
LAND USE ORDINANCE

Chapter 17.02 TITLE, PURPOSE, AND JURISDICTION

17.02.010 TITLE.

This title is known as and may be cited as the "Land Use Ordinance of Esmeralda County, Nevada."

17.02.020 PURPOSE.

This land use ordinance for the county of Esmeralda is adopted and established to serve the public health, safety, comfort, convenience and general welfare; to provide the economic and social advantages resulting from an orderly planned use of economic, natural and community resources; to encourage, guide and provide for the future growth and development of the county; and to implement the goals, objectives, policies, and proposals of the master plan by:

- A. Giving effect to the policies and objectives of the master plan.
- B. Providing for the protection and enhancement of property rights, property values, quality of life, historic and cultural resources, and natural resources.
- C. Providing for a vibrant, stable, and diversified economy in the county.
- D. Protecting the tax base by providing for cost-effective development within the county.
- E. Concentrating development to areas where adequate water, sewerage facilities, schools, roads, and other public services can be provided, and limiting development in areas where these resources and facilities are not and should not be provided.
- F. Protecting land owners from adverse impacts of adjoining developments.

17.02.030 JURISDICTION.

Esmeralda County's governing body, the board of county commissioners (board), is authorized by NRS 278.250 to divide the county into Land Use districts to carry out the purposes of NRS 278.010—278.630, and may regulate and restrict the erection, construction, alteration, repair or use of buildings, structures or land within its jurisdiction.

17.02.040 INTERPRETATION AND CONFLICT.

In their interpretation and application, the provisions of this ordinance are held to be minimum requirements. Wherever the requirements of this title are at variance with the requirements of any other lawfully adopted rules, regulations, restrictions or ordinances, the most restrictive or that imposing the higher standards will govern. This title must be interpreted, whenever the board is called upon to do so, in conformance with the purposes intended by the board to be served by its enactment. The intent of the standards and supporting definitions of this title is to protect both individual property owners and the

general public from substantial adverse impacts that may otherwise be the result of a proposed use. To this end, those called upon to interpret this title shall proceed as follows:

- A. Determine the public purposes of the standards with respect to which an interpretation is required;
- B. Determine the actual impact of the proposed interpretation; and
- C. Determine that the proposed interpretation will insure a just balance between the right of the landowner and all others who will be affected by that person's land use proposal.

17.02.050 CONFORMANCE WITH THE MASTER PLAN.

The board declares and makes the specific finding that this title conforms to the master plan.

Chapter 17.03 ADMINISTRATIVE PROVISIONS

17.03.010 POWER OF THE BOARD.

The board of county commissioners (the board) has the power to make planning and Land Use decisions for Esmeralda County as provided in NRS Chapters 278 and 278A.

- A. The county commissioners must perform all duties and functions delegated to a by the terms of NRS 278.010 to 278.630, inclusive, and Chapter 2.12 (County commissioners).
- B. The county commissioners must hear applications on special use permits, variances, and appeals of administrative decisions, changes to the county master plan, Land Use districts, and all other appropriate subjects.

17.03.020 ADMINISTRATION OF THIS TITLE.

The Planning and Natural Resources Department under the direction of the county commission will administer this title. For the purposes of this title, the term "planner" means an employee of the department or independent contractor engaged by the county to perform the function, The planner will determine when any application under his jurisdiction is complete.

17.03.030 JURISDICTION, INTERPRETATION, AND APPLICATION.

The provisions and standards contained in this title are the minimum standards for the allowed or permitted uses, and must not be construed as limiting the legislative discretion of the board to further restrict the allowed or permissive uses or to withhold or revoke permits for uses when the protection of the public health, morals, safety, welfare, and protection of surrounding land uses is necessary. Requirements apply to all properties within the county.

- A. Conflict of regulation. When this title imposes a greater restriction upon the use of land, or upon height, bulk, location or use of buildings and structures than is required by existing provisions of law or by private covenant or other restriction, the provisions of this title will prevail. Private covenants or deed restrictions that impose more restrictive conditions than those contained in this title are not superseded by this title or enforced by the county.

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- B. Rules of interpretation. In interpreting the language of this title, the rules set out in this chapter will be observed unless the interpretation is inconsistent with the expressed language of this title.
- C. Computation of time. The time in which an act is to be performed will be computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday, or legal federal or state holiday, the period runs until the next day which is not a Saturday, Sunday, or legal federal or state holiday. The following time-related words will have the meanings ascribed below:
1. "Day" means a calendar day unless otherwise stated.
 2. "Week" means seven calendar days.
 3. "Business week" means five days starting Monday and ending Friday.
 4. "Business day" means one or more days beginning on Monday and ending on Friday.
 5. "Month" means one calendar month.
 6. "Year" means a calendar year, unless a fiscal year is indicated.
- E. Other clarifications.
1. Tense. Unless clearly indicated to the contrary, words used in the present tense include the future, words used in the plural include the singular, words used in the singular include the plural and words of one gender include the other.
 2. Use of certain words. The words "shall," "must," and "will" are always mandatory. The term "may" is discretionary to the subject which it refers. Words and phrases are to be construed according to the common and approved usage in the language, except for technical words and phrases that may have acquired a peculiar and appropriate meaning.
 3. Conjunctions. Unless the context clearly indicates the contrary, conjunctions are to be interpreted as follows:
 - a. "And" indicates that all connected items or provisions apply; and
 - b. "Or" indicates that the connected items or provisions may apply singularly or in any combination.
 4. Delegation of authority. Whenever reference is made to the head of a department or to some other county officer or employee, the reference will be construed as authorizing the head of the department or other officer to designate, delegate to and authorize subordinates to perform the required act or duty, unless expressly provided otherwise.

17.03.040 ENFORCEMENT.

It is unlawful for any person, firm or corporation, whether as a principal, agent, employee, or otherwise, to construct, build, convert, alter, erect, maintain a building, structure or any use of property, equipment, or operation in violation of a provision of this title. Any violation of this title is a public nuisance and a misdemeanor offense punishable by a fine of not more than one thousand dollars, or by

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imprisonment in the county jail for a period of not more than six months, or by both fine or imprisonment. The following procedures apply to enforce the provisions of this title:

- A. If a violation of this title occurs, the planner may deliver to the party in violation an order to comply with the provision of this title in a time period up to thirty days from the issuance of the order to comply at the planner's discretion.
- B. The planner may also refer notice of the violation to the district attorney who may commence an action to abate, remove and enjoin the violation as a public nuisance or a criminal action in the manner provided by law. A party is guilty of a separate offense for each and every day the violation of this title, or the failure to comply with any order, is committed or otherwise maintained.
- C. The conviction and punishment of any person under this section will not relieve the person from the responsibilities of correcting the nuisance.

17.03.045 ABATEMENT OF PUBLIC NUISANCES.

- A. Upon receipt of a complaint alleging a public nuisance violation of this chapter, the planner must determine the validity of the complaint. If the planner determines the complaint to be valid, the planner must personally deliver to the property owner, or send to the property owner by certified mail, return receipt requested, notice of the violation and notice to abate. The notice of violation and notice to abate must inform the owner of the following:
 - 1. Nature of the violation.
 - 2. The date the owner must abate the condition. If the public nuisance is not an immediate danger to public health, safety, or welfare or was caused by the criminal activity of another person, the owner has a minimum of thirty days to abate the public nuisance.
 - 3. That the owner has a right to request a hearing before the planner.
 - 4. That should the owner not prevail at the hearing, the owner may appeal to the commission upon filing a notice of appeal with the commission and payment of a filing fee.
- B. A property owner who desires a hearing to challenge the violations set forth in the notice of violation must notify the planner in writing prior to the date indicated on the notice to abate. The property owner will be afforded an opportunity to appear before the planner and, if not satisfied with the results of the hearing, may request an appeal of the decision by filing a notice of administrative appeal with the office of the board along with the filing fee. The notice of appeal must be placed on the next available board's agenda. The board's decision is final.
- C. Should the property owner fail to comply with the terms of the notice to abate, fail to request a hearing within the time specified, fail to prevail at any requested hearing, or fail to file an appeal in the time specified, the county may abate the nuisance on the property and may recover the amount expended by the county for labor and materials used to abate the public nuisance. The expense and any civil penalties are a special assessment against the property where the nuisance is located and this special assessment may be collected as allowed by law.

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- D. The board may by resolution set civil penalties to be imposed for a public nuisance violation.

17.03.050 APPLICATIONS.

- A. An application for a variance, a special use permit, a Land Use map amendment, a master plan amendment, Land Use code amendment, road abandonment request, an amendment to this title, or an appeal of an administrative decision must be filed with the planner
- B. Determination of a complete application. Within three working days after receiving an application, the planner will determine whether the application is complete. If the planner determines that the application is not complete, the planner must contact the applicant during that time period verbally or in writing and state the application's deficiencies and describe the additional information required. The planner may take no further action on the application unless the deficiencies are remedied. An application may only be scheduled for hearing if the planner deems the application complete before the agenda deadline date of the county commissioners meeting. A determination of completeness will not constitute a determination of compliance with other requirements of this title or federal and state regulations.
- C. Fee submittal. The required application fee must be tendered to the planning department with the submitted application.
- D. Processing of an application. The planner will review the application and prepare a report for the county commissioners recommending approval, approval with conditions, denial, or continuance for re-design. The planner will schedule the application for public hearing within the time and in the manner required by this title and state statute
- E. Official filing date. The time for processing and acting on county commissioners and board applications as established by NRS or this title will commence on the date that the application is deemed complete. Material modifications of any application by the applicant following the filing of the application will re-establish the time for processing and acting on the application upon the planner's determination that the modified application is complete.

17.03.060 APPLICATION LIMITATIONS.

A second or subsequent application substantially similar to an application for a variance, special use permit, Land Use map amendment, Land Use code amendment, road abandonment request, or master plan amendment may not be submitted for review within one year of the first application's denial by the board with respect to that parcel or any portion of that parcel under the same ownership or if ownership changes unless the planner determines that the subsequent application is substantially different such that the facts supporting the previous denial from the commission or board no longer exists.

Where the holder of an application for a development approval wishes to file a subsequent application for a project that is substantially different from the first project, the new development application will supersede the previous development application, and the applicant must state on the application that, upon approval of the subsequent application, the first development approval is withdrawn.

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17.03.070 NOTICE PROVISIONS.

- A. Published notice. Unless otherwise provided by this title or NRS Chapter 278, any application upon which a public hearing is required, notice of the time and place of the hearing must be published in an official newspaper of general circulation in the county at least ten days before the date for the hearing.
- B. Personal notice. Whenever personal notice of a public hearing is required by this title or NRS Chapter 278, in addition to the published notice, the planner will mail notice of the hearing not less than ten days before the public hearing date to:
 - 1. The applicant;
 - 2. All real property owners listed on the county assessor's records within three hundred feet of the exterior boundaries of the subject property, and to all owners of land within an area proposed for re-Land Use; and
 - 3. Each tenant of a mobile home park if that park is located within three hundred feet of the property in question, written notice of the time, place and date of such hearing and the general location of the property of the addressee with reference to the property proposed for change.
 - 4. In addition to the notice required in items 1., 2. and 3., above, notice must also be sent to the owners as listed on the county assessor's records, of each of the thirty separately owned parcels nearest the subject site to the extent this does not duplicate the notice sent pursuant to subsection B.2. above and to any advisory board which has been established for the affected area by the governing body.
 - 5. Electronic notice. If requested by a party to whom notice must be provided pursuant to paragraphs B.1. to 4., inclusive, by electronic means if receipt of such an electronic notice can be verified, and must be written in language which is easy to understand.
- C. Notice for text amendments. In addition to published and personal notice required above, the notice for a text amendment must set forth the time, place and purpose of the hearing and a physical description of or a map detailing the proposed change. It must contain a brief summary of the intent of the proposed change.
- D. Notice for design review, excluding minor design review. The planning department must send, by first class mail, notice of the filing of an application to all contiguous property owners. Contiguous for the purpose of this section includes those properties that touch the parcel which is subject to the land use request including those which would touch the property when projected across a public or private easement or right-of-way. The notice must contain a brief description of the request, the location of plans for review and a deadline for comment.
- E. When notice of a hearing is sent, the board or other entity must retain:
 - 1. A copy of the notice;
 - 2. A list of the persons or governmental entities to which the notice was addressed; and
 - 3. A record of the date on which the notice was deposited in the United States mail postage prepaid, or sent by electronic means.

17.03.100 ADMINISTRATIVE REVIEW BY THE BOARD.

The county commission will review the staff report and either approve or conditionally approve the report.

17.03.080 HEARINGS.

- A. The county commissioners, when holding a hearing on an application for a variance, special use permit, tentative map, Land Use map amendment, road abandonment request, master plan amendment, Land Use code amendment, or master plan element, must review and judge the merits of an application and find that the regulations and standards in this title and state law are met.
- B. Any person or persons may appear at a public hearing and submit evidence, either individually or as a representative of an organization. Each person who appears at a public hearing must state his or her full name, and if appearing on behalf of an organization, state the name and mailing address of the organization for the record.
- C. The hearing body may exclude testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious. Any person appearing as a witness may ask relevant questions of other persons appearing as witnesses, but may do so only through the chairman of the body conducting the hearing and at the chairman's discretion.
- D. Continuances. The body conducting the hearing may, on its own motion or at the request of any person, for good cause, continue the hearing to a fixed date, time, and place. The applicant must agree to the continuance when the time limit of the application provided by law would otherwise lapse. An applicant has the right to one continuance upon payment of the established fee, and if required, the cost of additional notice. A continuance requested by the applicant suspends the time lines established in NRS Chapter 278 and this title. All subsequent continuances may be granted at the discretion of the body conducting the hearing only on good cause shown, and on payment of applicable fees. If the request for continuance is denied, the hearing will be conducted as scheduled on the posted agenda and the fee for the continuance will be refunded to the applicant. If the hearing is continued to a fixed date within thirty-five days of the original hearing date, additional notice is not required. For all other continuances, additional notice is required in the manner required for the initial hearing. The county will prepare the notice and the party requesting the continuance must pay the costs.

17.03.090 ACTION BY THE COUNTY COMMISSIONERS.

At the conclusion of the hearing, the county commissioners must take action on the application and announce and record its action in the form of a motion. The motion must recite the findings of the county commissioners used for its decision and include any reasonably necessary conditions of approval. Notice of the approval, approval with conditions, or a denial must be prepared by the planner and sent to the applicant.

17.03.110 AMENDMENTS AND REVISIONS OF APPROVALS.

- A. The planner, upon submittal of the applicable form, materials and fee, may approve minor amendments to the terms of an approval. Minor amendments or revisions must be authorized in writing by the planner and are subject to appeal pursuant to Section 17.03.120. Minor revisions that may be authorized are those that appear necessary in light of technical considerations requested by the applicant or the planner and are limited to the following:
1. Requests that involve less than ten percent of the building area or project site area;
 2. Requests that involve minor changes in color, material, signage, design, landscape material or parking or driveway orientation; or
 3. Requests that involve minor design changes which represent improvements to previous engineering, site design or building practices, provided the request does not change the character of the project or result in negative impacts to adjoining properties, drainage facilities, irrigation facilities or rights-of-way.
- B. For a special use permit, a minor amendment means a modification to one or more of the conditions of the special use permit which: does not substantially change the use allowed by the special use permit; does not cause substantially greater impacts to surrounding properties than that allowed under the existing special use permit; does not increase area of land, increase the height of any structure, or reduce the required setbacks of any structure under the special use permit; and conforms to the minimum required findings and conditions of approval pursuant to this chapter.
- C. All other amendments or revisions are considered major revisions. Where the holder of an approved application for a permit wishes to make a major amendment or revision to the approval which is not covered by subsections 1. through 3. above, an application including all required materials and fees must be submitted to the planning department and forwarded for approval of the final decision-maker in accordance with the procedures established for the original approval.

17.03.120 FEES AND CHARGES.

- A. Applicant is responsible to reimburse the county for any costs incurred with respect to the review and processing of the application, county participation as a cooperating agency if project is located on public land, and on-going monitoring of any conditions under which a permit is granted.
- B. Before accepting any application required by this title, a deposit not to exceed fifty thousand dollars \$50,000.00 charged, and collected by the planning department. The amount of this deposit will vary depending upon the complexity of the proposed project. Planner will provide to applicant justification for the deposit amount requested by presenting proposed scope of work(s) and type(s) of specialized or skilled professionals to be retained. Said deposit shall be used for application fees, service charges, services provided by independent contractors, retained by the county to review the application, and provide consultation to be used in determining the possible impacts of the proposed use or conditions to be placed upon granting the special use permit, to assist in oversight of the development of the proposed use and National Environmental Policy Act participation if the project

is located on public land. The deposit will also be drawn upon to pay for application fee, required publication, notification, and any other costs incurred by county related to the application. Any expenses deducted from the deposit shall be reported to the applicant along with a copy of the invoice and proof of payment by the county. Planning department shall invoice applicant for amounts required to replenish deposit. Any unused deposit shall be refunded.

- C. No fee is charged to any nonprofit organization or government agency that is the owner of record of the property involved in an application.
- C. All fees are non-refundable except for recording fees when there is no actual recording.
- D. The fee for an extension of the expiration date of the special use permit or variance will be the same amount as the original application fee.
- E. Unless a continuance is requested by the county commissioners or board with the applicant's concurrence, a continuance of a county commissioners agenda item to a later meeting is subject to the following: The applicant will be required to pay any fees and the cost of re-noticing the items as required by this chapter or NRS.
- F. No fee or part of fee will be refunded if an application is not approved.
- G. All application costs must be paid in U.S. cash, by credit card accepted by the planning department, or check payable to Esmeralda County Planning.

17.03.130 APPEAL PROCEDURE.

- A. Appeals of staff decisions. The applicant or any aggrieved party may appeal an administrative decision of the planner to the board within ten days of the written decision. The board may affirm, modify, or reverse the decision.
- B. Procedure for filing a staff administrative decision appeal.
 - 1. Standing for filing an appeal. The applicant or any aggrieved party, defined as a person with a legal or equitable interest in the property affected by the final decision or property located within the notice area of the property that is entitled by law to notice, may file an appeal provided that the appellant has participated in the administrative process before filing the appeal.
 - 2. Issues for an appeal. Only issues raised or addressed in the public hearing stage of the administrative process for a project may be raised as a basis for the appeal unless there is substantial new evidence that has become available after the time of the public hearing.
 - 3. Appeal application. All appeal applications must be filed in writing with a letter of appeal to the planner.
 - a. The letter of appeal and application must be submitted within ten days of the date of the staff decision for which the appeal is requested.
 - b. The appeal letter must include the appellant's name, mailing address, daytime phone number, and must be accompanied by the appropriate fee.

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- c. The letter must specify the project or decision for which the appeal is being requested. The letter must indicate which aspects of the decision are being appealed. No other aspect of the appealed decision may be heard.
 - d. The letter must provide the necessary facts or other information that support the appellant's contention that the staff erred in its consideration or findings supporting its decision.
 - e. The staff may provide the board with a report containing the information used in making the decision.
 - f. The board must set the appeal for hearing and render its decision on the appeal within sixty days of the submittal of a complete appeal application.
 - g. Notice of appeals. Notice of time and place of appeal hearings must meet the requirements of Section 17.03.070.

17.03.150 SPECIAL USE PERMIT (CONDITIONAL USE).

The county commissioners, may approve, approve with conditions, continue within the allowed timeframe, or deny uses expressly listed as "uses subject to permit". The following requirements apply to the approval of a special use permit:

- A. Application requirements. Before a special use permit may be considered for approval, the proposed use must be listed as a use requiring a special use permit in the regulatory zone or must be a similar use as determined by the board with action by the county commissioners. For the purpose of accepting an application, the planner will determine whether the use is similar to those expressly listed as requiring a special use permit. The similar use must not deviate from the pattern of other conditional uses in the zone.
- B. Investigation. The planner will investigate each application to assure that the proposal is consistent with the requirements of this title and make a report to the county commissioners and board.
- C. Hearing. The county commissioners must hold a public hearing after acceptance of a complete application, and notice of the hearing is given as required by this chapter and the NRS. The board must hold a public hearing no later than sixty-five days after the acceptance of the complete application. The hearings must meet the requirements of Section 17.03.080 (Hearings).
- D. Findings. The approval of a special use permit must be based on findings that indicate that the proposed use is appropriate in the location for which it is approved. The findings listed in this subsection are the minimum to be cited in an approval; the board and county commissioners may include additional findings in their decision. The body must cite findings in its motion for approval or findings for their motion for denial. The applicant will bear the burden of proof by

a preponderance of the evidence to provide facts supporting the proposed special use permit. At a minimum, the approval must be based on findings that the proposal:

1. Complies with the general purpose, goals, objectives, and standards of the county master plan, this title, and any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice by the county.
 2. The proposal location, size, height, operations, and other significant features will be compatible with and will not cause substantial negative impact on adjacent land uses, or will perform a function or provide a service that is essential to the surrounding land uses, community, and neighborhood.
 3. Will result in no substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or right-of-way, or other matters affecting the public health, safety, and general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions and policies of the county master plan, this title, and any other plans, program, map, or ordinance adopted or under consideration pursuant to an official notice, by the county, or other governmental agency having jurisdiction to guide growth and development.
 4. The proposed use in the proposed area will be adequately served by and will impose no undue burden or any of the improvements, facilities, utilities, or services provided by the county or other governmental agency having jurisdiction in the county. Where improvements, facilities, utilities, or services are not available or adequate to service the proposed use in the proposed location, the special use permit applicant must, as part of the application and as a condition of approval of the proposed special use permit, be responsible for establishing ability, willingness, and binding commitment to provide the improvements, facilities, utilities, infrastructure, and services in sufficient time and in a manner consistent with the county master plan, this title, and all plans, programs, maps, and ordinances adopted by the county to guide its growth and development. The approval of the special use permit must be conditioned upon the improvements, facilities, and services being provided and guaranteed by the applicant.
- E. Conditions of approval. The county commissioners may require conditions (including a development agreement) under which the lot or parcel may be used or the building constructed if the use may otherwise be incompatible with other existing and potential uses within the same general area or will constitute a nuisance or will overburden public services, improvements or facilities.
- F. Expiration and revocation. Where a use permitted by a special use permit is not started on the property within twenty-four months from the date of approval, unless additional time is granted by the board with action by the county commissioners based upon consideration of the specific circumstances of the project, then the special use permit will be null and void without any further action and the use will not be allowed except by the granting of a new special use permit.
- G. Extension and expiration of permits. If circumstances beyond the control of the applicant result in a failure to complete applicable special use permit conditions and construct or commence

the use prior to the expiration date, the applicant may request in writing an extension of the expiration date. The written request for an extension must be received by the planning department within thirty days prior to the expiration date. The application must state the reason for the extension request. The board with action by the county commissioners may approve a twenty-four-month extension of the special use permit and may approve up to two additional extensions for time subject to the consideration of the continued appropriateness of the special use permit. The extended special use permit may be subject to additional conditions imposed by the board to ensure that the activity permitted by the special use permit does not adversely impact other properties in the area or the public interest. If construction work is involved, the work must actually commence within the stated period and be diligently pursued to completion. A stoppage or lapse of work for a period of twelve months will invalidate the special use permit. When any use of land, building, structure or premises established under the provisions of this chapter has been discontinued for a period of twenty-four consecutive months, it is unlawful to again use the land or building or premises for the discontinued use unless a subsequent special use permit is authorized and issued.

- H. Re-application. No person, including the original applicant, may reapply for a similar special use permit on the same land, building, or structure within a period of one year from the date of the final decision by the board of such previous application.

17.03.160 STANDARD CONDITIONS OF APPROVAL—SPECIAL USE PERMITS AND VARIANCES.

The standard conditions contained in this section are imposed on applications requiring discretionary approval. Additional conditions may be imposed by the county commissioners. The minimum required conditions are as follows:

- A. Conformance with plans. All development must be substantially in accordance with the site development plans submitted with the application.
- B. Conformance with regulations. All on- and off-site improvements must conform to federal, state, and county regulations and the regulations by any applicable political subdivision of the county.
- C. Period to commencement. The use for which the permit or variance is approved must commence within twenty-four months of the date of final approval. A single, one-year extension of time must be requested in writing to the planning department thirty days prior to the permit or variance expiration date. The permit or variance will become null and void if the project applicable to the permit is not initiated within one year and no extension granted.
- D. Department conditions. The recommended conditions of approval from each county department must be incorporated as conditions to the final permit or variance, provided that the recommended conditions comply with federal, state, and county regulations.

17.03.170 REVIEW OR REVOCATION OF VARIANCE OR SPECIAL USE PERMIT.

The planner may refer a variance or a special use permit to the board for a show cause hearing on revocation based on any of the following reasons or occurrences

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- A. A failure or refusal of the applicant to comply with any of the terms or conditions of a variance or special use permit.
 - B. Any misrepresentation made in the application for a variance or special use permit.
 - C. Any act or failure to act by the applicant or its agents or employees directly related to the variance or special use permit which would be a violation of federal or state law or a violation of the county code.
 - D. Any act or failure to act by the applicant or its agents or employees directly relating to the variance or special use permit that creates or tends to create a public nuisance or is detrimental to the public health, safety and welfare.
 - E. A failure to return a signed copy of the notice of decision, twenty-one days from receipt of said notice.
 - F. Further use of a revoked variance or special use permit is a violation of this title and will be punishable as provided in this title.

17.03.180 SHOW CAUSE PROCEDURES OF VARIANCE OR SPECIAL USE PERMIT.

- A. Procedures. The board upon its own motion, or upon the sworn complaint in writing of any person, or upon information presented by the planner, must request that the planner investigate the conduct of any applicant under this chapter to determine whether grounds for revocation of any variance or special use permit exist. The planner will notify the applicant of any investigation prior to any public hearing.
- B. Investigation. After an investigation, if the planner determines that a ground for revocation of a variance or special use permit exists, the planner will issue and serve the applicant with an order to show cause why the variance or special use permit should not be revoked. The order must contain:
 - 1. A statement directing the applicant or applicant's representative to appear before the board at a particular time and place; provided, that the applicant has at least ten days from the date of service of the order before the scheduled meeting;
 - 2. A statement of the grounds for revocation;
 - 3. A statement that the applicant will have an opportunity to be heard, present witnesses and respond to any witnesses against him or her;
 - 4. Service on the applicant must be made by personally delivering a copy of the order to show cause to one of the persons whose name is on the application or by mailing a copy of the order by certified mail with return receipt to the applicant's address on the variance or special use permit.
- C. Hearing for show cause.
 - 1. At the public hearing on the order to show cause, the applicant and the complainant, if there is one, may present testimony, question witnesses, and be represented by attorneys. If the hearing is pursuant to a complaint, the complainant must also be present.

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2. After the conclusion of discussion and public testimony, the possible actions that the board may take include taking no action on the permit, revocation, or modification of permit conditions of approval, limited suspension, and continuance with the concurrence of the applicant.
- D. Appeal of show cause determination. A show cause decision from the board is final. Any further appeal of the board's decision must be in the court of competent jurisdiction within the time frames established by NRS Chapter 278.

17.03.200 ADMINISTRATIVE PERMIT.

- A. Purpose. The purpose of administrative permits is to provide for the method of reviewing proposed uses which possess characteristics that have the potential to adversely affect other land uses, transportation, or facilities in the vicinity. The planner may require conditions of approval necessary to eliminate or reduce any adverse effects of a use.
- B. Applicability. This chapter authorizes the planner to review and render final decisions on Land Use matters and development proposals identified within this chapter as requiring an administrative permit pursuant to the provisions of this section.
- C. Permit required. An administrative permit is required in the following cases:
1. Small operations exploration and mining.
 2. Transmission Projects designed to operate at 200kV or more.
 3. Renewable energy generation projects qualifying for expedited permit process.
- D. Process. Applications for administrative permits may be initiated by the property owner or the property owner's authorized agent. Applications must be filed with the planning department. A request for an administrative permit must include a site plan which clearly delineates the location and characteristics of the proposed use. No administrative permit will be processed until the planner determines the application is complete.
- E. Decision. This title delegates certain authority for making decisions relating to various development applications, uses and similar approvals to the planner. The planner must review all complete applications, make necessary findings and render a decision on the application. The planner may refer the application to the county commissioners for its review and recommendation to the board prior to rendering a decision on the application.
- F. Findings. In approving an administrative permit, the planner must make the findings shown in Section 17.03.150.D.
- G. Notification and appeal of decision by planner. The planner must notify the applicant within ten working days of the decision. The decision of the planner may be appealed to the board by the applicant or any aggrieved party pursuant to Section 17.03.130 (Appeal Procedure).

H. Planner shall report any administrative permits issued along with findings to the board.

Chapter 17.10 DEFINITIONS

17.10.020 DEFINITIONS GENERALLY.

For the purpose of this title certain terms and words are defined as follows in this chapter. When consistent with the context, words used in the present tense include the future; words in the singular include those in the plural and the plural the singular; any words of gender include the opposite gender; "building" includes "structure," the word "shall" is mandatory, not discretionary, the word "person" includes "firm," "association," "corporation," "partnership," and "natural person"; the word "used" includes the words "arranged," "designed," or "intended to be used"; and the word "construct" includes the words "erect," "reconstruct," "alter," "move-in" and "move-upon."

17.10.030 DEFINITIONS.

Abandoned. The term "abandoned" concerns a building or use that has not been developed or maintained for a period of time as stated in an ordinance.

Access way. The term "access way" means a clear and unobstructed usable approach of at least twenty-four feet in width (two-way) from a development upon land to a public travelled way located within a public right-of-way. An access may also be secured by means of an easement from the owner of a parcel or lot proposed to be built upon for the full length of the parcel or lot extending to a public right-of-way, or any other access way suitable or acceptable to the community and public works departments.

Accessory building, detached. The term "accessory building, detached" refers to a building on the same lot as the principal building, but which is physically separated from the principal building, subordinate to the principal building, and devoted to a use incidental to that principal building. A detached accessory building is not designed, configured, or used for human habitation. The detached accessory building may be connected to water and wastewater systems. Installation of both a kitchen, and bathroom with bathtub or shower, changes the building to an accessory dwelling unit and, therefore, subject to the respective regulations. Typical uses include detached garages, outbuildings, storage buildings, barns, sheds, etc.

Accessory dwelling unit. The term "accessory dwelling unit" refers to both attached and detached living space designed to be used as a separate and completely independent dwelling unit by family members on the same parcel. An accessory dwelling unit includes, at a minimum, a permanent kitchen and a bathroom with bathtub or shower and may also include habitable space for living, sleeping, and eating. The accessory dwelling is separated from the principal unit by walls, ceilings, or other permanent partitions, or by non-habitable space such as a garage, and is accessed through a lockable door between the partitions, or by a separate entrance from the principal living space. Typical uses include guesthouses, second units, granny-flats, mother-in-law quarters, etc.

Accessory use. The term "accessory use" means customarily incidental and subordinate to the principal use of the land located on the same lot or parcel.

Active permit. The term "active permit" means a permit issued by a federal, state, or county agency that is active, has not expired, has not been revoked or suspended, and otherwise remains in effect.

Adjacent. The term "adjacent" for the purpose of determining setback requirements for adjacent uses means that a parcel is "adjacent" if it is contiguous with the principal parcel on any side or it is situated opposite the principal parcel across a public or private right-of-way or access easement. Where an adjacent parcel is located across a public or private right-of-way or access easement, setback requirements will be measured from the centerline of the right-of-way or access easement.

Administrative offices. The term "administrative offices" refers to public or private offices, firms, or organizations that are primarily used for the provision of executive, management, or administrative services. Examples of these services include recordkeeping, secretarial service, telephone answering, photocopying and reproduction, and similar services customarily associated with the functions of administrative offices.

Aggregate facility. The term "aggregate facility" refers to an operation involved in the exploration and mining of rock quarries, gravel pits, and sand or earth borrow pits, as well as the excavation, extraction, and processing of sand, diatomite, gravel, and rock. The term does not apply to the excavation, extraction, beneficiation, and processing of locatable metallic minerals, such as gold, silver, lead, copper, zinc, nickel, etc., nor to that of non-metallic minerals, such as fluorspar, mica, limestone and gypsum, titanium, heavy mineral placer form, and gemstones.

Alter. The term "alter" refers to change, make different, adjust, or modify in any way.

Assessment work. The term "assessment work" refers to the minimum amount of work required annually by the bureau of land management to keep an unpatented mining claim active.

Attached. The term "attached" means joined in close association.

Board. The term "board" refers to the Esmeralda County Board of County Commissioners.

Building. The term "building" refers to any structure having a single or common roof supported by columns or walls. The following definitions also relate to buildings:

- A. Building height. The term "building height" means the vertical distance from the average grade level to the highest point of the structure.
- B. Building line. The term "building line" means a line between any street right-of-way, either existing or future, and any building, or parts of a building or structures which may be erected or altered on a lot, parcel or tract of land.
- C. Public building. The term "public building" means a building owned and operated, or owned and intended to be operated, by a public agency of the United States of America, of the State of Nevada, the county, or any political subdivision thereof.
- D. Building site. The term "building site" means the ground area of a building or buildings, together with all open spaces which are required.

Building department. The term "building department" refers to the department designated by the board to administrate building codes and other county functions, and enforce and administrate the county regulations of those functions.

Building face. The term "building face" refers to all window and solid wall area of a building in one place or elevation.

Civic holiday. The term "civic holiday" refers to any seasonal holiday officially recognized by the United States of America, the State of Nevada, or Esmeralda County.

Designee. The term "designee" refers to a department, official, employee, or contractor of the county authorized by the Esmeralda County Board of Commissioners to administer and enforce established certain county codes and regulations.

Development agreement. The term "development agreement" refers to an agreement between a governing body and a party that has a legal or equitable interest in land largely or completely undeveloped that is entered into upon the application of the party wishing to develop the land. The purpose of such an agreement is to enable the governing body to distribute equitably the cost of developing infrastructure for the land. This cost distribution will be based on an analysis of the need for infrastructure prepared pursuant to NRS 278.

Development permits. The term "development permits" refers to permits classified as Land Use permits, land division permits or building permits.

- A. Land Use permits include approval of any of the following types of development applications:
1. Master plan map amendment.
 2. Master plan text amendment.
 3. Land Use map amendment, including applications for overlay district.
 4. Land Use text amendment.
 5. Special use permit.
 6. Variance.
 7. Modification (major or minor) to an approved permit.
 8. Planned unit development.
 9. Temporary use permit (special event permit).

Government agency. The term "government agency" refers to an administrative unit of federal, state, or local government.

Government services. The term "government services" use refers to all types of uses by federal, state, or local governments (including municipal corporations, general improvement districts, and other political subdivisions of federal, state or local governments). Typical uses include offices, courts, jails, maintenance yards, equipment or materials storage, and legislative facilities, but not those uses that are classified as major public facilities, safety services, or utility services.

Grade. The term "grade" (ground level) is the average of the finished ground level at the center of all walls of a building.

Groundwater recharge. The term "groundwater recharge" refers to the process by which water is transmitted underground to an aquifer.

Hazardous material. The term "hazardous material" refers to any substance or material that, by reason of its toxic, caustic, corrosive, abrasive, or otherwise injurious properties, or is listed in the U.S. Department of Transportation Emergency Response Guidebook, Pipeline and Hazardous Materials Safety Administration guidebook, or may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance.

Hazardous waste. The term "hazardous waste" refers to a byproduct or remnant of an operation or process that is dangerous or potentially harmful to the health of humans, animals, or the environment. Hazardous wastes can be liquids, solids, gasses, or sludge.

Inactive permit. The term "inactive permit" means a permit issued by a federal, state, or county agency that expires, is not renewed, is revoked or suspended, or otherwise becomes null and void.

Mining or extraction operation. The term "mining or extraction operation" refers to the extraction of minerals, precious metals, whether by underground or surface methods. Materials extracted may or may not require milling or finishing on or in the proximity of the extraction site. The term does not include "aggregate facilities" as defined in this chapter.

NAC. The term "NAC" refers to the Nevada Administrative Code.

Non-renewable energy. The term "non-renewable energy" refers to energy that is derived from non-renewable resources such as coal, gas, petroleum, and fossil fuels.

Noxious weeds. The term "noxious weeds" refers to plant species identified by NRS 555 as being "noxious" or "invasive."

NRS. The term "NRS" refers to the Nevada Revised Statutes.

Office building. The term "office building" refers to a building used primarily for conducting the affairs of a business, profession, service, industry, or government and that may include ancillary services for office workers, such as restaurants, newsstands, or other minor commercial establishments.

Off-site. The term "off-site" in the context of land use refers to areas or activities located at a site other than the specific site where the particular use is permitted.

On-site. The term "on-site" in the context of land use refers to areas or activities located at the same site where the particular use is permitted. .

Operator. The term "operator" refers to any person or organization responsible for and having the legal right to operate, control or supervise a mining or extraction operation.

Permit. The term "permit" refers to a legal document, certification, or license giving permission to do something (e.g., building or grading permit, or business license).

Prohibited use. The term "prohibited use" refers to a use that is not permitted by any means in a particular Land Use district.

Project area. The term "project area" refers to a single tract of land, mining claim, or group of mining claims upon which an operator is, or will be, conducting operations.

Public right-of-way. The term "public right-of-way" refers to a strip of land or easement acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by public traveled ways, highways, sidewalks, boardwalks, bicycle lanes, equestrian and pedestrian trails, or other transportation related improvements.

Public travelled way. The term "public travelled way" refers to the entire width between the boundary line of every way (measured from the curbs or edges of paved or graveled roadways) maintained by a public authority and that is open to public use for the purpose of vehicular or other mechanized transit traffic.

Public use. The term "public use" refers to a publicly owned structure or parcel of land or a recognized 501(c)3 non-profit organization that is permitted to take place within a publicly owned structure or parcel of land.

Public utility. The term "public utility" refers to any business or utility that the Public Utilities Commission of the State of Nevada is authorized to regulate pursuant to NRS 704.

Public utility right-of-way. The term "public utility right-of-way" refers to a strip of land or easement acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by public utilities such as waterlines, sanitary sewers, communication infrastructures, electricity transmission lines, but not including transportation related facilities applicable to the public right-of-way.

Radio-controlled (RC) vehicles. The term "radio-controlled (RC) vehicles" refers to an unmanned recreational hobby device controlled remotely, including radio-controlled cars and trucks, aircraft, and watercraft, but not including unmanned drones, reconnaissance craft, or other non-recreational devices.

Railroad or railway. The term "railroad or railway" refers to any track on which the wheels of a vehicle may run; transport via locomotive; to convey by train.

Recreational vehicle. The term "recreational vehicle" refers to a vehicular-type structure without permanent foundation that can be towed, hauled, or driven and primarily designed as a temporary living accommodation for recreation, camping, and travel use and including, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

Renewable energy. The term "renewable energy" refers to energy that is derived from renewable resources such as geothermal, hydrological, solar, and wind.

Re-vegetation. The term "re-vegetation" refers to the stabilization of disturbed or graded soils and land by replanting with indigenous or non-invasive plant species.

Right-of-way. The term "right-of way" refers to areas of land legally designated and used for a road or sidewalk, including the side of the roadway or sidewalks.

Screening. The term "screening" refers to a permanent method of visually screening or obscuring a structure or use from the view of any abutting property, sidewalk, or roadway.

Sign. The term "sign" refers to any writing (including letter, word, or numeral); pictorial representation (including illustration or decoration); emblem (including device, symbol, or trademark);

flag (including banner, streamer, or pennant); or lights or any combination that is designed, intended, or used to advertise, attract special attention, or otherwise inform when any part of the advertising or information content is visible from an outdoor area.

Similar use. Where a specific use is cited, the term "similar use" is any use that has the same characteristics as the cited use in terms of trip generation and type of traffic, parking, and circulation, utility demands, environmental impacts, physical space needs and clientele, and other land use impacts, as determined by the board with action by the county commissioners to be consistent with the allowed uses within the zone.

Solid waste. The term "solid waste" refers to all putrescible and non-putrescible refuse in solid or semisolid form, including, but not limited to, garbage, rubbish, junk vehicles (not including "junkyards"), ashes, incinerator residue, street refuse, dead animals, demolition waste, construction waste, and solid or semisolid commercial and industrial waste. The term does not include hazardous waste managed pursuant to NRS 459.

Solid waste collection center. The term "solid waste collection center" refers to a facility used for the collection and temporary storage of municipal solid wastes within enclosed bins or storage containers. The term does not include solid waste transfer stations, solid waste landfills, or facilities involving infectious or hazardous wastes.

Solid waste landfill. The term "solid waste landfill" refers to any place, including municipal and regional facilities, where solid waste is permanently dumped, abandoned, accepted, or disposed of by incineration, land filling, composting, or any other method in accordance with NRS 444.

Solid waste recycling center. The term "solid waste recycling center" refers to a facility designed and operated to receive, store, process, or transfer recyclable material that has been separated at the source from other solid waste.

Solid waste recycling collection center. The term "solid waste recycling collection center" refers to a totally enclosed structure or container where plastic, aluminum, glass, paper, clothing, or other recoverable resources are collected and stored for later pick up and recycling.

Solid waste transfer stations. The term "solid waste transfer station" refers to a fixed facility where solid wastes from collection vehicles are consolidated and temporarily stored outside of containers but within an enclosed facility for subsequent transport to a permanent disposal site. This use does not include facilities involving infectious or hazardous wastes.

Special use permit. The term "special use permit" refers to a specific discretionary approval for a use that has been determined to have unique circumstances, be more intense, or to have a potentially greater impact than an existing uses.

Surety. The term "surety" refers to a corporation authorized to transact surety business in the State of Nevada pursuant to NRS 679 that is included in the United States Department of the Treasury's Listing of Approved Sureties and issues a surety bond pursuant to NRS 108 that does not exceed the underwriting limitations established for that surety by the United States Department of the Treasury.

Surety bond. The term "surety bond" refers to a bond issued by a surety for the release of a prospective or existing lien pursuant to NRS 108.

Temporary. The term "temporary" refers to impermanent; not permanent; not lasting.

Temporary batch plant. The term "temporary batch plant" refers to a temporary (lasting less than one year) facility for mixing asphalt or concrete.

Use. The term "use" refers to the purpose for which land or building is arranged, designed or intended, or for which it is or may be occupied or maintained.

Use, principal. The term "use, principal", means the main or primary use of a premises which is not accessory to any other use on the premises. Unless the use customarily occurs indoors, or the definition of the use explicitly mentions that it occurs outdoors, a principal use occurs indoors. See also "principal building" definition in this chapter.

Utility substation. The term "utility substation" refers to an assembly of electrical, telephone, gas, or other utility company equipment used to provide distribution of services.

Variance. The term "variance" excuses a particular parcel from full compliance with the provisions of a Land Use ordinance where requiring full compliance would result in hardship to the interested party. Variances, however, may not be granted for failure to comply with use restrictions. The grant of a variance does not change the Land Use ordinance or underlying Land Use of the parcel and may only be granted upon demonstration of hardship based on the peculiarity of the property in relation to other properties in the same Land Use district. The hardship may be demonstrated where, due to special circumstances applicable to the property, strict application of the development code's standards or requirements would deprive the property of privileges enjoyed by others in the vicinity. A self-imposed hardship is not a legitimate ground or reason for a variance approval.

Water storage facility. The term "water storage facility" refers to a system for collecting, storing, and distributing potable water from a source of supply to users.

Water towers. The term "water towers" refers to an elevated storage container and support structure intended to hold a water supply at a height sufficient to pressurize a water distribution system.

Watershed. The term "watershed" refers to an area of land separated from other land by a ridge or high land and serving as a drainage area by a stream or river.

Wind energy turbine. The term "wind energy turbine" refers to a system consisting of a wind turbine, support tower, and associated control or conversion electronics that generates electrical power for a lawful principal use.

Chapter 17.12 GENERAL PROVISIONS¹

17.12.010 PURPOSE AND INTENT.

The regulations set forth in this chapter define, modify or further restrict, where applicable, the Land Use regulations of this title.

17.12.011 APPLICABILITY

The regulations set forth in this chapter apply to. Any proposed project, located within Esmeralda County, for which construction and installation of improvements contemplated by Plan of Operations, or Plan of Development has not commenced, as of the date of adoption of this ordinance.

17.12.011 TRANSITIONAL PROJECTS

Proposed land use projects where Esmeralda County is a cooperating agency in the N.E.P.A. process and all steps prescribed in the Application Process and Application Review sections of this Ordinance have been completed shall have their application considered complete and accepted and eligible for a public hearing in compliance with Nevada Revised Statutes 278.260. Deposit requirement for an application under this Ordinance is waived in favor of maintaining any existing reimbursement scenarios. Applicant will be responsible to pay for the advertising and notification costs associated with the public hearing requirements as stated in this Ordinance.

17.12.014 USES ALLOWED.

The following regulations apply to allowed uses:

- A. Uses not listed as requiring a special use permit are allowed.
- B. Any legally created use already established within an area prior to the passage of these regulations that is not an allowed use or is a permitted use only with a special use permit may be allowed to continue as a nonconforming use if its area is not expanded, or, operations altered.

17.12.018 USES PERMITTED SUBJECT TO A SPECIAL USE PERMIT.

Uses listed as requiring a special use permit are considered as special exceptions. Any special permitted use must meet with the regulations for special use permits and any conditions imposed by the board. In addition to the special use permit, all necessary federal, state, and county permits and licenses are required.

- A. Mining and extraction
- B. Renewable Energy Projects not qualifying for the expedited approval process
- C. Aboveground Utility Projects designed to operate at 200kV or more.

17.12.100 GENERAL PROVISIONS FOR ALL ZONES.

This section applies to all zones unless otherwise stated:

- A. Noise, smoke, odor, gases, weeds, or other noxious nuisances must be controlled so as not to become objectionable, or adversely affect the properties in the vicinity, and must not be detrimental to the public health, safety and welfare.

17.12.101 SPECIAL USE PERMITS FOR ABOVEGROUND UTILITY PROJECTS DESIGNED TO OPERATE AT 200KV OR MORE.

17.12.1011 Authority.

WHEREAS, pursuant to NRS 278.26503, each governing body shall establish a process for the issuance of special use permits for the construction of electrical transmission projects of 200kV or higher when located outside of a designated master plan utility corridor, and

WHEREAS, pursuant to NRS 278.26503, each governing body shall establish a process for the issuance of a permit for the construction of electrical transmission projects of 200kV or higher which is in a corridor for the construction of projects identified in the adopted master plan, and

17.12.1012 Application Requirements

- A. Permit For Construction Of An Aboveground Utility Project Located In A Master Plan Designated Utility Corridor
 - a. Any above ground utility project where the combined systems are designed to operate at 200kV or more which is planned to be in a corridor for the construction of above ground utility projects as identified in the Esmeralda County comprehensive master plan, shall notify the county prior to construction. The county Planner shall review the notification to confirm location within the master plan designated utility corridor. This review once completed shall constitute approval of the project.

- B. Special Use Permit For Transmission Projects Outside Of A Master Plan Designated Corridors
 - a. A special use permit shall be required for any aboveground utility project where the combined systems are designed to operate at 200kV or more that is located outside a designated aboveground utility corridor as designated in the Esmeralda County Comprehensive Master plan. In addition to the general criteria for approving this special use permit no special use permit application shall be approved and less the applicant establishes that the proposed aboveground utility project use meets the following additional criteria:
 - 1. Corridors must not conflict with any existing or planned infrastructure or utility projects;

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2. Proximity of the proposed corridor to any school, hospital, or urban residential area with a dwelling density greater than 2 units per gross acre should be taken into consideration and appropriate setbacks should be applied.
- b. General criteria for approving the special use permit:
 1. Will be harmonious with and in accordance with the general objectives or with any specific objectives of the comprehensive master plan of current adoption, and the zoning map if applicable;
 2. Will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area;
 3. Will not be hazardous or disturbing to existing or future neighboring uses;
 4. Will be a substantial improvement to property in the immediate vicinity and to the community as a whole;
 5. Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, or schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;
 6. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community; and
 7. Will not involve uses, activities, processes, materials and equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glares or odors.
 - c. Following the submission and review, of the application Planner will grant an administrative approval or denial of the permit within 65 days. If granted an approval, final issuance of the permit will be contingent on approval of any pending federal land use permits, as well as the review of any documents associated with the EIS or EA.

D. Application Fee: An application processing fee, as established by the board of Esmeralda County commissioners, may be collected for any application for a Transmission Project Outside Of A Master Plan Designated Corridor, the applicant will be required to pay the cost for a contractor to represent the county as a cooperating agency in the federal environmental review process, and application review if the county does not otherwise have the capacity or staff to review and participate. Applicant is responsible for all costs associated with permitting.

17.13 RENEWABLE ENERGY GENERATION PROJECTS

17.131 AUTHORITY

NRS 278.26503 each governing body Shall establish a process for the issuance of a special use permit for the construction of a renewable energy generation project with a nameplate capacity of 10 megawatts or more, and

17.12.0113 : EXPEDITED PERMIT PROCESS FOR RENEWABLE ENERGY GENERATION PROJECTS ON PUBLIC LANDS:

The following is adopted in reference to public lands which are managed by the federal government:

A. Purpose And Definition: Any renewable energy generation project that is required to apply for a renewable energy generation project special use permit, may apply instead for an expedited renewable energy generation project permit if Esmeralda County determines that each of following conditions apply:

1. The project is proposed to be fully or partially built on public land that is in an isolated or rural area in Esmeralda County. "Isolated or rural" is defined as being more than ten (10) miles from any town or community.

2. The project is proposed to be built in a location where there will be minimal risk of disturbance to residents;

3. All project impacts on Esmeralda County services, including, but not limited to: roads, law enforcement, fire, and emergency response; are addressed to the county's satisfaction;

4. The applicant has been required by a federal land management agency to complete an environmental review process that includes an environmental impact statement (EIS) or environmental assessment (EA);

5. The county is engaged in the federal environmental review process as a cooperating agency, is made aware of the project at the beginning of the federal review and permit application process, and through this process can ensure that the health, safety and welfare of Esmeralda County residents are adequately protected.

B. Application Process: Prior to submitting the application for the permit, and at the beginning of the federal review and permit application process, the applicant must have a pre-submission meeting with Esmeralda County staff to discuss the project and the application. If all of the above conditions are met the applicant shall submit as the application the appropriate documents related to the environmental review by state and federal land management agencies. Following the submission of the application, staff will grant an administrative approval or denial of the permit within sixty-five (65) days. If granted an approval, final issuance of the permit will be contingent on approval of any pending federal land use permits, as well as the review of any documents associated with the EIS or EA.

C. . Application Fee: An application processing fee, as established by the board of Esmeralda County commissioners, shall be collected for any application for a renewable energy generation project permit. In addition, the applicant will be required to pay the cost for a contractor to represent the county as a cooperating agency in the federal environmental review process, and application review if the county

does not otherwise have the capacity or staff to review and participate. Applicant is responsible for all costs associated with permitting.

- D. Conflict With Federal Law Or Regulation: Unless the matter is a matter regulated under state sovereignty, the county will defer to federal requirements to ensure there is no conflict with existing federal law.
- E. Bond For Assurance Of Remediation Of Impacts: The county may require a separate bond to support necessary maintenance and repair on county roads if not completed by the applicant. The county may require a separate bond to assure reclamation is carried out

17.12.018 RENEWABLE ENERGY GENERATION PROJECT SPECIAL USE PERMIT

The following provisions apply to a renewable energy generation project special use permit:

A. Purpose And Definition: Any renewable energy project having a nameplate capacity equal to or over ten (10) MW shall obtain a renewable energy generation project special use permit (SUP). (Renewable energy projects that meet the criteria put forth in this chapter may apply instead for an expedited renewable energy generation project permit.) For this chapter "renewable energy" is defined as in Nevada Revised Statutes 701A.340 as: biomass, fuel cells, geothermal energy, solar energy, wind energy, or water power.

B. Application Fee: An application processing fee, as established by the board of Esmeralda County commissioners, shall be collected for any application for a renewable energy generation project permit. In addition, the applicant will be required to pay the cost for a contractor to represent the county as a cooperating agency in the federal environmental review process, and application review if the county does not otherwise have the capacity or staff to review and participate. Applicant is responsible for all costs associated with permitting.

C. Application And Requirements: All the requirements for a special use permit (pursuant to this chapter) shall be met. If the renewable generation project is located on federal or state land, any appropriate documents related to the environmental review by state or federal land management agencies, if they satisfy the requirement as outlined below, may be submitted in lieu of any of the following, otherwise the application must also include all the following applicable elements:

1. Project Description: A detailed project description of the proposed renewable energy generation project including a legal description of the property on which the project would be located and any existing easements, including conservation or restrictive use easements, or a preliminary title report;

2. Maps: Maps showing the physical features and land uses of the project area, both before and after construction of the proposed energy project. The applicant must include at least one map of the proposed project site printed on a standard eight and one-half inches by eleven inches (8 1/2" x 11") page. The applicant must also include maps, diagrams, or color photographs that show:

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- a. The project area boundaries;
 - b. The location, height and dimensions of all existing and proposed structures and fencing including building elevations (in color);
 - c. Existing topography of the site; and
 - d. Water bodies, waterways, wetlands and drainage channels;
3. Distance Requirements: Applicant must show the location of and distance to surrounding uses that may be affected by the proposed renewable energy generation project. Applicant must also show the location and distance to public or private airports or airstrips. In order to protect existing uses that are adjacent to the project, the proposed facility must be located a specified distance from any adjacent properties that may be impacted by noise or other externalities created by the project. This specified distance will meet any existing setback requirements or, if there are none, will be determined by staff, in conjunction with the applicant, and shall be based on an analysis of the project's externalities together with the nature of the surrounding uses;
4. Requirements From Other Agencies: Applicant must provide a list of permits, approvals or other actions that the applicant has requested or will request from other government agencies. **This will include a statement as to whether or not applicant intends to apply for State of Nevada tax abatements;**
5. Transmission: A description of any new transmission or distribution facilities and/or gen-tie lines that will be built in association with the project;
6. Meteorological Or Wind Testing Towers: Provide locations, site map, and height of tower;
7. Travel Routes And Roads For Existing And Proposed Roads:
- a. A detailed map showing travel routes and roads to and within the proposed site(s) and estimates of traffic loads and quantities both during construction and at build out/operations phase;
 - b. County road department or staff will determine, in consultation with the applicant, the potential impact and mitigation measures, if any, that will be required of the applicant, provided that any mitigation requirements shall be proportionate to the impact from the proposed project;
 - c. All nonpaved temporary or permanent on site roads and staging areas shall be improved pursuant to county standards or specifications of the "Orange Book"; and
 - d. During site development and construction, the applicant must regularly water or otherwise mitigate roads and staging areas as necessary to minimize dust and wind erosion;
8. Grading: A technical report showing that construction and operation of the project including, but not limited to, the development, operation, and reclamation of all roads, access corridors, foundation pads, equipment storage and staging areas, and all related facilities, will conform to accepted slope stability requirements and all Nevada division of environmental protection (NDEP) best management practices (BMPs);

9. Weed Control: A plan for weed control, specifically to hinder the spread of invasive and nonnative species onto adjacent property. The plan should account for activities during both construction and operation and may include mitigation activities such as wash stations for construction vehicles;

10. Lighting: A plan showing lighting on and around the project and all related facilities including:

a. Lighting mitigation measures that follow "dark sky" lighting practices including, but not limited to: all proposed lighting shall be located to avoid light pollution onto any adjacent lands as viewed from a distance;

b. All lighting fixtures shall be hooded and shielded, face downward, located within soffits and directed onto the pertinent site only, and away from adjacent parcels or areas;

c. The lighting plan should indicate the types of lighting and fixtures, the locations of fixtures, lumens of lighting, and the areas illuminated by the lighting plan;

d. Any required FAA lighting should be consolidated and minimized wherever possible, so long as it still meets FAA requirements and intent;

11. Noise: If applicable, a plan for noise mitigation including buffering if needed to reduce noise impacts generation equipment shall not emit normal or consistent noise levels in excess of sixty five (65) dBA time weighted average, as measured at the property line at which the facility is located or one-half (1/2) mile from the plant, whichever is closer, provide that adjustments for ambient noise will be made and irregular, short periods of noise levels which exceed the sixty five (65) dBA will be tolerated in association with anomalies or maintenance;

12. Water: The plan shall indicate the amount, place of origin, and place of disposal, if any, of all water and effluent that will be used or reused in connection with construction, management, operation and maintenance of the renewable energy generation project, including water used for drilling, including washing facility components, machine components (i.e., blades), and making concrete for foundation pads and other structures within the facility, provided that any plan created or measures put in place to meet regulations pursuant to state oversight from the Nevada division of environmental protection and/or the state division of water resources may be submitted to meet the requirements of this section;

13. Drainage And Erosion Control: A drainage and erosion control plan for construction and operation developed in consultation with Esmeralda County, provided that any plan created or measures put in place to meet regulations pursuant to state oversight from the Nevada department of environmental protection may be submitted to meet the requirements of this subsection;

14. . Solid Waste Plan: Must cover construction, operation, and closure phases, and, include location where solid waste will be disposed of;

15. Environmental Impacts: Assurance that the proposed project can be designed, constructed and operated without significant adverse impact to fish, wildlife and native plant resources, including fish and wildlife habitat, migratory routes and state or federally listed threatened or endangered fish, wildlife or plant species;

16. Fire And Emergency Protection: A plan developed in consultation with Esmeralda County emergency management, fire department, and fire marshal prior to construction shall address all activities at the proposed project site from the start of construction through operation, and shall result in a response plan to address all identified potential fire, rescue, evacuation and hazardous materials scenarios, provided that any plan created or measures put in place to meet regulations pursuant to state oversight from the Nevada department of environmental protection and/or the state fire marshal may be submitted to meet the requirements of this section;

17. Reclamation Plan

18. Revegetation Plan: Applicant must provide a revegetation plan for restoring areas temporarily disturbed during construction; and

19. Bond For Assurance Of Remediation Of Impacts: The county may require a separate bond to support necessary maintenance and repair on county roads if not completed by the applicant. The county may require a separate bond to assure reclamation is carried out

92 MINERAL EXPLORATION, MINING, AND EXTRACTION

17.92.010 AUTHORITY.

NRS 244.335 and 278.020 provides the board of commissioners with the authority to:

- A. Regulate all character of lawful trade, callings, industries, occupations, professions and businesses conducted in the county, outside of the limits of incorporated cities and towns (NRS 244.335).
- B. Fix, impose and collect a license tax for revenue or regulation on these trades, callings, industries, occupations, professions and businesses (NRS 244.335).
- C. Regulate and restrict the improvements of land and to control the location and soundness of structures (NRS 278.020).
- D. When regulating and restricting the improvements of land and controlling the location and soundness of structure, take into account the potential impairment of natural resources and the total population which the available natural resources will support without impairment (NRS 278.020).

APPLICABILITY.

The provision of this ordinance applies to exploration and mining for locatable metallic minerals, such as gold, silver, lead, copper, platinum, zinc, nickel, etc., and non-metallic minerals, such as fluorspar, mica, limestone and gypsum, titanium, heavy mineral placer form, and gemstones. Uses incidental to exploration and mining, including on-site maintenance of large domestic animals, crushing, milling, and processing are also included in the provisions of this ordinance. Recreational use exploration and mining, including gold panning and sluicing activities lasting no longer than five days in a one-year period, are exempt from the provisions of this ordinance. Exploration and development associated with aggregate

facilities, including rock quarries, gravel pits, sand or earth borrow pit operations, and the extraction and processing of sand, diatomite, gravel, and rock from the ground are regulated pursuant to this ordinance.

17.92.030 FINDINGS OF FACT.

The board finds that that:

- A. Certain mineral and surface property rights exist across the county and this ordinance serves to protect those rights. This ordinance also recognizes and serves to abide by the Mining Law of 1872 which provides mineral property owners the right to mine where the property is a mine patent pursuant to title 30 of the United States Code Section 29, or an unpatented mining claim located pursuant to section 23, as well as the right to milling and ancillary uses pursuant to section 42(a).
- B. The county has a diversified economy including agriculture, commercial, industrial, tourism, recreation, and mining. Permitted uses under these categories are found to be economically and socially beneficial to the county, directly and indirectly, when they are appropriately regulated so that they do not cause substantial adverse impacts to adjacent uses and are not detrimental to the health, safety, and general welfare of the citizens, property owners, scholars, and businesses in the county.
- C. The provisions of this ordinance serve to address and mitigate potential adverse impacts that mining and related activities may have on county provided services, county infrastructure, the natural and historic environment and adjacent land uses (e.g., residential, commercial, tourism, etc.) as they now exist or as they may in the future be developed as a result of the implementation of the provisions and policies of the county master plan, this title, and any other plan, program, map, or ordinance adopted or under consideration, pursuant to an official notice by the county or other governmental agency having jurisdiction to guide growth and development.
- D. Surface mining (e.g., open-pit mining) by its nature causes substantially greater impact to the surface environment than underground mining, and in some instances, precludes complete restoration of the affected land to a condition existing prior to the surface mine. Thus, unless appropriately mitigated through reclamation of land, surface mining has a greater potential for adverse impacts to adjacent land uses, the tourism economy, and the health, safety, and general welfare of the citizens of the county. While the provisions under this ordinance provide for surface mining under certain circumstances, underground mining is highly encouraged in all areas of the county, when conducted pursuant to the provisions of this ordinance.

17.92.040 PURPOSE AND INTENT.

The purpose of this ordinance is to recognize and protect both mineral and surface property rights, provide for mineral exploration, allow for surface mining where appropriate, and allow and encourage underground mining across the county, when exploration and mining activities are consistent with the general purpose, goals, and objectives of the county master plan, and when they do not result in substantial adverse impacts to adjacent residential and commercial uses, tourism, the local economy,

natural resources (without appropriate mitigation), or other matters affecting the health, safety, and general welfare of the citizens of the county.

17.92.060 SALE OR TRANSFER OF SITE.

When an entitlement for exploration or mining, whether by transfer of land or right, is conveyed, the transfer must be disclosed in writing to the Esmeralda County Commission at least ninety days before the assignee takes over the property or right. The permit holder must direct the party taking ownership or right to meet with the **planning department** to review the conditions of approval of the permit prior to the final sale or transfer.

17.92.070 SCALE OF OPERATIONS.

Surface and underground exploration and mining is divided into four categories: (1) recreational use; (2) casual use; (3) small operation; and (4) large operations. The following provisions will determine the category in which the exploration or mining operation fits:

- A. Recreational use. This classification includes recreational gold panning, sluicing activities, and "rock hounding" lasting no longer than five days in a one-year period. Recreational use exploration and mining are exempt from the provisions of this ordinance.
- B. Casual use. This classification includes surface and underground exploration and mining with the use of hand tools for a longer period of time than recreational use. The use of explosives and mechanized or motorized equipment is prohibited. Tools typically associated with casual use include picks, shovels, gold pans, sluice boxes, miner's moss, wheelbarrows, ore carts, and other similar manually operated devices. Casual use exploration and mining are exempt from the provisions of this ordinance.
- C. Small operations. This classification includes surface and underground mining and exploration involving the use of mechanized or motorized equipment, or involving the use of explosives, but remaining less than the duration, excavation, and surface area disturbance thresholds at which a special use permit is required for large operations. A combination or series of small operations permits or uses (i.e., serial or chain exploration or mining) that violate or serve to circumvent the letter and spirit of this ordinance or title will not be permitted.
- D. Large operations. This classification includes surface and underground exploration and mining meeting or exceeding the duration, excavation, or surface area disturbance thresholds requiring a special use permit.
- E. Ancillary uses. Ancillary Uses which are incidental to the small operations or large operations exploration and mining may be made part of the submitted permit for exploration and mining.

17.92.080 APPLICATION REQUIREMENTS.

Recreational use and casual use exploration and mining are exempt from application requirements and other provisions of this ordinance. The application for small operations and large operations must be submitted as required by this section to the planning department on the application furnished by the department and approved by the county commissioners. Plans, permits, and other documentation required by a federal or state agency will fulfill the application information requirements of this section when they are submitted as part of the county permit application. Requirements in this section that are inapplicable to the exploration or mining operation are not required to be submitted with the application. The completed application must include:

- A. Basic information. The name, address, and telephone number(s) of the owner of record, applicant, corporation, business association, or individual, and that of the operator, project manager, or local contact person.
- B. Demonstration of rights. Appropriate documentation showing that the applicant is the lessee or owner of the surface or mineral estate on which exploration, mining, or associated activity will occur and, if the applicant is a lessee, certification that the applicant has the right, power, and authority to conduct the described operation. The application must include the name, address, and telephone number of the private owner and any federal agency (i.e., Bureau of Land Management) having jurisdiction over the surface and mineral estate.
- C. Taxes. A certificate from the county assessor's office stating that no taxes or assessments are delinquent on the property for which the application is submitted.
- D. Vicinity map. A copy of the assessor's office vicinity map showing where the surface or underground project and property is located in association with surrounding properties. The document may be on eight and one-half inches by eleven inches or similar format, unless a larger format is needed to see details in the map.
- E. Operations plan requirements. An operations plan must be submitted with the application for review and approval by the county fire, emergency management, planning, and public works departments. The operations plan must be updated for county review annually or when substantial changes are made to the operation. The county may require an application for an amended or new permit when adjustments to the operations plan are substantially out of conformance with the conditions of the existing permit. The operations plan must otherwise meet the minimum requirements of this ordinance and include the following information:
 1. Background-land. A brief history of activities on the applicable land and past exploration, mining, beneficiation, and processing which had taken place on the land.
 2. Background-applicant. A brief background of the applicant, company, or corporation applying for exploration or mining.
 3. Scale of operation. A narrative description of the scale of the proposal, including anticipated number of employees during construction, operation, and post-operation phases; hours of the operation (including continuous, seasonal, or other); estimated surface disturbances and underground work for the entire project, including phasing;

blasting and ancillary uses; and estimated life of the operation, including reclamation and post-operation monitoring.

4. Site plans and drawings. A site plan drawn to scale must include, as applicable, the following information:
 - a. The project boundaries, including anticipated phasing;
 - b. The location and placement of existing and proposed structures, including buildings; utility poles, lines, and substations; fire hydrants; water storage tanks; railroads and crossings; signs; fences, walls, and controlled access points; wells, water, sewer, and septic systems, as may be applicable;
 - c. All setback dimensions as they apply to existing and proposed buildings and structures and exploration and mining activities;
 - d. The location and placement of existing and proposed transportation routes, including access and egress points, driveways, parking, haul roads; public rights-of-way; and easements;
 - e. The location of existing and proposed floodways; water bodies; bridges and culverts; and other hydrological features.
 - f. The location and placement of existing and proposed manmade landforms and surface alterations, such as open pits, portals and other openings; heap leaches, tailings, dumps, and overburden placement, etc.
 - g. The estimated location of newly proposed underground mine portals, tunnels, adits, drifts, and shafts in association with the rights to mine, including patented and unpatented claims.
5. Methods. Narrative description of proposed methods including:
 - a. Development of pits, trenches, and underground workings;
 - b. Type of equipment to be used;
 - c. Rationale for the type of mining proposed (i.e., surface versus underground) proposed;
 - d. Processing, including whether and how ancillary reducing and milling will take place on- or off-site;
 - e. Liquid and solid waste management;
 - f. Grading and slope stability.
6. Solid Waste. A plan showing how solid waste in all phases will be disposed of and where it will be disposed
7. Documenting and reporting. A plan showing how copies of federal and state permits, compliance reports, and violation notices will be submitted to the planning department. The plan must show that copies of the required documents will be submitted to the department within thirty days of the permit holder's receipt. As required by the federal

Emergency Planning and Community Right-to-Know Act (EPCRA), all applicable hazardous chemical, material, or explosive submittals must also include copies of permits from the Nevada State Fire Marshall. Copies of all reports sent to the Nevada State Hazardous Material Data Base and the Local Emergency Planning Committee (LEPC) must also be submitted. The permit holder must immediately (within forty-eight hours receipt) report all environmental related violations, spills, accidents, notices, and cease-and-desist orders to the planning, fire, and emergency management departments.

8. Emergency management and prevention. The applicant must submit with the operations plan an emergency management and prevention plan that will be reviewed for approval by the fire and emergency management departments.
9. Transportation. A narrative description with accompanying visuals providing on-site and off-site access and egress routes, use of state and county rights-of-way, external and internal haul roads, and a plan for consulting with the applicable regulatory agencies for the use, protection, and repair of land and rights-of-way used for transporting goods, equipment, and people.
10. Water. The availability, including ownership rights, anticipated use, and protection of quality and quantity of aboveground and underground water resources.
11. Best management practices. A plan for obtaining and notifying the county of all applicable federal and state air, water, and stormwater permits and noxious weed abatement.
12. Noise abatement. A plan indicating sufficient noise abatement. When it is determined by the county that additional noise abatement is needed, further requirements, such as installation of sound-absorbing structures, earth-fill barriers, limitations on the number of motorized machines that may operate concurrently, and restrictions on the hours and days of operation, may be imposed as needed on a case-by-case basis. At a minimum, surface activities located within one thousand feet of any residential use, except those owned by the applicant or waived by the property owner, must not be allowed to take place between 5:00 p.m. and 8:00 a.m. and on Saturdays, Sundays, and national and state holidays.
13. Explosives use. The plan must detail the transportation, storage, and of Explosive Materials, when applicable.
14. Closure and reclamation. The reclamation and surety bond requirements imposed by a federal or state agency will supersede this subsection and serve as the reclamation and bonding requirements under the county approved exploration or mining permit. The requirements for reclamation under this subsection and surety bonding under Special Use Permit Conditions, will apply, whether or not a special use permit is required, when no reclamation permit or surety bonding is required by a federal or state agency. Unless the exploration or mining operation falls within the regulations of a federal or state agency, the county reclamation plan must include the following information:
 - a. Reclamation schedule. The plan must include a timeline showing time of closure, estimated phases of reclamation including all required stages in this subsection, and date of completion;

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- b. Preexisting conditions. The plan must include photographic evidence, deemed acceptable by the planner, showing the surface conditions, including grade and vegetation, existing prior to the exploration or mining operation;
 - c. Grading and backfilling. The plan must show that all surface disturbances and excavations will be backfilled and contoured to a condition that is safe, stable, and reasonably flush and consistent with the surrounding environment. The plan may allow for access roads to remain following the permit expiration date if it is shown that the roads will provide access to expanded or new exploration or mining operations immediately following the active permit. Access roads must be reclaimed concurrently with the remaining operation if an application for additional exploration or mining is not submitted within thirty days of the expiration date of the active permit or the application is not approved by the planner.
 - d. Bore holes. Bore holes must be plugged as required by the Nevada Administrative Code.
 - e. Safety. The plan must show abatement of all safety hazards and nuisances.
 - f. Re-vegetation. The plan must include re-vegetation returning all disturbed surfaces to a reasonable condition existing prior to the exploration or mining operation. Unless directed otherwise by the county, seeding, re-seeding, and planning will take place in the autumn season during the months of October or November, but not during times of extreme weather conditions such as snow or sub-freezing conditions.
 - g. Removal of equipment and structures. The plan must show that vehicles, equipment, stored materials, structures, and other manmade features will be removed from the land within ninety days of closure. Equipment used for reclaiming the land may remain until the completion of reclamation.
 - h. Visual rendition. The application for large operations surface mining or expansion of existing large operations surface must include a visual model consisting of the existing surface topography and the approximate topographic conditions during operations, including phasing, and following closure and reclamation. The applicant must consult with the **planning department** to determine appropriate locations and viewpoints for the visual model. The visual model may include screening and other systems represented in the operations plan to mitigate potential visual impacts.

17.92.090 ANCILLARY USES.

The following ancillary uses may be proposed and submitted as part of the required application for surface and underground exploration and mining. Ancillary uses are defined as on-site systems such as those shown below which are reasonable and sometimes necessary to support surface and underground exploration and mining operations. Unless stated otherwise in this ordinance, the following requirements apply to on-site ancillary uses for large operations exploration and mining:

- A. Accessory structures and uses. These uses include the deposit and storage of ore, tailings, and overburden; settling ponds; offices, repair shops, storage and other buildings; buildings for the

storage of explosives; ditches and other mechanisms for the conveyance of water and utilities; and fueling facilities.

- B. Keeping of large domestic animals. Large domestic animals (e.g., mules) may be used in association with exploration and mining.
- C. Processing and beneficiation.
- D. Boarding accommodations. This ancillary use may be allowable for temporary boarding accommodations for workers and other persons directly employed by the large operations if the temporary residential use exceeds the residential density allowance in the respective zone. The boarding accommodations must be located on-site of the large operation, i.e., within the boundaries of its special use permit, and must be removed and associated land reclaimed at the time of closure of the mine. This use must not be included as part of any small operations permit.
- E. Concrete batch plants. This ancillary use may be allowable.

17.92.110 USE OF EXPLOSIVE MATERIALS.

Transportation, storage, and use of explosives must conform to the applicable state federal regulations and five hundred feet of an existing private or parochial school, healthcare facility, residence, or building, except a building owned by the permit holder. A blasting plan may be included with and as part of a special use permit application for exploration and mining. A blasting permit may be required, but a special use permit is not required for down-hole use of explosives for the purpose of dislodging or mobilizing seized borehole drilling equipment.

A pre-blast condition inspection must be conducted by a qualified person for all existing buildings, except those owned by the applicant, within one thousand feet of any blasting activity. The pre-blast condition inspection must be provided by the applicant at no cost to property owners, unless the property owner(s) refuse to allow the inspection to take place, and the county. The applicant must bear full responsibility for structural damage caused by blasting activities.

17.92.135 SMALL OPERATIONS—APPLICABILITY AND RESTRICTIONS.

Small operations include exploration, surface mining, and underground mining having surface disturbances of five acres or less. The requirements are as follows:

- A. Permit required. A permit issued by the planning department is required for small operations exploration and mining. The conditions of the permit will incorporate the approved operations plan and include other conditions of approval that are found by the planner to be necessary to conform to federal, state, and county requirements.
- B. Permit renewal. An application may be submitted to renew an active permit. The renewal application must be submitted to the planning department at least thirty days before the expiration of the active permit. The renewed permit may contain added or modified conditions that are deemed by the planner to be necessary to comply with federal, state, and county regulations. All reclamation must be completed as shown in the approved operations plan

before a new or renewed permit may be issued on land within one mile of the active or closed operation. The planner must deny the application for a new or renewed permit if any active exploration and mining operations permit of the applicant is non-compliant with federal, state, and county regulations.

- C. Concurrent permits. An applicant may hold two or more small operations permits for surface mining concurrently when the surface mining operations are separated by at least one mile. An applicant may hold two or more small operations permits for exploration concurrently when their cumulative surface disturbance does not exceed five acres. The five acre cumulative surface disturbance limitation for small operations exploration does not apply to exploration which is combined with a small operations mining permit. Only one small operations permit may be active on any given parcel or claim. The scope of a small operations permit may include both exploration and mining.
- D. Force majeure extension. The small operation permit may be extended under circumstances where operation is impossible due to naturally occurring events beyond the control of the county or the permit holder, such as the destruction of sites or access due to flood or earthquake. Such extensions will last for a period of time equal to that during which the operation was rendered inoperable, but must not exceed one year.

17.92.140 LARGE OPERATIONS—APPLICABILITY.

The provisions under this section for a special use permit do not apply to surface or underground exploration or mining operations classified as recreational use, casual use, or small operations. Exploration and mining operations where surface disturbance is five acres or more are classified as large operations exploration and mining and a special use permit is required. The area classification specified in this section apply only to the surface disturbances cause by exploration and mining, and not underground development such as tunnels, adits, and stopes. Surface disturbances caused by ancillary or other permitted uses related to milling and processing, do apply toward the acreage calculation.

17.92.160 SPECIAL USE PERMIT CONDITIONS.

The application for a special use permit for exploration and mining must meet the requirements of this section and Administrative Provisions, if the county determines it lacks staff, or, expertise to review an item submitted as part of the special use permit application and subject to the county's regulatory authority, the county may engage independent contractor(s). The scope, schedule of work, costs, and firm for the review must be accepted by the county before the special use permit is approved. The scope of work will be limited to checking for compliance with regulations and codes, accuracy of calculations, adequacy and completeness of the information submitted, and preparation under generally accepted professional practices.

- A. Requirements inclusive. The special use permit conditions of approval must, at a minimum, meet the requirements of this section and the findings of fact under Findings of Fact, in order to protect cultural and natural resources and the tourism economy, and the health, safety, and general welfare of the citizens of the county.
- B. Application requirements incorporated. The conditions of the special use permit must incorporate and may expand upon all application requirements under Application Requirements.

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- C. Duration. The special use permit must impose the following limitations on the duration of exploration and mining:
1. Exploration. The special use permit may not exceed five years and may be limited to a lesser period of time, but not less than one year, as determined by the board with action by the county commissioners;
 2. Surface and underground mining. The special use permit may not exceed thirty years and may be limited to a lesser period of time for surface mining, but not less than five years, as determined by the board with action by the county commissioners.
- D. Documenting and reporting. All federal and state permits must be submitted to the planning department as described in the approved application operations plan.
- E. Permit renewal. An application may be submitted to renew an active permit. The renewal application must be submitted to the **planning department** at least thirty days before the expiration of the active permit. The renewed permit may contain added or modified conditions as deemed by the board with action by the county commissioners to be necessary to comply with federal, state, and county regulations. The board with action by the county commissioners may deny the application for a new or renewed special use permit if any active exploration and mining operations permit of the applicant is non-compliant with federal, state, and county regulations.
- F. Expiration of inactive permit. An extension of an inactive special use permit may be granted for good cause as allowed by Administrative Provisions.
- G. Liability insurance and indemnification. The special use permit will require liability insurance in an amount deemed appropriate for the type and scope of the operation, but not less than one million dollars. The permit holder and all property owner(s) must agree, as evidenced by their acceptance of the special use permit, to hold the county, its officers, and its representatives harmless from the costs and liabilities associated with any damage or liability, and any/all other claims existing at the time of approval or which may occur as a result of the approved special use permit.
- H. SURETY BOND. A SURETY BOND IS REQUIRED FOR ANY RECLAMATION UNDER A PERMIT FOR SMALL OPERATIONS AND A SPECIAL USE PERMIT FOR LARGE OPERATIONS. A SURETY BOND REQUIRED BY A FEDERAL OR STATE AGENCY OVERSEEING THE EXPLORATION OR MINING OPERATION WILL FULFILL THIS REQUIREMENT WHEN PROOF IS SUBMITTED TO THE PLANNING DEPARTMENT AS REQUIRED BY APPLICATION REQUIREMENTS. IF NO SURETY BOND IS REQUIRED BY A FEDERAL OR STATE AGENCY, THE PERMIT HOLDER MUST POST CASH OR OTHER APPROPRIATE SURETY BONDING TO ASSURE THAT DISTURBED LAND IS RECLAIMED AS REQUIRED BY THE COUNTY APPROVED OPERATIONS AND RECLAMATION PLAN. THE SURETY BOND MUST BE POSTED PRIOR TO DISTURBANCE OF LAND AND MUST BE UPDATED AS THE EXPLORATION AND MINING OPERATIONS PROGRESS OR CHANGE. THE AMOUNT OF THE SURETY BOND NECESSARY TO FULFILL THE COUNTY REQUIREMENT WILL BE DETERMINED BY A QUALIFIED LICENSED ENGINEER OR ENVIRONMENTAL MANAGER AT THE EXPENSE OF THE APPLICANT AND WILL BE SUBJECT TO REVIEW BY A THIRD-PARTY APPROVED BY THE COUNTY.