

SUMMARY: Repeals existing Title 12 of the Elko County Code and re-enacts new Title 12 of the Elko County Code.

**BILL A**

**ORDINANCE NO. 01-2009**

An ordinance repealing Title 12 of the Elko County Code and re-enacting a new Title 12 of the Elko County Code by changing the focus from public land issues to public- and privately-owned natural resource issues; by creating a Natural Resource Management Advisory Board; by authorizing Elko County to become a cooperating agency; by participating in environmental impact analyses; by implementing a natural resource review process, and all other matters properly related thereto.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ELKO DOES ORDAIN:

Section 1. That existing Title 12 of the Elko County Code is hereby repealed.

Section 2. That a new Title 12 of the Elko County Code is hereby enacted as follows:

**TITLE 12  
NATURAL RESOURCE MANAGEMENT  
CHAPTER 1**

**NATURAL RESOURCE MANAGEMENT ADVISORY COMMISSION**

**12-1-1: NATURAL RESOURCE MANAGEMENT ADVISORY COMMISSION  
CREATED:**

Pursuant to Nevada Revised Statutes 244.1945, the Elko County Board of Commissioners has determined that it can best be served by the creation of a Natural Resource Management Advisory Commission, to be known as the "Natural Resource Management Advisory Commission," which shall act in an advisory capacity to the Elko County Board of Commissioners with respect to issues concerning natural resource use within Elko County. Accordingly, the Natural Resource Management Advisory Commission is hereby created.

## **12-1-2: COMPOSITION AND QUALIFICATIONS:**

(A) The Natural Resource Management Advisory Commission shall consist of seven (7) members.

(B) Each member shall be a resident of Elko County, State of Nevada.

(C) The members of the Natural Resource Management Advisory Commission shall be appointed by the Elko County Board of Commissioners from a list of qualified and interested persons.

1. The Natural Resource Management Advisory Commission may be comprised of members representing specific specialties or disciplines as follows:
  - a) Federally Managed Public Lands
  - b) Surface / Groundwater Water Resources
  - c) Recreation
  - d) Ranching / Agriculture
  - e) Mining / Milling
  - f) Private Land Use Development
  - g) Wildlife management
  - h) "Non-Voting" staff as needed and determined
2. Any qualified and interested person seeking appointment to the Natural Resource Management Advisory Commission shall submit his /her name together with a statement of interest and his /her specific specialties or discipline to the Elko County Board of Commissioners. The Elko County Board of Commissioners shall appoint members of the natural resource management advisory commission at its first meeting in December preceding the year of appointment.
3. The persons appointed to the Natural Resource Management Advisory Commission shall serve at the will and pleasure of the Elko County Board of Commissioners.

(D) The term of each member appointed after the date of passage of this Ordinance shall be four (4) years, or until his/her successor takes office, except that the term of two (2) of the members of the first Commission shall be three (3) years and the respective terms of two (2) members of the first Commission shall be one (1) and two (2) years. The Natural Resource Management Advisory Commission shall elect its chairman and vice chairman from among the appointed members. The term of chairman and vice chairman shall be one year with eligibility for re-election of one year. One person may not be chairman or vice chairman for more than two consecutive appointments to the position.

(E) The Natural Resource Management Advisory Commission shall elect officers from within its membership, fix the time and place of meetings, adopt such rules and procedures as are appropriate for the conduct of business, and keep such minutes and records as may be required by law, and as it shall determine consistent with the purposes of this chapter.

(F) A majority of the members of the Natural Resource Management Advisory Commission shall constitute a quorum, and a vote of the majority of those members present shall be necessary

to carry any question.

**12-1-3: DUTIES; ADVISORY CAPACITY; RESTRICTIONS:**

(A) The Natural Resource Management Advisory Commission shall assist the Elko County Board of Commissioners in an advisory capacity with respect to all natural resource management issues, and in such capacity bring to bear on the problems of natural resource management the knowledge of its members. The Natural Resource Management Advisory Commission shall report its conclusions and recommendations to the Elko County Board of Commissioners. The Natural Resource Management Advisory Commission and the Elko County Board of Commissioners shall cooperate to inform each other of all natural resource management matters of interest to the county and its residents. The existence and activities of the Natural Resource Management Advisory Commission shall not diminish the responsibility of the Elko County Board of Commissioners in performing its duties.

(B) The Natural Resource Management Advisory Commission shall not expend nor contract to expend any money for any purpose.

(C) All members of the commission shall serve as such without compensation, except traveling expenses approved by the Board of County Commissioners and made necessary in the fulfillment of their duties.

(D) The meetings of the Natural Resource Management Advisory Commission shall be subject to the requirements of the open meeting law - Nevada Revised Statutes 241.010 et seq.

**12-1-4: VACANCIES:**

If a vacancy occurs in the membership of the Natural Resource Management Advisory Commission due to the removal of a member by the Elko County Board of Commissioners, resignation of a member, death of a member, or other cause, the Elko County Board of Commissioners shall appoint a qualified resident of the county to fill the vacancy and become a regular member for the unexpired term.

**CHAPTER 2**

**ELKO COUNTY NATURAL RESOURCE PLANNING AND REVIEW PROCESS**

**12-2-1: NATURAL RESOURCE MANAGEMENT PLANNING INTENT, POLICY AND OBJECTIVES:**

(A) This Natural Resource Management Planning and Review Process is hereby established to protect the natural resources of Elko County for future generations as well as to protect the economic and cultural stability of Elko County for present and future generations.

The intent of the Elko County Board of Commissioner, in adopting this Chapter, is to promote the stated purposes and philosophy, "to declare a policy which will encourage the productive and agreeable harmony between man and his environment; to promote efforts which will eliminate damage to the environment and biosphere and stimulate the health and welfare of man...."

(See 42 USC 4321).

The Natural Resources Management Advisory Commission will promote natural resource management and planning of private and public lands, to maximize social and economic contributions to the nation's well being, in an environmentally sound manner. Therefore, the purpose of this Chapter is to create an Elko County environmental planning process which will:

1. Protect the customs, culture, and economic stability of Elko County.
2. Ensure that Elko County participates with local, state and federal government agencies and organizations to the full extent allowed by existing laws in joint planning for proposals on private and public lands within the County.
3. Ensure full mitigation of adverse effects of environmental decisions to Elko County and its citizens.

(B) Joint Natural Resource Management Research: The Elko County Board of Commissioners intends to enter into joint research and studies with the local, state and federal agencies. The purpose of joint research and studies will be to develop a coordinated approach to natural resource management through:

1. Promoting understanding of "like values" or the customs and culture of Elko County.
2. Identifying outputs/products requirements for improving natural resource conditions and trends, and for protecting the community and enhancing the economic stability of the County.
3. Coordinating the development of natural resource management approaches for preferred management alternatives in the planning process.

(C) POLICY and OBJECTIVES: It is the policy of the Elko County Board of Commissioners that all proposals regarding natural resources of private and public lands which will adversely affect the quality of both the physical and socioeconomic environment in Elko County, should henceforth comply with the requirements of local, state, federal laws and regulations.

The Elko County Board of Commissioners has identified the following primary objectives for environmental planning and review within Elko County:

1. To disclose to the public and to local, state and federal authorities the significant environmental effects of proposed private and government actions on the physical environment and the customs, culture, property rights, and economic stability of Elko County.
2. To identify means to mitigate or eliminate adverse impacts to the above.
3. To minimize injury to the physical and socioeconomic environment by promoting feasible alternatives or mitigation measures.

4. To encourage intergovernmental coordination and joint participation in the environmental planning and review process in Elko County.
5. To encourage public education and participation in the environmental review process.
6. To plan and manage natural resources consistent with environmental and community standards.

**12-2-2: JOINT NATURAL RESOURCE MANAGEMENT PLANNING; ELKO COUNTY AS COOPERATING AGENCY:**

Elko County's economy is dependent upon natural resources to a major extent. It is therefore advantageous that local, state, and federal agencies work closely together to jointly determine the benefits, impacts, and costs of resource plans and decisions. By pooling local, state, and federal resources, the general public will be better informed about resource decisions. Joint planning and coordination will also provide a unique opportunity to cooperatively develop realistic mitigation alternatives for redressing negative environmental, social and economic impacts. Elko County has and shall continue to implement coordination agency status on a permanent basis and may implement cooperating agency and/or lead agency status on a selective determined basis on federal land use actions. The Natural Resource Management Advisory Commission should refer extensively to the 2008 Elko County Public Lands Policy Plan, or updates thereof, for Elko County Board of County Commissioners' policy statements regarding public land guiding principles relating to Elko County. The Elko County Nevada General Open Space Plan, 2003, Elko County Planning and Zoning, or future updates, should also be used broadly for policy reference.

The procedures and guidelines of this Elko County Natural Resource Management Planning and Review Process Ordinance shall be consistent with the requirements of local, state and federal laws and implementing regulations. Furthermore, in the event that an environmental assessment and/or an environmental impact statement is required by both the Elko County Ordinance and NEPA, such documents may be coordinated and jointly prepared by the Elko County Board of Commissioners and the State or Federal agency.

The legal authority for this Chapter is derived from state and federal statutes. The joint intergovernmental planning and coordination requirements of this Chapter are consistent with the requirements of NEPA and CEQ regulations (See 40 CFR 1506.2(b)) as follows:

Joint Environmental Planning  
Joint Environmental Research  
Joint Public Hearings  
Joint Preparation of Environmental Documents

(A) Joint Natural Resource Management Planning: Upon invoking the joint impact assessment process, the Elko County Board of Commissioners may, as it deems necessary, enter into a Memorandum of Agreement (MOA) for joint planning and preparation of joint impact

assessment documents, including procedures for designating Elko County as a joint lead agency in the state and federal natural resource assessment process and in the development of environmental impact statements.

The MOAs shall be in full conformance with the requirement of this Chapter. All government agencies and organizations shall notify the Elko County Board of Commissioners immediately upon initiation of any proposal or planning activity that may affect natural resource and human environment in Elko County. In Elko County, joint natural resource management planning should be conducted in the following sequence to ensure that all planning and proposals are formulated and/or evaluated against appropriate and realistic objectives:

1. Establish management objectives in terms of the natural resource and human environment for the site impacted. These will be determined through review of local, state, federal and county land use plans for consistency. This definition of objectives should include the commodity and amenity outputs or production thresholds needed to achieve the values the citizens of the County have determined to be important or necessary to their well being.
2. Design "desired future conditions" to best meet the above determined management objectives within the physical capabilities of the natural resources and environment.
3. Utilize an ecosystem management approach to evaluate any single proposal. That is, all uses, management objectives, socioeconomic effects, customs and culture, and environmental capabilities will be considered.

#### 12-2-3: JOINT NATURAL RESOURCE MANAGEMENT AND ENVIRONMENTAL IMPACT ANALYSES; ELKO COUNTY AS JOINT LEAD AGENCY:

In accordance with NEPA (See 42 USC 4331(B) (2)-(4), 4332(2), 40 CFR 1502.14, 1506.2), Elko County may seek active participation in the management of public lands as a joint lead agency when the Elko County Board of Commissioners determine that the proposed agency action may affect the County's interests as a whole. Once Elko County is designated as a joint lead agency regarding a specific land use proposal, the local, state and federal agencies should work jointly with Elko County to conduct natural resource impact analyses of the proposals and reasonable alternatives for both the physical and the socioeconomic environment.

The following methods should be followed in a coordinated manner to conduct inter-governmental joint environmental assessments and joint environmental impact statements. There are three (3) classes of environmental analyses which Elko County may wish to participate in and/or respond to: informal letters (sometimes referred to as decision memos), environmental assessments and environmental impact statements.

(A) Preliminary Review - Informal Letters: Informal letters should be used to document preliminary discussions and decisions of proposals categorically excluded from NEPA assessments, and for planning activities establishing or refining management objectives, desired future conditions, or identifying or rejecting future management needs or proposals. The activities appropriate to informal letters are usually those preceding formal proposals requiring NEPA analyses.

(B) Environment Assessment (EA): An EA should be prepared at the request of the Elko County Board of Commissioners when there is an indication that the environment (physical, social, cultural, property rights, and/or economic factors) will be affected by proposed Federal agency(s) actions. The EA is found in the CEQ regulations of NEPA. (See 40 CFR 1501.3). There is no standard format required, but the EA should include the following information:

1. Proposal description
2. Environmental setting
3. Local citizens' values and management objectives
4. Production norms for the area(s) involved
5. Potential natural resource and environmental impacts
6. Alternatives (if appropriate)
7. Mitigation measures
8. Consistency of the proposal with the Elko County Federal Land Use Plan.

(C) Environmental Impact Statement (EIS): (See 40 CFR 1502-1508.2). Based on findings documented in an EA, the Elko County Board of Commissioners shall make its determination whether to request a more formal and detailed EIS. The EIS should be developed jointly by the Federal agency(s) and by Elko County, as a joint lead agency, as provided by NEPA and CEQ regulations. The "affected environment" encompasses the human environment as described in the NEPA and CEQ regulations.

"Human environment" should be interpreted comprehensively to include the natural resources and natural physical environment and the relationship of people with that environment. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement should discuss all of these effects on the human environment.

Since the majority of the land in Elko County is public land, and the County's natural resources including, but not limited to industries, agriculture, mining, recreation and wildlife are tied to public lands, all "economic or social and natural or physical environmental effects" are interrelated.

(D) The purpose of Joint Natural Resource Management and Environmental Impact Analysis is to:

1. Identify the significant effects of a proposal on the natural resources and environment (natural, social, cultural, property rights, and economic factors).
2. Identify reasonable alternatives to the proposal when there is a negative affect, especially on the natural resources, health, safety, welfare and livelihood (economic welfare) of County citizens.
3. Indicate the manner in which those significant effects can be mitigated or avoided. The EIS will assess cumulative impacts along with the direct effects and their significance and indirect effects and their significance of proposed actions in accordance with NEPA and CEQ regulations. Also, in accordance with NEPA requirements, the EIS should consider all reasonable alternatives to the proposed action with the goal of finding the alternative with the least adverse environmental impact in relation to its benefits.

(E) Information developed in an individual EIS should be incorporated into a database, which can be used to reduce delay in preparation of subsequent environmental impact reports as follows:

1. Purpose and Need for Action: A brief statement of the underlying purpose and need which has brought about the proposal and the alternatives.
2. Description of the Proposal: A summary description of the proposal. Where an EIS is required for allotment management plans, the proposal and alternatives will be grazing management concepts and application of best management practices.
3. Affected Physical and Socioeconomic Environment: The environmental setting, both physical and socioeconomic, which will be affected or created by the proposed alternatives.
4. Management Objectives for the Affected Area: The management objectives for the planning process which take into account the human environment, socioeconomic needs, and production thresholds necessary for realization of such values which are important to people of the County. These management objectives and production levels will then become the goals and evaluation criteria against which all proposals and alternatives shall be evaluated. The management objectives shall be drawn from reviews of Elko County and various local, state and federal land management plans. Since most of these land plans are programmatic and broad in scope, the management objectives may have to be refined specific to the affected area or site.
5. Natural Resource and Environmental Impacts: A concise description showing the affects of the proposal on both the physical and socioeconomic environment, including current and desired future conditions of the area.
  - (a) Assessment of Impacts on the Natural Resource and Physical Environment: A description of any effects on the County's natural resource assets and environmental quality to include effects on:
    - (1) Mining resources.
    - (2) Range resources.
    - (3) Dry land crops.
    - (4) Watershed resources.
    - (5) Public and Private Recreation resources.
    - (6) Wildlife
    - (7) Private surface and ground water rights and irrigated cropland.
    - (8) Environmental quality: air, water (including surface and ground water), energy, soils, etc).
    - (9) Integrated resource planning and management in which County private parties and/or public interest are involved.
    - (10) Multiple use, sustained yield, and range resource laws.
    - (11) Private investments and costs into public land resources.



- (b) Assessment of Impacts on the Social Environment: A description of any effects on Elko County's natural resources, culture, governance, schools, and other local programs including effects on:
- (1) The culture of Elko County due to population loss.
  - (2) The culture of Elko County from possible limitations and restrictions on cultural beliefs and practices, and maintenance of cultural and community cohesion and kinships.
  - (3) Cultural and community aesthetics, including historical sites, natural resource vistas, river ways, and landscapes.
  - (4) The County's ability to protect the health, safety, and social and cultural well-being of its citizens.
  - (5) The County's ability to promote environmental value and resource protection and development.
  - (6) The County's ability to finance public programs and services through bonding, lending, and other financing mechanisms.
  - (7) Local governments (e.g., cities, towns, and county) and schools from identified tax revenue losses.
  - (8) Local emergency medical services, law enforcement, fire protection and nuisance abatement.
  - (9) The local government infrastructure, including transportation, community water systems, (including those provided through irrigation and reclamation districts), and landfill services.
  - (10) Local community well-being, stability of governance, and the education of children from cumulative and long-term impacts.
- (c) Assessment of Impacts on the Economic Environment: A description of any effects on the County's economy, customs, services, and businesses to include effects on:
- (1) Private investment backed expectations.
  - (2) The economic value of private water rights and real property.
  - (3) Direct, indirect and cumulative employment.
  - (4) The base industries of livestock and mining-specifying unit cost effects (e.g., economic value of AUMs, mining activities, etc.).
  - (5) Local businesses directly and indirectly related to the resource decisions or plans.
  - (6) Housing, real estate values, and residential energy needs.
  - (7) Thresholds for business demand and markets.
  - (8) Local community well-being, stability, and ability to maintain current and future debt service by long-term and cumulative impacts.
- (d) Assessment of Cumulative Effects: An analysis of the effects of planning decisions should be conducted to ensure that there are no cumulative, long-term effects on the County's natural resources, economy, customs, culture, services, and businesses, as well as the environment.

One of the primary reasons for enacting the procedures contained in this Chapter and the commitment of County natural resources for the development of accurate data is to assist state and federal agencies to systematically identify both present and cumulative impacts associated with their actions and to develop effective and feasible mitigation measures and alternatives so that these adverse impacts may be eliminated or substantially reduced or compensated.

6. Alternatives: A description should be made of the natural resources and environmental impacts of the proposal and the reasonable alternatives in comparative form which will provide a clear basis for choice among the options by the decision makers and the public, in accordance with NEPA and CEQ regulations (See 40 CFR 1502.14). This section will:
  - (a) Provide an objective evaluation of all reasonable alternatives and a decision of why any alternatives were eliminated.
  - (b) Provide a detailed description of each alternative, including the proposal, so that reviewers may evaluate their comparative merits.
  - (c) Include reasonable alternatives not within the jurisdiction of the lead agency.
  - (d) Include the alternative of no action.
  - (e) Identify the preferred alternative or alternatives.
  - (f) Include appropriate mitigation measures not already included in the mitigation plan.
  
7. Natural Resources Mitigation Plan: A mitigation plan is needed which will provide detailed and realistic alternatives. The mitigation plan should:
  - (a) Identify each impact which the mitigation measure is intended to address.
  - (b) Identify the party or agency responsible for the implementation and monitoring of the proposed mitigation measure.
  - (c) Specify the following for each mitigation alternative:
    - (1) How impacts may be avoided altogether by not taking certain actions.
    - (2) How impacts may be minimized by limiting the degree or magnitude of the proposed action.
    - (3) How impacts may be rectified through repair, rehabilitation, or restoration of the affected environment.
    - (4) How impacts may be reduced or eliminated over time through preservation and maintenance action during the life of the action.
    - (5) How the agency could compensate for the impact by providing substitute resources of equal economic value.

- (d) Specify, for each mitigation measure, its:
    - (1) Legal authority.
    - (2) Technical feasibility.
    - (3) Fiscal and economic feasibility.
    - (4) Social, cultural and political feasibility.
  - (e) Provide a mitigation monitoring plan, which is based on specific objectives and performance standards, to ensure implementation of mitigation measures during the life of the proposal.
  - (f) Provide all pertinent information to the Natural Resource Management Advisory Commission and Elko County Board of Commissioners from the mitigation monitoring process.
8. **Public Involvement Requirements:** During the preparation of an analysis for a decision document, or amendment to a proposal, Elko County, local, state and the federal agencies should jointly provide opportunities for the involvement of Elko County citizens, local governments, schools, utility companies, civic or other community groups, and all economic segments within Elko County. This shall be done through public hearings and other means the Elko County Board of Commissioners deems appropriate. The joint public involvement program should have the following elements:
- (a) Local, state and federal agencies should be encouraged to coordinate joint public involvement planning, programs, and processes with the Natural Resource Management Advisory Commission and Elko County Board of Commissioners, pursuant to this Section of the Elko County Natural Resource Planning and Review Chapter.
  - (b) The public involvement program shall include objectives to:
    - (1) Identify the management objectives, affected parties, and opportunities of the proposed action.
    - (2) Apprise land owners of regulations and decisions that may affect their property rights.
    - (3) Provide public opportunities to evaluate alternatives and to participate in choosing the preferred alternative.
    - (4) Create an atmosphere in which conflicting demands for resources and uses can be resolved without destabilizing community economic, social, and/or cultural fabrics.

**12-2-4: IMPLEMENTATION OF THE NATURAL RESOURCE PLANNING AND REVIEW PROCESS:**

In addition to the procedures contained in this Chapter, the Elko County Board of Commissioners may:

(A) Adopt such administrative rules and oversight guidelines deemed necessary to carry out this Chapter.

(B) Develop such natural resource best management practices, related cooperative agreements, memorandums of understanding, joint policy statements, and joint letters of intent with appropriate state and federal agencies, so that the goals and objectives of this Chapter may be carried out.

**12-2-7: SEVERABILITY:**

If any section, subsection, sentence, clause, phrase or portion of this Chapter or the application thereof to any person or circumstances is declared invalid or unconstitutional by the decision of a court of competent jurisdiction, the remainder of this Chapter shall be severed therefrom and shall remain in full force and effect.

**CHAPTER 3  
NATURAL RESOURCES MANAGEMENT**

**12-3-1: NATURAL RESOURCES MANAGEMENT:**

The Elko County Board of Commissioners has established the issues of natural resource management. The management of the natural resources is imperative to the success and sustained lifestyle historically and currently enjoyed by the general public and visitors of Elko County.

As each area of concern is addressed the content will serve as the primary guide for future local, state and federal natural resource management planning within Elko County.

**12-3-2: CUSTOM AND CULTURE:**

The County recognizes that private ownership leads to the greatest natural resource enhancement. Private ownership means individual responsibility and stewardship.

**12-3-3: COMMUNITY STABILITY:**

Federally managed lands make up the majority of Elko County land. Elko County's economy is dependent on business and recreational activities on these federally managed lands. Many of the activities on federally managed lands are inseparably tied to the small fraction of private lands in Elko County. The nature and intent of Elko County government natural resource management and land use planning is to protect the custom and culture of County citizens through protection of private property rights as well as the right to use federally managed lands for recreational and economic purposes.

**12-3-4: TAX BASE:**

It is critical to the well-being of the citizens of Elko County that the Elko County Board of Commissioners remain vigilant over the federal government "in lieu of" tax revenues, or PILT, coming to the State of Nevada and to Elko as well and interactive concerning the implementation of best management practices of all natural resources. All factors of natural resource management will potentially affect the Elko County economy and Tax Base.

### **12-3-5: WATER RIGHTS:**

In the arid West, it is recognized that of all of our natural resources, water is the most important. Proper use and conservation of water is critically important to the general health and well-being of the people of Elko County.

(A) The Elko County Board of Commissioners identify and adopt the guidelines, policies and objectives for the natural resource management of surface and ground water in Elko County as per the Elko County Water Resources Management Plan:

- 1) All water resources of Elko County belong to the public and are managed by the State of Nevada Division of Water Resources, the State Engineer and Nevada Revised Statutes chapters **533** and **534**.
- 2) Water resource needs of the current and future of Elko County residents must be managed with a balanced approach that provides for Elko County's economic goals without detriment to the social, aesthetic, cultural, recreational, individual and ecological values of Elko County.
- 3) The appropriation and beneficial use of Elko County's water resources is administered by the Nevada State Engineer in accordance with the requirements and provisions of Nevada Water Law and by state and federal decrees and regulations.
- 4) Public education and public input is imperative to the success of water resource management planning and all units of local government.
- 5) Water rights in Nevada are private property and may be bought, sold and traded under free market conditions.
- 6) Elko County, in filing for ground and surface rights within the Elko County Boundary is only interested in augmenting and enhancing the water resources for Elko County citizens and the economic diversity.
- 7) All water resource development in Elko County should be conducted in a manner that is technically, environmentally and economically sound and consistent with state and federal laws.
- 8) Water conservation and re-use methods are important components of the planning and management of Elko County water resources.
- 9) The Elko County Water Resource Management Plan must be based on sound science and water resource evaluation and management principles.

- 10) Water Rights applications, appropriations, transfers and amendments are to be monitored and recorded in a County database.

(B) The Elko County Board of Commissioners reaffirms the Prior Appropriation Doctrine as recognized by Nevada State Law, that the right to appropriate water is a primary property right open to individuals and groups of individuals, such as local government. That the key principles of the Prior Appropriation Doctrine (as represented in Nevada's water law) shall remain first right, first use, beneficial use, and point of diversion.

### **12-3-6: MINING:**

It is imperative to the well-being of Elko County and the nation that mining on private and federally managed lands remains open to the public. It is clear that mining claims are property belonging to individuals or groups of individuals, as has been traditionally established. Such as the Analysis of Economic and Occupational Skill Impacts of the Hard Rock Mining Sector on the Elko Micropolitan S.A. Economy, 2008, by Dr. Thomas R. Harris of UNR, or future updates, and An Analysis of the Economic Impact of the Hard Rock Mining Sector on the Elko County Economy, 2007, or future updates, the Elko County Public Land Use Policy Plan and other existing and future studies and documents should be requested for inclusion of all federal land use actions regarding the mining industry. It should also be used as a reference for social, culture and economic impacts of the mining industry by the natural resource management advisory commission.

Elko County supports:

- (A) Retention of and compliance with the 1872 Mining Law.
- (B) A review of new legislation and regulations that would place more stringent controls upon the mining industry.
- (C) Unreasonable legislation and regulation which burden our mining industry will be vigorously opposed by Elko County.

### **12-3-7: AGRICULTURE:**

Elko County recognizes the importance of agriculture, particularly the traditional family farms and ranches that have played such an important part in the social and economic well-being of our nation. Elko County also recognizes how increasing governmental regulations are gradually reducing and eliminating farms and ranches. The natural resource management advisory commission should broadly utilize studies and document such as the Analysis of Impacts of Public Land Grazing on the Elko County Economy and Mountain City Management Area, 2007, by Thomas R. Harris of UNR, or future updates, for reference of the social, cultural and economic impacts of grazing to Elko County, Elko County Public Land Use Policy Plan, Elko County Open Space Plan and any future studies and documents or updates.

In order to reverse such trends, Elko County supports, encourages, and promotes policies that will lead to strengthening and supporting family farming and ranching. Elko County supports and encourages the right to:

- (A) Private investment in range improvements. Public land permit holders making investments in range betterment should be given increased grazing capacity or allowed other benefits.
- (B) Appropriate and fair fee schedules that reflect all non-fee costs of running livestock on federally managed lands.
- (C) Subleasing of grazing rights.
- (D) Legislation at the state and federal levels should be reviewed and changed to give incentives to the family-based farming or ranching business.

**12-3-8: WILDLIFE:**

The Nevada Board of Wildlife Commissioners is charged with the direct responsibility under law to set policy and adopt regulations. The Board of Wildlife Commissioners has the responsibility to monitor and prevent NDOW employees within the Department from pursuing their own agenda.

- (A) The Board of Wildlife Commissioners through public hearings, input from the Elko County Advisory Board to Manage Wildlife (ECABTMW) and the open meeting process, may set policy after review and consideration of all pertinent documentation impacting wildlife and wildlife resources.
- (B) Elko County’s ECABTMW and Elko County’s Natural Resource Management Advisory Board will monitor all policies and regulations to ensure their conformity to this plan and direction as set forth by the Board of County Commissioners and the NDOW Board of Wildlife Commissioners.
- (C) Any Management Policy or NDOW Regulation must be responsive to recommendations of the ECABTMW, Sportsmen and the Board of Elko County Commissioners.

**12-3-9: RECREATION:**

Recreation is critically important in our society. The open lands and outdoor recreational opportunity found throughout the western states shall remain among our greatest assets. We prize the opportunity and freedom these lands provide.

Elko County shall promote, actively monitor and be engaged in providing the opportunity for the development of private and public lands based recreation within the County through land use planning on private lands and the use of Recreation and Public Purpose leases on federally managed lands. The County also promotes the continued use of passive, active, dispersed and multiple recreation uses of federally managed lands.

Elko County shall promote and actively monitor and be engaged in providing the opportunity for the development of water-based recreation within the County, such as the provided by the

numerous man made public reservoirs and natural lakes in the county. It is the policy of Elko County that customary use, access and enjoyment of the federally managed lands are to be protected.

Recreation is identified as a natural resource in Elko County. All aspects and uses of recreation on private and public lands in Elko County are to be managed using best management practices to conserve and protect the right of use of recreation on such lands. All active private and public recreation is to be identified and monitored by the natural resource management advisory commission.

**12-3-10: PUBLIC and PRIVATE UTILITY ACCESS:**

Elko County supports individual citizens' acquisition of easements and rights of way for roads, ditches, pipelines, canals, power lines, telephone lines and stock driveways. Elko County also supports the protection of those rights over federally managed lands or privately owned lands that are vested and accrued through past usage and prescriptive uses prior to the passage of the Federal Land Policy and Management Act of 1976.

**12-3-11: PUBLIC LAND DISPOSITION:**

The Elko County Board of Commissioners formally requests that all local, state and federal agencies notify the Elko County Board of Commissioners of any planned action that might affect the natural resources and economic or recreational uses on local, state or federal lands by the citizens of the County.

Upon receipt of such notice, and after determination by the Elko County Board of Commissioners that the activity may be adverse to the citizens of the County, the Elko County Board of Commissioners may then request the local, state or federal agency to complete an economic impact study, or the County may institute its own study to review the potential impact before the regulation or activity has begun.

Federal land transfers to local government and municipalities should be given priority consideration. In the event the Federal government acquires land or water rights other than through exchange in Elko County, the Federal government should dispose of an equal value or amount of land or water rights to foster private property ownership in Elko County.

**12-3-12: PREDATOR CONTROL:**

If future generations are to enjoy the abundance of wildlife, as did our generation, and if livestock production is to remain a part of Nevada's industry, it is imperative that sound predator control programs be implemented throughout our State and County.

**12-3-13: COMMENSURABILITY:**

It is critically important to the long term well-being of Elko County, both ecologically and economically, that base property and commensurability requirements, as traditionally established, remain part of the eligibility requirements necessary for holding grazing permits on



Federal lands.

### **12-3-14: RIPARIAN AREAS and HABITAT:**

Riparian or wet areas as found throughout our state and federal lands are of critical importance to well-balanced and productive rangeland ecosystems. Although riparian areas make up only a small portion of most allotments, they often support vegetation critical to the survival of various species of wildlife. Public over use and/or overgrazing of riparian areas can, over time, eliminate key plants, such as native rosebush, wild currant, willow, or quaking aspen. Conversely public use or under grazing can quickly lead to congested growth of these same plants, which in turn can greatly reduce or destroy wet meadow areas.

For these reasons, it is important that the local, state and federal management agencies, the general, public grazing permit holders and the natural resource management advisory board work closely with one another in managing riparian areas, utilizing consultation, cooperation and coordination as provided under section 8 of the Public Rangelands Improvement Act of 1978.

Elko County Natural Resource Management Advisory Commission is to take an active role in the participation of management practices of riparian habitat and areas. Key partnerships with agencies such as the U.S.G.S., U.S. Forest Service and B.L.M are required to actively monitor and manage the riparian areas. Memorandums of understandings are to be developed between Elko County and all agencies involved in the best management practices and establishment of riparian areas.

### **12-3-15: WILDERNESS - WILDERNESS STUDY AREAS, WILD AND SCENIC RIVERS, ETC.:**

Elko County is opposed to the designation of any further wilderness areas, wilderness study areas, wild and scenic rivers, or other single use designations by the federal government.

It takes an act of Congress to designate an area as Wilderness. However, Congress must take the opinions of all American citizens into consideration when debating whether or not to designate an area as Wilderness. Elko County must actively monitor and participate in the public review of the designations to protect the public right to utilize the proposed for multiple use.

If the presently designated wilderness areas and wildlife refuges are to remain healthy and productive, it is imperative that grazing, hunting, predator control, and noxious weed control be a part of the management plan.

Key partnerships with agencies such as the U.S.G.S., U.S. Forest Service and B.L.M are required to actively monitor and manage the wilderness, wilderness study areas and wild and scenic river areas. Memorandums of understandings are to be developed between Elko County and all agencies involved in the best management practices and establishment of such areas.

### **12-3-16: WILD (FERAL) HORSES:**

Elko County encourages new legislation that will effectively manage wild (feral) horses. Wild horses should be managed by federal agencies to maintain established HMLs in all areas of Elko

County.

**12-3-17: COMMERCIAL / RECREATION HUNTING AND TRAPPING:**

Commercial / Recreational hunting and trapping is recognized as an economic component in Elko County. The Natural Resource Management Advisory Board will assist the ECABTMW in monitoring activities and decisions of the Nevada Board of Wildlife Commissioners as it governs hunting and trapping resources in Elko County. The Natural Resource Management Advisory Board and/or the Elko County Advisory Board to Manage Wildlife is charged with the responsibility to notify, in writing, any concerns/decisions not in the best interest of wildlife resources or Sportsmen of Elko County to the Board of County Commissioners.

Hunting and trapping are recognized as effective tools to manage wildlife and viable economic factors in Elko County.

**12-3-18: PARKS AND REFUGES:**

Elko County supports the institution of local input in the management of Federal and State parks and refuges within the County.

**12-3-19: PUBLIC ROADS and ACCESS:**

Elko County supports the rights of the people to travel over and through, state and federally managed lands, for the lawful purposes of economic propriety, private necessity, recreation including but not limited to hunting, fishing, rock hounding, wood gathering, post cutting, and other activities such as snowmobiling.

(A) Except for State and Federal highways, Elko County, a political subdivision of the State of Nevada, holds title as trustee for the public to all public roads situated in Elko County, of every kind whatsoever and however such roads may have come into being.

(B) Elko County will:

1. Oppose closure of any public road except as authorized by this Chapter or Nevada Revised Statute.
2. Maintain the public roads by conventional or other appropriate means, as from time to time authorized by the Elko County Board of Commissioners, or designate certain public roads as roads to be maintained only by passage and use without liability to the County, as permitted by the Nevada Revised Statutes.

(C) The Elko County Department of Planning and Zoning shall prepare and maintain a map or series of maps showing the location of all Publicly Maintained County roads as herein above described.

(D) The Map of County Roads prepared by the Elko County Department of Planning and Zoning, as the same may from time to time be amended, is made a part of this Chapter by reference. The Map of County Roads may be revised by action of the Elko County Board of

Commissioners.

(E) No person or persons shall interfere with the right of the public to travel upon the public roads, except:

1. Public roads temporarily closed by the Elko County Board of Commissioners for reasons of public safety. The Elko County Sheriff may effect temporary closures for reasons of public safety pending ratification of such action by the Elko County Board of Commissioners.
2. Public roads may be closed permanently or abandoned by the Elko County Board of Commissioners only after complying with state law.
3. The Elko County Board of Commissioners may grant temporary exclusive licenses to use, or place lesser restrictions on the public use of a public road to accommodate mining activity, provided: a) an alternate access route if reasonably available and at the licensee's expense is provided to the areas served by the public road; b) the licensee maintains the public road and returns it to the County at the conclusion of the mining activity in as good or better condition than at the time of the licensing; and c) thirty (30) days' notice is given of the intent to temporarily limit use of the public road for mining activity and holding a public hearing on the proposed limitation(s).

(F) DEFINITIONS As used in 12-3-19, the following terms have the meanings ascribed to them in this Section:

1. CONSTRUCTION: The establishment of a road by mechanical or other means, including repeated use.
2. COUNTY ROAD: Any public road situated within Elko County, except for designated State and Federal highways.
3. HIGHWAY: (A) Modern Usage: Any State or Federally designated road, usually paved or graveled. (B) Traditional (R.S. 2477) Use: Any road, trace, trail, canal, navigable waterway, or other route used by humans for travel by wheeled vehicle, horseback, foot, boat or otherwise. This definition includes all highways established across public land pursuant to the Mining Law of 1866, which was repealed by enactment of the Federal Lands Policy Management Act (FLPMA) in 1976.
4. MAINTENANCE: Includes maintenance, construction, reconstruction and repair of a road by mechanical or other means, including repeated use.
5. PUBLIC ROAD: any roads open to travel by the general public. The term includes, without limitation, roads: 1) on land held in fee simple by the County; 2) easements across land held or claimed by others; 3) pursuant to express or implied permit, license or easement on lands held or claimed by others; 4) canals or navigable waterways. Roads established pursuant to the grant of right of way by the Mining Law of 1866 (R.S. 2477 roads) are public roads.
6. RIGHT OF WAY: The entire fee, easement, licensed or permitted area for a road; the traveled way, together with such adjoining lands as may be required for construction or maintenance of a road.
7. ROAD: Any highway (traditional definition), road, trail, trace, footpath, canal, navigable waterway, or other route, whether constructed or created by repeated use, whether maintained by mechanical means or repeated use, or used by humans for transportation by wheeled vehicle, horseback, foot, boat or otherwise.

### **12-3-20: NOXIOUS / INVASIVE WEED & PLANTS:**

Elko County supports and encourages a better understanding of the destructive nature of noxious and invasive plants and weeds encroachment, and encourages legislation addressing the problem. The Elko County Cooperative Weed Management Area coalition, established as a collaborative diverse membership within Elko County, shall serve as an advisory board for this commission and also the Elko County Board of Commissioners, if requested.

### **12-3-21: ENDANGERED SPECIES; WETLANDS AND OTHER FEDERAL LAND**

**REGULATIONS ACTS:**

The Endangered Species Act and the wetlands regulations under the Clean Water Act are proving unworkable in many areas of the nation and are beginning to have a major impact on both private and federally managed lands within Elko County. It is the goal of Elko County to establish local management plans to lessen the impact of these acts and to closely monitor the effects of these and similar acts on the citizens of Elko County. Elko County will pursue the modification of these acts so as to make them less cumbersome and restrictive to private property owners/developers and public land managers

**12-3-22 FIRE MANAGEMENT**

Elko County support and encourages a coordinated, collaborative, multi-agency approach to mitigation of the effects of fire management and wildfire use. The Nevada Community Wildfire Risk/ Hazard Assessment Project for Elko County, 2005, and subsequent updates identify all communities in Elko County and associated risk assessments. These reports should be used for reference regarding priorities and needs for each community, and further for prioritization of communities at risk for mitigation purposes.

Proposed this 17th day of June, 2009 by Commissioner Warren Russell. Motion seconded by Commissioner Charlie Myers.

Passed and adopted this 17th day of June, 2009.

Vote:		
Ayes:		5
Nays:		0
Absent:		0

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SHERI EKLUND-BROWN  
Chair of the Board of Commissioners

ATTEST:

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WIN SMITH  
Elko County Clerk

This Ordinance shall be in full force and effect from and after the 24th day of July, 2009, after required publication.