

EXHIBIT I

LAND USE CODE

CHAPTER XII: FLOODPLAIN MANAGEMENT REGULATIONS

~~ARTICLE~~ SECTION 1 FLOODPLAIN MANAGEMENT REGULATIONS

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Sec. L-XII 1.1 Purpose & Intent

A. The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Supervisors of the County of Nevada does hereby adopt the following floodplain management regulations.

B. This Chapter will provide the floodplain management criteria for all development in areas of special flood hazard within the unincorporated areas of the County of Nevada. ~~County~~. It is the purpose of this Chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

1. To protect human life and health;
2. To minimize expenditure of public money for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;

5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
6. To ~~insure~~ensure that potential buyers are notified that property is in an area of special flood hazard; and
7. To ~~insure~~ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

C. In order to accomplish its purpose, this Chapter includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which results in damaging increases in erosion or flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
4. Controlling filling, grading, dredging and other development which may increase flood damage, and
5. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

Sec. L-XII 1.2 Definitions

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

- A. ACCESSORY STRUCTURE means a structure or a portion of a structure, either attached or detached, which is subordinate to, and the use of which is incidental to, that of the main structure or use on the same premises.
- B. AREA OF SPECIAL FLOOD HAZARD - See Special Flood Hazard Area.

C. BASE FLOOD means the flood having a one percent chance of being equaled or exceeded in any given year (also called the 100-year flood).

D. BASEMENT means any area of the building having its floor subgrade (below ground level) on all sides.

E. BREAKAWAY WALLS are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by floodwaters. A breakaway wall shall have a safe design loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

E.F. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

G. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

F.H. COMMISSION OR PLANNING COMMISSION - The Planning Commission of Nevada County.

G.I. DEVELOPMENT means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations including the physical extension and/or construction of urban land uses. Development activities include the subdivision of land; construction or alteration of structures, roads, utilities, and other facilities; installation of septic systems; grading; deposit of refuse, debris, or fill materials; and clearing of natural vegetative cover (except for agricultural activities). Routine repair and maintenance activities are exempted.

H.J. EXCEPTION means a grant of relief from the requirements of this Chapter, which permits construction in a manner that would otherwise be prohibited by this Chapter.

~~J.K.~~ J.K. EXISTING MANUFACTURED HOME PARK OR SUBDIVISION means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before August 25, 1988.

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

~~K.M.~~ K.M. FLOOD OR FLOODING means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of floodwaters, (2) the unusual and rapid accumulation or runoff of surface waters from any source, and/or (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.

~~L.N.~~ L.N. FLOOD BOUNDARY AND FLOODWAY MAP means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of flood hazard and the floodway.

~~M.O.~~ M.O. FLOOD INSURANCE RATE MAP (FIRM) means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to Nevada County.

~~N.P.~~ N.P. FLOOD INSURANCE STUDY means the official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

~~O.Q.~~ O.Q. FLOODPLAIN OR FLOOD-PRONE AREA means any land area susceptible to being inundated by water from any source (see definition of flooding).

~~P.R.~~ FLOODPLAIN MANAGEMENT means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

~~Q.S.~~ FLOODPLAIN ADMINISTRATOR is the community official designated by title to administer and enforce the floodplain management regulations. SEE ZONING ADMINISTRATOR.

~~R.T.~~ FLOODPLAIN MANAGEMENT REGULATIONS means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state and local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

~~S.U.~~ FLOOD PROOFING means any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

~~T.V.~~ FLOODWAY means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as “Regulatory ~~F~~loodway”.

~~U.W.~~ FUNCTIONALLY DEPENDENT USE means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term does not include private docks and piers.

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

Y. HISTORIC STRUCTURE means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminary determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a

district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in state with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of Interior in states without approved programs.

~~W.Z.~~ LOWEST FLOOR means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, useable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Chapter.

~~X.AA.~~ MANUFACTURED HOME means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

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

~~Z.CC.~~ MEAN SEA LEVEL means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

~~AA.DD.~~ NEW CONSTRUCTION means for floodplain management purposes, structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by this community.

~~BB.EE.~~ ONE HUNDRED YEAR FLOOD OR 100-YEAR FLOOD means a flood, which has a one percent annual probability of being equaled or exceeded. It is identical to the base flood which will be term used throughout this Chapter.

~~CC.FF.~~ PERSON means an individual or ~~their~~^{his} agent, firm, partnership, association or corporation, or agent of the aforementioned groups, or this state or its agencies or political subdivisions.

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

~~EE.HH.~~ SPECIAL FLOOD HAZARD AREA (SFHA) means an area having special flood or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, A1-30 or AE.

~~FF.II.~~ START OF CONSTRUCTION includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

~~GG.JJ.~~ STRUCTURE means ~~a~~^{the} walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

~~HH.KK.~~ SUBSTANTIAL DAMAGE means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed ~~50~~^{fifty} percent (50%) of the market value of the structure before the damage occurred.

LL. SUBSTANTIAL IMPROVEMENT means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds ~~50~~fifty percent (50%) of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged, and is being restored, before the damage occurred.

For the purpose of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- ~~2.3.~~ Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or
4. Any alteration of a structure listed on the National Register of Historical Places or a State Inventory of Historical Places.

H-MM. RECREATIONAL VEHICLE means a vehicle, which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

NN. RECREATIONAL VEHICLE, QUALIFIED means a Recreational Vehicle that meets all of the following minimum construction standards:

1. Either:

- a. Manufactured after 1974 and before 1999 in compliance with the 1974 ANSI 119.2 standard or better as provided herein and with requirements of the State Department of Housing and Community Development (HCD) and bearing its certification sticker, or
 - b. Manufactured after 1998 in compliance with the 1998 Edition of the ANSI standard A119.5 for park trailers, and the 1996 Edition of the ANSI standard 119.2 for all other recreational vehicles or better and bearing a label or insignia indicating the manufactures compliance to the appropriate ANSI standard.
2. Certified, to the satisfaction of the Building Department, to meet the snow load requirements of Cal. Code Regs tit. Title 25 § of the California Code of Regulations, Chapter 3, 208.305(e)(3)(1) and to have the snow load capacity to resist the roof live load applicable to the site where the unit is placed (or placed under an approved protecting ramada if the recreational vehicle does not itself meet the required minimum load standards);
3. Contains a minimum of 320 square feet of internal living area;
4. Set up in compliance with no less than the manufacture's minimum specifications or engineer's certification, with provisions for attachment of not less than 6 ground anchors to the chassis being provided unless other methods are determined necessary for safety by the Building Official (when over-the-roof ties are provided, strapping shall conform to Federal Specification QQS 781-H); and
5. Manufactured or modified with HCD or HUD approval to meet the fire safety requirements of ANSI A119.5 Standard for Park Trailers Sections 3-2.3, 3-2.4 and 3-4 (including 3-4.1, 3-4.2, 3-4.3 and 3-4.4).

##.OO. VIOLATION means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required by the County of Nevada's Floodplain Management Ordinance is presumed to be in violation until such time as that documentation is provided.

PP. ZONING ADMINISTRATOR - The Planning Director of the County of Nevada shall be the Zoning Administrator; provided, however, that the Planning Director shall be authorized to appoint no more than two of the

senior staff planners as Deputy Zoning Administrators who shall be entitled to serve in lieu of the Zoning Administrator.

The Zoning Administrator and/or the Deputy Zoning Administrator shall have the authority under this Chapter to review and to approve or disapprove the following types of applications subject to the other provisions of this Chapter: area variances, site plans (permits), use permits and any other matters which are assigned to the Zoning Administrator pursuant to this Code.

Sec. L-XII 1.3 General Provisions

- A. LANDS TO WHICH THIS CHAPTER APPLIES. This Chapter shall apply to all areas of special flood hazards within the unincorporated area of the County of Nevada, ~~County~~.
- B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD. The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) for the County of Nevada titled "Flood Insurance Study for Nevada County, California Unincorporated Areas" dated July 19, 1982, revised July 2, 1987, with accompanying Flood Insurance Rate maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs) dated January 19, 1983, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this Chapter. The FIS and attendant mapping is the minimum area of applicability of this Chapter and may be supplemented by studies for other areas which allow implementation of this Chapter and which are recommended to the Board of Supervisors by the Floodplain Administrator. The study, FIRMs and FBFMs are on file at the Nevada County Planning Department, 950 Maidu Ave. Suite 170, Nevada City, California 95959.
- C. COMPLIANCE. No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this Chapter and other applicable regulations of the Nevada County Codes, Land Use and Development Code. Violation of the requirements (including violations of conditions and safeguards) shall constitute a misdemeanor. Nothing herein shall prevent the Board of Supervisors from taking such lawful action as necessary to prevent or remedy any violation.
- D. ABROGATION AND GREATER RESTRICTIONS. This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this Chapter and another ordinance, easement,

covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. INTERPRETATION. In the interpretation and application of this Chapter, all provisions shall be:

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

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

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

Sec. L-XII 1.4 Administration

A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR. The Planning Commission or Zoning Administrator is hereby appointed to administer and implement this Chapter by granting or denying Use Permits in accordance with its provisions.

B. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR. The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

1. Permit Review. Review all development permits to determine:
 - a. Permit requirements of this Chapter have be satisfied, including determination of substantial improvement and substantial damage of existing structures;
 - b. All other required state and federal permits have been obtained;
 - c. The site is reasonably safe from flooding;
 - d. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has been designated. This means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the County of Nevada; and
2. All Letters of Map Revisions (LOMRs) for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMRs). Approved CLOMRs allow construction of the proposed flood control project and land preparation as specified in the “start of construction” definition.
3. Development of Substantial Improvement and Substantial Damage Procedures.
 - a. Using FEMA publication FEMA 213, “Answers to Questions About Substantial Damaged Buildings,” develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, including defining “Market Value.”
 - b. Assure procedures are coordinated with other departments/divisions and implemented by community staff.
 - c. Review, Use and Development of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section L-XII 1.3.B, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Section ~~L-XII~~ 1.5 [herein](#).

NOTE: A base flood elevation may be obtained by using one of two methods from the FEMA publication, FEMA 265, "Managing Floodplain Development in Appropriate Zone A Areas - A Guide to Obtaining and Developing Base (100-year) Flood Elevations" dated July 1995.

- d. Notification of Other Agencies.
- e. Alteration or Relocation of a Watercourse.
- f. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation.
- g. Submit evidence of such notification to the Federal Emergency Management Agency; and
- h. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

4. Base Flood Elevation Changes Due to Physical Alteration.

- a. Within six (6) months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter or Map Revision (LOMR).
- b. All LOMRs for flood control projects are approved prior to the issuance of public permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMRs). Approved CLOMRs allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

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

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

2.6. Documentation of Floodplain Development. Obtain and maintain for public inspection and make available, as needed the following:

- a. Certification required by Section ~~L-XII~~ 1.5.A.3.a and Section ~~L-XII~~ 1.5.D (lowest floor elevations);
- b. Certification required by Section ~~L-XII~~ 1.5.A.3.b (elevation or floodproofing of nonresidential structures);
- c. Certification required by Section ~~L-XII~~ 1.5.A.3.c (wet flood proofing standard);
- d. Certification of elevation required by Section ~~L-XII~~ 1.5.C.1.c (subdivisions and other proposed development standards);
- e. Certification required by Section ~~L-XII~~ 1.5.F.2 (floodway encroachments); and
- f. Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

7. Map Determination. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard where there appears to be a conflict between mapped boundary and actual field conditions. The person contesting the location of boundary shall be given reasonable opportunity to appeal the interpretation as provided in Section ~~L-XII~~ 1.4.D.

B.C. USE PERMIT REQUIRED. A Use Permit pursuant to Section L-II 4.3.10 and L-II 5.6 of the Nevada County Land Use and Development Code Chapter II-Zoning Regulations, shall be obtained before construction or development, including manufactured homes, begins within any special flood hazard area established in Section L-XII 1.3.B. Application for a Use Permit shall be made on forms furnished by the County of Nevada Planning Department. The applicant shall provide the following minimum information:

1. Plans in duplicate, drawn to scale, showing:
 - a. Location, dimensions, and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their location;

- b. Proposed locations of water supply, sanitary sewer, and other utilities;
 - c. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;
 - d. Location of the regulatory floodway when applicable;
 - e. Base flood elevation information as specified in Section ~~L-XII~~ 1.3.B or Section ~~L-XII~~ 1.4.B.3;
 - f. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and
 - g. Proposed elevation in relation to mean sea level to which any nonresidential structure will be flood proofed, as required in Section ~~L-XII~~ 1.5.A.3.b of this ordinance and detailed in FEMA Technical Bulletin TB 3-93.
2. Certification from a registered civil engineer or architect that the nonresidential flood proofed building meets the flood proofing criteria in Section ~~L-XII~~ 1.5.A.3.b.
 3. For a crawl-space foundation, location and total net area of foundation openings as required in Section ~~L-XII~~ 1.5.A.3.c of this ordinance and detailed in FEMA Technical Bulletins 1-93 and 7-93.
 4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
 5. All appropriate certifications listed in Section ~~L-XII~~ 1.4.B.5 of this ordinance.

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

Sec. L-XII 1.5 Provisions for Flood Hazard Reduction

A. STANDARDS FOR CONSTRUCTION. In all areas of special flood hazards, the following standards are required:

1. Anchoring.

- a. All new construction and substantial improvements of structures, including manufactured homes, shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- b. All manufactured homes shall meet the anchoring standards of Section ~~L~~
~~XII~~ 1.5.D.

2. Construction Materials and Methods.

- a. All new construction and substantial improvements of structures, including manufactured homes, shall be constructed with flood resistant materials and utility equipment resistant to flood damage for areas below the base flood elevation;
- b. All new construction and substantial improvements of structures, including manufactured homes, shall be constructed using methods and practices that minimize flood damage;
- c. All new construction and substantial improvements of structures, including manufactured homes, shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
- d. All new construction and substantial improvements of structures, including manufactured homes, within Zones AH or AO, shall be constructed so that there are adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

3. Elevation and Floodproofing.

- a. Residential Construction. All new construction or substantial improvements of residential structures shall have the lowest floor, including basement:
 - 1) In the AE, AH, A1-30 Zones, elevated to or above the base flood elevation.

- 2) In an AO Zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the Flood Insurance Rate Map (FIRM), or elevated at least two (2) feet above the highest adjacent grade if not depth number is specified.
- 3) In an A Zone, without Base Flood Elevation (BFE) specified on the FIRM [Unnumbered A Zone], elevated one (1) foot above the BFE; as determined under Section ~~L-XII~~ 1.4.B.3.

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

- a. Nonresidential Construction. All new construction or substantial improvements of nonresidential structures shall either be elevated to conform to Section ~~L-XII~~ 1.5.A.3.a or:
 - 1) Be floodproofed, together with attendant utility and sanitary facilities, below the elevation recommended under Section ~~L-XII~~ 1.5.A.3.a, so that the structure is watertight with walls substantially impermeable to the passage of water;
 - 2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - 3) Be certified by a registered civil engineer or architect that the standards of Section ~~L-XII~~ 1.5.A.3.b.1 and 2 are satisfied. Such certification shall be provided to the Floodplain Administrator.
- b. Flood Openings. All construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must meet the following minimum criteria:
 - 1) For non-engineered openings:
 - 2) ~~H~~have a minimum of two openings on different sides having a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area subject to flooding;

- 3) The bottom of all openings shall be no higher than one (1) foot above grade;
- 4) Openings may be equipped with screens, louvers, valves or other coverings or devices proved that the permit the automatic entry and exist of floodwater; and
- 5) Buildings with more than one enclosed area must have openings on exterior walls for each area to allow floodwater to directly enter; or
- 6) Be certified by a registered civil engineer or architect.
- 7) Manufactured Homes See Section ~~L-XII~~ 1.5.D.
- 8) Garages and Low-Cost Accessory Structures.
- 9) Attached Garages.

- a) A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry of floodwaters. See Section ~~L-XII~~ 1.5.A.3.c. Areas of the garage below the BFE must be constructed with flood-resistant materials. See Section ~~L-XII~~ 1.5.A.2.
- b) A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed. For guidance on below grade parking areas, see FEMA Technical Bulletin TB-6.

4. Detached Garages and Accessory Structures.

- a. “Accessory structures” used solely for parking (two-car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Section ~~L-XII~~ 1.2, may be constructed such that its floor is below the BFE, providing the structure is designed and constructed in accordance with the following requirements:
 - 1) Use of the accessory structure must be limited to parking or limited storage;
 - 2) The portions of the accessory structure located below the BFE must be built using flood-resistant materials;
 - 3) The accessory structure must be adequately anchored to prevent floatation, collapse, and lateral movement;
 - 4) Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;

5) The accessory structure must comply with floodplain encroachment provisions in Section ~~L-XII~~ 1.5.F; and

6) The accessory structure must be designed to allow for the automatic entry of floodwaters in accordance with Section ~~L-XII~~ 1.5.A.3.c

Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Section ~~L-XII~~ 1.5.A.

B. STANDARDS FOR UTILITIES

1. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from systems into floodwaters.
2. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

C. STANDARDS FOR SUBDIVISIONS AND OTHER PROPOSED DEVELOPMENT

1. All new subdivision proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than fifty (50) lots or five (5) acres, whichever is lesser, shall:
 - a. Identify the Special Flood Hazard Areas (SFHA) and Base Flood Elevations (BFE).
 - b. Identify the elevations of lowest floors of all proposed structures and pads on final plans.
 - c. If the site is filled above the base flood elevation, the flowing as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a Letter of Map Revision based on Fill (LOMR-F) to the Floodplain Administrator:
 - 1) Lowest floor elevation.
 - 2) Pad elevation.
 - 3) Lowest adjacent grade.

- 4) All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.
- 5) All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- 6) All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.

D. STANDARDS FOR MANUFACTURED HOMES

1. Manufactured homes located outside of manufactured home parks or subdivisions shall meet the elevation and flood-proofing requirement in Section ~~L-XII~~ 1.5.D.
2. Manufactured homes placed within manufactured home parks or subdivisions shall meet the standards in Section ~~L-XII~~ 1.5.C and D. Additional guidance may be found in FEMA Technical Bulletins TB 1-93 and TB 7-93.
3. All manufactured homes that are placed or substantially improved, on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred “substantial damage” as the result of a flood, shall:
 - a. Within Zones A1 30, AH, and AE on the community’s Flood Insurance Rate Map, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- 3.4. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1 30, AH, and AE on the community’s Flood Insurance Rate Map that are not subject to the provisions of Section ~~L-XII~~ 1.5.D.3 will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:
 - a. Lowest floor of the manufactured home is at or above the base flood elevation; or

- b. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade.

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

E. STANDARDS FOR RECREATIONAL VEHICLES

1. All recreational vehicles placed in Zones A1-30, AH, and AE will either:
 - a. Be on the site for fewer than 180 consecutive days; or
 - b. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - c. Meet the permit requirements of Section ~~L-XII~~ 1.4.C of this ~~Article~~ Chapter and the elevation and anchoring requirements for manufactured homes in Section ~~L-XII~~ 1.5.D.3.

F. FLOODWAYS. Located within areas of special flood hazard established in Section ~~L-XII~~ 1.3.B are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Until a regulatory floodway is adopted, no new construction, substantial development, or other development (including fill) shall be permitted within Zones A1-30 and AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than one foot at any point within the County of Nevada.
2. Within the adopted regulatory floodway, the County of Nevada shall prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered civil engineer is

provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

If Section ~~L-XII~~ 1.5.F.1 and 2 are satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Section ~~L-XII~~ 1.5.

Sec. L-XII 1.6 Procedures for Exception

A. EXCEPTION. The Planning Agency shall consider all requests for exception from the requirements of this Chapter. Any exception shall be filed pursuant to the requirements of this Chapter and Nevada County Codes governing Zoning, Use Permits, Land Use and Development Code Section L-II 5.6.

B. EXCEPTION REVIEW

1. In reviewing such applications, the Planning Agency shall consider all technical evaluations, all relevant factors, standards specified in other Sections of this Chapter, and the following:
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger of life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location, where applicable;
 - f. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
 - g. The compatibility of the proposed use with existing and anticipated development;

- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. The safety of access to the property in time of flood for ordinary and emergency vehicles;
 - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and
 - k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.
2. Generally, exception may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing Section ~~L-XII~~ 1.4 and Section ~~L-XII~~ 1.5 have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the exception increases.
 3. Upon consideration of the factors of Section ~~L-XII~~ 1.6.C and the purposes of this Chapter, the Planning Agency may attach such conditions to the granting of exception, as it deems necessary to further the purposes of this Chapter.
 4. The Planning Agency shall maintain the records of all appeal actions and report any exceptions to the Federal Insurance Administration upon request.

B.C. CONDITIONS FOR EXCEPTION FINDINGS

1. Exceptions may be issued for the reconstruction, rehabilitation or restoration of structures listed in the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Section.
2. Exceptions shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
3. Exceptions shall only be issued upon a determination that the exception is the minimum necessary, considering the flood hazard, to afford relief.

4. Exceptions shall only be issued upon:

- a. A showing of good and sufficient cause;
- b. A determination that failure to grant the exception would deny the applicant the right to develop the property, and would result in exceptional hardship to the applicant; and
- c. A determination that the granting of a exception will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of, the public, or conflict with existing local laws or ordinances.

4.5. Exceptions may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the provisions of Sections ~~L-XII~~ 1.6.B through Section ~~L-XII~~ 1.6.C are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

6. Any applicant to whom an exception is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the regulatory flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. A copy of the notice shall be recorded by the Clerk to the Planning Agency in the office of the Nevada County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.