

# **LYON COUNTY**



## **TITLE 15**

### **LAND USE AND DEVELOPMENT CODE**

#### **AGREEMENTS AND INCENTIVES**

##### **CHAPTERS 15.100 – 15.125**

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1 **TITLE 15.**2 **Chapter 15.100 Impact Fees**

3

4 **15.100.01 Definitions**

5 As used in this chapter, unless the context otherwise requires, the words and terms have the meanings  
6 ascribed to them in NRS 278B.010 to 278B.140, inclusive.

7

8 **15.100.02 Applicability**

9 A. The board may consider the imposition of impact fees on new development as a potential revenue  
10 source for construction or expansion of capital improvements projects in the formation and annual  
11 revision of the five-year capital improvement plan.

12

13 B. In reviewing any application for new development, including, but not limited to approval of a tentative  
14 subdivision map, planned development, specific plan, special use permit or design review for commercial  
15 or industrial property which adds or increases the number of service units to be served by capital  
16 improvements projects, the department, commission and board shall determine whether the new  
17 development is likely to require construction or expansion of capital improvement projects, and may  
18 employ the provisions of chapter 278B of NRS to fund the same. In the event it determines to do so, then  
19 approval of the new development in question shall be conditioned on participation in such a program.

20

21 **15.100.03 Procedure**

22 If the board determines to proceed with the imposition of impact fees, it shall follow the procedure  
23 provided by chapter 278B of NRS. The commission shall serve as the capital improvements advisory  
24 committee, the membership of which may be augmented as provided in NRS 278B.150, to meet the  
25 requirements thereof.

26

- 1 **Chapter 15.101 Reserved**
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- 3 **Chapter 15.102 Reserved**
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- 7 **Chapter 15.104 Reserved**
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- 15 **Chapter 15.108 Reserved**
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- 17 **Chapter 15.109 Reserved**
- 18

1 **Chapter 15.110 Development Agreements**

2

3 **15.110.01 Purpose**

4 An agreement for the development of land as authorized by NRS 278.0201 through 278.0207 et seq.,  
5 may be approved as is set forth in this chapter.

6

7 **15.110.02 General Provisions**

8 A. Agreement Requirements: Any owner, developer, or other person, party, or corporation authorized by  
9 NRS 278.0201 desiring to enter into an agreement with the county for the development of land must:

10 1. Prepare a brief statement summarizing the proposed provisions and justification of such  
11 development agreement for review by the board prior to submission of a formal application with the  
12 director; and

13 2. Submit a complete application for a land development agreement based on the direction and  
14 recommendations of the board with the director.

15

16 B. Proposal of Land Development Agreement: The application must be accompanied by a proposed  
17 land development agreement addressing those matters which are authorized by the NRS to be  
18 addressed in agreements for the development of land, and such other documentation and/or materials as  
19 required by the director.

20

21 C. Contents of Agreement: Consistent with NRS 278.0201(2)(a) the development agreement must:

- 22 1. Describe the land which is the subject of the agreement;
- 23 2. Specify the duration of the agreement;
- 24 3. Specify what events will constitute breach of the agreement; and
- 25 4. Provide periods during which any breach may be cured.

26 Should NRS 278.0201(2)(a) and the required items identified, above be determined to be different,  
27 the requirements within NRS 278.0201(2)(a) shall prevail.

28

29 The development agreement may contain (if applicable) provisions specifying or relating to:

- 1 1. The permitted uses of the land, the density or intensity of the use of the land, and the  
2 maximum height and size of any proposed buildings;
- 3 2. Provisions for the reservation or dedication of any portion of land for public use or the  
4 payment of fees in lieu thereof;
- 5 3. Protection of environmentally sensitive lands;
- 6 4. Preservation and restoration of historic structures;
- 7 5. The phasing or timing of construction or development on the land, including, without  
8 limitation, the dates on which all or any part of the construction or development must  
9 commence and be completed, and the terms on which any deadline may be extended;
- 10 6. The conditions, terms, restrictions and requirements for infrastructure on the land and the  
11 financing of the public infrastructure by a person having a legal or equitable interest in the  
12 land;
- 13 7. The conditions, terms, restrictions and requirements for annexation of land by the County and  
14 the phasing or timing of annexation by the County;
- 15 8. The conditions, terms, restrictions and requirements relating to the intent of the Board to  
16 include the land in an improvement district created pursuant to Chapter 271 of NRS; and
- 17 9. Require the land developer to make any and all improvements as required by the board, the  
18 department, and/or other county departments. Said improvements shall be completed by the  
19 developer at his own expense and within the specified time. In addition, the agreement may  
20 require the developer to secure his promise to make improvements by providing a bond, cash  
21 deposit, or other approved security.
- 22 10. A schedule of fees and charges; and
- 23 11. Any other matters relating to the development of the land.

### 24 25 **15.110.03 Review of Agreement**

- 26 A. The application and proposed agreements shall be reviewed by the district attorney and all other local  
27 and state governmental entities which have jurisdiction over the development.



1 B. Upon completion of the review of the proposed agreement, the proposed agreement for development  
2 of land shall be submitted to the commission for a public hearing set and noticed as prescribed in  
3 chapters 15.09 and 15.10.

4

5 C. The commission shall prepare a recommendation to the board whether to accept, reject or  
6 conditionally accept the agreement for the development of land.

7

8 **15.110.04 Board Action**

9 A. Upon receiving a recommendation from the commission on a proposed development agreement, the  
10 board shall hold a public hearing. The hearing shall be set and notice given as prescribed in chapters  
11 15.09 and 15.10.

12

13 B. Following the closing of a public hearing, the board shall determine if the development agreement is  
14 consistent with the findings contained within 15.210.05. If determined to be consistent, the board shall  
15 introduce an ordinance adopting the development agreement.

16

17 C. Following introduction, a second reading shall be held and based on the testimony provided at the  
18 hearing, the ordinance shall be adopted, denied or continued.

19

20 **15.110.05 Required Findings for Approval**

21 Prior to taking an action to approve a development agreement, the board shall find as follows:

22

23 A. The proposed development agreement conforms to the maps and policies of the master plan and any  
24 applicable specific plan.

25

26 B. The proposed development agreement complies with the requirements of NRS.

27

28 C. The proposed development agreement is consistent with Title 15 and all other applicable codes and  
29 ordinances.

1

2 D. The proposed development agreement will not be detrimental to or cause adverse effects to adjacent  
3 property owners, residents, or the general public and that provisions have been included to address the  
4 completion or phasing of improvements as well as provisions to address abandonment of the project.

5

6 E. The proposed development agreement provides clear and substantial benefit to the residents of the  
7 county.

8

9 **15.110.06 Ongoing Review**

10 The board shall review all approved development agreements at least once every 24 months to  
11 determine whether the applicant, or successor in interest, is demonstrating good faith compliance with the  
12 terms of the agreement. The ongoing review of a development agreement shall cease at the completion  
13 of construction per the approved project plans.

14

15 **15.110.07 Amendments to Approved Development Agreements**

16 Any amendment to an approved development agreement shall be reviewed and adopted pursuant to the  
17 procedures outlined in this chapter for a new application.

18

1 **Chapter 15.111 – Reserved**

2

3 **Chapter 15.112 – Reserved**

4

5 **Chapter 15.113 – Reserved**

6

7 **Chapter 15.114 – Reserved**

8

1 **Chapter 15.115 Density Bonus Agreements**

2 **15.115.01 Purpose**

3 This chapter provides procedures and requirements for the consideration of density bonus and affordable  
4 housing agreements for the purposes specified in and as authorized by NRS.

5

6 **15.115.02 General Provisions**

7 All density bonus and affordable/attainable housing agreements filed with the county shall be in  
8 compliance with the following:

9 A. Only a qualified applicant may file an application. A qualified applicant is a person who has a legal or  
10 equitable interest in the real property which is the subject of the agreement, or an authorized agent of a  
11 person who has a legal or equitable interest. Where a density bonus agreement is sought for  
12 affordable/attainable housing, the applicant must submit as part of the density bonus agreement  
13 application documentation of participation in, at a minimum, one of the federal and/or state  
14 affordable/attainable housing financial assistance program(s) as well as documentation of how the  
15 program(s) will assist in providing affordable/attainable housing. The director may require an applicant to  
16 submit a title report or other evidence satisfactory to the department to verify the applicant's interest in the  
17 real property and of the authority of the agent to act for the applicant.

18

19 B. Where a density bonus or affordable/attainable housing request does not involve an existing  
20 development, the application shall be filed concurrently with all other development applications for the  
21 property.

22

23 C. The density bonus or affordable/attainable housing agreement may only be requested for  
24 development projects consisting of ten (10) or more dwelling units, prior to any density bonus being  
25 applied.

26

27 D. For the purposes of this chapter, a density bonus shall mean an increase in residential density from  
28 that otherwise allowable under the zoning (the base density) in return for provision of housing at  
29 affordable/attainable levels or development carried out in accordance with the provisions of chapters

1 15.340 through 15.350, where an increase in density is authorized in exchange for provision of a specific  
2 public benefit, such as limitations on floodplain development or provision of public open space or creation  
3 of an affordable housing development.

4

5 E. When determining the number of units which are affordable/attainable, the density bonus shall not be  
6 included.

7

8 F. When calculating base density or density bonus numbers, any fractional portion of a unit shall be  
9 rounded down.

10

11 G. For any density bonus or affordable/attainable housing agreement approved under the provisions of  
12 this chapter, the developer shall agree to ensure continued affordability of all restricted income density  
13 bonus units in compliance with the federal or state program providing financial assistance.

14

15 **15.115.03 Application Procedures**

16 A. An application for a density bonus or affordable/attainable housing agreement shall be made on a  
17 form provided for that purpose by the department, along with the required fee or deposit.

18

19 B. The application shall be accompanied by the original draft density bonus or affordable/attainable  
20 housing agreement and any other submittal materials listed on the application. The agreement shall be in  
21 the county approved form (e.g. restricted covenant or other similar form acceptable to the county) and  
22 may include the following provisions as well as any other deemed necessary by the county during review  
23 of specific proposals:

24 1. The terms and conditions of the agreement shall run with the land, which assures that the public  
25 benefit provided or certain of the units to be developed on the land will be used solely by qualified  
26 occupants as affordable/attainable housing, shall be binding upon all successors in interest of the  
27 developer unless released and terminated by the county, and shall be recorded in the office of the county  
28 recorder, prior to issuance of any building or grading permits for the project;

1           2. The developer shall give the county or state the continuing right-of-first-refusal to purchase or  
2 lease any or all of the designated affordable/attainable housing units at the fair market value;

3           3. The deeds to the designated units shall contain a covenant stating that the developer and his or  
4 her successors in interest shall not sell, rent, lease, sublet, assign, or otherwise transfer any interest in  
5 the same without the written approval of the county confirming that the sales price of the units is  
6 consistent with the limits established for very low, low or moderate income households, which shall be  
7 related to the Annual Medium Income (“AMI”) for a family of four in Lyon County, Nevada as determined  
8 by the United States Department of Housing and Urban Development (“HUD”);

9           4. The county shall have the authority to enter into other agreements with the developer or  
10 purchasers of the dwelling units, as may be necessary to assure that the required dwelling units are  
11 continuously occupied by eligible households.

12  
13 C. The department may require that the developer provide additional information necessary for the  
14 board to determine whether the density bonus agreement is consistent with the objectives of the adopted  
15 master plan and any applicable specific plan. This may include, but is not limited to, market feasibility or  
16 absorption studies for the proposed project, evaluation of conservation benefits or resource protections to  
17 be obtained.

18  
19 **15.115.04 Action by Board**

20 A. Upon receiving a recommendation from the department on a proposed density bonus agreement, the  
21 board shall hold a public hearing. The hearing shall be set and notice given as prescribed in chapters  
22 15.09 and 15.10. The hearing may be continued from time to time.

23  
24 B. Following the closing of a public hearing, the board shall determine if the density bonus agreement is  
25 consistent with the findings contained within section 15.115.05. If determined to be consistent, the board  
26 shall introduce an ordinance adopting the density bonus agreement.

1 C. Following introduction, a second reading of the ordinance adopting the agreement shall be held and  
2 based on the testimony provided at the hearing, the ordinance shall be adopted, denied or continued.

3

4 **15.115.05 Required Findings for Approval**

5 Prior to taking an action to approve or recommend approval of a density bonus or affordable housing  
6 agreement, the board shall find as follows:

7

8 A. The proposed agreement is consistent with the maps and policies of the master plan and any  
9 applicable specific plan;

10

11 B. The proposed agreement complies with the requirements of NRS;

12

13 C. The granting of the proposed agreement will result in provision of housing for persons with special  
14 needs, as identified in the county's affordable housing element, or the permanent protection of natural  
15 resources or lands of significant environmental value;

16

17 D. Where a density bonus is proposed, that the granting of the proposed density bonus will not have an  
18 adverse impact on adjacent properties or on the general public.

19

20 **15.115.06 Ongoing Review**

21 The board shall review all approved density bonus or affordable/attainable housing agreements at least  
22 once every 24 months to determine whether the applicant, or successor in interest thereto, is  
23 demonstrating good faith compliance with the terms of the agreement. Review by the board shall occur  
24 until the project is complete. After the project is complete, the department shall continue the ongoing  
25 review with the allowance to refer any biennial review to the board if deemed necessary by the director.  
26 This review process may require the submittal of an application form and materials as established by the  
27 department. Ongoing review shall cease consistent with the timeframes identified in chapter  
28 15.115.02(G).

29

1 **15.115.07 Amendments to Approved Density Bonus and Affordable/Attainable Housing**

2 **Agreements**

3 Any amendment to a previously-approved density bonus or affordable/attainable housing agreement shall  
4 be reviewed pursuant to the procedures outlined in this chapter for a new application.

5



1 **Chapter 15.116 – Reserved**

2

3 **Chapter 15.117 – Reserved**

4

5 **Chapter 15.118 – Reserved**

6

7 **Chapter 15.119 – Reserved**

8

1 **Chapter 15.120 Reimbursement Agreements**

2

3 **15.120.01 Purpose and Applicability**

4 The purpose of this chapter is to provide for agreements for reimbursement of the costs of constructing  
5 capital improvements or public facilities which result in a benefit to the community and subsequent  
6 development.

7

8 **15.120.02 General Provisions**

9 When the owner or developer of property funds construction of capital improvements or public facilities  
10 likely to be served by future or other development, it may request, as part of its approval, that the county  
11 enter a reimbursement agreement.

12

13 **15.120.03 Application Procedure**

14 A. The request for reimbursement agreement shall be made and filed together with the application for  
15 tentative subdivision, planned development or specific plan approval. The board or commission may  
16 permit a request for reimbursement agreement to be filed following public hearings on the tentative  
17 subdivision, planned development or specific plan if the hearings result in imposition of conditions for  
18 approval that require the construction of qualifying capital improvements or public facilities.

19

20 B. The request for reimbursement agreement shall include a definition of the capital improvement or  
21 public facility, the cost, with support materials, a reimbursement plan, a description of the benefit area and  
22 the parcels included therein, and a method for determining the proportionate cost to be assessed against  
23 such parcels, when developed. The appropriateness of the benefit area boundary will be reviewed and  
24 approved by the department and other involved county departments and changes or modifications to the  
25 suggested benefit area may occur.

26

27 C. An application for a reimbursement agreement shall be made on a form provided for that purpose by  
28 the department, along with any required fee or deposit established by resolution.

29

1 D. The term of the reimbursement agreement shall not exceed ten (10) years unless an alternative term  
2 is mutually agreed by the County and the owner or developer.

3

4 **15.120.04 Action by the Planning Commission and Board**

5 A. The commission shall consider the request for reimbursement agreement and the extent of the  
6 benefit area boundary in connection with its hearing on the application for tentative approval of the  
7 subdivision, planned development or specific plan, and determine if the capital improvement or public  
8 facility is consistent with the master plan. If the commission makes such a finding and recommends  
9 approval of the reimbursement agreement, then its recommendation will be forwarded to the board for  
10 action.

11

12 B. At the board level, the public hearing on the request for reimbursement agreement and the extent of  
13 the benefit area boundary may be held on the same date as the application for tentative approval, but will  
14 be posted as a separate item on the agenda, and separately noticed. In addition to the notice otherwise  
15 required by section 15.15.03, notice and copies of the reimbursement plan shall be served on the owners  
16 of the affected parcels, at least ten (10) days before the hearing.

17

18 **15.120.05 Findings for Approval**

19 The decision whether to enter a reimbursement agreement is discretionary, and nothing contained in this  
20 chapter is intended to vest enforceable rights to a reimbursement agreement in any person. In  
21 determining whether to enter a reimbursement agreement, the board shall make affirmative findings as  
22 follows:

23

24 A. The cost of the capital improvement or public facility and the extent of the benefit area boundary is  
25 reasonable and the reimbursement plan is fair and equitable to the parcels to be charged thereunder.

26

27 B. Construction of the capital improvement or public facility is consistent with the master plan and  
28 represents a substantial and measurable benefit to the community.

29

1 C. There are adequate existing or appropriately planned resources for the annual operation and  
2 maintenance of the facility.

3

4 . The costs of administering the reimbursement agreement have been advanced by the applicant and  
5 will not create an unreasonable burden of the county disproportionate to the size of the project and the  
6 benefit to the community.

7

8 **15.120.06 Enforcement**

9 Copies of the reimbursement agreement and plan shall be recorded against each of the parcels within the  
10 approved benefit area in the office of the Lyon County recorder and filed in the office of the department.

11 When the owner of a parcel included in the benefit area of the reimbursement plan applies for a  
12 development permit for the parcel, he or she shall comply with the terms of the reimbursement agreement  
13 as a condition of the issuance of a permit.

14

- 1 Chapter 15.121 – Reserved
- 2
- 3 Chapter 15.122 – Reserved
- 4
- 5 Chapter 15.123 – Reserved
- 6
- 7 Chapter 15.124 – Reserved
- 8

1 Chapter 15.125 - Reserved