

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R039-10

May 5, 2010

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

AUTHORITY: §§1-10 and 12-63, NRS 360.090 and 360.250; §11, NRS 233B.120 and 360.090.

A REGULATION relating to the taxation of property; requiring the Department of Taxation to audit the performance of county officers in carrying out certain responsibilities; authorizing the State Board of Equalization to request certain advisory opinions from the Department; revising the provisions governing the contents of certain assessment rolls and the determination by county assessors of the taxable value of real property; clarifying the meaning of certain terms; and providing other matters properly relating thereto.

Section 1. Chapter 360 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 10, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Auditee” means the responsible county officer who is the subject of a performance audit.*

Sec. 4. *“Performance audit” means a systematic and objective examination of evidence to provide an independent assessment of the performance of a responsible county officer in carrying out his or her responsibilities relating to the preparation of the assessment roll and the collection of property taxes.*

Sec. 5. *“Responsible county officer” means any county assessor, auditor, comptroller, recorder or treasurer or other county officer having any responsibilities relating to the preparation of the assessment roll or the collection of property taxes.*

Sec. 6. 1. *The Department shall periodically conduct performance audits of selected books, accounts and other records of responsible county officers in each county to determine any one or combination of the following:*

(a) Whether the appraisals of the county assessor comply with all applicable laws and regulations governing the assessment of property taxes.

(b) Whether any county procedures relating to the preparation of the assessment roll or the collection of property taxes, including, without limitation, any procedures for the assessment of property, claiming or determining tax exemptions, billing for taxes, enforcing the payment of taxes, the redemption or sale of property, or the apportionment of tax proceeds, comply with all applicable laws and regulations governing such procedures.

(c) The honesty and integrity of fiscal affairs, the accuracy and reliability of information and reports, and the effectiveness of the system of management controls of the auditee relating to the preparation of the assessment roll and the collection of property taxes.

(d) Whether control by management and the system of information provide an adequate system of records and accounting relating to the preparation of the assessment roll and the collection of property taxes.

2. *Each employee of the Department who conducts a performance audit to determine whether the appraisals of a county assessor comply with all applicable laws and regulations governing the assessment of property taxes must be knowledgeable about the principles and concepts of the appraisal of property.*

Sec. 7. 1. *Every responsible county officer and member of the staff of a responsible county officer shall:*

(a) Aid and assist the Department at such times as the Department requires in the inspection, examination and audit of any books, accounts and other records in their possession relating to the preparation of the assessment roll or the collection of property taxes.

(b) Upon the request of the Department, make available to the Department all their books, accounts, claims, reports and other records of information, whether confidential or otherwise and irrespective of their form or location, as may be necessary to conduct a performance audit.

2. The Department shall maintain the confidentiality of any information provided to the Department pursuant to this section under such terms and conditions as may be required by law.

Sec. 8. 1. *The Department shall furnish a copy of the preliminary report of a performance audit to the auditee and discuss the report with the auditee. The auditee shall submit to the Department, within 10 days after the discussion, a written statement of explanation or rebuttal concerning any of the findings of the Department, and the Department shall include in the final report of the performance audit the auditee's explanation of or rebuttal to any of the findings contained in the final report.*

2. The Department shall present a final written report of each performance audit to the Commission and the Board, and provide copies to each member of the Commission, each member of the Board, other appropriate state officers, the pertinent board of county commissioners and the auditee.

Sec. 9. 1. *The Commission shall notify an auditee of its acceptance of a final written report of a performance audit by the Department that concerns the auditee and contains any recommendations for corrective action. Within 60 working days after the receipt of such notification, the auditee shall submit a plan for corrective action to the Department.*

2. *The Department shall:*

(a) *Notify the Commission, the Board and the pertinent board of county commissioners of any failure to submit a plan pursuant to subsection 1.*

(b) *Provide a copy of each plan received pursuant to subsection 1 to the Commission, the Board and the pertinent board of county commissioners.*

Sec. 10. 1. *Each auditee who submits a plan pursuant to section 9 of this regulation shall, within 6 months after the submission of the plan, submit to the Department a report specifying the extent to which the recommendations of the Department have been carried out, the extent to which the recommendations have not been carried out and the reasons for any failure to carry out the recommendations.*

2. *The Department shall:*

(a) *Notify the Commission, the Board and the pertinent board of county commissioners of any failure to submit a report pursuant to subsection 1.*

(b) *Provide a copy of each report received pursuant to subsection 1 to the Commission, the Board and the pertinent board of county commissioners.*

3. *The Commission may review the reports submitted pursuant to subsection 1 and conduct hearings to examine any justification for a failure to carry out the recommendations of the Department.*

Sec. 11. NAC 360.190 is hereby amended to read as follows:

360.190 1. Any person may petition for an advisory opinion concerning matters within the jurisdiction of the Department or Commission.

2. *The Board may petition for an advisory opinion concerning compliance with any of the provisions of chapters 361, 361A and 362 of NAC adopted by the Commission.*

3. All petitions must be in writing, be addressed to the Director and set forth at least the following:

(a) A statement that an advisory opinion is requested;

(b) A succinct statement of all the facts and circumstances necessary to dispose of the petition;

(c) A clear, simple statement of the issue or question to be resolved;

(d) A statement of all statutes, rules, agency decisions or other authorities which the petitioner believes may be relevant in disposing of the petition; and

(e) A statement with supporting arguments and authorities of the petitioner's opinion of a proper disposition of the petition.

Sec. 12. Chapter 361 of NAC is hereby amended by adding thereto the provisions set forth as sections 13 to 45, inclusive, of this regulation.

Sec. 13. *“Accrued depreciation” means the amount of loss in the value of an improvement relative to its replacement cost, reproduction cost or original cost as a result of physical deterioration, functional obsolescence or economic obsolescence.*

Sec. 14. *“Adjustment” means a modification of the reported value of a variable, such as sale price or gross income, using a model calibration technique for the purpose of estimating the full cash value of property.*

Sec. 15. *“Cost of replacement” means the total cost of construction required to replace an improvement with a substitute of like or equal utility using current standards of materials and design, including the cost of any pertinent labor, materials, supervision, contractors’ profit and overhead, architects’ plans and specifications, sales taxes and insurance.*

Sec. 16. *“Fixture” means an item that was originally personal property which has been installed or attached to land or an improvement in a permanent manner. As used in this section, “installed or attached to land or an improvement in a permanent manner” means that:*

1. Either:

(a) An item is attached to, imbedded in or permanently resting upon land or an improvement, or is attached by other means that are normally used for permanent installation, and cannot be removed without substantially damaging the item or the land or improvement with which it is being used; or

(b) The use or purpose of an item that is not otherwise physically annexed to land or an improvement is so adapted that it is:

(1) A necessary, integral or working part of the land or improvement;

(2) Designed or committed for use with the land or improvement; or

(3) So essential to the land or improvement that the land or improvement cannot perform its desired function without the nonattached item; and

2. A reasonable person would consider the item to be a permanent part of the land or improvement, taking into account annexation, adaptation and other objective manifestations of permanence.

Sec. 17. *“Improvement” means any building, fixture or other structure erected upon or affixed to the land, including, without limitation, any of those improvements listed in paragraphs (a) and (b) of subsection 1 of NRS 361.035. The term does not include any land enhancements.*

Sec. 18. *“Land” means that portion of real property which includes:*

- 1. The surface of the earth, together with the air space above that surface and everything under that surface to the apex at the center of the earth;*
- 2. Any natural resource in its natural state attached to the land, such as, without limitation, mineral deposits, timber, water and soil; and*
- 3. Any rights, interests, benefits and privileges belonging or attached to the land.*

Sec. 19. *“Land enhancements” means:*

- 1. Physical modifications of the land whose contribution to the value of the land is not subject to wear and tear or to exhaustion, such as, without limitation, excavation and other earthwork; and*
- 2. Rights which allow the land to be put to any use.*

Sec. 20. *“Off-site enhancements” means improvements and land enhancements outside the boundaries of the subject property which facilitate the development of the property for any use, including, without limitation, such improvements and land enhancements that do not prepare the property for a specific use, such as streets, traffic signals, curbs, gutters and sidewalks, and such improvements and land enhancements for the provision of water service, sewer service, electricity service, natural gas service, telephone service and service for the transmission of data.*

Sec. 21. *“On-site enhancements” means land enhancements within the boundaries of the subject property which facilitate the development of the property for any use.*

Sec. 22. *“Parcel” means a contiguous area of land which is:*

- 1. Held under common ownership;*
- 2. Subject to conveyance separately from other land; and*
- 3. Identified by an assessor’s parcel number in accordance with the provisions of NRS 361.189 to 361.220, inclusive.*

Sec. 23. *“Raw land” means land in its natural state before any human modification.*

Sec. 24. *“Real Property” has the meaning ascribed to it in NRS 361.035 and includes:*

- 1. Land;*
- 2. Fixtures;*
- 3. Improvements;*
- 4. On-site enhancements; and*
- 5. Any rights, interests, benefits and privileges belonging or attached to the land.*

Sec. 25. *“Stratify” means to sort parcels of property into relatively homogeneous groups based upon use, physical characteristics, location or other relevant characteristics.*

Sec. 26. *“Units of comparison” means the components into which properties may be divided for the purpose of comparing sales, such as, without limitation, the sale price for property as a whole or for property per square foot, front foot, cubic foot, acre, lot, dwelling unit, room, bed, seat or floor-area ratio.*

Sec. 27. *“Vacant land” means any land other than improved land, including, without limitation:*

- 1. Raw land; and*

2. *Land that has been prepared or developed for use, but on which there are not yet any improvements sufficient to allow the identification of or establish the current actual use.*

Sec. 28. 1. The Commission hereby adopts by reference:

(a) *The Standard on Mass Appraisal of Real Property, January 2008 edition, as published by the International Association of Assessing Officers. A copy of that publication may be obtained from the International Association of Assessing Officers, 314 West Tenth Street, Kansas City, Missouri, 64105-1616 or at the Internet address <http://www.iaao.org/store>, for the price of \$10.00. A free copy of that publication may be obtained at the Internet address <http://www.iaao.org/uploads/StandardOnMassAppraisal.pdf>.*

(b) *The Standard on Automated Valuation Models, September 2003 edition, as published by the International Association of Assessing Officers. A copy of that publication may be obtained from the International Association of Assessing Officers, 314 West Tenth Street, Kansas City, Missouri, 64105-1616 or at the Internet address <http://www.iaao.org/store>, for the price of \$10.00. A free copy of that publication may be obtained at the Internet address http://www.iaao.org/uploads/AVM_STANDARD.pdf.*

(c) *Property Appraisal and Assessment Administration, 1990 edition, as published by the International Association of Assessing Officers. A copy of that publication may be obtained from the International Association of Assessing Officers, 314 West Tenth Street, Kansas City, Missouri, 64105-1616 or at the Internet address <http://www.iaao.org/store>, for the price of \$75.00.*

(d) *The Residential Cost Handbook, as published by the Marshall and Swift Publication Company on the effective date of this section. A copy of that publication may be obtained from Marshall & Swift, 911 Wilshire Blvd., 16th Floor, Los Angeles, CA, 90017-3409 or at the*

Internet address <http://www.marshallswift.com/p-39-residential-cost-handbook.aspx>, for the price of \$308.95.

(e) The Marshall Valuation Service, as published by the Marshall and Swift Publication Company on the effective date of this section. A copy of that publication may be obtained from Marshall & Swift, 911 Wilshire Blvd., 16th Floor, Los Angeles, CA, 90017-3409 or at the Internet address <http://www.marshallswift.com/p-30-marshall-valuation-service.aspx>, for the price of \$562.95.

(f) The Residential Estimator software, as published by the Marshall and Swift Publication Company on the effective date of this section. A copy of that software may be obtained from Marshall & Swift, 911 Wilshire Blvd., 16th Floor, Los Angeles, CA, 90017-3409 or at the Internet address <http://www.marshallswift.com/p-43-residential-estimator-7.aspx>, for the price of \$980.95.

(g) The Commercial Estimator software, as published by the Marshall and Swift Publication Company on the effective date of this section. A copy of that software may be obtained from Marshall & Swift, 911 Wilshire Blvd., 16th Floor, Los Angeles, CA, 90017-3409 or at the Internet address <http://www.marshallswift.com/p-15-commercial-estimator-7.aspx>, for the price of \$1,146.95.

2. If any of the publications adopted by reference pursuant to:

(a) Paragraph (a), (b) or (c) of subsection 1 is revised, the Commission will review the revision to determine its suitability for this State. If the Commission determines that the revision is not suitable for this State, the Commission will hold a public hearing to review its determination and give notice of that hearing within 30 days after the date of the publication of the revision. If, after the hearing, the Commission does not revise its determination, the

Commission will give notice that the revision is not suitable for this State within 30 days after the hearing. If the Commission does not give such notice, the revision becomes part of the pertinent publication adopted by reference pursuant to subsection 1.

(b) Paragraph (d), (e), (f) or (g) of subsection 1 is revised, the Executive Director shall review the revision to determine its suitability for this State. If the Executive Director determines that the revision is suitable for this State, the Executive Director shall notify each county assessor in this State of that determination and the revision becomes part of the pertinent publication adopted by reference pursuant to subsection 1.

3. Each county assessor shall maintain for public review a copy each publication adopted by reference pursuant to paragraphs (a) to (e), inclusive, of subsection 1.

Sec. 29. 1. *The Department shall prescribe and annually publish a code of categories of land use, which:*

(a) Must include and define at least the following primary categories:

- (1) Vacant land.*
- (2) Single-family residential land.*
- (3) Multi-residential land.*
- (4) Commercial land.*
- (5) Industrial land.*
- (6) Rural land.*
- (7) Utilities.*

(b) May include and define any secondary categories that the Department deems to be appropriate for each primary category.

2. *The Department shall:*

(a) Consider any recommendations submitted by any county assessor in this State regarding the amendment of the code prescribed pursuant to subsection 1; and

(b) If the Department disapproves of any such recommendation, notify each county assessor in this State of the reasons for that disapproval.

Sec. 30. *A county assessor shall:*

1. Obtain, in accordance with the provisions of section 3 of the Standard on Mass Appraisal of Real Property, as adopted by reference in section 28 of this regulation, a sufficient amount of data regarding the characteristics of property to determine the appropriate classification and valuation of property in the county.

2. Maintain the data obtained pursuant to subsection 1 on electronic media.

Sec. 31. *When comparing sales of properties for the purpose of property valuation, a county assessor must use units of comparison which conform to the basis upon which those properties are analyzed and sold in the market.*

Sec. 32. *1. For the purposes of carrying out the provisions of NAC 361.118 or section 8 of LCB File No. R166-07, which was adopted by the Nevada Tax Commission and was filed with the Secretary of State on June 17, 2008, a county assessor:*

(a) Must initially stratify comparable properties into the primary categories of land use prescribed by the Department pursuant to section 29 of this regulation; and

(b) May further stratify those properties:

(1) Into any secondary categories of land use prescribed by the Department pursuant to section 29 of this regulation; and

(2) If those properties are used in a similar or competitive manner, into market areas. Market areas must be initially defined by major natural, political or human-constructed

boundaries and then further defined by areas of complementary land uses or neighborhoods, in which all the properties are similarly influenced by environmental, governmental, social and economic forces. Additional criteria may be considered for determining a market area, such as, without limitation, the size of the parcels or subdivisions of land.

2. For the purposes of carrying out this section, a county assessor:

(a) Must determine the number of land use categories and market areas to use in the stratification of comparable properties based upon on the size and diversity of the geographic area being analyzed and the number of sales available within each proposed stratum; and

(b) May, if a market area crosses county boundaries, cooperate with other county assessors in the exchange of information.

Sec. 33. *1. For the purposes of carrying out the provisions of NAC 361.118 or section 8 of LCB File No. R166-07, which was adopted by the Nevada Tax Commission and was filed with the Secretary of State on June 17, 2008:*

(a) The amount of the adjustments to comparable sales or to the base lot or comparative unit value must be determined using paired sales analysis, sales-resales analysis, regression analysis or another model calibration technique in accordance with the provisions of chapters 6 and 15 of Property Appraisal and Assessment Administration, as adopted by reference in section 28 of this regulation.

(b) The adjustments to comparable sales or to the base lot or comparative unit value must be made as follows:

(1) Any transactional adjustments must be made to the total sale price in the following sequential order:

(I) Adjustments for the real property rights conveyed.

(II) Adjustments for the financing terms.

(III) Adjustments for the conditions of sale, including any sales concessions.

(IV) Adjustments for expenditures made immediately after the purchase.

(V) Adjustments for market conditions.

(2) After making all the applicable transactional adjustments described in subparagraph (1), units of comparison must be calculated based upon the adjusted sale price, and then adjusted for differences in location and any physical, economic and other characteristics which affect value.

2. For the purposes of this section:

(a) "Adjustments for market conditions" means adjustments to reflect increases or decreases in property values in the market for property over time.

(b) Adjustments for market conditions must not be made unless property values for the same general area and classification of property have increased or decreased since the transaction dates. To make such an adjustment, the difference in sales prices of the same or similar properties over time must be measured to extract a rate of adjustment to apply to comparable sales to improve comparability. The county assessor must:

(1) List the comparable sales;

(2) Calculate the percentage change between the initial sale price and the subsequent sale price;

(3) Divide the percentage change by the number of intervening months;

(4) Based upon the results of those calculations, estimate the pertinent rate of adjustment; and

(5) Accordingly adjust the sales prices of the comparable properties to a common date, such as the date of the most recent sale.

Sec. 34. *When using the allocation method, a county assessor must:*

1. Estimate the logical and proportionate relationship of the value of land to the total value of real property by analyzing:

(a) Historical sales of vacant land and improved land in the same market area as the subject property, without limitation as to the dates of those sales;

(b) Sales of vacant land and improved land in similar or competitive market areas;

(c) Sales of vacant land compared to subsequent sales of the same or substantially similar parcels after improvements have been built; or

(d) Residual land values obtained using the abstraction method;

2. Apply the resulting ratio of land to total value to sales of comparable improved land to determine the portion of the sales prices attributable to land; and

3. Analyze the land values obtained in the same manner as sales of vacant land to establish comparative unit or base lot values.

Sec. 35. *When using the abstraction method, a county assessor must:*

1. Perform that method in accordance with the provisions of chapter 7 of Property Appraisal and Assessment Administration, as adopted by reference in section 28 of this regulation.

2. Apply accrued depreciation, in accordance with the provisions of section 41 of this regulation, when calculating the full contributory value of the improvements to be subtracted from the sale price of the improved parcel to derive the residual land value.

3. *Analyze the residual land values obtained in the same manner as sales of vacant land to establish comparative unit or base lot values.*

Sec. 36. 1. *A county assessor may use the capitalization of ground rents to derive the value of land only when there is sufficient information regarding land rentals or leases which are independent of improvements, such as, without limitation, a rental of farmland or commercial land which is leased on a net basis where the lessee is responsible for property taxes and all other expenses.*

2. *When using the capitalization of ground rents to derive the value of land:*

(a) *A county assessor must perform that method in accordance with the provisions of chapter 7 of Property Appraisal and Assessment Administration, as adopted by reference in section 28 of this regulation.*

(b) *If a lease:*

(1) *Has been recently negotiated or is still representative of current market rents, a county assessor may directly capitalize the net rent into an indicated land value; or*

(2) *Is outdated or no longer representative of current market rents, a county assessor must reject the lease or adjust the lease to current market conditions using verifiable market data.*

Sec. 37. *When using the cost of development method, a county assessor must:*

1. *Perform that method in accordance with the provisions of chapter 7 of Property Appraisal and Assessment Administration, as adopted by reference in section 28 of this regulation.*

2. *Deduct the following costs from an estimate of the probable proceeds to be obtained from selling the land as developed parcels:*

- (a) The direct costs of site preparation;*
- (b) The costs for utility hookups;*
- (c) Any other direct and indirect costs of development; and*
- (d) A reasonable allowance for entrepreneurial profit.*

Sec. 38. *When using the land residual technique, a county assessor must:*

- 1. Perform that technique in accordance with the provisions of chapter 12 of Property Appraisal and Assessment Administration, as adopted by reference in section 28 of this regulation.*
- 2. Make a separate estimate of the market value of any improvements.*
- 3. Calculate the appropriate improvement capitalization rate to convert the income from any improvements into an accurate indication of the value of the improvements. As used in this subsection, “improvement capitalization rate” means the ratio of the income from any improvements to the value of the improvements.*
- 4. Estimate the annual net operating income based upon the assumption that the highest and best use is obtained.*
- 5. Use market-derived capitalization rates for the land and any improvements.*

Sec. 39. *When using regression analysis to derive the value of land, a county assessor must:*

- 1. Base that analysis on the principle of contribution to value, pursuant to which the major characteristics of a site and any improvements must be analyzed to determine how much each component characteristic contributes to value.*
- 2. Apply that analysis in accordance with the requirements of section 43 of this regulation.*

Sec. 40. *1. A county assessor shall determine the taxable value of any land and improvements which comprise the community units and common elements of a common-interest community as provided in NAC 361.106 to 361.1315, inclusive, as amended by the provisions of this regulation and LCB File No. R166-07, which was adopted by the Nevada Tax Commission and was filed with the Secretary of State on June 17, 2008.*

2. When determining the taxable value of a community unit, a county assessor must, in addition to any other adjustments, adjust the sales prices of properties which are comparable to the community unit as necessary, based upon verifiable market data, to reflect the unique physical characteristics of the common-interest community and the characteristics of ownership of the community unit, including, without limitation:

(a) The relative location of the community unit within the common-interest community, including, without limitation, the floor level;

(b) The phase of development of the common-interest community within which the community unit is located;

(c) The nature of and access to the common elements of the common-interest community, including, without limitation, any parking facilities and open-space areas; and

(d) The marketability and appeal of the common-interest community, including, without limitation, the amount and purpose of any assessments by the community association.

3. As used in this section, the words and terms defined in NRS 361.233 have the meanings ascribed to them in that section.

Sec. 41. *A county assessor:*

1. Shall apply accrued depreciation when determining:

(a) The value of improvements using the abstraction method pursuant to paragraph (d) of subsection 1 of section 34 of this regulation or section 35 of this regulation; and

(b) The extent of obsolescence of any improvements pursuant to subsection 5 of NRS 361.227.

2. Shall calculate accrued depreciation by:

(a) The market extraction method;

(b) The economic age-life method; or

(c) The observed condition breakdown method,

↪ in accordance with the provisions of chapter 8 of Property Appraisal and Assessment Administration, as adopted by reference in section 28 of this regulation. When calculating accrued depreciation by the economic age-life method, a county assessor may use the life-expectancy tables provided in the most recent version of the Residential Cost Handbook, Marshall Valuation Service, Residential Estimator software or Commercial Estimator software, as appropriate, adopted by reference pursuant to section 28 of this regulation.

3. Shall not apply accrued depreciation when determining the taxable value of any improvements pursuant to subsection 1 of NRS 361.227.

Sec. 42. 1. *Since on-site and off-site enhancements may affect the uses to which a parcel of land is being or may lawfully be put, a county assessor shall consider the influence of on-site and off-site enhancements when determining the value of the land.*

2. When determining the value of the land, the county assessor shall consider, without limitation, the following costs relating to the acquisition of any rights which allow the land to be put to any use:

(a) The costs of any pertinent activities for land planning or to complete the preliminary concept and layout for a large development, inclusive of the amount of any pertinent entrepreneurial incentives or developer's overhead and profit;

(b) The costs of any pertinent feasibility studies;

(c) The costs of any pertinent hazardous material testing and environmental impact studies;

(d) Any pertinent appraisal fees, consulting fees, accounting fees, legal fees, costs for rights of way and other costs of assembling the land;

(e) Any pertinent costs to carry any investment in the land and for contract payments during construction;

(f) Any pertinent marketing costs to achieve the first stabilized occupancy in a normal market, including sales commissions, model or advertising expenses, and leasing or brokers' commissions; and

(g) Any pertinent costs of doing business, such as the costs to effect any permitting or zoning changes affecting the legal status of the land.

Sec. 43. *When developing a mass appraisal model to explain or predict the market value of properties from real estate data, a county assessor must build and calibrate the model in accordance with the provisions of chapters 14 and 15 of Property Appraisal and Assessment Administration and the provisions of the Standard on Automated Valuation Models, as adopted by reference in section 28 of this regulation.*

Sec. 44. *For the purposes of carrying out the provisions of NAC 361.106 to 361.1315, inclusive, sections 2 to 10, inclusive, of LCB File No R166-07, which was adopted by the Nevada Tax Commission and was filed with the Secretary of State on June 17, 2008, and*

sections 13 to 45, inclusive, of this regulation, a county assessor must determine whether sufficient sales of comparable properties are available based upon:

- 1. The nature and complexity of the subject property to which the sales are being compared;*
- 2. The degree of homogeneity of elements of comparison between the subject property and the comparable properties;*
- 3. Market conditions; and*
- 4. The reliability of the information regarding each sale from which a credible conclusion may be obtained.*

Sec. 45. *If a county assessor uses any of the methods described in subsection 1 of NAC 361.119 to derive the value of land, the county assessor must:*

- 1. Examine and evaluate:*
 - (a) The reliability and accuracy of the method used;*
 - (b) The characteristics of the subject property;*
 - (c) The sufficiency and quantity of the data used to derive the value;*
 - (d) The reliability and accuracy of the data used and any pertinent adjustments made to comparable property;*
 - (e) The relative validity of each comparable sale used;*
 - (f) The number and magnitude of any adjustments made to comparable property or the reasons why no adjustments were made; and*
 - (g) The relative importance of individual elements of comparison; and*
- 2. Determine whether:*
 - (a) The derived value is accurate for the type of property being valued; or*

(b) Another method must be used or additional data must be obtained to derive the value accurately.

Sec. 46. NAC 361.016 is hereby amended to read as follows:

361.016 “Depreciation” means, except as otherwise provided in NAC 361.266, a loss in the value of ~~[real]~~ *improvements* or personal property from any cause.

Sec. 47. NAC 361.018 is hereby amended to read as follows:

361.018 “Improvement” means , *except as otherwise provided in section 17 of this regulation*, all appurtenances erected upon or affixed to the land, including, without limitation, those improvements listed in paragraphs (a) and (b) of subsection 1 of NRS 361.035.

Sec. 48. NAC 361.106 is hereby amended to read as follows:

361.106 As used in NAC 361.106 to 361.1315, inclusive, ~~[and]~~ sections 2 to 10, inclusive, of ~~[this regulation,]~~ *LCB File No. R166-07, which was adopted by the Nevada Tax Commission and was filed with the Secretary of State on June 17, 2008, and sections 13 to 45, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 361.107 to 361.117, inclusive, ~~[and]~~ sections 2 to 6, inclusive, of ~~[this regulation]~~ *LCB File No. R166-07 and sections 13 to 27, inclusive, of this regulation* have the meanings ascribed to them in those sections.

Sec. 49. NAC 361.109 is hereby amended to read as follows:

361.109 “Allocation method” means a method used to value land, in the absence of *a sufficient number of* sales of vacant land, by estimating ~~[, from sales of comparable improved properties,]~~ a typical ratio of land to total value and applying that ratio to ~~[the]~~ *comparable* improved ~~[property being analyzed]~~ *properties* to determine the value that the land contributes to the total value of the *subject* property.

Sec. 50. NAC 361.113 is hereby amended to read as follows:

361.113 “Improved land” means land on which there ~~is an improvement~~ *are any improvements* sufficient to allow the identification of or establish *the current* actual use.

Sec. 51. NAC 361.119 is hereby amended to read as follows:

361.119 1. If a county assessor is not able to use the sales comparison approach for land pursuant to NAC 361.118 or section 8 of ~~[this regulation]~~ *LCB File No. R166-07, which was adopted by the Nevada Tax Commission and was filed with the Secretary of State on June 17, 2008*, because sufficient sales of comparable properties which were vacant at the time of sale are not available, the county assessor shall determine the full cash value of land through any of the following methods, either in combination with available land sales or as the sole method of valuation:

- (a) Abstraction method;
- (b) Land residual technique;
- (c) Capitalization of ground rents;
- (d) Cost of development method;
- (e) Allocation method, if the properties are substantially similar; and
- (f) Regression analysis.

2. The use of sales of comparable improved properties pursuant to subsection 1 is subject to the provisions of NAC 361.118 or section 8 of ~~[this regulation,]~~ *LCB File No. R166-07, which was adopted by the Nevada Tax Commission and was filed with the Secretary of State on June 17, 2008*, as applicable, sections 9 and 10 of ~~[this regulation]~~ *LCB File No. R166-07, sections 32 and 33 of this regulation* and the following:

(a) Sales of comparable improved properties must be adjusted to remove the full contributory value of all items attributable to the improvements, including, without limitation, direct and indirect costs, soft costs, entrepreneurial profit, and personal property and other nonrealty components of value. The costs may be reported in a lump-sum basis per unit.

(b) The complete obsolescence of an improvement for purposes of analyzing the sales price of a comparable improved property is best determined when the improvement is demolished or removed, but may be considered when:

(1) Sufficient evidence demonstrates an intention to demolish or remove the improvement, which evidence may include, without limitation, evidence that:

(I) A permit has been issued for the demolition of the improvement;

(II) A disclosure concerning the demolition or removal of the improvement has been filed with the Securities and Exchange Commission;

(III) An order has been issued for the condemnation of the improvement; or

(IV) Construction and development financing has been obtained with respect to the comparable property which establishes that the demolition or removal of the improvement is intended; and

(2) No occupancy or no use is established before the completion of the demolition or removal of the improvement.

(c) Sales of comparable improved properties may be used in determining valuation regardless of whether the complete obsolescence of an improvement may be determined or considered pursuant to paragraph (b).

Sec. 52. NAC 361.122 is hereby amended to read as follows:

361.122 *1.* If improved land is being put to a use that is:

~~1.1~~ (a) Consistent with the zoning of the land or with the general use of land in the surrounding area, the value of the *improved* land must be established by ~~comparing it to~~ *using comparable sales from* a stratum or market area with similar zoning and location in accordance with NAC 361.118 or section 8 of ~~this regulation~~ *LCB File No. R166-07, which was adopted by the Nevada Tax Commission and was filed with the Secretary of State on June 17, 2008*, or, if appropriate, NAC 361.119; or

~~1.2~~ (b) Not consistent with the zoning of the land or with the general use of land in the surrounding area ~~is~~

~~(a) The~~, *the* value of the improved land must be established, in accordance with NAC 361.118 or section 8 of ~~this regulation~~ *LCB File No. R166-07, which was adopted by the Nevada Tax Commission and was filed with the Secretary of State on June 17, 2008*, or, if appropriate, NAC 361.119, by ~~comparing it to~~ *using comparable sales from* a stratum or market area that:

- (1) Is most comparable to the improved land;
- (2) Has the same or a similar use; and
- (3) Is affected by the same or similar restrictions.

~~1.3~~ 2. The area of land to be valued according to the use of the improvements is the area actually covered by ~~the~~ *each* improvement, plus the surrounding area necessary to *support* the use of the improvement ~~Any additional~~, *as determined in accordance with any zoning restrictions and other legally enforceable restrictions on the current use of the land. Any excess or surplus* land must be valued as if vacant in accordance with NAC 361.118 or section 8 of ~~this regulation~~ *LCB File No. R166-07, which was adopted by the Nevada Tax Commission and was filed with the Secretary of State on June 17, 2008*, or, if appropriate, NAC 361.119.

3. *As used in this section:*

(a) *“Excess land” means land that is not currently needed to serve or support an existing improvement, and which has the potential to be sold separately from any land that is needed to serve or support an existing improvement.*

(b) *“Surplus land” means land that is not currently needed to serve or support an existing improvement, but which does not have an independent use separate from an existing improvement and does not have the potential to be sold separately from any land that is needed to serve or support an existing improvement.*

Sec. 53. NAC 361.127 is hereby amended to read as follows:

361.127 1. If the use or quality of an existing improvement is changed by a replacement, the county assessor shall revalue the improvement according to the new use or quality as of the time the replacement occurs.

2. Each county assessor who determines the percentage of the replacement made to an improvement:

(a) May use the [~~“Breakdown of Base Cost by Percentage,” as~~] *“Percentage Breakdown of Base Cost”* published in the [~~manuals of the Marshall and Swift Publication Company as they existed on October 1 of the year preceding the current assessment year.~~] *version of the Marshall Valuation Service adopted by reference pursuant to section 28 of this regulation as of January 1 of the year immediately preceding the lien date for the current year.*

(b) Must consider the total replacements made to an improvement which have been accumulated since its construction or the last computation of replacement if one has been made.

3. As used in this section, the term “replacement” includes items of remodeling or renovation which extend the useful life of an improvement, other than those items excluded by the provisions of NRS 361.229.

Sec. 54. NAC 361.128 is hereby amended to read as follows:

361.128 1. The cost of replacement of an improvement must ~~include all costs for labor, materials, supervision, contractor’s profit and overhead, architect’s plans and specifications, sales taxes and insurance.~~

~~2. In determining the costs of an improvement, the county assessor shall:~~

~~(a) For rural buildings, use the standards in the manual entitled Rural Building Costs adopted by the Commission.~~

~~(b) For other improvements, use the standards in the cost manuals, including modifiers of local costs, published through or furnished by the Marshall and Swift Publication Company, as they existed on October 1 of the year preceding the closure of the roll for the appropriate assessment year, if the Executive Director approves it for use by county assessors in determining the costs of improvements. A computer program for determining cost furnished by the Marshall and Swift Publication Company may also be used. Other] *be calculated:*~~

(a) Without including any costs attributable to land enhancements; and

(b) Except as otherwise provided in subsections 2, 3 and 4, using:

(1) The standards and modifiers of local costs published in the version of the Residential Cost Handbook, Marshall Valuation Service, Residential Estimator software or Commercial Estimator software, as appropriate, adopted by reference pursuant to section 28 of this regulation as of January 1 of the year immediately preceding the lien date for the current year; or

(2) *With the prior approval of the Executive Director, other* computer programs for determining cost which are based on costs published by the Marshall and Swift Publication Company . ~~[may be used with the prior approval of the Executive Director.~~

~~—3. If the manuals described in subsection 2 do not apply]~~

2. *Except as otherwise provided in subsections 3 and 4, the cost of replacement of a farm building, a shed or another rustic structure must be calculated using the manual of rural building costs adopted by the Commission if the farm building, shed or other rustic structure:*

(a) *Does not conform to any applicable building code adopted by a local governmental entity; or*

(b) *Is constructed by a person who does not regularly perform construction work and does not earn a substantial portion of his or her income as a licensed contractor, unless the person acts only as a general contractor and the actual work is performed by a person who regularly performs construction work and earns a substantial portion of his or her income as a licensed contractor.*

3. *Except as otherwise provided in subsection 4, the cost of replacement of a farm building, a shed or another rustic structure constructed by a person who regularly performs construction work and earns a substantial portion of his or her income as a licensed contractor must be calculated using:*

(a) *The standards and modifiers of local costs published in the version of the Residential Cost Handbook, Marshall Valuation Service, Residential Estimator software or Commercial Estimator software, as appropriate, adopted by reference pursuant to section 28 of this regulation as of January 1 of the year immediately preceding the lien date for the current year; or*

(b) The manual of rural building costs adopted by the Commission, except that the costs therein must be adjusted upward by 33 percent.

4. If no publication or manual required to be used pursuant to the provisions of this section applies to improvements of a particular occupancy or construction type, the county assessor may apply to the Executive Director for permission to use alternative recognized cost manuals, cost determinations or subscription services. If the Executive Director finds that ~~the manuals described in subsection 2 do not apply~~ *no publication or manual required to be used pursuant to the provisions of this section applies* to such improvements and that the alternative recognized cost manuals, cost determinations or subscription services are suitable, the Executive Director shall, within 30 days after receiving an application pursuant to this subsection, approve the use of the alternative recognized cost manuals, cost determinations or subscription services and notify each county assessor of that approval. The Executive Director shall submit to the Commission annually a list of the alternative recognized cost manuals, cost determinations and subscription services that the Executive Director has approved for use.

~~[4.— The Executive Director shall review the standards and modifiers published or furnished by the Marshall and Swift Publication Company as soon as practicable after they become available, to determine their suitability for use by county assessors. If he finds it to be suitable, the Executive Director shall approve the use of the standard or modifier and notify each county assessor of that approval.]~~

Sec. 55. NAC 361.1295 is hereby amended to read as follows:

361.1295 1. In determining the taxable value of land within a qualified subdivision, the county assessor shall use, as he deems appropriate based upon the available information concerning the subdivision:

(a) The full cash value of the subdivision as ~~unimproved~~ *vacant* land, plus all actual costs of site preparation ~~[and on- and off-site improvements;]~~, *including on-site and off-site enhancements;*

(b) The selling price of any comparable subdivision or group of parcels, adjusting that price as appropriate to reflect differences between the land sold and the land being appraised; or

(c) The estimated retail selling price of all parcels in the subdivision which are not sold, rented or occupied, reduced by the percentage specified for the expected absorption period of the parcels:

Expected Absorption Period (Years)	Percentage of Reduction
1 - 3.....	20
4 - 6.....	30
7 - 9.....	40
10 or more.....	50

2. The taxable value determined as provided in subsection 1 must be allocated to each parcel in the subdivision which is not sold, rented or occupied according to the size and other characteristics of that parcel.

3. The taxable value of any improvements made within a qualified subdivision must be determined as provided by NRS 361.227.

Sec. 56. NAC 361.154 is hereby amended to read as follows:

361.154 1. The assessment roll filed with the Secretary of the State Board of Equalization must include:

- (a) The parcel number of each property;
- (b) The name of the owner of each property;
- (c) A ~~[code]~~ *category of land use* for each property , *as prescribed by the Department pursuant to section 29 of this regulation*, designating ~~[its category as prescribed by the Department;]~~ *the current actual or authorized use of the property;*
- (d) The year of the last physical reappraisal of each property at which time the taxable value of the property was determined; and
- (e) The assessed value of the land, improvements and personal property, separately stated.

2. When feasible and appropriate, the entries on the assessment roll must be in order by parcel number, not alphabetically by the name of the owner.

Sec. 57. Section 4 of LCB File No. R166-07, which was adopted by the Nevada Tax Commission and was filed with the Secretary of State on June 17, 2008, is hereby amended to read as follows:

Sec. 4. “Mass appraisal technique” means a procedure for the valuation of a group of properties as of a given date ~~[, in accordance with the provisions of sections 8, 9 and 10 of this regulation,]~~ using either a base lot method or comparative unit method.

Sec. 58. Section 6 of LCB File No. R166-07, which was adopted by the Nevada Tax Commission and was filed with the Secretary of State on June 17, 2008, is hereby amended to read as follows:

Sec. 6. “Single property technique” means a procedure for the valuation of a single parcel or other area of land as of a given date . ~~[, in accordance with the provisions of NAC 361.118 and sections 9 and 10 of this regulation.]~~

Sec. 59. Section 7 of LCB File No. R166-07, which was adopted by the Nevada Tax Commission and was filed with the Secretary of State on June 17, 2008, is hereby amended to read as follows:

Sec. 7. 1. If sufficient sales of comparable properties which were vacant at the time of sale are available, a county assessor shall determine the full cash value of land by applying the sales comparison approach using:

(a) A mass appraisal technique in accordance with the provisions of sections 8, 9 and 10 of this regulation ~~[;]~~ *and sections 32 and 33 of R039-10;* or

(b) A single property technique in accordance with the provisions of NAC 361.118 , ~~[and]~~ *sections 9 and 10 of this regulation [;] and sections 32 and 33 of R039-10.*

2. If insufficient sales of comparable properties which were vacant at the time of sale are available to carry out subsection 1, a county assessor shall determine the full cash value of land as provided in NAC 361.119.

Sec. 60. Section 8 of LCB File No. R166-07, which was adopted by the Nevada Tax Commission and was filed with the Secretary of State on June 17, 2008, is hereby amended to read as follows:

Sec. 8. A county assessor shall apply the sales comparison approach using a mass appraisal technique as follows:

1. The county assessor shall stratify the properties being appraised into groups based upon location, zoning, use or other relevant characteristics. Sufficient strata must be

established to ensure that all types of property subject to appraisal are appropriately represented.

2. After stratification pursuant to subsection 1, the county assessor shall : ~~[, using an appropriate technique such as, without limitation, regression analysis, sales-resales analysis or paired sales analysis:]~~

(a) For each stratum:

(1) Analyze sales of comparable land; and

(2) Make adjustments to the sales prices as necessary to eliminate any nonrealty components of value and any differences resulting from the real property rights conveyed, financing terms, conditions of sale, market conditions, location, physical characteristics, size, zoning, use, governmental restrictions, sales concessions and expenditures made after sales that influence sales prices; and

(b) Determine an appropriate base lot or comparative unit value to be used as a benchmark for valuing the properties in each stratum and, if appropriate, market adjustments to the base lot or comparative unit value for differences in physical characteristics, size, zoning, use, view, governmental restrictions and other attributes that affect value. The adjustments:

(1) Must be mathematical changes made to the base lot or comparative unit values to account for differences in the elements of comparison between the base lot or comparative unit and the subject property;

(2) May be made only to the base lot or comparative unit value in order to reflect the value of the subject property; and

(3) May be made by adding or subtracting lump-sum dollar values, or by applying positive or negative percentage differentials, to the base lot or comparative unit values.

Sec. 61. NAC 361.014 is hereby repealed.

Sec. 62. Sections 12 to 61, inclusive, of this regulation do not apply to or affect the appraisal, valuation or assessment of any property for the purpose of imposing any taxes ad valorem for any fiscal year beginning before July 1, 2012.

Sec. 63. 1. This section and sections 1 to 11, inclusive, 28 and 62 of this regulation become effective upon filing with the Secretary of State.

2. Sections 12 to 27, inclusive, and 29 to 61, inclusive, of this regulation become effective:

(a) On January 1, 2011, for the purpose of taking any actions that are necessary to carry out those provisions for each fiscal year beginning on or after July 1, 2012; and

(b) On July 1, 2012, for all other purposes.

TEXT OF REPEALED SECTION

361.014 “Cost of replacement” defined. (NRS 360.090, 360.250) “Cost of replacement” means the estimated cost to construct an improvement with utility similar to the improvement being appraised, using modern materials and current standards, design and layout.