

**Attachment A**  
Nevada County Development Agency Comments  
on the Proposed Changes to the State Minimum Fire Safe Regulations  
April 18, 2021

**1) 1270.01 Definitions**

(a) Access: Access is defined as the road from a Building to the nearest Collector Road. We suggest that “Collector Road” be changed to the nearest *“publicly maintained road or to the nearest road meeting or exceeding the applicable standards herein.”* Nevada County has many Local Class 1 and Class 2 roads that are below Collector Road standards but are built in excess of the standards in these proposed regulations. Using “Collector Road” is too limiting.

(b) Building: Add “Storage Group S” to those uses that are excepted from the definition.

(f) Clear width: Add that clear width may include not only flexible posts or barriers, but also *“other traffic control and safety devices in conformance with the California Manual on Uniform Traffic Control Devices.”*

(h) Dead-end Road: Add to definition that a dead-end road includes looped Roads *“with no other through access.”* Looped roads may loop to other through roads and therefore not technically be dead-end, so this idea should be clarified.

(j) Development: Add to definition that “Development” does not include facilities owned or operated by state or local public agencies, except for Residential Units.

(l) Driveway:

- Add “per parcel” after “A vehicular pathway that serves up to two (2) parcels with no more than two (2) Residential Units”. This will clarify the number of residential units a driveway may serve per parcel and will then correspond with the proposed definition for a Road.
- Add that each parcel may have both a primary and secondary unit, and that secondary units are exempt.
- Add that commercial or industrial uses may be served by a driveway if they remain under 7,200 square feet in size. It is not logical to not allow a driveway to serve certain commercial/industrial buildings.

(m) Exception: Add “substantial compliance with” in front of “a specified standard”.

(\*) Feasible: Add the following definition “Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, and technological factors.

(s) Greenbelts: Replace end of definition with the following “which surrounds or are near areas subject to these regulations that may function as Fuel Breaks.”

(\*) Inspection Entity: Add the following definition “The public official or agency responsible for determining whether a proposed Building construction or Development complies with the standards in the State Minimum Fire Safe Regulations.”

(\*) Looped Road: Add the following definition “Roads that loop back upon themselves. A road that has two or more points of connection onto a through road is not a Looped Road.”

(\*) New: Add the following definition “Newly constructed or approved after the effective date of the regulations adopting this subdivision.”

(\*) Outdoor Recreation: Add the following definition “Activities and non-residential uses compatible with the natural environment, including passive parks, campgrounds, picnic areas, ranger outposts, trails and trail heads and related parking, public restrooms, visitor centers, signage, kiosks, and information booths.”

(gg) Road: Replace with the following “A public or private vehicular pathway to more than two (2) parcels each of which contains any Structure, more than four (4) Residential Units, not including accessory or junior accessory dwelling units exempt pursuant to § 1270.03(d) (Scope – Exemptions – ADUs), or any industrial or commercial Occupancy of more than 7,200 square feet.”

(kk) Structure: Add to the end of the definition “for which the California Building Code requires a permit for construction.”

(ll) Substantial Compliance: Add “or Substantially Comply” to the definition name and replace the definition with the following “Satisfaction of the purpose of the minimum standards even though the formal requirements are not satisfied. Where a specific code standard from the California Fire Code or National Fire Protection Association (NFPA) is referenced in this Article, any sections of the California Fire Code or NFPA standards regarding alternative methods of compliance, equivalencies, or modifications to the specified standards shall constitute substantial compliance with the applicable State Minimum Fire Safe Regulations.”

(oo) Turnaround: Add to the end of the definition “or as approved by the Local Jurisdiction.”

## **2) 1270.02 Purpose**

(a) Add the following to the end of the paragraph “These regulations shall not apply to any Building construction or Development that occurred or received a discretionary approval or building permit from a local jurisdiction prior to the effective date of the applicable regulation(s).”

## **3) 1270.03 Scope**

(a)(3) Add to the end of the sentence “within the SRA, and those approved after July 1, 2021

within the VHFHSZ.”

(a)(4) add after “pre-1991 parcel” “map (including a parcel map waiver pursuant to Government Code Section 66428).”

(b) Add “including a parcel map waiver pursuant to Government Code Section 66428” after “formed from a parcel map or tentative map” as a parcel map waiver is another allowable tool that could have resulted in the construction of a building.

(b)(1) Add “or otherwise regulated the design and improvement of the subdivision” after “imposed conditions”. This is because not all requirements are necessarily called a condition but could be shown on a plan or map or could have been an improvement standard applicable at the time.

(b)(\*) Add “These regulations do not apply to Development of one new Structure of 1,000 square feet or less or one addition to an existing Structure totaling 1,000 square feet or less that is developed on a parcel after July 1, 2021. This exemption is limited to either one new Structure or addition to an existing Structure per parcel regardless of whether the entire 1,000 square feet is used, and only applies to parcels that were already developed with at least one legal Structure before July 1, 2021.”

(c) Add “or other disaster” after “due to a Wildfire”. This is because other disasters could result in the need to rebuild and citizens should not be subject to new standards if an earthquake, tsunami, or other disaster occurs.

(c)(1) Add “unless a reduction in the minimum setback is approved by the inspection entity pursuant to Section 1276.01(b).”

(c)(3) Delete this section as it is not necessary. It just repeats language above this section.

(e ) Replace with the following “These regulations shall not apply to Greenbelts, Greenways, Roads or parcels used solely for Agriculture, mining, or the management of timberland and harvesting of forest products, or Outdoor Recreation on lands owned or leased by state or local public agencies.”

(\*) Add the following “These regulations shall not apply where application of the regulations would take or damage private property for public use, without the payment of just compensation therefor, under the Constitution of the State of California or the United States.”

#### **4) 1270.04 Local Regulations**

(b) Replace “also fully complies” with “,as a whole, Substantially Comply”.

#### **5) 1270.06 Exceptions to Standards**

(a) Add the following sentence to the end “Requests for exceptions, variances, or other administrative relief from a local regulation that equals or exceeds the State Minimum Fire Safe Regulations shall be processed in accordance with procedures established by the Local Jurisdiction.”

(b)(1) Add to the sentence “or to the limited extent that application of a particular standard or standards in this Subchapter are not Feasible.”

(c )(1)(iii) Add after “Exception is requested” “or that compliance with the particular regulation(s) for which the Exception is requested is not Feasible.”

(d)(2) Replace with the following “The inspection entity shall timely provide documentation explaining its conclusion that the requested Exception does or does not Substantially Comply with the standards in this Subchapter or that application of a particular standard or standards in this Subchapter is or is not Feasible.”

(e ) Add after “minimum standards in this Subchapter” “or that application of the minimum standards is not Feasible”.

## **6) 1273.00 Purpose and Application**

(c)(1) Replace “three (3)” with “fifteen (15)” since this is a more appropriate trigger for this level of required improvements. 15 is a well established “medium-sized” project threshold.

(c )(\*) Add “construction that increases the size of commercial or industrial uses by 27,000 square feet or more; or”.

(c )(2) Replace with the following “A change of zoning which increases the intensity or density permitted on the parcel or parcels within the Perimeter by 20% or more above the zoning applicable on July 1, 2021; or”.

(c )(3) Replace with the following “Issuance or amendment of a use permit which increases the intensity or density permitted on the parcel or parcels subject to the use permit by 20% or more above the intensity or density permitted on July 1, 2021.”

(d) Delete this statement.

## **7) 1273.03 Bridge or Elevated Structures on Roads and Driveways**

(b) Add “New” to the beginning of this section.

(b)(1) Add “or Local Jurisdiction, as applicable,” after “Fire Authority”.

(e ) Replace with the following “New Bridges and elevated structures shall be constructed of non-combustible materials unless otherwise approved by the Local Jurisdiction.” Otherwise

this section will be highly problematic for existing bridges.

#### **8) 1273.04 Road and Driveway Grades**

(a) Add “new” before “Roads and Driveways”.

(b) Change “16 to 20 percent” to “16 to 25 percent”. Nevada County currently allows roads up to 25% slope with special conditions and these roads and driveways have been proven to be traversable by fire departments and Cal Fire.

#### **9) 1273.05 Road and Driveway Traffic Lane Width and Clear Width**

(a) Add “new” before “Roads and Driveways”.

(b) Add “new” before “One-way Roads”.

(c) Add “new” before “One-way Roads”.

(e) Add this section to state “The Clear Width requirements in this section shall not apply in sensitive environmental areas (e.g., creeks, streams, oak woodlands, sensitive and protected species habitat areas) or where compliance would require the removal or severe pruning of native trees that have a circumference of 37.7 inches or more (12 inches or more in diameter) measured at 4.5 feet above the ground or immediately below the lowest branch, whichever is lower, or in the case of multi-trunk trees a trunk size of 75.4 inches in circumference or more (24 inches or more in diameter) or where compliance with the requirements is not Feasible.”

#### **10) 1273.06 Road and Driveway Vertical Clearances**

Add “new” before “Roads and Driveways” and add the following “The Vertical Clearance requirements in this section shall not apply to portions of Roads in sensitive environmental areas (e.g., creeks, streams, oak woodlands, sensitive and protected species habitat areas) or where compliance would require the removal or severe pruning of native trees that have a circumference of 37.7 inches or more (12 inches or more in diameter) measured at 4.5 feet above the ground or immediately below the lowest branch, whichever is lower, or in the case of multi-trunk trees a trunk size of 75.4 inches in circumference or more (24 inches or more in diameter) or where compliance with the requirements is not Feasible.”

#### **11) 1273.09 Road and Driveway Turnouts**

Add “New” to Title.

(a) Add “on new One-way Roads and Dead-end Roads” before “shall be”.

(b) Add “new” before “One-way Roads and...”.

(d), (e) and (f) Add “New” before “Driveway”.

## **12) 1273.10 Road and Driveway Turnarounds**

- (a) Add “new” before “Dead-end Road”.
- (b) Add “new” before “Driveways”.

## **13) 1273.11 Gates**

- (b) Remove “a minimum Clear Width of fourteen (14) feet and” since this conflicts with the 20 feet wide gate that is allowed.
- (d) Add “either slide sideways or” before “open in direction of travel”.

## **14) 1273.12 Standards for Existing Roads**

- (a) Add “subject to Section 1273.00(c ) after “Existing Roads”.
- (b) Delete this section as it conflicts with earlier sections and is not inline with Board members statements to exempt wildfire rebuilds.
- (c) Replace “providing Access to Buildings” with “subject to Section 1273.00(c)
- (\*) Add section to state “The standards in this section shall not apply to portions of Existing Roads in sensitive environmental areas (e.g., creeks, streams, oak woodlands, sensitive and protected species habitat areas) or where compliance would require the removal or severe pruning of native trees that have a circumference of 37.7 inches or more (12 inches or more in diameter) measured at 4.5 feet above the ground or immediately below the lowest branch, whichever is lower, or in the case of multi-trunk trees a trunk size of 75.4 inches in circumference or more (24 inches or more in diameter) or where compliance is not Feasible. ”

## **15) 1274.00 Road Name Signs**

- (a) Add “erected after the effective date of the regulations amending this section” after “All Road signs”.

## **16) 1274.02 Addresses for Buildings**

- (b) Add “except those classified as Storage Group S or Utility and Miscellaneous Group U in the California Building Code” after “All Buildings”.

## **17) 1275.00 Application**

- (a) Replace with the following “The provisions of this Article shall apply in the tentative and parcel map subdivision process when new parcels are approved by the Local Jurisdiction having authority. Except as otherwise provided in this Article, the provisions of this Article

shall also apply when new Building construction meeting the criteria in § 1273.00(c) is not already served by an existing water supply.

(b) Replace with the following “These regulations shall apply only to newly constructed water and wastewater facilities that primarily serve new development, and shall not apply to water or wastewater facilities that are not newly constructed, or to water or wastewater facilities, whether existing, upgraded, or newly constructed, that primarily serve existing development. For purposes of this subsection, "water and wastewater facilities" includes, but is not limited to, water storage tanks and reservoirs, pump stations, treatment facilities, regulator stations, Fire Hydrants, and similar water and wastewater system devices.”

#### **18) 1276.01 Building and Parcel Siting and Setbacks**

(a) Replace with the following “All Building construction subject to these regulations shall be set back a minimum of thirty (30) feet from all property lines and from the center of any Road, except as provided for in subsection (b). This requirement does not apply to Building construction that is entirely below ground.”

(b) Replace the first sentence with “A reduction in the minimum setback may be approved by the Local Jurisdiction based upon practical reasons, which may include but are not limited to, parcel dimensions, size, or layout; topographic limitations; development density requirements or other development patterns that promote low-carbon emission outcomes; sensitive habitat; or other site constraints. When a reduction in the minimum setback is approved, the Building construction shall to the extent Feasible reduce Structure-to-Structure ignition by incorporating features such as, but not limited to:”

#### **19) 1276.02 Ridgelines**

(c) Replace with the following “New Buildings on Undeveloped Ridgelines identified as strategically important are prohibited unless such prohibition would take or damage private property for public use, without the payment of just compensation therefor, under the Constitution of the State of California or the United States. Nothing in this subsection shall be construed to alter the extent to which Structures or Development other than Buildings, such as but not limited to a wireless telecommunications facility, as defined in Government Code section 65850.6, subdivision (d)(2), or Storage Group S or Utility and Miscellaneous Group U Structures, may be constructed on Undeveloped Ridgelines.”

#### **20) 1276.03 Fuel Breaks**

(a) Replace “following criteria” with “criteria of Section 1270.00(c)”. Delete subsections (1) through (3).

(f) Add “constructed pursuant to this section” after “Fuel Breaks”.

(\*) Add the following section “A Fuel Break directly adjacent to a new or Existing Road may be considered Substantial Compliance with standards set forth in Article 2 where the Local

Jurisdiction determines that the Fuel Break increases access for emergency wildland fire equipment, furthers safe civilian evacuation, and contains fuel modification sufficient for civilian and fire fighter safety.”