

Assembly Bill No. 603--Committee on Government Affairs

CHAPTER.....

AN ACT relating to land use; requiring a person who wishes to commence operation of a facility where explosives or certain substances will be used, manufactured, processed, transferred or stored to obtain a conditional use permit from the governing body of the city or county in which the facility is to be located; providing exceptions; establishing the procedures for granting such a permit; and providing other matters properly relating thereto.

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

Section 1. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. No person may commence operation in this state of a facility where an explosive, or a substance listed in NRS 459.3816, the regulations adopted pursuant thereto or the regulations adopted pursuant to NRS 459.3833, will be used, manufactured, processed, transferred or stored without first obtaining a conditional use permit therefor from the governing body of the city or county in which the facility is to be located. Each governing body shall establish by local ordinance, in accordance with the provisions of this section, the procedures for obtaining such a permit.

2. An application for a conditional use permit must be filed with the planning commission of the city, county or region in which the facility is to be located. The planning commission shall, within 90 days after the filing of an application, hold a public hearing to consider the application. The planning commission shall, at least 30 days before the date of the hearing, cause notice of the time, date, place and purpose of the hearing to be:

(a) Sent by mail to or, if requested by a party to whom notice must be provided pursuant to this paragraph, by electronic means if receipt of such an electronic notice can be verified, to:

- (1) The applicant;*
- (2) Each owner or tenant of real property located within 1,000 feet of the property in question;*
- (3) If a mobile home park or multiple-unit residence is located within 1,000 feet of the property in question, each tenant of that mobile home park or multiple-unit residence;*
- (4) Any advisory board that has been established for the affected area by the governing body;*
- (5) The administrator of the division of environmental protection of the state department of conservation and natural resources;*
- (6) The state fire marshal; and*
- (7) The administrator of the division of industrial relations of the department of business and industry; and*

(b) Published in a newspaper of general circulation within the city or county in which the property in question is located.

3. The notice required by subsection 2 must:

(a) Be written in language that is easy to understand; and

(b) Include a physical description or map of the property in question and a description of all explosives, and all substances described in subsection 1, that will be located at the facility.

4. In considering the application, the planning commission shall:

(a) Consult with:

(1) Local emergency planning committees;

(2) The administrator of the division of environmental protection of the state department of conservation and natural resources;

(3) The state fire marshal;

(4) The administrator of the division of industrial relations of the department of business and industry; and

(5) The governing body of any other city or county that may be affected by the operation of the facility; and

(b) Consider fully the effect the facility will have on the health and safety of the residents of the city, county or region.

5. The planning commission shall, within a reasonable time after the public hearing, submit to the governing body its recommendations for any actions to be taken on the application. If the planning commission recommends that a conditional use permit be granted to the applicant, it shall include in its recommendations such terms and conditions for the operation of the facility as it deems necessary for the protection of the health and safety of the residents of the city, county or region.

6. The governing body shall, within 30 days after the receipt of the recommendations of the planning commission, hold a public hearing to consider the application. The governing body shall:

(a) Cause notice of the hearing to be given in the manner prescribed by subsection 2; and

(b) Grant or deny the conditional use permit within 30 days after the public hearing.

7. Notwithstanding any provision of this section to the contrary, the provisions of this section do not apply to the mining industry.

8. Except as otherwise provided in subsection 9, as used in this section, "explosive" means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuses other than electric circuit breakers, detonators and other detonating agents, smokeless powders, other explosive or incendiary devices and any chemical compound, mechanical mixture or device that contains any oxidizing or combustible units, or other ingredients, in such proportions, quantities or packing that ignition by fire, friction, concussion, percussion or detonation of the compound, mixture, device or any part thereof may cause an explosion.

9. *For the purposes of this section, an explosive does not include:*
- (a) Ammunition for small arms, or any component thereof;*
 - (b) Black powder commercially manufactured in quantities that do not exceed 50 pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers that are intended to be used solely for sporting, recreation or cultural purposes:*
 - (1) In an antique firearm, as that term is defined in 18 U.S.C. § 921(a)(16), as that section existed on January 1, 1999; or*
 - (2) In an antique device which is exempted from the definition of “destructive device” pursuant to 18 U.S.C. § 921(a)(4), as that section existed on January 1, 1999; or*
 - (c) Any explosive that is manufactured under the regulation of a military department of the United States, or that is distributed to, or possessed or stored by, the military or naval service or any other agency of the United States, or an arsenal, a navy yard, a depot or any other establishment owned by or operated on behalf of the United States.*

Sec. 2. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 278.265 is hereby amended to read as follows:

278.265 1. Any ordinance enacted pursuant to the provisions of NRS 278.264 must provide, in substance, the same notice of hearing and conduct of hearing safeguards required by NRS 278.315 or 278.480, whichever is applicable.

2. The governing body shall, by ordinance, set forth the duties and powers of the hearing examiner, including a statement of whether the hearing examiner may take final action on any matter assigned to him by the governing body.

3. ~~{The}~~ *Except as otherwise provided in subsection 4, the* governing body may authorize the hearing examiner to take final action on matters relating to a variance, vacation, abandonment, special use permit, conditional use permit and other special exception or application specified in the ordinance.

4. The governing body shall not authorize the hearing examiner to take final action on ~~{matters}~~ :

(a) Matters relating to a zoning classification, zoning district or an amendment to a zoning boundary.

(b) An application for a conditional use permit that is filed pursuant to section 1 of this act.

5. An ordinance adopted pursuant to NRS 278.264 must set forth the manner in which an applicant or protestant may appeal any final action taken by the hearing examiner to the governing body.

Sec. 4. NRS 278.315 is hereby amended to read as follows:

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

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

- (a) The applicant;
- (b) Each owner of real property located within 300 feet of the property in question;
- (c) If a mobile home park is located within 300 feet of the property in question, each tenant of that mobile home park; and
- (d) Any advisory board which has been established for the affected area by the governing body.

The notice must be sent by mail or, if requested by a party to whom notice must be provided pursuant to paragraphs (a) to (d), inclusive, by electronic means if receipt of such an electronic notice can be verified, and be written in language which is easy to understand. The notice must set forth the time, place and purpose of the hearing and a physical description or map of the property in question.

3. If the application is for the issuance of a special use permit in a county whose population is 100,000 or more, the governing body shall, to the extent this notice does not duplicate the notice required by subsection 2, cause a notice to be sent at least 10 days before the hearing to each owner, as listed on the county assessor's records, of at least 30 parcels nearest to the property in question. The notice must be sent by mail or, if requested by an owner to whom notice must be provided, by electronic means if receipt of such an electronic notice can be verified, and be written in language which is easy to understand. The notice must set forth the time, place and purpose of the hearing and a physical description or map of the property in question.

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

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

- (a) The existing permitted use and zoning designation of the property in question;
- (b) The proposed permitted use of the property in question;
- (c) The date, time and place of the public hearing; and
- (d) A telephone number which may be used by interested persons to obtain additional information.

6. A sign required pursuant to subsection 5 is for informational purposes only, and must be erected regardless of any local ordinance regarding the size, placement or composition of signs to the contrary.

7. A governing body may charge an additional fee for each application for a special use permit to cover the actual costs resulting from the erection of not more than one sign required by subsection 5, if any. The additional fee is not subject to the limitation imposed by NRS 354.5989.

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

9. The provisions of this section do not apply to an application for a conditional use permit filed pursuant to section 1 of this act.

Sec. 5. 1. This section becomes effective upon passage and approval.

2. For the purpose of adopting the local ordinances required by section 1 of this act, sections 1 to 4, inclusive, of this act become effective upon passage and approval. For all other purposes:

- (a) Sections 1, 2 and 3 of this act become effective on October 1, 1999.
- (b) Section 4 of this act becomes effective at 12:01 a.m. on October 1, 1999.