

State-County Partnership in Subdivision Review and Approval

Water and Wastewater

Planning and Zoning ~ NRS/NAC 278

Tentative Maps

- Developer Responsibility
 - File Tentative Map with County (NRS 278.330)
 - Include information on public water supply/wells & septic system info if applicable (NAC 278.260)
- County Responsibility – Governing Body or Planning Commission
 - Forward a copy of the Tentative Map to NDEP (or Dist Board of Health)
- NDEP Responsibility (or Dist Board of Health)
 - Act on the Tentative Map within 15 days to Approve, Conditionally Approve or Disapprove (NRS 278.335)
 - **Approval of map constitutes approval of concept of proposed methods.** “An approval by the Division or local agency of a tentative map constitutes an approval of the concept of the proposed methods of providing for disposal of sewage, controlling water pollution, ensuring the quality of water and providing facilities for water supply.” (NAC 278.350)
- County Responsibility – Governing Body or Planning Commission
 - Act on the Tentative Map within 45/60 days (depending on > / < 700,000 pop)
 - In acting on the Tentative Map, shall consider: (a) Environmental and health laws and regulations concerning water pollution, facilities to supply water, community or public sewage disposal and, where applicable, individual septic systems; ... (i) The recommendations and comments of [NDEP] reviewing the tentative map. (NRS 278.349)

Current Challenges – Tentative Maps

- ✦ In communities where sewer capacity is limited (or approaching limits), NDEP is seeking tight partnership with the local governing body/planning commission, and utility.
- ✦ NDEP has traditionally asked for an “Intent to Serve” letter from the local entity in order to inform our review and approval; affected by gravity of NAC 278.350.
- ✦ NDEP is interested in strategies/ideas for establishing “comfort” that approval of a Tentative Map (or cumulative approval of maps) will not put the sewer utility at risk.
- ✦ NDEP may seek deeper understanding of Master/Regional Plans and pace of growth.
- ✦ Tentative Maps expire in 4 years; a lot can happen in 4 years.

Final Maps & Improvement Plans (Civil Engineering Design)

- Developer Responsibility
 - Final Map (or a phase) filed with County within 4 years of Tentative Map approval (NRS 278.360) or start over with Tentative Map process (NAC 278.330)
 - Provide a complete plan for improvements showing the systems of water supply and sewage disposal for the area to be developed (NAC 278.290)
 - **Construction prohibited until plan for improvements approved.** “The developer shall not perform any construction on the site of a subdivision, except that necessary to evaluate the subdivision, until the Division or local agency approves the plan for improvements.” (NAC 278.340)
- NDEP Responsibility (or Dist Board of Health)
 - Act on the Final Map within 30 days to approve or disapprove (NAC 278.330)
 - Utilize engineering design standards for water and wastewater codified in NRS/NAC 445A – Public Water Systems Law and Water Pollution Control Law.
 - A final map presented for filing must include a certificate by: (a) The NDEP (or the dist board of health) indicating that the final map is approved concerning sewage disposal and water pollution (in accordance with Water Pollution Control Law), water quality and water supply facilities. (NRS 278.377)
 - **Conditions for connection to existing system of community sewerage [a.k.a. the “Will Serve Letter”]** (NAC 278.430)- “To obtain approval for connection to an existing system of community sewerage, the developer must submit to the NDEP (or local agency) a written statement from the local authority responsible for sewage disposal stating that service from the existing system will be extended to the subdivision and:
 1. The community facility for treatment will not be caused to exceed its capacity and the discharge permit requirements by this added service; or
 2. The facility will be expanded to provide for the added service.
- County Responsibility – Governing Body or Planning Commission
 - Approve the Final Map within 10 days after the map is accepted as a complete application.

Current Challenges – Final Maps and Improvement Plans (Civil Engineering Design)

- ✦ Sewer capacity concerns & NDEP signature on Final Maps – Desire to strengthen partnerships
- ✦ Unintended consequence of regulatory divorce of Final Map from Improvement Plan (NAC 278.290, A 2015)
- ✦ Construction without NDEP review and approval
 - Some issues still coming out of recession (“I thought my plans were approved years ago”)
 - Local issuance of grading and/or building permits without catching the fact that NDEP has not approved engineering plans
- ✦ Similar/related challenges are occurring with respect to construction of Water Projects as defined in NAC 445A (construction without review and approval)

Potential Consequences

- + Capacity concerns
 - o NDEP (dist Board of Health) stops approving Tentative or Final Maps
- + Construction without approved plans
 - o Cease and Desist Order issued when constructing without approved plans (NAC 278.510)
 - o Excavate areas of concern to verify proper construction (inspection reports not adequate or missing and sewer/water crossings or separations are of concern)
- + Finding of Alleged Violation and Order to supplier of water or sewer utility under 445A Public Water Systems Law or Water Pollution Control Law.

Partnership Opportunities/Solutions

NDEP seeking awareness by County Leadership that issues are occurring for which NDEP could use your help

- + Government turnover – address loss of institutional knowledge/processes
- + Create checklists for grading or building permit processes?
- + NDEP considering re-doing County Planning/Building Dept outreach (circa pre-2005)
- + Outreach to other Associations (i.e. BANN, League of Cities, Consulting Engineers) to increase awareness

Sanitary design and construction of water and wastewater infrastructure is first and best barrier to waterborne disease.

Jennifer L. Carr, PE, CPM
NDEP Deputy Administrator
for NACO Discussion
December 14, 2018

