

**ADOPTED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R001-07

Effective March 23, 2007

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

AUTHORITY: NRS 360.090 and 361.4722.

A REGULATION relating to property taxes; providing methods for determining the applicability and amount of the partial abatement of property taxes for remainder parcels 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 20, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 20, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 16, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Abatement percentage” has the meaning ascribed to it in NRS 361.4711.*

Sec. 4. *“Agricultural use” has the meaning ascribed to it in NRS 361A.030.*

Sec. 5. *“Commercial or industrial use” means any use:*

1. Conducted primarily for profit, except for any agricultural use, open-space use, residential use, institutional use, recreational use or use as vacant land held for development; and

2. Any other use that does not constitute any agricultural use, open-space use, residential use, institutional use, recreational use or use as vacant land held for development.

Sec. 6. *“Current year” means the fiscal year for which a determination of the application of the partial abatement of taxes for any new parcel is being made.*

Sec. 7. *“Institutional use” means any civic, charitable or religious use, including, without limitation, use as a church, cemetery or hospital.*

Sec. 8. *“New parcel” means a parcel for which a new or different assessor parcel number has been assigned from the prior year as a result of the division of any previously existing parcel or parcels, the combination of any previously existing parcels, or any change in the configuration of any parcels or of lot size or lot boundaries, by means of a parcel map, subdivision map, certificate of land division, long-term lease, action of any governmental entity or any other means.*

Sec. 9. *“New parcel for development” means each new parcel which is not eligible for the partial abatement in the current year.*

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

Sec. 11. *“Partial abatement” means the partial abatement of taxes provided pursuant to subsection 2 of NRS 361.4722.*

Sec. 12. *“Prior year” means the fiscal year immediately preceding the current year.*

Sec. 13. *“Recreational use” means any active or passive recreational use, including, without limitation, use as a trail, park, community garden, playground or athletic field.*

Sec. 14. *“Remainder parcel” means each new parcel which is eligible for the partial abatement in the current year.*

Sec. 15. *“Residential use” means use as a dwelling or for personal, family or household purposes, whether rented to particular persons or not, including, without limitation, use as a single-family detached housing unit, townhouse, condominium unit, mobile home or*

multifamily unit. The term includes the use of lots in a residential subdivision for which a final map has been recorded and on which residential improvements will be constructed, but does not include the use of parcels which are not yet divided into individual residential lots by the filing of a final map.

Sec. 16. *“Vacant land held for development” means land which is held for investment or future development and has not previously been held for residential use, commercial or industrial use, institutional use or recreational use.*

Sec. 17. *Sections 2 to 20, inclusive, of this regulation set forth the methodology that must be followed to carry out the provisions of subsection 2 of NRS 361.4722 in evaluating each new parcel for the purposes of applying the partial abatement of taxes provided by that subsection.*

Sec. 18. 1. *Each new parcel must be separately evaluated to determine whether there has been any change in the use of the property that comprises the parcel.*

2. *A determination that there is a change in the use of the property must be based on a finding that:*

(a) *The property was being used as vacant land held for development as of the commencement of the prior year and:*

(1) *As the result of the recording of a subdivision map creating individual lots for residential development, the property is held for residential use as of the commencement of the current year; or*

(2) *As the result of new construction on the parcel sufficient to allow for an identification of the use of the property, the property is in agricultural use, open-space use,*

residential use, commercial or industrial use, institutional use or recreational use as of the commencement of the current year; or

(b) The use of the property as of the commencement of the current year for agricultural use, open-space use, residential use, commercial or industrial use, institutional use or recreational use, is different from the use of the property as of the commencement of the prior year.

3. If the use of the property:

(a) Has not changed, the parcel is a remainder parcel.

(b) Has changed, the parcel is a new parcel for development.

4. As used in this section, “use of the property” means the principal use of the property for one of the following purposes:

(a) Agricultural use;

(b) Open-space use;

(c) Residential use;

(d) Commercial or industrial use;

(e) Institutional use;

(f) Recreational use; or

(g) Use as vacant land held for development.

Sec. 19. 1. *The partial abatement for a remainder parcel must be calculated as follows:*

(a) Determine the amount of net property taxes attributable to the land area of and any improvements to the remainder parcel for the prior year as provided in section 20 of this regulation.

(b) Multiply the net property taxes determined in accordance with subsection 1 by the abatement percentage applicable to the remainder parcel for the current year.

(c) Add the amounts determined pursuant to paragraphs (a) and (b). If the sum is:

(1) Less than the amount of taxes that would have been assessed on the remainder parcel for the current year without the abatement, the difference constitutes the amount of the partial abatement for the remainder parcel for the current year.

(2) Greater than or equal to the amount of taxes that would have been assessed on the remainder parcel for the current year without the abatement, then there is no partial abatement for the remainder parcel for the current year.

2. The maximum amount of property taxes which may be levied on a remainder parcel for the current year must be calculated as follows:

(a) Determine the amount of property taxes to be added to the tax roll in the current year attributable to:

(1) An incremental change in land value resulting from a change in the actual or authorized use of the remainder parcel; or

*(2) A new improvement to the remainder parcel,
↳ that would not have been included in the calculation of the assessed value of the remainder parcel for the prior year had a separate valuation for the remainder parcel been established in the prior year.*

(b) Add the amounts determined pursuant to paragraph (a) and paragraphs (a) and (b) of subsection 1 to determine that maximum amount.

Sec. 20. *1. Except as otherwise provided in subsection 2, the amount of net property taxes attributable to the land area of and any improvements to a remainder parcel for the prior year must be determined as follows:*

(a) Identify each of the parcels which contained the land area of the remainder parcel in the prior year.

(b) Determine the pro rata percentage that the remainder parcel's land and improvements contributed to the assessed value of each of the parcels identified in paragraph (a) for the prior year.

(c) Multiply the percentage determined in paragraph (b) for each of the parcels identified in paragraph (a) by the total amount of taxes levied, or which would have been levied but for any exemptions from taxation, in the prior year on that parcel.

(d) The amount of net property taxes attributable to the remainder parcel for the prior year is the sum of the products determined pursuant to paragraph (c) for each of the parcels identified in paragraph (a).

2. The owner of a remainder parcel may appeal to the Nevada Tax Commission pursuant to NRS 361.4734 and any regulations adopted to carry out that section, to show that the method prescribed in subsection 1 produces an inequitable result. Pursuant to such an appeal, the Nevada Tax Commission may use an alternative method that provides an equitable result.

3. As used in this section, "total amount of taxes levied" means the lower of the total amount of property taxes assessed to a parcel or the total amount of property taxes assessed as the result of a final decision on an appeal, less the amount of any partial abatement of property taxes applied to that parcel pursuant to NRS 361.4722, 361.4723 or 361.4724.

Sec. 21. NAC 361.010 is hereby amended to read as follows:

361.010 As used in NAC 361.010 to 361.609, inclusive, *and sections 2 to 20, 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.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB FILE No. R001-07**

The Nevada Tax Commission submits the following statement. The Commission adopted regulations assigned LCB File R001-07, which pertain to Chapter 361 of the Nevada Administrative Code, a regulation relating to property taxes; providing methods for determining the applicability and amount of the partial abatement of property taxes for remainder parcels of property; and providing other matters properly relating thereto.

1. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

Notices of hearing for the adoption and amendment of the proposed regulation were posted at the following locations: Department of Taxation, 1550 East College Parkway, Carson City, Nevada; Nevada State Library, 100 Stewart Street, Carson City, Nevada; The Legislative Building, Capitol Complex, Carson City, Nevada; each County Main Public Library; Department of Taxation, 4600 Kietzke Lane, Building O, Suite 263, Reno, Nevada; Department of Taxation, 555 East Washington Avenue, Las Vegas, Nevada; Department of Taxation, 2550 Paseo Verde Parkway, Suite 180, Henderson, Nevada.

A copy of the notice of hearing and the proposed regulation were placed on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulation were also made available and placed on file at the Department of Taxation, 1550 East College Parkway, Carson City, Nevada; Department of Taxation, 4600 Kietzke Lane, Building O, Suite 263, Reno, Nevada; Department of Taxation, 555 East Washington Avenue, Suite 1300, Las Vegas, Nevada; Department of Taxation, 2550 Paseo Verde Parkway, Suite 180, Henderson, Nevada; Department of Taxation, 850 Elm Street, No. 2, Elko, Nevada; and in all counties in which an office of the Department of Taxation is not maintained, at the main public library, for inspection and copying by members of the public during business hours.

The hearing was held on March 5, 2007, via video conference between the Public Utilities Commission, 1150 E. William Street, Room A, Carson City, Nevada and the Public Utilities Commission, 101 Convention Drive, Suite 250, Room A, Las Vegas, Nevada. It appears that due to the primarily procedural nature of the proposed regulation, only affected or interested persons and businesses as set forth in #3 below responded to the proposed regulation and testified at the hearing. A copy of the transcript of the hearing, for which a reasonable fee may be charged, may be obtained by calling the Nevada Department of Taxation at (775) 684-2096 or by writing to the Nevada Department of Taxation at 1550 East College Parkway, Suite 115, Carson City, Nevada, 89706.

The proposed regulation was submitted to the Legislative Counsel Bureau, which completed its review and minor revisions on January 26, 2007. Thus, the proposed regulation, for practical purposes, was discussed at two workshops and has been heard and considered at one public hearing of the Nevada Tax Commission.

2. The number of persons who:

(a) Attended the hearing: 61

(b) Testified at the hearing: 9

(c) Submitted to the Tax Commission written comments: Written comments were submitted to, or received by, the Department of Taxation or the Nevada Tax Commission from various interested taxpayer's and taxpayer representatives, various County Assessor's and the Assessors Association.

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected and interested businesses and persons by the notices set forth in #1 above, by direct mail to all county assessors, and by direct mail to the approximately 250 interested businesses and persons on the Department of Taxation's mailing list.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

A Taxpayer supported version and Assessor Association version of the proposed permanent regulation was reviewed and discussed by the Nevada Tax Commission. After considerable testimony, discussion, and deliberation; the Tax Commission adopted the Taxpayer supported version as proposed and drafted. The Tax Commission's decision to adopt the Taxpayer version of the proposed permanent regulation as is was based on the Legislative intent contained in Assembly Bill 489 and Senate Bill 509 of the 73rd Session.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include: (a) Both adverse and beneficial effects; and (b) Both immediate and long-term effects.

(a) Adverse and beneficial effects.

The proposed regulation presents no foreseeable or anticipated adverse economic effects to businesses or the public. However, there may be some beneficial economic effects to various taxpayers. Those anticipated benefits are not quantifiable at this time.

(b) Immediate and long-term effects.

Same as #5(a) above.

6. The estimated cost to the agency for enforcement of the adopted regulation.

The proposed regulation presents no significant foreseeable or anticipated cost for enforcement. There may be some initial administrative costs for the Department and the County Assessors, which are not quantifiable at this time.

7. A description of any regulations of other state or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The proposed regulation is particular to the Department of Taxation and County Assessor's practices and procedures and does not appear to overlap or duplicate regulations of other state or local governmental agencies.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

There are no known federal regulations pertaining to state or county assessor procedures, which are the subject of the proposed regulation.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The proposed regulation does not provide a new fee or increase an existing fee.