property is improperly zoned for the existing use of the property and the variance is

required to legally rezone the property and address the required setbacks stipulated in the proposed zone. The special circumstance of a fully developed property with several legal non-conforming issues, including the use of the property as a Public/Quasi-Public use is limited in extent in the district. This circumstance does not generally apply to other properties in the district. The identified issue is restricted to a small number of properties within the civic center area of the community. The granting of the variance will not result in material damage or prejudice to other properties in the vicinity. The applicant is seeking the variance to address a fully developed property with several legal non-conforming issues, including the use of the property as a Public/Quasi-Public use. The applicant is not seeking the variance to develop or expand the use of the property. The granting of the variance is directly related to an improperly zoned property and will not impair the intent or purpose of the zonings, and will not change the use of the land or zoning classification. The property is fully developed with several legal non-conforming issues, including the use of the property as a Public/Quasi-Public use and the granting of the variance will not impair natural resources.

Moved by Evi Buell, Seconded by Tera Hooiman.

*\*Motion passed unanimously. (4-0)*

4. Review, consideration, and possible action on Variance No. 7-18, filed by HCPI/UTAH, LLC for a reduction of the required setback from any interior lot line, from 27' to 0' on the Northwest, 29' to 5.1' on the Northeast, 27' to 10.3' on the Southeast, 29' to 9.7' on the Southwest, and increase the maximum lot coverage from 35% to 73% within a PQP (Public, Quasi-Public) Zoning District, in conjunction with a zone change application, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the west side of Golf Course Drive, approximately 205' south of Cedar Street. (855 Golf Course Drive - APN 001-200-005)

Ms. Laughlin explained that the agenda item was correct, but the legal notifications that went out for this item were incorrect due to the calculation of the setbacks. Staff was originally calculating the frontages as street line setbacks within the PQP. Reading through definitions better, because of the unique situation, all should be analyzed as interior side yard setbacks. Staff would like this item to be tabled until next month.

**\*\*\*Motion: Table Variance No. 7-18.**

Moved by Evi Buell, Seconded by Tera Hooiman.

*\*Motion passed unanimously (4-0).*

5. Review, consideration, and possible action on Variance No. 8-18, filed by Elko County, for a reduction of the required interior side setback from 43' to 0' within a PQP (Public, Quasi-Public) Zoning District, in conjunction with a zone change from

R (Single Family and Multiple Family Residential) to PQP (Public, Quasi-Public), and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the southeast corner of the intersection of Cedar Street and 14<sup>th</sup> Street. (762 14<sup>th</sup> Street - APN 001-200-004)

Ms. Laughlin went over City of Elko Staff Report dated June 25, 2018. Staff recommended conditional approval with the conditions and findings listed in the Staff Report.

Mr. Thibault recommended approval.

Mr. Holmes recommended approval.

Mr. Calder recommended approval.

Commissioner Buell thought this met the unique circumstances element of the variance that is needed.

**\*\*\*Motion: Conditionally approve Variance No. 8-18 subject to the conditions in the City of Elko Staff Report dated June 25, 2018, listed as follows:**

- 1. Approval of rezone application 5-18.**
- 2. Parcel map 3-18 is to be approved, recorded and all related conditions satisfied.**

Commissioner Buell's findings to support her recommendation was that the proposed variance approval is in conformance with the Land Use component of the Master Plan. The property is not located within the Redevelopment Area and consideration of the plan is not required. The property shares a common wall with the principal structure on Parcel 2, therefore cannot meet interior yard setback requirements. Approval of Variance 8-18, in conjunction with approval of Rezone 5-18, will bring the property into conformance with Section 3-2-8 of City Code. The special circumstance is directly related to the property being improperly zoned for the developed use of the property. The exceptional practical difficulty is directly related to the fact the property is improperly zoned for the existing use of the property and the variance is required to legally rezone the property and address the required setbacks stipulated in the proposed zone. The special circumstance of a fully developed property with several legal non-conforming issues, including the use of the property as a Public/Quasi-Public use is limited in the extent in the district. This circumstance does not generally apply to other properties in the district. The identified issue is restricted to a small number of properties within the civic center area of the community. The granting of the variance will not result in material damage or prejudice to other properties in the vicinity. The applicant is seeking the variance to address a fully developed property with several legal non-conforming issues, including the use of the property as a Public/Quasi-Public use. The applicant is not seeking the variance to develop or expand the use of the property. The granting of the variance is directly related to an improperly zoned property and will not impair the intent or purpose of the zoning and will not change the use of the land or zoning classification. The property is fully developed with several legal non-conforming issues, including the use of the property as Public/Quasi-Public use and the granting of the variance will not impair natural resources.

Moved by Evi Buell, Seconded by Tera Hooiman.

*\*Motion passed unanimously. (4-0)*

## **B. MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS**

3. Review, consideration and possible recommendation to City Council for Revocable Permit No. 3-18, filed by Veterans of Foreign Wars to occupy a portion of VFW Drive and 14<sup>th</sup> Street right-of-way to accommodate on-street parking, and a portion of VFW Drive to accommodate an existing awning and sign, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the northwest corner of the intersection of College Avenue and VFW Drive. (646 VFW Drive - APN 001-200-001)

Ms. Laughlin explained that the parking is currently considered a legal non-conforming use. Due to the width of the parking, width of the lot, and the building coverage there is no off-street parking on the parcel, or availability to add any off-street parking. There are currently eight parking spaces on 14<sup>th</sup> Street and eighteen parking spaces on VFW Drive. The ADA Parking and Accessible Route for the property is from 14<sup>th</sup> Street. With the survey a portion of the awning for the covered walkway that goes to the covered patio encroaches over the property line and into the right-of-way. Also one leg of the sign encroaches into the right-of-way. This Revocable Permit would allow them to use the parking, the sign, and the awning. She then continued to go over the City of Elko Staff Report dated June 22, 2018. Staff recommended approval subject to the conditions and findings in the Staff Report.

Mr. Thibault recommended approval.

Mr. Holmes recommended approval

Mr. Wilkinson recommended approval.

**\*\*\*Motion: Forward a recommendation to City Council to approve Revocable Permit No. 3-18 for parking, existing awning, and sign in VFW Drive and 14<sup>th</sup> Street right-of-way subject to execution of a Standard License Agreement between the Applicant and the City of Elko subject to the conditions listed in the City of Elko Staff Report dated June 22, 2018, listed as follows:**

1. Approval of rezone application 5-18 is required.
2. Approval of variance application 6-18 is required.
3. A revocable license agreement between the applicant and the City of Elko is required.
4. The existing parking shall have the required number of ADA spaces.
5. A written legal description of the area is required. The legal description and an approved site plan are to be a part of the license agreement.



6. The applicant is responsible for maintenance of the occupied right-of-way to City standards. The maintenance includes striping of parking spaces. This condition will be incorporated into the license agreement.

Commissioner Buell's findings to support her recommendation was that the existing use of the property with possible approvals of rezone application 5-18 and variance application are in conformance with the Land Use Component of the Master Plan. The property is not located within the Redevelopment Area. Approval of Variance 6-18 is required for the property to be in conformance with Section 3-2-8 of City Code. Approval of Revocable Permit 3-18 is required for the property to be in conformance with Section 3-2-17 of City Code. Approval of Rezone 5-18 and Revocable Permit 3-18 is required for the property to be in conformance with Section 3-9 of City Code.

Moved by Evi Buell, Seconded by Jeff Dalling.

*\*Motion passed unanimously (4-0).*

#### A. PUBLIC HEARING

6. Review, consideration, and possible recommendation to City Council for Rezone No. 6-18, filed by Elko West Properties, LLC, for a change in zoning from PC (Planned Commercial) to C (General Commercial), approximately 60.75 acres of property, to allow for multi-family development, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the south side of Errecart Boulevard, approximately 545' west of Lamoille Highway. (APN 001-770-004).

Ms. Laughlin explained that Staff received an email from the applicant that requested the item be tabled.

**\*\*\*Motion: Table.**

Moved by Jeff Dalling, Seconded by Evi Buell.

*\*Motion passed unanimously (4-0).*

7. Review, consideration, and possible action of Conditional Use Permit No. 4-18, filed by Elko West Properties, LLC, which would allow for development of an apartment complex and townhomes within a C (General Commercial) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the south side of Errecart Boulevard, approximately 545' west of Lamoille Highway. (APN 001-770-004).

Ms. Laughlin explained that the applicant requested the item be tabled.

**\*\*\*Motion: Table Conditional Use Permit No. 4-18.**

Moved by Evi Buell, Seconded by Tera Hooiman.

*\*Motion passed unanimously (4-0).*

## **B. MISCELLANEOUS ITEMS, PETITIONS, AND COMMUNICATIONS**

1. Review, consideration and possible action on a transfer of Conditional Use Permit No. 3-03 to new property owner, filed by Melissa Duke on behalf of Sonora LLC., which would allow for a beauty salon within a RO- Residential Office Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The location of said property is generally on the west corner of the intersection of 7<sup>th</sup> Street and Pine Street. (685 Pine Street).

Ms. Laughlin went over the City of Elko Staff Report dated June 22, 2018. Staff recommended the Conditional Use Permit be transferred to Sonora, LLC with the conditions in previous Conditional Use Permit and the findings in the Staff Report.

Mr. Thibault recommended approval

Mr. Holmes explained that the property was inspected by the Building and Fire Departments. There are items that will need to be corrected. He recommended approval.

Mr. Calder explained that he had comments on the Flow Sheet. He was concerned with the CUP not being recorded. After talking with staff, they feel that it's ultimately ok. He asked if the new CUP would be recorded.

Ms. Laughlin said that City Staff would take care of that, because it wasn't a condition in the original CUP and no new conditions can be added.

**\*\*\*Motion: Approve the transfer of Conditional Use Permit No. 3-03, subject to the conditions in the City of Elko Staff Report dated June 22, 2018, listed as follows:**

1. That Conditional Use Permit #3-03 is transferred allowing the continuation of an approved use as a beauty salon in an RO (Residential Office) zoning district as generally shown on site plan labeled Exhibit "A", subject to the following conditions:
2. The floor plan shall be limited to four service chairs.
3. The conditional use permit shall expire within one (1) year unless the approved use has been inaugurated.
4. That the beauty salon shall conform to all applicable building code and fire code requirements.

Commissioner Dalling's findings to support his recommendation was that the existing conditional use permit is consistent with the Land Use Component of the Master Plan. The existing conditional use permit meets Objective 2 and 4 of the Land Use Component of the Master Plan. The existing conditional use is consistent with the Transportation Component of the Master Plan. The proposed use, intensity of use, and limitations of intensity of use

will not create any significant cumulative issues on the existing transportation system. The transfer of the Conditional Use Permit is in conformance with the Redevelopment Plan. The transfer of Conditional Use Permit is in conformance with the Wellhead Protection Plan. The transfer of the existing conditional use permit is in conformance with Section 3-2-3 of City Code. The existing conditional use permit is in conformance with Section 3-2-5(F)(3) of City Code. With the filing of the application, for the transfer from permittee to new owner, the applicant is in conformance with Section 3-2-18 of City Code. The property, as developed and with approved parking waiver 1-03, is in conformance with City Code 3-2-17.

Moved by Jeff Dalling, Seconded by Tera Hooiman.

*\*Motion passed unanimously. (4-0)*

2. Review, consideration, and possible recommendation to City Council for Vacation No. 1-18, filed by DDS Properties, LLC, for the vacation of a portion of Jennings Way right-of-way abutting APN 001-01H-001, consisting of an area approximately 7,036 square feet, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the east side of Jennings Way, approximately 150' north of Courtney Drive. (APN 001-01H-001)

Ms. Laughlin went through the City of Elko Staff Report dated June 20, 2018. Staff recommended forwarding a recommendation to City Council to adopt resolution that conditionally approves the proposed vacation with the conditions and findings listed in the Staff Report.

Mr. Thibault recommended approval

Mr. Holmes had no comments or concerns.

Mr. Calder recommended approval.

Chairman Freistroffer asked if the easement, mentioned in Condition 2, was in the right-of-way before and now it's out of the right-of-way because they vacated it, or if it was something additional.

Mr. Thibault explained that it is standard with any subdivision along all street frontages.

**\*\*\*Motion: Forward a recommendation to City Council to adopt a resolution which conditionally approves Vacation No. 1-18 subject to the conditions listed in the City of Elko Staff Report dated June 20, 2018, listed as follows:**

1. The applicant is responsible for all costs associated with the recordation of the vacation.
2. A 7.5' utility easement be recorded along the new right of way line for Jennings Way, this shall be included in the City Council's order vacating the right-of-way and shall be shown on the final plat.

3. **Property Owner/Applicant shall sign an agreement with the City of Elko relinquishing of all rights associated with previous agreement between City of Elko and Wyatt and Melinda Chambers prior to recordation of the vacation.**
4. **The vacation shall be recorded independent and prior to preliminary plat approval.**
5. **Written response from all non-City utilities is on file with the City of Elko with regard to the vacation in accordance with NRS 278.480(6) before the order is recorded.**

**Commissioner Buell's findings to support her recommendation were that the proposed vacation is in conformance with NRS 278.479 to 278.480, inclusive. The proposed vacation is in conformance with the Land Use Component of the Master Plan. The proposed vacation is in conformance with the Transportation Component of the Master Plan. The area proposed for vacation is not located within the Redevelopment Area. The proposed vacation is in conformance with Section 3-2-4 and 3-2-5 of City Code. The proposed vacation, with the recommended conditions, is in conformance with Section 8-7 of City Code. The proposed vacation will not materially injure the public and is in the best interest of the City.**

**Moved by Evi Buell, Seconded by Tera Hooiman.**

***\*Motion passed unanimously. (4-0)***

4. Review, consideration and possible action on Temporary Use Permit No. 1-18, filed by Koinonia Construction, Inc., for the temporary use of a single family residence to be used as a model home sales office, APN 001-61J-027, and matters related thereto.  
**FOR POSSIBLE ACTION**

The subject property is located generally on the southwest side of Copper Trail approximately 580 feet northwest of Copper Street (2793 Copper Trail).

Luke Fitzgerald, 207 Brookwood Drive, explained that they would be using the garage in one of the houses they built in their subdivision as an office.

Ms. Laughlin went over City of Elko Staff Report dated June 20, 2018. Staff recommended approval subject to the conditions and findings in the Staff Report.

Mr. Thibault recommended approval.

Mr. Thibault recommended approval

Mr. Calder had no comments or concerns.

**\*\*\*Motion: Conditionally approve Temporary Use Permit No. 1-18 subject to the conditions found in the City of Elko Staff Report dated June 20, 2018, listed as follows:**

**Building Department:**

1. Provide accessible elements as required by ICC A117.1-2009, accessible routes, restrooms etc. (ICC A117.1-2009) This standard provides technical criteria for

making sites, facilities, buildings, and elements accessible. The administrative authority shall provide scoping provisions to specify the extent to which these technical criteria apply. These scoping provisions shall address the application of this standard to: each building and occupancy type; new construction, alterations, temporary facilities, and existing buildings; specific site and building elements; and to multiple elements or spaces provided within a site or building.

**Planning Department:**

1. Permit is issued for the time period of one (1) year.
2. All items/materials stored must be inert.
3. The model home is used as a sales office and not as a construction job site office.
4. Off street parking to be designated for guests of the model home office and employee parking must be located off site.
5. Planning Department must be notified if the home sells or if the office is being relocated.

**Commissioner Buell's findings to support her approval was that the proposed use is in conformance with the City of Elko Master Plan Land Use and Transportation Components. The temporary use is in conformance with Elko City Code 3-2-3(C)(5). The temporary use can provide the required off-street parking for the office as per Elko City Code 3-2-17. The proposed property provides ADA accessibility to the office within the garage and home with a portable ramp. The parcel is not located in a designated flood zone.**

**Moved by Evi Buell, Seconded by Tera Hooiman.**

***\*Motion passed unanimously. (4-0)***

5. Review, consideration, and possible approval of Final Plat No. 9-18, filed by Riverside Villas Nevada, LLC, for the development of a subdivision entitled Riverside Villas a Condominium Development Phase 1 involving the proposed division of approximately 7.872 acres divided into 24 lots and 1 remainder for residential development within the C (General Commercial) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located generally on the northwest corner of the intersection of S. 12 Street and Opal Drive (APN 001-630-077).

Branson Brinton, 1319 E Iron Boberg Circle, Draper, UT, said having received approval of the tentative map they are here seeking approval for Phase 1 Final Map for the first two buildings, which contain 24 units.

Ms. Laughlin went over the City of Elko Staff Report dated June 21, 2018. Staff recommended approval subject to the conditions and findings listed in the Staff Report.

Mr. Thibault recommended approval.

Mr. Holmes recommended approval.

Mr. Calder recommended approval.

Chairman Freistroffer said he had a question about the condition requiring the applicant to show the easement of the HARP Trail. His understanding was that was required to be shown on the Final Plat and recorded, so it is noted for future grants for the HARP Trail.

Mr. Thibault thought it was already recorded.

Mr. Wilkinson said it was of record. It just needed to be shown on the Plat.

**\*\*\*Motion: Forward a recommendation to City Council to conditionally approve Final Plat No. 9-18 subject to the conditions in the City of Elko Staff Report dated June 21, 2018, listed as follows:**

**Development Department:**

1. The Final Plat is approved for 24 residential condominium units and 1 remainder lot including the common area for the facility.
2. State approval of the subdivision is required.
3. Conformance with Preliminary Plat conditions is required.
4. The Owner/Developer is to record the final plat within 2 years of the date City Council approves the final plat.
5. Identify the location of the pedestrian easement which was granted for the extension of the HARP trail, prior to being presented City Council.
6. The Developer shall execute a Performance Agreement in accordance with Section 3-3-44 of city code. The Performance Agreement shall be structured to address the unique circumstances associated with the proposed subdivision.
7. The Performance Agreement shall be approved by the City Council.
8. The Developer shall enter into the Performance Agreement within 30 days of approval of the Final Plat by the City Council.
9. The subdivision map shall provide the names of all adjoining subdivisions with name, date, book and page number of recordation noted, this includes the properties adjoined by 12<sup>th</sup> Street and Opal Drive, the information shall be added to the final plat prior to being presented to City Council.

**Fire Department:**

1. Follow the 2012 International Fire Code Appendix D, Section D106 regarding Access Roads within Residential Developments.

**Commissioner Buell's findings to support her recommendation was that the Final Plat for Riverside Villas Condominiums, Phase 1 has been presented before expiration of the subdivision proceedings in accordance with NRS 278.360(1)(a)(2) and City Code. The Final Plat is in conformance with the Preliminary Plat. The proposed subdivision is in conformance with the Land Use Component of the Master Plan. The proposed subdivision is in conformance with the Transportation Component of the Master Plan. The proposed subdivision conforms to Sections 3-3-20 through 3-3-27 (inclusive). The property was developed under a prior subdivision approval process. The property is fully developed as a multi-family use. No additional improvements are required in association with the proposed subdivision. The proposed subdivision is in conformance with Section 3-3-40 of City Code. The property was developed under a prior subdivision approval process. Engineering plans are not required in association with the proposed subdivision. The**

proposed subdivision is in conformance with Section 3-3-41 of City Code. The property was developer under a prior subdivision approval process. The property is fully developed as a multi-family use. No additional improvements are required in association with the proposed subdivision. The Subdivider will be responsible for any required State approvals to be in conformance with Section 3-3-42 of City Code. The property was developed under a prior subdivision approval process. The property is fully developed as a multi-family use. No additional improvements are required in association with the proposed subdivision. The proposed subdivision is in conformance with Section 3-3-43 of City Code. The Subdivider will be required to enter into a Performance Agreement to conform to Section 3-3-44 of City Code. An agreement to install improvements is required under code and can be structured to address the unique circumstances associated with the proposed subdivision. The Subdivider will be required to provide a Performance Guarantee as stipulated in the Performance Agreement in conformance with Section 3-3-45 of City Code. As noted under Section 3-3-44 an agreement to install improvements is required per City Code. The agreement can be structured to address the unique circumstances associated with the proposed subdivision and the performance guarantee can be addressed accordingly. All required public improvements are in place, no additional improvements are required as part of this subdivision process. The proposed subdivision conforms to Sections 3-2-3, 3-2-4, 3-2-10, and 3-2-17 of City Code. The proposed subdivision is in conformance with Section 3-8 of City Code.

Moved by Evi Buell, Seconded by Jeff Dalling.

*\*Motion passed unanimously (4-0).*

### III. REPORTS

#### A. Summary of City Council Actions.

*Ms. Laughlin reported that the Preliminary Plat for Riverside Villas was approved on the 12th. There was a Curb, Gutter, and Sidewalk Waiver for Swire Coca Cola that was approved on June 12<sup>th</sup>. There were two Revocable Permits for monitoring wells that were approved. The petition for the Vacation that was heard tonight was approved on the 12th. The Final Plat for Autumn Colors Phase 5 was approved on the 12<sup>th</sup>. The Planning Commission Members, Stefan Beck and John Anderson, were reappointed for four year terms starting in July of 2018.*

#### B. Summary of Redevelopment Agency Actions.

#### C. Professional articles, publications, etc.

##### 1. Zoning Bulletin

#### D. Preliminary agendas for Planning Commission meetings.

*Ms. Laughlin reported that it had been brought to her attention to put on the August Planning Commission Agenda to review and consider changing the meeting time back to 6:30pm. The Chairman requested that item be on the agenda.*



*Chairman Freistroffer said they had previously discussed having small snippets of the processes on the agendas. He asked if they should flag that as something that might appear on future agendas.*

*Ms. Laughlin said that was something that could be discussed.*

*Commissioner Dalling asked if more consideration could be put in when making the agenda to put items from the same applicant together.*

*Ms. Laughlin explained that it depends on if the item is unfinished business, a public hearing, or miscellaneous items or petitions. She also said it was based on the order the applications come into the Planning Department.*

*There was some discussion regarding the order of the agenda items.*

*Mr. Calder mentioned that the City Council adopted a Consent Agenda, he wasn't sure if the Planning Commission was interested in looking into a Consent Agenda for items that don't require a lot of deliberation or findings.*

*Chairman Freistroffer said he wasn't sure it would always work well, because there is so much that needs to be read into the record.*

*Ms. Laughlin reported that staff looked at what the applications have been, since it is midway through the year. We have exceeded the amount of fees brought in for the entire year of 2017. We are on the way to a record year.*

E. Elko County Agendas and Minutes.

F. Planning Commission evaluation. General discussion pertaining to motions, findings, and other items related to meeting procedures.

G. Staff.

## **COMMENTS BY THE GENERAL PUBLIC**

*There were no public comments made at this time.*

## **ADJOURNMENT**

There being no further business, the meeting was adjourned.

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David Freistroffer, Chairman

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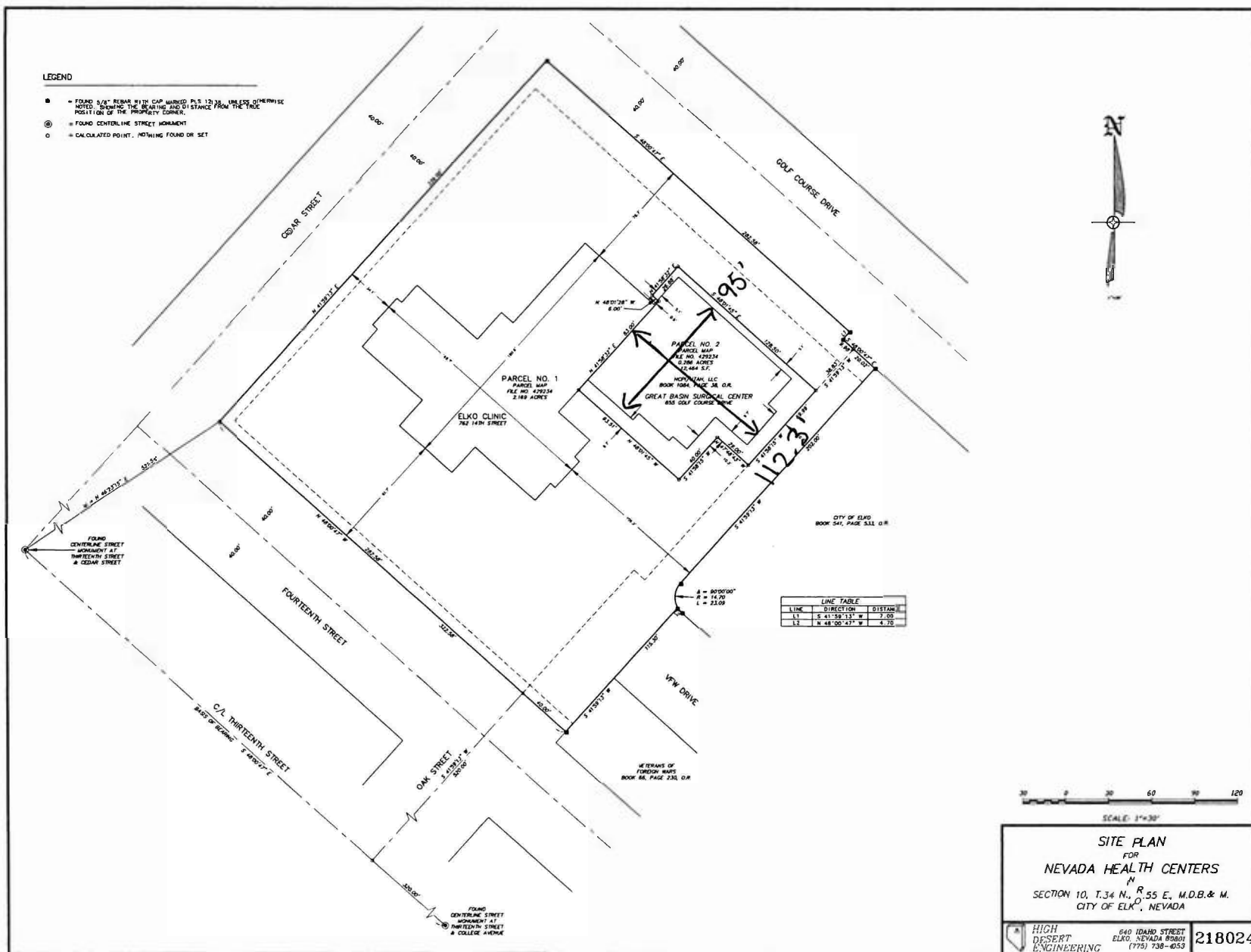
Tera Hooiman, Secretary

**Elko City Planning Commission  
Agenda Action Sheet**

1. **Review, consideration, and possible action on Variance No. 7-18, filed by HCPI/UTAH, LLC for a reduction of the required setback from any interior lot line, from 27' to 0' on the Northwest, 29' to 5.1' on the Northeast, 27' to 10.3' on the Southeast, 29' to 9.7' on the Southwest, and increase the maximum lot coverage from 35% to 73% within a PQP (Public, Quasi-Public) Zoning District, in conjunction with a zone change application, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **August 7, 2018**
3. Agenda Category: ***UNFINISHED BUSINESS, PUBLIC HEARINGS***
4. Time Required: **15 Minutes**
5. Background Information: **The applicant is requesting a variance for the required interior yard setbacks as well as an increase in maximum lot coverage for an existing structure in conjunction with a rezone to PQP.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information: **Application, Staff Report**
8. Recommended Motion: **Move to conditionally approve with the findings, facts and conditions listed in Staff Report dated June 25, 2018**
9. Findings: **See Staff Report dated June 25, 2018**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution: **High Desert Engineering  
640 Idaho Street  
Elko, NV 89801  
[tcballew@frontiernet.net](mailto:tcballew@frontiernet.net)  
  
HCPI / Utah LLC  
c/o Gerber Law Office LLP  
491 4<sup>th</sup> Street  
Elko, NV 89801  
[zag@gerberlegal.com](mailto:zag@gerberlegal.com)**

# LEGEND

- = FOUND 1/2" REBAR WITH CAP MARKED PLUS 12 IN. UNLESS OTHERWISE NOTED. SHOWING THE BEARING AND DISTANCE FROM THE TRUE POSITION OF THE PROPERTY CORNER.
- ⊙ = FOUND CENTERLINE STREET MONUMENT
- = CALCULATED POINT. NOTHING FOUND OR SET



**STAFF COMMENT FLOW SHEET**  
**PLANNING COMMISSION AGENDA DATE:** 8/7

\*\*Do not use pencil or red pen, they do not reproduce\*\*

Title: Variance 7-18

Applicant(s): HCP1/UTAH, LLC

Site Location: 855 Golf Course Drive - APA1 001-200-005

Current Zoning: R Date Received: 6/13 Date Public Notice: 7/24

COMMENT: This is to reduce the required setback from any interior lot line from 27' to 0' on the NW side, 29' to 5.1' on the NE side, 27' to 16.3' on the SE, 29' to 9.7' on the SW, and increase the max lot coverage from 35% to 73%.

\*\*If additional space is needed please provide a separate memorandum\*\*

Assistant City Manager: Date: 7/30/18

Recommend approval as presented by staff

SAW

Initial

City Manager: Date: \_\_\_\_\_

Initial



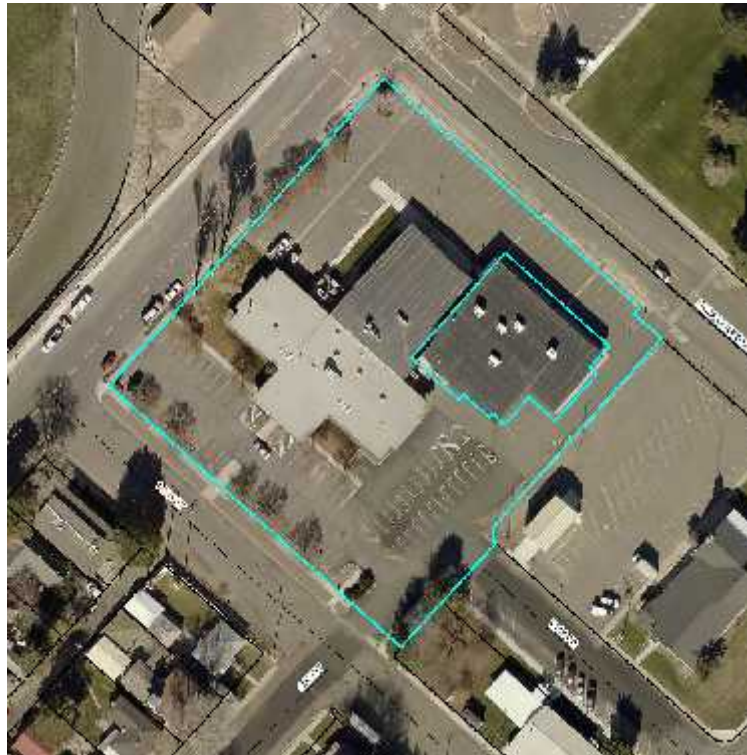


City of Elko  
1751 College Avenue  
Elko, NV 89801  
(775) 777-7160  
FAX (775) 777-7219

## **CITY OF ELKO STAFF REPORT**

<b>REPORT DATE:</b>	<b>June 25, 2018</b>
<b>PLANNING COMMISSION DATE:</b>	<b>August 7, 2018</b>
<b>AGENDA ITEM NUMBER:</b>	<b>I.A.1</b>
<b>APPLICATION NUMBER:</b>	<b>Variance 7-18</b>
<b>APPLICANT:</b>	<b>HCPI/Utah LLC.</b>
<b>PROJECT DESCRIPTION:</b>	<b>855 Golf Course Road</b>
<b>RELATED APPLICATIONS:</b>	<b>Rez 5-18, PM 3-18</b>

A variance request from provisions under Section 3-2-8, requiring minimum setbacks from any street line in a Public, Quasi-Public District. The minimum setback requirements from any street line within the PQP District are 1 ½ times the building height for the principal building.



### **STAFF RECOMMENDATION:**

RECOMMEND to CONDITIONALLY APPROVE, subject to findings of fact, and conditions as stated in this report.

## **PROJECT INFORMATION**

**PARCEL NUMBER:** 001-200-005

**PARCEL SIZE:** +/- 12,464 Sq. Ft. with recordation of PM 3-18

**EXISTING ZONING:** (R) Single Family and Multiple Family Residential, Rezone application 5-18 is scheduled to be heard at the July 9, 2018 Planning Commission meeting for a change in zoning to a PQP-Public, Quasi-Public zoning district upon conditions to be met.

**MASTER PLAN DESIGNATION:** (PUBLIC) Public/Quasi-Public

**EXISTING LAND USE:** Developed Land consistent with Public, Quasi-Public uses

### **BACKGROUND:**

1. The property owner is the applicant, HCPI/Utah LLC.
2. The property is currently developed as a medical facility and currently unoccupied.
3. The property fronts 14<sup>th</sup> Street, Cedar Street and Golf Course Road.
4. The properties are currently being served by City of Elko water and sewer and other non-city utilities.
5. A resolution was approved by City Council on May 13, 1997, recorded on May 15, 1997, vacating a portion of Oak Street right-of-way between 14<sup>th</sup> Street and Golf Course Road.
6. A parcel map was recorded with Elko County Recorder on July 7, 1998, file number 429234, creating the two parcels for the development of the surgical center on Parcel 2.
7. A declaration of easements, covenants and restrictions was recorded with Elko County Recorder on July 15, 1998 as file number 429561 for the access easement to Parcel 2 as well as miscellaneous CC&R's for both properties.
8. The property is improperly zoned for the developed use of the property.
9. The applicant has applied for a rezone of the property from R to PQP, filed as rezone 5-18 to run concurrent with the variance application. Approval of the rezone application is required as a condition for approval of the variance application.
10. The applicant has applied for a parcel map 3-18 approval to correct errors on the previous recorded parcel map, file number 429234. The approval of the parcel map will run concurrent with the rezone and variance applications.

### **NEIGHBORHOOD CHARACTERISTICS:**

The property is surrounded by:

- ) North: PQP- Public, Quasi, Public / Developed
- ) East: PQP- Public, Quasi, Public / Partially Developed
- ) West: R- Residential / Developed, part of Rezone 5-18
- ) South: R- Residential / Developed, part of Rezone 5-18

### **APPLICABLE MASTER PLAN SECTIONS AND CITY CODE SECTIONS:**

- ) City of Elko Master Plan – Land Use Component

- } City of Elko Redevelopment Plan
- } City of Elko Zoning – Section 3-2-8 Public, Quasi-Public Districts
- } City of Elko Zoning – Section 3-2-22 Variances

**MASTER PLAN - Land Use:**

1. The Master Plan Land Use Atlas shows the area as Public.
2. PQP-Public, Quasi-Public zoning district is listed as a corresponding zoning district for Public.
3. Objective 3: Strengthen, preserve, and promote the area around the City Park, City Hall, and Convention Center as the civic heart of the community.

The approval of the variance from the setback requirements stipulated for the proposed rezone in application 5-18 is in conformance with the Land Use Component of the Master Plan.

**ELKO REDEVELOPMENT PLAN:**

The property is not located within the redevelopment area and consideration of the plan is not required.

**SECTION 3-2-8 PUBLIC, QUASI-PUBLIC DISTRICT:**

1. The minimum setback from interior and rear lot lines shall be not less than the height of the principal building, plus one additional foot for each five feet (5') or part thereof that such building exceeds thirty five feet (35') in the aggregate horizontal dimension of the wall generally parallel to such side or rear lot line. Due to the fact that this parcel is entirely located within another parcel, the setbacks were not calculated based on street line but rather interior yard setbacks.
  - a. Based on elevations provided the following setbacks are required, all horizontal measurements for setback requirements are for the principal building on this parcel:
    - i. Northwest interior side yard setback
      1. 15' building height
      2. 95' building horizontal distance, 12' additional setback
      3. 27' interior side yard setback required
      4. 0' setback provided to adjacent building
    - ii. Northeast interior side yard setback
      1. 13' building height
      2. 112.3' building horizontal distance, 16' additional setback
      3. 29' interior side yard setback required
      4. 5.1' setback provided to building from property line
    - iii. Southeast interior side yard setback
      1. 15' building height
      2. 95' building horizontal distance, 12' additional setback
      3. 27' interior side yard setback required
      4. 10.3' setback provided to building from interior lot line
    - iv. Southwest interior side yard setback
      1. 13' building height
      2. 112.3' building horizontal distance, 16' additional setback
      3. 29' interior side yard setback required
      4. 9.7' setback provided to building from property line

The property, as developed, does not meet interior side yard setback requirements.

2. Maximum Lot Coverage: The total ground floor area of all buildings shall not exceed thirty five percent (35%) of the net site area
  - a. The property exceeds the 35% of the net site area requirement.

Approval of Variance 7-18 in conjunction with approval of Rezone 5-18 will bring the property into conformance with Section 3-2-8 of City Code.

### **SECTION 3-2-22 VARIANCES:**

B. Procedure: Any person requesting a variance by the planning commission shall include:

#### **Application Requirements**

1. There are special circumstances or features, i.e., unusual shape, configuration, exceptional topographic conditions or other extraordinary situations or conditions applying to the property under consideration.
  - ) The property fronts three right of ways and shares a common wall with the principal structure on Parcel 1 and therefore, has 0' interior yard setback.
  - ) The property is fully developed with several legal non-conforming issues including the use of the property as a Public/Quasi-Public use.
  - ) As currently developed there are encroachments into setbacks.
  - ) The City encouraged the applicant to rezone the property to conform to the Master Plan and existing use of the property.
  - ) The special circumstance is directly related to the property being improperly zoned for the developed use of the property.
2. The special circumstance or extraordinary situation or condition results in exceptional practical difficulties or exceptional undue hardships, and where the strict application of the provision or requirement constitutes an abridgment of property right and deprives the property owner of reasonable use of property.
  - ) The property is improperly zoned for the developed use of the property.
  - ) The property is fully developed with several legal non-conforming issues including the use of the property as a Public/Quasi-Public use.
  - ) As currently developed there are encroachments into setbacks.
  - ) The City encouraged the applicant to rezone the property to conform to the Master Plan and existing use of the property.
  - ) The exceptional practical difficulty is directly related to the fact the property is improperly zoned for the existing use of the property and the variance is required to legally rezone the property and address the required setbacks stipulated in the proposed zone.
3. Such special circumstances or conditions do not apply generally to other properties in the same zoning district.
  - ) The special circumstance of a fully developed property with several legal non-conforming issues, including the use of the property as a Public/Quasi-Public use is limited in extent in the district. This circumstance does not generally apply to other properties in the district. The identified issue is restricted to a small number of properties within the civic center area of the community.
4. The granting of the variance will not result in material damage or prejudice to other properties in the vicinity, nor be detrimental to the public interest, health, safety and general welfare.
  - ) The granting of the variance will not result in material damage or prejudice to other properties in the vicinity. The applicant is seeking the variance to address a fully developed property with several legal non-conforming issues including the use of the property as a Public/Quasi-Public use. The applicant is not seeking the variance to develop or expand the use of the property. The applicant has stated



that granting of the variance will not result in any material damage or prejudice to other properties.

5. The granting of the variance will not substantially impair the intent or purpose of the zoning ordinance or effect a change of land use or zoning classification.
  - ) The granting of the variance is directly related to an improperly zoned property and will not impair the intent or purpose of the zoning and will not change the use of the land or zoning classification.
6. The granting of the variance will not substantially impair affected natural resources.
  - ) The property is fully developed with several legal non-conforming issues including the use of the property as a Public/Quasi-Public use and the granting of the variance will not impair natural resources.

## **FINDINGS**

1. The proposed variance approval is in conformance with the Land Use Component of the Master Plan.
2. The property is not located within the redevelopment area and consideration of the plan is not required.
3. The property is a lot with interior property lines on all sides, and no common property line that is considered a part of a street line. Interior setback requirements for the PQP zoning district cannot be met.
4. The property as developed, exceeds the thirty five percent of the net site area lot coverage.
5. Approval of Variance 7-18 in conjunction with approval of Rezone 5-18 will bring the property into conformance with Section 3-2-8 of City Code.
6. The special circumstance is directly related to the property being improperly zoned for the developed use of the property.
7. The exceptional practical difficulty is directly related to the fact the property is improperly zoned for the existing use of the property and the variance is required to legally rezone the property and address the required setbacks stipulated in the proposed zone.
8. The special circumstance of a fully developed property with several legal non-conforming issues, including the use of the property as a Public/Quasi-Public use is limited in extent in the district. This circumstance does not generally apply to other properties in the district. The identified issue is restricted to a small number of properties within the civic center area of the community.
9. The granting of the variance will not result in material damage or prejudice to other properties in the vicinity. The applicant is seeking the variance to address a fully developed property with several legal non-conforming issues including the use of the property as a Public/Quasi-Public use. The applicant is not seeking the variance to develop or expand the use of the property.

10. The granting of the variance is directly related to an improperly zoned property and will not impair the intent or purpose of the zoning and will not change the use of the land or zoning classification.
11. The property is fully developed with several legal non-conforming issues including the use of the property as a Public/Quasi-Public use and the granting of the variance will not impair natural resources.

**STAFF RECOMMENDATION:**

Staff recommends this item be **conditionally approved** with the following conditions:

1. Approval of Rezone 5-18.
2. Parcel map 3-18 is to be approved, recorded and all conditions satisfied.

Var 7-18 HCPI/UTAH, LLC

YPNO	PANAME
001202008	BYERS, DIANNA F
001620014	ELKO, CITY OF
001200002	ELKO, CITY OF
001620018	ELKO, CITY OF
001620017	ELKO, CITY OF
001560001	ELKO, CITY OF (PARKS)
001200004	ELKO, COUNTY OF
001202007	HOUCHIN, KENNETH W
001203007	JACKSON, REN
001200001	VETERANS OF FOREIGN WARS OF THE

NOPC.

PMADD1

C/O PARKS & REC DEPARTMENT

PMADD2	PMCTST	PZIP
1385 OAK ST	ELKO NV	89801-3433
1755 COLLEGE AVE	ELKO NV	89801
1755 COLLEGE AVE	ELKO NV	89801
1755 COLLEGE AVE	ELKO NV	89801
1755 COLLEGE AVE	ELKO NV	89801
723 RAILROAD ST	ELKO NV	89801-3829
540 COURT ST	ELKO NV	89801-3515
875 14TH ST	ELKO NV	89801-3414
1380 OAK ST	ELKO NV	89801-3434
PO BOX 1266	ELKO NV	89803-1266

5

Mailed 7/26/18

## **NOTICE OF PUBLIC HEARINGS**

NOTICE IS HEREBY GIVEN that the Elko City Planning Commission will conduct a public hearing on Tuesday, August 7, 2018 beginning at 5:30 P.M. P.D.S.T. at Elko City Hall, 1751 College Avenue, Elko, Nevada, and that the public is invited to provide input and testimony on this matter under consideration in person, by writing, or by representative.

The specific item to be considered under public hearing format is:

**Variance No. 7-18, filed by HCPI/UTAH, LLC for a reduction of the required setback from any interior lot line, from 27' to 0' on the Northwest, 29' to 5.1' on the Northeast, 27' to 10.3' on the Southeast, 29' to 9.7' on the Southwest, and increase the maximum lot coverage from 35% to 73% within a PQP (Public, Quasi-Public) Zoning District, in conjunction with a zone change application, and matters related thereto. The subject property is located generally on west side of Golf Course Drive, approximately 205' south of Cedar Street. (855 Golf Course Drive - APN 001-200-005)**

Additional information concerning this item may be obtained by contacting the Elko City Planning Department at (775) 777-7160.

**ELKO CITY PLANNING COMMISSION**



## CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue \* Elko \* Nevada \* 89801

(775) 777-7160 \* (775) 777-7119 fax

### APPLICATION FOR VARIANCE

JUN 13 2018

RECEIVED

APPLICANT(s): HCPI / UTAH, LLC  
MAILING ADDRESS: 3000 Meridian Blvd., Suite 200, Franklin, TN 37067  
PHONE NO (Home) \_\_\_\_\_ (Business) (615) 324-6900  
NAME OF PROPERTY OWNER (If different): same  
(Property owner's consent in writing must be provided.)  
MAILING ADDRESS: same  
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):  
ASSESSOR'S PARCEL NO.: 001-200-005 Address 855 Golf Course Drive, Elko  
Lot(s), Block(s), & Subdivision \_\_\_\_\_  
Or Parcel(s) & File No. Parcel No. 2, File No. 429234

#### FILING REQUIREMENTS:

**Complete Application Form:** In order to begin processing the application, an application form must be complete and signed. *Complete* applications are due at least 21 days prior to the next scheduled meeting of the Elko City Planning Commission (meetings are the 1<sup>st</sup> Tuesday of every month).

**Fee:** A \$500.00 non-refundable fee must be paid. If in conjunction with a Rezone Application a \$250.00 non-refundable fee must be paid.

**Plot Plan:** A plot plan provided by a properly licensed surveyor depicting the existing condition drawn to scale showing property lines, existing and proposed buildings, building setbacks, parking and loading areas, driveways and other pertinent information must be provided.

**Elevation Plan:** Elevation profile of all proposed buildings or alterations in sufficient detail to explain the nature of the request must be provided.

**Note:** One .pdf of the entire application must be submitted as well as one set of legible, reproducible plans 8 1/2" x 11" in size. If the applicant feels the Commission needs to see 24" x 36" plans, 10 sets of pre-folded plans must be submitted.

**Other Information:** The applicant is encouraged to submit other information and documentation to support this Variance application.

The APPLICANT requests the following variance from the following section of the zoning ordinance:

3-2-8 © 1: Minimum setback from any street line.

3-2-8(c) 4: MAXIMUM LOT COVERAGE.

1. The existing zoning classification of the property PQP: Public, Quasi-Public
2. The applicant shall present **adequate** evidence demonstrating the following criteria which are necessary for the Planning Commission to grant a variance:
  - a) Identify any special circumstances, features or conditions applying to the property under consideration. i.e., unusual shape, configuration, exceptional topographic conditions or other extraordinary situations or conditions

The existing building on the property have been in place for many years.

- b) Identify how such circumstances, features or conditions result in practical difficulty or undue hardship and deprive the property owner of reasonable use of property.

The zoning of the property is being changed, along with other properties in the  
area, in order to better adhere to existing City of Elko codes. This variance is  
needed due to the change of zoning.

- c) Indicate how the granting of the variance is necessary for the applicant or owner to make reasonable use of the property.

The variance will allow the continued historical use of the property.

- d) Identify how such circumstances, features or conditions do not apply generally to other properties in the same Land Use District.

The circumstances do apply t the other properties in the immediate vicinity.

The purpose of the rezone on all these properties is to bring them into closer  
conformance with City of Elko codes.

- e) Indicate how the granting of the variance will not result in material damage or prejudice to other properties in the vicinity nor be detrimental to the public health, safety and general welfare.

Granting the variance will allow the continued historical use of the property.

- f) Indicate how the variance will not be in conflict with the purpose or intent of the Code.

The granting of the variance will cause the property to be in better conformance  
with City of Elko codes.

- g) Indicate how the granting of the variance will not result in a change of land use or zoning classification.

The change of zoning of the property and the granting of the variance will cause  
the property to be in better conformance with City of Elko codes.

- h) Indicate how granting of the variance will not substantially impair affected natural resources.

No change in the use of the property will be made due to the variance.

3. Describe your ability (i.e. sufficient funds or a loan pre-approval letter on hand) and intent to construct within one year as all variance approvals **must** commence construction within one year and complete construction within 18 months per City Code Section 3-2-22 F.1.

The improvements to the property are existing.

**(Use additional pages if necessary to address questions 2a through h)**

**This area intentionally left blank**

**By My Signature below:**

☒ I consent to having the City of Elko Staff enter on my property only for the sole purpose of inspecting said property as part of this application process.

☐ I object to having the City of Elko Staff enter onto my property as a part of their review of this application. (Your objection will not affect the recommendation made by the staff or the final determination made by the City Planning Commission or the City Council.)

☒ I acknowledge that submission of this application does not imply approval of this request by the City Planning Department, the City Planning Commission and the City Council, nor does it in and of itself guarantee issuance of any other required permits and/or licenses.

☒ I acknowledge that this application may be tabled until a later meeting if either I or my designated representative or agent is not present at the meeting for which this application is scheduled.

☒ I have carefully read and completed all questions contained within this application to the best of my ability.

**Applicant/ Agent** HICPI Utah, LLC  
(Please print or type)

**Mailing Address** c/o Gerber Law Offices LLC 249 14th Street  
Street Address or P.O. Box

Elko, NV 89801

City, State, Zip Code

Phone Number: 775-777-4357

Email address: zag@gerberlegal.com

HICPI Utah, LLC

By: HICP, Inc., its managing member

**SIGNATURE:**

*Angela M. Playle*

Angela M. Playle, Senior Vice President and Deputy General Counsel, Real Estate Operations

**FOR OFFICE USE ONLY**

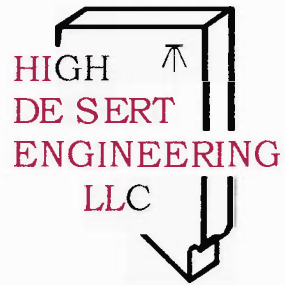
**File No.:** 7-18 **Date Filed:** 6/13/18 **Fee Paid:** \$250 **CR#** 14241



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*Thomas C. Ballew, P.E., P.L.S.*  
*Robert E. Morley, P.L.S.*  
*Duane V. Merrill, P.L.S.*  
*Floyd M. Fisk, P.E.*

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*(775) 738-4053 Phone*  
*(775) 753-7693 Fax*  
*640 Idaho Street*  
*Elko, NV 89801*

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June 13, 2018

**Surgical Center – Northeast Side - Building Height= 13'**



**RECEIVED**

JUN 13 2018

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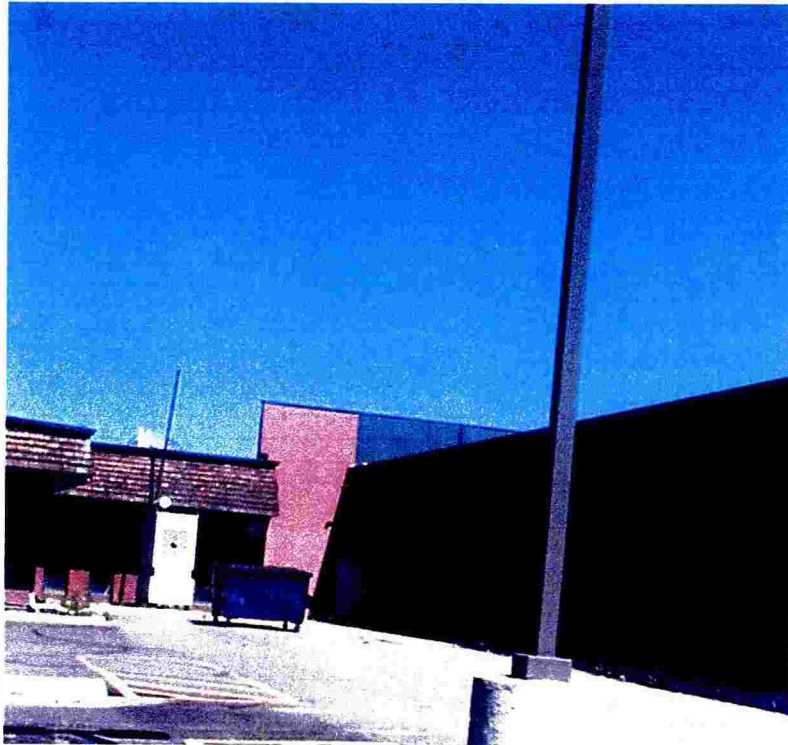
**Surgical Center – Southeast Side - Building Height= 15'**



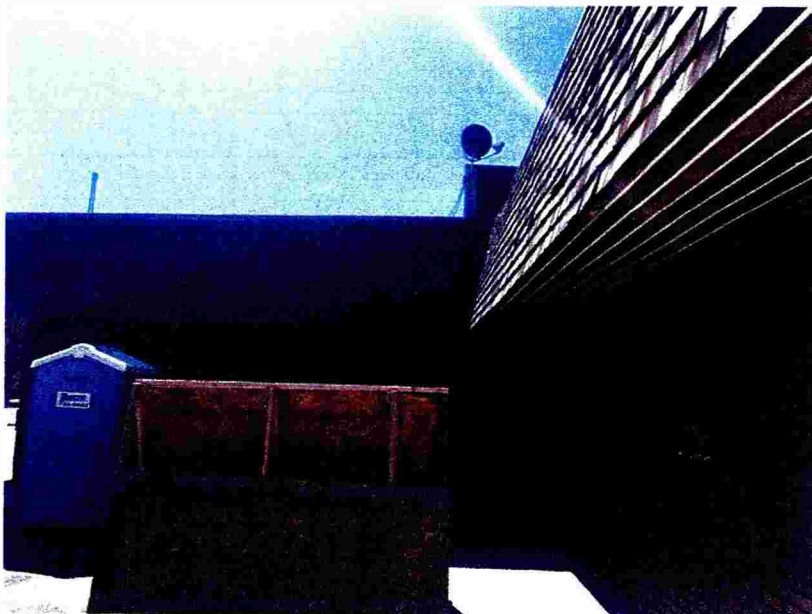
Surgical Center  
Building Photographs

page 2 of 2

**Surgical Center – Southwest Side - Building Height= 13'**



**Surgical Center – Northwest Side - Building Height = 15'**





**Elko City Planning Commission  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible initiation to amend Title 3, Chapter 3, of the Elko City Code entitled "Subdivisions", with the repeal and replacement of the chapter, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **August 7, 2018**
3. Agenda Category: **PETITION**
4. Time Required: **45 Minutes**
5. Background Information: **Planning Commission initiated an amendment to Title 3, Chapter 3 at their May 1, 2018 meeting. City legal counsel has completed their review of the proposed amendment. CL**
6. Budget Information:  
    Appropriation Required: **N/A**  
    Budget amount available: **N/A**  
    Fund name: **NA**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Proposed Amendments Memo**
9. Recommended Motion: **Recommend initiation to amend Title 3, Chapter 3, of the Elko City Code known as Subdivisions, repealing and replacing the chapter and set the matter for public hearing.**
10. Findings:
11. Prepared By: **Cathy Laughlin, City Planner**
12. Committee/Other Agency Review: **Legal Counsel**
13. Agenda Distribution:

## Subdivision Process 3-3

### **Stage I Preapplication Stage** - City of Elko Code Section 3-3-4

- Please contact the Planning Department at 777-7160 to schedule a Stage 1 Meeting. Please submit a preliminary plan to the Planning Department 10 days prior to the meeting.
- Be prepared to present the following items at the Stage 1 Meeting:
  - A. Plans regarding land use, street and lot arrangement, tentative lot sizes, buildable lot area, Master Plan conformance and easements.
  - B. Tentative proposals regarding water supply, sewage disposal, storm drainage and street improvements, and any other pertinent information.

**Stage II Preliminary Plat** - 3-3-5 The Preliminary Plat Stage includes preparation, submission, review and planning commission action on the preliminary plat. Processing of the preliminary plat will be expedited by submission of all information essential to determining the intended character and general acceptability of the proposal.

- **Preliminary Plat Submission** - 3-3-5 (C) The submission is to be checked for conformance with 3-3-7; filing fee required. **Filing Fee is \$750 plus \$25 per lot. Application must be received 21 days prior to Planning Commission Meeting**
- **Preliminary Plat Review** - 3-3-5 (D); Public Hearing Required
- **Planning Commission Consideration** - 3-3-5 (E )(1); approval is to be based on findings stipulated in 3-3-5(E )(2)
- **City Council Consideration** - 3-3-5 (E )(1); approval is to be based on findings stipulated in 3-3-5(E )(2); approval constitutes authorization to proceed with the preparation of the final plat and engineering plans 3-3-5(F)
- **Significance of Preliminary Plat Approval** - 3-3-5(F)
- **Preliminary Plat Expiration** - 3-3-5(F); 4 years from council approval or within 2 years from council approval of the most recently recorded final plat

**Stage III Final Plat** - 3-3-6 The final plat stage includes the final design and engineering of the subdivision, and the preparation, submission, review and action on the final plat and engineering plans

- **Presubmission Requirements** - 3-3-6 (A)
- **Engineering Plans** - 3-3-41 Engineering Plans shall have been approved prior to recordation of the final plat
- **Final Plat Submission** - 3-3-6 (B) Planning Commission review of final plat for conformity to the preliminary plat and approved construction drawings; filing fee required. **Filing fee is \$750 plus \$25 per lot. Applications are due 21 days prior to the Planning Commission Meeting.**
- **Final Plat Review** - 3-3-6 (C) City Council
- **Agreement to Install Improvements** - 3-3-44; Required prior to certification of final plat
- **Performance Guarantee** - 3-3-45; required in the amount of the required improvements as stated in 3-3-43 and as shown on the engineering plans, testing, etc
- **Final Plat Approval and Recordation** - 3-3-6 (D)
- **Time for Completion of Public Improvements** - 3-3-44(A)(1); 2 years

## Proposed Subdivision Process 3-3

### **Stage I Preapplication Stage** - City of Elko Code Section 3-3-4

- Please contact the Planning Department at 777-7160 to schedule a Stage 1 Meeting. Please submit a preliminary plan to the Planning Department 5 days prior to the meeting.
- Be prepared to present the following items at the Stage 1 Meeting:
  - A. Plans regarding land use, street and lot arrangement, tentative lot sizes, buildable lot area, Master Plan conformance and easements.
  - B. Tentative proposals regarding water supply, sewage disposal, storm drainage and street improvements, and any other pertinent information.

**Stage II Tentative Map** - 3-3-5 The Preliminary Plat Stage includes preparation, submission, review and planning commission action on the preliminary plat. Processing of the preliminary plat will be expedited by submission of all information essential to determining the intended character and general acceptability of the proposal.

- **Tentative Map Submittal** - 3-3-5 (C) The submission is to be checked for conformance with 3-3-7; filing fee required. **Filing Fee is \$750 plus \$25 per lot.**

**Application must be received 21 days prior to Planning Commission Meeting**

- **Tentative Map Review** - 3-3-5 (D); Public Hearing Required
- **Planning Commission Consideration** - 3-3-5 (E )(1); approval is to be based on findings stipulated in 3-3-5(E )(2)
- **City Council Consideration** - 3-3-5 (E )(2)(3)(4)(5); approval is to be based on findings stipulated in 3-3-5(E )(2); approval constitutes authorization to proceed with the preparation of the final plat and engineering plans 3-3-5(F)
- **Limited Authorization to Proceed Upon Approval With Conditions** - 3-3-5(F)
- **Tentative Map Expiration** - 3-3-7(B); 4 years from council approval or within 2 years from council approval of the most recently recorded final plat

**Stage III Final Plat** - 3-3-7 The final plat stage includes the final design and engineering of the subdivision, and the preparation, submission, review and action on the final plat and engineering plans

- **Presubmission Requirements** - 3-3-7 (C)
- **Construction Plans** - 3-3-18 Construction Plans shall have been approved prior to recordation of the final plat
- **Final Map Submission** - 3-3-7 (E) Planning Commission review of final plat for conformity to the preliminary plat and approved construction drawings; filing fee required. **Filing fee is \$750 plus \$25 per lot. Applications are due 21 days prior to the Planning Commission Meeting.**
- **Final Map Review** - 3-3-7 (F) City Council
- **Performance Agreements** -3-3-21; Required prior to certification of final plat
- **Performance and Maintenance Guarantees** - 3-3-22; required in the amount of the required improvements as stated in 3-3-20 and as shown on the engineering plans, testing, etc
- **Final Plat Approval, Certification, and Recordation** - 3-3-7 (G)
- **Time for Completion of Public Improvements** - 3-3-21(A)(4); 2 years

## Chapter 3 SUBDIVISIONS~~DIVISIONS~~ OF LAND

3-3-1: PURPOSE AND INTENT:

3-3-2: DEFINITIONS:

3-3-3: ~~STAGES OF SUBDIVISION PLANNING AND APPROVAL~~ OUTLINE OF PROCEDURES:

3-3-4: ~~PREAPPLICATION STAGE (STAGE I)~~ PREAPPLICATION (CONFERENCE) STAGE (STAGE I):

3-3-5: ~~PRELIMINARY~~ TENTATIVE PLAT ~~MAP~~ MAP STAGE (STAGE II):

3-3-6: ~~CONTENT AND FORMAT OF TENTATIVE MAP SUBMITTAL~~ FINAL PLAT ~~MAP~~ MAP STAGE (STAGE III):

3-3-7: ~~FINAL MAP STAGE (STAGE III)~~ INFORMATION REQUIRED FOR PRELIMINARY ~~TENTATIVE PLAT~~ MAP ~~SUBMISSION:~~

3-3-8: ~~CONTENT AND FORMAT OF FINAL MAP SUBMITTAL~~ INFORMATION REQUIRED FOR FINAL PLAT ~~MAP~~ SUBMISSION:

3-3-~~920~~: GENERAL PROVISIONS FOR SUBDIVISION DESIGN:

3-3-~~2110~~: STREET LOCATION AND ARRANGEMENT:

3-3-~~2211~~: STREET DESIGN:

3-3-~~2312~~: BLOCK DESIGN:

3-3-~~2413~~: LOT PLANNING:

3-3-~~2514~~: EASEMENT PLANNING:

3-3-~~2615~~: STREET NAMING:

3-3-~~2716~~: STREET LIGHTING DESIGN STANDARDS:

3-3-~~4017~~: RESPONSIBILITY FOR IMPROVEMENTS:

3-3-~~4118~~: ~~ENGINEERING~~ CONSTRUCTION PLANS:

3-3-~~4219~~: CONSTRUCTION AND INSPECTION:

3-3-~~4320~~: REQUIRED IMPROVEMENTS:

3-3-~~2144~~: ~~PERFORMANCE AGREEMENTS~~ AGREEMENT TO INSTALL PUBLIC IMPROVEMENTS:

3-3-~~2245~~: PERFORMANCE GUARANTEE ~~AND MAINTENANCE GUARANTIES~~ GUARANTEES:

3-3-~~2350~~: PARK LAND DEDICATIONS:

3-3-~~2460~~: PARCEL MAPS:

3-3-~~2570~~: MODIFICATION OF STANDARDS:

3-3-~~2675~~: REVERSIONS TO ACREAGE:

3-3-~~2780~~: PROHIBITION AGAINST SALE IN VIOLATION:

3-3-~~2885~~: MERGERS AND RESUBDIVISION OF LAND:

3-3-~~2990~~: VIOLATIONS AND PENALTIES:

3-3-1: PURPOSE AND INTENT:



The purpose of this ~~chapter~~ Chapter is to provide for the orderly growth and harmonious development of the ~~city~~ City; to ensure adequate traffic circulation through coordinated subdivision street systems ~~with-in~~ in relation to major thoroughfares, adjoining subdivisions, and public facilities to achieve individual property lots of optimum utility and livability; to secure adequate provisions for water supply, drainage, sanitary sewerage, and other health requirements; to facilitate reservation of adequate sites for schools, recreation areas, and other public facilities; to promote the conveyance of land by accurate legal description and to provide logical procedures for the achievement of this purpose; safeguard the public health, safety and general welfare; and to ensure development in conformance with the ~~city~~ City master plan. In its interpretation and application, ~~the provisions of this chapter~~ Chapter ~~are is~~ intended to provide a common ~~ground-of~~ understanding and a sound and

equitable working relationship between public and private interests ~~to the end so~~ that both independent and mutual objectives can be achieved in the ~~subdivision~~division of the land. (Ord. 624, 10-26-2004)

### **3-3-2: DEFINITIONS:**

All terms defined in NRS Chapter 278, to include NRS 278.010 through 278.0195, are incorporated herein by this reference unless the terms are otherwise defined in this Chapter.

The following words and phrases when used in this Chapter shall, for the purpose of this Chapter, have the meanings respectively ascribed to them in this Section 3-3-2, unless their context clearly indicates that they are intended to have some other meaning.

Words used in the present tense include the future; the plural includes the singular; the word "shall" is always mandatory; the word "may" denotes a use of discretion in making a decision; and the words "used" or "occupied" shall be considered to be followed by the words "or intended, arranged, or designed to be used or occupied."

For purposes of this chapter, certain words, terms and phrases are defined as follows:

AGREEMENT TO INSTALL PUBLIC IMPROVEMENTS: An Agreement satisfying the requirements of Sections 3-3-4421 and 3-3-34 other applicable provisions of this Chapter. An agreement to install improvements must be entered into by the City and a developer required prior to the time the Ffinal Platmap is approvalapproved by the City Council and prior to commencement of construction activities in connection with the subdivision. An agreement developed in accordance with sections 3-3-44 and 3-3-45 of this chapter.

ALLEY: A passage or way, open to public travel and dedicated to public use, affording generally a secondary means of vehicular access to abutting lots and not intended for the general traffic circulation.

BLOCK: A piece or parcel of land, or group of lots, entirely surrounded by natural or artificial barriers to further contiguous development, such as public rights-right-of-of-way, streams or watercourses, railroads, or parks, or a combination thereof.

BUILDING: Any structure, regardless of whether it is affixed to real property that is used or intended for supporting or sheltering any human use or occupancy.

BUILDING LINE: A line demarcating the area between a building or other structure which and the street right-right-of-of-way line beyond which in which no building or structure or portion thereof, shall be erected, constructed, or otherwise established.

CITY COUNCIL: The Ceity Ceouncil of the Ceity of Elko.

CODE: The Elko City Code.

COMMISSION: The Ceity of Elko Pplanning Ceommission.

COMMUNICATION LINES: Conduit, cables, fiber and/or other apparatus for the distribution and provision of telecommunications and/or broadband communications.

COMMUNICATION SERVICE LINES: Communication lines.



**CONDITIONAL APPROVAL:** ~~An affirmative action~~A decision by the ~~Planning~~ ~~e~~Commission or ~~city council~~City Council indicating the approval of ~~to approve a preliminary tentative plat~~map map, provided certain specified conditions are satisfied, ~~will be forthcoming upon compliance with certain specified stipulations.~~

**CONSTRUCTION PLANS:** Plans, profiles, cross-sections and other drawings showing required details for the construction of public improvements, prepared in conjunction with the final ~~plat~~map map, and submitted by a properly licensed design professional, ~~and in compliance with standards of design and construction approved by the city~~City.

**CUL-DE-SAC:** A street opening at one end and having a turnaround at the other end.

**DEDICATION:** The deliberate appropriation of land by its owner for any general or public use, reserving unto himself no other right than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been appropriated.

**DENSITY:** ~~The density of a subdivision shall be calculated as a~~ A number, represented in units of lots per acre, calculated by dividing ~~ratio of the number of lots in the subdivision divided by the gross total acreage of the subdivision.~~

**DESIGN PROFESSIONAL:** ~~Unless specifically provided otherwise, a~~ A person who holds a professional license or certificate issued pursuant to ~~e~~Chapter 623, 623A or 625 of the Nevada Revised Statutes, or a person primarily engaged in ~~the practice of and licensed to the practice of~~ professional engineering, land surveying, architecture or landscape architecture.

**DEVELOPER:** ~~An real property~~ owner who divides land into two or more parcels for transfer or development.

**DEVELOPMENT MASTER PLAN:** A ~~comprehensive long-term strategic~~ planning document for a subdivision ~~prepared in accordance with Section 3-3-4 of this e~~Chapter.

**DOUBLE FRONTAGE LOT:** ~~A lot with street frontage along two opposite boundaries. and approved prior to preparation and consideration of a preliminary tentative plat in accordance with 3-3-4 of this chapter.~~ preliminary map showing the tentative layout of streets and arrangements of land uses, including the location of schools, recreation areas and other community facilities for the entirety of a large landholding of which a portion is to be submitted as a preliminary plat; a map meeting the requirements of section ~~3-3-4~~ of this chapter.

**EASEMENT:** ~~A grant by the owner of the use of a strip of land by the public, a corporation, or persons for specific and designated uses and purposes.~~ ~~An interest in land that confers a right of use for a special purpose.~~

**ENGINEER'S ESTIMATE:** ~~A cost~~An estimate of the total cost of public improvements prepared by the developer's engineer and provided to the City, ~~by the subdivider's~~developer's engineer, for the entire cost of the public improvements to be based on NRS 338, and local rates to be used as a basis for the required PERFORMANCE GUARANTEE as approved by the City.

**ENGINEERING PLANS:** Plans, profiles, cross sections and other required details for the construction of public improvements, prepared in conjunction with the plat and in compliance with standards of design and construction approved by the ~~city council~~City Council.



**EXCEPTIONS:** Any parcel of land ~~which~~that is located within the ~~perimeter~~exterior boundaries of the ~~a~~subdivision but which is not included in the ~~plat~~tentative or final map.

**FINAL MAP:** A map prepared in accordance with the provisions of NRS 278.325, 278.360 to 278.460, inclusive, 278.472, 278.4725 or 278.4955 and any applicable provisions of this Code, which, after approval and certification by the City, is designed to be placed on-recorded inwith the office of the Elko County Recorder.

**FINAL PLATMAP APPROVAL:** Final or conditional authorization by the City Council to obtain final map certification; provided, all requirements of City Code Sections 3-3-21 and 3-3-22 must be satisfied prior to final map certification; further provided, if final map approval is conditional, all conditions imposed by the City Council in conjunction with the approval must by satisfied prior to final map certification.

**FINAL MAP CERTIFICATION:** Unconditional approval of the final ~~plat-map~~ by the ~~city-council~~City Council as evidenced by certification on the ~~platmap~~ by the ~~M~~mayor of the ~~C~~city of Elko. Final approval-map certification constitutes authorization to record the ~~plat-map~~once the requirements of 3-3-44 and 3-3-45 have been satisfied with the Elko County Recorder.

**FULL FRONTAGE:** All lot lines of any lot, parcel or tract of property adjacent to a road, street, alley or right of way, to include lots, parcels or tracts containing multiple borders or edges, such as corner lots.

**GRADING-LAND-DISTURBANCE:** The removal of the vegetative cover from the surface of any land, ~~parcel, lot or construction site that exceeds one acre of disturbed surface area and, most probably, and~~ is a result of ~~grading~~aa activity associated with new construction.

**LED:** Light-emitting diode.

**LOT:** ~~Lot" means aA~~ -distinct part or parcel of land which has been divided to transfer ownership or to build;A distinct part or parcel of land separated from other pieces or parcels by description, identified as such in a subdivision or on a recorded survey map, or described as such by metes and bounds, with the intention or for the purpose of sale, lease, separate use or for the purpose of building, including the following types: of lots:development buildingincluding the following:-

A. Corner Lot: A lot abutting on two (2) or more intersecting streets.

B. Double Frontage Lot: A lot abutting two (2) parallel or approximately parallel streets.

C. Interior Lot: A lot having but one side abutting on a street.

D. Key Lot: An interior lot, one (1) side of which is contiguous to the rear line of a ~~corner~~ lot.

**LOT DEPTH:** The shortest distance, measured on a line parallel to the axis of the lot, between points on the front and rear lot lines.

**LOT LINE:** A line bounding a lot, including the following types of lot lines:-

A. Front Lot Line: The lot line coinciding with the street line; or, in the case of a corner lot, the ~~shortest~~ shorter of two (2) lot lines coinciding with street lines; or, in the case of a double frontage lot, both lot lines coinciding with street lines.

B. Rear Lot Line: The lot line opposite and farthest from the front lot line; for a pointed or irregular lot, the rear lot line shall be an imaginary line, parallel to and farthest from the front lot line, not less than ten feet (10') long and wholly within the lot.

C. Side Lot Line: Any lot line other than a front or rear lot line; in the case of a corner lot, the lot line abutting the side street is designated as the exterior side lot line; all other side lot lines are designated as interior side lot lines.

#### LOT WIDTH:

A. In the case of a rectangular lot or a lot abutting on the outside of a street curve, the distance between side lot lines measured parallel to the street or to the street chord and measured on the street chord.

B. In the case of a lot abutting on the inside of a street curve, the distance between the side lot lines measured parallel to the street or the street chord at the rear line of the dwelling, or, where there is no dwelling, thirty feet (30') behind the minimum front setback line.

~~MASTER PLAN: A comprehensive, long-term general plan for the physical development of the City prepared in accordance with NRS 278.150, et seq. The adopted plan or parts thereof, providing for the future land use, growth and improvement of the city of Elko and for the general location and coordination of streets and highways, schools and recreation areas, public building sites, and other physical development which shall have been duly adopted by the planning commission~~  
Planning Commission and city council~~City Council.~~

~~NEIGHBORHOOD PLAN: A plan prepared by the city to guide the platting of remaining undeveloped parcels in a partially built up neighborhood so as to make reasonable use of all land, correlate street patterns, and achieve the best possible land use relationships.~~

~~OFFICIAL STREET CLASSIFICATION AND HIGHWAY PLAN~~TRANSPORTATION COMPONENT OF THE MASTER PLAN: ~~A plan adopted by the planning commission~~Planning Commission and city council~~City Council which provides for development of a system of major streets and highways.~~

~~OWNER: The person or persons~~Any person who holds title to land or who is contractually obligated to purchase land, holding title by deed to land, or holding title as vendees under land contract, or holding any other title or record.

~~PARCEL MAP: A map required for the division of land for transfer or development into four (4) lots or less in the manner set forth in NRS 278.461, 278.462, 278.463, 278.464 or 278.466, and this Code.~~

~~As defined in the Nevada Revised Statutes 278.~~

PEDESTRIANWAY: A public or private walk through a block from street to street or from a street to a school, park, recreation area or other public facility.

~~PLAT: A map of a subdivision; the same as "map" as defined in the Nevada Revised Statutes.~~

~~A. Final Plat: A plat of all or part of a subdivision essentially conforming to an approved preliminarytentative plat, prepared in accordance with provisions of section 3-3-8 of this chapter.~~

~~B. PreliminaryTentative Plat: A preliminary tentative map, including supporting data, indicating a proposed subdivision development, prepared in accordance with section 3-3-7 of this chapter.~~

~~C. Recorded Plat: A final plat bearing all of the certificates of approval required by this chapter and duly recorded in the Elko County recorder's office.~~

~~PRELIMINARYTENTATIVE PLATMAP APPROVAL: Approval of a preliminarytentative plat map by the Pplanning Ccommission and the City CouncilCity Council. PreliminaryTentative map approval constitutes authorization to proceed with preparation of engineering CONSTRUCTION PLANS and the final platconstruction plans and the final map.PERFORMANCE AGREEMENT: An agreement to install improvements.~~

~~PERFORMANCE GUARANTEE~~GUARANTY: The financial security required to guarantee the AGREEMENT TO INSTALL PUBLIC IMPROVEMENTS in accordance withconstruction of public improvements and other matters as set forth in Section 3-3-4522 of this eChapter.

PERSON: A natural person, any form of business or social organization and any other nongovernmental legal entity including, but not limited to, a corporation, partnership, association, trust or unincorporated organization. The term does not include a government, governmental agency or political subdivision of a government.

PUBLIC IMPROVEMENT: Street work and, utilities and other improvements to be installed on land dedicated or to be dedicated for streets and easements as are necessary for local drainage, local traffic and the general use of property owners in the subdivision.

PUBLIC IMPROVEMENTS: Improvements installed in accordance with CONSTRUCTION PLANS which include dedicated and non-dedicated improvements necessary for development of subdivisions or areas developed under parcel maps.

PUBLIC IMPROVEMENT STANDARDS: A set of standards approved-adopted by the city councilCity Council regulating the design and construction of public improvements in the city of Elko. These standards are contained in the latest edition of the "Standard Specifications For Public Works Construction" also known as the "Orange Book," latest edition, aswhich is distributed to the cities and counties of northern Nevada by the rRegional tTransportation eCommission of Washoe County.

PUBLIC UTILITIES: Underground, aboveground or overhead facilities furnishing to the public, electricity, gas, steam, communications, water, drainage, sewage disposal, flood control, irrigation or refuse disposal, owned and operated by any person, firm, corporation, municipal department or board duly authorized by state or municipal regulations. The term "Ppublic utilities," as used herein, may also refer to such persons, firms, corporation, departments or boards, as the context indicates.

RIGHTS-OF-WAY: All public and private rights-of-way and all areas required for public use in accordance with any master plan or parts thereof.

STREET: Any existing or proposed street, avenue, boulevard, road, lane, parkway, place, bridge, viaduct or easement for public vehicular access; or, a street shown in a platmap heretofore approved pursuant to law; or, a street in a platmap duly filed and recorded in the county recorder's office. A street includes all land within the street right of way, whether improved or unimproved, and includes

such improvements as pavement, shoulder, curbs, gutters, sidewalks, parking space, bridges, viaducts, lawns and trees. For purposes of this Chapter, the following definitions apply to specific types of streets:

A. Alley: A public way providing secondary vehicular access and service to properties which also abut a street.

B. Arterial And Minor Arterial Streets: A general term describing large major streets, including freeways, expressways and interstate roadways, and state and/or county highways having city and regional continuity.

C. Collector Residential And Local Residential Streets: City streets serving the primary function of providing access to abutting property:

           1. Cul-De-Sac Street: A short collector residential and local residential street having one end permanently terminating in and including a vehicular turning area.

           2. Marginal Access Street: A collector residential and local residential street parallel to and abutting an arterial street which provides access to abutting property, intercepts other collector residential and local residential streets, and controls access to the arterial street.

D. Collector Street: A street generally with limited continuity serving the primary function of moving traffic between arterial streets and local residential streets, and the secondary function of providing access to abutting properties.

~~E. Private Street~~ STREET, PRIVATE: A nondedicated, privately owned right-of-way or limited public way that affords the principal means of emergency and limited vehicular access and connection to and from the public street system to properties created through the division ~~or subdivision~~ of land.

~~STREET, PUBLIC~~ Public Street: A dedicated public right-of-way that is part of the public street system and which affords the principal means of emergency and general vehicular access to abutting property.

~~G. Street Line~~ STREET LINE: A line describing demarcating the limits of a street right-of-way.

~~SUBDIVIDER: The person, firm, corporation, partnership, association, syndicate, trust, or other legal entity that files application and initiates proceedings for the subdivision of land in accordance with the provisions of this chapter; provided, that an individual serving as agent for such legal entity shall not be deemed the subdivider.~~

A developer who commences or is engaged in the process required by NRS Chapter 278 and this Chapter for creating a subdivision.

~~SUBDIVISION: Any land, vacant or improved, 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 any proposed transfer or development, unless exempted by NRS 278.320 or any other applicable statute.~~ As defined in the Nevada Revised Statutes.

~~SUBDIVISION REVIEW COMMITTEE: A committee consisting of the representative~~ representatives

~~of from the City's Manager's Office, representative from the City's Engineering Department, representative from the City's Utility Department, representative from the City's Planning Department, representative from the City's Development Department, city engineer, city planner, representative for the City's Public Works Department, representative from the City's Fire Department, public works director, fire chief or fire marshal, and a Planning Commission Chair or Vice Chair, formed for the purpose of conducting a subdivision preapplication (stage I) review prior to preliminary tentative plat submittal. (Ord. 739, 8-9-2011)~~

TENTATIVE MAP: A map made to show the design of a proposed subdivision and the existing conditions in and around it.

TENTATIVE MAP APPROVAL: Approval of a tentative map by the City Council. Tentative map approval constitutes authorization to proceed with preparation of construction plans and the final map.

TRACT: An area of land proposed to be divided pursuant to this Chapter.

TRANSPORTATION COMPONENT OF THE MASTER PLAN: A plan adopted by the Planning Commission and City Council which provides for development of a system of major streets and highways.

### **3-3-3: OUTLINE OF PROCEDURES STAGES OF SUBDIVISION PLANNING AND APPROVAL:**

The Any person who divides land into five (5) or more parcels for the purpose of transfer or development must follow the three-stage approval process outlined in this Chapter. These stages, among other things, set forth specific requirements pertaining to the preparation, submission and, review of, and official action concerning on, maps and other documents.

These stages are as follows: all subdivision plats located within the city shall proceed through the following progressive stages:

A. Stage I - ~~p~~Preapplication (conference) sStage. During Stage I, the subdivider provides preliminary information about the proposed subdivision to the City, some of which is provided to City staff in a conference held to discuss land use, street and lot arrangement, lot sizes, buildable lot areas, conformity with the master plan, easements, the provision of utilities, storm drainage, street improvements and other issues pertinent to the proposed development.;

B. Stage II - ~~preliminary~~Tentative plat Map sStage. Stage II includes preparation, submission, revision and Planning Commission action on the tentative map. During this stage, the City will review the tentative map submittal to ensure that it conforms to all applicable requirements. At the conclusion of this stage, the City Council determines whether to approve, conditionally approve or disapprove the tentative map. The City uses the tentative map submittal to evaluate the subdivision. Approval of the tentative map permits the subdivider to proceed with Stage III, but does not authorize the subdivider to commence construction activities.and

~~CC.~~ Stage III - ~~f~~Final plat Map sStage. Stage III includes the final design and engineering of the subdivision, action on the construction plans, and action on the final map. During this stage, the subdivider must post security for completion and maintenance of public improvements, and the subdivider and the City must enter into a performance agreement. (Ord. 548, 11-28-2000)

### 3-3-4: PREAPPLICATION (~~CONFERENCE~~) STAGE (STAGE I):

**A. Overview and General Requirements:** The preapplication stage of subdivision planning (~~Stage I~~) ~~comprises includes~~ an investigatory period ~~that takes place prior to preceding actual preparation~~ ~~submittal~~ of the ~~preliminary~~ ~~Tentative~~ ~~plat~~ ~~tentative map~~ by the subdivider. During this stage, the subdivider shall make known his intentions to the subdivision review committee and be advised of specific public objectives related to the subject tract and other details ~~regarding platting procedures~~ and requirements ~~must meet with the City to discuss~~ ~~the proposed subdivision and provide general information about the proposed subdivision,~~ and the City will provide ~~the subdivider with general information about City subdivision requirements.~~ During this stage, ~~it shall be determined~~ ~~the City will~~ ~~also determine~~ whether a change in zoning will be required for the ~~subject tract or any part thereof~~ ~~proposed subdivision,~~ and, if such ~~If the City determines that a zoning change is required for the proposed subdivision,~~ the subdivider ~~shall must~~ initiate the necessary application for ~~zoning amendment in conjunction~~ ~~a change of zoning district boundaries.~~ This process must be ~~commenced prior to or contemporaneously~~ with submission of the ~~preliminary~~ ~~Tentative~~ ~~plat~~ ~~tentative map~~ (~~Stage II~~). In carrying out the purposes of the preapplication stage, ~~In addition, during Stage I~~ the subdivider and the ~~subdivision review committee~~ ~~City~~ shall be responsible for ~~satisfy~~ the following ~~sections~~ ~~requirements~~:

**AB. Meeting** ~~Conference:~~ During ~~the preapplication stage~~ ~~Stage I~~, the subdivider shall schedule and attend a conference with ~~City staff~~ ~~the Subdivision Review Committee~~ for the purpose of discussing the proposed subdivision. At least five (5) business days prior to the conference, the subdivider shall provide the City with plans, sketches and other documentation showing proposed land uses, street and lot configuration, proposed lot sizes and the proposed density of the development. ~~Actions By Subdivider:~~ The subdivider shall meet with the subdivision review committee and present a general outline of his proposal, including, but not limited to:

1. ~~Prior to the meeting the subdivier shall provide~~ Sketch plans and ideas regarding land use, street and lot arrangement, and tentative lot sizes, ~~and proposed density of the development.~~ At the meeting, the subdivider shall present the ~~City~~ ~~Subdivision Review Committee~~ with tentative proposals regarding water supply, sewage disposal, storm drainage and street improvements.

2. Tentative proposals regarding water supply, sewage disposal, storm drainage and street improvements, and any additional information required by this code and the subdivision review committee.

**B. Actions By Subdivision Review Committee:** The subdivision review committee

**C. During the conference with the Subdivision Review Committee,** the City will provide general information to ~~may advise~~ the subdivider ~~regarding the requirements of this Chapter, to include required procedures, of procedural steps,~~ design and improvement standards, and general ~~plat~~ ~~tentative and final map~~ requirements. The ~~subdivision review committee may then proceed with~~ ~~City~~ ~~Subdivision Review Committee~~ will then perform the following investigations, and report ~~its~~ ~~provide written~~ recommendations ~~in writing~~ to the subdivider, ~~planning commission~~ ~~the Planning Commission~~ and ~~city council~~ ~~the City Council~~:

\_\_\_\_\_ 1. Check existing zoning of the ~~tract~~ ~~location of the proposed subdivision~~ and of abutting properties, and determine whether a ~~zoning amendment~~ ~~change of zoning district boundaries~~ is necessary or desirable.



2. Determine conformance of the proposed subdivision to the Land Use component of the Master Plan.

23. Examine the adequacy of parks and other public facilities.

34. Determine the relationship of the site to major streets, utility systems and adjacent land uses, and determine whether there are any potential problems related to topography, utilities, drainage or flooding.

45. Determine Fire Department access and suppression requirements for the proposed subdivision.

456. Determine whether a Development Master Plan shall be prepared and approved by the City prior to preparation and consideration of a preliminary tentative plat map.

CD. Development Master Plan: The Planning Commission may, in its discretion, determine that the proposed subdivision has certain characteristics that necessitate the preparation of a development master plan. These characteristics may include size, impact on neighborhoods, density, topography, utilities, and/or existing and potential future land uses. Whenever, in the opinion of the planning commission, the proposed subdivision is sufficiently large to comprise a major part of a future neighborhood, or, the tract initially proposed for platting is only a part of a larger land area the development of which is complicated by unusual topographic, utility, land use, land ownership problems or other conditions, the subdivider shall be required to prepare a development master plan for the larger area which. If a Development Master Plan is required, it required development master plan must be submitted to the commission Planning Commission for review and possible approval and must be filed with the city engineer at least twenty-one (21) days prior to the meeting date at which the commission will be reviewing the plan at least twenty-one (21) days prior to the Planning Commission meeting at which the plan Development Master Plan will be reviewed.

1. Preparation: The development master plan Development Master Plan shall be prepared on a sheet twenty-four inches by thirty-six inches (24" x 36"), shall be accurate commensurate with its purpose in accordance with industry standards, and shall include clearly indicate:

a. General street patterns, with particular attention to the location and general alignment of collector streets and to the maximization of convenient circulation throughout the neighborhood.

b. General location and size of schools, parks and other public facility sites.

c. Location of shopping centers, multi-family residential units and other proposed land uses.

d. Methods proposed for sewage disposal, water supply and storm drainage.

2. Approval: A tentative map must be consistent with a When the Development Master Plan that encompasses its territorial limits has been approved by the planning commission Planning Commission, it shall constitute the general design approach to be followed in the preparation of all preliminary tentative plats within its limits. If development of a subdivision is proposed to take place in several stages, the Development Master Plan plan shall be submitted as supporting data for each

~~preliminarytentative platmap~~. The ~~plan-Development Master Plan~~ shall be kept up to date by the subdivider as modifications occur or become necessary. (~~Ord. 624, 10-26-2004~~)

### 3-3-5: ~~PRELIMINARYTENTATIVE~~ **PLATMAP** STAGE (STAGE II):

The ~~preliminarytentative platmap~~ stage (~~Stage II~~) includes preparation, submission, review and ~~planning-commission~~Planning Commission action on the ~~preliminarytentative platmap~~. ~~The subdivider can help expedite p~~Processing of the ~~preliminarytentative platmap~~ will be expedited by ~~submission of~~submitting all information ~~essential to determining the intended character and general acceptability of the proposalneeded to determine consistency with the City Code and the Elko Master Plan.~~

A. Zoning Amendments: The ~~preliminarytentative platmap~~ shall be designed to meet the specific requirements of the zoning district in which it is located. ~~H;~~ however, in the event ~~that a an amendment of change of zoning district boundaries~~ is necessary, an application for ~~such amendment a change in zoning consistent with Section 3-2-21 of the City Code~~ shall be submitted and processed in conjunction with the ~~preliminarytentative platmap~~. ~~If a change in zoning district boundaries is required, Tthe-planning commission~~Planning Commission ~~City shall will not proceed withcontinue~~ processing of the ~~plattentative map unless and until said the application for change of zoning district boundaries~~ is submitted.

The application for ~~change of zoning amendment~~district boundaries ~~shall should~~ be heard by the ~~planning-commission~~Planning Commission at the same meeting as the ~~preliminarytentative platmap is considered~~, but shall be acted upon ~~separately as a separate item~~. When a ~~preliminarytentative platmap~~ constitutes only one unit of a larger development intended for progressive ~~maps-platting~~, ~~the change of zoning district boundaries amendment shall usually generallymay~~ be limited to the area contained in ~~the preliminarytentative platmap application and abutting the initial plat. In any event,~~ ~~A~~any required ~~change of zoning district boundaries amendment~~ shall have been approved by the ~~planning-commission~~Planning Commission prior to ~~the preliminarytentative platmap~~ approval. ~~Zoning amendmentsA change of zoning district boundaries required under this Section must, without limitation, conform with to the all applicable master plan,(s) adopted by the City.planning commission~~Planning Commission and city councilCity Council.

B. Sanitary Sewerage, Water Supply, Storm Drainage ~~a~~And ~~Garbage-Solid Waste~~ Disposal: As a prerequisite ~~to of preliminarytentative platmap~~ review by the ~~planning-commission~~Planning Commission, the subdivider shall ~~have informed the commission, health department and the city engineer of the tentative plans and shall provide adequate information to enable the City to determine conformancewhether it conforms to the Ceity eCode, to include, without limitation, and the general-all applicable requirements for public improvements, -such as but not limited to, property grading, sewage disposal, water supply, storm drainage, -garbage-disposal solid waste disposal, and the provision of other public utilities as applied to the subject tractproposed subdivision.~~

C. ~~PreliminaryTentative PlatMap Submission~~Submittal: The following requirements apply to ~~submission of the tentative map for review and filing of the tentative map:~~

\_\_\_\_\_ 1. ~~Tentative Map Submittal~~Documents; Application: Scheduling: Eighteen-Three (183) copies of the ~~preliminarytentative platmap~~ and any required supporting ~~information and/or data and ain readable pdf format (unless otherwise requested by the City), prepared in accordance with the requirements of this chapterChapter, together with any required filing fee (collectively referred to as the "tentative map submittal")~~, shall be filed with the ~~City~~ planning department at least ~~forty-five days (45) twenty-one (21) days~~ prior to the ~~scheduled-planning commission~~Planning Commission meeting at which ~~the recommendation to approve, conditionally approve or disapprove the subdivider desires~~



to be heard tentative map will be considered. Upon receipt of the tentative map submittal, the City planning department will record the date of receipt and filing. The tentative map submittal shall be deemed the subdivider's application for approval of the tentative map. Scheduling of the case for planning commission Planning Commission hearing shall be dependent upon submission of adequate data and completion of processing. If additional copies of the submittal are needed for proper review of the proposal, they shall be furnished by the subdivider.

2. Submittal To Be Checked Initial Review of Tentative Map Submittal for Completeness Upon Filing: Upon filing, the City will perform an initial review the tentative map submittal shall be checked by the city subdivision review committee for completeness, and to determine if it is complete and meets with all satisfies the requirements of the Nevada Revised Statutes, the Nevada Administrative Code and section Section 3-3-73-3-73-76 of this chapter Chapter. The tentative map submittal must be consistent with the information provided by the subdivider to the City at the preapplication stage (Stage 1) meeting. The Planning Commission will not consider the application for tentative map approval unless adequate information has been submitted to permit the City to determine that the tentative map complies with the City Code. Upon request by the City, the subdivider shall furnish additional copies of any documents required by the City to perform its review.

3. Information Required Under Nevada Administrative Code for Review of Tentative Map: In addition to any other requirements set forth in the Elko City Code, without limitation, a subdivider shall submit the following documents or other information to the City:

a. A map showing the topographic features of the subdivision, including contours at intervals of 2 feet for slopes of 10 percent or less and intervals of 5 feet for slopes of over 10 percent.

b. Two copies of the map showing the tentative design of the subdivision, including the arrangement of lots, the alignment of roads and easements.

c. A statement of the type of water system to be used and the water source, for example, private wells or a public water system.

d. Unless water for the subdivision is to be supplied from an existing public water system, a report of the analyses, performed pursuant to NAC 278.390, of four samples taken in or adjacent to the subdivision from different wells. The analyses must show that the water meets the standards prescribed in NAC 445A.450 to 445A.492, inclusive.

e. A map of the 100-year floodplain for the applicable area. The map must have been prepared by recognized methods or by an appropriate governmental agency for those areas subject to flooding.

f. A description of the subdivision in terms of 40-acre parts of a designated section, township and range, or any other description which provides a positive identification of the location of the subdivision.

g. A map of the vicinity of the subdivision, showing the location of the proposed subdivision relative to the City of Elko or a major highway.

h. The names and addresses of the owners and developers of the subdivision.

i. A master plan showing the future development and intended use of all land under the ownership or control of the developer in the vicinity of the proposed subdivision.

4. Filing; Acceptance or Rejection: If, following the initial review, the tentative map submittal is determined to conform to the foregoing requirements, the City will accept the tentative map submittal for filing and will ~~it shall be assigned it a file number.~~ ; if incomplete, Otherwise, the City will reject the tentative map submittal and inform the subdivider of the deficiencies that resulted in the rejection. If the subdivider does not correct an incomplete tentative map submittal within 90-days from the date of filing with the City, the tentative map submittal will automatically expire and may not be re-filed without payment of a new filing fee.it shall be rejected and the subdivider notified as to its deficiencies. **Incomplete applications not acted upon by the subdivider shall expire within 90 days of receipt of the application, and pay a new filing fee.** The Preliminary Tentative Plat shall generally conform to the information presented during the Stage 1 meeting of the subdivision.

3 5. Filing Fee: The subdivider shall, at the time of filing a tentative map submittal, pay to the city City a filing fee based upon the number of lots shown on in the plattentative map. If preliminarytentative approval subsequently expires prior to application for final approval, the plat shall be resubmitted for preliminarytentative approval as a new case, and the subdivider shall pay the required fee in accordance with the adopted schedule. The filing fee shall be set by resolution by the city councilCity Council.

**4. Incomplete applications not acted upon by the subdivider shall expire within 90 days of receipt of the application.**

D. Preliminary Tentative PlatMap Review by Departments: Upon filing, the tentative map will be distributed and reviewed as follows:

1. Departmental Review of Tentative Map Submittals: Unless the tentative map submittal is rejected in accordance with Section 3-3-5(C)(2), above, Upon receipt of the finalpreliminarytentative plat submittal, the city **planning department** shall record receipt and date of filing, following the initial review, the planning department andwill transmit all copies of the preliminarytentative platmap submittal to the eCity engineering, utility, public works, fire and development departments for their respective reviews. for checking the submittal forIn reviewing the tentative map submittal, these departments will each make a determination as to the completeness and adequacy of the tentative map submittal and its conformity to the requirements of the City Code, to include any standardized codes adopted by reference. If any reviewing department determines that a tentative map submittal is incomplete, inadequate or noncompliant with the City Code, the filing date shall be voided and the subdivider so notified application will be rejected and the subdivider will be notified of the deficiencies that resulted in the rejection.

2. Distribution of Tentative Map Submittals to Other Governmental Entities, Irrigation Ditch Owners and Utilities: If, following the foregoing departmental review, the City determines that the tentative map submittal is -complete, adequate and in conformity with the requirements of the City Code , and if the preliminarytentative plat substantially conforms toand- the Stage I submittal, the city City planning department **Planning department** shall will transmit copies of the tentative map submittal for review to (a) the Division of Water Resources and the Division of Environmental Protection of the State Department of Conservation and Natural Resources; (b) the district board of health acting for the Division of Environmental Protection to review and certify proposed subdivisions and to conduct construction or installation inspections; (c) if the subdivision is subject to the provisions of NRS 704.6672, the Public Utilities Commission of Nevada; (d) the board of trustees for the Elko County School District; (e) the board of trustees for any general improvement district or irrigation district in which the subdivision is located; (f) the owner of an irrigation ditch located within

the proposed subdivision to the extent required under NRS 278.3485; (g) the Nevada Department of Transportation, if the subdivision encompasses or is adjacent to any State roads, highways or rights-of-way; (h) Elko County, if the proposed subdivision is adjacent to property located outside the Elko City municipal boundaries; (i) any public utilities that are reasonably likely to provide service to the subdivision, to the Nevada Department of Transportation, where applicable, who shall make known their recommendations in writing addressed to the city. All comments received in response to the foregoing distributions will be provided to the Planning Commission and the City Council at the respective meetings during which the application is considered.

12. Copy Distribution: The subdivider shall provide additional copies a readable pdf file of the preliminary tentative plat to the city for distribution to:

a. The city engineer;

a. b. School district superintendent, board of trustees of Elko County;

b. c. Utility companies;

c. Elko County Planning Department, as required under NRS 278, or under any agreement between the county and the city or if the property is adjacent to any parcel located in Elko County

c. d. Division of water resources, department of conservation and natural resources;

d. e. Division of environmental protection, department of conservation and natural resources; and

e. f. Health department, department of human resources.

23. ~~Planning Commission~~ Planning Commission Shall Review: The planning commission ~~Planning Commission~~ shall review the preliminary tentative plat map submitted submittal for compliance with the applicable provisions of this chapter the Nevada Revised Statutes, the Nevada Administrative Code and the City Code, to include this Chapter and Title 3 (Zoning Regulations) and the zoning requirements, and shall consult with and seek shall consider the advice recommendations of appropriate city City departments, and non-City governmental agencies and others that have reviewed the tentative map submittal pursuant to this Chapter, on any matters of design or improvement. It shall be the responsibility of the subdivider to provide any necessary data and any other information necessary for the Planning Commission ~~Planning Commission~~ to conduct a comprehensive review of the proposed subdivision.

34. Public Hearing; Notices Required: In reviewing and considering preliminary tentative plats Prior to taking any action to recommend approval, conditional approval or disapproval of a tentative map, the ~~planning commission~~ Planning Commission shall first hold a public hearing to receive information about the proposed subdivision and to consider modifications to the tentative map prior to taking any action on a preliminary tentative plat. The public hearing shall be set not later than forty-five (45) days from the date a complete tentative map submittal that satisfies the requirements of the City Code is filed with the City. Upon the filing of an application for preliminary tentative plat, the city staff shall set the matter for hearing not later than forty five (45) days thereafter. After the time and place have been established by the city staff, n At least ten (10) calendar days prior to the public hearing, notices of the public hearing shall be sent by mail at least ten (10) days before the hearing to all property owners adjoining or adjacent to the area proposed to be subdivided. The names and addresses of the adjacent property owners shall be determined by examining as shown by t the latest assessment rolls of the city Elko County Assessor. Notice by mail to the last known addresses of the real property owners as shown by the assessor's Elko County

Assessor's records shall be sufficient for purposes of this Subsection. Legal notice shall be placed in a newspaper of general circulation within the eCity at least ten (10) calendar days prior to the date of the public hearing.

45. Modifications to Tentative Maps: In the event the ~~planning-commission~~ Planning Commission requires modifications of ~~to the plattentative map as submitted prior to making a recommendation of approval or conditional approval,~~ the Planning eCommission shall so inform the subdivider. ~~The Planning Commission may, in its discretion, and may provide recommendations to the subdivider regarding the correction of any deficiencies in the tentative map submittal.~~ him advice in overcoming deficiencies prior to the commission hearing. A recommendation for modification or change may be sufficiently important to warrant postponement of the ~~planning commission~~ Planning Commission hearing until the matter has been resolved with the subdivider. ~~The Planning Commission may, in its discretion, table or continue a public hearing on a tentative map for a period of time sufficient to permit the subdivider to make any required modifications to the tentative map submittal. Notwithstanding the foregoing, in the event the Planning Commission requests that a subdivider make modifications to a tentative map submittal, the subdivider must present to the Planning Commission a modified tentative map submittal that complies with the Planning Commission's request no more than sixty (60) calendar days from the date of the request. Notwithstanding any other provision in this Chapter, the failure of a subdivider to present a properly modified tentative map submittal to the Planning Commission in accordance with the preceding sentence shall result in the automatic expiration of the application for tentative map approval and the subdivider shall not be entitled to any refund or credit of the filing fee. Requested modifications shall be presented back to the Planning Commission within 60 days or the application shall expire with no refund of filing fees.~~

E. Preliminary ~~Action on Tentative Plat~~ Map by Planning Commission and City Council Approval: Upon review by City and other agencies and entities as set forth in the preceding Subsection, the Planning Commission and City Council will take action on the tentative map as follows:

1. Planning Commission Recommendation: After accepting a tentative map submittal as a complete application, the Planning Commission shall, within forty-five (45) days of the date the tentative map submittal is filed, recommend approval, conditional approval or disapproval of the tentative map in a written report filed with the City Council. Notwithstanding the foregoing, unless a longer time is provided in a development agreement entered into pursuant to NRS 278.0201, the time limit for acting and reporting on a tentative map may be extended by mutual consent of the subdivider and the Planning Commission; provided, if no action is taken within the time limits set forth in NRS 278.010 to 278.630, inclusive (subject to any permitted extensions), a tentative map as filed shall be deemed to be approved without conditions, and the Planning Commission shall certify the tentative map as approved. ~~The planning-commission~~ Planning Commission shall consider the preliminary ~~tentative plat~~ plat within forty five (45) days after ~~a complete application for the plat has been filed.~~ The ~~planning~~ commission Planning Commission shall report, through the ~~pPlanning dDepartment,~~ to the city council City Council Council within ~~forty-five thirty (4530) days~~ after review of the preliminary tentative plat. The report shall approve or disapprove the map or maps of the subdivision. ~~If the Planning Commission recommends conditional approval or disapproval of conditionally approved or disapproved a tentative map, the Planning Commission's report to the City Council shall either state the conditions under which the plattentative map map would have been approved or state that approval was withheld because the land proposed to be subdivided was is not suitable for such the proposed development, stating.~~ If approval is withheld, the report shall state the reasons why the land was not considered suitable. The city council City Council shall approve or disapprove a tentative map within ~~sixty~~ forty five (60 45) days after receipt of the planning commission Planning Commission's recommendations, after first holding a public hearing as set forth in subsection D3 of this section.

2. Action by City Council to Approve, Conditionally Approve or Disapprove Tentative Map:  
Factors Considered: Except as other provided in NRS Chapter 278 and this Chapter, the City Council shall approve, conditionally approve or disapprove a tentative map within sixty (60) days from the date the tentative map is filed. Before approving a preliminarytentative tentative platmap, the planning commissionPlanning Commission and city councilCity Council shall make such findings as are not inconsistent with the provisions of Nevada Revised Statutes sections 278.010 through 278.630, inclusive, or local ordinances adopted pursuant theretothe City Code, including, but not limited to, findings that the subdivisionwhich findings shall include consideration of the following factors: \_\_\_\_\_

a. Environmental and health laws and regulations concerning water and air pollution, the disposal of solid waste, facilities to supply water, community or public sewage disposal and, where applicable, individual systems for sewage disposal;

b. The availability of water which meets applicable health standards and is sufficient in quantity for the reasonably foreseeable needs of the subdivision;

c. The availability and accessibility of utilities;

d. The availability and accessibility of public services such as schools, police protection, transportation, recreation and parks;

e. Conformity with the zoning ordinances and the City's master plan, except that if any existing zoning ordinance is inconsistent with the City's master plan, the zoning ordinance takes precedence;

f. General conformity with the City's master plan of streets and highways;

g. The effect of the proposed subdivision on existing public streets and the need for new streets or highways to serve the subdivision;

h. Physical characteristics of the land, such as floodplain, slope and soil;

i. The recommendations and comments of those entities and persons reviewing the tentative map pursuant to this Chapter and NRS 278.330 to 278.3485, inclusive;

j. The availability and accessibility of fire protection, including, but not limited to, the availability and accessibility of water and services for the prevention and containment of fires, including fires in wild lands; and

k. The submission by the subdivider of an affidavit stating that the subdivider will make provision for payment of the tax imposed by Chapter 375 of NRS and for compliance with the disclosure and recording requirements of Subsection 5 of NRS 598.0923, if applicable, by the subdivider or any successor in interest.

a. Will not result in undue water or air pollution. In making this determination it shall consider:

(1) The topography of the land and its relation to the floodplains or areas subject to flooding or water damage;

~~(2) The nature of soils and subsoils and their ability adequately to support waste disposal, if applicable;~~

~~(3) The slope of the land and its effect on effluents;~~

~~(4) The effectiveness of sewerage plans and solid waste disposal; and~~

~~(5) The applicable environmental and health laws and regulations.~~

b. Has sufficient water meeting applicable health standards for the reasonably foreseeable needs of the subdivision.

c. Will not cause an unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

d. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized.

e. Will not cause unreasonable street or highway congestion or unsafe conditions with respect to use of the streets or highways existing or proposed and addresses for the new streets or highways to serve the subdivisions.

f. Is in conformance with the duly adopted master plan and zoning ordinances, except in cases of inconsistency between the two, the zoning ordinance takes precedence. No provision of this chapter shall be constructed to prevent a governing body from disapproving a preliminarytentative tentative map if such disapproval is in the best interests of the public health, safety or welfare, and such disapproval is made by a majority vote of its members and made within the time limit provided.

g. Availability and accessibility of utilities.

h. Availability and accessibility of public services, such as schools, police and fire protection, recreation and parks.

3. Approval of Tentative Map Without Conditions: If The City Council may approve the tentative map without conditions; provided, the approval must include findings thatsatisfied that the preliminarytentative platmap meets all requirements of this cChapter and the applicable requirements set forth in the Nevada Revised Statutes and Nevada Administrative Code., the planning commissionPlanning Commission may grant preliminarytentative plat approval., whereupon the secretary shall note such approval on three (3) copies of the plat, return one copy to the subdivider, retain one copy in the permanent commission file, and give one copy to the city engineer.

4. Approval of Tentative Map With Conditions: If the preliminarytentative platThe City Council may approve the tentative map with conditions, in which event the City Council shall, as a requisite to final approval, require the subdivider to submit proof that the conditions have been satisfied to either or both City staff and/or the City Council at a subsequent meeting. The City Council may place a deadline on the time required to satisfy the conditions, after which, unless (a) the subdivider has submitted proof to the City that the conditions have been satisfied, (b) the subdivider and the City have entered into a development agreement pursuant to NRS 278.0201 and this Chapter that extends the time for satisfying the conditions, or (c) the City has granted an extension of time to satisfy the conditions consistent with this Chapter, the tentative map will be automatically deemed disapproved. is generally acceptable but requires minor revision, the planning



commissionPlanning Commission may find conditional approval, and the required conditions and revisions shall be noted in the meeting minutes. Thereafter, at the discretion of the ~~planning commission~~Planning Commission, the ~~preliminarytentative~~ plat may be ~~approved with the revised conditions and revisions to be corrected and the preliminarytentative plat forwarded to the City Council~~City Council without further consideration by the Planning Commission~~Planning Commission~~.be given preliminary approval when it has been satisfactorily revised in accordance with the commission's stated conditions.

5. If the ~~preliminarytentative~~ plat is disapproved by the planning commission~~Planning Commission~~, any new filing of a plat for the same tract, or any part thereof, shall follow the aforesaid procedure and be subject to payment of a new filing fee. The subdivider may appeal the planning commission~~Planning Commission~~'s decision to the governing body within fifteen (15) days in accordance with Elko City Code 3-2-25. The city council~~City Council~~ may overrule any ruling of the planning commission~~Planning Commission~~ in regard to the ~~preliminarytentative~~ tentative plat in conformance with the findings required under 3-3-5(E)(2).

6. Upon preliminary plat approval, the planning department shall notify the utility companies of such approval.

F. Significance Of Preliminary Tentative Approval: Preliminary Tentative approval constitutes authorization for a subdivider to proceed with preparation of the final plat and engineering construction plans. Preliminary Tentative approval is based upon the following terms:

1. Basic conditions under which preliminarytentative approval is granted shall not be changed prior to expiration date.

2. Unless the time is extended consistent with the requirements of Nevada Revised Statutes 278.360, the subdivider shall present a. A final map, prepared in accordance with the tentative map, for the entire area for which a tentative map has been approved, or b. One of a series of final maps, each covering a portion of the approved tentative map.

to the planning commission~~Planning Commission~~ within four (4) years:

~~a. A final map, prepared in accordance with the tentative map, for the entire area for which a tentative map has been approved, or~~

~~b. One of a series of final maps, each covering a portion of the approved tentative map.~~

3. If the subdivider fails to record present a final map for any portion of the tentative map to the city within four (4) years after the date of approval of the tentative map by the city council~~City Council~~, or within two (2) years after the recording date of approval by the city council~~City Council~~ of the most recently recorded final map, all proceedings concerning the subdivision are terminated.

4. The city council~~City Council~~, after referral to the planning commission~~Planning Commission~~ for review and comment, may grant an extension of not more than two (2) years for the presentation of the next final map in a series of final maps covering a portion of the approved tentative map after the two (2) year period for presenting the entire final map or next successive final map has expired.

5. Preliminary Tentative Plat approval does not constitute an authorization to proceed with subdivision site improvements prior to approval by the city engineer of submitted construction engineering plans. Preliminary Tentative Plat approval does not constitute authorization to

**proceed with subdivision improvements prior to obtaining any required Federal or State approvals and entering into a performance agreement per 3-3-45.**

G. Expiration Of Preliminary Tentative Approval: If preliminary tentative approval expires prior to filing of a request for an extension or the time given in an extension expires, the preliminary tentative plat, if resubmitted, shall be processed as a new case, and a new fee paid. **Extensions of time shall be granted under provisions stipulated in an agreement consistent with the requirements of NRS 278.0201 and 3-2-26.** If planning commission Planning Commission review of a resubmitted plat reveals no significant change from the previously approved preliminary plat and conditions under which previous approval was granted have not changed, the filing fee shall be as set by the city council City Council and the resubmitted plat scheduled for hearing by the commission at its first regular scheduled meeting thereafter. (Ord. 785, 7-8-2014)

5. Disapproval of Tentative Map: The City Council may disapprove a tentative map, in which event the City Council shall state the reasons for the disapproval. In the event a tentative map is disapproved, any new filing of a tentative map for the same property, or any part thereof, shall follow the procedure set forth in this Chapter for a new tentative map application, to include payment of a new filing fee.

F. Limited Authorization to Proceed Upon Approval With Conditions: If the City Council approves a tentative map with conditions, the subdivider may commence preparing a final map and engineering construction plans; provided, nothing in this Subsection shall be interpreted as a waiver of any conditions imposed by the City Council or a commitment that the City will approve a final map or construction plans.

G. Will Serve Letters: Upon approval of a tentative map with or without conditions, the City Utility Department shall provide a water and sewer "will serve" letter to the applicable state agencies.

H. Construction of Subdivision Improvements: Notwithstanding any other provision contained herein, approval of a tentative map, with or without conditions, does not constitute authorization to commence any construction activities associated with the subdivision to include, without limitation, public improvements.

### **3-3-6: CONTENT AND FORMAT OF TENTATIVE MAP SUBMITTAL:**

A. Form and Scale: The tentative map must be graphically depicted on one or more plan sheets with supporting data either placed directly on the tentative map or attached to the tentative map in drawings, spreadsheets or other documents that comply with the requirements of this Chapter and are consistent with industry standards. All maps accompanying the tentative map shall be drawn to the same standard engineering scale; provided, the scale shall not be more than one hundred (100) feet to one (1) inch. Whenever practicable, the plan scale shall result in an overall sheet measuring twenty-four inches by thirty-six inches (24" x 36").

B. Identification Data: The tentative map shall contain the following information:

1. Proposed subdivision name, location and section, township and range, with reference by dimension and bearing to a section corner or quarter-section corner.

2. Name, address, telephone number and email address of subdivider(s).



3. Name, address, telephone number, email address and Nevada State Board of Professional Engineers and Land Surveyors license number for each professional engineer or land surveyor who prepared the tentative map.

4. Scale.

5. North point.

6. Date of initial preparation and dates of any subsequent revisions.

7. A small scale location map showing the relationship of the tract to existing community facilities which serve or influence it, including: arterial streets, railroads, shopping centers, parks and playgrounds, and churches.

8. Legal description defining the boundaries of the proposed subdivision.

9. Dimensions of all subdivision boundaries.

10. Gross and net acreage of the subdivision.

C. Physical Conditions: The tentative map shall contain following information about existing physical conditions:

1. Topography shown with contours at intervals of no more than or two (2) feet and corresponding to the GIS or other coordinate system shown maintained by the City. Topographic information shall be adequate to show the character and drainage of the land.

2. Location of water wells, streams, private ditches, washes and other water features, including direction of flow, and the location and extent of areas subject to frequent periodic or occasional inundation.

3. The location of flood zones designated by the Federal Emergency Management Agency (FEMA) and/or any special flood hazard areas.

4. Within or adjacent to the proposed subdivision, the locations, widths and names of all streets, railroads, utility rights-of-way of public record, public areas, permanent structures that will remain after development of the subdivision, and municipal corporate boundaries.

D. Recorded Map Information: The tentative map shall indicate the title or description, book and page number(s) of each recorded map for property adjacent to the proposed subdivision, to include property adjacent to boundary roads, streets and rights-of-way.

E. Existing Zoning: The tentative map shall indicate the existing zoning classification of the proposed subdivision and adjacent properties.

F. Proposed Improvements and Other Features: The tentative map shall show the following planned improvements and other features within and, where indicated, adjacent to the subdivision:

1. Street layout, including location and width of each street, right-of-way, alley, sidewalk, pedestrianway and easement, together with access routes to adjacent existing subdivisions

(including routes through parcels that are not subdivided), the proposed names of all streets, and the approximate grades of all rights-of-way.

2. Lot layout with consecutively numbered lots, indicating the dimensions of each lot and the total number of lots.

3. Location, width and proposed use of easements.

4. Location, extent and proposed use of all land to be dedicated or reserved for public use, including school sites or parks.

5. Locations and boundaries of all proposed zoning districts.

G. Proposed Deed Restrictions: All proposed deed restrictions shall be indicated on or appended to the tentative map.

H. Preliminary Grading Plan: The subdivider shall provide to the City a preliminary grading plan indicating areas proposed for cut-and-fill, the type and estimated quantity of material to be graded, the estimated finished grades (which must be adequate to establish the general grading trend), the proposed methods of erosion control, and the general location of and specifications for any manufactured (cut or fill) slopes.

I. NPDES Permit Compliance: The subdivider shall comply with all applicable provisions of the City's National Pollutant Discharge Elimination System (NPDES) general permit for discharges from small municipal separate storm sewer systems, Permit No. NV040000.

J. Utility Methods and Requirements:

1. Sewage Disposal: The subdivider shall provide the City with a proposed design for sewage disposal that connects to the City sewer system.

2. Water Supply: The subdivider shall provide the City with information sufficient to demonstrate an the supply of an adequate volume and quality of water from the City water system.

3. Storm Drainage: The subdivider shall provide the City with preliminary drainage calculations and a proposed layout of the storm drainage system, including the locations of outlets. The proposed storm drainage system shall comply with the City's NPDES permit requirements, the City Code and all applicable Federal and state laws and regulations.

4. Communication, Electrical and Natural Gas Lines: The subdivider shall provide the City with a proposed layout for the locations of Communication Lines, electrical lines and natural gas lines.

5. Traffic Impact Study: The City may, in its discretion, require a traffic impact study if it determines that additional traffic in the area due to the subdivision may exceed existing roadway capacities, warrant traffic signal improvements, warrant the construction of additional travel lanes or impact state highways.

### **3-3-73-3-6: FINAL PLATMAP STAGE (STAGE III):**

A. Overview: The final platmap stage (Stage III) includes the final design and **final**-engineering of

the subdivision, and the preparation, submission, and review of and action on the final platmap and construction engineering plans.

B. Requirements for Presentation of Final Map or Series of Final Maps; Extensions of Time: Unless a longer time is provided in an agreement entered into pursuant to NRS 278.0201 or 278.350, or unless the time is extended by mutual agreement of the subdivider and the City Council, the subdivider shall present to the City Council within 4 years after the approval of a tentative map: (1) a final map, prepared in accordance with the tentative map, for the entire area for which a tentative map has been approved; or (2) the first of a series of final maps covering a portion of the approved tentative map. If the subdivider elects to present a successive map in a series of final maps, each covering a portion of the approved tentative map, the subdivider shall present to the City Council on or before the second anniversary of the date on which the subdivider recorded the first in the series of final maps: (I) a final map, prepared in accordance with the tentative map, for the entire area for which the tentative map has been approved; or (II) the next final map in the series of final maps covering a portion of the approved tentative map. If the subdivider fails to comply with the provisions of the preceding sentence, all proceedings concerning the subdivision are terminated.

AC. Pre-submission Requirements: Before a final map is submitted to the City for approval, the following requirements must be satisfied:

1. Zoning: The final platmap shall meet all requirements of the zoning district in which it is located, and any necessary changes to zoning district boundaries amendments shall have been adopted by the city council City Council; prior to filing of the final plat.

2. Preparation Of Final PlatMap: The subdivider shall prepare a The final platmap shall conform closely to the that does not materially differ from the approved preliminary tentative platmap and be prepared in accordance with the provisions of this chapter conforms to all applicable requirements of the Nevada Revised Statutes, the Nevada Administrative Code and this Chapter.

3. D. Utility Easements: The final plat submittal shall include The subdivider shall obtain a letter or letters signifying approval of from all public utilities with utility easements located within the proposed subdivision indicating approval of the subdivision, utility easements by all public utilities involved, and shall be so which approvals shall be indicated by in an affidavit on the final map.

BE. Final PlatMap Submission Submittal; Filing: The final map submittal shall consist of three 1. Three (3) copies and a readable electronic file in pdf format of the final platmap and any required supporting information and/or data, prepared in accordance with the requirements of this cChapter. The final map submittal ,shall be filed with the City planning department at least twenty-one (21) days prior to the Planning Commission City Council meeting at which the subdivider desires to be heard final map will be considered.

12F. Review of Final Map:

1. Upon receipt of the final map submittal, the City planning department shall record the receipt and date of filing, and shall thereafter transmit copies of the final map to the City engineering, utility, public works, fire and development departments for their respective reviews. In reviewing the final map submittal, these departments shall each make a determination as to the completeness and adequacy of the final map submittal and its conformity to the requirements of the City Code, to include any standardized codes adopted by reference. If any reviewing department determines that

a final map submittal is incomplete, inadequate or noncompliant with the City Code, the application will be rejected and the subdivider will be notified of the deficiencies that resulted in the rejection.

2. Distribution of Final Map Submittals to Other Governmental Entities, Irrigation Ditch Owners and Utilities: If, following the foregoing departmental review, the City determines that the final map submittal is complete, adequate and in conformity with the requirements of the City Code and the Stage I submittal, the City planning department will transmit copies of the tentative map submittal for review to (a) the Division of Water Resources and the Division of Environmental Protection of the State Department of Conservation and Natural Resources; (b) if the subdivision is subject to the provisions of NRS 704.6672, the Public Utilities Commission of Nevada; and (c) the Division of Water Resources of the State Department of Conservation and Natural Resources. All comments received in response to the foregoing distributions shall be provided to the Planning Commission and the City Council at the respective meetings during which the application is under consideration.

3. Review by Planning Commission: The planning commissionPlanning CommissionPlanning Commission shall review the final platmap for conformity with the preliminarytentative platmap, the City Code and conformity with the city's engineer's approval of final plat andthe approved construction drawingsplan, and shall thereafter make a recommendation to the City Council to approve, conditionally approve or disapprove the final map.-

2. The subdivider shall file with the city **planning department** clerk the final plat and four (4) true copies thereof, together with the recordation fee, at least fifteen (15) days prior to the city councilCity Council meeting date at which the subdivider desires to be heard.

#### C. Final Plat Review:

1. Upon receipt of the final plat submittal, the city **planning department** clerk shall record receipt and date of filing, and transmit all copies of the final plat to the city **engineering, utility, public works, fire and development departments** engineer for checking the submittal for completeness. If incomplete, the filing dated shall be voided and the subdivider so notified. If complete, and if the final plat substantially conforms to the approved preliminarytentative plat, the city **pPlanning department** engineer shall transmit copies of the submittal to the Nevada h Highway d Department of Transportation, where applicable, who shall make known their recommendations in writing addressed to the cityy engineer.

2. The city **pPlanning department** engineer shall assemble the recommendations of the various reviewing offices, including the planning commissionPlanning Commission findings and recommendations, and submit same to the city councilCity Council.

3. In the event that the city engineer finds that the final plat does not substantially conform to the approved preliminary plat, as approved by the planning commissionPlanning Commission, then the final plat shall be submitted to the commission for review and recommendations prior to consideration by the city councilCity Council.

#### DG. Final PlatMap Approval, Certification Andand Recordation:

1. Upon notification from the cCity engineer that the plat is in orderUpon a recommendation by the Planning Commission to approve, conditionally approve or disapprove the final map, the cCity clerk shall place the item casethe item of final map approval on the agenda efor the next regular meeting of the City Council.

~~2. , at which time the city council~~During the meeting at which the final map is presented to the City Council, the City Council shall approve, conditionally approve or deny ~~disapprove~~ the platfinal map.

~~23. If the city-council~~City Council denies approval of the platdisapproves the final map, it shall state the reasons for the disapproval and the same shall be placed in the minutes and communicated to the subdivider. ~~for any reason whatever, such reasons shall be recorded in the minutes and the subdivider so notified.~~

~~4. If the~~Prior to a decision by the ~~city-council~~City Council gives final approval of ~~to approve~~ the platfinal map, the city clerk shall transcribe upon the plat a certificate of approval signed by the mayor and the city clerk;the City Council shall (a) accept or reject on behalf of the public any parcel of land offered for dedication for public use in conformity with the terms of the offer of dedication, (b) if applicable, it shall determine that a public street, easement or utility easement that will not remain in effect after a merger and re-subdivision of parcels conducted pursuant to NRS 278.4925, has been vacated or abandoned in accordance with NRS 278.480, (d) find that the final map substantially complies with the tentative map and all conditions have been met; and (e) determine that a performance agreement is in place that satisfies the requirements of this Chapter.

5. Following approval of the final map by the City Council, the city clerk shall place upon the final map a certificate, signed by the mayor and the city clerk, stating that (a) the City Council approved the map; (b) the City Council accepted or rejected on behalf of the public any parcel of land offered for dedication for public use in conformity with the terms of the offer of dedication; (c) if applicable, the City Council determined that a public street, easement or utility easement that will not remain in effect after a merger and re-subdivision of parcels conducted pursuant to NRS 278.4925, has been vacated or abandoned in accordance with NRS 278.480; (d) the final map substantially complies with the tentative map and all conditions have been met; and (e) a performance agreement is in place that satisfies the requirements of this Chapter.

6. If the City Council conditionally approves a final map, the conditions shall be satisfied before the final map is certified. The City Council may, in its discretion, direct that the conditions be satisfied within a specified period of time, after which the conditional approval shall expire and the final map shall be automatically deemed disapproved.

7. Following certification, the city clerk shall cause the approved final map to be presented to the Elko County Recorder for recording.

H. Judicial Review: The subdivider may appeal any required conditions to or a disapproval of a final map by seeking judicial review in the Fourth Judicial District Court, in and for the County of Elko, State of Nevada, with fifteen (15) calendar days of the date of the decision of the City Council to impose the conditions, or either the date upon which the City Council disapproved the final map or the date upon which the approval was deemed to have occurred based on the failure to satisfy conditions, whichever is later.

~~first making sure that all other required certifications have been duly signed, and that construction engineering plans have been approved by the city~~ **and the subdivider has entered into the required agreement to install public improvements and provided the required performance guarantee engineer.**

3. The subdivider shall then cause signed prints of the plat to be provided to the city ~~engineering department~~ engineer, the county recorder, the county assessor, and the planning ~~department~~ commission, **the city clerk**, all at the expense of the subdivider.

~~43. The subdivider shall then record the plat in the county recorder's office and pay the recordation fee. (Ord. 548, 11-28-2000)~~

### **3-3-7: INFORMATION REQUIRED FOR PRELIMINARY TENTATIVE PLAT SUBMISSION:**

~~A. Form And and Scale: Preliminary Tentative plat information hereinafter required shall be shown graphically on one or more plan sheets with written data either entered directly thereon or attached thereto. All mapped data for the same plat shall be drawn at the same standard engineering scale, such scale having not more than one hundred feet (100') to the inch. Whenever practicable, the plan scale shall be selected to produce an overall sheet measuring twenty four inches by thirty six inches (24" x 36").~~

#### ~~B. Identification Data:~~

~~1. Proposed subdivision name, location and section, township and range; reference by dimension and bearing to a section corner or quarter-section corner.~~

~~2. Name, address and phone number of subdivider(s).~~

~~3. Name, address and phone number of engineer or surveyor preparing plat, together with the registration number issued to such engineer or surveyor by the Nevada registering board.~~

~~4. Scale, north point and date of preparation, including dates of any subsequent revisions.~~

~~5. A small scale location map showing the relationship of the tract to existing community facilities which serve or influence it, including: arterial streets, railroads, shopping centers, parks and playgrounds, and churches.~~

~~6. Legal description defining the boundaries of the subdivision.~~

#### ~~C. Existing Conditions Data:~~

~~1. Topography by one foot (1') or two foot (2') contour intervals related to the city current coordinate system shown on the same map as the proposed subdivision layout. Topographic data shall be adequate to show the character and drainage of the land.~~

~~2. Location of water wells, streams, private ditches, washes and other water features, including direction of flow; location and extent of areas subject to frequent periodic or occasional inundation.~~

~~3. The location of designated flood zones and/or special flood hazard areas.~~

~~4. Within or adjacent to the tract, the location, widths and names of all platted streets, railroads, utility rights of way of public record, public areas, permanent structures to remain, and municipal corporation lines.~~

~~5. Name, book and page numbers of all recorded plats abutting the tract or across a boundary street from the tract.~~

~~6. Existing zoning classification of the tract and adjacent properties.~~

7. Dimensions of all tract boundaries; gross and net acreage of tract.

**D. Proposed Conditions Data:**

1. Street layout, including location and width of streets, alleys, sidewalks, pedestrianways and easements, including connections to adjoining platted subdivisions and through unsubdivided tracts; proposed names of all streets and approximate grade of all rights-of-way. A traffic impact analysis may be required where additional traffic in the area may exceed city roadway capacities and warrant traffic signal improvements, additional travel lanes or impact state highways.

2. Lot layout, including dimensions of typical each lots; and the dimensions of all corner lots and lots on street curves; each lot numbered consecutively; total number of lots.

3. Location, width and proposed use of easements.

4. Location, extent and proposed use of all land to be dedicated or reserved for public use, including school sites or parks.

5. Location and boundary of all proposed zoning districts.

6. Draft of proposed deed restrictions.

7. The subdivider and/or subdivision engineer shall provide a preliminary tentative or conceptual grading plan; including conceptual depiction of areas proposed for cut and fill; estimated quality of material to be graded; estimated finished grades adequate to establish general grading trend; proposed methods of erosion control; general location and specifications of any manufactured (cut or fill) slopes.

8. The subdivider shall comply with all applicable provisions of the city national pollutant discharge elimination system general permit for discharges from small municipal separate storm sewer systems, permit no. NV040000.

**E. Proposed Utility Methods:**

1. Sewage Disposal: It shall be the responsibility of the subdivider to furnish information as to design for sewage disposal connecting to the city system.

2. Water Supply: Evidence of adequate volume and quality satisfactory to the city engineer from the city system.

3. Storm Drainage: Preliminary Tentative drainage calculations and layout of proposed storm drainage system, including locations of outlets, shall be submitted. Storm drainage shall comply with the City of NPDES permit requirements and current regulations.

4. Telephone, Power, Gas, Television and Television: Design and location shall be shown.

5. Will Serve Letters: The engineering Utility Ddepartment Director shall provide a water, and sewer and solid waste disposal "will serve" letter to the applicable state agencies. (Ord. 624, 10-26-2004)

**3-3-8: INFORMATION REQUIRED FOR CONTENT AND FORMAT OF FINAL PLATMAP SUBMISSIONS SUBMITTAL:**



The final map submittal shall contain the following information and comply with the following requirements and standards:

A. Form ~~And~~ Content: The final map, including affidavits, certificates and acknowledgments, shall be clearly and legibly drawn with black, waterproof India ink upon ~~good tracing cloth or~~ Mylar of good quality, including affidavits, certificates and acknowledgments. Each sheet shall be twenty-four inches by thirty-six ~~two~~ inches (24" x ~~36~~32") in size. A marginal line shall be drawn completely around each sheet showing an entirely blank margin of one inch (1") at ~~the~~ bottom, top and right edges, and two inches (2") on the left edge on the twenty-four inch (24") dimension. The scale of the map shall be not less than one inch ~~equals one to one~~ hundred feet (1" = 100'). The ~~sheet particular~~ number ~~of the sheet~~ and the total number of sheets comprising the map shall be so stated on each ~~of the sheet~~s and the ~~sheet~~ number in relation to each adjoining sheet shall be clearly shown. The title sheet shall ~~contain state~~ the location of the property being ~~subdivided~~ with references to maps which have been previously recorded or by ~~reference referring~~ to the ~~plat~~National Coordinate System or a comparable and generally recognized method of mapping managed and maintained by the National Geodetic Survey or other federal agency of the United States survey. Copies of the final ~~platmap~~ shall be reproduced in ~~the form of~~ blue line or black line prints on ~~the a~~ white background.

B. Identification Data and Other Information: The final map shall contain the following identifying and other information:

\_\_\_\_\_ 1. Name of subdivision and location by section, township, range and county.

\_\_\_\_\_ 2. Name, address and ~~registration license~~ number of the ~~registered professional~~ land surveyor, licensed in the State of Nevada, preparing who prepared the final platmap. ~~The land surveyor preparing the plat must be registered in the state of Nevada.~~

\_\_\_\_\_ 3. Scale, north point and date of ~~platmap~~ preparation.

C. Survey Data ~~(Required): The final map shall contain the following survey information:~~

\_\_\_\_\_ 1. Boundaries of the tract fully balanced and closed, showing all bearings and distances, determined by an accurate survey in the field, with; all dimensions expressed in feet and decimals thereof.

\_\_\_\_\_ 2. Any exceptions within the ~~platmap~~ boundaries located by bearings and distances expressed in feet and decimals thereof, determined by an accurate survey in the field.

\_\_\_\_\_ 3. Location and description of cardinal points to which all dimensions, angles, bearings and similar data on the ~~platmap shall be~~ referenced, and a; ~~the~~ subdivision traverse ~~shall be~~ tied by course and distance to a section corner or quarter-section corners.

\_\_\_\_\_ 4. Location and description of all physical encroachments upon the boundaries of the tract.

D. Descriptive Data: The final map shall contain the following descriptions:

\_\_\_\_\_ 1. Names (where applicable); right-of-way lines; courses, lengths and widths of all streets, alleys, pedestrianways and utility easements; radii, points of tangency and central angles of all curvilinear streets and alleys; and radii of all rounded street line intersections.

\_\_\_\_\_ 2. All drainageways, which shall be designated as such.

\_\_\_\_\_ 3. All utility and public service easements, including designation of whether for public access or utilities.

\_\_\_\_\_ 4. Locations and dimensions of all lots, parcels and exceptions.

\_\_\_\_\_ 5. All residential lots shall be numbered consecutively throughout blocks.

\_\_\_\_\_ 6. Locations, dimensions, bearings, radii, arcs, and central angles of boundaries of all sites to be dedicated to the public, including each designation of proposed use.

\_\_\_\_\_ 7. Location of all adjoining subdivisions with name, date, book and book and page number of recordation noted, or if unrecorded, so noted, along with the names of adjoining landowners of unsubdivided property.

\_\_\_\_\_ 8. Any private deed restrictions to be imposed upon the final platmap, or any part hereof, written on or attached to the platmap and each copy thereof.

E. Dedication Andand Acknowledgment: The final map shall contain the following information regarding dedications:

\_\_\_\_\_ 1. Statement of dedication of all streets, alleys, sidewalks, pedestrianways, and easements for public purposes by the person holding title of record, by persons holding title as vendees under land contract, and by wives spouses of such persons. If lands to be dedicated are mortgaged, the mortgagee shall also sign the platmap. Dedication shall include a written description by section, township and range of the tract. If the platmap contains private streets, public utilities shall be deemed to have reserved the right to install and maintain utilities in such street rights-of-way.

\_\_\_\_\_ 2. Execution of a dedication acknowledged and certified by a notary public.

F. Additional Information: The final map shall contain the following additional information:

\_\_\_\_\_ 1. Where the centerline has been established for any street, highway, alley or public way within an adjoining subdivision, all monuments along said the portion of the street, highway, alley or public way within the proposed subdivision shall be located with reference to that the foregoing centerline, which centerline and monuments which shall be shown on the final map.

\_\_\_\_\_ 2. The centerline of each highway, street, alley or way within the proposed subdivision and width on each side of the centerline, and showing the width to be dedicated. All centerlines shall be shown with the corresponding and there shall be designated on all centerlines the bearing thereof and length of each radius, the central angle and the length of each curve within the proposed subdivision.

\_\_\_\_\_ 3. The location of monuments or other evidence formed upon the ground and used in determining the boundaries of the subdivision. If other subdivisions adjoin the tract, the map shall

show ~~sufficient~~ corners of such adjoining subdivisions sufficiently identified in such a manner as, ~~sufficiently identified~~ to locate precisely the limits of the proposed subdivision.

\_\_\_\_ 4. The length and bearing of each block line, lot line and boundary line; the length, radius and central angle of each curve or the length of curve and that portion of the central angle lying within each lot. ~~Such~~ The foregoing data shall be shown in a manner satisfactory to the ~~city~~ Engineering department ~~engineer~~ City.

\_\_\_\_ 5. Each ~~city~~ City boundary line crossing or adjoining the subdivision with adequate ties to monuments set or found within the subdivision.

\_\_\_\_ 6. Section lines, one-quarter ( $\frac{1}{4}$ ) section lines and one-sixteenth ( $\frac{1}{16}$ ) section lines crossing or adjoining the subdivision boundaries.

G. City ~~Engineering Department Engineer~~ Toto Check: The City will independently review and check the following information in the final map submittal:

\_\_\_\_ 1. The ~~city engineer~~ City shall check ~~said the~~ final map ~~as for to~~ accuracy of dimensions, the placing of monuments, the ~~establishment existence~~ of survey records ~~shown referenced~~ on ~~said the~~ final map, and the conformance of ~~said the final~~ map ~~with to~~ the ~~preliminary tentative~~ map. The final map shall be accompanied by:

\_\_\_\_ a. A worksheet showing the closure of the exterior boundaries of the proposed subdivision and of the closure of lots and blocks therein;

\_\_\_\_ b. A complete set of construction plans ~~are required by the city engineer~~ showing site grading, lot grading, typical street sections, centerline and curb grades, water infrastructure, water meters, sanitary sewer and storm drain locations and invert grades and elevations, street lighting, and other private or public improvements determined to be required by the City. The construction drawings must be stamped and dated by a licensed professional civil engineer, qualified to practice the discipline of civil engineering, and so ~~registered in the~~ state State of Nevada;

\_\_\_\_ c. Construction plans for manholes, catch basins and other appurtenant structures; and

\_\_\_\_ d. An engineer's estimate of quantities and costs required to complete the improvements. Labor Costs are to shall be based on prevailing wages, as applicable, in accordance with the requirements of NRS Nevada Revised Statutes Chapter 338 and local rates. The city City will check the engineer's estimate and and shall thereupon approve or disapprove the estimate based upon its accuracy approve the engineer's estimate. The approved Upon approval by the City, the engineer's estimate is to be shall provide the basis for the calculating the required performance agreement guarantee in accordance with 3-3-45 required under Section 3-3-22 of this Chapter.

\_\_\_\_ 2. The City will check the final map to determine whether it satisfies the minimum allowable error of closure ~~shall be of~~ one per ~~ten thousandth~~ ( $\frac{1}{10,000}$ ). ~~Temperature and tension correction shall be applied to all measured distances in conformance with the standard adopted by the federal board of surveys and maps in May, 1925.~~

H. Required Certifications: The following certifications shall appear on the final map:

\_\_\_\_1. A certificate signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and recordation of the final map. A lien for state, county, municipal or local taxes and for special assessments or beneficial interest under ~~trust~~ deeds of trust, or trust interests under bond indentures shall not be deemed to be an interest in land for the purpose of this section. Any final map including territory originally patented by the United States or the state, under patent reserving interest to either or both of the entities, may be recorded under in accordance with the provisions of Nevada Revised Statutes ~~sections Chapter 278 278.010 through 278.730 inclusive,~~ without the consent of the United States or the state ~~thereto, or to dedications made thereon.~~ Signatures required by this section of parties owning rights ~~of way,~~ easements or reversions which, by reason of changed conditions, long disuse or laches appear to be no longer of practical use or value, and which signatures it is impossible or impracticable to obtain, may be omitted if the names of such parties and the nature of their interest is endorsed on the final map, together with a reasonable statement of the circumstances preventing the procurement of such signatures.

\_\_\_\_2. A certificate, signed and acknowledged as above, offering for dedication for certain specified public uses (subject to such reservations as may be contained in any such offer of dedication) those certain parcels of land which the parties desire so to dedicate. The certificate may state that any certain parcel or parcels are not offered for dedication; but a local ordinance may require as a condition precedent to the approval of any final map that any or all of the parcels of land shown thereon and intended for any public use shall be offered for dedication for public use, except those parcels other than streets intended for the exclusive use of the lot owners in such subdivision, and for the use of their licensees, visitors, tenants and servants.

\_\_\_\_3. A certificate for execution by the clerk of each approving governing body stating that the body approved the map and accepted or rejected on behalf of the public any parcels of land offered for dedication for public use in conformity with the terms of the offer of dedication.

\_\_\_\_4. A certificate signed and acknowledged by all parties having any record title in the land subdivided, evidencing their grant of permanent easements for utility installations and access, as designated on the final map, together with a statement approving such easements, signed by each public utility company or agency in whose favor the easements are created or whose utility services are to be required for the platted parcels.

\_\_\_\_5. A certificate by the licensed professional land ~~engineer or~~ surveyor responsible for the survey and final map, which certificate must be in the following form:

\_\_\_\_SURVEYOR'S CERTIFICATE

\_\_\_\_I (name of licensed professional land surveyor), a registered Professional L and sSurveyor licensed in \_\_\_\_\_ the state ~~State~~ of Nevada, certify that:

1. This map represents the results of a survey conducted under my direct supervision at the instance of (Owner, Trustee, Etc.). This is a true and accurate representation of the lands surveyed under my supervision at the instance of (owner, trustee, etc.);

2. The lands surveyed lie within (sections, township, range, meridian, and, if required by the governing body City Council, a description by metes and bounds for any subdivision which is divided into lots containing 5 acres in area or less) and the survey was completed on (date);

3. This map complies with the applicable state statutes and any local ordinances in effect on the date that the governing body gave its final approval. This plat complies with the applicable state statutes and any local ordinances;

4. The monuments depicted on the map are of the character shown, occupy the positions indicated and are of sufficient number and durability.

(OR)

4. The monuments depicted on the map will be of the character shown and occupy the positions indicated by ..... (a day certain) and an appropriate financial guaranty will be posted with the governing body before recordation to ensure the installation of the monuments. The monuments are of the character shown and occupy the positions indicated by (a day certain) and that an appropriate performance bond has been or will be posted with the governing body to assure their installation.

(d) Date, name of surveyor, registration license number and seal stamp)

6. A certificate by the city engineer or city surveyor appropriate City official stating that he or she has examined the final map, that the subdivision as shown thereon is substantially the same as it appeared on the tentative map, and any approved alterations thereof, that all applicable provisions of Nevada Revised Statutes sections Chapter 278.270.010 through 278.630, inclusive, and of any local ordinance requirements of the City Code applicable at the time of approval of the tentative map have been complied with, and that he or she is satisfied that the final map is technically correct and that the monuments as shown are of the character and occupy the positions indicated or that the monuments have not been set and that a proper performance bond guaranty has been deposited guaranteeing their setting on or before a day certain. The foregoing certificate shall be dated, and signed and certified by a registered licensed professional land surveyor or a registered licensed professional engineer qualified by the State of Nevada to practice the discipline of civil engineering.

7. A certificate by the Division of Environmental Protection of the State Department of Conservation and Natural Resources stating as follows state health division reading:

—T This final map is approved by the Division of Environmental Protection of the State Department of Conservation and Natural Resources and is approved health division of the department of human resources concerning sewage disposal, water pollution, water quality and water supply facilities in accordance with the Nevada Revised Statutes. This approval predicates (community, individual) water supply and (community, individual) sewage disposal.

8. A copy of the review by the Division of Environmental Protection of the State Department of Conservation and Natural Resources state engineer required by subsection Subsection H.7 of this section Section shall be furnished to the subdivider who, in turn, shall provide a copy of such review to each purchaser of land prior to the time the sale is completed. No statement of approval or review as required in subsection Subsection H.7 of this section Section shall be is deemed a warranty or representation by the City in favor of any person as to the safety or quantity of such water.

9. The final subdivision map shall contain the following certificate A certificate by the Division of Water Resources of the State Department of Conservation and Natural Resources as follows:

—Division of Water Resource Certificate: This final map is approved by the dDivision of wWater rResources of the dDepartment of eConservation and Nnatural rResources concerning water quantity subject to the review of approval on file in this office.

10. The ~~city council~~City Council shall not approve any final map for a subdivision served by the ~~city~~City municipal water system unless the subdivider has submitted plans which provide for the installation of water meters or other devices which will measure the quantity of water delivered to each water user in the subdivision. (~~Ord. 624, 10-26-2004~~)

### **3-3-~~209~~: GENERAL PROVISIONS REQUIREMENTS FOR SUBDIVISION DESIGN:**

A. Conformance With Master Plan and Other Requirements: Every subdivision shall conform to the requirements and objectives of the ~~city~~City master plan, ~~to the city~~City zoning ordinance, ~~and to all~~ other applicable ordinances and regulations of the ~~city~~City, and ~~to the statutes~~ and regulations of the ~~state~~State of Nevada, except as otherwise provided in this ~~chapter~~Chapter.

B. Provision ~~Of of~~ Public Facility Sites: Whenever the statutes of the state permit the dedication of school sites or parks, the ~~city council~~City Council may require the subdivider to dedicate such sites.

C. Land Unsuitability: No land shall be subdivided which is determined by the ~~planning commission~~Planning Commission to be unsuitable for use by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, erosion susceptibility or similar conditions which are likely to prove harmful to the health, safety and general welfare of the community or the future property owners. The ~~planning commission~~Planning Commission, in applying the provisions of this ~~section~~Section, shall state the particular facts upon which its conclusions are based, and shall also define the any conditions under which the land may, in its opinion, become suitable for the proposed development. Land located within any floodway as designated on the city flood insurance rate maps shall be deemed unsuitable for development ~~by local, state and federal regulation~~. Any subdivider proposing development of ~~such~~ land that is deemed unsuitable for development shall have the right to present evidence to the ~~city council~~City Council contesting such determination of unsuitability, whereupon the ~~city council~~City Council may affirm, modify or withdraw the restriction. (~~Ord. 768, 1-22-2013~~)

### **3-3-~~211~~0: STREET LOCATION AND ARRANGEMENT:**

A. Conformance With Plan: Whenever a tract to be subdivided embraces part of a street designated in ~~a city official~~ a street and highway plan adopted by the City, such street shall be ~~platted~~mapped in conformance therewith.

B. Layout: Street layout shall provide for the continuation of such streets as necessary to provide traffic and pedestrian access throughout the community and as the ~~planning commission~~Planning Commission may designate.

C. Neighborhood Plan: Whenever the tract to be subdivided is located within an area for which a neighborhood plan has been approved by the ~~planning commission~~Planning Commission, the street arrangement shall conform to such plan.

D. Extensions: Certain proposed streets, as designated by the ~~planning commission~~Planning Commission, shall be extended to the tract boundary to provide future connection with adjoining ~~unplatted~~unmapped lands. Such extensions shall generally not be farther apart than the maximum permitted length of a block, as hereinafter provided.

E. Arrangement ~~Of of~~ Residential Streets: Residential streets shall be so arranged as to discourage their use by traffic originating outside the immediate neighborhood.



F. Protection ~~Of of~~ Residential Properties: Lots intended for single-family residential use shall not ~~normally~~ front or have access from arterial streets, except as otherwise permitted by the City due to site-specific conditions. Where a proposed subdivision abuts an existing or proposed arterial street, the ~~planning commission~~ Planning Commission may require marginal access streets or reverse property frontage with nonaccess easements abutting the arterial street, or such other treatment as may be justified for protection of residential properties from the nuisance and hazard of high volume traffic, and for protection of the traffic function of the arterial street.

G. Parallel Streets: Where a residential subdivision abuts the ~~right right-of-of~~ way of a railroad, a limited access highway, or a commercial or industrial land use, the ~~planning commission~~ Planning Commission may require the design and construction location of a street approximately parallel to such ~~right right-of of~~ way or use at a distance being determined with due regard for a location and configured in such a manner as to take into account approach grades, drainage, bridges and future grade separation.

H. Topography: Streets shall be so arranged in relation to topography as to produce desirable lots ~~or~~, provide for maximum utility and streets of reasonable gradient, and ~~to~~ facilitate adequate surface drainage.

I. Alleys: ~~Where alleys are platted, their~~ Alleys, if any, shall be aligned and arranged in a manner alignment and arrangement shall be such as to that minimizes backtracking and single-tier service by trash collection forces, and that avoids and to avoid the facing of residences directly into alley openings.

J. ~~Half Half~~ Streets: ~~Half Half~~ streets ~~shall beare~~ prohibited unless approved by the ~~planning commission~~ Planning Commission, ~~and conditions which will be considered for approval are:~~ where necessary to provide a right right-of of-way in the manner indicated on the official street and highway plan, to complete a street pattern already begun, or to ensure reasonable development of an adjoining ~~unplatted unmapped~~ parcel. Where a ~~platted mapped~~ half half-street exists in a location abutting to residential lots, the remaining half half-street shall be ~~platted mapped~~ within the ~~tract~~ subdivision.

K. Dead End Streets: Dead end streets in excess of six hundred eighty feet (680') in length ~~shall beare~~ prohibited unless a modification is granted by the ~~planning commission~~ Planning Commission in locations ~~designated by the commission as~~ necessary for future street connection to adjacent ~~unplatted unmapped~~ lands. This foregoing qualified prohibition shall ~~include~~ also apply to cul-de-sacs.

L. Intersection Design: Whenever any proposed street or highway ~~is proposed requiring requires~~ a separation of grades or ~~requiring~~ any special form of intersection design at its intersection with any street, highway or railway, the subdivision shall be ~~so~~ designed to conform to any plan adopted by the ~~city~~ City for the intersection design and all lots within the subdivision shall, when necessary, be provided with suitable access from another public way. Any street or highway intersecting ~~with other another~~ street or highway shall intersect it at any angle as nearly close to a right angle as ~~shall be~~ is practicable. (Ord. 548, 11-28-2000)

### **3-3-~~2211~~: STREET DESIGN:**

A. ~~Required Right of~~ Way Widths: Right-of-way widths for streets and roads are as follows:

- 1. Arterial Streets: One hundred feet (100').
- 2. Minor Arterial Streets: Eighty feet (80').



- \_\_\_\_\_3. Collector Streets: Seventy feet (70').
- \_\_\_\_\_4. Collector Residential Streets: Sixty feet (60').
- \_\_\_\_\_5. Local Residential Streets: Fifty feet (50').
- \_\_\_\_\_6. Collector Rural Residential Streets: Seventy feet (70').
- \_\_\_\_\_7. Local Rural Residential Streets: Sixty feet (60').
- \_\_\_\_\_8. Hillside Rural Residential Streets: Sixty feet (60').

\_\_\_\_\_9B. Rural ~~Streets And~~ Roads: All rural ~~streets and~~ roads shall conform ~~with to~~ the following ~~provisions~~requirements and standards:

\_\_\_\_\_1a. All infrastructure associated with thea rural road shall be constructed at the time of road development; including but not limited to; culvert installation and pedestrian way, sidewalk or pathway construction.

\_\_\_\_\_b. 2. All rural roads ~~standards~~ shall include a minimum ten foot (10') wide public utility ~~easement~~ and slope easement located on one or both sides of the ~~street road~~ right-of-way; provided, the City may, in its discretion, . The city engineer shall have the authority to require an ability to increase in the required width of the foregoing easement in special if warranted under the circumstances, and when warranted.

\_\_\_\_\_3. ~~cb.~~ Rural roads which are ~~projected by~~projected through a traffic study or similar analysis to serve more than six hundred (600) average daily vehicle trips shall utilize satisfy the collector rural residential street design standard.

~~de.~~ \_\_\_\_\_4. Pedestrian ways, s~~Sidewalks or pathways associated with rural roads may be constructed of concrete-cement, asphalt or, if approved by the City, a different but-comparable material-subject to the approval of the city engineer. Pedestrian ways, Ssidewalks or pathways shall be constructed on both sides of the streetroad and outside of the . Pedestrian ways, sidewalks or pathways shall not be constructed within the required ten foot (10')-public utility and slope easement(s).~~

~~ed.~~ \_\_\_\_\_5. On ~~street~~ parking on rural roads, except for temporary or emergency parking, shall be is prohibited, and the subdivider except for temporary/emergency purposes and shall be appropriately signedinstall appropriate signage to notify the public of this prohibition.

~~fe.~~ \_\_\_\_\_6. To minimize excessive culvert installation and associated maintenance, access approaches for rural roads shall be limited to either (a) one driveway, not to exceed thirty feet (30') in width or (b) two (2) separated driveways, each of which shall is not to exceed twenty feet (20') in width. Culvert installation is required at the time of roadway construction and, without limitation, shall not be deferred.

~~g.~~ \_\_\_\_\_7. Rural roads are prohibited in subdivisions not meeting the criteria ~~stipulated~~set forth in Section 3-2-5(A)(5)(b).

\_\_\_\_\_8. ~~h.~~ Rural roads are prohibited in areas within capture zones as delineated in the City's Wellhead Protection Plan.

i. 9. Length for Rural Roads: Maximum cul-de-sac length for rural roads may be increased in dimension to serve no more than twenty (20) residential dwelling units; provided, ,but under no circumstance shall such cul-de-sacs exceed a length of one thousand, three hundred sixty feet (1,360').

C.10. Private Streets: Development and use of private streets is limited to local type Private streets within a subdivision shall satisfy the requirements and standards applicable to streets with a local street classifications, functions and characteristics. Private streets are intended to shall only serve self-contained projects an area contained entirely within the exterior boundaries of the subdivision; and shall provide access the public street system at an intersection, the design of which shall be subject to the review and approval of by the city engineer City. All private streets shall conform to the following requirements and standards All private streets shall conform with the following provisions:

a. 1. Minimum total width for private streets accessing five (5) or more lots: Fifty feet (50').

b2. Minimum total width for private streets accessing four (4) or fewer lots: Thirty-two feet (32').

c3. Minimum paved section for private streets accessing five (5) or more lots: Forty feet (40').

d4. Minimum paved section for private streets accessing four (4) or fewer lots: Twenty-six feet (26').

e5. All residential private streets accessing twenty (20) or fewer lots shall have a four-foot (4') wide sidewalk on at least one side of the street.

f6. All residential private streets accessing more than twenty (20) lots shall have a four-foot (4') wide sidewalks on both sides of the street.

7.g. All commercial and industrial private streets accessing four (4) or fewer lots shall have a five foot (5') wide sidewalk on at least one side of the street, or as otherwise determined as part of an approved concept development plan.

h. 8. All commercial and industrial private streets accessing more than four (4) lots shall have a five foot (5') wide sidewalks on both sides of the street, or as otherwise determined as part of an approved concept unless otherwise provided in a development plan entered into between the subdivider and the City.

i. 9. All private streets shall provide for adequate storm drainage and employ the use of curb and gutter sections to convey runoff, the design of which shall be subject to the review and approval of the City city engineer.

j. 10. Parking spaces, inclusive of back up areas, as required by sSection 3-2-17 of this tTitle, shall not be located within a private street, unless otherwise provided in a development plan entered into between the subdivider and the City, or as otherwise waived or determined as part of an approved concept development plan.

k. 11. All infrastructure associated with the private streets shall be constructed at the time of road street development.

~~1k. 12. The satisfactory completion and maintenance of Design and construction of improvements associated that must be designed and constructed in conjunction with the development of private streets shall be required in a performance agreement and subject to a guarantee by the subdivider with a standard guarantee of performance to ensure completion of required improvements and a maintenance agreement to ensure that improvements are maintained to an acceptable standard over time as set forth in guarantee. The foregoing performance agreement and guarantees shall satisfy all applicable requirements set forth in sections 3-3-44 and 3-3-45 of this Chapter.~~

~~D. 11. Cul-De-Sacs: Cul-de-sac streets shall terminate in a circular right-of-way not less than fifty feet (50') in radius with an improved turning circle with a radius of at least forty-five feet (45') in radius. The planning commission may approve an equally convenient functionally equivalent form of turning space where if justified by unusual conditions. The maximum length of cul-de-sac streets, as measured along the centerline of the street and between the centerline of the intersecting street and the center point of the cul-de-sac, shall not exceed six hundred eighty feet (680').~~

~~a. Length For Rural Roads: Maximum cul-de-sac length for rural roads may be increased in dimension to serve no more than twenty (20) residential dwelling units, but under no circumstance shall exceed a length of one thousand three hundred sixty feet (1,360').~~

~~12E. b. Marginal Access Streets: Marginal access streets shall conform to all applicable requirements and standards set forth in the City Code. As required by adopted current city standards.~~

~~F. 1312. Alleys: Where permitted or required, alleys shall be have a minimum of twenty feet (20') and shall conform to the following requirements and standards: wide.~~

~~where there is residential property on both sides, and twenty feet (20') where abutting commercial or industrial property.~~

~~a. 1. Alley intersections and sharp changes in alignment shall should be avoided; provided, where such features, but, where are necessary, corners shall be cut off ten feet (10') on each side to permit safe vehicular movement.~~

~~b. 2. Dead end alleys shall be are prohibited.~~

~~c. 3. "Half" alleys are shall be prohibited.~~

~~G. 13. Dead End Streets: Where Dead end streets are only permitted with the approval of the City, which approval, if given, may contain conditions applicable to the subsequent development of the street; provided, if a dead end street is permitted approved by the City, the street shall include easements permitting the subsequent construction of, a dead end street shall provide by easements, a temporary turning circle with a fifty foot (50') radius or a other approved and acceptable functionally equivalent design to accomplish the same purpose.~~

~~H. 14. All Streets: The design and construction of all streets within the City, including both public and private streets, within the city shall conform to the public improvement standards established by the city engineer and approved by the city council City Council as set forth in sSection 3-3-17 3-3-40 of this Chapter.~~

I.15. Fire Model Code Standards: All streets shall conform to any current adopted model codes adopted by reference in the City Code, to include the Uniform Fire Code fire codes.

B.J. Street Grades: Streets shall be designed and constructed subject to the following grade requirements and standards:

1. Maximum Grades:

a. Arterial and minor arterial streets: Maximum grades will be determined by the City based on site-specific conditions~~As determined by the city engineer~~Engineering department.

b. Collector streets: No more than Sseven percent (7%).

c. Collector residential and local residential streets: No more than Nnine percent (9%).

2. Minimum Grades: New Aasphalt streets with concrete gutters shall have a minimum longitudinal slope of 0.50%. Minimum grades for the rehabilitation of existing streets will be determined by for all new streets, and as approved by the City for rehabilitation of existing streetsbased on site-specific conditions.

3. Exceptions: The Planning Commission may, in its discretion, grant an exception to the minimum and maximum grade requirements contained in this subsection if the cost to the subdivider substantially outweighs the~~Where rigid adherence to these standards causes unreasonable or unwarranted hardship in design or cost without commensurate public benefit,~~exceptions may be made by the planning commissionPlanning Commission.

GK. Vertical Curves: Streets shall be designed and constructed subject to the following vertical curve requirements and standards:

1. Arterial and minor arterial streets: As determined by the city engineer~~Engineering department.~~Vertical curves standards for arterial and minor arterial streets will be determined by the City based on site-specific conditions.

2. Collection and local streets: Collector and local streets will be designed and constructed with Mminimum length, one hundred feet (100').k values of 30 for crests and 40 for sag curves. Vertical curves are not required when the algebraic difference betweenin the two slopes is less than 2%

DL. Horizontal Alignment: Streets shall be designed and constructed subject to the following horizontal alignment requirements and standards:

1. Arterial and minor arterial streets~~Horizontal alignment standards for arterial and minor arterial streets will be determined by the City based on site-specific conditions.~~shall be as determined by the city engineer.Engineering department.

2. When tangent centerlines deflect from each other by more than ten degrees (10°) and less than ninety degrees (90°), they shall be connected by a curve having a minimum centerline radius of

two hundred feet (200') for collector streets, or one hundred feet (100') for collector residential and local residential streets.

\_\_\_\_ 3. Between reverse curves, there shall be a tangent section of centerline not less than one hundred feet (100') long.

\_\_\_\_ 4. Streets ~~intersecting an arterial street shall do so shall intersect arterial streets~~ at a ~~n~~ninety degree (90°) angles. Intersecting collector streets, collector residential streets and local residential streets ~~shall~~ typically intersect at ninety degree (90°) angles, but in no case ~~shall such an angle of intersection be~~ less than seventy five degrees (75°) ~~angles~~.

\_\_\_\_ 5. Street jogs ~~shall be avoided~~are prohibited unless the City grants an exception based on site-specific conditions, ~~except where justified by unusual existing conditions, and approved by the city engineer~~Engineering department.

\_\_\_\_ 6. Local residential streets or collector residential streets intersecting a collector street or arterial street shall have a tangent section of centerline at least one hundred fifty feet (150') in length measured from the right of way line of the more major street, except that no such tangent shall be required when the local residential or collector residential street curve has a centerline radius greater than four hundred feet (400') measured from a center located on the more major street right of way line.

\_\_\_\_ 7. Street intersections with more than four (4) legs, and Y-type intersections with legs meeting at acute angles, ~~shall be~~are prohibited.

\_\_\_\_ 8. Intersections of street lines shall be rounded by a circular arc having a minimum tangent length of fifteen feet (15'). ~~(Ord. 624, 10-26-2004)~~

### 3-3-~~1223~~: BLOCK DESIGN:

A. Maximum Length ~~Of~~ Blocks: Within the following maximums, blocks shall be as long as reasonably possible, ~~in order to achieve~~ all the greatest possible street economy, and ~~to~~ to reduce the expense and ~~increased~~ safety hazard arising from excessive street intersections. Maximum block length, measured along the centerline of the street and between intersecting street centerlines, shall not exceed one thousand, ~~three hundred sixty feet (1,360')~~.

B. ~~Sidewalks or~~ Pedestrianways: ~~Sidewalks or P~~pedestrianways with a right-of-way width of eight feet (8') ~~may be~~are required ~~where, in~~if the opinion of the ~~planning commission~~Planning Commission determines, they are essential for pedestrian circulation within the subdivision or ~~will enhance~~ access to schools, playgrounds or other community facilities. ~~Rights-of-way for Ssidewalks and p~~Pedestrianways may be used for utility purposes so long as those purposes do not unreasonably interfere with pedestrian traffic. ~~(Ord. 624, 10-26-2004)~~

### 3-3-~~1324~~: LOT PLANNING:

A. Lot Width, Depth ~~And~~ Area: ~~Except as otherwise provided in this subsection, L~~lot width, depth and area shall comply with ~~requirements of the~~all applicable zoning requirements, ~~shall be~~ appropriate for the location and character of ~~development proposed~~the proposed subdivision, ~~shall comply the provisions of any development agreement entered into pursuant to City Code Section 3-2-26, including the requirements stipulated in 3-2-26,~~ and shall be appropriate for the type and extent of ~~urban street and utility public~~ improvements being installed. ~~"Urban improvements" is~~

~~interpreted to mean paved and curb streets, sidewalks, local storm drainage system, public water supply and public sanitary sewage. However~~Notwithstanding the foregoing sentence, where steep topography, unusual soil conditions or drainage problems exist or prevail~~render the cost of complying with these requirements excessive in light of the benefit to the public,~~ the ~~planning commission~~Planning Commission may, in its discretion, permit a greater lot width, depth and/or area than is otherwise allowed for the zoning district or which would otherwise be required under this Subsection.~~require increased lot width, depth and/or area exceeding the minimum requirements of the particular zoning district.~~

B. Lot Depth and Width: ~~Generally, lot~~ depths shall be at least one hundred feet (100') and widths at least sixty feet (60'); provided, ~~however, that~~ the ~~planning commission~~Planning Commission may, in its discretion, ~~permit allow~~ narrower lot widths on cul-de-sacs upon a showing of good cause by the subdivider.

C. Building Setback: Minimum ~~front and exterior side~~ building setbacks shall conform to ~~the all~~ applicable ~~provisions of requirements set forth in this the City code~~Code.

D. Side Lot Lines: Side lot lines shall be ~~substantially~~ at ~~or near~~ right angles or radial to street lines, ~~except where, in the opinion of unless~~ the ~~planning commission~~Planning Commission, in its discretion, ~~permits a different other alignment upon a showing of good cause by the subdivider may be justified.~~

E. Accessibility: Every lot shall abut a public street or private street ~~that is connecting with~~connected to the public street system.

F. Prohibitions: ~~Double frontage lots intended for s~~Single-family residences ~~shall beare not permitted on double frontage lots prohibited, except that,;~~ provided, that, subject to the approval of the ~~planning commission~~Planning Commission ~~for good cause shown~~, such lots may be ~~plat~~permitted in locations ~~ted~~ abutting an arterial street so long as all dwellings front on local or collector streets and ~~all there is no~~ access from the arterial street ~~is prohibited~~. (Ord. 557, 2-13-2001)

### 3-3-~~1425~~: EASEMENT PLANNING:

Utilities shall be placed underground unless ~~a modification is approved to permit overhead utilities by the planning commission~~Planning Commission ~~approves a modification to permit overhead utilities and only where overhead utilities are determined acceptable by the commission based on unique site conditions, in which event the Planning Commission may impose conditions on the modification.~~

The following easement requirements shall apply to all new subdivisions:

#### A. Utility Easements:

1. Where alleys are ~~shown on a final map~~platted, utility easements four feet (4') wide on each side of ~~each~~ alley ~~shall be dedicated~~ for aerial overhang ~~shall be provided by dedication~~. Where alleys are not ~~plat~~shown on the final map~~ted~~, utility easements six feet (6') wide on each side of rear lot lines shall be ~~provided and~~ delineated on the ~~final plat~~map and offered for dedication. In addition, guy and anchor easements ~~shall be provided~~ one foot (1') wide on each side of a side lot line and thirty five feet (35') in length measured from the rear lot line, in locations selected by the ~~City utility committee~~, or as required by the ~~serving utility company~~, shall be shown on the final map and dedicated.



~~\_\_\_\_\_ 2. Along side lot lines where required for distribution facilities, u~~Utility easements five feet (5') wide ~~adjacent to on~~ each side of side lot lines; ~~and~~ where service to street lighting is required, ~~one foot (1') on each side of such lot lines, or as required by the utility company~~serving utilities, shall be shown on the final map and dedicated.

B. Underground Utilities: Where all utilities are underground:

~~\_\_\_\_\_ 1. Rear Lot Lines: Where alleys are plat~~shown on the final map~~ted, corresponding~~ easements ~~as~~ required by ~~the~~ serving utilities shall be shown on the final map and dedicated. ~~Where alleys are not plat~~shown on the final map~~ted, utility easements five feet (5') wide along each side of rear lot lines shall be shown on the final map and dedicated.~~

~~\_\_\_\_\_ 2. Side Lot Lines: Easements for utilities and lot drainage are required on all side lot lines shall be shown on the final map and dedicated.~~ All utility service lines, including ~~service lines for~~ gas, electricity, telephone, ~~television~~communications, and street lighting, shall be channeled in easements ~~four~~five feet (4'5') wide on each side of the lot line separating pairs of lots, ~~as to the extent~~ required by the ~~serving~~ utilities ~~for service~~.

~~\_\_\_\_\_ 3. Street Rights-of-way: Easements for utilities and lot drainage are required on lot lines abutting streets rights-of-ways shall be shown on the final map and dedicated. All such easements shall be a minimum of Seven and on half foot~~seven and one-half feet (7.5'7 1/2') wide.

C. Lots Facing Curvilinear Streets: For lots ~~with fronts~~ facing ~~on~~ curvilinear streets ~~and~~; alleys, ~~and~~ easements for overhead utilities shall ~~usually~~ consist of ~~either~~:

~~\_\_\_\_\_ 1. Aa~~ series of straight lines with points of deflection not less than one hundred twenty feet (120') apart, such points of deflection always occurring at the junction of side and rear lot lines on the side of the exterior angle; ~~or~~

~~\_\_\_\_\_ 2. A ; however, e~~curvilinear easements ~~or alleys may be employed, providing that~~provided the minimum ~~radii~~radius of ~~the~~ centerlines shall be not less than eight hundred feet (800').

D. Public Drainage Easement: Where a stream or major surface drainage course abuts or crosses the ~~tract~~subdivision, ~~the subdivider shall show on the final map and dedicated~~dedication of a public drainage easement ~~which is~~ sufficient to permit widening, deepening, relocating or protecting ~~such the~~ drainage course shall be required. ~~Information shall be prepared by The~~ subdivider's engineer shall provide the City with sufficient information about the drainage to evaluate the adequacy of the easement.

E. ~~Easement~~ Land Not Considered ~~and Considered in~~ Minimum Lot Area ~~Calculation~~: Land within a public street or drainage easement, or land within a utility easement for major power transmission lines or pipelines, shall not be ~~included in the calculation of~~ considered a part of the minimum required lot area. ~~However, ; provided, however, that this provision shall not be applicable to land included in utility easements to be used for distribution or service purposes, nor shall it be applicable to and land included in the the five foot (5') wide and seven and one-half foot (7.5'7 1/2') wide drainage easements along the lot lines and street rights-s-of-way, shall be included the calculation of the minimum required lot area.~~

F. Lots Backing Onto Arterial Streets: Lots arranged to back of arterial streets, railroads, canals or commercial or industrial districts, as provided in this ~~chapter~~Chapter, shall have a minimum depth of one hundred ten feet (110'), the rear one foot (1') of which shall be recorded as a nonaccess private easement.



~~GFG~~. Water And Sewer Utility Lines: Municipal water and sewer utility lines shall be installed within the ~~city~~ City street rights-of-way at all times, unless otherwise approved by the ~~planning commission~~ Planning Commission and/or ~~the city council~~ City Council based on special circumstances. (Ord. 624, 10-26-2004)

### 3-3-~~1526~~: STREET NAMING:

At the ~~preliminary~~ tentative platmap stage (Stage II), the subdivider shall propose names for all streets in the subdivision, which A street ~~n~~Namesname shall be subject to be approved approvalmay be disapproved by the ~~planning commission~~ Planning Commission, in which event the subdivider must receive approval from the Planning Commission for a new street name. (Ord. 226, 12-9-1975)

### 3-3-~~1627~~: STREET LIGHTING DESIGN STANDARDS:

A. Requirements: Street lighting shall be installed ~~within any division/development of land project in a subdivision~~ in accordance with the following requirements:

~~\_\_\_\_\_~~ 1. The subdivider, ~~developer or property owner is responsible for complying with the requirement to shall~~ install street ~~lights~~lighting, and shall make all necessary arrangements with the ~~appropriate~~ utility company ~~for the installation of street lights, involved for the installation of streetlights~~ and shall bear all costs relating to the purchase and placement of street lights. ~~Installation of street lighting materials~~ Street lights shall be ~~performed installed~~ by a ~~state properly~~ licensed contractor ~~also having possessing a valid e~~ City business license ~~prior to commencing any work.~~

~~\_\_\_\_\_~~ 2. Street lighting plans ~~are to be are~~ prepared by the utility company ~~involved providing electricity to the subdivision. Once prepared, the subdivider shall submit the street lighting plans and shall be submitted by the subdivider, developer or property owner with the improvement plans to the city City for review. Such plans shall Street lighting plans must~~ show the location of each ~~street~~ light, ~~the corresponding~~ power source and ~~the~~ size of luminaries ~~measured~~ in ~~ww~~atts or lumens.

~~\_\_\_\_\_~~ 3. The City will not accept any public improvements or issue a certificate of occupancy for any part of a subdivision until ~~All all~~ street lighting within each construction phase ~~shall be is~~ complete and ~~fully operational prior to acceptance of subdivision public improvements or an issuance of any certificate of occupancy.~~

~~\_\_\_\_\_~~ 4. Requests for street lighting in previously developed areas must be approved by the city ~~engineer~~ for location and installation prior to being submitted to the utility company for design engineering.

~~\_\_\_\_\_~~ 5. Once the street lighting has been installed and operational, approval by the ~~city engineer~~ ~~will city will~~ constitute acceptance of the street lighting and the city will then be responsible for the energy costs and maintenance thereafter.

B. Design Standards: All street ~~light~~ installations shall be designed in accordance with the following minimum design standards:

~~\_\_\_\_\_~~ 1. All luminaries shall be ~~LED luminaires with~~ a minimum of one hundred (100) watt ~~high pressure sodium equivalent LED~~ for residential areas and ~~a~~ minimum ~~of~~ two hundred (200) watt ~~high pressure sodium equivalent LED~~ for commercial/industrial areas or approved equal.

\_\_\_\_\_ 2. A street light shall be placed at each street intersection and shall be situated to properly illuminate the intersection.

\_\_\_\_\_ 3. A street light shall be placed at ~~any proposed~~each proposed U.S. ~~postal~~Postal service Service gang box location.

\_\_\_\_\_ 4. Street lights shall be placed between intersections at midblock locations ~~such that~~with a minimum spacing of three hundred fifty feet (350') and maximum of five hundred feet (500') ~~is maintained~~ between all lights.

\_\_\_\_\_ 5. A street light shall be placed at the end of each cul-de-sac. ~~(Ord. 624, 10-26-2004)~~

### **3-3-~~1740~~: RESPONSIBILITY FOR PUBLIC IMPROVEMENTS:**

The design, construction and financing of all required public improvements, such as but not limited to, grading, sidewalks, curbs, streetlights, gutters, pavements, sanitary sewers, storm sewers, water mains, fire hydrants, drainage structures and monuments shall be the responsibility of the subdivider and shall conform to public improvement standards established by the ~~city~~City engineer and approved by the city councilCity Council; provided, however, that the subdivider may meet/satisfy such requirements by participation/participating in an improvement district approved by the ~~city~~City. ~~(Ord. 624, 10-26-2004)~~

### **3-3-~~1841~~: CONSTRUCTION ENGINEERING PLANS:**

~~It shall be the responsibility of the~~The subdivider shall contract with or otherwise utilize a properly licensed professional engineer to have prepared by an engineer registered in the state, prepare a complete set of construction engineering plans, satisfactory to the city~~city~~engineer, for the construction of all required public street and utility improvements. The construction plans shall include (unless otherwise waived if permitted under this Chapter) all infrastructure necessary for the construction of the subdivision including, but not limited to: streets, curbs, gutters, sidewalks, drainage, water, wastewater and protection of important environmental features. Such ~~The~~ construction plans shall be based on, consistent with and ~~be~~ prepared in conjunction with the final platmap. Construction plans shall not be prepared until Stage III of the subdivision planning and approval process, and Construction Engineering plans shall have been approved~~must be approved~~ by the ~~city~~City engineer prior to certification and recordation of the final platmap. ~~(Ord. 226, 12-9-1975)~~

### **3-3-~~1942~~: CONSTRUCTION AND INSPECTION:**

A. Inspections; Performance Agreement; Permits Required: The following requirements apply to improvements constructed in public rights-of-way:

\_\_\_\_\_ 1. All improvements constructed ~~in the public rights-of-way~~ shall ~~be constructed under the subject to inspection by the City and must be approved by the City prior to certification and recordation of the final map and approval of the city engineer.~~

\_\_\_\_\_ 2. Construction of improvements in public rights-of-way shall not commence until the subdivider has entered into a performance Agreement with the City in accordance with City Code Sections 3-3-4421 and 3-3-4522.

\_\_\_\_\_ 3. Construction of improvements in public rights-of-way shall not ~~be commenced~~commence until all federal, state, and local permits have been issued for such construction, and if work ~~has~~

~~been~~ discontinued for any reason, it shall not ~~be resumed~~ resume until ~~after notifying in advance the department having jurisdiction~~ the subdivider so notifies the City.

B. Underground Utilities: All underground utilities to be ~~installed~~ placed in streets shall be constructed prior to the surfacing of such streets. Service stubs ~~for underground utilities to be connected to~~ ~~platted lots shown on the final map within the subdivision for underground utilities~~ shall be ~~placed to such~~ installed with sufficient length as to avoid ~~disturbance of~~ disturbing street improvements ~~at the time when~~ service connections are made. (Ord. 624, 10-26-2004)

### 3-3-~~4320~~: REQUIRED IMPROVEMENTS:

A. Streets ~~And~~ Alleys: All streets and alleys within the subdivision shall be graded, drained and surfaced to cross sections, grades, ~~and~~ standards, ~~and~~ ~~and~~ profile approved by the ~~city~~ City engineer. ~~Where~~ ~~If~~ there are existing streets adjacent to the subdivision, proposed streets ~~within the subdivision~~ shall be fully improved to the intercepting paving line of ~~such the~~ existing streets. Temporary dead end streets serving more than four (4) lots shall be ~~designed and constructed with provided~~ a graded ~~asphalt all-weather~~ surfaced, temporary turning circle, ~~subject to any additional requirements imposed by the City based upon site conditions, as approved by the City. The subdivider shall~~ construct adequate permanent culverts and bridges at all points within the subdivision where watercourses are crossed by streets or alleys. ~~Culverts and bridges, shall, without limitation, said construction to be in conformity with~~ conform to all the specifications of the city engineer ~~for such structures~~ applicable requirements of the City Code, ~~and be said structures shall be~~ constructed to the full width of the dedicated street or alley.

B. Curbs: Curbs shall be ~~constructed of~~ ~~portland~~ Portland cement concrete. ~~The construction of~~ ~~C~~curbs, ~~and~~ gutters and valley gutters shall ~~be constructed as designated by the city~~ subject to any additional standards required by the City, which standards may be imposed based on site conditions ~~engineer~~.

C. Sidewalks: ~~Sidewalks shall be~~ Four feet (4') wide in ~~all locations adjacent to residential or local streets, areas~~ and five feet (5') wide ~~in all locations adjacent to on all streets classified as collector, minor arterial, arterial, or major arterial within the City's jurisdiction. Sidewalk requirements on streets outside the City's jurisdiction will be determined by the governing agency. In cases where the governing agency differs to the City of Elko, sidewalk is required in accordance with this provision. Sidewalks in commercial-zoned areas shall be constructed on both sides of all streets unless the requirement is waived pursuant to a specific provision of this Code permitting such a waiver. -with fifty foot (50') pavement width. In subdivisions where lots average one-half (1/2) acre or more, the planning commission may waive this requirement.~~

D. Pedestrianways: ~~Pedestrianways shall be constructed of~~ Portland cement concrete ~~or unless another paving material is approved by the City based on site conditions. All pedestrianways shall paving of walks shall be constructed to a width, line and grade approved by the city~~ City based on site conditions ~~engineer. The City may, in its discretion, require a four foot (4'), maintenance free fence with posts set in concrete~~ Fencing on both sides of a pedestrianway with a four foot (4'), maintenance free fence with posts set in concrete ~~may be required~~ based on site conditions.

E. Street Name Signs: ~~The subdivider shall install S~~street name signs ~~shall have been installed~~ at all street intersections ~~by the before the~~ time the street pavement is ready for use. Design, construction, location and installation of street name signs shall conform to ~~approved city standards~~all applicable standards adopted by the City.

F. Storm~~water~~ Drainage: The design and construction of public streets and alleys, and the grading of private properties, shall provide for adequate disposal of stormwaters. Existing major drainage courses shall be maintained and dedicated as public drainageways. The type, extent, location and capacity of drainage facilities shall be ~~planned designed~~ by ~~the~~ subdivider's engineer and approved by ~~the city~~City. ~~engineer. The subdivider shall install stormwater drainage facilities~~ Install to the grade, ~~and~~ in the locations, ~~and~~ to the depths s and of the materials shown on plans and specifications approved by the ~~city~~City. ~~engineer, s~~Storm and surface water drain pipes and mains, together with catch basins, ~~shall be designed and constructed to and to~~ provide discharge ~~from the same~~ in a manner and at a place ~~to be~~ approved by the ~~city~~City. ~~engineer. The design and construction of stormwater drainage facilities shall~~ Design shall conform to all applicable requirements of this Code, to include the requirements of Title 9, Chapter 8, entitled "Postconstruction Runoff Control and Water Quality Management."

G. Sanitary Sewerage:

1. ~~The subdivider shall install P~~public sanitary sewers ~~shall be installed in all in the~~ subdivisions. ~~Sanitary sewers shall be connected which are accessible to an existing or planned and programmed a~~ public sewer system, ~~as determined by the city, engineer. Sewers, connections and related apparatus~~ shall be constructed in accordance with plans, profiles, and specifications approved by the Nevada Division of Environmental Protection and, the City, and in accordance with approved City standards and NRS State of Nevada requirements. health department and city engineer. The subdivider shall install sanitary sewers to the grade, ~~and~~ in the locations, ~~and~~ to the depth and of the material shown on ~~the~~ plans and specifications approved by the ~~city~~City. ~~The subdivider shall connect each lot in the subdivision to engineer, s~~sanitary sewer mains ~~with connections therefrom to each lot in said subdivision, said mains to be connected to the sewer system of the city at a point to be specified by the city at locations specified by the City engineer.~~

2. ~~The subdivider shall l~~install ~~all necessary~~ manholes in ~~connection conjunction~~ with the installation of sanitary sewer mains, ~~said manholes to be installed at the points, and in the manner and according to specifications approved or provided to the specifications approved by the city by the City engineer.~~

H. Water Supply:

1. ~~The subdivider shall design and construct the water supply system in such a manner as to ensure that E~~each lot shall ~~be is~~ supplied with safe, pure and potable water in sufficient volume and pressure for domestic use and fire protection, ~~in accordance with and that conforms to all applicable State and City approved city standards and NRS requirements and requirements.~~ The subdivider shall install, to grade, all water mains and lines ~~with of~~ the materials that are shown on plans and specifications approved by the ~~city~~City. ~~engineer, C~~connections from said mains and lines ~~shall to be~~ installed to each lot in said subdivision. ~~The C~~construction plans Maps and plats shall show the locations s of shutoff valves to each block and lot. All proposed water systems shall connect to the ~~city~~City municipal water system.

2. Water meter boxes and water meters shall be installed on all lots. Water meter boxes shall conform to all applicable standards and specifications set by the City, and shall be subject to

~~approval by the City, in conformance with adopted city specifications and subject to the review and approval of the city engineering department.~~

I. Fire Hydrants: Fire hydrants shall conform to all applicable standards and specifications set by the City (to include, without limitation, the Fire Code, Title 6, Chapter 1, Section 1), and shall be subject to approval by the City. ~~be installed in all subdivisions in accordance with approved city standards as set by the fire department, and current adopted fire codes and standards pursuant to Title 6 Chapter 1 Section 1.~~

J. Power, Communications ~~And and~~ Gas Utilities: The subdivider shall install or arrange for the installation of the following Subdivision required improvements utilities: shall include electric power, natural gas, telephone and cable television communication lines. These utilities shall be installed in all subdivisions. All electric distribution facilities shall be installed underground, except in unusual situations involving short extensions of overhead facilities existing on abutting subdivisions, which wherein such extensions are only permitted if may be approved by the city council City Council. All ~~such~~ underground electric distribution lines and telephone lines shall be installed in accordance with Gg General O Order N no. 9 ~~as issued by the public service commission of the state~~ Public Utilities Commission of Nevada.

K. Survey Monuments: Permanent monuments shall be installed in accordance with ~~approved city~~ standards set by the City at all corners, angle points, points ~~or of~~ curve, and ~~at all~~ street intersections. After all improvements in the subdivision have been installed, the subdivider shall have a registered land surveyor check the locations s of monuments and certify their accuracy. Monuments shall be at or near boundary corners. Monuments shall be set at intermediate points of approximately one thousand feet (1,000') or at such lesser distances as may be necessary by reason of topography or culture to ensure accuracy in the reestablishment of any point or line without unreasonable difficulty. All monuments shall be permanently and visibly marked with the ~~registration or~~ license number of the registered land surveyor under whose supervision the survey was made, and a description of such monument shall be shown on the final map. The subdivider shall set monuments at street intersections and at the beginning and ending of each curve, unless the intersection of tangents of said centerline falls within the street right of way, in which event the city City engineer may permit the subdivider to establish a monument at such the intersection in lieu of monuments at ~~said the~~ beginning and end of the curve.

L. Lot Corner Staking: Five-eighths inch ( $\frac{5}{8}$ " ) reinforcing steel with a cap having a mark for the exact point and stamped "PLS" followed by the number of the professional land surveyor's license shall be set at all corners, angle points and points of curve for each subdivision lot prior to final acceptance of the subdivision. The cost for lot corner staking, under the direction of a professional land surveyor, shall be included as part of the public improvements and shall be a line item on the "engineer's estimate of the costs of the public improvements"..

M. Street Lighting: Street lighting shall be ~~required installed~~ on all streets and at all locations designated by the City within the subdivision ~~as required in conformity with sSection 3-3-16 3-3-27 of of this eChapter, to include City standards for and shall be placed at locations designated by the city engineer and to the specifications with respect to materials, design and construction as set forth by the city engineer.~~ The subdivider will bear all costs ~~relating to the for the purchase and placement design and installation of the street lights;~~ provided, however, if the city and the power company can reach an agreement whereby the city is reimbursed for costs, the city may participate in the installation of the lights.

N. Stormwater Discharge ~~And and~~ Land Disturbance: All construction activities that may have the potential to create a land disturbance of greater than one (1) acre shall comply with state



construction site stormwater general permit requirements and the ~~city~~ City's ~~n~~ National ~~p~~ Pollutant ~~d~~ Discharge ~~e~~ Elimination ~~s~~ System ~~g~~ General ~~p~~ Permit for discharges from small municipal separate storm sewer systems. This requires developers and/or contractors to obtain a state stormwater discharge permit and ~~city~~ City grading permit for these projects. The subdivider shall provide ~~C~~ construction site stormwater erosion protection ~~shall be provided on all projects for all construction.~~ Permanent stormwater erosion measures meeting the minimum requirements of the city stormwater management plan will be enforced.

O. Full Frontage: The subdivider must construct and install all required ~~P~~ public utility construction and installation ~~is required~~ utilities across the full frontage of property at the time of development of the subdivision. ~~(Ord. 739, 8-9-2011)~~

P. Site Grading: The subdivider shall:

1. Ensure that the subdivision is constructed with ~~S~~ sufficient site grading ~~to achieve for the required improvements;~~

2. , ensu ~~Ensurer~~ e that each lot area is buildable; and

3. lot area and e ~~Ensure~~ that there is adequate site drainage control.

### 3-3-2144: PERFORMANCE AGREEMENTS:

A. Provisions and Requirements of Performance Agreement: Except as otherwise provided in this ~~Section 3-3-4421,~~ prior to approval of the final platmap by the ~~City Council~~ City Council, the subdivider/developer shall enter into and have on file with the ~~City~~ City a performance agreement, fully executed by the subdivider/developer and the ~~City~~ City, containing the following provisions ~~and requirements:~~

1. That the engineer's estimate must be approved by the City;

2. That the total engineer's estimate must be an amount no less than the full cost of the following improvements:

a. Improvements required under Section 3-3-20 of this Code;

b. Improvements shown in the construction plans prepared and approved in accordance with Section 3-3-18 of this Code;

c. Improvements identified in engineering inspections;

d. The cost to replace any existing streets, utilities or other improvements that may be damaged during construction of the required subdivision improvements;

e. The cost to prepare the as-built drawings and any associated documents; and

f. Incidental expenses associated with the foregoing work.

13. That the subdivider will provide the City performance and maintenance guarantees that satisfy the requirements of City Code Section 3-3-22.

4. That all subdivision improvements identified in the performance agreement shall be

completed within a specified period, not to exceed two (2) years, to the satisfaction of the City.

25. That in the event the required subdivision improvements are not completed within the specified period to the satisfaction of the City, the City may, at its option, complete or cause to be completed the improvements and thereafter recover from the subdivider/developer the full cost and expenses therefor.;

36. That the subdivider/developer shall provide the City with engineering plans for all improvements. That approved construction plans are appended to the agreement as an exhibit.;

7. That in the event the subdivider fails to construct all required subdivision improvements according to the approved construction plans and within the times set forth in a schedule determined by the City that conforms to the requirements of this Chapter, the City may thereafter utilize the performance guaranty in accordance with Section 3-3-22 of this Chapter to complete the subdivision improvements.

48. That the construction plans and all required improvements shall be approved by the City prior to the commencement of construction.; and

9. That the subdivider shall, at its own expense, use the services of a licensed professional engineer to (a) oversee the construction of the subdivision and (b) provide to the City copies of all test results required under the specifications for the project.

510. That a performance guaranty given in the form of a bond or irrevocable letter of credit shall not expire or be released prior to completion all required subdivision improvements and written authorization by the City permitting the performance guaranty to expire or be released.

11. That the subdivider shall pay the cost of inspection, testing and surveying all subdivision improvements and, further, that if the City determines the subdivider is not performing adequate surveying, inspection and/or testing through the use of a properly licensed professional engineer or land surveyor (as appropriate), the City may then, in its discretion, order the subdivider to immediate stop work; and that the City may thereafter hire a properly licensed professional engineer and/or land surveyor to perform the remaining surveying, inspection and/or testing, the cost of which shall be reimbursed to the City by the subdivider upon demand and prior to final acceptance of the subdivision improvements by the City.

12. That the subdivider's engineer shall provide to the City as-built drawings of all subdivision improvements, and further, that the as-built drawings shall be submitted both in digital format and on paper, the paper version to be wet-stamped by the subdivider's engineer prior to submittal to the City.

13. That the subdivider shall use qualified and properly licensed contractors for the construction of all required improvements, to include all subdivision improvements shown on the construction plans.

B.B. -Additional Provisions: Notwithstanding any other requirements set forth in Subsection 3-3-4421(A), the performance agreement may, in the discretion of the City, also contain any of the following provisions and/or requirements:

1. That the construction of improvements shall take place in specified stages.

2. That the subdivider/developer shall, at its own expense, perform all testing of materials



and the inspection of improvements to ensure that the improvements meet the City's construction standards.

32. That the time to complete construction may be extended by the City, in its discretion, undersubject to certain specified conditions.

3. That upon a determination by the City that specific improvements have been satisfactorily constructed and completed, funds may be released from the performance guaranty either by refunding a portion of a cash deposit to the subdivider or by authorizing a reduction of a bond or other form of non-cash guaranty, so long as the foregoing release of funds does not exceed ninety percent (90%) of the value of the completed improvements that have been certified by the subdivider's engineer and approved by the City.

4. That, notwithstanding any other provision in the City Code and without in any manner diminishing the subcontractor/developer's obligation to provide a maintenance bond pursuant to section 3-3-45 of this Code, the City may, in its discretion, suspend the time for the subdivider/developer to provide a performance guarantee to the City, subject to the following:

a. The subdivider/developer must demonstrate that it has the capacity to complete the subdivision improvements through the use of its own resources and without the use of subcontractors;

b. The subdivider/developer must agree to construct all subdivision improvements with its own resources and without the use of subcontractors according to a schedule established by the City; provided, the total time to complete improvements shall be equal to the time that would be required under a performance agreement;

c. The subdivider/developer must, immediately upon demand, provide to the City and the City may thereafter utilize as needed a performance guarantee in accordance with Section 3-3-45 of this Code;

d. In the event the subdivider/developer fails to construct all required subdivision improvements according to the schedule established by the City, then, the City may thereafter complete the subdivision improvements at its own expense and to recover an amount equal to the cost thereof, together with all reasonable attorney fees and costs incurred in the enforcement of this Subsection;

e. The City may utilize a performance guarantee provided under this subsection to reimburse itself for any costs incurred in completing subdivision improvements as provided in the preceding subsection or for any other purpose allowed under Section 3-3-45 of this Code;

C. Modifications, Extensions: At the written request of the subdivider/developer, the terms and conditions, to include time frames and deadlines, contained in an executed performance agreement may be modified by the City Council upon a demonstration of just good cause by the subdivider/developer, so long as the modification does not frustrate the purposes of the City Code or relieve the subdivider/developer of the requirement to construct or compensate the City for constructing the required subdivision improvements. The subdivider/developer shall, at the time of filing the written request for modification of the performance agreement, pay a filing fee to the City in an amount established by resolution of the City Council.

D. Inspection Costs: The subdivider/developer shall pay the cost of inspection, testing and surveying of all subdivision improvements. If the City determines that the subdivider/developer is not providing adequate surveying, inspection and/or testing through a qualified engineer and/or surveyor licensed

to work in the State of Nevada, then the City may, in its discretion, order the subdivider/~~developer~~ to immediately stop work and thereafter the City may hire a qualified engineer, surveyor or firm to perform the remaining surveying, inspection and/or testing. The subdivider/~~developer~~ shall promptly reimburse the City for the cost of hiring a qualified engineer, surveyor or firm to perform the remaining surveying, inspection and/or testing upon written demand and prior to final acceptance of the subdivision improvements by the City.

E. As-Built Drawings: The subdivider/~~developer~~, or the subdivider/~~developer~~'s engineer, shall provide as-built drawings of all subdivision improvements to the City. The as-built drawings shall be submitted in digital format with a paper copy. All paper copies shall be "wet stamped" by the subdivision engineer or surveyor prior to being submitted to the City.

F. Qualified Contractors: All public improvements shall be constructed by contractors that are qualified and appropriately licensed by the State of Nevada to perform the work.

### **3-3-2245: PERFORMANCE AND MAINTENANCE GUARANTEES**~~GUARANTY~~**GUARANTEE:**

A. Forms of ~~Guarantee~~**Guaranty**: Prior to execution of a performance agreement pursuant to Section 3-3-4521 and prior to approval of the final map by the ~~City Council~~**City Council**, the subdivider/~~developer~~ shall provide the ~~City~~**City** with a performance ~~guarantee~~**guaranty** for the completion of all required subdivision improvements in one of the following forms, subject to approval by the ~~City~~**City**, in an amount deemed sufficient by the City to cover the full cost of: (1) improvements required under Section 3-3-20 of this Code; (2) improvements shown in the construction plans prepared and approved in accordance with Section 3-3-18 of this Code; (3) improvements identified in engineering inspections; (4) the cost to replace any existing streets, utilities or other improvements that may be damaged during construction of the required subdivision improvements; (5) the cost to prepare the as-built drawings and any associated documents; and (6) incidental expenses associated with the foregoing work. The performance guaranty shall be in one of the following forms:

1. Performance Bond: A performance or surety bond in an amount deemed sufficient by the City to cover, but in no event less than, the full cost of the required improvements, engineering inspections, and incidental expenses, and the replacement and repair of any existing streets, utilities or other improvements which may be damaged during the construction of required subdivision improvements. A bond submitted to the ~~City~~**City** pursuant to this Subsection shall be executed by a surety company authorized to do business in the State of Nevada, shall be approved by the City Attorney as to form, and shall have having a length of term not exceeding twenty-four (24) months from the date of final platmap recordation.

2. Deposit of Funds: A deposit of cash with the ~~City~~**City**, or a certified check or negotiable bonds made payable to and deposited with the City of Elko or to an escrow agent or trust company approved by the City Attorney, in an amount deemed sufficient by the ~~City~~**City** to cover, but in no event less than, the full cost of the required improvements, engineering inspections, and incidental expenses, and the replacement and repair of any existing streets, utilities or other improvements which may be damaged during the construction of required subdivision improvements.

3. Irrevocable Letter of Credit: An irrevocable letter of credit in favor of the City issued by a financial institution insured by the Federal Deposit Insurance Corporation (FDIC) in an amount deemed sufficient by the City to cover, but in no event less than, the full cost of the required improvements, engineering inspections, and incidental expenses, and the replacement and repair of any existing streets, utilities or other improvements which may be damaged during the construction of the subdivision improvements.

4. Combinations: A subdivider/developer may, at the sole discretion of the City, provide the City with Upon approval by the City based on a showing of good cause by the subdivider, a performance guarantee consisting of a combination of the forms of guarantee performance guaranty listed in this subsection, so long as the combination provides the City with at least the same level of protection against default as any single one of the listed forms of guarantee guaranty.

B. No Release of Funds from or Reduction of Performance Guarantee: Except as otherwise specifically permitted under Section 3-3-21 of this Code, Once a performance guarantee guaranty has been delivered to the City, the City shall not thereafter release any funds from or reduce the amount of the performance guarantee guaranty except upon written certification by the City that all required subdivision improvements have been completed in conformance with the performance agreement and that the release of funds is permitted under the performance agreement; provided, in no event shall the release of funds exceed the amount of the performance guarantee guaranty.

C. Penalty in Case of Default: In the event the subdivider/developer fails to complete all required subdivision improvements in accordance with terms of the performance agreement, the City may, in its sole discretion, complete the work at its own expense and thereafter reimburse itself for the cost and expense thereof from the performance guarantee guaranty.

D. Maintenance Guarantee Guaranty: In addition to the performance guaranty guarantee, the subdivider/developer shall provide the City with a maintenance guarantee guaranty to ensure the maintenance, adequacy and condition of all improvements required by the performance agreement for a period of not less than one (1) year after the improvements are accepted by the City. The maintenance guarantee guaranty may be in any form permitted in Section 3-3-2244(A) for a performance guarantee guaranty and shall be in an amount equal to not less than ten percent (10%) of the total cost of the required subdivision improvements.

E. No Release of Funds from or Reduction of Maintenance Guaranty: Once a maintenance guaranty has been delivered to the City, the City shall not thereafter release any funds from or reduce the amount of the maintenance guaranty except upon written certification by the City that all required maintenance has been performed in conformance with the performance agreement; provided, in no event shall the release of funds exceed the amount of the maintenance guaranty.

EF. Improvement District Financing Through Special Assessments: If not all of the properties abutting a public street within any given block are under the control of the subdivider/developer, and the street abutting those properties is not fully improved in accordance with the requirements of this Chapter, the subdivider/developer may petition the City Council City Council for the creation of an improvement district for the construction of the required improvements and for the special assessment of the cost thereof against abutting properties in accordance with Chapter 268 of the Nevada Revised Statutes; provided, however, that the subdivider/developer shall thereupon enter into an agreement with the City pursuant to which it agrees to be responsible for any difference between the cost of such improvements and the maximum amount which the City can specially assess against the property to be subdivided, and to furnish any necessary waivers to permit assessment of the entire cost of such improvements. Any such agreement pursuant to the preceding sentence shall be in a form approved by the City Attorney.

### **3-3-44: AGREEMENT TO INSTALL IMPROVEMENTS:**

A. Provisions Of Agreement: Prior to certification of final plat approval by the mayor, the subdivider shall have executed and filed an agreement between himself and the city providing that:

~~1. All required subdivision improvements will be completed within a specified period of time to the satisfaction of the city. The specified period of time shall not exceed two (2) years.~~

~~2. In the event that such improvements are not completed within the specified period, the city may, at their option, complete or cause to be completed such work and recover from the subdivider full cost and expenses therefor.~~

~~3. The subdivider/developer shall provide engineering plans for all improvements.~~

~~4. The engineering plans and all required improvements shall be approved by the city engineering department.~~

B. Additional Provisions: The aforesaid agreement may also provide for:

~~1. Construction of improvements in predetermined stages.~~

~~2. The testing of materials and the inspection of improvements to ensure these improvements meet the city construction standards. The cost of inspection testing and quality control shall be paid by the developer.~~

~~3. An extension of construction period under certain specified conditions.~~

~~4. Progress payments to the subdivider from any deposit which the subdivider may have made, or reduction in bonds, not exceeding ninety percent (90%) of the value of improvements completed and approved, as determined by the city engineer.~~

C. Modifications, Extensions: At the written request of the subdivider, terms, provisions and time frames associated with an executed agreement to install required subdivision improvements may be modified or extended by the city council City Council upon demonstration of just cause pursuant to applicable policies as adopted by resolution of the city council City Council. The subdivider shall, at the time of filing the written request, pay a filing fee to the city in an amount established by resolution of the city council City Council.

D. Inspection Costs: The subdivider is responsible for providing and paying the cost of inspection, testing and surveying of subdivision improvements. If it is determined that the subdivider is not providing adequate inspection and testing through a qualified engineer licensed to work in the state, then the city shall have the right to stop work and/or hire a qualified engineer or firm to provide adequate inspection and testing. The subdivider shall be responsible for reimbursing the city for these costs upon demand and prior to final acceptance of subdivision improvements.

E. As Built Drawings: The subdivider, or the subdivider's engineer, shall provide as built drawings of all subdivision improvements to the city engineering department. The as built drawings shall be in both digital and paper mylar form. All mylars paper copies shall be "wet stamped" by the subdivision engineer, or surveyor, prior to being submitted to the city.

F. Qualified Contractors: All public improvements shall be constructed by licensed contractors qualified to construct the work. Contractors shall be licensed in the state of Nevada as well as have a current City of Elko business license. (Ord. 624, 10-26-2004)

### **3-3-45: PERFORMANCE GUARANTEE:**

~~A. Forms Of of Guarantee: Prior to certification of final plat approval by the mayor, the subdivider shall have provided the city a financial guarantee of performance for the completion of required subdivision improvements, in one or a combination of the following forms as determined by the city:~~

~~1. Performance Bond: Performance or surety bond in an amount deemed sufficient by the city engineer to cover, but in no case be less than, the full cost of required improvements, engineering inspections, incidental expenses and replacement and repair of any existing streets and utilities or other improvements which may be damaged during construction of required improvements. Such bond shall be executed by a surety company authorized to do business in the state, must be approved by the city attorney as to form, and have a length of term not exceeding twenty four (24) months from the date of final plat recordation.~~

~~2. Deposit Of Funds: Deposit of cash, certified check or negotiable bonds, made payable to the city finance director, or to a responsible escrow agent or trust company approved by the city attorney, in the same amount and for the same purpose as heretofore provided for a performance bond.~~

~~3. Irrevocable Letter Of Credit: Irrevocable letter of credit issued by a financial institution insured under the federal deposit insurance corporation (FDIC) establishing funds for the construction of the subdivision improvements from which the city may draw. An agreement to install public improvements as required in section 3-3-44 of this chapter shall be executed by the city, the developer and the financial institution prior to the city's acceptance of an irrevocable letter of credit as a form of security. The irrevocable letter of credit shall be in the same amount and for the same purpose as heretofore provided for the performance bond.~~

~~4. Improvement District Financing: In cases where all properties abutting a public street within any given block are not under the control of the subdivider, and the street abutting such properties is not fully improved in accordance with the requirements of this chapter, the subdivider may petition the city to construct the required improvements and to assess the cost thereof against abutting properties in accordance with local practice pertaining to special assessments; provided, however, that the subdivider shall be responsible for any differences between the cost of such improvements and the amount which can be legally assessed by the city against the property to be subdivided, and shall furnish any necessary waivers to permit assessment of the entire cost of such improvements. Any such agreement shall be in a form approved by the city attorney.~~

~~B. Penalty In Case Of Default: In the event that the subdivider fails to complete all required subdivision improvements in accordance with terms of his agreement with the city, the city may have such work completed and, in order to reimburse itself for the cost and expense thereof, may appropriate the deposit of cash, funds established by an irrevocable letter of credit or negotiable bonds, or take such steps as may be necessary to secure performance under the bond.~~

~~C. One Year Maintenance: The subdivider shall guarantee the adequacy of street and utility improvements for a period of not less than one year.~~

~~1. Payments: No job progress payments from cash, funds established by an irrevocable letter of credit or negotiable bond deposits, nor any release of performance bonds, shall be made by the city except upon certification by the city engineer and approval by the city council City Council.~~

~~2. Amount: The subdivider shall provide the city with a maintenance bond, funds established by an irrevocable letter of credit or a deposit of funds in an amount not less than ten percent (10%) of the~~

~~total cost of the required public improvements as a one year maintenance guarantee. (Ord. 745, 4-24-2012)~~

### **3-3-~~5023~~: PARK LAND DEDICATIONS:**

~~In accordance with the statutes of the state to provide for the acquisition and development of park, playground and recreational facilities as are reasonably necessary to serve the residents of new subdivisions and development within the jurisdiction of the city, the planning commission~~Planning Commission ~~and city council~~City Council~~The City~~ may require the dedication of land for the development of park, playground and recreational facilities, payment in lieu of dedication, or residential tax (to the extent permitted under Nevada law), in accordance with the recreation and open space element of the duly adopted general plan of the cityElko Master Plan. (Ord. 226, 12-9-1975)

### **3-3-~~6024~~: PARCEL MAPS:**

A. Required: A person who proposes to divide any land into four (4) or fewer lots, shall file a parcel map application with the City and, upon approval by the City, the applicant shall thereafter file the parcel map with in the office of the county recorder, unless ~~this requirements~~such recordation is not required under Nevada law, pursuant to NRS, waived. No survey may be required if the requirement of a parcel map is waived.

~~B.B. For any parcel map, any p~~Public Improvements: Public improvements may be required by the City as a condition of approval of a parcel map, but such requirements shall not exceed those that more than would be required under City Code Section 3-3-20 if the proposed property division of land were a subdivision. See section 3-3-43 of this chapter, required public improvements.

~~C. Lot Design~~Public Improvements: For parcel maps, the City Council shall require, as a condition of approval of a parcel map, the design and construction of the governing body shall may require such street public improvements grading and drainage provisions as are reasonably necessary for lot access and drainage needs. It may also require such lot design as is all public improvements (to include off-site improvements), in a manner that is consistent with the uses of the existing property and surrounding land, and that are reasonably necessary to ensure the adequacy of determined necessary by the city to ensure reasonably necessary and such as, but not limited to, off site grading; parcel ingress/egress; site access; street alignment, surfacing and width; water quality; and water drainage; water supply; and sewerage; and the protection of public health and safety. provisions and off-site public improvements as are reasonably necessary and consistent with the existing use property use and surrounding of any land uses, zoned for similar use which is within six hundred sixty feet (660') of the proposed parcel. If the proposed parcels are less than one acre, the governing body may require additional improvements which are reasonably necessary and consistent with the use of the land if it is developed as proposed.

~~D. Dedications: If the proposed parcels are located in areas where public improvements do not exist, the governing body~~City Council may require public improvements necessary for the health and safety of the community and require the dedication of rights-of-ways and/or easements to the extent necessary to serve the best interests of the public. achieve specific public objectives related to the subject tract and other details regarding the proposed parcels.

~~E. Lot Design: Lot width, depth and area shall comply with~~requirements of the zoning requirements appropriate for the location and character of development proposed, including the requirements



~~stipulated set forth in City Code Section 3-2-26, and appropriate for the type and extent of public improvements being installed. However, where steep topography, unusual soil conditions or drainage problems exist or prevail, the City may require increased lot width, depth and/or area exceeding that exceeds the minimum requirements of the particular zoning district.~~

~~F. Construction Plans: It shall be the responsibility of the~~The subdivider to have prepared by an engineer registered in the state, shall use a licensed professional engineer to prepare a complete set of construction plans, ~~satisfactory to the city, for construction of all required public improvements. Such~~The construction plans shall be based on and be prepared in conjunction with the final plat/parcel map. The foregoing ~~G~~construction plans shall have been must be approved by the city/City prior to recordation of the final plat/parcel map.

~~CG.~~ Second ~~Or or~~ Subsequent Parcel Maps: When considering whether to approve, conditionally approve or disapprove a second or subsequent parcel map involving land that has been divided by a parcel map which was recorded within the five (5) years immediately preceding the acceptance of the second or subsequent parcel map as a complete application, the following criteria shall be considered:

\_\_\_\_\_ 1. Environmental and health laws and regulations concerning water and air pollution, the disposal of solid waste, facilities to supply water, community or public sewage disposal and, where applicable, individual systems for sewage disposal;

\_\_\_\_\_ 2. The availability of water which meets applicable health standards and is sufficient in quantity for the reasonably foreseeable needs of the ~~subdivision~~property being divided into parcels;

\_\_\_\_\_ 3. The availability and accessibility of utilities;

\_\_\_\_\_ 4. The availability and accessibility of public services, such as schools, police protection, transportation, recreation and parks;

\_\_\_\_\_ 5. Conformity with the zoning ordinances and master plan, except that if any existing zoning ordinance is inconsistent with the master plan, the zoning ordinance ~~takes precedence~~shall apply;

\_\_\_\_\_ 6. General conformity with the ~~governing body's~~City's master plan of streets and highways;

\_\_\_\_\_ 7. The effect of the proposed ~~subdivision~~division of land into parcels on existing public streets and the need for new streets or highways to serve the ~~subdivision~~land being divided;

\_\_\_\_\_ 8. Physical characteristics of the land, such as floodplain, slope and soil;

\_\_\_\_\_ 9. The recommendations and comments of those entities reviewing the tentative map pursuant to Nevada Revised Statutes ~~sections~~Sections 278.330 through 278.348, inclusive; and

\_\_\_\_\_ 10. The availability and accessibility of fire protection, including, but not limited to, the availability and accessibility of water and services for the prevention and containment of fires, including fires in wild lands.

For any other second or subsequent parcel map, any reasonable public improvement may be required, but not more than would be required under City Code Section 3-3-20 if the parcel were a subdivision. ~~See section 3-3-43 of this chapter, required public improvements.~~



DH. Review and Approval of Parcel Map:

\_\_\_\_\_ 1. Upon the filing of an application by a person proposing to divide land into parcels, except as otherwise provided in this Section, The city council~~City Council~~ may give the city planning personnel~~the City planning department shall the authority to~~ approve a~~the~~ parcel map, or waive the requirement of a parcel map or survey for a parcel map, without further action by the planning commission~~Planning Commission~~ or city council~~City Council~~, unless the parcel map includes an offer of dedication of a street right-of-way to the city~~City~~ or is associated with the a request to modify subdivision ordinance standards or regulations. The~~Except as otherwise provided in the preceding sentence, the City planning department~~planning personnel shall review the parcel map, if required, and within forty-fivesixty ~~(4560)~~ days after filing, shall approve, conditionally approve or disapprove such the parcel map.

\_\_\_\_\_ 2. A parcel map which includes an offer of dedication of a street right-of-way to the city~~City~~ or a modification of subdivision~~ordinance standards or regulations~~ respecting the division of land shall be referred to the planning commission~~Planning Commission~~ and the city council~~City Council~~ for review and, consideration, and formal acceptance of the offer of dedication and/or any modification of standards or regulations. The Planning c~~ommission~~ shall consider the parcel map within forty-fivesixty ~~(4560)~~ days after filing and shall thereupon make a recommendation to the City Council to approve, conditionally approve or disapprove the formal acceptance of the offer of dedication and/or any modification of standards or regulations. The city council~~City Council~~ shall then consider and take action upon the formal acceptance of the offer of dedication and/or any modification of standards or regulations ~~parcel map~~ no later than thirty (30) days after action by the planning commission~~Planning Commission~~, taking into account the recommendation of the Planning Commission.

EJ. Appeal of Decision by Planning Department: If the applicant disagrees with any decision of the City planning personnel~~planning department~~ concerning the parcel map, or if the parcel map is disapproved by the planning department, the applicant shall ~~has thirty (30) days in which to~~ file an appeal with the planning commission~~Planning Commission~~ with thirty (30) days from the date of the decision. The planning commission~~Planning Commission~~ shall make a determination on the decision within forty-five (45) days from the date the appeal was filed. If the planning commission~~Planning Commission~~ denies the~~affirms the decision of the City planning department~~ appeal, the applicant may appeal the decision of the Planning Department to the city council~~City Council~~ within thirty (30) days of such denial-affirmation and the city council~~City Council~~ shall render its decision within forty-forty-five (45) days after the filing of this the foregoing appeal with the city clerk.

FJ. Exceptions:

\_\_\_\_\_ A1. A parcel map is not required when the land division~~division of land into parcels~~ is for the express purpose of:

\_\_\_\_\_ 1.a. Creation or realignment of a public right-of-way by a public agency;

\_\_\_\_\_ 2.b. Creation or realignment of an easement;

\_\_\_\_\_ 3.c. -An Adjustment~~adjustment~~ of the boundary line between two abutting parcels or the transfer of land between two (2) adjacent property~~owners of abutting parcels~~, which does not result in the creation of any additional parcels, if such an adjustment is approved pursuant to NRS 278.5692NRS 278.5692 and is made in compliance with the provisions of NRS 278.5693NRS 278.5693.

4.d. ~~The p~~Purchase, transfer or development of space within an apartment building or an industrial or commercial building;

5.e. ~~Carrying out an order of any court or dividing land as a result of an operation of law.~~

B2. A parcel map is not required for any of the following transactions involving land:

5. ~~An order of any court dividing land as a result of an operation of law;~~

61.a. ~~The c~~Creation of a lien, mortgage, deed of, trust or any other security instrument;

72.b. ~~The c~~Creation of a security or unit of interest in any investment trust regulated under the laws of this ~~state~~ State or any other interest in an investment entity;

83.c. Conveying an interest in oil, gas, minerals or building materials, which ~~are is~~ severed from surface ownership of real property;

94.d. ~~Conveying an interest in land acquired by the Department of Transportation pursuant to chapter~~Chapter 408 of ~~NRS~~the Nevada Revised Statutes.

5.e. Filing a certificate of amendment ~~pursuant to NRS 278.473 for the correction of an error or omission on a plat, survey or map, or if the correction does not change the location of a survey monument or property line.~~

GGK. Survey Not Required: If a survey is not required for the preparation of a parcel map, the map must be prepared by a registered land surveyor, but ~~the his~~ certificate upon the map may include substantially the following:

—~~This map was prepared from existing information (identifying it and stating where filed or recorded), and the undersigned assumes no responsibility for the existence of monuments or corrections of other information shown on or copied from any such prior document.~~

HL. Fee: The applicant shall, at the time of filing the parcel map, pay a filing fee to the ~~city~~ City in an amount established by resolution of the ~~city council~~ City Council. ~~and included in the appendix to this code.~~

IM. Information Required: The parcel map shall ~~ould~~ contain the following information and meet the following requirements:

1. The parcel map shall be legibly drawn in black, waterproof India ink on tracing cloth or produced by the use of other materials of a permanent nature generally used for such purpose in the engineering profession. The size of each sheet shall be twenty ~~four~~ inches by thirty ~~two~~ inches (24" x 32"). A marginal line shall be completely drawn around each sheet leaving an entirely blank margin of one inch (1") at the top, bottom and right edges, and of two inches (2") at the left edge along the twenty four inch (24") dimension.

2. A parcel map shall ~~shall~~ must indicate the owner of any adjoining land or right ~~of~~ way if owned by the person dividing the land.

3. If a survey is required, the parcel map shall also show:

\_\_\_\_\_ a. All monuments found, set, reset, replaced or removed, describing the claim, size and location and other data relating thereto;

\_\_\_\_\_ b. Bearing or witness monuments, basis of bearings, bearing and length of line and scale of map;

\_\_\_\_\_ c. Name and legal description of tract or grant in which the survey is located and ties to adjoining tracts;

\_\_\_\_\_ d. Memorandum of oaths;

\_\_\_\_\_ e. Signature of surveyor;

\_\_\_\_\_ f. Date of survey;

\_\_\_\_\_ g. Signature of the owner or owners of the land to be divided;

\_\_\_\_\_ h. Any easements granted or dedications made;

\_\_\_\_\_ i. Any other data necessary for the intelligent interpretation of various items in the location of the points, lines and areas shown; and

\_\_\_\_\_ j. Provision and date for installation of all required improvements.

\_\_\_\_\_ 4. The following certificates shall appear on a parcel map before it can be recorded:

\_\_\_\_\_ a. A certificate for execution by the clerk of each approving governing body stating that the body approved the map;

\_\_\_\_\_ b. A certificate by the surveyor responsible for the parcel map giving the date of the survey on which the map is based and stating that the survey was made by him or under his direction and setting forth the name of the owner who authorized him to make the survey, and that the parcel map is true and complete as shown. The certificate shall also state that the monuments are of the character and occupy the positions indicated or that they will be set in such positions at such time as agreed upon under the provisions of Nevada Revised Statutes ~~chapter~~ Chapter 278. The certificate shall also state that monuments are or will be sufficient to enable the survey to be retraced;

\_\_\_\_\_ c. A certificate signed and acknowledged by all parties having any record title in the land ~~subdivided to be divided into parcels,~~ evidencing their grant of permanent easements for utilities installations and access, as designated on the parcel map;

\_\_\_\_\_ d. A statement approving such easements, signed by each public utility company or agency in whose favor the easements are created or whose utility services are to be required for the ~~platted~~ mapped parcel; and

\_\_\_\_\_ e. A statement that it ~~it~~ shall be the responsibility of the applicant to obtain the ~~the~~ approvals of all serving utility companies as to the location of any utility easements ~~which are to be~~ shown on the parcel map.

\_\_\_\_\_ 5. The following data shall accompany a parcel map at the time it is submitted:

\_\_\_\_\_ a. Name, address and telephone number of the persons requesting approval of the parcel map and the owner or owners of the land;

\_\_\_\_\_ b. Name, address and telephone number of the person who prepared the map;

\_\_\_\_\_ c. Legal description of the original parcel. It shall be sufficient to give the rRecorder's book and page number of the deed and the assessor's parcel number;

\_\_\_\_\_ d. Proposed use of each parcel;

\_\_\_\_\_ e. Source of water supply and proposed method of sewage disposal for each parcel;

\_\_\_\_\_ f. A copy of all survey computations shall accompany the parcel map; and

\_\_\_\_\_ g. A vicinity map.

\_\_\_\_\_ 6. The subdivider shall file six-one (61) copies-copy of the parcel map that is 24"x36" in size and one (1) 8 1/2"x11" reproducible copy with the city-City at the time of filing. (Ord. 293, 8-26-1980)

JN. Recording: A parcel map approved pursuant to this ~~section-Section~~ and ~~section-Section~~ 3-3-70 of this ~~chapterChapter~~, shall be recorded in the ~~office-Office~~ of the ~~county-recorderElko County Recorder~~ within two (2) years after the date when the map was approved or deemed approved by the City. (Ord. 624, 10-26-2004)

KO. Prohibitions of Parcels: Parcel maps that are determined by the City to fall into one or more of the following categories shall not be approved by the City:

1. One or more of the ~~Pproposed parcels~~ that are determined to be undevelopable by the cityare not reasonably capable of being developed due to site conditions.

2. The ~~Proposed-parcels~~ determined by the city asare proposed in an attempt to eliminate frontage orand required public improvements.

1. 3. The ~~Pproposed parcels~~ determined to beare detrimental to the health, safety and/or welfare of the communitypublic.

P. Judicial Review: A person seeking to divide land into parcels who is aggrieved by a final decision of the City Council relative to a parcel map may appeal by seeking judicial review in the Fourth Judicial District Court, in and for the County of Elko, State of Nevada, with fifteen (15) calendar days of the date of the final decision of the City Council.

### **3-3-~~7025~~: MODIFICATION OF STANDARDS:**

A. Permitted: Where, in the opinion of theUpon the recommendation of the planning commissionPlanning Commission that, there exists extraordinary conditions of topography, land ownership, or adjacent development, or other circumstances not provided for in this ~~chapterChapter~~, that prevent or unreasonably restrict the ability of a person to develop land, the ~~city-councilCity Council~~ may thereafter modify the provisions of this ~~chapterChapter~~, or any other provision in this

~~code~~the City Code, in such manner and to the minimum extent necessary to carry out the intent of this ~~chapter~~Chapter.

B. Complete Neighborhood Plan: In the case of a plan and program for a complete neighborhood development, the ~~city council~~City Council may modify the provisions of this ~~chapter~~Chapter in such manner as it deems necessary and desirable to provide for adequate space and the development of improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated. The City Council may further, and may require such ~~restrictions on the neighborhood development, through the use of deed restrictions, restrictive covenants and conditions and the like, legal provisions~~ as may be necessary to assure conformity to and the achievement of ~~such the~~ plan and program.

C. Additional Necessary Requirements: In modifying ~~the a~~ standards or requirements of this chapter, ~~as outlined heretofore pursuant to this Section 3-3-25~~, the ~~city council~~City Council may make impose such additional requirements as ~~are it determines are~~ necessary in its judgment to secure ~~substantially best achieve~~ the ~~objectives purpose~~ of the standards or requirements ~~so being~~ modified. (Ord. 768, 1-22-2013)

### **3-3-~~7526~~: REVERSIONS TO ACREAGE:**

A. Application: Except as otherwise provided in Nevada Revised Statutes ~~section~~Section 278.4925, an owner or governing body desiring to revert any recorded subdivision map, parcel map, map of division into large parcels, or part thereof, to acreage or to revert the map or portion thereof, or to revert more than one map recorded under the same tentative map if the parcels to be reverted are contiguous, shall submit a written application accompanied by a map of the proposed reversion which contains the same survey dimensions as the recorded maps or maps ~~to filed with~~ the City ~~planning~~Pplanning department. The application must specifically describe the requested change.

B. Review: At its next regular meeting, or within a period of not more than thirty (30) days after the filing of the map of reversion, whichever occurs later, the ~~city council~~City Council shall review the map of reversion and approve, conditionally approve or disapprove the map.

C. Applicability Of Fees: Except for the provisions of this ~~section~~Section, Nevada Revised Statutes ~~sections~~Sections 278.4955, 278.496 and 278.4965, and any provision ~~or local ordinance of the City Code~~ relating to the payment of fees in conjunction with filing, recordation or checking of a map of the kind offered, no other provision of Nevada Revised Statutes ~~sections~~Section 278.010 through 278.630, inclusive, applies to a map made solely for the purpose of reversion of a former map or for reversion of any division of land to acreage.

D. Recording: Upon approval of the map of reversion, it must be recorded in the ~~office of the county recorder~~Office of the Elko County Recorder. ~~The county recorder shall make a written notation of the fact on each sheet of the previously recorded map affected by the later recording, if the county recorder does not maintain a cumulative index for such maps and amendments. If such an index is maintained, the county recorder shall direct an appropriate entry for the amendment.~~

E. Street ~~o~~R Easement Included: Requirement for submitting a ~~At the time a~~ map of reversion is submitted and for presenting a map of reversion presented for recording, it must conform with provisions of Nevada Revised Statutes ~~sections~~Section 278.4955, 278.496 and 278.4965. If the

map ~~included~~ includes the reversion of any street or easement owned by a city, a county or the state, the provisions of Nevada Revised Statutes ~~section~~ Section 279.480 must be followed and satisfied before ~~approval of the map~~ the map of reversion is approved by the City.

F. Fee: The owner shall, at the time of filing the map of reversion, pay a filing fee to the ~~city~~ City in an amount established by resolution of the ~~city council~~ City Council. (~~Ord. 548, 11-28-2000~~)

### **3-3-~~8027~~: PROHIBITION AGAINST SALE IN VIOLATION:**

No person, firm, corporation or other legal entity shall hereafter sell or offer for sale any lot, or piece or parcel of land which is within a ~~tract of land proposed to be divided in "subdivision", to two (2) or more lots, or pieces or parcels of land, as defined in this chapter,~~ until after a final plat ~~map~~ thereof has been approved and certified by the City, and recorded with the Elko County Recorder in accordance with provisions of the Nevada Revised States and this chapter ~~Chapter~~. (~~Ord. 226, 12-9-1975~~)

### **3-3-~~8528~~: MERGERS AND RESUBDIVISION OF LAND:**

A. Permitted: An owner ~~or governing body that owns~~ of two (2) or more contiguous parcels may merge and resubdivide the land into new parcels or lots without reverting the preexisting parcels to acreage ~~pursuant to Nevada Revised Statutes section 278.490~~.

B. Recording Required: Parcels merged without reversion to acreage pursuant to this section must be resubdivided and recorded on a final map, parcel map or map of division into large parcels, as appropriate, in accordance with Nevada Revised Statutes ~~sections~~ Sections 278.320 through 278.4725, inclusive, and ~~any applicable local ordinances~~ the City Code. The recording of the resubdivided parcels or lots on a final map, parcel map or map of division into large parcels, as appropriate, constitutes the merging of the preexisting parcels into a single parcel and the simultaneous resubdivision of that single parcel into parcels or lots of a size and description set forth in the final map, parcel map or map of division into large parcels, as appropriate.

C. Street Easements ~~And~~ and Utility Easements: With respect to a merger and resubdivision of parcels pursuant to this ~~section~~ Section, the owner ~~or governing body of land~~ conducting the merger and resubdivision shall ensure that street easements and utility easements, whether public or private, that will remain in effect after the merger and resubdivision, are delineated clearly on the final map, parcel map or map of division into large parcels, as appropriate, on which the merger and resubdivision is recorded.

D. Security Credit: If ~~a governing body~~ the City Council ~~required~~ requires an owner ~~or governing body of land~~ to post security to secure the completion of improvements to two (2) or more contiguous parcels and those improvements will not be completed because of a merger and resubdivision; conducted pursuant to this ~~section~~ Section, the ~~governing body~~ City Council shall credit on a pro rata basis the security posted by the owner ~~or governing body of land~~ toward the same purposes with respect to the parcels as merged and resubdivided. (~~Ord. 548, 11-28-2000~~)

### **3-3-~~9029~~: VIOLATIONS AND PENALTIES:**

Any person, firm, corporation or other legal entity who violates any of the provisions of this ~~chapter~~ Chapter shall, upon conviction therefor, be punished as provided in ~~title 1, chapter 3~~ Title 1, Chapter 3 of this ~~e~~ Code. Each day that a violation is permitted to exist shall constitute a separate offense and shall be punishable as such hereunder. The imposition of any sentence shall not exempt the offender from compliance with all requirements of this ~~e~~ Chapter. (~~Ord. 261, 6-27-1978~~)

**CITY OF ELKO  
ORDINANCE NO. 834**

**AN ORDINANCE AMENDING TITLE 3, CHAPTER 3, OF THE ELKO CITY CODE  
ENTITLED “SUBDIVISIONS” BY REPEAL AND REPLACING CHAPTER 3  
ENTIRELY, AND MATTERS RELATED THERETO.**

**WHEREAS**, the City of Elko desires to amend the City Code to provide clarification within the Title 3 Zoning Regulations, Chapter 3 Subdivisions;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELKO, NEVADA

*For amendment purposes, words which are in bold and underlined are additions to the Ordinance, and words which are lined through and bold are deleted from the Ordinance.*

**Section 1:** Title 3, Chapter 3 is hereby amended to read as follows:

**Chapter 3  
SUBDIVISIONS**

**3-3-1: PURPOSE AND INTENT:**

**3-3-2: DEFINITIONS:**

**3-3-3: OUTLINE OF PROCEDURES:**

**3-3-4: PREAPPLICATION (CONFERENCE) STAGE (STAGE I):**

**3-3-5: PRELIMINARY PLAT STAGE (STAGE II):**

**3-3-6: FINAL PLAT STAGE (STAGE III):**

**3-3-7: INFORMATION REQUIRED FOR PRELIMINARY PLAT SUBMISSION:**

**3-3-8: INFORMATION REQUIRED FOR FINAL PLAT SUBMISSION:**

**3-3-20: GENERAL PROVISIONS FOR SUBDIVISION DESIGN:**

**3-3-21: STREET LOCATION AND ARRANGEMENT:**

**3-3-22: STREET DESIGN:**

**3-3-23: BLOCK DESIGN:**

**3-3-24: LOT PLANNING:**

**3-3-25: EASEMENT PLANNING:**

**3-3-26: STREET NAMING:**

**3-3-27: STREET LIGHTING DESIGN STANDARDS:**

**3-3-40: RESPONSIBILITY FOR IMPROVEMENTS:**

**3-3-41: ENGINEERING PLANS:**

**3-3-42: CONSTRUCTION AND INSPECTION:**

**3-3-43: REQUIRED IMPROVEMENTS:**

**3-3-44: AGREEMENT TO INSTALL IMPROVEMENTS:**

**3-3-45: PERFORMANCE GUARANTEE:**

**3-3-50: PARK LAND DEDICATIONS:**

**3-3-60: PARCEL MAPS:**

**3-3-70: MODIFICATION OF STANDARDS:**

**3-3-75: REVERSIONS TO ACREAGE:**

**3-3-80: PROHIBITION AGAINST SALE IN VIOLATION:**

**3-3-85: MERGERS AND RESUBDIVISION OF LAND:**

**3-3-90: VIOLATIONS AND PENALTIES:**



### **3-3-1: PURPOSE AND INTENT:**

The purpose of this chapter is to provide for the orderly growth and harmonious development of the city; to ensure adequate traffic circulation through coordinated subdivision street system with relation to major thoroughfares, adjoining subdivisions, and public facilities to achieve individual property lots of optimum utility and livability; to secure adequate provisions for water supply, drainage, sanitary sewerage, and other health requirements; to facilitate reservation of adequate sites for schools, recreation areas, and other public facilities; to promote the conveyance of land by accurate legal description and to provide logical procedures for the achievement of this purpose; safeguard the public health, safety and general welfare; and to ensure development in conformance with the city master plan. In its interpretation and application, the provisions of this chapter are intended to provide a common ground of understanding and a sound and equitable working relationship between public and private interests to the end that both independent and mutual objectives can be achieved in the subdivision of the land. (Ord. 624, 10-26-2004)

### **3-3-2: DEFINITIONS:**

For purposes of this chapter, certain words, terms and phrases are defined as follows:

**BLOCK:** A piece or parcel of land, or group of lots, entirely surrounded by public rights of way, streams, railroads or parks, or a combination thereof.

**BUILDING LINE:** A line between which and the street right of way line no building or structure or portion thereof, shall be erected, constructed, or otherwise established.

**CITY COUNCIL:** The city council of the city of Elko.

**COMMISSION:** The city of Elko planning commission.

**CONDITIONAL APPROVAL:** An affirmative action by the commission or city council indicating the approval of preliminary plat will be forthcoming upon compliance with certain specified stipulations.

**DEVELOPMENT MASTER PLAN:** A preliminary map showing the tentative layout of streets and arrangements of land uses, including the location of schools, recreation areas and other community facilities for the entirety of a large landholding of which a portion is to be submitted as a preliminary plat; a map meeting the requirements of section 3-3-4 of this chapter.

**EASEMENT:** A grant by the owner of the use of a strip of land by the public, a corporation, or persons for specific and designated uses and purposes.

**ENGINEERING PLANS:** Plans, profiles, cross sections and other required details for the construction of public improvements, prepared in conjunction with the plat and in compliance with standards of design and construction approved by the city council.

**EXCEPTIONS:** Any parcel of land located within the perimeter of the subdivision but which is not included in the plat.

**FINAL APPROVAL:** Unconditional approval of the final plat by the city council as evidenced by certification on the plat by the mayor of the city of Elko. Final approval constitutes authorization to record the plat.

**FULL FRONTAGE:** All lot lines of any lot, parcel or tract of property adjacent to a road, street, alley or right of way, to include lots, parcels or tracts containing multiple borders or edges, such as corner lots.

**LAND DISTURBANCE:** The removal of the vegetative cover from the surface of any land, parcel, lot or construction site that exceeds one acre of disturbed surface area and, most probably, is a result of grading activity associated with new construction.

**LOT:** A distinct part or parcel of land separated from other pieces or parcels by description, as in a subdivision or on a record survey map, or by metes and bounds, with the intention or for the purpose of sale, lease, separate use or for the purpose of building.

**A. Corner Lot:** A lot abutting on two (2) or more intersecting streets.

**B. Double Frontage Lot:** A lot abutting two (2) parallel or approximately parallel streets.

**C. Interior Lot:** A lot having but one side abutting on a street.

**D. Key Lot:** An interior lot, one side of which is contiguous to the rear line of a corner lot.

**LOT DEPTH:** The shortest distance, measured on a line parallel to the axis of the lot, between points on the front and rear lot lines.

**LOT LINE:** A line bounding a lot.

**A. Front Lot Line:** The lot line coinciding with the street line; or, in the case of a corner lot, the shortest of two (2) lot lines coinciding with street lines; or, in the case of a double frontage lot, both lot lines coinciding with street lines.

**B. Rear Lot Line:** The lot line opposite and farthest from the front lot line; for a pointed or irregular lot, the rear lot line shall be an imaginary line, parallel to and farthest from the front lot line, not less than ten feet (10') long and wholly within the lot.

**C. Side Lot Line:** Any lot line other than a front or rear lot line; in the case of a corner lot, the lot line abutting the side street is designated as the exterior side lot line; all other side lot lines are designated as interior side lot lines.

**LOT WIDTH:** A. In the case of a rectangular lot or a lot abutting on the outside of a street curve, the distance between side lot lines measured parallel to the street or to the street chord and measured on the street chord.

B. In the case of a lot abutting on the inside of a street curve, the distance between the side lot lines measured parallel to the street or the street chord at the rear line of the dwelling, or, where there is no dwelling, thirty feet (30') behind the minimum front setback line.

**MASTER PLAN:** The adopted plan or parts thereof, providing for the future growth and improvement of the city of Elko and for the general location and coordination of streets and

highways, schools and recreation areas, public building sites, and other physical development which shall have been duly adopted by the planning commission and city council.

**NEIGHBORHOOD PLAN:** A plan prepared by the city to guide the platting of remaining undeveloped parcels in a partially built up neighborhood so as to make reasonable use of all land, correlate street patterns, and achieve the best possible land use relationships.

**OFFICIAL STREET CLASSIFICATION AND HIGHWAY PLAN COMPONENT OF THE MASTER PLAN:** A plan adopted by the planning commission and city council which provides for development of a system of major streets and highways.

**OWNER:** The person or persons holding title by deed to land, or holding title as vendees under land contract, or holding any other title or record.

**PARCEL MAP:** As defined in the Nevada Revised Statutes.

**PEDESTRIANWAY:** A public or private walk through a block from street to street or from a street to a school, park, recreation area or other public facility.

**PLAT:** A map of a subdivision; the same as "map" as defined in the Nevada Revised Statutes.

A. **Final Plat:** A plat of all or part of a subdivision essentially conforming to an approved preliminary plat, prepared in accordance with provisions of section 3-3-8 of this chapter.

B. **Preliminary Plat:** A preliminary tentative map, including supporting data, indicating a proposed subdivision development, prepared in accordance with section 3-3-7 of this chapter.

C. **Recorded Plat:** A final plat bearing all of the certificates of approval required by this chapter and duly recorded in the Elko County recorder's office.

**PRELIMINARY APPROVAL:** Approval of a preliminary plat by the planning commission. Preliminary approval constitutes authorization to proceed with preparation of engineering plans and final plat.

**PUBLIC IMPROVEMENT STANDARDS:** A set of standards approved by the city council regulating the design and construction of public improvements in the city of Elko. These standards are the "Standard Specifications For Public Works Construction", latest edition, as distributed to the cities and counties of northern Nevada by the regional transportation commission of Washoe County.

**PUBLIC UTILITIES:** Underground, aboveground or overhead facilities furnishing to the public, electricity, gas, steam, communications, water, drainage, sewage disposal, flood control, irrigation or refuse disposal, owned and operated by any person, firm, corporation, municipal department or board duly authorized by state or municipal regulations. "Public utilities", as used herein, may also refer to such persons, firms, corporation, departments or boards, as the context indicates.

**STREET:** Any existing or proposed street, avenue, boulevard, road, lane, parkway, place, bridge, viaduct or easement for public vehicular access; or, a street shown in a plat heretofore approved pursuant to law; or, a street in a plat duly filed and recorded in the

~~county recorder's office. A street includes all land within the street right of way, whether improved or unimproved, and includes such improvements as pavement, shoulder, curbs, gutters, sidewalks, parking space, bridges, viaducts, lawns and trees.~~

~~A. Alley: A public way providing secondary vehicular access and service to properties which also abut a street.~~

~~B. Arterial And Minor Arterial Streets: A general term describing large major streets, including freeways, expressways and interstate roadways, and state and/or county highways having city and regional continuity.~~

~~C. Collector Residential And Local Residential Streets: City streets serving the primary function of providing access to abutting property:~~

~~1. Cul-De-Sac Street: A short collector residential and local residential street having one end permanently terminating in and including a vehicular turning area.~~

~~2. Marginal Access Street: A collector residential and local residential street parallel to and abutting an arterial street which provides access to abutting property, intercepts other collector residential and local residential streets, and controls access to the arterial street.~~

~~D. Collector Street: A street generally with limited continuity serving the primary function of moving traffic between arterial streets and local residential streets, and the secondary function of providing access to abutting properties.~~

~~E. Private Street: A nondedicated, privately owned right of way or limited public way that affords the principal means of emergency and limited vehicular access and connection from the public street system to properties created through the division or subdivision of land.~~

~~F. Public Street: A dedicated public right of way that is part of the public street system and which affords the principal means of emergency and general vehicular access to abutting property.~~

~~G. Street Line: A line describing the limits of a street right of way.~~

~~SUBDIVIDER: The person, firm, corporation, partnership, association, syndicate, trust, or other legal entity that files application and initiates proceedings for the subdivision of land in accordance with the provisions of this chapter; provided, that an individual serving as agent for such legal entity shall not be deemed the subdivider.~~

~~SUBDIVISION: As defined in the Nevada Revised Statutes.~~

~~SUBDIVISION REVIEW COMMITTEE: A committee consisting of the city engineer, city planner, public works director, fire chief or fire marshal, and planning commission chair or vice chair formed for the purpose of conducting a subdivision preapplication (stage I) review prior to preliminary plat submittal. (Ord. 739, 8-9-2011)~~

~~3-3-3: OUTLINE OF PROCEDURES:~~

~~The preparation, submission, review and official action concerning all subdivision plats located within the city shall proceed through the following progressive stages:~~

~~A. Stage I - preapplication (conference) stage;~~

~~B. Stage II - preliminary plat stage;~~

~~C. Stage III - final plat stage. (Ord. 548, 11-28-2000)~~

### ~~3-3-4: PREAPPLICATION (CONFERENCE) STAGE (STAGE I):~~

~~The preapplication stage of subdivision planning comprises an investigatory period preceding actual preparation of the preliminary plat by the subdivider. During this stage, the subdivider shall make known his intentions to the subdivision review committee and be advised of specific public objectives related to the subject tract and other details regarding platting procedures and requirements. During this stage, it shall be determined whether a change in zoning will be required for the subject tract or any part thereof, and, if such change is required, the subdivider shall initiate the necessary application for zoning amendment in conjunction with submission of the preliminary plat. In carrying out the purposes of the preapplication stage, the subdivider and the subdivision review committee shall be responsible for the following sections:~~

~~A. Actions By Subdivider: The subdivider shall meet with the subdivision review committee and present a general outline of his proposal, including, but not limited to:~~

~~1. Sketch plans and ideas regarding land use, street and lot arrangement, and tentative lot sizes.~~

~~2. Tentative proposals regarding water supply, sewage disposal, storm drainage and street improvements, and any additional information required by this code and the subdivision review committee.~~

~~B. Actions By Subdivision Review Committee: The subdivision review committee may advise the subdivider of procedural steps, design and improvement standards, and general plat requirements. The subdivision review committee may then proceed with the following investigations, and report its recommendations in writing to the subdivider, planning commission and city council:~~

~~1. Check existing zoning of the tract and of abutting properties, and determine whether a zoning amendment is necessary or desirable.~~

~~2. Examine the adequacy of parks and other public facilities.~~

~~3. Determine the relationship of the site to major streets, utility systems and adjacent land uses, and determine whether there are any potential problems related to topography, utilities, drainage or flooding.~~

~~4. Determine whether a development master plan shall be prepared and approved prior to preparation and consideration of a preliminary plat.~~

~~C. Development Master Plan: Whenever, in the opinion of the planning commission, the proposed subdivision is sufficiently large to comprise a major part of a future neighborhood, or, the tract initially proposed for platting is only a part of a larger land area the development of which is complicated by unusual topographic, utility, land use, land ownership problems or other conditions, the subdivider shall be required to prepare a development master plan for the larger area which must be submitted to the commission for approval and must be filed with the city engineer at least fifteen (15) days prior to the meeting date at which the commission will be reviewing the plan.~~

~~1. Preparation: The plan shall be prepared on a sheet twenty four inches by thirty six inches (24" x 36"), shall be accurate commensurate with its purpose, and shall include:~~

~~a. General street pattern with particular attention to the location and general alignment of collector streets and to convenient circulation throughout the neighborhood.~~

~~b. General location and size of school, park and other public facility sites.~~

~~c. Location of shopping center, multi-family residential and other proposed land uses.~~

~~d. Methods proposed for sewage disposal, water supply and storm drainage.~~

~~2. Approval: When the plan has been approved by the planning commission, it shall constitute the general design approach to be followed in the preparation of all preliminary plats within its limits. If development is proposed to take place in several stages, the plan shall be submitted as supporting data for each preliminary plat. The plan shall be kept up to date by the subdivider as modifications occur or become necessary. (Ord. 624, 10-26-2004)~~

### **~~3-3-5: PRELIMINARY PLAT STAGE (STAGE II):~~**

~~The preliminary plat stage includes preparation, submission, review and planning commission action on the preliminary plat. Processing of the preliminary plat will be expedited by submission of all information essential to determining the intended character and general acceptability of the proposal.~~

~~A. Zoning Amendments: The preliminary plat shall be designed to meet the specific requirements of the zoning district in which it is located; however, in the event that an amendment of zoning is necessary, an application for such amendment shall be submitted and processed in conjunction with the preliminary plat. The planning commission shall not proceed with processing of the plat unless and until said application is submitted. The application for zoning amendment should be heard by the planning commission at the same meeting as the preliminary plat, but shall be acted upon separately. When a preliminary plat constitutes only one unit of a larger development intended for progressive platting, zoning amendment shall usually be limited to the area contained in and abutting the initial plat. In any event, any required zoning amendment~~

~~shall have been approved by the planning commission prior to the preliminary plat approval. Zoning amendments must conform with the master plan, adopted by the planning commission and city council.~~

~~B. Sanitary Sewerage, Water Supply, Storm Drainage And Garbage Disposal: As a prerequisite of preliminary plat review by the planning commission, the subdivider shall have informed the commission, health department and the city engineer of the tentative plans and shall provide adequate information to determine the general requirements for sewage disposal, water supply, storm drainage, garbage disposal and other public utilities as applied to the subject tract.~~

**C. Preliminary Plat Submission:**

- ~~1. Documents; Scheduling: Eighteen (18) copies of the preliminary plat and any required supporting data, prepared in accordance with the requirements of this chapter, shall be filed with the planning department at least twenty one (21) days prior to the planning commission meeting at which the subdivider desires to be heard. Scheduling of the case for planning commission hearing shall be dependent upon submission of adequate data and completion of processing. If additional copies of the submittal are needed for proper review of the proposal, they shall be furnished by the subdivider.~~
- ~~2. Submittal To Be Checked: The submittal shall be checked by the subdivision review committee for completeness, and, if it meets with all requirements of section 3-3-7 of this chapter, it shall be assigned a file number; if incomplete, it shall be rejected and the subdivider notified as to its deficiencies.~~
- ~~3. Filing Fee: The subdivider shall, at the time of filing, pay to the city a filing fee based upon the number of lots in the plat. If preliminary approval subsequently expires prior to application for final approval, the plat shall be resubmitted for preliminary approval as a new case, and the subdivider shall pay the required fee in accordance with the adopted schedule. The filing fee shall be set by resolution by the city council.~~

**D. Preliminary Plat Review:**

- ~~1. Copy Distribution: The subdivider shall provide additional copies of the preliminary plat to the city for distribution to:
  - ~~a. The city engineer;~~
  - ~~b. School district superintendent, board of trustees of Elko County;~~
  - ~~c. Utility companies;~~
  - ~~d. Division of water resources, department of conservation and natural resources;~~
  - ~~e. Division of environmental protection, department of conservation and natural resources; and~~
  - ~~f. Health department, department of human resources.~~~~



- ~~2. Commission Shall Review: The planning commission shall review the preliminary plat submitted for compliance with the provisions of this chapter and the zoning requirements, and shall consult with and seek the advice of appropriate city departments and agencies on any matters of design or improvement. It shall be the responsibility of the subdivider to provide any necessary data.~~
- ~~3. Public Hearing Required: In reviewing and considering preliminary plats, the planning commission shall first hold a public hearing prior to taking any action on a preliminary plat. Upon the filing of an application for preliminary plat, the city staff shall set the matter for hearing not later than forty five (45) days thereafter. After the time and place have been established by the city staff, notice of the hearing shall be sent by mail at least ten (10) days before the hearing to all property owners adjoining or adjacent to the area proposed to be subdivided as shown by the latest assessment rolls of the city. Notice by mail to the last known address of the real property owners as shown by the assessor's records shall be sufficient. Legal notice shall be placed in a newspaper of general circulation within the city at least ten (10) days prior to the date of the public hearing.~~
- ~~4. Modifications: In the event the planning commission requires modifications of the plat as submitted, the commission shall so inform the subdivider and may provide him advice in overcoming deficiencies prior to the commission hearing. A recommendation for modification or change may be sufficiently important to warrant postponement of the commission hearing until the matter has been resolved with the subdivider.~~

#### **E. Preliminary Plat Approval:**

- ~~1. The planning commission shall consider the preliminary plat within forty five (45) days after the plat has been filed. The commission shall report to the city council within thirty (30) days after review of the preliminary plat. The report shall approve or disapprove the map or maps of the subdivision. If conditionally approved or disapproved, the report shall state the conditions under which the map would have been approved or that approval was withheld because the land proposed to be subdivided was not suitable for such development. If approval is withheld, the report shall state the reasons why the land was not considered suitable. The city council shall approve or disapprove a tentative map within forty five (45) days after receipt of the planning commission's recommendations, after first holding a public hearing as set forth in subsection D3 of this section.~~
- ~~2. Before approving a tentative plat, the planning commission and city council shall make such findings as are not inconsistent with the provisions of Nevada Revised Statutes sections 278.010 through 278.630, inclusive, or local ordinances adopted pursuant thereto, including, but not limited to, findings that the subdivision:~~
  - ~~a. Will not result in undue water or air pollution. In making this determination it shall consider:~~
    - ~~(1) The topography of the land and its relation to the floodplains or areas subject to flooding or water damage;~~
    - ~~(2) The nature of soils and subsoils and their ability adequately to support waste disposal;~~

~~(3) The slope of the land and its effect on effluents;~~

~~(4) The effectiveness of sewerage plans and solid waste disposal; and~~

~~(5) The applicable environmental and health laws and regulations.~~

~~b. Has sufficient water meeting applicable health standards for the reasonably foreseeable needs of the subdivision.~~

~~c. Will not cause an unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.~~

~~d. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized.~~

~~e. Will not cause unreasonable street or highway congestion or unsafe conditions with respect to use of the streets or highways existing or proposed and addresses for the new streets or highways to serve the subdivisions.~~

~~f. Is in conformance with the duly adopted master plan and zoning ordinances, except in cases of inconsistency between the two, the zoning ordinance takes precedence. No provision of this chapter shall be constructed to prevent a governing body from disapproving a tentative map if such disapproval is in the best interests of the public health, safety or welfare, and such disapproval is made by a majority vote of its members and made within the time limit provided.~~

~~g. Availability and accessibility of utilities.~~

~~h. Availability and accessibility of public services, such as schools, police and fire protection, recreation and parks.~~

~~3. If satisfied that the preliminary plat meets all requirements of this chapter, the planning commission may grant preliminary approval, whereupon the secretary shall note such approval on three (3) copies of the plat, return one copy to the subdivider, retain one copy in the permanent commission file, and give one copy to the city engineer.~~

~~4. If the plat is generally acceptable but requires minor revision, the planning commission may find conditional approval, and the required conditions and revisions shall be noted in the meeting minutes. Thereafter, at the discretion of the commission, the plat may be given preliminary approval when it has been satisfactorily revised in accordance with the commission's stated conditions.~~

~~5. If the plat is disapproved by the planning commission, any new filing of a plat for the same tract, or any part thereof, shall follow the aforesaid procedure and be subject to payment of a new filing fee. The subdivider may appeal the planning commission's decision to the governing body within fifteen (15) days. The city council may overrule any ruling of the planning commission in regard to the tentative plat.~~

~~6. Upon preliminary approval, the planning department shall notify the utility companies of such approval.~~

**F. Significance Of Preliminary Approval:** Preliminary approval constitutes authorization for a subdivider to proceed with preparation of the final plat and engineering plans. Preliminary approval is based upon the following terms:

1. Basic conditions under which preliminary approval is granted shall not be changed prior to expiration date.
2. Unless the time is extended consistent with the requirements of Nevada Revised Statutes 278.360, the subdivider shall present to the planning commission within four (4) years:
  - a. A final map, prepared in accordance with the tentative map, for the entire area for which a tentative map has been approved, or
  - b. One of a series of final maps, each covering a portion of the approved tentative map.
3. If the subdivider fails to record a final map for any portion of the tentative map within four (4) years after the date of approval of the tentative map by the city council, or within two (2) years after the date of approval by the city council of the most recently recorded final map, all proceedings concerning the subdivision are terminated.
4. The city council, after referral to the planning commission for review and comment, may grant an extension of not more than two (2) years for the presentation of the next final map in a series of final maps covering a portion of the approved tentative map after the two (2) year period for presenting the entire final map or next successive final map has expired.
5. Preliminary approval does not constitute an authorization to proceed with site improvements prior to approval by the city engineer of engineering plans.

**G. Expiration Of Preliminary Approval:** If preliminary approval expires prior to filing of a request for an extension or the time given in an extension expires, the preliminary plat, if resubmitted, shall be processed as a new case, and a new fee paid. If planning commission review of a resubmitted plat reveals no significant change from the previously approved preliminary plat and conditions under which previous approval was granted have not changed, the filing fee shall be as set by the city council and the resubmitted plat scheduled for hearing by the commission at its first regular scheduled meeting thereafter. (Ord. 785, 7-8-2014)

### **3-3-6: FINAL PLAT STAGE (STAGE III):**

The final plat stage includes the final design and engineering of the subdivision, and the preparation, submission, review and action on the final plat and engineering plans.

#### **A. Presubmission Requirements:**

1. **Zoning:** The final plat shall meet all requirements of the zoning district in which located, and any necessary zoning amendments shall have been adopted by the city council prior to filing of the final plat.

- ~~2. Preparation Of Final Plat: The final plat shall conform closely to the approved preliminary plat and be prepared in accordance with the provisions of this chapter.~~
- ~~3. Easements: The final plat submittal shall include a letter signifying approval of utility easements by all public utilities involved, and shall be so indicated by an affidavit on the map.~~

**B. Final Plat Submission:**

- ~~1. The planning commission shall review the final plat for conformity with the preliminary plat and conformity with the engineer's approval of final plat and construction drawings.~~
- ~~2. The subdivider shall file with the city clerk the final plat and four (4) true copies thereof, together with the recordation fee, at least fifteen (15) days prior to the city council meeting date at which the subdivider desires to be heard.~~

**C. Final Plat Review:**

- ~~1. Upon receipt of the final plat submittal, the city clerk shall record receipt and date of filing, and transmit all copies of the final plat to the city engineer for checking the submittal for completeness. If incomplete, the filing dated shall be voided and the subdivider so notified. If complete, and if the final plat substantially conforms to the approved preliminary plat, the city engineer shall transmit copies of the submittal to the Nevada highway department, where applicable, who shall make known their recommendations in writing addressed to the city engineer.~~
- ~~2. The city engineer shall assemble the recommendations of the various reviewing offices, including the planning commission findings and recommendations, and submit same to the city council.~~
- ~~3. In the event that the city engineer finds that the final plat does not substantially conform to the approved preliminary plat, as approved by the planning commission, then the final plat shall be submitted to the commission for review and recommendations prior to consideration by the city council.~~

**D. Final Plat Approval And Recordation:**

- ~~1. Upon notification from the city engineer that the plat is in order, the city clerk shall place the case on the agenda of the next regular meeting, at which time the city council shall approve or deny the plat.~~
- ~~2. If the city council denies approval of the plat for any reason whatever, such reasons shall be recorded in the minutes and the subdivider so notified. If the city council gives final approval of the plat, the city clerk shall transcribe upon the plat a certificate of approval signed by the mayor and the city clerk, first making sure that all other required certifications have been duly signed, and that engineering plans have been approved by the city engineer.~~

- ~~3. The subdivider shall then cause signed prints of the plat to be provided to the city engineer, the county recorder, the county assessor and the planning commission, all at the expense of the subdivider.~~
- ~~4. The subdivider shall then record the plat in the county recorder's office and pay the recordation fee. (Ord. 548, 11-28-2000)~~

### **3-3-7: INFORMATION REQUIRED FOR PRELIMINARY PLAT SUBMISSION:**

~~A. Form And Scale: Preliminary plat information hereinafter required shall be shown graphically on one or more plan sheets with written data either entered directly thereon or attached thereto. All mapped data for the same plat shall be drawn at the same standard engineering scale, such scale having not more than one hundred feet (100') to the inch. Whenever practicable, the plan scale shall be selected to produce an overall sheet measuring twenty four inches by thirty six inches (24" x 36").~~

#### **B. Identification Data:**

- ~~1. Proposed subdivision name, location and section, township and range; reference by dimension and bearing to a section corner or quarter-section corner.~~
- ~~2. Name, address and phone number of subdivider(s).~~
- ~~3. Name, address and phone number of engineer or surveyor preparing plat, together with the registration number issued to such engineer or surveyor by the Nevada registering board.~~
- ~~4. Scale, north point and date of preparation, including dates of any subsequent revisions.~~
- ~~5. A small scale location map showing the relationship of the tract to existing community facilities which serve or influence it, including: arterial streets, railroads, shopping centers, parks and playgrounds, and churches.~~
- ~~6. Legal description defining the boundaries of the subdivision.~~

#### **C. Existing Conditions Data:**

- ~~1. Topography by two foot (2') contour intervals related to the city current coordinate system shown on the same map as the proposed subdivision layout. Topographic data shall be adequate to show the character and drainage of the land.~~
- ~~2. Location of water wells, streams, private ditches, washes and other water features, including direction of flow; location and extent of areas subject to frequent periodic or occasional inundation.~~
- ~~3. The location of designated flood zones and/or special flood hazard areas.~~
- ~~4. Within or adjacent to the tract, the location, widths and names of all platted streets, railroads, utility rights of way of public record, public areas, permanent structures to remain, and municipal corporation lines.~~

~~5. Name, book and page numbers of all recorded plats abutting the tract or across a boundary street from the tract.~~

~~6. Existing zoning classification of the tract and adjacent properties.~~

~~7. Dimensions of all tract boundaries; gross and net acreage of tract.~~

**D. Proposed Conditions Data:**

~~1. Street layout, including location and width of streets, alleys, pedestrianways and easements, including connections to adjoining platted subdivisions and through unsubdivided tracts, proposed names of all streets and approximate grade of all rights of way. A traffic impact analysis may be required where additional traffic in the area may exceed city roadway capacities and warrant traffic signal improvements, additional travel lanes or impact state highways.~~

~~2. Lot layout, including dimensions of typical lots; and the dimensions of all corner lots and lots on street curves; each lot numbered consecutively; total number of lots.~~

~~3. Location, width and proposed use of easements.~~

~~4. Location, extent and proposed use of all land to be dedicated or reserved for public use, including school sites or parks.~~

~~5. Location and boundary of all proposed zoning districts.~~

~~6. Draft of proposed deed restrictions.~~

~~7. The subdivider and/or subdivision engineer shall provide a preliminary or conceptual grading plan; including conceptual depiction of areas proposed for cut and fill; estimated quality of material to be graded; estimated finished grades adequate to establish general grading trend; proposed methods of erosion control; general location and specifications of any manufactured (cut or fill) slopes.~~

~~8. The subdivider shall comply with all applicable provisions of the city national pollutant discharge elimination system general permit for discharges from small municipal separate storm sewer systems, permit no. NV040000.~~

**E. Proposed Utility Methods:**

~~1. Sewage Disposal: It shall be the responsibility of the subdivider to furnish information as to design for sewage disposal connecting to the city system.~~

~~2. Water Supply: Evidence of adequate volume and quality satisfactory to the city engineer from the city system.~~

~~3. Storm Drainage: Preliminary drainage calculations and layout of proposed storm drainage system, including locations of outlets, shall be submitted. Storm drainage shall comply with the city of NPDES permit requirements and current regulations.~~

~~4. Telephone, Power, Gas, Television: Design and location shall be shown.~~

~~5. Will Serve Letters: The engineering department shall provide a water, sewer and solid waste disposal "will serve" letter to the applicable state agencies. (Ord. 624, 10-26-2004)~~

### ~~3-3-8: INFORMATION REQUIRED FOR FINAL PLAT SUBMISSION:~~

~~A. Form And Content: The final map shall be clearly and legibly drawn with black, waterproof India ink upon good tracing cloth or Mylar, including affidavits, certificates and acknowledgments. Each sheet shall be twenty four inches by thirty six inches (24" x 36") in size. A marginal line shall be drawn completely around each sheet showing an entirely black margin of one inch (1") at bottom, top and right edge, and two inches (2") on the left edge on the twenty four inch (24") dimension. The scale of the map shall be not less than one inch equals one hundred feet (1" = 100'). The particular number of the sheet and the total number of sheets comprising the map shall be so stated on each of the sheets and the number in relation to each adjoining sheet shall be clearly shown. The title sheet shall contain the location of the property being divided with references to maps which have been previously recorded or by reference to the plat of the United States survey. Copies of the final plat shall be reproduced in the form of blue line or black line prints on the white background.~~

#### ~~B. Identification Data:~~

- ~~1. Name of subdivision and location by section, township, range and county.~~
- ~~2. Name, address and registration number of the registered land surveyor preparing the plat. The land surveyor preparing the plat must be registered in the state of Nevada.~~
- ~~3. Scale, north point and date of plat preparation.~~

#### ~~C. Survey Data (Required):~~

- ~~1. Boundaries of the tract fully balanced and closed, showing all bearings and distances, determined by an accurate survey in the field; all dimensions expressed in feet and decimals thereof.~~
- ~~2. Any exceptions within the plat boundaries located by bearings and distances expressed in feet and decimals thereof, determined by an accurate survey in the field.~~
- ~~3. Location and description of cardinal points to which all dimensions, angles, bearings and similar data on the plat shall be referenced; the subdivision traverse shall be tied by course and distance to a section corner or quarter-section corners.~~
- ~~4. Location and description of all physical encroachments upon the boundaries of the tract.~~

#### ~~D. Descriptive Data:~~

- ~~1. Name, right of way lines, courses, lengths and widths of all streets, alleys, pedestrianways and utility easements; radii, points of tangency and central angles of all curvilinear streets and alleys; radii of all rounded street line intersections.~~



- ~~2. All drainageways, designated as such.~~
- ~~3. All utility and public service easements, including designation whether for public access or utilities.~~
- ~~4. Location and dimensions of all lots, parcels and exceptions.~~
- ~~5. All residential lots shall be numbered consecutively throughout blocks.~~
- ~~6. Location, dimensions, bearings, radii, arcs, and central angles of boundaries of all sites to be dedicated to the public, including designation of proposed use.~~
- ~~7. Location of all adjoining subdivisions with name, date, book and page number of recordation noted, or if unrecorded, so noted, along with names of adjoining landowners of unsubdivided property.~~
- ~~8. Any private deed restrictions to be imposed upon the plat, or any part hereof, written on or attached to the plat and each copy thereof.~~

**E. Dedication And Acknowledgment:**

- ~~1. Statement of dedication of all streets, alleys, pedestrianways, and easements for public purposes by the person holding title of record, by persons holding title as vendees under land contract, and by wives of such persons. If lands to be dedicated are mortgaged, the mortgagee shall also sign the plat. Dedication shall include a written description by section, township and range of the tract. If the plat contains private streets, public utilities shall be reserved the right to install and maintain utilities in such street rights of way.~~
- ~~2. Execution of dedication acknowledged and certified by a notary public.~~

**F. Additional Information:**

- ~~1. Where the centerline has been established for any street, highway, alley or public way within an adjoining subdivision, all monuments along said street, highway, alley or public way within the proposed subdivision shall be located with reference to that centerline which shall be shown on the map.~~
- ~~2. The centerline of each highway, street, alley or way within the proposed subdivision and width on each side of the centerline, and showing the width to be dedicated and there shall be designated on all centerlines the bearing thereof and length of each radius, central angle and length of each curve within the proposed subdivision.~~
- ~~3. The location of monuments or other evidence formed upon the ground and used in determining the boundaries of the subdivision. If other subdivisions adjoin, the map shall show sufficient corners of such adjoining subdivisions, sufficiently identified to locate precisely the limits of the proposed subdivision.~~
- ~~4. The length and bearing of each block line, lot line and boundary line; the length, radius and central angle of each curve or the length of curve and that portion of the central~~

~~angle lying within each lot. Such data shall be shown in a manner satisfactory to the city engineer.~~

- ~~5. Each city boundary line crossing or adjoining the subdivision with adequate ties to monuments set or found within the subdivision.~~
- ~~6. Section lines, one-quarter ( $1/4$ ) section lines and one-sixteenth ( $1/16$ ) section lines crossing or adjoining the subdivision boundaries.~~

**G. City Engineer To Check:**

- ~~1. The city engineer shall check said final map as to accuracy of dimensions, the placing of monuments, the establishment of survey records shown on said map, and the conformance of said map with the preliminary map. The final map shall be accompanied by:~~

~~a. A worksheet showing the closure of the exterior boundaries of the proposed subdivision and of the closure of lots and blocks therein;~~

~~b. A complete set of construction plans are required by the city engineer showing typical street sections, centerline and curb grades, sanitary sewer and storm drain locations and invert grades and elevations. The construction drawings must be stamped and dated by a civil engineer registered in the state;~~

~~c. Construction plans for manholes, catch basins and other appurtenant structure;~~  
and

~~d. An estimate of quantities required to complete the improvements.~~

- ~~2. The minimum allowable error of closure shall be one-ten thousandth ( $1/10,000$ ). Temperature and tension correction shall be applied to all measured distances in conformance with the standard adopted by the federal board of surveys and maps in May, 1925.~~

**H. Required Certifications: The following certifications shall appear on the final map:**

- ~~1. A certificate signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and recordation of the map. A lien for state, county, municipal or local taxes and for special assessments or beneficial interest under trust deeds or trust interests under bond indentures shall not be deemed to be an interest in land for the purpose of this section. Any map including territory originally patented by the United States or the state, under patent reserving interest to either or both of the entities, may be recorded under the provisions of Nevada Revised Statutes sections 278.010 through 278.730 inclusive, without the consent of the United States or the state thereto, or to dedications made thereon. Signatures required by this section of parties owning rights of way, easements or reversions which, by reason of changed conditions, long disuse or laches appear to be no longer of practical use or value, and which signatures it is impossible or impracticable to obtain, may be omitted if the names of such parties and the nature of their interest is endorsed on the map, together with a reasonable statement of the circumstances preventing the procurement of such signatures.~~

- ~~2. A certificate, signed and acknowledged as above, offering for dedication for certain specified public uses (subject to such reservations as may be contained in any such offer of dedication) those certain parcels of land which the parties desire so to dedicate. The certificate may state that any certain parcel or parcels are not offered for dedication; but a local ordinance may require as a condition precedent to the approval of any final map that any or all of the parcels of land shown thereon and intended for any public use shall be offered for dedication for public use, except those parcels other than streets intended for the exclusive use of the lot owners in such subdivision, their licensees, visitors, tenants and servants.~~
- ~~3. A certificate for execution by the clerk of each approving governing body stating that the body approved the map and accepted or rejected on behalf of the public any parcels of land offered for dedication for public use in conformity with the terms of the offer of dedication.~~
- ~~4. A certificate signed and acknowledged by all parties having any record title in the land subdivided, evidencing their grant of permanent easements for utility installations and access, as designated on the map, together with a statement approving such easements, signed by each public utility company or agency in whose favor the easements are created or whose utility services are to be required for the platted parcels.~~
- ~~5. A certificate by the engineer or surveyor responsible for the survey and final map, which certificate must be in the following form:~~

***SURVEYOR'S CERTIFICATE***

~~— I (name of surveyor), a registered land surveyor in the state of Nevada, certify that:~~

- ~~— 1. This is a true and accurate representation of the lands surveyed under my supervision at the instance of (owner, trustee, etc.);~~
- ~~— 2. The lands surveyed lie within (sections, township, range, meridian, and, if required by the governing body, a description by metes and bounds for any subdivision which is divided into lots containing 5 acres in area or less) and the survey was completed on (date);~~
- ~~— 3. This plat complies with the applicable state statutes and any local ordinances;~~
- ~~— 4. The monuments are of the character shown and occupy the positions indicated by (a day certain) and that an appropriate performance bond has been or will be posted with the governing body to assure their installation.~~

~~— (date, name of surveyor, registration number and seal)~~

- ~~6. A certificate by the city engineer or city surveyor stating that he has examined the final map, that the subdivision as shown thereon is substantially the same as it appeared on the tentative map, and any approved alterations thereof, that all provisions of Nevada Revised Statutes sections 270.010 through 278.630, inclusive, and of any local ordinance applicable at the time of approval of the tentative map have been complied with, and that he is satisfied that the map is technically correct and that the monuments as shown are of the character and occupy the positions indicated or that the~~

~~monuments have not been set and that a proper performance bond has been deposited guaranteeing their setting on or before a day certain. The certificate shall be dated and signed and certified by a registered land surveyor or a registered civil engineer.~~

**7. A certificate by the state health division reading:**

~~—This final map is approved by the health division of the department of human resources concerning sewage disposal, water pollution, water quality and water supply facilities in accordance with the Nevada Revised Statutes. This approval predicates (community, individual) water supply and (community, individual) sewage disposal.~~

**8. A copy of the review by the state engineer required by subsection H7 of this section shall be furnished to the subdivider who in turn shall provide a copy of such review to each purchaser of land prior to the time the sale is completed. No statement of approval or review as required in subsection H7 of this section is a warranty or representation in favor of any person as to the safety or quantity of such water.**

**9. The final subdivision map shall contain the following certificate:**

~~—Division of Water Resource Certificate: This final map is approved by the division of water resources of the department of conservation and natural resources concerning water quantity subject to the review of approval on file in this office.~~

**10. The city council shall not approve any final map for a subdivision served by the city water system unless the subdivider has submitted plans which provide for the installation of water meters or other devices which will measure water delivered to each water user in the subdivision. (Ord. 624, 10-26-2004)**

**3-3-20: GENERAL PROVISIONS FOR SUBDIVISION DESIGN:**

**A. Conformance With Master Plan:** Every subdivision shall conform to requirements and objectives of the city master plan, to the city zoning ordinance, to other ordinances and regulations of the city and to the statutes of the state, except as otherwise provided in this chapter.

**B. Provision Of Public Facility Sites:** Whenever the statutes of the state permit the dedication of school sites or parks, the city council may require the subdivider to dedicate such sites.

**C. Land Unsuitability:** No land shall be subdivided which is determined by the planning commission to be unsuitable for use by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, erosion susceptibility or similar conditions which are likely to prove harmful to the health, safety and general welfare of the community or the future property owners. The planning commission, in applying the provisions of this section, shall state the particular facts upon which its conclusions are based, and shall also define the conditions under which the land may, in its opinion, become suitable for the proposed development. Land located within any floodway as designated on the city flood insurance rate maps shall be deemed unsuitable for development by local, state and federal regulation. Any subdivider proposing development of such land shall have the right to present evidence to the city

~~council contesting such determination of unsuitability, whereupon the city council may affirm, modify or withdraw the restriction. (Ord. 768, 1-22-2013)~~

### **3-3-21: STREET LOCATION AND ARRANGEMENT:**

- A. Conformance With Plan:** ~~Whenever a tract to be subdivided embraces part of a street designated in a city official street and highway plan, such street shall be platted in conformance therewith.~~
- B. Layout:** ~~Street layout shall provide for the continuation of such streets as the planning commission may designate.~~
- C. Neighborhood Plan:** ~~Whenever the tract is located within an area for which a neighborhood plan has been approved by the planning commission, the street arrangement shall conform to such plan.~~
- D. Extensions:** ~~Certain proposed streets, as designated by the planning commission, shall be extended to the tract boundary to provide future connection with adjoining unplatted lands. Such extensions shall generally not be farther apart than the maximum permitted length of a block, as hereinafter provided.~~
- E. Arrangement Of Residential Streets:** ~~Residential streets shall be so arranged as to discourage their use by traffic originating outside the immediate neighborhood.~~
- F. Protection Of Residential Properties:** ~~Lots intended for single-family residential use shall not normally front or have access from arterial streets. Where a proposed subdivision abuts an existing or proposed arterial street, the planning commission may require marginal access streets or reverse property frontage with nonaccess easements abutting the arterial street, or such other treatment as may be justified for protection of residential properties from the nuisance and hazard of high volume traffic, and for protection of the traffic function of the arterial street.~~
- G. Parallel Streets:** ~~Where a residential subdivision abuts the right of way of a railroad, a limited access highway, or a commercial or industrial land use, the planning commission may require location of a street approximately parallel to such right of way or use at a distance being determined with due regard for approach grades, drainage, bridges and future grade separation.~~
- H. Topography:** ~~Streets shall be so arranged in relation to topography as to produce desirable lots or maximum utility and streets of reasonable gradient, and to facilitate adequate surface drainage.~~
- I. Alleys:** ~~Where alleys are platted, their alignment and arrangement shall be such as to minimize backtracking and single tier service by trash collection forces and to avoid the facing of residences directly into alley openings.~~
- J. Half Streets:** ~~Half streets shall be prohibited unless approved by the planning commission, and conditions which will be considered for approval are: where necessary to provide right of way indicated on the official street and highway plan, to complete a street pattern already begun, or to ensure reasonable development of an adjoining unplatted parcel.~~

~~Where a platted half street exists abutting to residential lots, the remaining half street shall be platted within the tract.~~

~~K. Dead End Streets: Dead end streets in excess of six hundred eighty feet (680') in length shall be prohibited unless a modification is granted by the planning commission in locations designated by the commission as necessary for future street connection to adjacent unplatted lands. This shall include cul-de-sacs.~~

~~L. Intersection Design: Whenever any street or highway is proposed requiring a separation of grades or requiring any special form of intersection design at its intersection with any street, highway or railway, the subdivision shall be so designed to conform to any plan adopted by the city for the intersection design and all lots within the subdivision shall, when necessary, be provided with suitable access from another public way. Any street or highway intersecting with other street or highway shall intersect it at any angle as nearly a right angle as shall be practicable. (Ord. 548, 11-28-2000)~~

### **3-3-22: STREET DESIGN:**

#### **A. Required Right Of Way Widths:**

~~1. Arterial Streets: One hundred feet (100').~~

~~2. Minor Arterial Streets: Eighty feet (80').~~

~~3. Collector Streets: Seventy feet (70').~~

~~4. Collector Residential Streets: Sixty feet (60').~~

~~5. Local Residential Streets: Fifty feet (50').~~

~~6. Collector Rural Residential Streets: Seventy feet (70').~~

~~7. Local Rural Residential Streets: Sixty feet (60').~~

~~8. Hillside Rural Residential Streets: Sixty feet (60').~~

~~9. Rural Streets And Roads: All rural streets and roads shall conform with the following provisions:~~

~~a. All rural road standards shall include a minimum ten foot (10') wide public utility easement and slope easement on one or both sides of the street right of way. The city engineer shall have the ability to increase the width of the easement in special circumstances and when warranted.~~

~~b. Rural roads which are projected by traffic study or analysis to serve more than six hundred (600) average daily vehicle trips shall utilize the collector rural residential street design standard.~~

~~c. Sidewalks or pathways associated with rural roads may be constructed of concrete cement, asphalt or comparable material subject to the approval of the city engineer.~~

~~d. On street parking on rural roads shall be prohibited except for temporary/emergency purposes and shall be appropriately signed.~~

~~e. To minimize excessive culvert installation and associated maintenance, access approaches for rural roads shall be limited to one driveway, not to exceed thirty feet (30') in width or two (2) separated driveways, each of which is not to exceed twenty feet (20') in width.~~

**10. Private Streets:** Development and use of private streets is limited to local type streets with a local street classification, function and characteristics. Private streets are intended to serve self-contained projects, and shall access the public street system at an intersection subject to the review and approval of the city engineer. All private streets shall conform with the following provisions:

~~a. Minimum total width for private streets: Fifty feet (50').~~

~~b. Minimum total width for private streets accessing four (4) or fewer lots: Thirty two feet (32').~~

~~c. Minimum paved section for private streets: Forty feet (40').~~

~~d. Minimum paved section for private streets accessing four (4) or fewer lots: Twenty six feet (26').~~

~~e. All residential private streets accessing twenty (20) or fewer lots shall have a four foot (4') wide sidewalk on at least one side of the street.~~

~~f. All residential private streets accessing more than twenty (20) lots shall have a four foot (4') wide sidewalk on both sides of the street.~~

~~g. All commercial and industrial private streets accessing four (4) or fewer lots shall have a five foot (5') wide sidewalk on at least one side of the street, or as otherwise determined as part of an approved concept development plan.~~

~~h. All commercial and industrial private streets accessing more than four (4) lots shall have a five foot (5') wide sidewalk on both sides of the street, or as otherwise determined as part of an approved concept development plan.~~

~~i. All private streets shall provide for adequate storm drainage and employ use of curb and gutter sections to convey runoff subject to the review and approval of the city engineer.~~

~~j. Parking spaces, inclusive of back up area, as required by section 3-2-17 of this title, shall not be located within a private street, or as otherwise waived or determined as part of an approved concept development plan.~~

~~k. Design and construction of improvements associated with private streets shall be subject to a standard guarantee of performance to ensure completion of required improvements and a maintenance agreement to ensure that improvements are maintained to an acceptable standard over time as set forth in sections 3-3-44 and 3-3-45 of this chapter.~~



**11. Cul-De-Sacs:** ~~Cul-de-sac streets shall terminate in a circular right of way not less than fifty feet (50') in radius with an improved turning circle at least forty five feet (45') in radius. The planning commission may approve an equally convenient form of turning space where justified by unusual conditions. Maximum length of cul-de-sac streets, as measured along the centerline of the street and between the centerline of the intersecting street and the center point of the cul-de-sac, shall not exceed six hundred eighty feet (680').~~

**a. Length For Rural Roads:** ~~Maximum cul-de-sac length for rural roads may be increased in dimension to serve no more than twenty (20) residential dwelling units, but under no circumstance shall exceed a length of one thousand three hundred sixty feet (1,360').~~

**b. Marginal Access Streets:** ~~As required by adopted current city standards.~~

**12. Alleys:** ~~Where permitted or required, twenty feet (20') where there is residential property on both sides, and twenty feet (20') where abutting commercial or industrial property.~~

**a. Alley intersections and sharp changes in alignment shall be avoided, but, where necessary, corners shall be cut off ten feet (10') on each side to permit safe vehicular movement.**

**b. Dead-end alleys shall be prohibited.**

**c. "Half" alleys shall be prohibited.**

**13. Dead End Streets:** ~~Where permitted, a dead end street shall provide by easements, a temporary turning circle with a fifty foot (50') radius or other approved and acceptable design to accomplish the same purpose.~~

**14. All Streets:** ~~The design and construction of all streets, including private streets, within the city shall conform to the public improvement standards established by the city engineer and approved by the city council as set forth in section 3-3-40 of this chapter.~~

**15. Fire Code:** ~~All streets shall conform to current adopted fire codes.~~

## **B. Street Grades:**

### **1. Maximum Grades:**

**a. Arterial and minor arterial streets:** ~~As determined by the city engineer.~~

**b. Collector streets:** ~~Seven percent (7%).~~

**c. Collector residential and local residential streets:** ~~Nine percent (9%).~~

**2. Minimum Grades:** ~~Asphalt streets with concrete gutters shall have a minimum longitudinal slope of 0.50%.~~

- ~~3. Exceptions: Where rigid adherence to these standards causes unreasonable or unwarranted hardship in design or cost without commensurate public benefit, exceptions may be made by the planning commission.~~

**C. Vertical Curves:**

- ~~1. Arterial and minor arterial streets: As determined by the city engineer.~~
- ~~2. Collection and local streets: Minimum length, one hundred feet (100').~~

**D. Horizontal Alignment:**

- ~~1. Arterial and minor arterial streets shall be as determined by the city engineer.~~
- ~~2. When tangent centerlines deflect from each other by more than ten degrees (10°) and less than ninety degrees (90°), they shall be connected by a curve having a minimum centerline radius of two hundred feet (200') for collector streets, or one hundred feet (100') for collector residential and local residential streets.~~
- ~~3. Between reverse curves, there shall be a tangent section of centerline not less than one hundred feet (100') long.~~
- ~~4. Streets intersecting an arterial street shall do so at a ninety degree (90°) angle. Intersecting collector streets, collector residential streets and local residential streets shall typically intersect at ninety degree (90°) angles, but in no case at less than seventy five degree (75°) angles.~~
- ~~5. Street jogs shall be avoided, except where justified by unusual existing conditions, and approved by the city engineer.~~
- ~~6. Local residential streets or collector residential streets intersecting a collector street or arterial street shall have a tangent section of centerline at least one hundred fifty feet (150') in length measured from the right of way line of the more major street, except that no such tangent shall be required when the local residential or collector residential street curve has a centerline radius greater than four hundred feet (400') measured from a center located on the more major street right of way line.~~
- ~~7. Street intersections with more than four (4) legs, and Y-type intersections with legs meeting at acute angles, shall be prohibited.~~
- ~~8. Intersections of street lines shall be rounded by a circular arc having a minimum tangent length of fifteen feet (15'). (Ord. 624, 10-26-2004)~~

**3-3-23: BLOCK DESIGN:**

- ~~A. Maximum Length Of Blocks: Within the following maximums, blocks shall be as long as reasonably possible, in order to achieve all possible street economy and to reduce the expense and safety hazard arising from excessive street intersections. Maximum block length, measured along the centerline of the street and between intersecting street centerlines, shall not exceed one thousand three hundred sixty feet (1,360').~~

**B. Pedestrianways:** ~~Pedestrianways with a right of way width of eight feet (8') may be required where, in the opinion of the planning commission, they are essential for pedestrian circulation within the subdivision or access to schools, playgrounds or other community facilities. Pedestrianways may be used for utility purposes. (Ord. 624, 10-26-2004)~~

### **3-3-24: LOT PLANNING:**

**A. Lot Width, Depth And Area:** ~~Lot width, depth and area shall comply with requirements of the zoning requirements appropriate for the location and character of development proposed, and for the type and extent of urban street and utility improvements being installed. "Urban improvements" is interpreted to mean paved and curb streets, sidewalks, local storm drainage system, public water supply and public sanitary sewage. However, where steep topography, unusual soil conditions or drainage problems exist or prevail, the planning commission may require increased lot width, depth and/or area exceeding the minimum requirements of the particular zoning district.~~

**B. Lot Depth:** ~~Generally, lot depths shall be at least one hundred feet (100') and widths at least sixty feet (60'); provided, however, that the planning commission may allow narrower widths on cul-de-sacs.~~

**C. Building Setback:** ~~Minimum front and exterior side building setbacks shall conform to the applicable provisions of this code.~~

**D. Side Lot Lines:** ~~Side lot lines shall be substantially at right angles or radial to street lines, except where, in the opinion of the planning commission, other alignment may be justified.~~

**E. Accessibility:** ~~Every lot shall abut a public street or private street connecting with the public street system.~~

**F. Prohibitions:** ~~Double frontage lots intended for single-family residences shall be prohibited; provided, that, subject to the approval of the planning commission, such lots may be platted abutting an arterial street so long as dwellings front on local or collector streets and all access from the arterial street is prohibited. (Ord. 557, 2-13-2001)~~

### **3-3-25: EASEMENT PLANNING:**

~~Utilities shall be placed underground unless a modification is approved to permit overhead utilities by the planning commission and only where overhead utilities are determined acceptable by the commission:~~

#### **A. Utility Easements:**

- ~~1. Where alleys are platted, utility easements four feet (4') wide on each side of alley for aerial overhang shall be provided by dedication. Where alleys are not platted, utility easements six feet (6') wide on each side of rear lot lines shall be provided and delineated on the plat. In addition, guy and anchor easements shall be provided one foot (1') wide on each side of a side lot line and thirty five feet (35') in length measured from the rear lot line, in locations selected by the utility committee, or as required by the utility company.~~

- ~~2. Along side lot lines where required for distribution facilities, utility easements five feet (5') wide on each side of side lot lines; where service to street lighting is required: one foot (1') on each side of such lot lines, or as required by the utility company.~~

**~~B. Underground Utilities: Where all utilities are underground:~~**

- ~~1. Rear Lot Lines: Where alleys are platted, easements as required by serving utilities.~~
- ~~2. Side Lot Lines: All utility service lines, including gas, electric, telephone and street lighting, shall be channeled in easements four feet (4') wide on each side of the lot line separating pairs of lots, as required by the utilities for service.~~

**~~C. Lots Facing Curvilinear Streets: For lots facing on curvilinear streets, alleys and easements for overhead utilities shall usually consist of a series of straight lines with points of deflection not less than one hundred twenty feet (120') apart, such points of deflection always occurring at the junction of side and rear lot lines on the side of the exterior angle; however, curvilinear easements or alleys may be employed, providing that the minimum radii of centerlines shall be not less than eight hundred feet (800').~~**

**~~D. Public Drainage Easement: Where a stream or major surface drainage course abuts or crosses the tract, dedication of a public drainage easement which is sufficient to permit widening, deepening, relocating or protecting such drainage course shall be required. Information shall be prepared by subdivider's engineer.~~**

**~~E. Land Not Considered Minimum Lot Area: Land within a public street or drainage easement, or land within a utility easement for major power transmission lines or pipelines, shall not be considered a part of the minimum required lot area; provided, however, that this provision shall not be applicable to land included in utility easements to be used for distribution or service purposes.~~**

**~~F. Lots Backing Onto Arterial Streets: Lots arranged to back of arterial streets, railroads, canals or commercial or industrial districts, as provided in this chapter, shall have a minimum depth of one hundred ten feet (110'), the rear one foot (1') of which shall be recorded as a nonaccess private easement.~~**

**~~G. Water And Sewer Utility Lines: Municipal water and sewer utility line shall be installed within the city street right of way at all times, unless otherwise approved by the planning commission and/or city council. (Ord. 624, 10-26-2004)~~**

**3-3-26: STREET NAMING:**

~~At the preliminary plat stage, the subdivider shall propose names for all streets, which names shall be subject to be approved by the planning commission. (Ord. 226, 12-9-1975)~~

**3-3-27: STREET LIGHTING DESIGN STANDARDS:**

**~~A. Requirements: Street lighting shall be installed within any division/development of land project in accordance with the following requirements:~~**

- ~~1. The subdivider, developer or property owner is responsible for complying with the requirement to install street lighting and shall make all necessary arrangements with the utility company involved for the installation of streetlights and bear all costs~~

~~relating to the purchase and placement of streetlights. Installation of street lighting materials shall be performed by a state licensed contractor also having a city business license prior to commencing any work.~~

- ~~2. Street lighting plans are to be prepared by the utility company involved and shall be submitted by the subdivider, developer or property owner with the improvement plans to the city for review. Such plans shall show the location of each light, power source and size of luminaries in watts or lumens.~~
- ~~3. All street lighting within each construction phase shall be complete and operational prior to acceptance of subdivision public improvements or an issuance of any certificate of occupancy.~~
- ~~4. Requests for street lighting in previously developed areas must be approved by the city engineer for location and installation prior to being submitted to the utility company for design engineering.~~
- ~~5. Once the street lighting has been installed and operational, approval by the city engineer will constitute acceptance of the street lighting and the city will then be responsible for the energy costs and maintenance thereafter.~~

~~B. Design Standards: All streetlight installations shall be designed in accordance with the following minimum design standards:~~

- ~~1. All luminaries shall be a minimum of one hundred (100) watt high pressure sodium for residential areas and minimum two hundred (200) watt high pressure sodium for commercial/industrial areas or approved equal.~~
- ~~2. A streetlight shall be placed at each street intersection and shall be situated to properly illuminate the intersection.~~
- ~~3. A streetlight shall be placed at any proposed U.S. postal service gang box location.~~
- ~~4. Streetlights shall be placed between intersections at midblock locations such that a minimum spacing of three hundred fifty feet (350') and maximum of five hundred feet (500') is maintained between all lights.~~
- ~~5. A streetlight shall be placed at the end of each cul-de-sac. (Ord. 624, 10-26-2004)~~

#### ~~3-3-40: RESPONSIBILITY FOR IMPROVEMENTS:~~

~~The design, construction and financing of all required grading, sidewalks, curbs, streetlights, gutters, pavements, sanitary sewers, storm sewers, water mains, fire hydrants, drainage structures and monuments shall be the responsibility of the subdivider and shall conform to public improvement standards established by the city engineer and approved by the city council; provided, however, that the subdivider may meet such requirements by participation in an improvement district approved by the city. (Ord. 624, 10-26-2004)~~

#### ~~3-3-41: ENGINEERING PLANS:~~

~~It shall be the responsibility of the subdivider to have prepared by an engineer registered in the state, a complete set of engineering plans, satisfactory to the city engineer, for~~

~~construction of all required street and utility improvements. Such plans shall be based on and be prepared in conjunction with the final plat. Engineering plans shall have been approved by the city engineer prior to recordation of the final plat. (Ord. 226, 12-9-1975)~~

### **3-3-42: CONSTRUCTION AND INSPECTION:**

~~A. Permits Required: All improvements in the public right of way shall be constructed under the inspection and approval of the city engineer. Construction shall not be commenced until all federal, state, and local permits have been issued for such construction, and if work has been discontinued for any reason, it shall not be resumed until after notifying in advance the department having jurisdiction.~~

~~B. Underground Utilities: All underground utilities to be installed in streets shall be constructed prior to the surfacing of such streets. Service stubs to platted lots within the subdivision for underground utilities shall be placed to such length as to avoid disturbance of street improvements when service connections are made. (Ord. 624, 10-26-2004)~~

### **3-3-43: REQUIRED IMPROVEMENTS:**

~~A. Streets And Alleys: All streets and alleys within the subdivision shall be graded, drained and surfaced to cross sections, grades and standards, and profile approved by the city engineer. Where there are existing streets adjacent to the subdivision, proposed streets shall be fully improved to the intercepting paving line of such existing streets. Temporary dead end streets serving more than four (4) lots shall be provided a graded asphalt surfaced, temporary turning circle. Construct adequate permanent culverts and bridges at all points within the subdivision where watercourses are crossed by streets or alleys, said construction to be in conformity with the specifications of the city engineer for such structures, and said structures shall be constructed to the full width of the dedicated street or alley.~~

~~B. Curbs: Curbs shall be portland cement concrete. Curbs and gutters and valley gutters shall be constructed as designated by the city engineer.~~

~~C. Sidewalks: Four feet (4') wide in residential areas and five feet (5') wide in commercial zoned areas shall be constructed on both sides of streets with fifty foot (50') pavement width. In subdivisions where lots average one-half ( $\frac{1}{2}$ ) acre or more, the planning commission may waive this requirement.~~

~~D. Pedestrianways: Portland cement concrete or approved paving of walks shall be constructed to a width, line and grade approved by the city engineer. Fencing on both sides with a four foot (4'), maintenance free fence with posts set in concrete may be required.~~

~~E. Street Name Signs: Street name signs shall have been installed at all street intersections by the time the street pavement is ready for use. Design, construction, location and installation shall conform to approved city standards.~~

~~F. Storm Drainage: The design and construction of public streets and alleys, and the grading of private properties shall provide for adequate disposal of stormwaters. Existing major drainage courses shall be maintained and dedicated as public drainageways. The type, extent, location and capacity of drainage facilities shall be planned by subdivider's~~

~~engineer and approved by city engineer. Install to the grade and in the locations and to the depth and of the materials shown on plans and specifications approved by the city engineer, storm and surface water drain pipes and mains, together with catch basins and to provide discharge from the same in a manner and at a place to be approved by the city engineer.~~

**G. Sanitary Sewerage:**

- ~~1. Public sanitary sewers shall be installed in all subdivisions which are accessible to an existing or planned and programmed public sewer system, as determined by the city engineer. Sewers shall be constructed to plans, profiles, and specifications approved by the health department and city engineer. The subdivider shall install to the grade and in the locations and to the depth and of the material shown on the plans and specifications approved by the city engineer, sanitary sewer mains with connections therefrom to each lot in said subdivision, said mains to be connected to the sewer system of the city at a point to be specified by the city engineer.~~
- ~~2. Install all necessary manholes in connection with the installation of sanitary sewer mains, said manholes to be installed at the points and in the manner and according to the specifications approved by the city engineer.~~

**H. Water Supply:**

- ~~1. Each lot shall be supplied with safe, pure and potable water in sufficient volume and pressure for domestic use and fire protection, in accordance with approved city standards. The subdivider shall install to grade all water mains and lines of the materials shown on plans and specifications approved by the city engineer, connections from said mains and lines to be installed to each lot in said subdivision. Maps and plats shall show location of shutoff valves to each block and lot. All proposed water systems shall connect to the city system.~~
- ~~2. Water meter boxes and water meters shall be installed on all lots in conformance with adopted city specifications and subject to the review and approval of the city engineering department.~~

**I. Fire Hydrants:** ~~Fire hydrants shall be installed in all subdivisions in accordance with approved city standards as set by the fire department, and current adopted fire codes and standards.~~

**J. Power, Communications And Gas Utilities:** ~~Subdivision required improvements shall include electric power, natural gas, telephone and cable television. These utilities shall be installed in all subdivisions. All electric distribution facilities shall be installed underground, except in unusual situations involving short extensions of overhead facilities existing on abutting subdivisions wherein such extensions may be approved by the city council. All such underground electric distribution lines and telephone lines shall be installed in accordance with general order no. 9 as issued by the public service commission of the state.~~

**K. Survey Monuments:** ~~Permanent monuments shall be installed in accordance with approved city standards at all corners, angle points, points of curve, and at all street intersections. After all improvements have been installed, the subdivider shall have a registered land surveyor check the location of monuments and certify their accuracy.~~



~~Monuments shall be at or near boundary corners. Monuments shall be set at intermediate points of approximately one thousand feet (1,000') or at such lesser distances as may be necessary by reason of topography or culture to ensure accuracy in the reestablishment of any point or line without unreasonable difficulty. All monuments shall be permanently and visibly marked with the registration or license number of the registered land surveyor under whose supervision the survey was made, and a description of such monument shall be shown on the final map. The subdivider shall set monuments at street intersections and at the beginning and ending of each curve, unless the intersection of tangents of said centerline falls within the street right of way in which event the city engineer may permit the subdivider to establish a monument at such intersection in lieu of monuments at said beginning and end of curve.~~

- ~~L. Lot Corner Staking: Five-eighths inch ( $\frac{5}{8}$ " ) reinforcing steel shall be set at all corners, angle points and points of curve for each subdivision lot prior to final acceptance of the subdivision. The cost for lot corner staking, under the direction of a professional land surveyor, shall be included as part of the public improvements and shall be a line item on the "engineer's estimate of the costs of the public improvements".~~
- ~~M. Street Lighting: Street lighting shall be required on all streets within the subdivision as required in section 3-3-27 of this chapter and shall be placed at locations designated by the city engineer and to the specifications with respect to materials, design and construction as set forth by the city engineer. The subdivider will bear all costs relating to the purchase and placement of the streetlights; provided, however, if the city and the power company can reach an agreement whereby the city is reimbursed for costs, the city may participate in the installation of the lights.~~
- ~~N. Stormwater Discharge And Land Disturbance: All construction activities that may create a land disturbance of greater than one acre shall comply with state construction site stormwater general permit requirements and the city national pollutant discharge elimination system general permit for discharges from small municipal separate storm sewer systems. This requires developers and/or contractors to obtain a state stormwater discharge permit and city grading permit for these projects. Construction site stormwater erosion protection shall be provided on all projects. Permanent stormwater erosion measures meeting the minimum requirements of the city stormwater management plan will be enforced.~~
- ~~O. Full Frontage: Public utility construction and installation is required across the full frontage of property at time of development. (Ord. 739, 8-9-2011)~~

#### ~~3-3-44: AGREEMENT TO INSTALL IMPROVEMENTS:~~

- ~~A. Provisions Of Agreement: Prior to certification of final plat approval by the mayor, the subdivider shall have executed and filed an agreement between himself and the city providing that:~~
  - ~~1. All required subdivision improvements will be completed within a specified period of time to the satisfaction of the city. The specified period of time shall not exceed two (2) years.~~
  - ~~2. In the event that such improvements are not completed within the specified period, the city may, at their option, complete or cause to be completed such work and recover from the subdivider full cost and expenses therefor.~~

3. The subdivider/developer shall provide engineering plans for all improvements.
4. The engineering plans and all required improvements shall be approved by the city engineering department.

**B. Additional Provisions:** The aforesaid agreement may also provide for:

1. Construction of improvements in predetermined stages.
2. The testing of materials and the inspection of improvements to ensure these improvements meet the city construction standards. The cost of inspection testing and quality control shall be paid by the developer.
3. An extension of construction period under certain specified conditions.
4. Progress payments to the subdivider from any deposit which the subdivider may have made, or reduction in bonds, not exceeding ninety percent (90%) of the value of improvements completed and approved, as determined by the city engineer.

**C. Modifications, Extensions:** At the written request of the subdivider, terms, provisions and time frames associated with an executed agreement to install required subdivision improvements may be modified or extended by the city council upon demonstration of just cause pursuant to applicable policies as adopted by resolution of the city council. The subdivider shall, at the time of filing the written request, pay a filing fee to the city in an amount established by resolution of the city council.

**D. Inspection Costs:** The subdivider is responsible for providing and paying the cost of inspection, testing and surveying of subdivision improvements. If it is determined that the subdivider is not providing adequate inspection and testing through a qualified engineer licensed to work in the state, then the city shall have the right to stop work and/or hire a qualified engineer or firm to provide adequate inspection and testing. The subdivider shall be responsible for reimbursing the city for these costs upon demand and prior to final acceptance of subdivision improvements.

**E. As Built Drawings:** The subdivider, or the subdivider's engineer, shall provide as built drawings of all subdivision improvements to the city engineering department. The as built drawings shall be in both digital and mylar form. All mylars shall be "wet stamped" by the subdivision engineer, or surveyor, prior to being submitted to the city.

**F. Qualified Contractors:** All public improvements shall be constructed by licensed contractors qualified to construct the work. Contractors shall be licensed in the state. (Ord. 624, 10-26-2004)

**3-3-45: PERFORMANCE GUARANTEE:**

**A. Forms Of Guarantee:** Prior to certification of final plat approval by the mayor, the subdivider shall have provided the city a financial guarantee of performance for the completion of required subdivision improvements, in one or a combination of the following forms as determined by the city:

- 1. Performance Bond:** ~~Performance or surety bond in an amount deemed sufficient by the city engineer to cover, but in no case be less than, the full cost of required improvements, engineering inspections, incidental expenses and replacement and repair of any existing streets and utilities or other improvements which may be damaged during construction of required improvements. Such bond shall be executed by a surety company authorized to do business in the state, must be approved by the city attorney as to form, and have a length of term not exceeding twenty four (24) months from the date of final plat recordation.~~
  - 2. Deposit Of Funds:** ~~Deposit of cash, certified check or negotiable bonds, made payable to the city finance director, or to a responsible escrow agent or trust company approved by the city attorney, in the same amount and for the same purpose as heretofore provided for a performance bond.~~
  - 3. Irrevocable Letter Of Credit:** ~~Irrevocable letter of credit issued by a financial institution insured under the federal deposit insurance corporation (FDIC) establishing funds for the construction of the subdivision improvements from which the city may draw. An agreement to install public improvements as required in section 3-3-44 of this chapter shall be executed by the city, the developer and the financial institution prior to the city's acceptance of an irrevocable letter of credit as a form of security. The irrevocable letter of credit shall be in the same amount and for the same purpose as heretofore provided for the performance bond.~~
  - 4. Improvement District Financing:** ~~In cases where all properties abutting a public street within any given block are not under the control of the subdivider, and the street abutting such properties is not fully improved in accordance with the requirements of this chapter, the subdivider may petition the city to construct the required improvements and to assess the cost thereof against abutting properties in accordance with local practice pertaining to special assessments; provided, however, that the subdivider shall be responsible for any differences between the cost of such improvements and the amount which can be legally assessed by the city against the property to be subdivided, and shall furnish any necessary waivers to permit assessment of the entire cost of such improvements. Any such agreement shall be in a form approved by the city attorney.~~
- B. Penalty In Case Of Default:** ~~In the event that the subdivider fails to complete all required subdivision improvements in accordance with terms of his agreement with the city, the city may have such work completed and, in order to reimburse itself for the cost and expense thereof, may appropriate the deposit of cash, funds established by an irrevocable letter of credit or negotiable bonds, or take such steps as may be necessary to secure performance under the bond.~~
- C. One Year Maintenance:** ~~The subdivider shall guarantee the adequacy of street and utility improvements for a period of not less than one year.~~
- 1. Payments:** ~~No job progress payments from cash, funds established by an irrevocable letter of credit or negotiable bond deposits, nor any release of performance bonds, shall be made by the city except upon certification by the city engineer and approval by the city council.~~
  - 2. Amount:** ~~The subdivider shall provide the city with a maintenance bond, funds established by an irrevocable letter of credit or a deposit of funds in an amount not~~

~~less than ten percent (10%) of the total cost of the required public improvements as a one year maintenance guarantee. (Ord. 745, 4-24-2012)~~

### **~~3-3-50: PARK LAND DEDICATIONS:~~**

~~In accordance with the statutes of the state to provide for the acquisition and development of park, playground and recreational facilities as are reasonably necessary to serve the residents of new subdivisions and development within the jurisdiction of the city, the planning commission and city council may require the dedication of land, payment in lieu of dedication, or residential tax, in accordance with the recreation and open space element of the duly adopted general plan of the city. (Ord. 226, 12-9-1975)~~

### **~~3-3-60: PARCEL MAPS:~~**

~~A. Required: A person who proposes to divide any land into four (4) or fewer lots, shall file a parcel map in the office of the county recorder, unless this requirement is waived. No survey may be required if the requirement of a parcel map is waived.~~

~~B. Lot Design: For parcel maps, the governing body may require such street grading and drainage provisions as are reasonably necessary for lot access and drainage needs. It may also require such lot design as is reasonably necessary and such off site access, street alignment, surfacing and width, water quality, water supply and sewerage provisions as are reasonably necessary and consistent with the existing use of any land zoned for similar use which is within six hundred sixty feet (660') of the proposed parcel. If the proposed parcels are less than one acre, the governing body may require additional improvements which are reasonably necessary and consistent with the use of the land if it is developed as proposed.~~

~~C. Second Or Subsequent Parcel Maps: When considering whether to approve, conditionally approve or disapprove a second or subsequent parcel map involving land that has been divided by a parcel map which was recorded within the five (5) years immediately preceding the acceptance of the second or subsequent parcel map as a complete application, the following criteria shall be considered:~~

- ~~1. Environmental and health laws and regulations concerning water and air pollution, the disposal of solid waste, facilities to supply water, community or public sewage disposal and, where applicable, individual systems for sewage disposal;~~
- ~~2. The availability of water which meets applicable health standards and is sufficient in quantity for the reasonably foreseeable needs of the subdivision;~~
- ~~3. The availability and accessibility of utilities;~~
- ~~4. The availability and accessibility of public services, such as schools, police protection, transportation, recreation and parks;~~
- ~~5. Conformity with the zoning ordinances and master plan, except that if any existing zoning ordinance is inconsistent with the master plan, the zoning ordinance takes precedence;~~
- ~~6. General conformity with the governing body's master plan of streets and highways;~~

- ~~7. The effect of the proposed subdivision on existing public streets and the need for new streets or highways to serve the subdivision;~~
- ~~8. Physical characteristics of the land such as floodplain, slope and soil;~~
- ~~9. The recommendations and comments of those entities reviewing the tentative map pursuant to Nevada Revised Statutes sections 278.330 through 278.348, inclusive; and~~
- ~~10. The availability and accessibility of fire protection, including, but not limited to, the availability and accessibility of water and services for the prevention and containment of fires, including fires in wild lands.~~

~~For any other second or subsequent parcel map, any reasonable public improvement may be required, but not more than would be required if the parcel were a subdivision. See section 3-3-43 of this chapter, required public improvements.~~

**D. Review:**

- ~~1. The city council may give the city planning personnel the authority to approve a parcel map, or waive the requirement of a parcel map or survey for a parcel map, without further action by the planning commission or city council, unless the parcel map includes an offer of dedication of street right of way to the city or is associated with the request to modify subdivision ordinance standards or regulations. The planning personnel shall review the parcel map, if required, and within forty five (45) days after filing, shall approve, conditionally approve or disapprove such map.~~
- ~~2. A parcel map which includes an offer of dedication of street right of way to the city or a modification of subdivision ordinance standards or regulations shall be referred to the planning commission and the city council for review, consideration and formal acceptance of the offer of dedication and/or any modification of standards or regulations. The commission shall consider the parcel map within forty five (45) days after filing. The city council shall consider the parcel map no later than thirty (30) days after action by the planning commission.~~

**E. Appeal:** ~~If the applicant disagrees with any decision of the planning personnel concerning the parcel map, or if the parcel map is disapproved, the applicant has thirty (30) days in which to file an appeal with the planning commission. The planning commission shall make a determination within forty five (45) days from the date the appeal was filed. If the planning commission denies the appeal, the applicant may appeal to the city council within thirty (30) days of such denial and the city council shall render its decision within forty five (45) days after the filing of this appeal with the city clerk.~~

**F. Exceptions:** ~~A parcel map is not required when the land division is for the express purpose of:~~

- ~~1. Creation or realignment of a public right of way by a public agency;~~
- ~~2. Creation or realignment of an easement;~~
- ~~3. Adjustment of the boundary line or the transfer of land between two (2) adjacent property owners which does not result in the creation of any additional parcels;~~

- ~~4. Purchase, transfer or development of space within an apartment building or an industrial or commercial building;~~
- ~~5. An order of any court dividing land as a result of an operation of law;~~
- ~~6. Creation of a lien, mortgage, deed, trust or any other security instrument;~~
- ~~7. Creation of a security or unit of interest in any investment trust regulated under the laws of this state or any other interest in an investment entity;~~
- ~~8. Convey an interest in oil, gas, minerals or building materials which are severed from surface ownership of real property;~~
- ~~9. Filing a certificate of amendment for the correction of an error or omission on a plat, survey or map, or if the correction does not change the location of a survey monument or property line.~~

~~G. Survey Not Required: If a survey is not required for the preparation of a parcel map, the map must be prepared by a registered land surveyor, but his certificate upon the map may include substantially the following:~~

~~*—This map was prepared from existing information (identifying it and stating where filed or recorded), and the undersigned assumes no responsibility for the existence of monuments or corrections of other information shown on or copied from any such prior document.*~~

~~H. Fee: The applicant shall, at the time of filing the parcel map, pay a filing fee to the city in an amount established by resolution of the city council and included in the appendix to this code.~~

~~I. Information Required: The parcel map should contain the following information and meet the following requirements:~~

- ~~1. The parcel map shall be legibly drawn in black, waterproof India ink on tracing cloth or produced by the use of other materials of a permanent nature generally used for such purpose in the engineering profession. The size of each sheet shall be twenty four inches by thirty two inches (24" x 32"). A marginal line shall be completely drawn around each sheet leaving an entirely blank margin of one inch (1") at the top, bottom and right edges, and of two inches (2") at the left edge along the twenty four inch (24") dimension.~~
- ~~2. A parcel map shall indicate the owner of any adjoining land or right of way if owned by the person dividing the land.~~
- ~~3. If a survey is required, the parcel map shall also show:~~
  - ~~a. All monuments found, set, reset, replaced or removed, describing the claim, size and location and other data relating thereto;~~
  - ~~b. Bearing or witness monuments, basis of bearings, bearing and length of line and scale of map;~~

- ~~c. Name and legal description of tract or grant in which the survey is located and ties to adjoining tracts;~~
- ~~d. Memorandum of oaths;~~
- ~~e. Signature of surveyor;~~
- ~~f. Date of survey;~~
- ~~g. Signature of the owner or owners of the land to be divided;~~
- ~~h. Any easements granted or dedications made;~~
- ~~i. Any other data necessary for the intelligent interpretation of various items in the location of the points, lines and areas shown; and~~
- ~~j. Provision and date for installation of all required improvements.~~

~~4. The following certificates shall appear on a parcel map before it can be recorded:~~

- ~~a. A certificate for execution by the clerk of each approving governing body stating that the body approved the map;~~
- ~~b. A certificate by the surveyor responsible for the parcel map giving the date of the survey on which the map is based and stating that the survey was made by him or under his direction and setting forth the name of the owner who authorized him to make the survey, and that the parcel map is true and complete as shown. The certificate shall also state that the monuments are of the character and occupy the positions indicated or that they will be set in such positions at such time as agreed upon under the provisions of Nevada Revised Statutes chapter 278. The certificate shall also state that monuments are or will be sufficient to enable the survey to be retraced;~~
- ~~c. A certificate signed and acknowledged by all parties having any record title in the land subdivided, evidencing their grant of permanent easements for utilities installations and access, as designated on the map;~~
- ~~d. A statement approving such easements, signed by each public utility company or agency in whose favor the easements are created or whose utility services are to be required for the platted parcel;~~
- ~~e. It shall be the responsibility of the applicant to obtain approval of serving utility companies as to the location of any utility easements which are to be shown on the parcel map.~~

~~5. The following data shall accompany a parcel map at the time it is submitted:~~

- ~~a. Name, address and telephone number of the persons requesting approval of the parcel map and the owner or owners of the land;~~
- ~~b. Name, address and telephone number of the person who prepared the map;~~

~~c. Legal description of the original parcel. It shall be sufficient to give recorders book and page of deed and assessor's parcel number;~~

~~d. Proposed use of each parcel;~~

~~e. Source of water supply and proposed method of sewage disposal for each parcel;~~

~~f. A copy of all survey computations shall accompany the parcel map;~~

~~g. A vicinity map.~~

~~6. The subdivider shall file six (6) copies of the parcel map with the city at the time of filing. (Ord. 293, 8-26-1980)~~

~~J. Recording: A parcel map approved pursuant to this section and section 3-3-70 of this chapter, shall be recorded in the office of the county recorder within two (2) years after the date when the map was approved or deemed approved. (Ord. 624, 10-26-2004)~~

### ~~3-3-70: MODIFICATION OF STANDARDS:~~

~~A. Permitted: Where, in the opinion of the planning commission, there exists extraordinary conditions of topography, land ownership, or adjacent development, or other circumstances not provided for in this chapter, the city council may modify the provisions of this chapter, or any other provision in this code, in such manner and to the minimum extent necessary to carry out the intent of this chapter.~~

~~B. Complete Neighborhood Plan: In the case of a plan and program for a complete neighborhood, the city council may modify the provisions of this chapter in such manner as it deems necessary and desirable to provide adequate space and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and may require such legal provisions as may be necessary to assure conformity to and achievement of such plan.~~

~~C. Additional Necessary Requirements: In modifying the standards or requirements of this chapter, as outlined heretofore, the city council may make such additional requirements as are necessary in its judgment to secure substantially the objectives of the standards or requirements so modified. (Ord. 768, 1-22-2013)~~

### ~~3-3-75: REVERSIONS TO ACREAGE:~~

~~A. Application: Except as otherwise provided in Nevada Revised Statutes section 278.4925, an owner or governing body desiring to revert any recorded subdivision map, parcel map, map of division into large parcels, or part thereof, to acreage or to revert the map or portion thereof, or to revert more than one map recorded under the same tentative map if the parcels to be reverted are contiguous, shall submit a written application accompanied by a map of the proposed reversion which contains the same survey dimensions as the recorded maps or maps to the planning department. The application must describe the requested change.~~



- B. Review:** ~~At its next meeting, or within a period of not more than thirty (30) days after the filing of the map of reversion, whichever occurs later, the city council shall review the map of reversion and approve, conditionally approve or disapprove the map.~~
- C. Applicability Of Fees:** ~~Except for the provisions of this section, Nevada Revised Statutes sections 278.4955, 278.496 and 278.4965, and any provision or local ordinance relating to the payment of fees in conjunction with filing, recordation or checking of a map of the kind offered, no other provision of Nevada Revised Statutes sections 278.010 through 278.630, inclusive, applies to a map made solely for the purpose of reversion of a former map or for reversion of any division of land to acreage.~~
- D. Recording:** ~~Upon approval of the map of reversion, it must be recorded in the office of the county recorder. The county recorder shall make a written notation of the fact on each sheet of the previously recorded map affected by the later recording, if the county recorder does not maintain a cumulative index for such maps and amendments. If such an index is maintained, the county recorder shall direct an appropriate entry for the amendment.~~
- E. Street Or Easement Included:** ~~Requirement for submitting a map of reversion and for presenting a map of reversion for recording must conform with provisions of Nevada Revised Statutes sections 278.4955, 278.496 and 278.4965. If the map included the reversion of any street or easement owned by a city, a county or the state, the provisions of Nevada Revised Statutes section 279.480 must be followed before approval of the map.~~
- F. Fee:** ~~The owner shall, at the time of filing the map of reversion, pay a filing fee to the city in an amount established by resolution of the city council. (Ord. 548, 11-28-2000)~~

### **3-3-80: PROHIBITION AGAINST SALE IN VIOLATION:**

~~No person, firm, corporation or other legal entity shall hereafter sell or offer for sale any lot, piece or parcel of land which is within a "subdivision", as defined in this chapter, until after a plat thereof has been recorded in accordance with provisions of this chapter. (Ord. 226, 12-9-1975)~~

### **3-3-85: MERGERS AND RESUBDIVISION OF LAND:**

- A. Permitted:** ~~An owner or governing body that owns two (2) or more contiguous parcels may merge and resubdivide the land into new parcels or lots without reverting the preexisting parcels to acreage pursuant to Nevada Revised Statutes section 278.490.~~
- B. Recording Required:** ~~Parcels merged without reversion to acreage pursuant to this section must be resubdivided and recorded on a final map, parcel map or map of division into large parcels, as appropriate, in accordance with Nevada Revised Statutes sections 278.320 through 278.4725, inclusive, and any applicable local ordinances. The recording of the resubdivided parcels or lots on a final map, parcel map or map of division into large parcels, as appropriate, constitutes the merging of the preexisting parcels into a single parcel and the simultaneous resubdivision of that single parcel into parcels or lots of a size and description set forth in the final map, parcel map or map of division into large parcels, as appropriate.~~
- C. Street Easements And Utility Easements:** ~~With respect to a merger and resubdivision of parcels pursuant to this section, the owner or governing body conducting the merger and~~

~~resubdivision shall ensure that street easements and utility easements, whether public or private, that will remain in effect after the merger and resubdivision, are delineated clearly on the final map, parcel map or map of division into large parcels, as appropriate, on which the merger and resubdivision is recorded.~~

- ~~D. Security Credit: If a governing body required an owner or governing body to post security to secure the completion of improvements to two (2) or more contiguous parcels and those improvements will not be completed because of a merger and resubdivision, conducted pursuant to this section, the governing body shall credit on a pro rata basis the security posted by the owner or governing body toward the same purposes with respect to the parcels as merged and resubdivided. (Ord. 548, 11-28-2000)~~

### **3-3-90: VIOLATIONS AND PENALTIES:**

~~Any person, firm, corporation or other legal entity who violates any of the provisions of this chapter shall, upon conviction therefor, be punished as provided in title 1, chapter 3 of this code. Each day that a violation is permitted to exist shall constitute a separate offense and shall be punishable as such hereunder. The imposition of any sentence shall not exempt the offender from compliance with all requirements of this chapter. (Ord. 261, 6-27-1978)~~

## **Chapter 3** **DIVISIONS OF LAND**

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### **3-3-1: PURPOSE AND INTENT:**

The purpose of this Chapter is to provide for the orderly growth and harmonious development of the City; to ensure adequate traffic circulation through coordinated subdivision street systems in relation to major thoroughfares, adjoining subdivisions, and public facilities to achieve individual property lots of optimum utility and livability; to secure adequate provisions for water supply, drainage, sanitary sewerage, and other health requirements; to facilitate reservation of adequate sites for schools, recreation areas, and other public facilities; to promote the conveyance of land by accurate legal description and to provide logical procedures for the achievement of this purpose; safeguard the public health, safety and general welfare; and to ensure development in conformance with the City master plan. In its interpretation and application, this Chapter is intended to provide a common understanding and a sound and equitable working relationship between public and private interests so that both independent and mutual objectives can be achieved in the division of the land.

### **3-3-2: DEFINITIONS:**

All terms defined in NRS Chapter 278, to include NRS 278.010 through 278.0195, are incorporated herein by this reference unless the terms are otherwise defined in this Chapter.

The following words and phrases when used in this Chapter shall, for the purpose of this Chapter, have the meanings respectively ascribed to them in this Section 3-3-2, unless their context clearly indicates that they are intended to have some other meaning.

Words used in the present tense include the future; the plural includes the singular; the word "shall" is always mandatory; the word "may" denotes a use of discretion in making a decision; and the words "used" or "occupied" shall be considered to be followed by the words "or intended, arranged, or designed to be used or occupied."

**AGREEMENT TO INSTALL IMPROVEMENTS:** An agreement satisfying the requirements of Sections 3-3-21 and other applicable provisions of this Chapter. An agreement to install improvements must be entered into by the City and a developer prior to the time the final map is approved by the City Council and prior to commencement of construction activities in connection with the subdivision.

**ALLEY:** A passage or way, open to public travel and dedicated to public use, affording generally a secondary means of vehicular access to abutting lots and not intended for the general traffic circulation.

**BLOCK:** A piece or parcel of land, or group of lots, entirely surrounded by natural or artificial barriers to further contiguous development, such as public rights-of-way, streams or watercourses, railroads, parks, or a combination thereof.

**BUILDING:** Any structure, regardless of whether it is affixed to real property that is used or intended for supporting or sheltering any human use or occupancy.

**BUILDING LINE:** A line demarcating the area between a building or other structure and the street right-of-way line beyond which no building or structure or portion thereof shall be erected, constructed, or otherwise established.

**CITY COUNCIL: The City Council of the City of Elko.**

**CODE: The Elko City Code.**

**COMMISSION: The City of Elko Planning Commission.**

**COMMUNICATION LINES: Conduit, cables, fiber and/or other apparatus for the distribution and provision of telecommunications and/or broadband communications.**

**COMMUNICATION SERVICE LINES: Communication lines.**

**CONDITIONAL APPROVAL: A decision by the Planning Commission or City Council to approve a tentative map, provided certain specified conditions are satisfied.**

**CONSTRUCTION PLANS: Plans, profiles, cross-sections and other drawings showing required details for the construction of public improvements, prepared in conjunction with the final map, and submitted by a properly licensed design professional in compliance with standards of design and construction approved by the City.**

**CUL-DE-SAC: A street opening at one end and having a turnaround at the other end.**

**DEDICATION: The deliberate appropriation of land by its owner for any general or public use, reserving unto himself no other right than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been appropriated.**

**DENSITY: A number, represented in units of lots per acre, calculated by dividing the number of lots in the subdivision by the total acreage of the subdivision.**

**DESIGN PROFESSIONAL: A person who holds a professional license or certificate issued pursuant to Chapter 623, 623A or 625 of the Nevada Revised Statutes, or a person primarily engaged in the practice of and licensed to practice professional engineering, land surveying, architecture or landscape architecture.**

**DEVELOPER: A real property owner who divides land into two or more parcels for transfer or development.**

**DEVELOPMENT MASTER PLAN: A comprehensive long-term strategic planning document for a subdivision prepared in accordance with Section 3-3-4 of this Chapter.**

**DOUBLE FRONTAGE LOT: A lot with street frontage along two opposite boundaries.**

**EASEMENT: An interest in land that confers a right of use for a special purpose.**

**ENGINEER'S ESTIMATE: An estimate of the total cost of public improvements prepared by the developer's engineer and provided to the City.**

**EXCEPTION: Any parcel of land that is located within the exterior boundaries of a subdivision but which is not included in the tentative or final map.**

**FINAL MAP: A map prepared in accordance with the provisions of NRS 278.325, 278.360 to 278.460, inclusive, 278.472, 278.4725 or 278.4955 and any applicable provisions of this Code.**

which, after approval and certification by the City, is recorded with the office of the Elko County Recorder.

FINAL MAP APPROVAL: Final or conditional authorization by the City Council to obtain final map certification; provided, all requirements of City Code Sections 3-3-21 and 3-3-22 must be satisfied prior to final map certification; further provided, if final map approval is conditional, all conditions imposed by the City Council in conjunction with the approval must be satisfied prior to final map certification.

FINAL MAP CERTIFICATION: Unconditional approval of the final map by the City Council as evidenced by certification on the map by the Mayor of the City of Elko. Final map certification constitutes authorization to record the map with the Elko County Recorder.

FULL FRONTAGE: All lot lines of any lot, parcel or tract of property adjacent to a road, street, alley or right of way, to include lots, parcels or tracts containing multiple borders or edges, such as corner lots.

GRADING: The removal of the vegetative cover from the surface of any land, and is a result of activity associated with new construction.

LED: Light-emitting diode.

LOT: A distinct part or parcel of land which has been divided to transfer ownership or to build, including the following:

A. Corner Lot: A lot abutting on two (2) or more intersecting streets.

B. Double Frontage Lot: A lot abutting two (2) parallel or approximately parallel streets.

C. Interior Lot: A lot having but one side abutting on a street.

D. Key Lot: An interior lot, one (1) side of which is contiguous to the rear line of a lot.

LOT DEPTH: The shortest distance, measured on a line parallel to the axis of the lot, between points on the front and rear lot lines.

LOT LINE: A line bounding a lot, including the following types of lot lines:

A. Front Lot Line: The lot line coinciding with the street line; or, in the case of a corner lot, the shorter of two (2) lot lines coinciding with street lines; or, in the case of a double frontage lot, both lot lines coinciding with street lines.

B. Rear Lot Line: The lot line opposite and farthest from the front lot line; for a pointed or irregular lot, the rear lot line shall be an imaginary line, parallel to and farthest from the front lot line, not less than ten feet (10') long and wholly within the lot.

C. Side Lot Line: Any lot line other than a front or rear lot line; in the case of a corner lot, the lot line abutting the side street is designated as the exterior side lot line; all other side lot lines are designated as interior side lot lines.

**LOT WIDTH:**

**A. In the case of a rectangular lot or a lot abutting on the outside of a street curve, the distance between side lot lines measured parallel to the street or to the street chord and measured on the street chord.**

**B. In the case of a lot abutting on the inside of a street curve, the distance between the side lot lines measured parallel to the street or the street chord at the rear line of the dwelling, or, where there is no dwelling, thirty feet (30') behind the minimum front setback line.**

**MASTER PLAN: A comprehensive, long-term general plan for the physical development of the City prepared in accordance with NRS 278.150, et seq.**

**OWNER: Any person who holds title to land or who is contractually obligated to purchase land.**

**PARCEL MAP: A map required for the division of land for transfer or development into four (4) lots or less in the manner set forth in NRS 278.461, 278.462, 278.463, 278.464 or 278.466, and this Code.**

**PEDESTRIANWAY: A public or private walk through a block from street to street or from a street to a school, park, recreation area or other public facility.**

**PERFORMANCE AGREEMENT: An agreement to install improvements.**

**PERFORMANCE GUARANTY: The financial security required to guarantee the construction of public improvements and other matters as set forth in Section 3-3-22 of this Chapter.**

**PERSON: A natural person, any form of business or social organization and any other nongovernmental legal entity including, but not limited to, a corporation, partnership, association, trust or unincorporated organization. The term does not include a government, governmental agency or political subdivision of a government.**

**PUBLIC IMPROVEMENT: Street work, utilities and other improvements to be installed on land dedicated or to be dedicated for streets and easements as are necessary for local drainage, local traffic and the general use of property owners in the subdivision.**

**PUBLIC IMPROVEMENT STANDARDS: A set of standards adopted by the City Council regulating the design and construction of public improvements. These standards are contained in the latest edition of the "Standard Specifications For Public Works Construction" also known as the "Orange Book," which is distributed to the cities and counties of northern Nevada by the Regional Transportation Commission of Washoe County.**

**PUBLIC UTILITIES: Underground, aboveground or overhead facilities furnishing to the public, electricity, gas, steam, communications, water, drainage, sewage disposal, flood control, irrigation or refuse disposal, owned and operated by any person, firm, corporation, municipal department or board duly authorized by state or municipal regulations. The term "public utilities," as used herein, may also refer to such persons, firms, corporation, departments or boards, as the context indicates.**

**RIGHTS-OF-WAY:** All public and private rights-of-way and all areas required for public use in accordance with any master plan or parts thereof.

**STREET:** Any existing or proposed street, avenue, boulevard, road, lane, parkway, place, bridge, viaduct or easement for public vehicular access; or, a street shown in a map heretofore approved pursuant to law; or, a street in a map duly filed and recorded in the county recorder's office. A street includes all land within the street right of way, whether improved or unimproved, and includes such improvements as pavement, shoulder, curbs, gutters, sidewalks, parking space, bridges, viaducts, lawns and trees. For purposes of this Chapter, the following definitions apply to specific types of streets:

**A. Alley:** A public way providing secondary vehicular access and service to properties which also abut a street.

**B. Arterial And Minor Arterial Streets:** A general term describing large major streets, including freeways, expressways and interstate roadways, and state and/or county highways having city and regional continuity.

**C. Collector Residential And Local Residential Streets:** City streets serving the primary function of providing access to abutting property:

**1. Cul-De-Sac Street:** A short collector residential and local residential street having one end permanently terminating in and including a vehicular turning area.

**2. Marginal Access Street:** A collector residential and local residential street parallel to and abutting an arterial street which provides access to abutting property, intercepts other collector residential and local residential streets, and controls access to the arterial street.

**D. Collector Street:** A street generally with limited continuity serving the primary function of moving traffic between arterial streets and local residential streets, and the secondary function of providing access to abutting properties.

**STREET, PRIVATE:** A nondedicated, privately owned right-of-way or limited public way that affords the principal means of emergency and limited vehicular access and connection to and from the public street system to properties created through the division of land.

**STREET, PUBLIC:** A dedicated public right-of-way that is part of the public street system and which affords the principal means of emergency and general vehicular access to abutting property.

**STREET LINE:** A line demarcating the limits of a street right-of-way.

**SUBDIVIDER:** A developer who commences or is engaged in the process required by NRS Chapter 278 and this Chapter for creating a subdivision.

**SUBDIVISION:** Any land, vacant or improved, 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 any proposed transfer or development, unless exempted by NRS 278.320 or any other applicable statute.

SUBDIVISION REVIEW COMMITTEE: A committee consisting of representatives of the City Manager's Office, the City Engineering Department, the City Utility Department, the City Planning department, the City Development Department, the City Public Works Department, the City Fire Department, and a Planning Commission Chair or Vice Chair.

TENTATIVE MAP: A map made to show the design of a proposed subdivision and the existing conditions in and around it.

TENTATIVE MAP APPROVAL: Approval of a tentative map by the City Council. Tentative map approval constitutes authorization to proceed with preparation of construction plans and the final map.

TRACT: An area of land proposed to be divided pursuant to this Chapter.

TRANSPORTATION COMPONENT OF THE MASTER PLAN: A plan adopted by the Planning Commission and City Council which provides for development of a system of major streets and highways.

### 3-3-3: STAGES OF SUBDIVISION PLANNING AND APPROVAL:

Any person who divides land into five (5) or more parcels for the purpose of transfer or development must follow the three-stage approval process outlined in this Chapter. These stages, among other things, set forth specific requirements pertaining to the preparation, submission and review of, and official action on, maps and other documents.

These stages are as follows:

A. Stage I - Preapplication Stage. During Stage I, the subdivider provides preliminary information about the proposed subdivision to the City, some of which is provided to City staff in a conference held to discuss land use, street and lot arrangement, lot sizes, buildable lot areas, conformity with the master plan, easements, the provision of utilities, storm drainage, street improvements and other issues pertinent to the proposed development.

B. Stage II - Tentative Map Stage: Stage II includes preparation, submission, revision and Planning Commission action on the tentative map. During this stage, the City will review the tentative map submittal to ensure that it conforms to all applicable requirements. At the conclusion of this stage, the City Council determines whether to approve, conditionally approve or disapprove the tentative map. The City uses the tentative map submittal to evaluate the subdivision. Approval of the tentative map permits the subdivider to proceed with Stage III, but does not authorize the subdivider to commence construction activities.

C. Stage III - Final Map Stage. Stage III includes the final design and engineering of the subdivision, action on the construction plans, and action on the final map. During this stage, the subdivider must post security for completion and maintenance of public improvements, and the subdivider and the City must enter into a performance agreement.

### 3-3-4: PREAPPLICATION STAGE (STAGE I):

A. Overview and General Requirements: The preapplication stage of subdivision planning (Stage I) includes an investigatory period that takes place prior to submittal of the tentative map by the subdivider. During this stage, the subdivider must meet with the City to



discuss and provide general information about the proposed subdivision, and the City will provide the subdivider with general information about City subdivision requirements. During this stage, the City will also determine whether a change in zoning will be required for the proposed subdivision. If the City determines that a zoning change is required for the proposed subdivision, the subdivider must initiate the necessary application for a change of zoning district boundaries. This process must be commenced prior to or contemporaneously with submission of the tentative map (Stage II). In addition, during Stage I the subdivider and the City shall satisfy the following requirements:

B. Conference: During Stage I, the subdivider shall schedule and attend a conference with the Subdivision Review Committee for the purpose of discussing the proposed subdivision. At least five (5) business days prior to the conference, the subdivider shall provide the City with plans, sketches and other documentation showing proposed land uses, street and lot configuration, proposed lot sizes and the proposed density of the development. At the meeting, the subdivider shall present the Subdivision Review Committee with tentative proposals regarding water supply, sewage disposal, storm drainage and street improvements.

C. During the conference with the Subdivision Review Committee, the City will provide general information to the subdivider regarding the requirements of this Chapter, to include required procedures, design and improvement standards, and tentative and final map requirements. The Subdivision Review Committee will then perform the following investigations and provide written recommendations to the subdivider, the Planning Commission and the City Council:

1. Check existing zoning of the location of the proposed subdivision and of abutting properties, and determine whether a change of zoning district boundaries is necessary or desirable.

2. Determine conformance of the proposed subdivision to the Land Use component of the Master Plan.

3. Examine the adequacy of parks and other public facilities.

4. Determine the relationship of the site to major streets, utility systems and adjacent land uses, and determine whether there are any potential problems related to topography, utilities, drainage or flooding.

5. Determine Fire Department access and suppression requirements.

6. Determine whether a Development Master Plan must be approved by the City prior to consideration of a tentative map.

D. Development Master Plan: The Planning Commission may, in its discretion, determine that the proposed subdivision has certain characteristics that necessitate the preparation of a Development Master Plan. These characteristics may include size, impact on neighborhoods, density, topography, utilities, and/or existing and potential future land uses. If a Development Master Plan is required, it must be submitted to the Planning Commission for review and possible approval at least twenty-one (21) days prior to the Planning Commission meeting at which the Development Master Plan will be reviewed.

1. Preparation: The Development Master Plan shall be prepared on a sheet twenty-four inches by thirty-six inches (24" x 36"), shall be accurate in accordance with industry standards, and shall clearly indicate:

a. General street patterns, with particular attention to the location and general alignment of collector streets and to the maximization of convenient circulation throughout the neighborhood.

b. General locations and sizes of schools, parks and other public facility sites.

c. Locations of shopping centers, multi-family residential units and other proposed land uses.

d. Methods proposed for sewage disposal, water supply and storm drainage.

2. Approval: A tentative map must be consistent with a Development Master Plan that encompasses its territorial limits. If development of a subdivision is proposed to take place in several stages, the Development Master Plan shall be submitted as supporting data for each tentative map. The Development Master Plan shall be kept up to date by the subdivider as modifications occur or become necessary.

### 3-3-5: TENTATIVE MAP STAGE (STAGE II):

The tentative map stage (Stage II) includes preparation, submission, review and Planning Commission action on the tentative map. The subdivider can help expedite processing of the tentative map by submitting all information needed to determine consistency with the City Code and the Elko Master Plan.

A. Zoning Amendments: The tentative map shall be designed to meet the specific requirements of the zoning district in which it is located. However, in the event a change of zoning district boundaries is necessary, an application for a change in zoning consistent with Section 3-2-21 of the City Code shall be submitted and processed in conjunction with the tentative map. If a change in zoning district boundaries is required, the City will not continue processing the tentative map until the application for change of zoning district boundaries is submitted.

The application for change of zoning district boundaries shall be heard by the Planning Commission at the same meeting as the tentative map is considered, but shall be acted upon as a separate item. When a tentative map constitutes only one unit of a larger development intended for progressive maps, the change of zoning district boundaries may be limited to the area contained in the tentative map application. Any required change of zoning district boundaries shall have been approved by the Planning Commission prior to tentative map approval. A change of zoning district boundaries required under this Section must, without limitation, conform to all applicable master plan(s) adopted by the City.

B. Sanitary Sewerage, Water Supply, Storm Drainage and Solid Waste Disposal: As a prerequisite to tentative map review by the Planning Commission, the subdivider shall provide adequate information to enable the City to determine whether it conforms to the City Code, to include, without limitation, all applicable requirements for public improvements, such as grading, sewage disposal, water supply, storm drainage, solid waste disposal and the provision of other public utilities to the proposed subdivision.

**C. Tentative Map Submittal: The following requirements apply to submission of the tentative map for review and filing of the tentative map:**

- 1. Tentative Map Submittal; Application: Three (3) copies of the tentative map and any required supporting information and/or data in readable pdf format (unless otherwise requested by the City), prepared in accordance with the requirements of this Chapter, together with any required filing fee (collectively referred to as the "tentative map submittal"), shall be filed with the City planning department at least forty-five days (45) prior to the Planning Commission meeting at which the recommendation to approve, conditionally approve or disapprove the tentative map will be considered. Upon receipt of the tentative map submittal, the City planning department will record the date of receipt and filing. The tentative map submittal shall be deemed the subdivider's application for approval of the tentative map.**
- 2. Initial Review of Tentative Map Submittal for Completeness Upon Filing: Upon filing, the City will perform an initial review the tentative map submittal to determine if it is complete and satisfies the requirements of the Nevada Revised Statutes, the Nevada Administrative Code and Section 3-3-6 of this Chapter. The tentative map submittal must be consistent with the information provided by the subdivider to the City at the preapplication stage (Stage 1) meeting. The Planning Commission will not consider the application for tentative map approval unless adequate information has been submitted to permit the City to determine that the tentative map complies with the City Code. Upon request by the City, the subdivider shall furnish additional copies of any documents required by the City to perform its review.**
- 3. Information Required Under Nevada Administrative Code for Review of Tentative Map: In addition to any other requirements set forth in the Elko City Code, without limitation, a subdivider shall submit the following documents or other information to the City:**
  - a. A map showing the topographic features of the subdivision, including contours at intervals of 2 feet for slopes of 10 percent or less and intervals of 5 feet for slopes of over 10 percent.**
  - b. Two copies of the map showing the tentative design of the subdivision, including the arrangement of lots, the alignment of roads and easements.**
  - c. A statement of the type of water system to be used and the water source, for example, private wells or a public water system.**
  - d. Unless water for the subdivision is to be supplied from an existing public water system, a report of the analyses, performed pursuant to NAC 278.390, of four samples taken in or adjacent to the subdivision from different wells. The analyses must show that the water meets the standards prescribed in NAC 445A.450 to 445A.492, inclusive.**
  - e. A map of the 100-year floodplain for the applicable area. The map must have been prepared by recognized methods or by an appropriate governmental agency for those areas subject to flooding.**

f. A description of the subdivision in terms of 40-acre parts of a designated section, township and range, or any other description which provides a positive identification of the location of the subdivision.

g. A map of the vicinity of the subdivision, showing the location of the proposed subdivision relative to the City of Elko or a major highway.

h. The names and addresses of the owners and developers of the subdivision.

i. A master plan showing the future development and intended use of all land under the ownership or control of the developer in the vicinity of the proposed subdivision.

4. Filing; Acceptance or Rejection: If, following the initial review, the tentative map submittal is determined to conform to the foregoing requirements, the City will accept the tentative map submittal for filing and will assign it a file number. Otherwise, the City will reject the tentative map submittal and inform the subdivider of the deficiencies that resulted in the rejection. If the subdivider does not correct an incomplete tentative map submittal within 90-days from the date of filing with the City, the tentative map submittal will automatically expire and may not be re-filed without payment of a new filing fee.

5. Filing Fee: The subdivider shall, at the time of filing a tentative map submittal, pay to the City a filing fee based upon the number of lots shown on the tentative map. The filing fee shall be set by resolution by the City Council.

D. Tentative Map Review by Departments: Upon filing, the tentative map will be distributed and reviewed as follows:

1. Departmental Review of Tentative Map Submittals: Unless the tentative map submittal is rejected in accordance with Section 3-3-5(C)(2), above, following the initial review, the planning department will transmit copies of the tentative map submittal to the City engineering, utility, public works, fire and development departments for their respective reviews. In reviewing the tentative map submittal, these departments will each make a determination as to the completeness and adequacy of the tentative map submittal and its conformity to the requirements of the City Code, to include any standardized codes adopted by reference. If any reviewing department determines that a tentative map submittal is incomplete, inadequate or noncompliant with the City Code, the application will be rejected and the subdivider will be notified of the deficiencies that resulted in the rejection.

2. Distribution of Tentative Map Submittals to Other Governmental Entities, Irrigation Ditch Owners and Utilities: If, following the foregoing departmental review, the City determines that the tentative map submittal is complete, adequate and in conformity with the requirements of the City Code and the Stage I submittal, the City planning department will transmit copies of the tentative map submittal for review to (a) the Division of Water Resources and the Division of Environmental Protection of the State Department of Conservation and Natural Resources; (b) the district board of health acting for the Division of Environmental Protection to review and certify proposed subdivisions and to conduct construction or installation inspections; (c) if the subdivision is subject to the provisions of NRS 704.6672, the Public Utilities Commission of Nevada; (d) the board of trustees for

the Elko County School District; (e) the board of trustees for any general improvement district or irrigation district in which the subdivision is located; (f) the owner of an irrigation ditch located within the proposed subdivision to the extent required under NRS 278.3485; (g) the Nevada Department of Transportation, if the subdivision encompasses or is adjacent to any State roads, highways or rights-of-way; (h) Elko County, if the proposed subdivision is adjacent to property located outside the Elko City municipal boundaries; (i) any public utilities that are reasonably likely to provide service to the subdivision. All comments received in response to the foregoing distributions will be provided to the Planning Commission and the City Council at the respective meetings during which the application is considered.

3. Planning Commission Review: The Planning Commission shall review the tentative map submittal for compliance with applicable provisions of the Nevada Revised Statutes, the Nevada Administrative Code and the City Code, to include this Chapter and Title 3 (Zoning Regulations), and shall consider the recommendations of City departments, non-City governmental agencies and others that have reviewed the tentative map submittal pursuant to this Chapter. It shall be the responsibility of the subdivider to provide any necessary data and any other information necessary for the Planning Commission to conduct a comprehensive review of the proposed subdivision.

4. Public Hearing; Notices: Prior to taking any action to recommend approval, conditional approval or disapproval of a tentative map, the Planning Commission shall hold a public hearing to receive information about the proposed subdivision and to consider modifications to the tentative map. The public hearing shall be set not later than forty-five (45) days from the date a complete tentative map submittal that satisfies the requirements of the City Code is filed with the City. At least ten (10) calendar days prior to the public hearing, notices of the public hearing shall be sent by mail to all property owners adjacent to the area proposed to be subdivided. The names and addresses of the adjacent property owners shall be determined by examining the latest assessment rolls of the Elko County Assessor. Notice by mail to the last known addresses of the real property owners as shown by the Elko County Assessor's records shall be sufficient for purposes of this Subsection. Legal notice shall be placed in a newspaper of general circulation within the City at least ten (10) calendar days prior to the date of the public hearing.

5. Modifications to Tentative Maps: In the event the Planning Commission requires modifications to the tentative map prior to making a recommendation of approval or conditional approval, the Planning Commission shall so inform the subdivider. The Planning Commission may, in its discretion, provide recommendations to the subdivider regarding the correction of any deficiencies in the tentative map submittal. The Planning Commission may, in its discretion, table or continue a public hearing on a tentative map for a period of time sufficient to permit the subdivider to make any required modifications to the tentative map submittal. Notwithstanding the foregoing, in the event the Planning Commission requests that a subdivider make modifications to a tentative map submittal, the subdivider must present to the Planning Commission a modified tentative map submittal that complies with the Planning Commission's request no more than sixty (60) calendar days from the date of the request. Notwithstanding any other provision in this Chapter, the failure of a subdivider to present a properly modified tentative map submittal to the Planning Commission in accordance with the preceding sentence

shall result in the automatic expiration of the application for tentative map approval and the subdivider shall not be entitled to any refund or credit of the filing fee.

E. Action on Tentative Map by Planning Commission and City Council: Upon review by City and other agencies and entities as set forth in the preceding Subsection, the Planning Commission and City Council will take action on the tentative map as follows:

1. Planning Commission Recommendation: After accepting a tentative map submittal as a complete application, the Planning Commission shall, within forty-five (45) days of the date the tentative map submittal is filed, recommend approval, conditional approval or disapproval of the tentative map in a written report filed with the City Council. Notwithstanding the foregoing, unless a longer time is provided in a development agreement entered into pursuant to NRS 278.0201, the time limit for acting and reporting on a tentative map may be extended by mutual consent of the subdivider and the Planning Commission; provided, if no action is taken within the time limits set forth in NRS 278.010 to 278.630, inclusive (subject to any permitted extensions), a tentative map as filed shall be deemed to be approved without conditions, and the Planning Commission shall certify the tentative map as approved. If the Planning Commission recommends conditional approval or disapproval of a tentative map, the Planning Commission's report to the City Council shall either state the conditions under which the tentative map would have been approved or state that approval was withheld because the land proposed to be subdivided is not suitable for the proposed development, stating the reasons why the land was not considered suitable.

2. Action by City Council to Approve, Conditionally Approve or Disapprove Tentative Map; Factors Considered: Except as otherwise provided in NRS Chapter 278 and this Chapter, the City Council shall approve, conditionally approve or disapprove a tentative map within sixty (60) days from the date the tentative map is filed. Before approving a tentative map, the City Council shall make such findings as are not inconsistent with the provisions of Nevada Revised Statutes sections 278.010 through 278.630, inclusive, or the City Code, which findings shall include consideration of the following factors:

a. Environmental and health laws and regulations concerning water and air pollution, the disposal of solid waste, facilities to supply water, community or public sewage disposal and, where applicable, individual systems for sewage disposal;

b. The availability of water which meets applicable health standards and is sufficient in quantity for the reasonably foreseeable needs of the subdivision;

c. The availability and accessibility of utilities;

d. The availability and accessibility of public services such as schools, police protection, transportation, recreation and parks;

e. Conformity with the zoning ordinances and the City's master plan, except that if any existing zoning ordinance is inconsistent with the City's master plan, the zoning ordinance takes precedence;

f. General conformity with the City's master plan of streets and highways;

g. The effect of the proposed subdivision on existing public streets and the need for new streets or highways to serve the subdivision;

h. Physical characteristics of the land, such as floodplain, slope and soil;

i. The recommendations and comments of those entities and persons reviewing the tentative map pursuant to this Chapter and NRS 278.330 to 278.3485, inclusive;

j. The availability and accessibility of fire protection, including, but not limited to, the availability and accessibility of water and services for the prevention and containment of fires, including fires in wild lands; and

k. The submission by the subdivider of an affidavit stating that the subdivider will make provision for payment of the tax imposed by Chapter 375 of NRS and for compliance with the disclosure and recording requirements of Subsection 5 of NRS 598.0923, if applicable, by the subdivider or any successor in interest.

3. Approval of Tentative Map Without Conditions: The City Council may approve the tentative map without conditions; provided, the approval must include findings that the tentative map meets all requirements of this Chapter and the applicable requirements set forth in the Nevada Revised Statutes and Nevada Administrative Code.

4. Approval of Tentative Map With Conditions: The City Council may approve the tentative map with conditions, in which event the City Council shall, as a requisite to final approval, require the subdivider to submit proof that the conditions have been satisfied to either or both City staff and/or the City Council at a subsequent meeting. The City Council may place a deadline on the time required to satisfy the conditions, after which, unless (a) the subdivider has submitted proof to the City that the conditions have been satisfied, (b) the subdivider and the City have entered into a development agreement pursuant to NRS 278.0201 and this Chapter that extends the time for satisfying the conditions, or (c) the City has granted an extension of time to satisfy the conditions consistent with this Chapter, the tentative map will be automatically deemed disapproved.

5. Disapproval of Tentative Map: The City Council may disapprove a tentative map, in which event the City Council shall state the reasons for the disapproval. In the event a tentative map is disapproved, any new filing of a tentative map for the same property, or any part thereof, shall follow the procedure set forth in this Chapter for a new tentative map application, to include payment of a new filing fee.

F. Limited Authorization to Proceed Upon Approval With Conditions: If the City Council approves a tentative map with conditions, the subdivider may commence preparing a final map and engineering construction plans; provided, nothing in this Subsection shall be interpreted as a waiver of any conditions imposed by the City Council or a commitment that the City will approve a final map or construction plans.

G. Will Serve Letters: Upon approval of a tentative map with or without conditions, the City Utility Department shall provide a water and sewer "will serve" letter to the applicable state agencies.

H. Construction of Subdivision Improvements: Notwithstanding any other provision contained herein, approval of a tentative map, with or without conditions, does not constitute authorization to commence any construction activities associated with the subdivision to include, without limitation, public improvements.

### **3-3-6: CONTENT AND FORMAT OF TENTATIVE MAP SUBMITTAL:**

A. Form and Scale: The tentative map must be graphically depicted on one or more plan sheets with supporting data either placed directly on the tentative map or attached to the tentative map in drawings, spreadsheets or other documents that comply with the requirements of this Chapter and are consistent with industry standards. All maps accompanying the tentative map shall be drawn to the same standard engineering scale; provided, the scale shall not be more than one hundred (100) feet to one (1) inch. Whenever practicable, the plan scale shall result in an overall sheet measuring twenty-four inches by thirty-six inches (24" x 36").

B. Identification Data: The tentative map shall contain the following information:

1. Proposed subdivision name, location and section, township and range, with reference by dimension and bearing to a section corner or quarter-section corner.
2. Name, address, telephone number and email address of subdivider(s).
3. Name, address, telephone number, email address and Nevada State Board of Professional Engineers and Land Surveyors license number for each professional engineer or land surveyor who prepared the tentative map.
4. Scale.
5. North point.
6. Date of initial preparation and dates of any subsequent revisions.
7. A small scale location map showing the relationship of the tract to existing community facilities which serve or influence it, including: arterial streets, railroads, shopping centers, parks and playgrounds, and churches.
8. Legal description defining the boundaries of the proposed subdivision.
9. Dimensions of all subdivision boundaries.
10. Gross and net acreage of the subdivision.

C. Physical Conditions: The tentative map shall contain following information about existing physical conditions:



1. Topography shown with contours at intervals of no more than or two (2) feet and corresponding to the GIS or other coordinate system shown maintained by the City. Topographic information shall be adequate to show the character and drainage of the land.
2. Location of water wells, streams, private ditches, washes and other water features, including direction of flow, and the location and extent of areas subject to frequent periodic or occasional inundation.
3. The location of flood zones designated by the Federal Emergency Management Agency (FEMA) and/or any special flood hazard areas.
4. Within or adjacent to the proposed subdivision, the locations, widths and names of all streets, railroads, utility rights-of-way of public record, public areas, permanent structures that will remain after development of the subdivision, and municipal corporate boundaries.

D. Recorded Map Information: The tentative map shall indicate the title or description, book and page number(s) of each recorded map for property adjacent to the proposed subdivision, to include property adjacent to boundary roads, streets and rights-of-way.

E. Existing Zoning: The tentative map shall indicate the existing zoning classification of the proposed subdivision and adjacent properties.

F. Proposed Improvements and Other Features: The tentative map shall show the following planned improvements and other features within and, where indicated, adjacent to the subdivision:

1. Street layout, including location and width of each street, right-of-way, alley, sidewalk, pedestrianway and easement, together with access routes to adjacent existing subdivisions (including routes through parcels that are not subdivided), the proposed names of all streets, and the approximate grades of all rights-of-way.
2. Lot layout with consecutively numbered lots, indicating the dimensions of each lot and the total number of lots.
3. Location, width and proposed use of easements.
4. Location, extent and proposed use of all land to be dedicated or reserved for public use, including school sites or parks.
5. Locations and boundaries of all proposed zoning districts.

G. Proposed Deed Restrictions: All proposed deed restrictions shall be indicated on or appended to the tentative map.

H. Preliminary Grading Plan: The subdivider shall provide to the City a preliminary grading plan indicating areas proposed for cut-and-fill, the type and estimated quantity of material to be graded, the estimated finished grades (which must be adequate to establish the general grading trend), the proposed methods of erosion control, and the general location of and specifications for any manufactured (cut or fill) slopes.

**I. NPDES Permit Compliance: The subdivider shall comply with all applicable provisions of the City's National Pollutant Discharge Elimination System (NPDES) general permit for discharges from small municipal separate storm sewer systems, Permit No. NV040000.**

**J. Utility Methods and Requirements:**

**1. Sewage Disposal: The subdivider shall provide the City with a proposed design for sewage disposal that connects to the City sewer system.**

**2. Water Supply: The subdivider shall provide the City with information sufficient to demonstrate an the supply of an adequate volume and quality of water from the City water system.**

**3. Storm Drainage: The subdivider shall provide the City with preliminary drainage calculations and a proposed layout of the storm drainage system, including the locations of outlets. The proposed storm drainage system shall comply with the City's NPDES permit requirements, the City Code and all applicable Federal and state laws and regulations.**

**4. Communication, Electrical and Natural Gas Lines: The subdivider shall provide the City with a proposed layout for the locations of Communication Lines, electrical lines and natural gas lines.**

**5. Traffic Impact Study: The City may, in its discretion, require a traffic impact study if it determines that additional traffic in the area due to the subdivision may exceed existing roadway capacities, warrant traffic signal improvements, warrant the construction of additional travel lanes or impact state highways.**

**3-3-7: FINAL MAP STAGE (STAGE III):**

**A. Overview: The final map stage (Stage III) includes the final design and engineering of the subdivision, and the preparation, submission and review of and action on the final map and construction plans.**

**B. Requirements for Presentation of Final Map or Series of Final Maps; Extensions of Time: Unless a longer time is provided in an agreement entered into pursuant to NRS 278.0201 or 278.350, or unless the time is extended by mutual agreement of the subdivider and the City Council, the subdivider shall present to the City Council within 4 years after the approval of a tentative map: (1) a final map, prepared in accordance with the tentative map, for the entire area for which a tentative map has been approved; or (2) the first of a series of final maps covering a portion of the approved tentative map. If the subdivider elects to present a successive map in a series of final maps, each covering a portion of the approved tentative map, the subdivider shall present to the City Council on or before the second anniversary of the date on which the subdivider recorded the first in the series of final maps: (I) a final map, prepared in accordance with the tentative map, for the entire area for which the tentative map has been approved; or (II) the next final map in the series of final maps covering a portion of the approved tentative map. If the subdivider fails to comply with the provisions of the preceding sentence, all proceedings concerning the subdivision are terminated.**

**C. Pre-submission Requirements: Before a final map is submitted to the City for approval, the following requirements must be satisfied:**

**1. Zoning: The final map shall meet all requirements of the zoning district in which it is located, and any necessary changes to zoning district boundaries shall have been adopted by the City Council;**

**2. Preparation of Final Map: The subdivider shall prepare a final map that does not materially differ from the approved tentative map and conforms to all applicable requirements of the Nevada Revised Statutes, the Nevada Administrative Code and this Chapter.**

**D. Utility Easements: The subdivider shall obtain a letter or letters from all public utilities with utility easements located within the proposed subdivision indicating approval of the subdivision, which approvals shall be indicated in an affidavit on the final map.**

**E. Final Map Submittal; Filing: The final map submittal shall consist of three (3) copies and a readable electronic file in pdf format of the final map and any required supporting information and/or data, prepared in accordance with the requirements of this Chapter. The final map submittal shall be filed with the City planning department at least twenty-one (21) days prior to the City Council meeting at which the final map will be considered.**

**F. Review of Final Map:**

**1. Upon receipt of the final map submittal, the City planning department shall record the receipt and date of filing, and shall thereafter transmit copies of the final map to the City engineering, utility, public works, fire and development departments for their respective reviews. In reviewing the final map submittal, these departments shall each make a determination as to the completeness and adequacy of the final map submittal and its conformity to the requirements of the City Code, to include any standardized codes adopted by reference. If any reviewing department determines that a final map submittal is incomplete, inadequate or noncompliant with the City Code, the application will be rejected and the subdivider will be notified of the deficiencies that resulted in the rejection.**

**2. Distribution of Final Map Submittals to Other Governmental Entities, Irrigation Ditch Owners and Utilities: If, following the foregoing departmental review, the City determines that the final map submittal is complete, adequate and in conformity with the requirements of the City Code and the Stage I submittal, the City planning department will transmit copies of the tentative map submittal for review to (a) the Division of Water Resources and the Division of Environmental Protection of the State Department of Conservation and Natural Resources; (b) if the subdivision is subject to the provisions of NRS 704.6672, the Public Utilities Commission of Nevada; and (c) the Division of Water Resources of the State Department of Conservation and Natural Resources. All comments received in response to the foregoing distributions shall be provided to the Planning Commission and the City Council at the respective meetings during which the application is under consideration.**

**3. Review by Planning Commission: The Planning Commission shall review the final map for conformity with the tentative map, the City Code and the approved**

construction plan, and shall thereafter make a recommendation to the City Council to approve, conditionally approve or disapprove the final map.

**G. Final Map Approval, Certification and Recordation:**

- 1. Upon a recommendation by the Planning Commission to approve, conditionally approve or disapprove the final map, the City shall place the item of final map approval on the agenda for the next regular meeting of the City Council.**
- 2. During the meeting at which the final map is presented to the City Council, the City Council shall approve, conditionally approve or disapprove the final map.**
- 3. If the City Council disapproves the final map, it shall state the reasons for the disapproval and the same shall be placed in the minutes and communicated to the subdivider.**
- 4. Prior to a decision by the City Council to approve the final map, the City Council shall (a) accept or reject on behalf of the public any parcel of land offered for dedication for public use in conformity with the terms of the offer of dedication, (b) if applicable, it shall determine that a public street, easement or utility easement that will not remain in effect after a merger and re-subdivision of parcels conducted pursuant to NRS 278.4925, has been vacated or abandoned in accordance with NRS 278.480, (d) find that the final map substantially complies with the tentative map and all conditions have been met; and (e) determine that a performance agreement is in place that satisfies the requirements of this Chapter.**
- 5. Following approval of the final map by the City Council, the city clerk shall place upon the final map a certificate, signed by the mayor and the city clerk, stating that (a) the City Council approved the map; (b) the City Council accepted or rejected on behalf of the public any parcel of land offered for dedication for public use in conformity with the terms of the offer of dedication; (c) if applicable, the City Council determined that a public street, easement or utility easement that will not remain in effect after a merger and re-subdivision of parcels conducted pursuant to NRS 278.4925, has been vacated or abandoned in accordance with NRS 278.480; (d) the final map substantially complies with the tentative map and all conditions have been met; and (e) a performance agreement is in place that satisfies the requirements of this Chapter.**
- 6. If the City Council conditionally approves a final map, the conditions shall be satisfied before the final map is certified. The City Council may, in its discretion, direct that the conditions be satisfied within a specified period of time, after which the conditional approval shall expire and the final map shall be automatically deemed disapproved.**
- 7. Following certification, the city clerk shall cause the approved final map to be presented to the Elko County Recorder for recording.**

**H. Judicial Review: The subdivider may appeal any required conditions to or a disapproval of a final map by seeking judicial review in the Fourth Judicial District Court, in and for the County of Elko, State of Nevada, with fifteen (15) calendar days of the date of the decision of the City Council to impose the conditions, or either the date upon which the City**

Council disapproved the final map or the date upon which the approval was deemed to have occurred based on the failure to satisfy conditions, whichever is later.

### **3-3-8: CONTENT AND FORMAT OF FINAL MAP SUBMITTAL:**

The final map submittal shall contain the following information and comply with the following requirements and standards:

**A. Form and Content: The final map, including affidavits, certificates and acknowledgments, shall be clearly and legibly drawn with black, waterproof India ink upon Mylar of good quality. Each sheet shall be twenty-four inches by thirty-two inches (24" x 32") in size. A marginal line shall be drawn completely around each sheet showing an entirely blank margin of one inch (1") at the bottom, top and right edges, and two inches (2") on the left edge on the twenty-four inch (24") dimension. The scale of the map shall be not less than one inch to one hundred feet (1" = 100'). The sheet number and the total number of sheets comprising the map shall be so stated on each sheet, and the sheet number in relation to each adjoining sheet shall be clearly shown. The title sheet shall state the location of the property being subdivided with references to maps which have been previously recorded or by referring to the National Coordinate System or a comparable and generally recognized method of mapping managed and maintained by the National Geodetic Survey or other federal agency. Copies of the final map shall be reproduced in blue line or black line prints on a white background.**

**B. Identification Data and Other Information: The final map shall contain the following identifying and other information:**

- 1. Name of subdivision and location by section, township, range and county.**
- 2. Name, address and license number of the professional land surveyor, licensed in the State of Nevada, who prepared the final map.**
- 3. Scale, north point and date of map preparation.**

**C. Survey Data: The final map shall contain the following survey information:**

- 1. Boundaries of the tract fully balanced and closed, showing all bearings and distances, determined by an accurate survey in the field, with all dimensions expressed in feet and decimals thereof.**
- 2. Any exceptions within the map boundaries located by bearings and distances expressed in feet and decimals thereof, determined by an accurate survey in the field.**
- 3. Location and description of cardinal points to which all dimensions, angles, bearings and similar data on the map are referenced, and a subdivision traverse tied by course and distance to a section corner or quarter-section corner.**
- 4. Location and description of all physical encroachments upon the boundaries of the tract.**

**D. Descriptive Data: The final map shall contain the following descriptions:**

1. Names (where applicable); right-of-way lines; courses, lengths and widths of all streets, alleys, pedestrianways and utility easements; radii, points of tangency and central angles of all curvilinear streets and alleys; and radii of all rounded street line intersections.
2. All drainageways, which shall be designated as such.
3. All utility and public service easements, including designation of whether for public access or utilities.
4. Locations and dimensions of all lots, parcels and exceptions.
5. All residential lots numbered consecutively throughout blocks.
6. Locations, dimensions, bearings, radii, arcs, and central angles of boundaries of all sites to be dedicated to the public, including each designation of proposed use.
7. Location of all adjoining subdivisions with name, date, and book and page number of recordation noted, or if unrecorded, so noted, along with the names of adjoining landowners of unsubdivided property.
8. Any private deed restrictions to be imposed upon the final map, or any part hereof, written on or attached to the map and each copy thereof.

E. Dedication and Acknowledgment: The final map shall contain the following information regarding dedications:

1. Statement of dedication of all streets, alleys, sidewalks, pedestrianways, and easements for public purposes by the person holding title of record, by persons holding title as vendees under land contract, and by spouses of such persons. If lands to be dedicated are mortgaged, the mortgagee shall also sign the map. Dedication shall include a written description by section, township and range of the tract. If the map contains private streets, public utilities shall be deemed to have reserved the right to install and maintain utilities in such street rights-of-way.
2. Execution of a dedication acknowledged and certified by a notary public.

F. Additional Information: The final map shall contain the following additional information:

1. Where the centerline has been established for any street, highway, alley or public way within an adjoining subdivision, all monuments along the portion of the street, highway, alley or public way within the proposed subdivision shall be located with reference to the foregoing centerline, which centerline and monuments shall be shown on the final map.
2. The centerline of each highway, street, alley or way within the proposed subdivision and width on each side of the centerline, showing the width to be dedicated. All centerlines shall be shown with the corresponding bearing and length of each radius, the central angle and the length of each curve within the proposed subdivision.

3. The location of monuments or other evidence formed upon the ground and used in determining the boundaries of the subdivision. If other subdivisions adjoin the tract, the map shall show corners of such adjoining subdivisions sufficiently identified in such a manner as to locate precisely the limits of the proposed subdivision.
4. The length and bearing of each block line, lot line and boundary line; the length, radius and central angle of each curve or the length of curve and that portion of the central angle lying within each lot. The foregoing data shall be shown in a manner satisfactory to the City.
5. Each City boundary line crossing or adjoining the subdivision with adequate ties to monuments set or found within the subdivision.
6. Section lines, one-quarter ( $1/4$ ) section lines and one-sixteenth ( $1/16$ ) section lines crossing or adjoining the subdivision boundaries.

G. City to Check: The City will independently review and check the following information in the final map submittal:

1. The City shall check the final map for accuracy of dimensions, the placing of monuments, the existence of survey records referenced on the final map, and the conformance of the final map to the tentative map. The final map shall be accompanied by:
  - a. A worksheet showing the closure of the exterior boundaries of the proposed subdivision and of the closure of lots and blocks therein;
  - b. A complete set of construction plans showing site grading, lot grading, street sections, centerline and curb grades, water infrastructure, water meters, sanitary sewer and storm drain locations and invert grades and elevations, street lighting, and other private or public improvements required by the City. The construction drawings must be stamped and dated by a licensed professional engineer, qualified to practice the discipline of civil engineering, and so registered in the State of Nevada;
  - c. Construction plans for manholes, catch basins and other appurtenant structures; and
  - d. An engineer's estimate of quantities and costs required to complete the improvements. Labor costs shall be based on prevailing wages in accordance with the requirements of Nevada Revised Statutes Chapter 338 and local rates. The City will check the engineer's estimate and shall thereupon approve or disapprove the estimate based upon its accuracy. Upon approval by the City, the engineer's estimate shall provide the basis for the calculating the performance guaranty required under Section 3-3-22 of this Chapter.
2. The City will check the final map to determine whether it satisfies the minimum allowable error of closure of one per ten thousand ( $1/10,000$ ).

**H. Required Certifications: The following certifications shall appear on the final map:**

- 1. A certificate signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and recordation of the final map. A lien for state, county, municipal or local taxes and for special assessments or beneficial interest under deeds of trust, or trust interests under bond indentures shall not be deemed to be an interest in land for the purpose of this section. Any final map including territory originally patented by the United States or the state, under patent reserving interest to either or both of the entities, may be recorded in accordance with the provisions of Nevada Revised Statutes Chapter 278 without the consent of the United States or the state. Signatures required by this section of parties owning rights-of-way, easements or reversions which, by reason of changed conditions, long disuse or laches appear to be no longer of practical use or value, and which signatures it is impossible or impracticable to obtain, may be omitted if the names of such parties and the nature of their interest is endorsed on the final map, together with a reasonable statement of the circumstances preventing the procurement of such signatures.**
- 2. A certificate, signed and acknowledged as above, offering for dedication for certain specified public uses (subject to such reservations as may be contained in any such offer of dedication) those certain parcels of land which the parties desire so to dedicate. The certificate may state that any certain parcel or parcels are not offered for dedication; but a local ordinance may require as a condition precedent to the approval of any final map that any or all of the parcels of land shown thereon and intended for any public use shall be offered for dedication for public use, except those parcels other than streets intended for the exclusive use of the lot owners in such subdivision, and for the use of their licensees, visitors, tenants and servants.**
- 3. A certificate for execution by the clerk of each approving governing body stating that the body approved the map and accepted or rejected on behalf of the public any parcels of land offered for dedication for public use in conformity with the terms of the offer of dedication.**
- 4. A certificate signed and acknowledged by all parties having any record title in the land subdivided, evidencing their grant of permanent easements for utility installations and access, as designated on the final map, together with a statement approving such easements, signed by each public utility company or agency in whose favor the easements are created or whose utility services are to be required for the mapped parcels.**
- 5. A certificate by the licensed professional land surveyor responsible for the survey and final map, which certificate must be in the following form:**

**SURVEYOR'S CERTIFICATE**

**I (name of licensed professional land surveyor), a Professional Land Surveyor licensed in \_\_\_\_\_ the State of Nevada, certify that:**

- 1. This map represents the results of a survey conducted under my direct supervision at the instance of (Owner, Trustee, Etc.).**



2. The lands surveyed lie within (sections, township, range, meridian, and, if required by the City Council, a description by metes and bounds for any subdivision which is divided into lots containing 5 acres in area or less) and the survey was completed on (date);

3. This map complies with the applicable state statutes and any local ordinances in effect on the date that the governing body gave its final approval.

4. The monuments depicted on the map are of the character shown, occupy the positions indicated and are of sufficient number and durability.

\_\_\_\_ (OR)

4. The monuments depicted on the map will be of the character shown and occupy the positions indicated by ..... (a day certain) and an appropriate financial guaranty will be posted with the governing body before recordation to ensure the installation of the monuments.

\_\_\_\_ (Date, name of surveyor, license number and stamp)

6. A certificate by the appropriate City official stating that he or she has examined the final map, that the subdivision as shown thereon is substantially the same as it appeared on the tentative map, and any approved alterations thereof, that all applicable provisions of Nevada Revised Statutes Chapter 278, inclusive, and of any requirements of the City Code applicable at the time of approval of the tentative map have been complied with, that he or she is satisfied that the final map is technically correct and that the monuments as shown are of the character and occupy the positions indicated or that the monuments have not been set and that a proper performance guaranty has been deposited guaranteeing their setting on or before a day certain. The foregoing certificate shall be dated, signed and certified by a licensed professional land surveyor or a licensed professional engineer qualified by the State of Nevada to practice the discipline of civil engineering.

7. A certificate by the Division of Environmental Protection of the State Department of Conservation and Natural Resources stating as follows:

This final map is approved by the Division of Environmental Protection of the State \_\_\_\_\_ Department of Conservation and Natural Resources and is approved concerning sewage \_\_\_\_\_ disposal, water pollution, water quality and water supply facilities in accordance with the Nevada Revised Statutes. This approval predicates (community, individual) water supply and (community, individual) sewage disposal.

8. A copy of the review by the Division of Environmental Protection of the State Department of Conservation and Natural Resources required by Subsection H.7 of this Section shall be furnished to the subdivider who, in turn, shall provide a copy of such review to each purchaser of land prior to the time the sale is completed. No statement of approval or review as required in Subsection H.7 of this Section shall be deemed a warranty or representation by the City in favor of any person as to the safety or quantity of such water.

**9. A certificate by the Division of Water Resources of the State Department of Conservation and Natural Resources as follows:**

***Division of Water Resource Certificate: This final map is approved by the Division of Water Resources of the Department of Conservation and Natural Resources concerning water quantity subject to the review of approval on file in this office.***

**10. The City Council shall not approve any final map for a subdivision served by the City municipal water system unless the subdivider has submitted plans which provide for the installation of water meters or other devices which will measure the quantity of water delivered to each water user in the subdivision.**

**3-3-9: GENERAL REQUIREMENTS FOR SUBDIVISION DESIGN:**

**A. Conformance With Master Plan and Other Requirements: Every subdivision shall conform to the requirements and objectives of the City master plan, the City zoning ordinance, and all other applicable ordinances and regulations of the City, and to the statutes and regulations of the State of Nevada, except as otherwise provided in this Chapter.**

**B. Provision of Public Facility Sites: Whenever the statutes of the state permit the dedication of school sites or parks, the City Council may require the subdivider to dedicate such sites.**

**C. Land Unsuitability: No land shall be subdivided which is determined by the Planning Commission to be unsuitable for use by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, erosion susceptibility or similar conditions which are likely to prove harmful to the health, safety and general welfare of the community or the future property owners. The Planning Commission, in applying the provisions of this Section, shall state the particular facts upon which its conclusions are based, and shall also define any conditions under which the land may, in its opinion, become suitable for the proposed development. Land located within any floodway as designated on the city flood insurance rate maps shall be deemed unsuitable for development. Any subdivider proposing development of land that is deemed unsuitable for development shall have the right to present evidence to the City Council contesting such determination of unsuitability, whereupon the City Council may affirm, modify or withdraw the restriction.**

**3-3-10: STREET LOCATION AND ARRANGEMENT:**

**A. Conformance With Plan: Whenever a tract to be subdivided embraces part of a street designated in a street and highway plan adopted by the City, such street shall be mapped in conformance therewith.**

**B. Layout: Street layout shall provide for the continuation of such streets as necessary to provide traffic and pedestrian access throughout the community and as the Planning Commission may designate.**

**C. Neighborhood Plan: Whenever the tract to be subdivided is located within an area for which a neighborhood plan has been approved by the Planning Commission, the street arrangement shall conform to such plan.**

D. Extensions: Certain proposed streets, as designated by the Planning Commission, shall be extended to the tract boundary to provide future connection with adjoining unmapped lands. Such extensions shall generally not be farther apart than the maximum permitted length of a block, as hereinafter provided.

E. Arrangement of Residential Streets: Residential streets shall be so arranged as to discourage their use by traffic originating outside the immediate neighborhood.

F. Protection of Residential Properties: Lots intended for single-family residential use shall not front or have access from arterial streets, except as otherwise permitted by the City due to site-specific conditions. Where a proposed subdivision abuts an existing or proposed arterial street, the Planning Commission may require marginal access streets or reverse property frontage with nonaccess easements abutting the arterial street, or such other treatment as may be justified for protection of residential properties from the nuisance and hazard of high volume traffic, and for protection of the traffic function of the arterial street.

G. Parallel Streets: Where a residential subdivision abuts the right-of-way of a railroad, a limited access highway, or a commercial or industrial land use, the Planning Commission may require the design and construction of a street approximately parallel to such right-of-way or use at a location and configured in such a manner as to take into account approach grades, drainage, bridges and future grade separation.

H. Topography: Streets shall be so arranged in relation to topography as to produce desirable lots, provide for maximum utility and streets of reasonable gradient, and facilitate adequate surface drainage.

I. Alleys: Alleys, if any, shall be aligned and arranged in a manner that minimizes backtracking and single-tier service by trash collection forces, and that avoids the facing of residences directly into alley openings.

J. Half-Streets: Half-streets are prohibited unless approved by the Planning Commission where necessary to provide a right-of-way in the manner indicated on the official street and highway plan, to complete a street pattern already begun, or to ensure reasonable development of an adjoining unmapped parcel. Where a mapped half-street exists in a location abutting to residential lots, the remaining half-street shall be mapped within the subdivision.

K. Dead End Streets: Dead end streets in excess of six hundred eighty feet (680') in length are prohibited unless a modification is granted by the Planning Commission in locations necessary for future street connection to adjacent unmapped lands. This foregoing qualified prohibition shall also apply to cul-de-sacs.

L. Intersection Design: Whenever any proposed street or highway requires a separation of grades or any special form of intersection design at its intersection with any street, highway or railway, the subdivision shall be designed to conform to any plan adopted by the City for the intersection design and all lots within the subdivision shall, when necessary, be provided with suitable access from another public way. Any street or highway intersecting another street or highway shall intersect it at any angle as close to a right angle as is practicable.

### 3-3-11: STREET DESIGN:

**A. Right-of-Way Widths: Right-of-way widths for streets and roads are as follows:**

- 1. Arterial Streets: One hundred feet (100').**
- 2. Minor Arterial Streets: Eighty feet (80').**
- 3. Collector Streets: Seventy feet (70').**
- 4. Collector Residential Streets: Sixty feet (60').**
- 5. Local Residential Streets: Fifty feet (50').**
- 6. Collector Rural Residential Streets: Seventy feet (70').**
- 7. Local Rural Residential Streets: Sixty feet (60').**
- 8. Hillside Rural Residential Streets: Sixty feet (60').**

**B. Rural Roads: All rural roads shall conform to the following requirements and standards:**

- 1. All infrastructure associated with a rural road shall be constructed at the time of road development; including but not limited to culvert installation and pedestrian way, sidewalk or pathway construction.**
- 2. All rural roads shall include a minimum ten foot (10') wide public utility and slope easement located on one or both sides of the road right-of-way; provided, the City may, in its discretion, increase the required width of the foregoing easement if warranted under the circumstances.**
- 3. Rural roads which are projected through a traffic study or similar analysis to serve more than six hundred (600) average daily vehicle trips shall satisfy the collector rural residential street design standard.**
- 4. Pedestrian ways, sidewalks or pathways associated with rural roads may be constructed of concrete, asphalt or, if approved by the City, a different but comparable material. Pedestrian ways, sidewalks or pathways shall be constructed on both sides of the road and outside of the public utility and slope easement(s).**
- 5. On-street parking on rural roads, except for temporary or emergency parking, is prohibited, and the subdivider shall install appropriate signage to notify the public of this prohibition.**
- 6. To minimize excessive culvert installation and associated maintenance, access approaches for rural roads shall be limited to either (a) one driveway, not to exceed thirty feet (30') in width or (b) two (2) separated driveways, each of which shall not exceed twenty feet (20') in width. Culvert installation is required at the time of roadway construction and, without limitation, shall not be deferred.**
- 7. Rural roads are prohibited in subdivisions not meeting the criteria set forth in Section 3-2-5(A)(5)(b).**

8. Rural roads are prohibited in areas within capture zones as delineated in the City's Wellhead Protection Plan.

9. Maximum cul-de-sac length for rural roads may be increased in dimension to serve no more than twenty (20) residential dwelling units; provided, under no circumstance shall such cul-de-sacs exceed a length of one thousand, three hundred sixty feet (1,360').

**C. Private Streets:** Private streets within a subdivision shall satisfy the requirements and standards applicable to streets with local street classifications, functions and characteristics. Private streets shall only serve an area contained entirely within the exterior boundaries of the subdivision and shall provide access the public street system at an intersection, the design of which shall be subject to the review and approval by the City. All private streets shall conform to the following requirements and standards:

1. Minimum total width for private streets accessing five (5) or more lots: Fifty feet (50').

2. Minimum total width for private streets accessing four (4) or fewer lots: Thirty-two feet (32').

3. Minimum paved section for private streets accessing five (5) or more lots: Forty feet (40').

4. Minimum paved section for private streets accessing four (4) or fewer lots: Twenty-six feet (26').

5. All residential private streets accessing twenty (20) or fewer lots shall have a four foot (4') wide sidewalk on at least one side of the street.

6. All residential private streets accessing more than twenty (20) lots shall have four-foot (4') wide sidewalks on both sides of the street.

7. All commercial and industrial private streets accessing four (4) or fewer lots shall have a five foot (5') wide sidewalk on at least one side of the street, or as otherwise determined as part of an approved concept development plan.

8. All commercial and industrial private streets accessing more than four (4) lots shall have five foot (5') wide sidewalks on both sides of the street, unless otherwise provided in a development plan entered into between the subdivider and the City.

9. All private streets shall provide for adequate storm drainage and employ the use of curb and gutter sections to convey runoff, the design of which shall be subject to the review and approval of the City.

10. Parking spaces, inclusive of back up areas as required by Section 3-2-17 of this Title, shall not be located within a private street, unless otherwise provided in a development plan entered into between the subdivider and the City.

11. All infrastructure associated with private streets shall be constructed at the time of street development.

12. The satisfactory completion and maintenance of improvements that must be designed and constructed in conjunction with the development of private streets shall be required in a performance agreement and guaranteed by the subdivider with a performance guaranty and a maintenance guaranty. The foregoing performance agreement and guarantees shall satisfy all applicable requirements set forth in this Chapter.

D. Cul-De-Sacs: Cul-de-sac streets shall terminate in a circular right-of-way not less than fifty feet (50') in radius with an improved turning circle with a radius of at least forty-five feet (45'). The Planning Commission may approve a functionally equivalent form of turning space if justified by unusual conditions. The maximum length of cul-de-sac streets, as measured along the centerline of the street and between the centerline of the intersecting street and the center point of the cul-de-sac, shall not exceed six hundred eighty feet (680').

E. Marginal Access Streets: Marginal access streets shall conform to all applicable requirements and standards set forth in the City Code.

F. Alleys: Where permitted or required, alleys shall have a minimum of twenty feet (20') and shall conform to the following requirements and standards:

1. Alley intersections and sharp changes in alignment should be avoided; provided, where such features are necessary, corners shall be cut off ten feet (10') on each side to permit safe vehicular movement.

2. Dead end alleys are prohibited.

3. "Half" alleys are prohibited.

G. Dead End Streets: Dead end streets are only permitted with the approval of the City, which approval, if given, may contain conditions applicable to the subsequent development of the street; provided, if a dead end street is approved by the City, the street shall include easements permitting the subsequent construction of a temporary turning circle with a fifty foot (50') radius or a functionally equivalent design.

H. All Streets: The design and construction of all streets within the City, including both public and private streets, shall conform to the public improvement standards set forth in Section 3-3-17 of this Chapter.

I. Model Code Standards: All streets shall conform to any model codes adopted by reference in the City Code, to include the Uniform Fire Code.

J. Street Grades: Streets shall be designed and constructed subject to the following grade requirements and standards:

1. Maximum Grades:

a. Arterial and minor arterial streets: Maximum grades will be determined by the City based on site-specific conditions.

b. Collector streets: No more than seven percent (7%).

c. Collector residential and local residential streets: No more than nine percent (9%).

2. Minimum Grades: New asphalt streets with concrete gutters shall have a minimum longitudinal slope of 0.50%. Minimum grades for the rehabilitation of existing streets will be determined by the City based on site-specific conditions.

3. Exceptions: The Planning Commission may, in its discretion, grant an exception to the minimum and maximum grade requirements contained in this subsection if the cost to the subdivider substantially outweighs the public benefit.

K. Vertical Curves: Streets shall be designed and constructed subject to the following vertical curve requirements and standards:

1. Arterial and minor arterial streets: Vertical curves standards for arterial and minor arterial streets will be determined by the City based on site-specific conditions.

2. Collection and local streets: Collector and local streets will be designed and constructed with minimum k values of 30 for crests and 40 for sag curves. Vertical curves are not required when the algebraic difference between the two slopes is less than 2%

L. Horizontal Alignment: Streets shall be designed and constructed subject to the following horizontal alignment requirements and standards:

1. Horizontal alignment standards for arterial and minor arterial streets will be determined by the City based on site-specific conditions.

2. When tangent centerlines deflect from each other by more than ten degrees (10°) and less than ninety degrees (90°), they shall be connected by a curve having a minimum centerline radius of two hundred feet (200') for collector streets, or one hundred feet (100') for collector residential and local residential streets.

3. Between reverse curves, there shall be a tangent section of centerline not less than one hundred feet (100') long.

4. Streets shall intersect arterial streets at ninety degree (90°) angles. Intersecting collector streets, collector residential streets and local residential streets typically intersect at ninety degree (90°) angles, but in no case shall such an angle of intersection be less than seventy five degrees (75°).

5. Street jogs are prohibited unless the City grants an exception based on site-specific conditions.

6. Local residential streets or collector residential streets intersecting a collector street or arterial street shall have a tangent section of centerline at least one hundred fifty feet (150') in length measured from the right of way line of the more major street, except that no such tangent shall be required when the local residential or collector residential street curve has a centerline radius greater than four hundred feet (400') measured from a center located on the more major street right of way line.

7. Street intersections with more than four (4) legs and Y-type intersections with legs meeting at acute angles are prohibited.

8. Intersections of street lines shall be rounded by a circular arc having a minimum tangent length of fifteen feet (15').

**3-3-12: BLOCK DESIGN:**

A. Maximum Length of Blocks: Within the following maximums, blocks shall be as long as reasonably possible to achieve the greatest possible street economy, and to reduce the expense and increased safety hazard arising from excessive street intersections. Maximum block length, measured along the centerline of the street and between intersecting street centerlines, shall not exceed one thousand, three hundred sixty feet (1,360').

B. Sidewalks or Pedestrianways: Sidewalks or pedestrianways with a right-of-way width of eight feet (8') are required if the opinion of the Planning Commission determines they are essential for pedestrian circulation within the subdivision or will enhance access to schools, playgrounds or other community facilities. Rights-of-way for sidewalks and pedestrianways may be used for utility purposes so long as those purposes do not unreasonably interfere with pedestrian traffic.

**3-3-13: LOT PLANNING:**

A. Lot Width, Depth and Area: Except as otherwise provided in this subsection, lot width, depth and area shall comply with all applicable zoning requirements, shall be appropriate for the location and character of the proposed subdivision, shall comply the provisions of any development agreement entered into pursuant to City Code Section 3-2-26, and shall be appropriate for the type and extent of public improvements being installed. Notwithstanding the foregoing sentence, where steep topography, unusual soil conditions or drainage problems render the cost of complying with these requirements excessive in light of the benefit to the public, the Planning Commission may, in its discretion, permit a greater lot width, depth and/or area than is otherwise allowed for the zoning district or which would otherwise be required under this Subsection.

B. Lot Depth and Width: Lot depths shall be at least one hundred feet (100') and widths at least sixty feet (60'); provided, the Planning Commission may, in its discretion, permit narrower lot widths on cul-de-sacs upon a showing of good cause by the subdivider.

C. Building Setback: Minimum building setbacks shall conform to all applicable requirements set forth in the City Code.

D. Side Lot Lines: Side lot lines shall be at or near right angles or radial to street lines, unless the Planning Commission, in its discretion, permits a different alignment upon a showing of good cause by the subdivider.

E. Accessibility: Every lot shall abut a public street or private street that is connected to the public street system.

F. Prohibitions: Single-family residences are not permitted on double frontage lots, except that, subject to the approval of the Planning Commission for good cause shown, such lots



may be permitted in locations abutting an arterial street so long as all dwellings front on local or collector streets and there is no access from the arterial street.

### **3-3-14: EASEMENT PLANNING:**

Utilities shall be placed underground unless the Planning Commission approves a modification to permit overhead utilities based on unique site conditions, in which event the Planning Commission may impose conditions on the modification.

The following easement requirements shall apply to all new subdivisions:

#### **A. Utility Easements:**

1. Where alleys are shown on a final map, utility easements four feet (4') wide on each side of each alley shall be dedicated for aerial overhang. Where alleys are not shown on the final map, utility easements six feet (6') wide on each side of rear lot lines shall be delineated on the final map and offered for dedication. In addition, guy and anchor easements one foot (1') wide on each side of a side lot line and thirty five feet (35') in length measured from the rear lot line, in locations selected by the City, or as required by the serving utility, shall be shown on the final map and dedicated.
2. Utility easements five feet (5') wide adjacent to each side of side lot lines, and where service to street lighting is required, one foot (1'), on each side of such lot lines, or as required by the serving utilities, shall be shown on the final map and dedicated.

#### **B. Underground Utilities: Where all utilities are underground:**

1. Rear Lot Lines: Where alleys are shown on the final map, corresponding easements required by the serving utilities shall be shown on the final map and dedicated. Where alleys are not shown on the final map, utility easements five feet (5') wide along each side of rear lot lines shall be shown on the final map and dedicated.
2. Side Lot Lines: Easements for utilities and lot drainage on all side lot lines shall be shown on the final map and dedicated. All utility service lines, including service lines for gas, electricity, telephone, communications, and street lighting shall be channeled in easements five feet (5') wide on each side of the lot line separating pairs of lots to the extent required by the serving utilities.
3. Street Rights-of-way: Easements for utilities and lot drainage on lot lines abutting street rights-of-ways shall be shown on the final map and dedicated. All such easements shall be a minimum of seven and one-half feet (7 1/2') wide.

#### **C. Lots Facing Curvilinear Streets: For lots with fronts facing curvilinear streets and alleys, easements for overhead utilities shall consist of either:**

1. A series of straight lines with points of deflection not less than one hundred twenty feet (120') apart, such points of deflection always occurring at the junction of side and rear lot lines on the side of the exterior angle; or

2. A curvilinear easement, provided the minimum radius of the centerline shall be not less than eight hundred feet (800').

D. Public Drainage Easement: Where a stream or major surface drainage course abuts or crosses the subdivision, the subdivider shall show on the final map and dedicate a public drainage easement sufficient to permit widening, deepening, relocating or protecting the drainage course. The subdivider's engineer shall provide the City with sufficient information about the drainage to evaluate the adequacy of the easement.

E. Easement Land Not Considered and Considered in Minimum Lot Area Calculation: Land within a public street or drainage easement, or land within a utility easement for major power transmission lines or pipelines, shall not be included in the calculation of the minimum required lot area. However, land included in utility easements to be used for distribution or service purposes, and land included in the five foot (5') wide and seven and one-half foot (7 ½') wide drainage easements along lot lines and street rights-of-way, shall be included the calculation of the minimum required lot area.

F. Lots Backing Onto Arterial Streets: Lots arranged to back of arterial streets, railroads, canals or commercial or industrial districts, as provided in this Chapter, shall have a minimum depth of one hundred ten feet (110'), the rear one foot (1') of which shall be recorded as a nonaccess private easement.

G. Water And Sewer Utility Lines: Municipal water and sewer utility lines shall be installed within the City street rights-of-way, unless otherwise approved by the Planning Commission and/or the City Council based on special circumstances.

### 3-3-15: STREET NAMING:

At the tentative map stage (Stage II), the subdivider shall propose names for all streets in the subdivision. A street name may be disapproved by the Planning Commission, in which event the subdivider must receive approval from the Planning Commission for a new street name.

### 3-3-16: STREET LIGHT DESIGN STANDARDS:

A. Requirements: Street lighting shall be installed in a subdivision in accordance with the following requirements:

1. The subdivider shall install street lights, shall make all necessary arrangements with the appropriate utility company for the installation of street lights, and shall bear all costs relating to the purchase and placement of street lights. Street lights shall be installed by a properly licensed contractor possessing a valid City business license.
2. Street lighting plans are prepared by the utility company providing electricity to the subdivision. Once prepared, the subdivider shall submit the street lighting plans to the City for review. Street lighting plans must show the location of each street light, the corresponding power source and the size of luminaries measured in watts or lumens.
3. The City will not accept any public improvements or issue a certificate of occupancy for any part of a subdivision until all street lighting within each construction phase is complete and fully operational.

4. Requests for street lighting in previously developed areas must be approved by the city for location and installation prior to being submitted to the utility company for design engineering.

5. Once the street lighting has been installed and operational, approval by the city will constitute acceptance of the street lighting and the city will then be responsible for the energy costs and maintenance thereafter.

**B. Design Standards: All street light installations shall be designed in accordance with the following minimum design standards:**

1. All luminaries shall be LED luminaires with a minimum of one hundred (100) watt equivalent LED for residential areas and a minimum of two hundred (200) watt equivalent LED for commercial/industrial areas or approved equal.

2. A street light shall be placed at each street intersection and shall be situated to properly illuminate the intersection.

3. A street light shall be placed at each proposed U.S. Postal Service gang box location.

4. Street lights shall be placed between intersections at midblock locations with a minimum spacing of three hundred fifty feet (350') and maximum of five hundred feet (500') between all lights.

5. A street light shall be placed at the end of each cul-de-sac.

### **3-3-17: RESPONSIBILITY FOR PUBLIC IMPROVEMENTS:**

The design, construction and financing of all required public improvements, such as but not limited to, grading, sidewalks, curbs, streetlights, gutters, pavements, sanitary sewers, storm sewers, water mains, fire hydrants, drainage structures and monuments shall be the responsibility of the subdivider and shall conform to public improvement standards established by the City; provided, however, that the subdivider may satisfy such requirements by participating in an improvement district approved by the City.

### **3-3-18: CONSTRUCTION PLANS:**

The subdivider shall contract with or otherwise utilize a properly licensed professional engineer to prepare a complete set of construction plans for the construction of all required public improvements. The construction plans shall include (unless otherwise waived if permitted under this Chapter) all infrastructure necessary for the construction of the subdivision including, but not limited to: streets, curbs, gutters, sidewalks, drainage, water, wastewater and protection of important environmental features. The construction plans shall be based on, consistent with and prepared in conjunction with the final map. Construction plans shall not be prepared until Stage III of the subdivision planning and approval process, and must be approved by the City prior to certification and recordation of the final map.

### **3-3-19: CONSTRUCTION AND INSPECTION:**

**A. Inspections; Performance Agreement; Permits Required: The following requirements apply to improvements constructed in public rights-of-way:**

1. All improvements constructed in public rights-of-way shall subject to inspection by the City and must be approved by the City prior to certification and recordation of the final map.
2. Construction of improvements in public rights-of-way shall not commence until the subdivider has entered into a performance agreement with the City in accordance with City Code Sections 3-3-21 and 3-3-22.
3. Construction of improvements in public rights-of-way shall not commence until all federal, state, and local permits have been issued for such construction, and if work is discontinued for any reason, it shall not resume until the subdivider so notifies the City.

B. Underground Utilities: All underground utilities to be placed in streets shall be constructed prior to the surfacing of such streets. Service stubs for underground utilities to be connected to lots shown on the final map shall be installed with sufficient length to avoid disturbing street improvements at the time service connections are made.

### 3-3-20: REQUIRED IMPROVEMENTS:

A. Streets and Alleys: All streets and alleys within the subdivision shall be graded, drained and surfaced to cross sections, grades, standards, and profile approved by the City. If there are existing streets adjacent to the subdivision, proposed streets within the subdivision shall be fully improved to the intercepting paving line of the existing streets. Temporary dead end streets serving more than four (4) lots shall be designed and constructed with a graded all-weather, temporary turning circle, subject to any additional requirements imposed by the City based upon site conditions. The subdivider shall construct adequate permanent culverts and bridges at all points within the subdivision where watercourses are crossed by streets or alleys. Culverts and bridges shall, without limitation, conform to all applicable requirements of the City Code and be constructed to the full width of the dedicated street or alley.

B. Curbs: Curbs shall be constructed of Portland cement concrete. The construction of curbs, gutters and valley gutters shall subject to any additional standards required by the City, which standards may be imposed based on site conditions.

C. Sidewalks: Sidewalks shall be four feet (4') wide in all locations adjacent to residential or local streets, and five feet (5') wide in all locations adjacent to streets classified as collector, minor arterial, arterial, or major arterial. Sidewalks shall be constructed on both sides of all streets unless the requirement is waived pursuant to a specific provision of this Code permitting such a waiver.

D. Pedestrianways: Pedestrianways shall be constructed of Portland cement concrete unless another paving material is approved by the City based on site conditions. All pedestrianways shall be constructed to a width, line and grade approved by the City based on site conditions. The City may, in its discretion, require a four foot (4'), maintenance free fence with posts set in concrete on both sides of a pedestrianway based on site conditions.

E. Street Name Signs: The subdivider shall install street name signs at all street intersections before the time the street pavement is ready for use. Design, construction, location and

installation of street name signs shall conform to all applicable standards adopted by the City.

**F. Stormwater Drainage:** The design and construction of public streets and alleys, and the grading of private properties, shall provide for adequate disposal of stormwater. Existing major drainage courses shall be maintained and dedicated as public drainageways. The type, extent, location and capacity of drainage facilities shall be designed by the subdivider's engineer and approved by the City. The subdivider shall install stormwater drainage facilities to the grade, in the locations, to the depths and of the materials shown on plans and specifications approved by the City. Storm and surface water drain pipes and mains, together with catch basins, shall be designed and constructed to provide discharge in a manner and at a place approved by the City. The design and construction of stormwater drainage facilities shall conform to all applicable requirements of this Code, to include the requirements of Title 9, Chapter 8, entitled "Postconstruction Runoff Control and Water Quality Management."

**G. Sanitary Sewerage:**

1. The subdivider shall install public sanitary sewers in the subdivision. Sanitary sewers shall be connected to a public sewer system. Sewers, connections and related apparatus shall be constructed in accordance with plans, profiles, and specifications approved by the Nevada Division of Environmental Protection and the City, and in accordance with approved City standards and State of Nevada requirements. The subdivider shall install sanitary sewers to the grade, in the locations, to the depth and of the material shown on plans and specifications approved by the City. The subdivider shall connect each lot in the subdivision to sanitary sewer mains at locations specified by the City.
2. The subdivider shall install manholes in conjunction with the installation of sanitary sewer mains at the points, in the manner and according to specifications approved or provided by the City.

**H. Water Supply:**

1. The subdivider shall design and construct the water supply system in such a manner as to ensure that each lot shall be supplied with safe, pure and potable water in sufficient volume and pressure for domestic use and fire protection, and that conforms to all applicable State and City standards and requirements. The subdivider shall install, to grade, all water mains and lines with the materials that are shown on plans and specifications approved by the City. Connections from said mains and lines shall be installed to each lot in said subdivision. The construction plans shall show the locations of shutoff valves to each block and lot. All proposed water systems shall connect to the City municipal water system.
2. Water meter boxes and water meters shall be installed on all lots. Water meter boxes shall conform to all applicable standards and specifications set by the City, and shall be subject to approval by the City.

**I. Fire Hydrants:** Fire hydrants shall conform to all applicable standards and specifications set by the City (to include, without limitation, the Fire Code, Title 6, Chapter 1, Section 1), and shall be subject to approval by the City.

**J. Power, Communications and Gas Utilities:** The subdivider shall install or arrange for the installation of the following utilities: electric power, natural gas, telephone and communication lines. These utilities shall be installed in all subdivisions. All electric distribution facilities shall be installed underground, except in unusual situations involving short extensions of overhead facilities existing on abutting subdivisions, which extensions are only permitted if approved by the City Council. All underground electric distribution lines and telephone lines shall be installed in accordance with General Order No. 9 issued by the Public Utilities Commission of Nevada.

**K. Survey Monuments:** Permanent monuments shall be installed in accordance with standards set by the City at all corners, angle points, points of curve and street intersections. After all improvements in the subdivision have been installed, the subdivider shall have a registered land surveyor check the locations of monuments and certify their accuracy. Monuments shall be at or near boundary corners. Monuments shall be set at intermediate points of approximately one thousand feet (1,000') or at such lesser distances as may be necessary by reason of topography or culture to ensure accuracy in the reestablishment of any point or line without unreasonable difficulty. All monuments shall be permanently and visibly marked with the license number of the registered land surveyor under whose supervision the survey was made, and a description of such monument shall be shown on the final map. The subdivider shall set monuments at street intersections and at the beginning and ending of each curve, unless the intersection of tangents of said centerline falls within the street right of way, in which event the City may permit the subdivider to establish a monument at the intersection in lieu of monuments at the beginning and end of the curve.

**L. Lot Corner Staking:** Five-eighths inch ( $\frac{5}{8}$ " ) reinforcing steel with a cap having a mark for the exact point and stamped "PLS" followed by the number of the professional land surveyor's license shall be set at all corners, angle points and points of curve for each subdivision lot prior to final acceptance of the subdivision. The cost for lot corner staking, under the direction of a professional land surveyor, shall be included as part of the public improvements and shall be a line item on the "engineer's estimate of the costs of the public improvements."

**M. Street Lighting:** Street lighting shall be installed on all streets and at all locations designated by the City within the subdivision in conformity with Section 3-3-16 of this Chapter, to include City standards for materials, design and construction. The subdivider will bear all costs for the design and installation of street lights.

**N. Stormwater Discharge and Land Disturbance:** All construction activities that have the potential to create a land disturbance of greater than one (1) acre shall comply with state construction site stormwater general permit requirements and the City's National Pollutant Discharge Elimination System General Permit for discharges from small municipal separate storm sewer systems. This requires developers and/or contractors to obtain a state stormwater discharge permit and City grading permit for these projects. The subdivider shall provide construction site stormwater erosion protection for all construction. Permanent stormwater erosion measures meeting the minimum requirements of the city stormwater management plan will be enforced.

**O. Full Frontage:** The subdivider must construct and install all required public utilities across the full frontage of property at the time of development of the subdivision.

**P. Site Grading:** The subdivider shall:

1. Ensure that the subdivision is constructed with sufficient site grading for the required improvements;
2. Ensure that each lot area is buildable; and
3. Ensure that there is adequate site drainage control.

### 3-3-21: PERFORMANCE AGREEMENTS:

A. Provisions and Requirements of Performance Agreement: Except as otherwise provided in this Section 3-3-21, prior to approval of the final map by the City Council, the subdivider/developer shall enter into and have on file with the City a performance agreement, fully executed by the subdivider and the City, containing the following provisions:

1. That the engineer's estimate must be approved by the City;
2. That the total engineer's estimate must be an amount no less than the full cost of the following improvements:
  - a. Improvements required under Section 3-3-20 of this Code;
  - b. Improvements shown in the construction plans prepared and approved in accordance with Section 3-3-18 of this Code;
  - c. Improvements identified in engineering inspections;
  - d. The cost to replace any existing streets, utilities or other improvements that may be damaged during construction of the required subdivision improvements;
  - e. The cost to prepare the as-built drawings and any associated documents; and
  - f. Incidental expenses associated with the foregoing work.
3. That the subdivider will provide the City performance and maintenance guarantees that satisfy the requirements of City Code Section 3-3-22.
4. That all subdivision improvements identified in the performance agreement shall be completed within a specified period, not to exceed two (2) years, to the satisfaction of the City.
5. That in the event the required subdivision improvements are not completed within the specified period to the satisfaction of the City, the City may, at its option, complete or cause to be completed the improvements and thereafter recover from the subdivider the full cost and expenses therefor.
6. That approved construction plans are appended to the agreement as an exhibit.
7. That in the event the subdivider fails to construct all required subdivision improvements according to the approved construction plans and within the times set forth in a schedule determined by the City that conforms to the requirements of

this Chapter, the City may thereafter utilize the performance guaranty in accordance with Section 3-3-22 of this Chapter to complete the subdivision improvements.

8. That the construction plans and all required improvements shall be approved by the City prior to the commencement of construction.

9. That the subdivider shall, at its own expense, use the services of a licensed professional engineer to (a) oversee the construction of the subdivision and (b) provide to the City copies of all test results required under the specifications for the project.

10. That a performance guaranty given in the form of a bond or irrevocable letter of credit shall not expire or be released prior to completion all required subdivision improvements and written authorization by the City permitting the performance guaranty to expire or be released.

11. That the subdivider shall pay the cost of inspection, testing and surveying all subdivision improvements and, further, that if the City determines the subdivider is not performing adequate surveying, inspection and/or testing through the use of a properly licensed professional engineer or land surveyor (as appropriate), the City may then, in its discretion, order the subdivider to immediate stop work; and that the City may thereafter hire a properly licensed professional engineer and/or land surveyor to perform the remaining surveying, inspection and/or testing, the cost of which shall be reimbursed to the City by the subdivider upon demand and prior to final acceptance of the subdivision improvements by the City.

12. That the subdivider's engineer shall provide to the City as-built drawings of all subdivision improvements, and further, that the as-built drawings shall be submitted both in digital format and on paper, the paper version to be wet-stamped by the subdivider's engineer prior to submittal to the City.

13. That the subdivider shall use qualified and properly licensed contractors for the construction of all required improvements, to include all subdivision improvements shown on the construction plans.

B. Additional Provisions: Notwithstanding any other requirements set forth in Subsection 3-3-21(A), the performance agreement may, in the discretion of the City, also contain any of the following provisions and/or requirements:

1. That the construction of improvements shall take place in specified stages.

2. That the time to complete construction may be extended by the City, in its discretion, subject to specified conditions.

3. That upon a determination by the City that specific improvements have been satisfactorily constructed and completed, funds may be released from the performance guaranty either by refunding a portion of a cash deposit to the subdivider or by authorizing a reduction of a bond or other form of non-cash guaranty, so long as the foregoing release of funds does not exceed ninety percent (90%) of the value of the completed improvements that have been certified by the subdivider's engineer and approved by the City.

C. Modifications, Extensions: At the written request of the subdivider, the terms and



conditions, to include time frames and deadlines, contained in an executed performance agreement may be modified by the City Council upon a demonstration of good cause by the subdivider, so long as the modification does not frustrate the purposes of the City Code or relieve the subdivider of the requirement to construct or compensate the City for constructing the required subdivision improvements. The subdivider shall, at the time of filing the written request for modification of the performance agreement, pay a filing fee to the city in an amount established by resolution of the City Council.

D. Inspection Costs: The subdivider shall pay the cost of inspection, testing and surveying of all subdivision improvements. If the City determines that the subdivider is not providing adequate surveying, inspection and/or testing through a qualified engineer and/or surveyor licensed to work in the State of Nevada, then the City may, in its discretion, order the subdivider to immediately stop work and thereafter the City may hire a qualified engineer, surveyor or firm to perform the remaining surveying, inspection and/or testing. The subdivider shall promptly reimburse the City for the cost of hiring a qualified engineer, surveyor or firm to perform the remaining surveying, inspection and/or testing upon written demand and prior to final acceptance of the subdivision improvements by the City.

E. As-Built Drawings: The subdivider, or the subdivider's engineer, shall provide as-built drawings of all subdivision improvements to the City. The as-built drawings shall be submitted in digital format with a paper copy. All paper copies shall be "wet stamped" by the subdivision engineer or surveyor prior to being submitted to the City.

F. Qualified Contractors: All public improvements shall be constructed by contractors that are qualified and appropriately licensed by the State of Nevada to perform the work.

### 3-3-22: PERFORMANCE AND MAINTENANCE GUARANTEES:

A. Forms of Guaranty: Prior to execution of a performance agreement pursuant to Section 3-3-21 and prior to approval of the final map by the City Council, the subdivider shall provide the city with a performance guaranty, subject to approval by the City, in an amount deemed sufficient by the City to cover the full cost of: (1) improvements required under Section 3-3-20 of this Code; (2) improvements shown in the construction plans prepared and approved in accordance with Section 3-3-18 of this Code; (3) improvements identified in engineering inspections; (4) the cost to replace any existing streets, utilities or other improvements that may be damaged during construction of the required subdivision improvements; (5) the cost to prepare the as-built drawings and any associated documents; and (6) incidental expenses associated with the foregoing work. The performance guaranty shall be in one of the following forms:

1. Performance Bond: A performance or surety bond executed by a surety company authorized to do business in the State of Nevada, approved by the City Attorney as to form, and having a length of term not exceeding twenty-four (24) months from the date of final map recordation.

2. Deposit of Funds: A deposit of cash with the City, or a certified check or negotiable bonds made payable to and deposited with the City or an escrow agent or trust company approved by the City Attorney.

3. Irrevocable Letter of Credit: An irrevocable letter of credit in favor of the City issued by a financial institution insured by the Federal Deposit Insurance Corporation (FDIC).

4. Combinations: Upon approval by the City based on a showing of good cause by the subdivider, a combination of the forms of performance guaranty listed in this subsection, so long as the combination provides the City with at least the same level of protection against default as any single one of the listed forms of guaranty.

B. No Release of Funds from or Reduction of Performance Guarantee: Except as otherwise specifically permitted under Section 3-3-21 of this Code, once a performance guaranty has been delivered to the City, the City shall not thereafter release any funds from or reduce the amount of the performance guaranty except upon written certification by the City that all required subdivision improvements have been completed in conformance with the performance agreement and that the release of funds is permitted under the performance agreement; provided, in no event shall the release of funds exceed the amount of the performance guaranty.

C. Penalty in Case of Default: In the event the subdivider fails to complete all required subdivision improvements in accordance with terms of the performance agreement, the City may, in its sole discretion, complete the work at its own expense and thereafter reimburse itself for the cost and expense thereof from the performance guaranty.

D. Maintenance Guaranty: In addition to the performance guaranty, the subdivider shall provide the City with a maintenance guaranty to ensure the maintenance, adequacy and condition of all improvements required by the performance agreement for a period of not less than one (1) year after the improvements are accepted by the City. The maintenance guaranty may be in any form permitted in Section 3-3-22(A) for a performance guaranty and shall be in an amount not less than ten percent (10%) of the total cost of the required subdivision improvements.

E. No Release of Funds from or Reduction of Maintenance Guaranty: Once a maintenance guaranty has been delivered to the City, the City shall not thereafter release any funds from or reduce the amount of the maintenance guaranty except upon written certification by the City that all required maintenance has been performed in conformance with the performance agreement; provided, in no event shall the release of funds exceed the amount of the maintenance guaranty.

F. Improvement District Financing Through Special Assessments: If not all of the properties abutting a public street within any given block are under the control of the subdivider, and the street abutting those properties is not fully improved in accordance with the requirements of this Chapter, the subdivider may petition the City Council for the creation of an improvement district for the construction of the required improvements and for the special assessment of the cost thereof against abutting properties in accordance with Chapter 268 of the Nevada Revised Statutes; provided, however, that the subdivider shall thereupon enter into an agreement with the City pursuant to which it agrees to be responsible for any difference between the cost of such improvements and the maximum amount which the City can specially assess against the property to be subdivided, and to furnish any necessary waivers to permit assessment of the entire cost of such improvements. Any such agreement pursuant to the preceding sentence shall be in a form approved by the City Attorney.

### 3-3-23: PARK LAND DEDICATIONS:

The City may require the dedication of land for the development of park, playground and recreational facilities, payment in lieu of dedication, or residential tax (to the extent permitted

under Nevada law), in accordance with the recreation and open space element of the Elko Master Plan.

**3-3-24: PARCEL MAPS:**

- A. Required: A person who proposes to divide any land into four (4) or fewer lots shall file a parcel map application with the City and, upon approval by the City, the applicant shall thereafter file the parcel map with the office of the county recorder, unless such recordation is not required under Nevada law.**
- B. Public Improvements: Public improvements may be required by the City as a condition of approval of a parcel map, but such requirements shall not exceed those that would be required under City Code Section 3-3-20 if the proposed division of land were a subdivision.**
- C. Public Improvements: For parcel maps, the City Council shall require, as a condition of approval of a parcel map, the design and construction of all public improvements (to include off-site improvements), in a manner that is consistent with the uses of the existing property and surrounding land, and that are reasonably necessary to ensure the adequacy of site grading; parcel ingress/egress; street alignment, surfacing and width; water quality; water drainage; water supply; sewerage; and the protection of public health and safety.**
- D. Dedications: If the proposed parcels are located in areas where public improvements do not exist, the City Council may require the dedication of rights-of-ways and/or easements to the extent necessary to serve the best interests of the public.**
- E. Lot Design: Lot width, depth and area shall comply with the zoning requirements appropriate for the location and character of development proposed, including the requirements set forth in City Code Section 3-2-26, and appropriate for the type and extent of public improvements being installed. However, where steep topography, unusual soil conditions or drainage problems exist or prevail, the City may require increased lot width, depth and/or area that exceeds the minimum requirements of the particular zoning district.**
- F. Construction Plans: The subdivider shall use a licensed professional engineer to prepare a complete set of construction plans for all required public improvements. The construction plans shall be based on and prepared in conjunction with the parcel map. The foregoing construction plans must be approved by the City prior to recordation of the parcel map.**
- G. Second or Subsequent Parcel Maps: When considering whether to approve, conditionally approve or disapprove a second or subsequent parcel map involving land that has been divided by a parcel map which was recorded within the five (5) years immediately preceding the acceptance of the second or subsequent parcel map as a complete application, the following criteria shall be considered:**
- 1. Environmental and health laws and regulations concerning water and air pollution, the disposal of solid waste, facilities to supply water, community or public sewage disposal and, where applicable, individual systems for sewage disposal;**
  - 2. The availability of water which meets applicable health standards and is sufficient in quantity for the reasonably foreseeable needs of the property being divided into parcels;**

3. The availability and accessibility of utilities;
4. The availability and accessibility of public services, such as schools, police protection, transportation, recreation and parks;
5. Conformity with the zoning ordinances and master plan, except that if any existing zoning ordinance is inconsistent with the master plan, the zoning ordinance shall apply;
6. General conformity with the City's master plan of streets and highways;
7. The effect of the proposed division of land into parcels on existing public streets and the need for new streets or highways to serve the land being divided;
8. Physical characteristics of the land, such as floodplain, slope and soil;
9. The recommendations and comments of those entities reviewing the tentative map pursuant to Nevada Revised Statutes Sections 278.330 through 278.348, inclusive; and
10. The availability and accessibility of fire protection, including, but not limited to, the availability and accessibility of water and services for the prevention and containment of fires, including fires in wild lands.

For any other second or subsequent parcel map, any reasonable public improvement may be required, but not more than would be required under City Code Section 3-3-20 if the parcel were a subdivision.

#### H. Review and Approval of Parcel Map:

1. Upon the filing of an application by a person proposing to divide land into parcels, except as otherwise provided in this Section, the City planning department shall approve the parcel map, or waive the requirement of a parcel map or survey for a parcel map, without further action by the Planning Commission or City Council, unless the parcel map includes an offer of dedication of a street right-of-way to the City or is associated with a request to modify subdivision ordinance standards or regulations. Except as otherwise provided in the preceding sentence, the City planning department shall review the parcel map and within sixty (60) days after filing shall approve, conditionally approve or disapprove the parcel map.
2. A parcel map which includes an offer of dedication of a street right-of-way to the City or a modification of ordinance standards or regulations respecting the division of land shall be referred to the Planning Commission and the City Council for review and consideration, and formal acceptance of the offer of dedication and/or any modification of standards or regulations. The Planning Commission shall consider the parcel map within sixty (60) days after filing and shall thereupon make a recommendation to the City Council to approve, conditionally approve or disapprove the formal acceptance of the offer of dedication and/or any modification of standards or regulations. The City Council shall then consider and take action upon the formal acceptance of the offer of dedication and/or any modification of standards or regulations no later than thirty (30) days after action by the Planning

Commission, taking into account the recommendation of the Planning Commission.

I. Appeal of Decision by Planning Department: If the applicant disagrees with any decision of the City planning department concerning the parcel map, or if the parcel map is disapproved by the planning department, the applicant shall file an appeal with the Planning Commission with thirty (30) days from the date of the decision. The Planning Commission shall make a determination on the decision within forty-five (45) days from the date the appeal was filed. If the Planning Commission affirms the decision of the City planning department, the applicant may appeal the decision of the Planning Department to the City Council within thirty (30) days of such affirmation and the City Council shall render its decision within forty-five (45) days after the filing of the foregoing appeal with the city clerk.

J. Exceptions:

1. A parcel map is not required when the division of land into parcels is for the express purpose of:

- a. Creation or realignment of a public right-of-way by a public agency;
- b. Creation or realignment of an easement;
- c. An adjustment of the boundary line between two abutting parcels or the transfer of land between two (2) owners of abutting parcels, which does not result in the creation of any additional parcels, if such an adjustment is approved pursuant to NRS 278.5692 and is made in compliance with the provisions of NRS 278.5693.
- d. The purchase, transfer or development of space within an apartment building or an industrial or commercial building;
- e. Carrying out an order of any court or dividing land as a result of an operation of law.

2. A parcel map is not required for any of the following transactions involving land:

- a. The creation of a lien, mortgage, deed of trust or any other security instrument;
- b. The creation of a security or unit of interest in any investment trust regulated under the laws of this State or any other interest in an investment entity;
- c. Conveying an interest in oil, gas, minerals or building materials, which is severed from surface ownership of real property;
- d. Conveying an interest in land acquired by the Department of Transportation pursuant to Chapter 408 of the Nevada Revised Statutes.
- e. Filing a certificate of amendment pursuant to NRS 278.473.

**K. Survey Not Required: If a survey is not required for the preparation of a parcel map, the map must be prepared by a registered land surveyor, but the certificate upon the map may include substantially the following:**

***This map was prepared from existing information (identifying it and stating where filed or recorded), and the undersigned assumes no responsibility for the existence of monuments or corrections of other information shown on or copied from any such prior document.***

**L. Fee: The applicant shall, at the time of filing the parcel map, pay a filing fee to the City in an amount established by resolution of the City Council.**

**M. Information Required: The parcel map shall contain the following information and meet the following requirements:**

**1. The parcel map shall be legibly drawn in black, waterproof India ink on tracing cloth or produced by the use of other materials of a permanent nature generally used for such purpose in the engineering profession. The size of each sheet shall be twenty-four inches by thirty-two inches (24" x 32"). A marginal line shall be completely drawn around each sheet leaving an entirely blank margin of one inch (1") at the top, bottom and right edges, and of two inches (2") at the left edge along the twenty four inch (24") dimension.**

**2. A parcel map must indicate the owner of any adjoining land or right-of-way if owned by the person dividing the land.**

**3. If a survey is required, the parcel map shall also show:**

**a. All monuments found, set, reset, replaced or removed, describing the claim, size and location and other data relating thereto;**

**b. Bearing or witness monuments, basis of bearings, bearing and length of line and scale of map;**

**c. Name and legal description of tract or grant in which the survey is located and ties to adjoining tracts;**

**d. Memorandum of oaths;**

**e. Signature of surveyor;**

**f. Date of survey;**

**g. Signature of the owner or owners of the land to be divided;**

**h. Any easements granted or dedications made;**

**i. Any other data necessary for the intelligent interpretation of various items in the location of the points, lines and areas shown; and**

**j. Provision and date for installation of all required improvements.**

**4. The following certificates shall appear on a parcel map before it can be recorded:**

- a. A certificate for execution by the clerk of each approving governing body stating that the body approved the map;**
- b. A certificate by the surveyor responsible for the parcel map giving the date of the survey on which the map is based and stating that the survey was made by him or under his direction and setting forth the name of the owner who authorized him to make the survey, and that the parcel map is true and complete as shown. The certificate shall also state that the monuments are of the character and occupy the positions indicated or that they will be set in such positions at such time as agreed upon under the provisions of Nevada Revised Statutes Chapter 278. The certificate shall also state that monuments are or will be sufficient to enable the survey to be retraced;**
- c. A certificate signed and acknowledged by all parties having any record title in the land to be divided into parcels evidencing their grant of permanent easements for utilities installations and access, as designated on the parcel map;**
- d. A statement approving such easements, signed by each public utility company or agency in whose favor the easements are created or whose utility services are to be required for the mapped parcel; and**
- e. A statement that it shall be the responsibility of the applicant to obtain the approvals of all serving utility companies as to the location of any utility easements shown on the parcel map.**

**5. The following data shall accompany a parcel map at the time it is submitted:**

- a. Name, address and telephone number of the persons requesting approval of the parcel map and the owner or owners of the land;**
- b. Name, address and telephone number of the person who prepared the map;**
- c. Legal description of the original parcel. It shall be sufficient to give the Recorder's book and page number of the deed and the assessor's parcel number;**
- d. Proposed use of each parcel;**
- e. Source of water supply and proposed method of sewage disposal for each parcel;**
- f. A copy of all survey computations shall accompany the parcel map; and**
- g. A vicinity map.**

**6. The subdivider shall file one (1) copy of the parcel map that is 24"x36" in size and one (1) 8 1/2"x11" reproducible copy with the City at the time of filing.**

N. Recording: A parcel map approved pursuant to this Section and Section 3-3-70 of this Chapter, shall be recorded in the Office of the Elko County Recorder within two (2) years after the date when the map was approved or deemed approved by the City.

O. Prohibitions of Parcels: Parcel maps that are determined by the City to fall into one or more of the following categories shall not be approved by the City:

1. One or more of the proposed parcels are not reasonably capable of being developed due to site conditions.
2. The parcels are proposed in an attempt to eliminate frontage or required public improvements.
3. The proposed parcels are detrimental to the health, safety and/or welfare of the public.

P. Judicial Review: A person seeking to divide land into parcels who is aggrieved by a final decision of the City Council relative to a parcel map may appeal by seeking judicial review in the Fourth Judicial District Court, in and for the County of Elko, State of Nevada, with fifteen (15) calendar days of the date of the final decision of the City Council.

### 3-3-25: MODIFICATION OF STANDARDS:

A. Permitted: Upon the recommendation of the Planning Commission that there exist extraordinary conditions of topography, land ownership, or adjacent development, or other circumstances not provided for in this Chapter, that prevent or unreasonably restrict the ability of a person to develop land, the City Council may thereafter modify the provisions of this Chapter, or any other provision in the City Code, in such manner and to the minimum extent necessary to carry out the intent of this Chapter.

B. Complete Neighborhood Plan: In the case of a plan and program for a complete neighborhood development, the City Council may modify the provisions of this Chapter in such manner as it deems necessary and desirable to provide for adequate space and the development of improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated. The City Council may further require such restrictions on the neighborhood development, through the use of deed restrictions, restrictive covenants and conditions and the like, as may be necessary to assure conformity to and the achievement of the plan and program.

C. Additional Requirements: In modifying a standard or requirement pursuant to this Section 3-3-25, the City Council may impose such additional requirements as it determines are necessary to best achieve the purpose of the standard or requirement being modified.

### 3-3-26: REVERSIONS TO ACREAGE:

A. Application: Except as otherwise provided in Nevada Revised Statutes Section 278.4925, an owner or governing body desiring to revert any recorded subdivision map, parcel map, map of division into large parcels, or part thereof, to acreage or to revert the map or portion thereof, or to revert more than one map recorded under the same tentative map if the parcels to be reverted are contiguous, shall submit a written application accompanied by a map of the proposed reversion which contains the same survey dimensions as the



recorded maps or maps filed with the City planning department. The application must specifically describe the requested change.

**B. Review:** At its next regular meeting, or within a period of not more than thirty (30) days after the filing of the map of reversion, whichever occurs later, the City Council shall review the map of reversion and approve, conditionally approve or disapprove the map.

**C. Applicability Of Fees:** Except for the provisions of this Section, Nevada Revised Statutes Sections 278.4955, 278.496 and 278.4965, and any provision of the City Code relating to the payment of fees in conjunction with filing, recordation or checking of a map of the kind offered, no other provision of Nevada Revised Statutes Section 278.010 through 278.630, inclusive, applies to a map made solely for the purpose of reversion of a former map or for reversion of any division of land to acreage.

**D. Recording:** Upon approval of the map of reversion, it must be recorded in the Office of the Elko County Recorder.

**E. Street or Easement Included:** At the time a map of reversion is submitted and presented for recording, it must conform with provisions of Nevada Revised Statutes Section 278.4955, 278.496 and 278.4965. If the map includes the reversion of any street or easement owned by a city, a county or the state, the provisions of Nevada Revised Statutes Section 279.480 must be followed and satisfied before the map of reversion is approved by the City.

**F. Fee:** The owner shall, at the time of filing the map of reversion, pay a filing fee to the City in an amount established by resolution of the City Council.

### **3-3-27: PROHIBITION AGAINST SALE IN VIOLATION:**

No person, firm, corporation or other legal entity shall hereafter sell or offer for sale any lot, or piece or parcel of land which is within a tract of land proposed to be divided into two (2) or more lots, or pieces or parcels of land, until after a final map thereof has been approved and certified by the City, and recorded with the Elko County Recorder in accordance with provisions of the Nevada Revised States and this Chapter.

### **3-3-28: MERGERS AND RESUBDIVISION OF LAND:**

**A. Permitted:** An owner of two (2) or more contiguous parcels may merge and resubdivide the land into new parcels or lots without reverting the preexisting parcels to acreage.

**B. Recording Required:** Parcels merged without reversion to acreage pursuant to this section must be resubdivided and recorded on a final map, parcel map or map of division into large parcels, as appropriate, in accordance with Nevada Revised Statutes Sections 278.320 through 278.4725, inclusive, and the City Code. The recording of the resubdivided parcels or lots on a final map, parcel map or map of division into large parcels, as appropriate, constitutes the merging of the preexisting parcels into a single parcel and the simultaneous resubdivision of that single parcel into parcels or lots of a size and description set forth in the final map, parcel map or map of division into large parcels, as appropriate.

**C. Street Easements and Utility Easements:** With respect to a merger and resubdivision of parcels pursuant to this Section, the owner of land conducting the merger and resubdivision shall ensure that street easements and utility easements, whether public or

private, that will remain in effect after the merger and resubdivision, are delineated clearly on the final map, parcel map or map of division into large parcels, as appropriate, on which the merger and resubdivision is recorded.

**D. Security Credit: If the City Council requires an owner of land to post security to secure the completion of improvements to two (2) or more contiguous parcels and those improvements will not be completed because of a merger and resubdivision conducted pursuant to this Section, the City Council shall credit on a pro rata basis the security posted by the owner of land toward the same purposes with respect to the parcels as merged and resubdivided.**

**3-3-29: VIOLATIONS AND PENALTIES:**

**Any person, firm, corporation or other legal entity who violates any of the provisions of this Chapter shall, upon conviction therefor, be punished as provided in Title 1, Chapter 3 of this Code. Each day that a violation is permitted to exist shall constitute a separate offense and shall be punishable as such hereunder. The imposition of any sentence shall not exempt the offender from compliance with all requirements of this Chapter.**

**Section 2:** All ordinances or parts of ordinances in conflict herewith are hereby repealed, but only to the extent of such conflict

**Section 3:** If any section, paragraph, clause or provision of this ordinance shall for any reason be held to be invalid, unenforceable, or unconstitutional by a court of competent jurisdiction, the invalidity, unenforceability or provision shall not affect any remaining provisions of this ordinance.

**Section 4:** Upon adoption, the City Clerk of the City of Elko is hereby directed to have this ordinance published by title only, together with the Councilman voting for or against its passage in a newspaper of general circulation within the time established by law, for at least one publication.

**Section 5:** This Ordinance shall be effective upon the publication mentioned in Section 4.

**PASSED AND ADOPTED** this \_\_nd day of \_\_\_\_\_, 2018 by the following vote of the Elko City Council.

AYES:

NAYS:

ABSENT:

ABSTAIN:

**APPROVED** this \_\_nd day of \_\_\_\_\_, 2018.

CITY OF ELKO

BY: \_\_\_\_\_  
CHRIS JOHNSON, Mayor

ATTEST:

\_\_\_\_\_  
KELLY WOOLDRIDGE, City Clerk

**Elko City Planning Commission  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action to change the time of the regular Planning Commission Meetings, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **August 7, 2018**
3. Agenda Category: ***MISCELLANEOUS ITEMS***
4. Time Required: **10 Minutes**
5. Background Information: **The Chairman of the Planning Commission has requested an agenda item and vote to change the meeting time back to 6:30 p.m.**
6. Business Impact Statement: **Not Required**
7. Supplemental Agenda Information:
8. Recommended Motion: **Pleasure of the Planning Commission**
9. Findings:
10. Prepared By: **Cathy Laughlin, City Planner**
11. Agenda Distribution:

# Zoning Bulletin

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## Eminent Domain—City ordinance rezones landowners' property

Landowners claim rezone constitutes an unconstitutional regulatory taking

Citation: *Thun v. City of Bonney Lake*, 416 P.3d 743 (Wash. Ct. App. Div. 2 2018)

WASHINGTON (05/01/18)—This case addressed the issue of whether a city ordinance that rezoned landowners' property from com-

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### Contributors

Corey E. Burnham-Howard

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mercial to residential and conservation was an unconstitutional regulatory taking.

**The Background/Facts:** Karl J. and Virginia S. Thun, Thomas J. Povolka, William and Louise Leslie Revocable Trust, and Virginia Leslie Revocable Trust (collectively, “Thun”) owned approximately 36 acres of property in the City of Bonney Lake (the “City”). A majority of Thun’s property was located on a steep hillside that sloped into the Puyallup River Valley. The slopes varied from 20% to 40% or greater and “posed a high landslide risk.”

Prior to 2005, Thun’s property was zoned C-2 (commercial), which permitted a maximum of 20 residential units per acre. In 2005, the City adopted Ordinance 1160 (the “Ordinance”), which rezoned more than 30 of Thun’s 36 acres from C-2 to RC-5 (residential/conservation). RC-5 zoning authorized only one residential unit per five acres. In adopting the Ordinance, the City noted that its purposes were to: (1) comply with Washington’s Growth Management Act (“GMA”), which requires cities to adopt developmental regulations that “provide open space between urban growth areas and that protect critical areas, including areas susceptible to erosion or sliding,” (RCW 36.70A.160); (2) “manage areas that are steep and prone to geologic instability”; (3) “protect tree cover on areas that cannot be densely developed due to steepness”; and (4) “protect the magnificent [visual] entry to [the City.]”

Eventually, Thun filed suit against the City, arguing that the Ordinance’s rezone of Thun’s property constituted an unconstitutional regulatory taking. After a proposed condominium complex on Thun’s property was denied under the rezone, Thun estimated that the City’s rezone reduced the value of his property from \$6 per square foot, or \$2.50 in certain areas, to \$0.35 per square foot.

The City argued that Thun had “failed to meet the threshold requirement of a regulatory takings claim.” In an as-applied takings claim, such as that made by Thun, the claimant must meet a threshold requirement of showing that the regulation (i.e., here, the Ordinance) “went beyond preventing a public harm to producing an affirmative public benefit.” The City argued that Thun was unable to make that showing.

The trial court agreed with the City. Finding there were no material issues of fact in dispute, and deciding the matter on the law alone, the court granted the City’s motion for summary judgment, dismissing Thun’s claim. The court found that the Ordinance’s rezone sought “to prevent a harm by safeguarding the public interest in health, safety, and the environment, and [did] not impose on [Thun] a requirement to provide an affirmative health benefit.”

Thun appealed.

**DECISION: Judgment of Superior Court affirmed.**

The Court of Appeals of Washington, Division 2, agreed with the trial court and with the City, holding that Thun's regulatory takings claim failed because Thun failed to meet the threshold requirement of a regulatory takings claim.

The court explained that regulatory takings claims could be challenged as unconstitutional regulatory takings under article I, section 16 of the Washington Constitution. Article I, section 16 provides that "[n]o private property shall be taken or damaged for public or private use without just compensation having been first made." The court further explained that there are two types of unconstitutional regulatory takings challenges to land use regulations: facial and "as applied" challenges. "Facial takings challenges allege that the application of the challenged regulation to any property constitutes a taking because it destroys a fundamental attribute of property ownership." "As applied takings challenges allege that the challenged regulation constitutes an unconstitutional regulatory taking as applied to a specific parcel of property."

Here, Thun raised an as applied takings challenge. As the City had argued, in bringing an as applied takings claim, the claimant must make a threshold showing that "the challenged regulation goes beyond preventing a real public harm that is directly caused by the prohibited use of the property to producing an affirmative public benefit." The court explained that "one landowner should not be forced to bear the economic burden to confer a benefit upon the public, the cost of which rightfully should be spread over the entire community." However, the court said that landowners do not have the right to use their property in a manner that injures the community. Thus, "[i]f the challenged regulation merely safeguards the public interest in health, safety, the environment, or fiscal integrity, there is no taking . . . ."

Here, the court found that the evidence in the case made "clear that the predominant goal of the Ordinance was to prevent a real public harm that is directly caused by the prohibited uses of Thun's property." "By restricting high density developments on the steep slopes of Thun's property, the City [was] able to protect the public from the safety and environmental concern that landslides and erosion present."

Thun had argued that the Ordinance required Thun to provide an affirmative public benefit by preserving the entry to the City—which had nothing to do with safeguarding the public interest in health, safety, the environment, or fiscal integrity. But the court found that although the public may benefit from the preservation of the City's "magnificent entry," that fact did "not reduce or remove the effect of the Ordinance of safeguarding the public from harm." Moreover, the court noted that Thun was still permitted to develop his property, just not in a manner that would be injurious to the community.



Having found that Thun failed to meet the threshold requirement of showing that the Ordinance went beyond preventing a real public harm to producing an affirmative benefit, the court concluded that Thun failed to establish a regulatory takings claim and that his claim was therefore properly dismissed.

See also: *Sintra, Inc. v. City of Seattle*, 119 Wash. 2d 1, 829 P.2d 765 (1992) (holding ordinance went beyond preventing public harm, and unfairly allocated burden for public benefit on individual property owners).

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**Case Note:**

*The City had also argued that Thun's regulatory takings claim was not ripe for review because Thun had not received a final governmental decision regarding the permitted uses of his property. The court determined that it could waive the final governmental decision requirement of prudential ripeness.*

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## **Billboard/Repair of damaged structure—Advertising company rebuilds nonconforming billboard structure after its blown over in windstorm**

County says reconstructed billboard required local authorization, but advertising company claims reconstruction is exempt from local regulation

Citation: *Lamar Advertising Company v. County of Los Angeles*, 22 Cal. App. 5th 1294, 232 Cal. Rptr. 3d 394 (2d Dist. 2018)

CALIFORNIA (05/08/18)—This case addressed the issue of whether a billboard owner was entitled under California statutory law and/or local permitting exceptions to reconstruct a nonconforming billboard structure without local regulation after it was blown over in a windstorm.

**The Background/Facts:** Lamar Advertising Company (“Lamar”) owned a billboard that was located alongside a freeway in Los Angeles

County (the “County”). With a permit issued by the County, the billboard had been erected in 1967 by Lamar’s predecessor. Lamar later acquired ownership of the billboard.

In 1995, the County adopted an ordinance banning billboards in the area where Lamar’s billboard was located. Under that ordinance, Lamar’s billboard become a “non-conforming” structure with a five-year amortization period after which Lamar had to either remove the billboard or secure a permit from the County allowing the billboard to remain.

The five-year amortization period passed, and Lamar neither removed the billboard or secured a permit for the billboard. The County did not seek to remove the billboard.

In November 2008, a windstorm blew over the billboard and one of its support poles to which an electrical box was attached. Lamar subsequently installed a new and smaller advertising face, new lateral supports, a new electrical box and wiring, and a new catwalk.

In April 2009, the County Department of Regional Planning (the “Department”) issued a notice of violation to the owner of the property on which Lamar’s billboard was located. The notice stated that the billboard was in violation of local zoning ordinances. In June 2009, the Department ordered the removal of the billboard.

Lamar appealed the Department’s order. It argued that it was entitled to rebuild the billboard under California statutory law. California’s Outdoor Advertising Act (the “OAA”) (Bus. & Prof. Code, § 5200 et seq.) regulates advertising displays (i.e., billboards) adjacent to interstate or primary highways in California. Section 5230 of the OAA authorizes local agencies to impose restrictions on billboards that are equal to or greater than those imposed by the State Act if imposed in compliance with section 5412. Section 5412 provides that, “no advertising display which was lawfully erected anywhere within this state shall be compelled to be removed, nor shall its customary maintenance or use be limited . . . without payment of compensation . . .” Thus, under section 5412, once a billboard is erected, the owner may undertake “customary maintenance” without interference from local authorities unless the owner is compensated for any loss. “Customary maintenance” is defined in Regulation 2270 as “any activity performed” on an advertising display “for the purpose of actively maintaining the Display in its existing approved physical configuration and size dimensions at the specific location” approved on the CalTrans permit.

Lamar maintained that its reconstruction of the billboard was “customary maintenance” under OAA section 2270, and therefore OAA section 5412 prohibited the County from regulating the rebuilding of its billboard without compensation. In other words, Lamar argued that section 5412 prohibited the County from “limiting” the repairs to its billboard through the permitting process.

The County argued that because the entire advertising display fell over in the windstorm, the billboard was completely destroyed and its re-erection was a “placement.” The OAA expressly recognizes local authorities’ power to regulate the “placement” of a billboard (see §§ 5229, 5231). OAA section 5231 allows local authorities to require a permit for placement of a billboard. OAA section 5225 defines “placement” as not only erecting but “maintaining” billboards.

Lamar also argued that a County ordinance—LACC section 22.56.1510—exempted Lamar’s reconstruction from the permitting process. LACC section 22.56.150 provides that a non-conforming structure that is “damaged or partially destroyed” may be restored to the condition it was immediately prior to the damage or destruction, provided certain conditions are met.

The trial court held that: (1) The re-erection of the billboard was not “customary maintenance” such that the OAA exempted the work from local and state regulation, but was rather a “placement” subject to local permitting requirements; and (2) Substantial evidence supported a finding that the billboard was completely destroyed, not “partially destroyed or damaged” and thus could not be repaired without a permit under LACC section 22.56.1510.

Lamar timely appealed.

**DECISION: Judgment of Superior Court affirmed.**

The Court of Appeal, Second District, Division 8, California also rejected Lamar’s arguments, and held that Lamar wasn’t entitled—under OAA section 2270 or LACC section 22.56.1510—to rebuild without local regulation its windblown billboard.

Agreeing with the trial court, the appellate court first held that Lamar’s reconstruction of the billboard did not constitute “customary maintenance” allowed without local interference under OAA section 2270, and thus was not exempt from local regulation. The court noted that section 2270’s definition of “customary maintenance” mandated that customary maintenance not alter the billboard’s “existing approved physical configuration and size dimensions.” Here, however, the court found that Lamar altered the size dimensions of the billboard and added several new components to the physical configuration. Accordingly, the court concluded that Lamar’s re-erection of the billboard was not exempt from local regulation under OAA section 2270, but rather amounted to a “placement” subject to County permitting requirements (OAA section 5231).

Also agreeing with the trial court, and disagreeing with Lamar, the appellate court concluded that LACC section 22.56.1510—which allowed for restoration of “damaged or partially destroyed” structures—did not entitle Lamar to reconstruction of the billboard. The court so concluded upon finding that Lamar’s billboard had been “completely

‘destroyed,’ not just ‘damaged’ or ‘partially destroyed’ ”because the entire advertising surface had blown off of the support posts and was replaced in its entirety.

See also: *Viacom Outdoor, Inc. v. City of Arcata*, 140 Cal. App. 4th 230, 44 Cal. Rptr. 3d 300 (1st Dist. 2006).

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**Case Note:**

*Lamar* had also cited OAA section 2271, which provides that a billboard is “destroyed and not eligible for customary maintenance” when it remains unrepaired for more than 60 days after notice of its damage. *Lamar* argued that its billboard was not “destroyed” because it was repaired within 60 days, and therefore the reconstruction was not a “placement,” but only customary maintenance. The court rejected this argument, finding OAA section 2271 created a limited exception to an owner’s right to conduct customary maintenance and defined when an owner would forfeit the right of customary maintenance and the loss of a CalTrans permit. It did not, found the court, define the term “destroyed” for all purposes, and did not address the County’s requirement that *Lamar* apply for a permit prior to rebuilding the billboard.

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## **Injunction—Resident constructs garage that encroaches on zoning setback area and county right-of-way abutting a road**

County seeks permanent injunction, requiring resident to remove garage

Citation: *County of Boone v. Reynolds*, 2018 WL 1597632 (Mo. Ct. App. W.D. 2018), *reh’g and/or transfer denied*, (May 1, 2018)

MISSOURI (04/03/18)—This case addressed the issue of whether a County was entitled to a permanent injunction, requiring a resident to remove a newly constructed garage.

**The Background/Facts:** Sometime before June 21, 2013, Seth Reynolds (“Reynolds”) began construction on a detached garage near his home in Boone County (the “County”). The garage measured forty-by-forty feet and sat approximately eighteen-to-twenty feet off of the edge of a County paved road. Reynolds first started the garage construction without first obtaining a building permit. However, after installing

the footings and piers of the garage, Reynolds was notified of the need for a building permit. Reynolds applied for and received a building permit on June 21, 2013.

Four days later, Uriah Mach (“Mach”), a land-use planner for the County, informed Reynolds via an email that Reynolds’s garage was located too close to the road and would need a variance for the setback violations. Reynolds did not respond, and Mach then sent two related letters about Reynolds’ violations and need to take action. Reynolds failed to respond to the County’s notifications, and instead proceeded with the completion of construction of the garage.

Sometime in 2015, Reynolds finally applied to the County Board of Adjustment (the “Board”) for a variance for the setback violations. The Board declined Reynolds’ request.

Thereafter, Reynolds refused to bring his property into compliance with the right-of-way and zoning regulations, and the County then filed a petition for permanent injunction against him. The County sought a permanent injunction, “mandating that [Reynolds] comply with [the County] zoning regulations, and that he remove the accessory building [ie., garage], [a] fence, and [a] satellite dish from . . . the right of way area . . . the setback area . . . [and] the area in front of the main building.”

The trial court found that Reynolds had “unlawfully constructed and maintains on his property an unlawful accessory building abutting [the road], together with a fence and a satellite television receiver dish between that building and [the road], all in violation of [County] Ordinances and which all unlawfully encroach on the 25-foot setback area established by the [County] Zoning Regulations and upon the [County’s] right of way abutting [the road] in front of that property.” The court entered a permanent injunction, requiring Reynolds to “remove in its entirety that building, that fence, and that satellite receiver dish from the [County] setback area and [County road] Right of Way within 60 days of the date of th[e] Judgment and . . . permanently restrained and enjoined [Reynolds] from building or maintaining any structures in that setback area or in that right of way in the future.”

Reynolds appealed. Reynolds argued that the County was not entitled to a permanent injunction against him because the County failed to prove the two elements needed for a permanent injunction: (1) irreparable harm; and (2) lack of adequate remedy at law. Reynolds contended that there was no finding of harm to either the public safety or health. He also maintained that the existence of potential criminal penalties (i.e., the imposition of a fine for zoning violations) constituted an adequate remedy at law for the County. Reynolds further argued that the balancing of equities should have resulted in a ruling in his favor. Essentially, he argued that because the County was not using the right-of-

way at the time, it did not suffer any harm from the encroachment of his property upon it, while he would suffer great harm (in cost) if forced to tear it down.

**DECISION: Judgment of Circuit Court affirmed.**

The Missouri Court of Appeals, Western District, upheld the permanent injunction issued against Reynolds.

In so holding, the court rejected all of Reynolds' arguments.

With regard to Reynolds' argument that the County failed to show the elements necessary for a permanent injunction, the court explained that "[w]hile the threat of irreparable harm and lack of an adequate remedy at law must usually be specifically shown for injunctive relief to be granted, '[w]here a trespass is recurring and would involve a multiplicity of suits an injunction will lie to restrain it.' " In other words, under Missouri law, "irreparable harm need not be shown in the case of a repeated or continuing trespass." Here, the court found that "Reynolds's garage, satellite dish, and privacy fence plainly interfered with County's property interest in the right-of-way surrounding [the road,] and that interference was of a permanent and continuous nature." Thus, the court concluded that the County was not required to show any further harm, and rejected Reynolds' claim to the contrary.

The court similarly rejected Reynolds' claim that the existence of potential criminal penalties constituted an adequate remedy at law. The court said that under Missouri law, the right to an injunction to "prevent irreparable injury to property is not divested by the fact that the act to be enjoined may also be a violation of the criminal law. . . ."

Rejecting Reynolds' additional argument that the balancing of equities did not favor an injunction against him, the court noted that Reynolds' expenditure of money in construction of the garage was done with knowledge of his zoning violations. The court also explained that accepting Reynolds' position—that an injunction requiring removal of his garage was unwarranted because harm to him in removing the garage outweighed harm to the County that was not using the right-of-way on which his garage encroached—would result in a "patently unlawful appropriation of public land by private individuals."

See also: *Kugler v. Ryan*, 682 S.W.2d 47 (Mo. Ct. App. E.D. 1984).

See also: *Kansas City Gunning Advertising Co. v. Kansas City*, 240 Mo. 659, 144 S.W. 1099 (1912).



# Zoning News from Around the Nation

## CALIFORNIA

The state Senate is considering Senate Bill 828, which would “set more aggressive targets for local governments” with regard to periodically-set goals for low-income and market-rate housing.

Source: *The Mercury News*; [www.mercurynews.com](http://www.mercurynews.com)

## CONNECTICUT

The state House of Representatives voted in April to approve an affordable-housing bill that would require “two dozen Connecticut communities to end their prohibition on multi-family housing.” Currently, “only 20 of Connecticut’s 169 cities and towns allow multi-family housing, which is defined as three or more units, as a right under their zoning regulations, two dozen bar it and the rest allow housing of three or more units by special permit.” The bill requires zoning regulations to “provide for a variety of housing development opportunities to meet local and regional needs.” The bill heads to the state Senate for consideration.

Source: *The CT Mirror*; <https://ctmirror.org>

## ILLINOIS

The state House of Representatives unanimously passed a bill—HB4711, which reportedly “codifies appellate court precedence” to exempt from any legal zoning complaint between neighbors, the local unit of government that enacted the relevant zoning code. The bill now heads to the state Senate for consideration.

Source: *DuPage Policy Journal*; <https://dupagepolicyjournal.com>

## MARYLAND

The Montgomery County Council has approved standards for installing small cell antennas in commercial and industrial areas. Under the new standards, new small cell antennas can be installed on existing utility poles and streetlights in mixed-use, commercial and industrial zones. The new standards also lessen setback requirements and lower the height limit for buildings where antennas can be installed in those zoning districts. Reportedly, “county officials remain concerned future state or federal regulations could preempt the new zoning regulations.”

Source: *Bethesda Magazine*; [www.bethesdamagazine.com](http://www.bethesdamagazine.com)

## MASSACHUSETTS

With sales of retail marijuana to be legal on July 1, 2018, the City of Northampton is considering a proposed law that would cap the number of retail marijuana stores in the city.

Source: *Mass Live*; [www.masslive.com](http://www.masslive.com)

## PENNSYLVANIA

Philadelphia's City Council is considering a bill that would mandate that residential construction developers provide more parking with new residential construction. The bill would "double the number of parking spaces developers are required to provide in many zoning districts." More specifically, the bill would require housing developments built in most multi-family zoning districts to provide six parking spaces (seven in industrial-residential mixed use zones) for every 10 units of housing. Current law only requires three spaces for 10 residences.

Source: *Philadelphia Business Journal*; [www.bizjournals.com](http://www.bizjournals.com)



# Zoning Bulletin

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## Uses/Oil and Gas Development—Natural gas company seeks approval of gas wells as conditional use in zoning district

Company argues gas wells use can be permitted under zoning ordinance that permits uses “similar”

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## to others allowed in zoning district, suggesting gas wells are like a “public service facility”

Citation: *Gorsline v. Board of Supervisors of Fairfield Township*, 2018 WL 2448803 (Pa. 2018)

PENNSYLVANIA (06/01/18)—This case addressed the issue of whether a natural gas company satisfied the local zoning ordinance’s requirement that, to be permitted as a conditional use, its proposed gas wells be “similar to” other uses allowed in the relevant zoning district.

**The Background/Facts:** Inflection Energy, LLC (“Inflection”) sought to construct and operate multiple gas wells on a nearly 60-acre parcel of land in Fairfield Township (the “Township”). The parcel of land was located in a Residential-Agricultural (“R-A”) zoning district. Inflection submitted to the Township’s Board of Supervisors (the “Board”) a “Zoning and Development Permit Application” for its proposed gas wells use.

Because gas wells were not identified under the Township’s zoning ordinance as a permitted or conditional use in the R-A district, the Board looked to section 12.18 of the Township zoning ordinance. Section 12.18 was known as the “savings clause.” It provided that when a use was neither specifically permitted nor denied, the Board would review the request as a conditional use. Section 12.18 specified that the Board had the authority to permit or deny the use in accordance with conditional use applications but only if the use: “is similar to and compatible with other uses permitted in the zoning district”; “is not permitted in any other zone”; and is not “in conflict with the general purposes of [the Township] zoning ordinance.”

The Board granted Inflection a conditional use permit for its proposed gas wells use. In doing so, the Board found that: the use was not allowed in any of the Township’s three zoning districts and thus was governed by the savings clause in section 12.18. The Board also found “that the criteria for review set forth in section 12.18” had been “sufficiently satisfied.”

Town residents (the “Objectors”) appealed the Board’s decision to grant Inflection the conditional use permit. The Objectors asserted that the Board had made no findings of fact with respect to the requirements of section 12.18 “and instead reached the bald conclusion that Inflection somehow satisfied its burden of proof without identifying any similar permitted use the in the R-A district.”

Inflection argued that its gas wells use was “similar” to other uses permitted in the R-A district because it constituted a “public service facility” since it furnished gas to the public. The Township’s zoning ordinance allowed for “public service facility” uses (as conditional uses) in all three of the Township’s zoning districts.

Agreeing with the Objectors, the trial court rejected Inflection's argument, finding "the Board had offered no explanation regarding the manner in which Inflection's proposed fracking use was 'similar to' a 'public service facility.' " The court noted that Inflection "would not be providing any public service, as it '[was] not constructing [those] wells to furnish natural gas to the residents of the [area], or even [the] Township.' "

Inflection appealed.

Reversing the trial court, the Commonwealth Court determined that Inflection's proposed natural gas compressor station use was "similar to and compatible with a 'public service facility' use and/or an 'essential service' use" and was thus appropriately permitted by the Board.

The Objectors again appealed.

**DECISION: Judgment of Commonwealth Court reversed.**

The Supreme Court of Pennsylvania held that Inflection's proposed gas wells use was not "in any material respect, of the same general character as, or similar to" a "public service facility" use or "essential services" use allowed in the Township's R-A district. In so holding, the court looked at the Township's zoning ordinance definitions of "public service facility" and "essential services." The Township's zoning ordinance defined "public service facility" as involving "public service structures by a utility . . . or by a municipality or other governmental agency." "Essential services" were defined as the facilities and related equipment of a "public utility." The court found that those uses were permitted in the R-A district "to promote residential and agricultural development in that part of the [T]ownship." The public nature of "public service facility" and "essential services" uses was inherently "local in nature"—namely, to provide services for the benefit of Township residents, found the court.

Seen in that light, the court concluded that Inflection's proposed gas well use was "plainly not of the 'same general character as,' or 'similar to,' 'public service facility' or 'essential services' uses." The court noted that Inflection was not a "public utility," and was "clearly not a municipality or a government agency, but rather [was] a private, for-profit commercial business." Moreover, the court found that Inflection had offered no evidence, and the Board had made no findings, that Inflection's extraction of natural gas "is in any respect for the benefits of the residents of the R-A district, [the] Township, or even [the] County." Rather, the court found that Inflection's proposed use provided "no public or essential services to the residents of the R-A district, and provide[d] no infrastructure that supports and promotes residential and agricultural development in Fairfield Township." Conversely, the court determined that "Inflection's proposed use was intended solely for Inflection's own commercial benefit, and not in any respect for the ben-

efit of furthering the expressed goals of [the] Township's R-A district." In fact, the proposed use was "a purely industrial use of the type the [Township's Zoning] Ordinance expressly discourages in the R-A district," said the court.

For those reasons, the court concluded that there was insufficient evidence to support the Board's conclusion that Inflection satisfied its burden of proving that its proposed use was similar to a permitted use in an R-A district, and thus insufficient evidence to support the Board's decision to grant Inflection the conditional use permit for its proposed gas wells use.

See also: *MarkWest Liberty Midstream & Resources, LLC v. Cecil Tp. Zoning Hearing Bd.*, 102 A.3d 549, 184 O.G.R. 118 (Pa. Commw. Ct. 2014).

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**Case Note:**

*In its decision, the Supreme Court of Pennsylvania emphasized that its decision "should not be misconstrued as an indication that oil and gas development is never permitted in residential/agricultural districts, or that it is fundamentally incompatible with residential or agricultural uses." The court noted that "the protection of environmental values" is a "quintessential local issue that must be tailored to local conditions," and that to that end, municipal zoning ordinances could be amended to permit oil and gas development in any or all of its zoning districts, in designated areas, "setting forth whatever limitations and conditions it decides are appropriate for the protection of its citizenry." However, the court warned, municipalities may not "permit oil and gas development in residential/agricultural districts without first enacting the necessary amendments . . ."*

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## **Proceedings—Residents file petition for writ of certiorari, seeking review of city's zoning board of adjustment decision**

City says petition was untimely, and parties dispute when the statutory time period for filing the petition began to run

Citation: *Burroughs v. City of Davenport Zoning Board of Adjustment*, 2018 WL 2372570 (Iowa 2018)

IOWA (05/25/18)—This case addressed the issue of the interpretation of Iowa Code section 414.15, which requires a petition for writ of certiorari seeking review of a decision of a city zoning board of adjustment to be filed in district court “within thirty days after the filing of the decision in the office of the board.” Specifically, the case addressed “when is a decision ‘filed in the office of the board’” under Iowa Code section 414.15—thus triggering the 30 day time period.

**The Background/Facts:** In March 2014, the Zoning Board of Adjustment (“ZBA”) of the City of Davenport (the “City”) issued a special use permit to Tiny Tots Learning Center (“Tiny Tots”) to operate a daycare facility at leased premises. Within a year, Tiny Tots closed its doors. The property then stood vacant until July 2016 when Mz. Annie-Ru Daycare Center (“Annie-Ru”), a new lessee of the premises, opened a daycare at the same location. Although Annie-Ru supervised more children and was open for longer hours than Tiny Tots, the City’s Zoning Administrator determined that the special use permit issued to Tiny Tots “[ran] with the land.” Therefore, Annie-Ru was allowed to operate without having to apply for and obtain a new special use permit.

Nearby residents (the “Residents”) challenged Annie-Ru’s right to operate. They appealed the Zoning Administrator’s decision to the ZBA. They argued that Tiny Tots’ special use permit was not transferrable to Annie-Ru.

City staff disagreed with the Residents’ argument, and determined that Annie-Ru was “entitled to operate under the provision of the Special Use Permit issued to Tiny Tots.” At an October 13, 2016, meeting, the ZBA upheld the City staff’s recommendation. Minutes from that meeting were posted on the City’s website and then approved on October 27.

The Residents then filed a petition to revoke Annie-Ru’s special use permit. At its December 8 meeting, the ZBA unanimously voted against revoking the special use permit. Those meeting minutes were posted on December 19 and approved at a December 22 meeting, the minutes of which were not posted on the City’s website until January 6, 2017.

On January 25, the Residents filed a petition for writ of certiorari in district court, challenging the ZBA’s October 13, 2016 and December 8, 2016 decisions.

The City asked the court to dismiss the Residents’ petition for certiorari as untimely because the petition was “not filed within thirty days” of the challenged decisions. The City pointed to Iowa Code section 414.15, which requires a petition for writ of certiorari seeking review of a decision of a city zoning board of adjustment to be filed in district court “within thirty days after the filing of the decision in the office of the board.”

The Residents argued that the petition for certiorari was timely because “a signed written decision with factual findings was necessary

to trigger the thirty-day deadline for seeking certiorari review,” and that such a written, fact-finding decision had not been made. Alternatively, they argued that even if the minutes of the Board’s meetings could be sufficient to trigger the 30 day period, the December 8 minutes were not properly filed until officially approved and the approval vote posted on January 6, 2017. Thus, they claimed that their January 25 petition was timely.

The district court granted the City’s motion to dismiss the Residents’ petition for certiorari. The court concluded that the “thirty-day time period begins to run from the time the appealing party has either actual knowledge or is chargeable with knowledge of the decision to be appealed.” Because it was “undisputed” that Residents attended both the October 13 and the December 8 meetings, the court found that they had actual knowledge of the Board’s decisions as of those dates, and that their January 25 petition was filed more than thirty days after that knowledge.

The Residents appealed, arguing that their petition for certiorari was timely.

**DECISION: Judgment of district court affirmed in part, reversed in part, and remanded.**

The Supreme Court of Iowa first held that, contrary to the Residents’ argument, the time for appeal from a zoning decision “runs from the date of the decision, regardless of the alleged adequacy of any findings of fact.” Significantly, the court pointed to its certiorari rule requiring the petition to be filed “within 30 days from the time the tribunal, board or officer exceeded its jurisdiction or otherwise acted illegally.” (Iowa R. Civ. P. 1.1402(3).) The court found that the Residents’ interpretation of “decision” as including only those decisions supported by sufficient findings of fact would “create a stark conflict between Iowa Code section 414.15 and Iowa Rule of Civil Procedure 1.1402(3), a circumstance [the court] normally [tries] to avoid.” Moreover, the court found it was sound policy to ensure the deadline to petition for a writ of certiorari be “as clear as possible” and not subject to “the unpredictable outcome of a debate over the sufficiency of factual findings.”

Next, the court held that a zoning decision is “filed in the office of the board”—thus triggering the 30 day deadline to file a petition for writ of certiorari under Iowa Code section 414.15—when: (1) it is in “some documentary form” such as official meeting minutes; (2) is filed either in electronic or paper form; (3) and has been posted on the board’s publicly available website that the board uses as a repository for official documents. Importantly, (with support from out-of-state appellate courts addressing the same statutory terms) the court also held that proposed meeting minutes do not constitute a zoning “decision,” but that only approved and posted meeting minutes constitute a zoning “decision”—the



filing of which in the “office of the board” (i.e., on the publicly available website) triggers the 30 day deadline.

Applying that holding to the facts of the case, the court concluded that the Residents’ challenge to the ZBA’s refusal to revoke the permit was timely “because the unapproved minutes of the December 8, 2016 meeting posted to the Board’s website on December 19 [did] not amount to ‘the filing of the decision’ ”—triggering the 30 day period. Rather, that “filing of the decision” occurred on January 6, 2017—the date of the public website posting of the December 22 meeting minutes, which reflected the approval of the December 8 meeting minutes—at which the ZBA voted to refuse to revoke the permit. On the other hand, the court also concluded that the Residents’ challenge to the ZBA’s October 13 decision was untimely as the minutes of the October 13 meeting had been posted and approved more than thirty days before the Residents went to court.

See also: *Aucoin v. City of Mandeville*, 552 So. 2d 714 (La. Ct. App. 1st Cir. 1989).

See also: *Sanchez v. Board of Adjustment for City of San Antonio*, 387 S.W.3d 745 (Tex. App. El Paso 2012).

See also: *Holding v. Franklin County Zoning Bd. of Adjustment*, 565 N.W.2d 318 (Iowa 1997).

## **Vested or property rights—City suspends commercial tenant’s building permit, citing material misrepresentations in the permit application**

Commercial tenant then sues the City, alleging the suspension of its permit violated its procedural due process rights under the Fourteenth Amendment

Citation: *Rockville Cars, LLC v. City of Rockville, Maryland*, 891 F.3d 141 (4th Cir. 2018)

*The Fourth Circuit has jurisdiction over Maryland, North Carolina, South Carolina, Virginia, and West Virginia.*

FOURTH CIRCUIT (MARYLAND) (05/24/18)—This case ad-



dressed the issue of whether a commercial tenant had a property interest protected by the Due Process Clause of the Fourteenth Amendment to the United States Constitution in building permits issued by the city.

**The Background/Facts:** Rockville Cars, LLC and Priority 1 Automotive Group, Inc. (collectively, “Rockville Cars”) sold new and used cars. In pursuit of that business, Rockville Cars leased a parcel of land owned by Robin Tang (“Tang”) in the City of Rockville (the “City”). On that parcel of land was a building that had previously housed a restaurant and small furniture store. Rockville Cars sought to convert that building into an automobile showroom.

Before starting work on the building conversion, Rockville Cars submitted two documents to the City. First, Rockville Cars submitted a Minor Site Plan Application (the “Plan Application”), in which it listed Tang as the owner of the property, and maintained that it planned to “repurpose” the building into a show room. Second, months later, Rockville Cars submitted, to a separate division of the City’s Planning Department, a Commercial Building Permit Application (the “Permit Application”), in which it listed Priority One Automotive Group, Inc. as the property owner and stated an intent to “demolish and renovate” the building.

After receiving the Permit Application, in March 2013, the City issued a building permit in Tang’s name. Rockville Cars then razed the leased building, leaving only the foundational slab. However, in July 2013, the City issued a Stop Work Order. That order explained that Tang had claimed Rockville Cars lacked authority to submit a building permit application. The order also stated that the scope of the project “did not comport with the Minor Site Plan Amendment,” which the City had previously approved.

Later, the City further explained to Rockville Cars that its demolition of the building resulted in a violation of the City’s zoning ordinances. A “build-to” provision of the zoning ordinance, applicable to the commercial strip upon which Tang’s property was located, mandated that construction of new buildings be within a certain distance from the road. Since the original building had predated the build-to provision, it was exempt from compliance. That exemption would have continued if Rockville Cars had merely renovated the interior of the original building. However, because Rockville Cars demolished the building, Rockville Cars was required to build any new structure in accordance with the build-to provision.

Some time subsequently, Rockville Cars submitted a new application to the City, and the City approved that application. However, since Rockville Cars had “conceded to numerous demands at a considerable expense,” it brought a legal action against the City, which alleged that suspension of its March 2013 building permit violated its procedural

due process rights under the Fourteenth Amendment to the United States Constitution. The Fourteenth Amendment provides that no State shall deprive any person of life, liberty, or property, without due process of law. Rockville Cars claimed that it received a property interest in the March 2013 building permit because the City's zoning ordinances limited the City's power to suspend or revoke permits for cause, thus creating entitlement.

The City asked the district court to dismiss Rockville Cars' complaint. The City argued that no property interest vested in a building permit granted on the basis of material misrepresentations within an application. The City argued that no property interest vested in the permit granted to Rockville Cars because Rockville Cars' application contained material misrepresentations—as to the owner of the property and intended scope of the work—and the demolition of the building resulted in a violation of the City's zoning ordinances.

The district court granted the City's Motion to Dismiss. The court agreed that no property interest vested in a building permit granted on the basis of material misrepresentation within an application.

Rockville Cars appealed.

**DECISION: Judgment of district court affirmed.**

Agreeing with the City and the district court, the United States Court of Appeals, Fourth Circuit, held that the City did not violate Rockville Cars' due process rights because no property interest vested in a building permit granted on the basis of material misrepresentation within an application.

The Fourth Circuit explained that in order to establish a due process claim (and survive the City's Motion to Dismiss), Rockville Cars had to show: (1) that it had a protected property interest; (2) of which the City deprived it; and (3) without due process of law. Here, the court concluded that Rockville Cars failed to show the first element: no property interest vested in Rockville Car's building permit since the permit was granted on the basis of material misrepresentations.

The court explained that “[t]he vested rights doctrine allows property owners to ‘obtain a vested right in an existing zoning use that will be protected against a subsequent change in a zoning ordinance prohibiting that use.’ ” But, to prove a vested right, a property owner must: (1) obtain a lawful building permit; (2) commence building in good faith; and (3) complete a substantial portion of construction. The fact that the first element of the vested rights doctrine requires obtaining a lawful building permit illustrates a core principle, said the court: “[Maryland] law does not entitle permit holders to a property right when permits are obtained on the basis of mistake or in violation of the law.” Such events render any permit void *ab initio* (i.e., from the beginning).

The Fourth Circuit held that, here, Rockville Cars' procedural due

process claim failed because no property right vested in the building permit given that its applications contained three material misrepresentations: (1) the two documents it submitted to the City differed in describing the scope of the renovation project; (2) Rockville Cars misrepresented the owner of the property within its Permit Application; (3) Rockville Cars certified in the Permit Application that the proposed construction “shall conform to the regulations in the Rockville City Code, and all other codes and regulations . . . .” but in demolishing the building violated the City’s build-to ordinance, which required construction of new buildings within a certain distance from the center of the street.

Given those material misrepresentations, the Fourth Circuit concluded that Rockville Cars had no “legitimate claim of entitlement” to a permit it never lawfully obtained and therefore had no procedural due process rights violated when the permit was suspended.

See also: *Marzullo v. Kahl*, 366 Md. 158, 783 A.2d 169 (2001).

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**Case Note:**

*In their decisions, the district court and the Fourth Circuit also noted that even if a property right vested in Rockville Cars’ building permit, and even if the City deprived Rockville Cars of that interest, no procedural due process violation existed here because Rockville Cars failed to exhaust both administrative and state court remedies that the government afforded.*

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## Zoning News from Around the Nation

### LOUISIANA

In late May, Governor John Bel Edwards vetoed a bill that would have blocked the institution of inclusionary zoning policies in the state of Louisiana. Reportedly, Edwards’ veto “comes with the condition that parishes in Louisiana must enact inclusionary zoning policies by 2019” or else face a new bill blocking inclusionary zoning policies.

Source: *The New Orleans Advocate*; [www.theadvocate.com](http://www.theadvocate.com)

### MASSACHUSETTS

Governor Charlie Baker is touting his proposed housing production bill in hopes that it will pass in the state legislature before the July 31 end of formal sessions. The bill would “allow zoning changes to be made with majority, rather than super-majority approval at the local

level.” Proponents of the bill say this would “remove a major obstacle to housing development in cities and towns that are each governed by their own zoning rules.” In May, the Committee on Housing endorsed a redrafted version (H 4290) of Baker’s bill. In early June, that bill was being considered by the House Ways and Means Committee.

Source: *The Lowell Sun*; [www.lowellsun.com](http://www.lowellsun.com)

The Conservation Law Foundation (“CLF”) is reportedly asking the state’s environmental secretary, Matt Beaton, to “reconsider new zoning he recently approved for Boston’s downtown waterfront.” The zoning plan covers approximately 42 acres of land and was negotiated over several years. CLF claims that Beaton’s decision to allow a 600-foot-tall tower on the site of the Boston Harbor Garage and a 305-foot-high tower on the site of Hook Lobster violates state law because the approvals do not mandate enough open space and allow too much height so close to the water, while requiring insufficient community benefits.

Source: *Boston Globe*; [www.bostonglobe.com](http://www.bostonglobe.com)

## MICHIGAN

The City of Detroit is considering a draft ordinance that would provide zoning restrictions on medical marijuana facilities, including capping the number of dispensaries city-wide at 75 and requiring dispensaries to be located at least 1,000 feet from schools, churches, liquor stores, and from each other. The ordinance would further set up “new rules and local permitting requirements for four new types of marijuana operations allowed under state rules: growing, testing, transporting, and processing operations.”

Source: *Michigan Radio*; <http://michiganradio.org>