

SENATE BILL NO. 542—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF CLARK COUNTY)

MARCH 22, 1999

Referred to Committee on Government Affairs

SUMMARY—Revises certain provisions governing planning and zoning. (BDR 22-268)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to land use; revising provisions governing the notice and hearing requirements for land use regulations, restrictions and exceptions to allow notice by electronic means in certain circumstances; revising provisions relating to the merger and resubdivision of subdivided lands; 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 the provisions set forth as sections 2 and 3 of this act.

**Sec. 2.** *As used in NRS 278.480 to 278.4965, inclusive, and sections 2 and 3 of this act, unless the context otherwise requires, “contiguous” means either abutting directly on the boundary or separated by a street, alley, public right of way, creek, river or the right of way of a railroad or other public service corporation.*

**Sec. 3. 1.** *An owner or governing body that owns two or more contiguous parcels may merge and resubdivide the land into new parcels or lots without reverting the preexisting parcels to acreage pursuant to NRS 278.490.*

**2.** *Parcels merged without reversion to acreage pursuant to this section must be resubdivided and recorded on a final map, parcel map or map of division into large parcels, as appropriate, in accordance with NRS 278.320 to 278.4725, inclusive, and any applicable local ordinances. The recording of the resubdivided parcels or lots on a final*

1 *map, parcel map or map of division into large parcels, as appropriate,*  
2 *constitutes the merging of the preexisting parcels into a single parcel and*  
3 *the simultaneous resubdivision of that single parcel into parcels or lots of*  
4 *a size and description set forth in the final map, parcel map or map of*  
5 *division into large parcels, as appropriate.*

6 3. *With respect to a merger and resubdivision of parcels pursuant to*  
7 *this section, the owner or governing body conducting the merger and*  
8 *resubdivision shall ensure that streets, easements and utility easements,*  
9 *whether public or private, that will remain in effect after the merger and*  
10 *resubdivision, are delineated clearly on the final map, parcel map or map*  
11 *of division into large parcels, as appropriate, on which the merger and*  
12 *resubdivision is recorded.*

13 4. *If a governing body required an owner or governing body to post*  
14 *security to secure the completion of improvements to two or more*  
15 *contiguous parcels and those improvements will not be completed*  
16 *because of a merger and resubdivision conducted pursuant to this*  
17 *section, the governing body shall credit on a pro rata basis the security*  
18 *posted by the owner or governing body toward the same purposes with*  
19 *respect to the parcels as merged and resubdivided.*

20 **Sec. 4.** NRS 278.260 is hereby amended to read as follows:

21 278.260 1. The governing body shall provide for the manner in  
22 which zoning regulations and restrictions and the boundaries of zoning  
23 districts are determined, established, enforced and amended.

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

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

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

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

38 (a) The applicant;

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

42 (c) Each owner, as listed on the county assessor's records, of at least 30  
43 parcels nearest to the portion of the boundary being changed, to the extent

1 this notice does not duplicate the notice given pursuant to paragraph (b);  
2 and

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

5 The notice must be *sent by mail or, if requested by a party to whom notice*  
6 *must be provided pursuant to paragraphs (a) to (d), inclusive, by*  
7 *electronic means if receipt of such an electronic notice can be verified,*  
8 *and be* written in language which is easy to understand. ~~##~~ *The notice*  
9 must set forth the time, place and purpose of the hearing and a physical  
10 description of, or a map detailing, the proposed change.

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

16 (a) The applicant;

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

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

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

26 The notice must be *sent by mail or, if requested by a party to whom notice*  
27 *must be provided pursuant to paragraphs (a) to (d), inclusive, by*  
28 *electronic means if receipt of such an electronic notice can be verified,*  
29 *and be* written in language which is easy to understand. ~~##~~ *The notice*  
30 must set forth the time, place and purpose of the hearing and a physical  
31 description of, or a map detailing, the proposed change.

32 5. ~~{The exterior of the notice mailed}~~ *If a notice is required to be sent*  
33 pursuant to subsection 4 :

34 (a) *The exterior of a notice sent by mail; or*

35 (b) *The cover sheet, heading or subject line of a notice sent by*  
36 *electronic means,*

37 must bear a statement ~~{printed}~~ in at least 10-point bold type *or font* in  
38 substantially the following form:

39  
40 OFFICIAL NOTICE OF PUBLIC HEARING

41  
42 6. In addition to ~~{mailing}~~ *sending* the notice required pursuant to  
43 subsection 4, in a county whose population is 400,000 or more, the

governing body shall, no 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 zoning designation of the property in question;
- (b) The proposed zoning designation of the property in question;
- (c) The date, time and place of the public hearing;
- (d) A telephone number which may be used by interested persons to obtain additional information; and
- (e) A statement which indicates whether the proposed zoning designation of the property in question complies with the requirements of the master plan of the city or county in which the property is located.

7. A sign required pursuant to subsection 6 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.

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

9. The governing body shall remove or cause to be removed any sign required by subsection 6 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.

**Sec. 5.** 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

1 purpose of the hearing must be sent ~~by mail~~ at least 10 days before the  
2 hearing to:

3 (a) The applicant;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 **Sec. 6.** NRS 278.378 is hereby amended to read as follows:

19 278.378 1. A final map presented to the county recorder for filing  
20 must include a certificate by the clerk of the governing body or planning  
21 commission, *or the director of planning or other authorized person or*  
22 *agency if authorized to take final action by the governing body,* stating  
23 that ~~it approved~~ *the governing body, planning commission, director of*  
24 *planning or other authorized person or agency:*

25 (a) *Approved* the map ~~and accepted~~ ;

26 (b) *Accepted* or rejected on behalf of the public any parcel of land  
27 offered for dedication for public use in conformity with the terms of the  
28 offer of dedication ~~it~~ ; and

29 (c) *If applicable, determined that a public street, easement or utility*  
30 *easement that will not remain in effect after a merger and resubdivision*  
31 *of parcels conducted pursuant to section 3 of this act, has been vacated*  
32 *or abandoned in accordance with NRS 278.480.*

33 2. The director of planning or, if there is no director of planning, the  
34 clerk of the governing body shall certify on the final map that it  
35 substantially complies with the tentative map and all conditions have been  
36 met.

37 3. The clerk of the governing body or planning commission shall cause  
38 the approved final map to be presented to the county recorder for filing.

39 **Sec. 7.** NRS 278.464 is hereby amended to read as follows:

40 278.464 1. Except as otherwise provided in subsection 2, if there is a  
41 planning commission, it shall:

42 (a) In a county whose population is 40,000 or more, within 45 days; or

1 (b) In a county whose population is less than 40,000, within 60  
2 days,  
3 after accepting as a complete application a parcel map, recommend  
4 approval, conditional approval or disapproval of the map in a written  
5 report. The planning commission shall submit the parcel map and the  
6 written report to the governing body.

7 2. If the governing body has authorized the planning commission to  
8 take final action on a parcel map, the planning commission shall:

9 (a) In a county whose population is 40,000 or more, within 45 days; or

10 (b) In a county whose population is less than 40,000, within 60  
11 days,

12 after accepting as a complete application the parcel map, approve,  
13 conditionally approve or disapprove the map. It shall file its written  
14 decision with the governing body. Unless the time is extended by mutual  
15 agreement, if the planning commission is authorized to take final action and  
16 it fails to take action within the period specified in this subsection, the  
17 parcel map shall be deemed approved.

18 3. If there is no planning commission or if the governing body has not  
19 authorized the planning commission to take final action, the governing  
20 body or, by authorization of the governing body, the director of planning or  
21 other authorized person or agency shall:

22 (a) In a county whose population is 40,000 or more, within 45 days; or

23 (b) In a county whose population is less than 40,000, within 60  
24 days,

25 after acceptance of the parcel map as a complete application by the  
26 governing body pursuant to subsection 1 or pursuant to subsection 2 of  
27 NRS 278.461, review and approve, conditionally approve or disapprove the  
28 parcel map. Unless the time is extended by mutual agreement, if the  
29 governing body, the director of planning or other authorized person or  
30 agency fails to take action within the period specified in this subsection, the  
31 parcel map shall be deemed approved.

32 4. Except as otherwise provided in NRS 278.463, if unusual  
33 circumstances exist, a governing body or, if authorized by the governing  
34 body, the planning commission may waive the requirement for a parcel  
35 map. Before waiving the requirement for a parcel map, a determination  
36 must be made by the county surveyor, city surveyor or professional land  
37 surveyor appointed by the governing body that a survey is not required.  
38 Unless the time is extended by mutual agreement, a request for a waiver  
39 must be acted upon:

40 (a) In a county whose population is 40,000 or more, within 45 days; or

1 (b) In a county whose population is less than 40,000, within 60  
2 days,  
3 after the date of the request for the waiver, or, in the absence of action, the  
4 waiver shall be deemed approved.

5 5. An applicant or other person aggrieved by a decision of the  
6 governing body's authorized representative or by a final act of the planning  
7 commission may appeal to the governing body within a reasonable period  
8 to be determined, by ordinance, by the governing body. The governing  
9 body shall render its decision:

10 (a) In a county whose population is 40,000 or more, within 45 days; or

11 (b) In a county whose population is less than 40,000, within 60  
12 days,  
13 after the date the appeal is filed.

14 6. If a parcel map and the associated division of land are approved or  
15 deemed approved pursuant to this section, the approval must be noted on  
16 the map in the form of a certificate attached thereto and executed by the  
17 clerk of the governing body, the governing body's designated  
18 representative or the chairman of the planning commission. *A certificate  
19 attached to a parcel map pursuant to this subsection must indicate, if  
20 applicable, that the governing body or planning commission determined  
21 that a public street, easement or utility easement which will not remain in  
22 effect after a merger and resubdivision of parcels conducted pursuant to  
23 section 3 of this act, has been vacated or abandoned in accordance with  
24 NRS 278.480.*

25 **Sec. 8.** NRS 278.4725 is hereby amended to read as follows:

26 278.4725 1. Except as otherwise provided in this section, if the  
27 governing body has authorized the planning commission to take final action  
28 on a final map, the planning commission shall approve, conditionally  
29 approve or disapprove the final map, basing its action upon the  
30 requirements of NRS 278.472:

31 (a) In a county whose population is 40,000 or more, within 45 days; or

32 (b) In a county whose population is less than 40,000, within 60  
33 days,

34 after accepting the final map as a complete application. The planning  
35 commission shall file its written decision with the governing body. Except  
36 as otherwise provided in subsection 5, or unless the time is extended by  
37 mutual agreement, if the planning commission is authorized to take final  
38 action and it fails to take action within the period specified in this  
39 subsection, the final map shall be deemed approved unconditionally.

40 2. If there is no planning commission or if the governing body has not  
41 authorized the planning commission to take final action, the governing  
42 body or its authorized representative shall approve, conditionally approve

1 or disapprove the final map, basing its action upon the requirements of  
2 NRS 278.472:

3 (a) In a county whose population is 40,000 or more, within 45 days; or

4 (b) In a county whose population is less than 40,000, within 60  
5 days,

6 after the final map is accepted as a complete application. Except as  
7 otherwise provided in subsection 5 or unless the time is extended by mutual  
8 agreement, if the governing body or its authorized representative fails to  
9 take action within the period specified in this subsection, the final map shall  
10 be deemed approved unconditionally.

11 3. An applicant or other person aggrieved by a decision of the  
12 authorized representative of the governing body or by a final act of the  
13 planning commission may appeal to the governing body within a  
14 reasonable period to be determined, by ordinance, by the governing body.  
15 The governing body shall render its decision:

16 (a) In a county whose population is 40,000 or more, within 45 days; or

17 (b) In a county whose population is less than 40,000, within 60  
18 days,

19 after the date on which the appeal is filed.

20 4. If the map is disapproved, the governing body or its authorized  
21 representative or the planning commission shall return the map to the  
22 person who proposes to divide the land, with the reason for its action and a  
23 statement of the changes necessary to render the map acceptable.

24 5. If the final map divides the land into 16 lots or more, the governing  
25 body or its authorized representative or the planning commission shall not  
26 approve a map, and a map shall not be deemed approved, unless:

27 (a) Each lot contains an access road that is suitable for use by  
28 emergency vehicles; and

29 (b) The corners of each lot are set by a professional land surveyor.

30 6. If the final map divides the land into 15 lots or less, the governing  
31 body or its authorized representative or the planning commission may, if  
32 reasonably necessary, require the map to comply with the provisions of  
33 subsection 5.

34 7. Upon approval, the map must be filed with the county recorder.  
35 Filing with the county recorder operates as a continuing:

36 (a) Offer to dedicate for public roads the areas shown as proposed roads  
37 or easements of access, which the governing body may accept in whole or  
38 in part at any time or from time to time.

39 (b) Offer to grant the easements shown for public utilities, which any  
40 public utility may similarly accept without excluding any other public  
41 utility whose presence is physically compatible.

1 8. The map filed with the county recorder must include:

2 (a) A certificate signed and acknowledged by each owner of land to be  
3 divided consenting to the preparation of the map, the dedication of the  
4 roads and the granting of the easements.

5 (b) A certificate signed by the clerk of the governing body or authorized  
6 representative of the governing body or the secretary to the planning  
7 commission that the map was approved, or the affidavit of the person  
8 presenting the map for filing that the time limited by subsection 1 or 2 for  
9 action by the governing body or its authorized representative or the  
10 planning commission has expired and that the requirements of subsection 5  
11 have been met. *A certificate signed pursuant to this paragraph must also  
12 indicate, if applicable, that the governing body or planning commission  
13 determined that a public street, easement or utility easement which will  
14 not remain in effect after a merger and resubdivision of parcels  
15 conducted pursuant to section 3 of this act, has been vacated or  
16 abandoned in accordance with NRS 278.480.*

17 (c) A written statement signed by the treasurer of the county in which  
18 the land to be divided is located indicating that all property taxes on the  
19 land for the fiscal year have been paid.

20 9. A governing body may by local ordinance require a final map to  
21 include:

22 (a) A report from a title company which lists the names of:

23 (1) Each owner of record of the land to be divided; and

24 (2) Each holder of record of a security interest in the land to be  
25 divided, if the security interest was created by a mortgage or a deed of trust.

26 (b) The signature of each owner of record of the land to be divided.

27 (c) The written consent of each holder of record of a security interest  
28 listed pursuant to subparagraph (2) of paragraph (a), to the preparation and  
29 recordation of the final map. A holder of record may consent by signing:

30 (1) The final map; or

31 (2) A separate document that is filed with the final map and declares  
32 his consent to the division of land.

33 10. After a map has been filed with the county recorder, any lot shown  
34 thereon may be conveyed by reference to the map, without further  
35 description.

36 11. The county recorder shall charge and collect for recording the map  
37 a fee of not more than \$35 per page set by the board of county  
38 commissioners.

39 **Sec. 9.** NRS 278.490 is hereby amended to read as follows:

40 278.490 1. ~~[Any]~~ *Except as otherwise provided in section 3 of this*

41 *act, an* owner or governing body desiring to revert any recorded

42 subdivision map, parcel map, map of division into large parcels, or part

43 thereof to acreage or to revert the map or portion thereof, or to revert more

1 than one map recorded under the same tentative map if the parcels to be  
2 reverted are contiguous, shall submit a written application accompanied by  
3 a map of the proposed reversion which contains the same survey  
4 dimensions as the recorded map or maps to the governing body or, if  
5 authorized by local ordinance, to the planning commission or other  
6 authorized person. The application must describe the requested changes.

7 2. At its next meeting, or within a period of not more than 30 days after  
8 the filing of the map of reversion, whichever occurs later, the governing  
9 body or, if authorized by local ordinance, the planning commission or other  
10 authorized person shall review the map and approve, conditionally approve  
11 or disapprove it.

12 3. Except for the provisions of this section, NRS 278.4955, 278.496  
13 and 278.4965 and any provision or local ordinance relating to the payment  
14 of fees in conjunction with filing, recordation or checking of a map of the  
15 kind offered, no other provision of NRS 278.010 to 278.630, inclusive,  
16 applies to a map made solely for the purpose of reversion of a former map  
17 or for reversion of any division of land to acreage.

18 4. Upon approval of the map of reversion, it must be recorded in the  
19 office of the county recorder. The county recorder shall make a written  
20 notation of the fact on each sheet of the previously recorded map affected  
21 by the later recording, if the county recorder does not maintain a  
22 cumulative index for such maps and amendments. If such an index is  
23 maintained, the county recorder shall direct an appropriate entry for the  
24 amendment.

25 ~~[5.—As used in this section, “contiguous” means either abutting directly~~  
26 ~~on the boundary or separated by a street, alley, public right of way, creek,~~  
27 ~~river or the right of way of a railroad or other public service corporation.]~~