

ASSEMBLY BILL NO. 388—ASSEMBLYWOMAN GIUNCHIGLIANI

MARCH 4, 1999

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to process of land use planning in certain counties.
(BDR 22-507)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

~

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

AN ACT relating to land use planning; expanding the subjects that must be included within a master plan in certain counties; limiting the number of annual amendments to the land use plan of the master plan in certain circumstances; revising provisions governing applications for changes in the boundaries of zoning districts, variances and special use permits with regard to property located within an unincorporated town; requiring members of a town advisory board to receive certain training; authorizing the election of members of a town advisory board in additional counties; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 278.150 is hereby amended to read as follows:
2 278.150 1. The planning commission shall prepare and adopt a
3 comprehensive, long-term general plan for the physical development of the
4 city, county or region which in the commission's judgment bears relation to
5 the planning thereof.
6 2. The plan must be known as the master plan, and must be so prepared
7 that all or portions thereof, except as ***otherwise*** provided in subsection 3,
8 may be adopted by the governing body, as provided in NRS 278.010 to
9 278.630, inclusive, as a basis for the development of the city, county or
10 region for such reasonable period of time next ensuing after the adoption
11 thereof as may practically be covered thereby.
12 3. In counties whose population is 100,000 or more, if the governing
13 body of the city or county adopts only a portion of the master plan, it shall
14 include in that portion a conservation plan, a housing plan and a population
15 plan as provided in NRS 278.160.

1 **4. In counties whose population is 400,000 or more, the governing**
2 **body of the city or county shall adopt a master plan that includes each of**
3 **the subjects set forth in subsection 1 of NRS 278.160.**

4 **Sec. 2.** NRS 278.160 is hereby amended to read as follows:

5 278.160 1. ~~[The]~~ **Except as otherwise provided in subsection 4 of**
6 **NRS 278.150 and subsection 3 of NRS 278.170, the** master plan, with the
7 accompanying charts, drawings, diagrams, schedules and reports, may
8 include such of the following subject matter or portions thereof as are
9 appropriate to the city, county or region, and as may be made the basis for
10 the physical development thereof:

11 (a) Community design. Standards and principles governing the
12 subdivision of land and suggestive patterns for community design and
13 development.

14 (b) Conservation plan. For the conservation, development and utilization
15 of natural resources, including water and its hydraulic force, underground
16 water, water supply, forests, soils, rivers and other waters, harbors,
17 fisheries, wildlife, minerals and other natural resources. The plan must also
18 cover the reclamation of land and waters, flood control, prevention and
19 control of the pollution of streams and other waters, regulation of the use of
20 land in stream channels and other areas required for the accomplishment of
21 the conservation plan, prevention, control and correction of the erosion of
22 soils through proper clearing, grading and landscaping, beaches and shores,
23 and protection of watersheds. The plan must also indicate the maximum
24 tolerable level of air pollution.

25 (c) Economic plan. Showing recommended schedules for the allocation
26 and expenditure of public money in order to provide for the economical
27 and timely execution of the various components of the plan.

28 (d) Historical properties preservation plan. An inventory of significant
29 historical, archaeological and architectural properties as defined by a city,
30 county or region, and a statement of methods to encourage the preservation
31 of those properties.

32 (e) Housing plan. The housing plan must include, but is not limited to:

33 (1) An inventory of housing conditions, needs and plans and
34 procedures for improving housing standards and for providing adequate
35 housing.

36 (2) An inventory of affordable housing in the community.

37 (3) An analysis of the demographic characteristics of the community.

38 (4) A determination of the present and prospective need for
39 affordable housing in the community.

40 (5) An analysis of any impediments to the development of affordable
41 housing and the development of policies to mitigate those impediments.

42 (6) An analysis of the characteristics of the land that is the most
43 appropriate for the construction of affordable housing.

1 (7) An analysis of the needs and appropriate methods for the
2 construction of affordable housing or the conversion or rehabilitation of
3 existing housing to affordable housing.

4 (8) A plan for maintaining and developing affordable housing to meet
5 the housing needs of the community.

6 (f) Land use plan. An inventory and classification of types of natural
7 land and of existing land cover and uses, and comprehensive plans for the
8 most desirable utilization of land. The land use plan may include a
9 provision concerning the acquisition and use of land that is under federal
10 management within the city, county or region, including, without limitation,
11 a plan or statement of policy prepared pursuant to NRS 321.7355.

12 (g) Population plan. An estimate of the total population which the
13 natural resources of the city, county or region will support on a continuing
14 basis without unreasonable impairment.

15 (h) Public buildings. Showing locations and arrangement of civic centers
16 and all other public buildings, including the architecture thereof and the
17 landscape treatment of the grounds thereof.

18 (i) Public services and facilities. Showing general plans for sewage,
19 drainage and utilities, and rights of way, easements and facilities therefor,
20 including any utility projects required to be reported pursuant to NRS
21 278.145.

22 (j) Recreation plan. Showing a comprehensive system of recreation
23 areas, including natural reservations, parks, parkways, *trails*, reserved
24 riverbank strips, beaches, playgrounds and other recreation areas,
25 including, when practicable, the locations and proposed development
26 thereof.

27 (k) Safety plan. In any county whose population is 400,000 or more,
28 identifying potential types of natural and man-made hazards, including
29 hazards from floods, landslides or fires, or resulting from the manufacture,
30 storage, transfer or use of bulk quantities of hazardous materials. The plan
31 may set forth policies for avoiding or minimizing the risks from those
32 hazards.

33 (l) Seismic safety plan. Consisting of an identification and appraisal of
34 seismic hazards such as susceptibility to surface ruptures from faulting, to
35 ground shaking or to ground failures.

36 (m) Solid waste disposal plan. Showing general plans for the disposal of
37 solid waste.

38 (n) Streets and highways plan. Showing the general locations and widths
39 of a comprehensive system of major traffic thoroughfares and other traffic
40 ways and of streets and the recommended treatment thereof, building line
41 setbacks, and a system of naming or numbering streets and numbering
42 houses, with recommendations concerning proposed changes.

(o) Transit plan. Showing a proposed *multi-modal* system of transit lines, including ~~rapid~~ *mass* transit, streetcar, motorcoach and trolley coach lines, *paths for bicycles and pedestrians*, and related facilities.

(p) Transportation plan. Showing a comprehensive transportation system, including locations of rights of way, terminals, viaducts and grade separations. The plan may also include port, harbor, aviation and related facilities.

2. The commission may prepare and adopt, as part of the master plan, other and additional plans and reports dealing with such other subjects as may in its judgment relate to the physical development of the city, county or region, and nothing contained in NRS 278.010 to 278.630, inclusive, prohibits the preparation and adoption of any such subject as a part of the master plan.

Sec. 3. NRS 278.170 is hereby amended to read as follows:

278.170 1. ~~{The}~~ *Except as otherwise provided in subsections 2 and 3, the* commission may prepare and adopt all or any part of the master plan or any subject thereof ~~{, except as provided in subsection 2,}~~ for all or any part of the city, county or region. Master regional plans must be coordinated with similar plans of adjoining regions, and master county and city plans within each region must be coordinated so as to fit properly into the master plan for the region.

2. In counties whose population is 100,000 or more, if the commission prepares and adopts less than all subjects of the master plan, as outlined in NRS 278.160, it shall include, in its preparation and adoption, the conservation, housing and population plans described in that section.

3. In counties whose population is 400,000 or more, the commission shall prepare and adopt a master plan that includes each of the subjects set forth in subsection 1 of NRS 278.160.

Sec. 4. NRS 278.210 is hereby amended to read as follows:

278.210 1. Before adopting the master plan or any part of it, or any substantial amendment thereof, the commission shall hold at least one public hearing thereon, notice of the time and place of which shall be given at least by one publication in a newspaper of general circulation in the city or county, or in the case of a regional planning commission, by one publication in a newspaper in each county within the regional district, at least 10 days before the day of the hearing.

2. The adoption of the master plan, or of any amendment, extension or addition thereof, ~~{shall}~~ *must* be by resolution of the commission carried by the affirmative votes of not less than two-thirds of the total membership of the commission. The resolution ~~{shall}~~ *must* refer expressly to the maps, descriptive matter and other matter intended by the commission to constitute the plan or any amendment, addition or extension thereof, and the action taken ~~{shall}~~ *must* be recorded on the map and plan and

1 descriptive matter by the identifying signatures of the secretary and
2 chairman of the commission.

3 3. No plan or map, hereafter, ~~{shall}~~ **must** have indicated thereon that it
4 is a part of the master plan until it ~~{shall have}~~ **has** been adopted as part of
5 the master plan by the commission as herein provided for the adoption
6 thereof, whenever changed conditions or further studies by the commission
7 require such amendments, extension, or addition.

8 4. *Except as otherwise provided in this subsection, the commission*
9 *shall not amend the land use plan of the master plan set forth in*
10 *paragraph (f) of subsection 1 of NRS 278.160 more than four times in a*
11 *calendar year. The provisions of this subsection do not apply to a change*
12 *in the land use designated for a particular area if the change does not*
13 *affect more than 25 percent of the area.*

14 5. An attested copy of any part, amendment, extension of or addition to
15 the master plan adopted by the planning commission of any city, county or
16 region ~~{shall}~~ **must** be certified to the governing body of ~~{such}~~ **the** city,
17 county or region.

18 ~~{5.}~~ 6. An attested copy of any part, amendment, extension of or
19 addition to the master plan adopted by any regional planning commission
20 ~~{shall}~~ **must** be certified to the county planning commission and to the
21 board of county commissioners of each county within the regional district.

22 **Sec. 5.** NRS 278.260 is hereby amended to read as follows:

23 278.260 1. The governing body shall provide for the manner in
24 which zoning regulations and restrictions and the boundaries of zoning
25 districts are determined, established, enforced and amended.

26 2. A zoning regulation, restriction or boundary must not become
27 effective until after a public hearing at which parties in interest and other
28 persons have an opportunity to be heard. The governing body shall cause
29 notice of the time and place of the hearing to be:

30 (a) Published in an official newspaper, or a newspaper of general
31 circulation, in the city, county or region; and

32 (b) Mailed to each tenant of a mobile home park if that park is located
33 within 300 feet of the property in question,
34 at least 10 days before the hearing.

35 3. If the proposed amendment involves a change in the boundary of a
36 zoning district in a county whose population is less than 400,000, the
37 governing body shall, to the extent this notice does not duplicate the notice
38 required by subsection 2, cause a notice to be sent by mail at least 10 days
39 before the hearing to:

40 (a) The applicant;

41 (b) Each owner, as listed on the county assessor's records, of real
42 property located within 300 feet of the portion of the boundary being
43 changed;

1 (c) Each ~~owner,~~ *of the owners*, as listed on the county assessor's
2 records, of at least *the* 30 parcels nearest to the portion of the boundary
3 being changed, to the extent this notice does not duplicate the notice given
4 pursuant to paragraph (b); and

5 (d) Any advisory board which has been established for the affected area
6 by the governing body.

7 The notice must be written in language which is easy to understand. It must
8 set forth the time, place and purpose of the hearing and a physical
9 description of, or a map detailing, the proposed change.

10 4. If the proposed amendment involves a change in the boundary of a
11 zoning district in a county whose population is 400,000 or more, the
12 governing body shall, to the extent this notice does not duplicate the notice
13 required by subsection 2, cause a notice to be sent by mail at least 10 days
14 before the hearing to:

15 (a) The applicant;

16 (b) Each owner, as listed on the county assessor's records, of real
17 property located within 500 feet ~~from~~ *of* the portion of the boundary
18 being changed;

19 (c) Each ~~owner,~~ *of the owners*, as listed on the county assessor's
20 records, of at least *the* 30 parcels nearest to the portion of the boundary
21 being changed, to the extent this notice does not duplicate the notice given
22 pursuant to paragraph (b); and

23 (d) Any advisory board which has been established for the affected area
24 by the governing body.

25 The notice must be written in language which is easy to understand. It must
26 set forth the time, place and purpose of the hearing and a physical
27 description of, or a map detailing, the proposed change.

28 5. *If the application involves a change in the boundary of a zoning*
29 *district within an unincorporated town, the applicant shall present the*
30 *information contained in the application at a meeting of the town board,*
31 *citizens' advisory council or town advisory board, whichever is*
32 *applicable, before a hearing is held on the application pursuant to*
33 *subsection 2. The town board, citizens' advisory council or town advisory*
34 *board may make recommendations regarding the application and submit*
35 *its recommendations for consideration at the hearing held pursuant to*
36 *subsection 2. The governing body or other person or entity that is*
37 *authorized to take action on the application at the hearing held pursuant*
38 *to subsection 2 shall not take action on the application until it receives*
39 *recommendations from the town board, citizens' advisory council or*
40 *town advisory board regarding the application or evidence from the*
41 *applicant that he presented the information contained in the application*
42 *at a meeting of the town board, citizens' advisory council or town*
43 *advisory board. The governing body or other authorized person or entity*

1 *shall consider any recommendations made by the town board, citizens'*
2 *advisory council or town advisory board regarding the application. If the*
3 *governing body or other authorized person or entity does not accept any*
4 *such recommendation, the governing body or other authorized person or*
5 *entity shall make a written finding specifying the reasons for its refusal*
6 *to accept the recommendation.*

7 **6.** The exterior of the notice mailed pursuant to subsection 4 must bear
8 a statement printed in at least 10-point bold type in substantially the
9 following form:

10
11 OFFICIAL NOTICE OF PUBLIC HEARING

12
13 ~~{6.}~~ **7.** In addition to mailing the notice required pursuant to subsection
14 4, in a county whose population is 400,000 or more, the governing body
15 shall, ~~{no}~~ **not** later than 10 days before the hearing, erect or cause to be
16 erected on the property, at least one sign not less than 2 feet high and 2 feet
17 wide. The sign must be made of material reasonably calculated to withstand
18 the elements for 40 days. The governing body must be consistent in its use
19 of colors for the background and lettering of the sign. The sign must
20 include the following information:

- 21 (a) The existing zoning designation of the property in question;
22 (b) The proposed zoning designation of the property in question;
23 (c) The date, time and place of the public hearing;
24 (d) A telephone number which may be used by interested persons to
25 obtain additional information; and
26 (e) A statement which indicates whether the proposed zoning
27 designation of the property in question complies with the requirements of
28 the master plan of the city or county in which the property is located.

29 ~~{7.}~~ **8.** A sign required pursuant to subsection ~~{6.}~~ **7** is for informational
30 purposes only, and must be erected regardless of any local ordinance
31 regarding the size, placement or composition of signs to the contrary.

32 ~~{8.}~~ **9.** A governing body may charge an additional fee for each
33 application to amend an existing zoning regulation, restriction or boundary
34 to cover the actual costs resulting from the mailed notice required by this
35 section and the erection of not more than one of the signs required by
36 subsection ~~{6.}~~ **7**, if any. The additional fee is not subject to the limitation
37 imposed by NRS 354.5989.

38 ~~{9.}~~ **10.** The governing body shall remove or cause to be removed any
39 sign required by subsection ~~{6.}~~ **7** within 5 days after the final hearing for
40 the application for which the sign was erected. There must be no additional
41 charge to the applicant for such removal.

1 **Sec. 6.** NRS 278.315 is hereby amended to read as follows:

2 278.315 1. The governing body may provide by ordinance for the
3 granting of variances, special use permits, conditional use permits or other
4 special exceptions by the board of adjustment, the planning commission or
5 a hearing examiner appointed pursuant to NRS 278.262. The governing
6 body may impose this duty entirely on the board, commission or examiner,
7 respectively, or provide for the granting of enumerated categories of
8 variances, special use permits, conditional use permits or special exceptions
9 by the board, commission or examiner.

10 2. A hearing to consider an application for the granting of a variance,
11 special use permit, conditional use permit or special exception must be held
12 before the board of adjustment, planning commission or hearing examiner
13 within 65 days after the filing of the application, unless a longer time or a
14 different process of review is provided in an agreement entered into
15 pursuant to NRS 278.0201. A notice setting forth the time, place and
16 purpose of the hearing must be sent by mail at least 10 days before the
17 hearing to:

18 (a) The applicant;

19 (b) Each owner of real property located within 300 feet of the property
20 in question;

21 (c) If a mobile home park is located within 300 feet of the property in
22 question, each tenant of that mobile home park; and

23 (d) Any advisory board which has been established for the affected area
24 by the governing body.

25 The notice must be written in language which is easy to understand. It must
26 set forth the time, place and purpose of the hearing and a physical
27 description or map of the property in question.

28 3. If the application is for the issuance of a special use permit in a
29 county whose population is 100,000 or more, the governing body shall, to
30 the extent this notice does not duplicate the notice required by subsection 2,
31 cause a notice to be sent by mail at least 10 days before the hearing to each
32 ~~owner,~~ *of the owners*, as listed on the county assessor's records, of at
33 least *the* 30 parcels nearest to the property in question. The notice must be
34 written in language which is easy to understand. It must set forth the time,
35 place and purpose of the hearing and a physical description or map of the
36 property in question.

37 4. *If an application is for the issuance of a variance or special use*
38 *permit with regard to property that is located within an unincorporated*
39 *town, the applicant shall present the information contained in the*
40 *application at a meeting of the town board, citizens' advisory council or*
41 *town advisory board, whichever is applicable, before a hearing is held on*
42 *the application pursuant to subsection 2. The town board, citizens'*
43 *advisory council or town advisory board may make recommendations*

1 *regarding the application and submit its recommendations for*
2 *consideration at the hearing held pursuant to subsection 2. The*
3 *governing body or other person or entity that is authorized to take action*
4 *on the application at the hearing held pursuant to subsection 2 shall not*
5 *take action on the application until it receives recommendations from the*
6 *town board, citizens' advisory council or town advisory board regarding*
7 *the application or evidence from the applicant that he presented the*
8 *information contained in the application at a meeting of the town board,*
9 *citizens' advisory council or town advisory board. The governing body or*
10 *other authorized person or entity shall consider any recommendations*
11 *made by the town board, citizens' advisory council or town advisory*
12 *board regarding the application. If the governing body or other*
13 *authorized person or entity does not accept any such recommendation,*
14 *the governing body or other authorized person or entity shall make a*
15 *written finding specifying the reasons for its refusal to accept the*
16 *recommendation.*

17 5. An ordinance adopted pursuant to this section must provide an
18 opportunity for the applicant or a protestant to appeal from a decision of
19 the board of adjustment, planning commission or hearing examiner to the
20 governing body.

21 ~~5.1~~ 6. In a county whose population is 400,000 or more, if the
22 application is for the issuance of a special use permit for an establishment
23 which serves alcoholic beverages for consumption on or off of the premises
24 as its primary business in a district which is not a gaming enterprise district
25 as defined in NRS 463.0158, the governing body shall, in addition to
26 mailing the notice required pursuant to subsection 3, not later than 10 days
27 before the hearing, erect or cause to be erected on the property, at least one
28 sign not less than 2 feet high and 2 feet wide. The sign must be made of
29 material reasonably calculated to withstand the elements for 40 days. The
30 governing body must be consistent in its use of colors for the background
31 and lettering of the sign. The sign must include the following information:

32 (a) The existing permitted use and zoning designation of the property in
33 question;

34 (b) The proposed permitted use of the property in question;

35 (c) The date, time and place of the public hearing; and

36 (d) A telephone number which may be used by interested persons to
37 obtain additional information.

38 ~~6.1~~ 7. A sign required pursuant to subsection ~~5.1~~ 6 is for informational
39 purposes only, and must be erected regardless of any local ordinance
40 regarding the size, placement or composition of signs to the contrary.

41 ~~7.1~~ 8. A governing body may charge an additional fee for each
42 application for a special use permit to cover the actual costs resulting from
43 the erection of not more than one sign required by subsection ~~5.1~~ 6, if any.

1 The additional fee is not subject to the limitation imposed by NRS
2 354.5989.

3 ~~18.1~~ 9. The governing body shall remove or cause to be removed any
4 sign required by subsection ~~15~~ 6 within 5 days after the final hearing for
5 the application for which the sign was erected. There must be no additional
6 charge to the applicant for such removal.

7 **Sec. 7.** Chapter 269 of NRS is hereby amended by adding thereto a
8 new section to read as follows:

9 *Each member of a town advisory board must, at least twice during the*
10 *first year after his initial appointment and at least once each year*
11 *thereafter, receive training relating to:*

12 1. *State statutes and regulations and local ordinances, resolutions*
13 *and regulations concerning land use planning; and*

14 2. *The provisions of chapter 241 of NRS.*

15 **Sec. 8.** NRS 269.500 is hereby amended to read as follows:

16 269.500 NRS 269.500 to 269.625, inclusive, *and section 7 of this act*
17 may be cited as the Unincorporated Town Government Law.

18 **Sec. 9.** NRS 269.576 is hereby amended to read as follows:

19 269.576 1. Except as appointment may be deferred pursuant to NRS
20 269.563, the board of county commissioners of any county whose
21 population is 400,000 or more shall, in each ordinance which establishes an
22 unincorporated town pursuant to NRS 269.500 to 269.625, inclusive,
23 provide for:

24 (a) Appointment by the board of county commissioners *or the election*
25 *by the people* of three or five qualified electors who are residents of the
26 unincorporated town to serve as the town advisory board. *If the ordinance*
27 *provides for appointment by the board of county commissioners, in*
28 *making such appointments, the board of county commissioners shall*
29 *consider:*

30 (1) *Reappointment of any member of the town advisory board who*
31 *is currently serving on the town advisory board and who notifies the*
32 *board of county commissioners of his desire to be reappointed;*

33 (2) *The results of any poll conducted by the town advisory board;*
34 *and*

35 (3) *Any application submitted to the board of county commissioners*
36 *by persons who desire to be appointed to the town advisory board in*
37 *response to an announcement made by the town advisory board.*

38 (b) Terms for members of the town advisory board, which must expire
39 on the first Monday in January of each odd-numbered year.

40 (c) Removal of a member of the town advisory board if the board of
41 county commissioners finds that his removal is in the best interest of the
42 residents of the unincorporated town, and for appointment of a member to
43 serve the unexpired term of the member so removed.

- 1 2. The duties of the town advisory board are to:
- 2 (a) Assist the board of county commissioners in governing the
- 3 unincorporated town by acting as liaison between the residents of the town
- 4 and the board of county commissioners; and
- 5 (b) Advise the board of county commissioners on matters of importance
- 6 to the unincorporated town and its residents.
- 7 3. The board of county commissioners may provide by ordinance for
- 8 compensation for the members of the town advisory board.
- 9 **Sec. 10.** 1. This section and sections 1, 2, 3, 5, 6, 8 and 9 of this act
- 10 become effective on October 1, 1999.
- 11 2. Sections 4 and 7 of this act become effective on January 1, 2000.

~