

**LCB File No. R109-08**

**PROPOSED REGULATION OF THE  
NEVADA TAX COMMISSION**

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is to be omitted.

AUTHORITY: §§1-8, NRS 360.090 and 361.4722 to 4724, inclusive.

A REGULATION relating to taxation; providing for the administration of the partial abatement of certain property taxes when changes occur to the actual or authorized use or an improvement is made to the property; and providing other matters properly relating thereto.

**Section 1. Chapter 361 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this regulation.**

**Sec. 2. *Definitions. For purposes of this regulation, as used in Sections 3 to 8, inclusive, unless the context otherwise requires, the words and terms have the meanings ascribed to them in Section 2.***

**1. *“Agricultural use” has the meaning ascribed to it in NRS 361A.030.***

**2. *“Commercial use” means***

***(a) The current employment of property primarily for the production of income or profit, such as, but not limited to, office buildings, retail buildings, hotels, banks, restaurants, and service outlets, except the employment of property for agricultural, industrial, institutional, mining, multi-family residential, open-space, single-family residential, recreational, utility, transportation and communication, vacant land, or vacant land held for development purposes; and***

***(b) Any other current employment of property that does not otherwise constitute an agricultural, industrial, institutional, mining, multi-family residential, open-space, single-***

*family residential, recreational, utility, transportation, communication, vacant land or vacant land held for development purpose shall be deemed to be a commercial use.*

3. *“Industrial use” means the current employment of property for the purpose of manufacturing, assembly, processing, fabricating, machining, or warehousing.*

4. *“Institutional use” has the meaning ascribed to it in NAC 361.61012.*

5. *“Mining Use” means the current employment of property for the development or extraction of any mineral on or beneath the surface of land, including metal ores, oil, gas and other hydrocarbons, sand, gravel, and geothermal resources.*

6. *“Multifamily residential use” means the current employment of a parcel for residential purposes other than employment as a single family residence as that term is defined in NRS 361.4723.*

7. *“Open-space use” has the meaning ascribed to it in NRS 361A.050.*

8. *“Recreational use” has the meaning ascribed to it in NAC 361.61024.*

9. *“Single-family residential use” means the current employment of a parcel as a single family residence as that term is defined in NRS 361.4723(6)(c).*

10. *“Vacant Land” is all land except improved land as that term is defined in NAC 361.113 or vacant land held for development.*

11. *“Vacant land held for development” has the meaning ascribed to it in NAC 361.6103.*

12. *“Utility, Communication, and Transportation Use” means the current employment of property by:*

*(a) Common carriers such as railroad or airline companies;*

*(b) Telecommunication companies such as local or interexchange carriers, commercial mobile radio service and video service providers;*

*(c) Private or municipal corporations which engage in the generation, transmission, or distribution of power in any form, including but not limited to electric power and gas distribution companies; and*

*(d) Companies engaged in the distribution of water for business, manufacturing, agricultural or household use, or sewerage service;*

*↪ except properties of an interstate or intercounty nature otherwise valued by the Department of Taxation pursuant to NRS 361.320(1) or NRS 361.321.*

**Sec. 3.** *1. Sections 2 to 8, inclusive, of this regulation set forth the methodology that must be followed to carry out the provisions of NRS 361.4722 to 4724, inclusive, in assessing any amount of property taxes to be added to the tax roll in the current year attributable to an incremental change in taxable value from the prior year resulting from any improvement to or change in the actual or authorized use of the property, except for properties of an interstate or intercounty nature otherwise assessed by the Department of Taxation pursuant to NAC 361.6075.*

*2. Any amount of property taxes to be added to the tax roll in the current year attributable to an incremental change in taxable value from the prior year resulting from any improvement to or change in the actual or authorized use of the property to the property is the sum of the total tax calculated pursuant to section 8, if any.*

**Sec. 4.** *1. A determination by the county assessor, or the Department for assessments made pursuant to NRS 362.100(1)(b), that there is any change in the actual use of the property must be based on finding that:*

*(a) The property was vacant land or vacant land held for development as of the commencement of the prior year, and as the result of new construction on the parcel sufficient*

*to allow for an identification of the use of the property, the primary use of the property is agricultural use, commercial use, industrial use, institutional use, mining use, multi-family use, open-space use, recreational use, single-family use, or utility, communication, and transportation use as of the commencement of the current year; or,*

*(b) The primary use of the property as of the commencement of the current year as vacant land use, agricultural use, commercial use, industrial use, institutional use, mining use, multi-family use, open-space use, recreational use, single-family use, or utility, communication, and transportation use is different from the primary use of the property as of the commencement of the prior year.*

*2. In the event improvements that defined the actual use as provided in NRS 361.227(1)(a)(2) are destroyed or otherwise removed in the prior year, the assessor or the Department, as applicable, may consider whether the actual use defined by the destroyed or removed improvements still exists in the current year.*

*3. If a parcel has more than one use, then the county assessor may determine a use for each portion of the parcel that is being used for one use, for purposes of determining whether there has been any change in the actual use of that portion of the parcel.*

**Sec. 5.** *1. A determination by the county assessor, or the Department as applicable, that there is a change in the authorized use of the property must be based on a finding that:*

*(a) Between the commencement of the prior year and the current year there has been a change in the uses allowed under all governmental restrictions on the property, and*

*(b) The property was:*

*(1) Vacant land or vacant land held for development as of the commencement of both the prior year and the current year; or*

*(2) As of the commencement of the current year there has been a complete obsolescence of the improvements on the property determined pursuant to NAC 361.119(2)(b).*

*2. If there is a combination of applications or approvals required for the change in the governmental restrictions on the use of the property before the new improvements may be added to the property, then all such applications or approvals must have been obtained in order to satisfy the finding in subsection 1(a).*

*3. The assignment of zoning to a property that did not previously have an applicable zoning under a local zoning ordinance does not constitute a change in the governmental restrictions on the property if the zoning of the property is consistent with the designated use of the property pursuant to a pre-existing governmental plan for development in the area, the actual use of the property or the actual use of properties in the area.*

**Sec 6.** *A determination by the county assessor, or the Department as applicable, that there is an improvement to the property must be based on a finding that there is an appurtenance erected upon or affixed to the land in the current year that did not exist in the prior year.*

**Sec 7. 1.** *If a county assessor, or the Department as applicable:*

*(a) Does make the findings under Section 4, 5 or 6, then there has been an improvement to or change in the actual or authorized use of the property; or*

*(b) Does not make the findings under Sections 4, 5 or 6, then there has not been an improvement to or change in the actual or authorized use of the property.*

*2. If there has been any improvement to or change in the actual or authorized use of the property, then the amount of incremental tax attributable to the improvement to or change must be determined pursuant to section 8.*

*3. If there has not been an improvement to or change in the actual or authorized use of the property, then no amount of property taxes shall be added to the tax roll in the current year attributable to an incremental change in taxable value from prior year resulting from any improvement to or change in the actual or authorized use of the property.*

*4. Any incremental tax attributable to an improvement to, or change in the actual or authorized use of, the property determined pursuant to section 8, may only be assessed to the parcel or the portion of the parcel on which the improvement or appurtenance is erected or affixed, or which experienced the change in actual or authorized use.*

**Sec. 8.** *Any incremental taxable value attributable to any improvement to or change in the actual or authorized use of the property must be determined using the following steps:*

*1. Identify or determine the taxable value of the property, using the standards in NAC 361.106 to 361.139, and NRS 362.095 to NRS 362.100(1)(b), inclusive as it is being valued in the current year based on any improvement to or change in actual or authorized use of the property.*

*2. Determine the taxable value of the property, using the standards in NAC 361.106 to 361.139, and NRS 362.095 to NRS 362.100(1), inclusive, as it would have been valued in the current year if there had not been any improvement to or change in the actual or authorized use of the property.*

*3. Subtract the amount calculated in subsection 2, from the taxable value identified in subsection 1. The difference, if a positive number, constitutes the incremental increase in taxable value attributable to any improvement to or change in the actual or authorized use of the property. If the difference is a negative number or equal to zero, there is no incremental*

*increase in the value attributable to any improvement to or change in the actual or authorized use of the property.*

*4. Convert the taxable value determined under subsection 3 into an assessed value by multiplying by .35.*

*5. Multiply the assessed value determined under subsection 4 by the applicable property tax rate.*