

# **LYON COUNTY**



## **TITLE 15**

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

#### **AGREEMENTS AND INCENTIVES**

##### **CHAPTERS 15.100 – 15.125**

January 21, 2016 Ordinance Draft

This page left blank intentionally

DRAFT

1 Contents

2 TITLE 15.....15.100-1

3 Chapter 15.100 Impact Fees.....15.100-1

4 15.100.01 Definitions .....15.100-1

5 15.100.02 Applicability .....15.100-1

6 15.100.03 Procedure .....15.100-1

7 Chapter 15.101 Reserved .....15.101-1

8 Chapter 15.102 Reserved .....15.102-1

9 Chapter 15.103 Reserved .....15.103-1

10 Chapter 15.104 Reserved .....15.104-1

11 Chapter 15.105 Reserved .....15.105-1

12 Chapter 15.106 Reserved .....15.106-1

13 Chapter 15.107 Reserved .....15.107-1

14 Chapter 15.108 Reserved .....15.108-1

15 Chapter 15.109 Reserved .....15.109-1

16 Chapter 15.110 Development Agreements.....15.110-1

17 15.110.01 Purpose.....15.110-1

18 15.110.02 General Provisions .....15.110-1

19 15.110.03 Review of Agreement .....15.110-2

20 15.110.04 Board Action .....15.110-2

21 15.110.05 Required Findings for Approval .....15.110-3

22 15.110.06 Ongoing Review .....15.110-3

23 15.110.07 Amendments to Approved Development Agreements .....15.110-3

24 Chapter 15.111 – Reserved .....15.111-1

25 Chapter 15.112 – Reserved .....15.112-1

26 Chapter 15.113 – Reserved .....15.113-1

27 Chapter 15.114 – Reserved .....15.114-1

28 Chapter 15.115 Density Bonus Agreements.....15.115-1

---

|    |   |          |
|----|---|----------|
| 1  | 15.115.01 Purpose.....  | 15.115-1 |
| 2  | 15.115.02 General Provisions .....  | 15.115-1 |
| 3  | 15.115.03 Application Procedures.....   | 15.115-2 |
| 4  | 15.115.04 Action by Board .....   | 15.115-3 |
| 5  | 15.115.05 Required Findings for Approval .....  | 15.115-3 |
| 6  | 15.115.06 Ongoing Review .....  | 15.115-4 |
| 7  | 15.115.07 Amendments to Approved Density Bonus and Affordable Housing Agreements .... | 15.115-4 |
| 8  | Chapter 15.116 – Reserved .....   | 15.116-1 |
| 9  | Chapter 15.117 – Reserved .....   | 15.117-1 |
| 10 | Chapter 15.118 – Reserved .....   | 15.118-1 |
| 11 | Chapter 15.119 – Reserved .....   | 15.119-1 |
| 12 | Chapter 15.120 Reimbursement Agreements.....  | 15.120-1 |
| 13 | 15.120.01 Purpose and Applicability .....   | 15.120-1 |
| 14 | 15.120.02 General Provisions .....  | 15.120-1 |
| 15 | 15.120.03 Application Procedure.....  | 15.120-1 |
| 16 | 15.120.04 Action by the Planning Commission and Board .....                           | 15.120-2 |
| 17 | 15.120.05 Findings for Approval.....  | 15.120-2 |
| 18 | 15.120.06 Enforcement.....  | 15.120-3 |
| 19 | Chapter 15.121 – Reserved .....   | 15.121-1 |
| 20 | Chapter 15.122 – Reserved .....   | 15.122-1 |
| 21 | Chapter 15.123 – Reserved .....   | 15.123-1 |
| 22 | Chapter 15.124 – Reserved .....   | 15.124-1 |
| 23 | Chapter 15.125 - Reserved.....  | 15.125-1 |
| 24 |   |          |
| 25 |   |          |

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**

2

3 **Chapter 15.102 Reserved**

4

5 **Chapter 15.103 Reserved**

6

7 **Chapter 15.104 Reserved**

8

9 **Chapter 15.105 Reserved**

10

11 **Chapter 15.106 Reserved**

12

13 **Chapter 15.107 Reserved**

14

15 **Chapter 15.108 Reserved**

16

17 **Chapter 15.109 Reserved**

18

DRAFT

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: If applicable, 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 the permitted uses of the land, the density or intensity of the land use, and the maximum  
25 height and size of any proposed buildings;

26 4. Include provisions for dedication of any portion of land for public use;

27 5. Fix the period within which construction must commence and provide for an extension of that  
28 deadline; and

1       6. Require the land developer to make any and all improvements as required by the board, the  
2       department, and/or other county departments. Said improvements shall be completed by the  
3       developer at his own expense and within the specified time. In addition, the agreement may require  
4       the developer to secure his promise to make improvements by providing a bond, cash deposit, or  
5       other approved security.  
6

7       **15.110.03 Review of Agreement**

8       A. The application and proposed agreements shall be reviewed by the district attorney and all other local  
9       and state governmental entities which have jurisdiction over the development.  
10

11      B. Upon completion of the review of the proposed agreement, the proposed agreement for development  
12      of land shall be submitted to the commission for a public hearing set and noticed as prescribed in  
13      chapters 15.09 and 15.10.  
14

15      C. The commission shall prepare a recommendation to the board whether to accept, reject or  
16      conditionally accept the agreement for the development of land.  
17

18      **15.110.04 Board Action**

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

23      B. Following the closing of a public hearing, the board shall determine if the development agreement is  
24      consistent with the findings contained within 15.210.05. If determined to be consistent, the board shall  
25      introduce an ordinance adopting the development agreement.  
26

27      C. Following introduction, a second reading shall be held and based on the testimony provided at the  
28      hearing, the ordinance shall be adopted, denied or continued.  
29

**15.110.05 Required Findings for Approval**

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

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

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

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

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

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

**15.110.06 Ongoing Review**

The board shall review all approved development agreements at least once every 24 months to determine whether the applicant, or successor in interest, is demonstrating good faith compliance with the terms of the agreement. This review process may require the submittal of an application form and materials as established by resolution.

**15.110.07 Amendments to Approved Development Agreements**

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

1 **Chapter 15.111 – Reserved**

2

3 **Chapter 15.112 – Reserved**

4

5 **Chapter 15.113 – Reserved**

6

7 **Chapter 15.114 – Reserved**

8

DRAFT

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 housing agreements filed with the county shall be in compliance with the  
8 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. The director may require an applicant to submit a title report  
12 or other evidence satisfactory to the department to verify the applicant's interest in the real property and  
13 of the authority of the agent to act for the applicant.

14

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

17

18 C. The density bonus or affordable housing agreement may only be requested for development projects  
19 consisting of ten (10) or more dwelling units, prior to any density increase.

20

21 D. For the purposes of this chapter, a density bonus shall mean an increase in residential density from  
22 that otherwise allowable under the master plan (the base density) in return for provision of housing at  
23 affordable levels or development carried out in accordance with the provisions of chapters 15.340 through  
24 15.350, where an increase in density is authorized in exchange for provision of a specific public benefit,  
25 such as limitations on floodplain development or provision of public open space.

26

27 E. When determining the number of units which are affordable, the density bonus shall not be included.

28

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

3

4 G. For any density bonus or affordable housing agreement approved under the provisions of this  
5 chapter, the developer shall agree to ensure continued affordability of all restricted income density bonus  
6 units for no less than 30 years for rental projects and 15 years for projects involving the sale of individual  
7 dwelling units, or when a density bonus is granted in exchange for permanent restriction of development  
8 the developer shall ensure that a protection mechanism meeting the requirements of section 15.340.08 is  
9 established.

10

11 **15.115.03 Application Procedures**

12 A. An application for a density bonus or affordable housing agreement shall be made on a form provided  
13 for that purpose by the department, along with the required fee or deposit established by resolution.

14

15 B. The application shall be accompanied by the original draft density bonus or affordable housing  
16 agreement and any other submittal materials listed on the application. The agreement shall be in the  
17 county approved form and may include the following provisions as well as any other deemed necessary  
18 by the county during review of specific proposals:

19 1. The terms and conditions of the agreement shall run with the land, which is to be developed, shall  
20 be binding upon any or all successors in interest of the developer, and shall be recorded in the office of  
21 the county recorder, prior to issuance of any building permits for the project;

22 2. The developer shall give the county the continuing right-of-first-refusal to purchase or lease any  
23 or all of the designated units at the fair market value;

24 3. The deeds to the designated units shall contain a covenant stating that the developer and his or  
25 her successors in interest shall not sell, rent, lease, sublet, assign, or otherwise transfer any interest in  
26 the same without the written approval of the county confirming that the sales price of the units is  
27 consistent with the limits established for very low, low or moderate income households, which shall be  
28 related to the consumer price index;

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

4  
5 C. The department may require that the developer provide additional information necessary for the  
6 board to determine whether the density bonus agreement is consistent with the objectives of the adopted  
7 master plan and any applicable specific plan. This may include, but is not limited to, market feasibility or  
8 absorption studies for the proposed project, evaluation of conservation benefits or resource protections to  
9 be obtained.

10  
11 **15.115.04 Action by Board**

12 A. Upon receiving a recommendation from the department on a proposed density bonus agreement, the  
13 board shall hold a public hearing. The hearing shall be set and notice given as prescribed in chapters  
14 15.09 and 15.10. The hearing may be continued from time to time.

15  
16 B. Following the closing of a public hearing, the board shall determine if the density bonus agreement is  
17 consistent with the findings contained within section 15.115.05. If determined to be consistent, the board  
18 shall introduce an ordinance adopting the density bonus agreement.

19  
20 C. Following introduction, a second reading of the ordinance adopting the agreement shall be held and  
21 based on the testimony provided at the hearing, the ordinance shall be adopted, denied or continued.

22  
23 **15.115.05 Required Findings for Approval**

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

26  
27 A. The proposed agreement is consistent with the maps and policies of the master plan and any  
28 applicable specific plan;

- 1 B. The proposed agreement complies with the requirements of NRS;  
2  
3 C. The granting of the proposed agreement will result in provision of housing for persons with special  
4 needs, as identified in the county's affordable housing element, or the permanent protection of natural  
5 resources or lands of significant environmental value;  
6  
7 D. Where a density bonus is proposed, that the granting of the proposed density bonus will not have an  
8 adverse impact on adjacent properties or on the general public.  
9

10 **15.115.06 Ongoing Review**

11 The board shall review all approved density bonus or affordable housing agreements at least once every  
12 24 months to determine whether the applicant, or successor in interest thereto, is demonstrating good  
13 faith compliance with the terms of the agreement. This review process may require the submittal of an  
14 application form and materials as established by resolution.  
15

16 **15.115.07 Amendments to Approved Density Bonus and Affordable Housing Agreements**

17 Any amendment to a previously-approved density bonus or affordable housing agreement shall be  
18 reviewed pursuant to the procedures outlined in this chapter for a new application.  
19

1 **Chapter 15.116 – Reserved**

2

3 **Chapter 15.117 – Reserved**

4

5 **Chapter 15.118 – Reserved**

6

7 **Chapter 15.119 – Reserved**

8

DRAFT

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.

24

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

27

28 D. The term of the reimbursement agreement shall not exceed ten (10) years.

29

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

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

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

**15.120.05 Findings for Approval**

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

A. The cost of the capital improvement or public facility is reasonable and the reimbursement plan is fair and equitable to the parcels to be charged thereunder.

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

C. There are adequate resources for the annual operation and maintenance of the facility.

1 D. The costs of administering the reimbursement agreement have been advanced by the applicant and  
2 will not create an unreasonable burden of the county disproportionate to the size of the project and the  
3 benefit to the community.

4

5 **15.120.06 Enforcement**

6 Copies of the reimbursement agreement and plan shall be recorded in the office of the Lyon County  
7 recorder and filed in the office of the department. When the owner of a parcel included in the  
8 reimbursement plan applies for a development permit for the parcel, he or she shall comply with the terms  
9 of the reimbursement agreement as a condition of the issuance of a permit.

10

DRAFT

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

DRAFT

1 Chapter 15.125 - Reserved

DRAFT