PROPOSED REGULATION OF THE

NEVADA TAX COMMISSION

LCB File No. R109-08

June 4, 2008

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

AUTHORITY: §§1-19, NRS 360.090, 361.4722, 361.4723 and 361.4724.

A REGULATION relating to taxation; providing for the administration of an exclusion from certain partial abatements of property taxes for an improvement to or change in the actual or authorized use of 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 18, inclusive, of this regulation.

Sec. 2. ***As used in sections 2 to 18, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 13, inclusive, of this regulation have the meanings ascribed to them in those sections.***

Sec. 3. ***"Agricultural use" has the meaning ascribed to it in NRS 361A.030.***

Sec. 4. ***"Commercial use" means the current employment of property for any use other than agricultural use, industrial use, institutional use, mining use, multifamily residential use, open-space use, recreational use, single-family residential use, communication, transportation or utility use, or use as vacant land.***

Sec. 5. ***"Communication, transportation or utility use" means the current employment of property by:***

1. A common carrier, such as a railroad or airline company;

2. A telecommunication company, such as a local or interexchange carrier, commercial mobile radio service or video service provider;

3. A private or municipal corporation which engages in the generation, transmission or distribution of power in any form, including, without limitation, an electric power or gas distribution company; or

4. A company engaged in the distribution of water for business, manufacturing, agricultural or household use or for sewerage service.

Sec. 6. ***"Industrial use" means the current employment of property for the purpose of manufacturing, assembly, processing, fabricating, machining or warehousing.***

Sec. 7. ***"Institutional use" has the meaning ascribed to it in NAC 361.61012.***

Sec. 8. ***"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.***

Sec. 9. ***"Multifamily residential use" means the current employment of property for any residential purpose other than single-family residential use.***

Sec. 10. ***"Open-space use" has the meaning ascribed to it in NRS 361A.050.***

Sec. 11. ***"Recreational use" has the meaning ascribed to it in NAC 361.61024.***

Sec. 12. ***"Single-family residential use" means the current employment of property as a single-family residence, as that term is defined in NRS 361.4723.***

Sec. 13. ***"Vacant land" means any land other than land on which there is an improvement sufficient to allow the identification of or establish actual use.***

Sec. 14. ***The provisions of sections 2 to 18, inclusive, of this regulation:***

1. Except as otherwise provided in subsection 2, set forth the methodology required to carry out the provisions of NRS 361.4722, 361.4723 and 361.4724, in determining the amount of any property taxes to be added to the tax roll for the current fiscal year attributable to any incremental change in the taxable value of any property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property.

2. Do not apply to any property of an interstate or intercounty nature regarding which the Commission establishes the valuation thereof for assessment purposes pursuant to subsection 1 of NRS 361.320 or NRS 361.321.

Sec. 15. *Any determination by a county assessor or the Department, as applicable, that there is any improvement to the subject property must be based on a finding that there is an appurtenance erected upon or affixed to the land in the current fiscal year that did not exist in the immediately preceding fiscal year.*

Sec. 16. *1. Any determination by a county assessor or the Department, as applicable, that there is any change in the actual use of the subject property must be based on a finding that:*

(a) The property was vacant land upon the commencement of the immediately preceding fiscal year and, as the result of new construction on the property sufficient to allow for an identification of the use of the property, the primary use of the property upon the commencement of the current fiscal year is agricultural use, commercial use, industrial use, institutional use, mining use, multifamily residential use, open-space use, recreational use, single-family residential use or communication, transportation or utility use; or

(b) The primary use of the property upon the commencement of the current fiscal year as vacant land, agricultural use, commercial use, industrial use, institutional use, mining use, multifamily residential use, open-space use, recreational use, single-family residential use or communication, transportation or utility use is different from the primary use of the property upon the commencement of the immediately preceding fiscal year.

2. If any improvements from which the actual use of the subject property was determined for the purposes of subparagraph (2) of paragraph (a) of subsection 1 of NRS 361.227 are destroyed or otherwise removed from the property in the immediately preceding fiscal year, the county assessor or the Department, as applicable, may consider whether the actual use of the property, as determined from the destroyed or removed improvements, still exists for the current fiscal year.

3. If the subject property has more than one use, the county assessor may determine a single use for each individual portion of the property that is being used for only one use for the purpose of determining whether there is any change in the actual use of that portion of the property.

Sec. 17. *1. Any determination by a county assessor or the Department, as applicable, that there is any change in the authorized use of the subject property must be based on a finding that:*

(a) Between the commencement of the immediately preceding fiscal year and the commencement of the current fiscal year, there has been a change in the allowed use of the property within all the restrictions on the use of the property imposed by governmental entities; and

(b) The property was vacant land upon the commencement of both the immediately preceding fiscal year and the current fiscal year, or all the improvements to the property were removed from the property before the commencement of the current fiscal year.

2. If a combination of applications or approvals is required for any changes in governmental restrictions imposed on the use of the subject property which are necessary before new improvements may be added to the property, no finding may be made pursuant to paragraph (a) of subsection 1 until all such applications and approvals have been obtained.

3. The assignment of a zoning designation to property that did not previously have a zoning designation under a local zoning ordinance does not constitute a change in the allowed use of the property within all the restrictions on the use of the property imposed by governmental entities if the assigned zoning designation is consistent with the designated use of the property pursuant to any preexisting governmental plan for development in the area of the property, the actual use of the property or the actual use of other property in the area.

Sec. 18. *If a county assessor or the Department, as applicable:*

1. Does not make a determination in compliance with the provisions of section 15, 16 or 17 of this regulation that there has been an improvement to or change in the actual or authorized use of the subject property, no amount of property taxes may be added to the tax roll for the current fiscal year attributable to any incremental change in the taxable value of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property.

2. Makes a determination in compliance with the provisions of section 15, 16 or 17 of this regulation that there has been an improvement to or change in the actual or authorized use of the subject property, the amount of any property taxes to be added to the tax roll for the

current fiscal year attributable to any incremental change in the taxable value of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property must be determined by:

(a) Determining the taxable value of the property in accordance with the provisions of NRS 362.095, paragraph (b) of subsection 1 of NRS 362.100 and NAC 361.106 to 361.139, inclusive, as applicable, for the current fiscal year based on any improvement to or change in the actual or authorized use of the property from the immediately preceding fiscal year.

(b) Determining the taxable value of the property in accordance with the provisions of NRS 362.095, paragraph (b) of subsection 1 of NRS 362.100 and NAC 361.106 to 361.139, inclusive, as applicable, for the current fiscal year as if there had not been any improvement to or change in the actual or authorized use of the property from the immediately preceding fiscal year.

(c) Subtracting the amount determined pursuant to paragraph (b) from the amount determined pursuant to paragraph (a). If the remainder is:

(1) A positive number, that remainder constitutes the incremental increase in the taxable value of the property attributable to any improvement to or change in the actual or authorized use of the property from the immediately preceding fiscal year; or

(2) Zero or a negative number, there is no incremental increase in the taxable value of the property attributable to any improvement to or change in the actual or authorized use of the property from the immediately preceding fiscal year.

(d) Converting any incremental increase in the taxable value of the property determined pursuant to paragraph (c) into an assessed value by multiplying that amount by .35.

(e) Multiplying the assessed value determined pursuant to paragraph (d) by the applicable rate of property taxes.

➥ Any amount determined pursuant to this subsection may be assessed only to the specific property on which the improvement is erected or affixed or regarding which there has been a change in the actual or authorized use.

Sec. 19. NAC 361.010 is hereby amended to read as follows:

361.010 As used in NAC 361.010 to 361.61038, inclusive, ***and sections 2 to 18, inclusive, of this regulation,*** unless the context otherwise requires, the words and terms defined in NAC 361.012 to 361.018, inclusive, have the meanings ascribed to them in those sections.