

CHAPTER.....

AN ACT relating to local governments; requiring a city or county to establish requirements for certifying and for continuing education for building officials and certain persons who conduct inspections of or review plans prepared for structures or buildings under certain circumstances; 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. *“Building official” means a person employed by a city or county who is charged with the administration and enforcement of building codes. The term includes a person appointed to fill the position of building official pursuant to NRS 278.570 and an administrative official of the city or county who is authorized by the city or county to assume the functions of the position of building official pursuant to NRS 278.570.*

Sec. 3. *1. Except as otherwise provided in subsection 2, in a county whose population is 100,000 or more, or in any city located within such a county, if the city or county provides for the inspection of structures and the enforcement of building codes pursuant to NRS 278.570, 278.573 and 278.575, the city or county shall:*

(a) Prepare a list of national and international organizations which certify persons who inspect a structure or a portion of a structure and which are approved by the city or county, as appropriate, for certifying persons pursuant to this subsection;

(b) Require a person who fills the position of building official, reviews plans or inspects a structure or building or a portion of a structure or building pursuant to NRS 278.570 or 278.575 to be certified by an organization included on the list prepared pursuant to paragraph (a);

(c) Establish requirements for continuing education for a person who is required to be certified pursuant to this subsection; and

(d) Prohibit a person who is not certified or does not fulfill the requirements for continuing education pursuant to this subsection from filling the position of building official, reviewing plans or inspecting a structure or building or a portion of a structure or building pursuant to NRS 278.570 or 278.575.

2. A city or county specified in subsection 1 may authorize an employee of the city or county to perform duties for which certification is required pursuant to that subsection if those duties are performed under the supervision of a person who is certified by an organization that is included on the list prepared by the city or county pursuant to paragraph (a) of that subsection. The city or county may authorize an employee to perform duties pursuant to this subsection for not more than 1 year.

3. The requirements for continuing education established pursuant to paragraph (c) of subsection 1 must:

(a) Include the completion of at least 45 hours of continuing education every 3 years; and

(b) Specify the manner in which a person may complete those hours.

4. In a county whose population is less than 100,000, or in any city located within such a county, if the city or county provides for the inspection of structures and the enforcement of building codes pursuant to NRS 278.570, 278.573 and 278.575, the city or county shall, by resolution, establish the requirements for certifying and for continuing education for a person who, on a full-time basis, fills the position of building official, reviews plans or inspects a structure or building or a portion of a structure or building pursuant to NRS 278.570 or 278.575.

Sec. 4. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, *and sections 2 and 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 5. NRS 278.564 is hereby amended to read as follows:

278.564 1. Any deed restrictions in the unincorporated area of a county whose population is 100,000 or more but less than 400,000, recorded after July 1, 1973, may provide for the establishment and operation, under appropriate rules and procedure, of a construction committee.

2. As soon as a construction committee has been established and organized pursuant to the provisions of subsection 1, and no later than January 1 of each year thereafter, the officers of the committee shall file an affidavit with the building ~~inspector~~ *official* having jurisdiction over the area within which the subdivision is situated, identifying the committee as the constituted construction committee empowered pursuant to recorded deed restrictions to determine compliance with those restrictions on lots in the subdivision. The affidavit must also set forth the names of the officers of the committee, including the address of a particular officer designated as the authorized representative of the committee for the purposes of NRS 278.563 to 278.568, inclusive.

Sec. 6. NRS 278.565 is hereby amended to read as follows:

278.565 1. A copy of deed restrictions proposed for a subdivision in a county whose population is 100,000 or more but less than 400,000 must be filed with the planning commission or governing body with the tentative map.

2. Upon final approval of the subdivision, a copy of the restrictions must be:

(a) Filed with the building ~~inspector~~ *official* having jurisdiction over the area within which the subdivision is situated.

(b) Presented to each prospective purchaser of real property within the subdivision.

3. The original copy of the restrictions may be recorded with the county recorder immediately following the recording of the final map.

Sec. 7. NRS 278.566 is hereby amended to read as follows:

278.566 1. Except as provided in subsection 3, the building ~~inspector~~ *official* in a county whose population is 100,000 or more but less than 400,000, shall not issue any building permit for the construction, reconstruction, alteration or use of any building or other structure on a lot subject to deed restrictions unless he has received a written report thereon from the construction committee.

2. An application for a written report must be made by certified mail addressed to the authorized representative of the construction committee. If the construction committee fails or refuses to submit its written report to the building ~~inspector~~ *official* within 20 days from the date of its receipt of a written request therefor, the building ~~inspector~~ *official* must proceed as provided by law in cases where there is no functioning construction committee.

3. This section does not apply if the cost of the construction, reconstruction, alteration or use specified in subsection 1 is \$500 or less.

Sec. 8. NRS 278.567 is hereby amended to read as follows:

278.567 If the construction committee required by NRS 278.564 fails to be organized, is dissolved or becomes inactive:

1. The building ~~inspector~~ *official* may issue an otherwise proper building permit for an improvement on property subject to deed restrictions.

2. An owner or owners of real property within a subdivision may lawfully undertake to prevent, or seek damages by reason of, a violation of deed restrictions pertaining to such subdivision.

Sec. 9. NRS 278.570 is hereby amended to read as follows:

278.570 1. The governing body of any city or county may provide for the inspection of structures and the enforcement of the zoning regulations *and building codes* by means of the withholding of building permits. For ~~such~~ *the purpose of the inspection of structures and the enforcement of building codes by means of the withholding of building permits*, the governing body may establish and fill a position of city or county building ~~inspector~~ *official*, and may fix the compensation attached to the position, or may authorize an administrative official of the city or county to assume the functions of the position in addition to his customary functions. *A building official must comply with the requirements for certification and continuing education established pursuant to section 3 of this act.*

2. The building ~~inspector~~ *official* may appoint such employees as he may deem necessary for the fulfillment of the duties of his position. The appointment, promotion, demotion and removal of such employees shall be subject to the same provisions of law as govern other corresponding civil employees in the city or county. *Except as otherwise provided in section 3 of this act, any employee appointed pursuant to this subsection whose duties include the reviewing of plans or the inspection of any portion of a structure must comply with the requirements for certification and continuing education established pursuant to that section.*

3. The expenditures of the building ~~inspector~~ *official* shall be within the amounts appropriated for the purpose by the governing body which may provide the funds, equipment and accommodations necessary for the building ~~inspector's~~ *official's* work.

Sec. 10. NRS 278.573 is hereby amended to read as follows:

278.573 1. A building ~~inspector~~ *official* who issues a permit to the owner of a residence to construct, alter, repair, add to, subtract from, improve, move, wreck or demolish the residence shall, at the same time, deliver to him a statement. The owner of the residence shall acknowledge in writing receipt of the statement.

2. The statement delivered by the building ~~inspector~~ *official* must include the following text:

State law requires construction to be done by licensed contractors. You have applied for a permit under an exemption to that law. The exemption allows you, as the owner of your property, to act as your own contractor with certain restrictions although you do not have a license.

You must directly supervise the construction, on the job, yourself. The building or residence must be for your own use or occupancy. It may not be built or substantially improved for sale or lease. If you sell or lease a building you have built or substantially improved yourself within 1 year after the construction is complete, it is presumed that you built or substantially improved it for sale or lease, which is a violation of this exemption and a violation of chapter 624 of NRS.

You may not hire an unlicensed person to act as your contractor or to supervise people working on your building. It is your responsibility to make sure that people employed by you have the licenses required by state law and by county or municipal licensing ordinances. You may not delegate the responsibility for supervising work to a contractor unless he is licensed to perform the work being done. Any person working on your building who is not licensed must work under your direct supervision and must be employed by you, which means that you must deduct FICA and withholding tax and provide industrial insurance and pay the required contribution for unemployment compensation for that employee, and comply with other state and federal laws relating to employment. Your construction must comply with all applicable laws, ordinances, building codes and zoning regulations.

Sec. 11. NRS 278.575 is hereby amended to read as follows:

278.575 The governing body of a city or county which, pursuant to NRS 278.570, appoints a building ~~inspector or authorizes an administrative official of the city or county to assume the functions of that position,~~ *official* may establish a program to allow independent contractors *who comply with the requirements for certification and continuing education established pursuant to section 3 of this act* to review plans for and inspect buildings on behalf of ~~that building inspector or administrative~~ *the building* official.

Sec. 12. NRS 278.587 is hereby amended to read as follows:

278.587 A city or county building ~~department~~ *official* shall notify the state board of professional engineers and land surveyors in writing if a licensed professional engineer or land surveyor:

1. Submits plans that are substantially incomplete; or
2. Submits plans for the same project that are rejected by the department at least three times.

Sec. 13. NRS 278.589 is hereby amended to read as follows:

278.589 A city or county building ~~inspector, or other officer performing the functions of that position,~~ *official* shall notify the state board of architecture, interior design and residential design in writing if a registered architect, interior designer or residential designer:

1. Submits plans for a project which are substantially incomplete; or
2. Submits plans for the same project which are rejected by the city or county ~~officer~~ **building official** at least three times.

Sec. 14. NRS 278.610 is hereby amended to read as follows:

278.610 1. After ~~the establishment of the position of building inspector and the filling of the position as provided in~~ **a building official is appointed pursuant to** NRS 278.570, it is unlawful to erect, construct, reconstruct, alter or change the use of any building or other structure within the territory covered by the building code or zoning regulations without obtaining a building permit from the building ~~inspector~~ **official**.

2. The building ~~inspector~~ **official** shall not issue any permit unless the plans of and for the proposed erection, construction, reconstruction, alteration or use fully:

(a) Conform to all building code and zoning regulations then in effect.

(b) If applicable, comply with the provisions of NRS 393.110.

3. A building ~~inspector~~ **official** shall not issue a building permit to a person acting for another unless the applicant proves to the satisfaction of the building ~~inspector~~ **official** that he is licensed as a contractor for that work pursuant to the provisions of chapter 624 of NRS.

Sec. 15. NRS 40.670 is hereby amended to read as follows:

40.670 1. A contractor who receives written notice of a constructional defect resulting from work performed by the contractor or his agent, employee or subcontractor which creates an imminent threat to the health or safety of the inhabitants of the residence shall take reasonable steps to cure the defect as soon as practicable. The contractor shall not cure the defect by making any repairs for which he is not licensed or by causing any repairs to be made by a person who is not licensed to make those repairs. If the contractor fails to cure the defect in a reasonable time, the owner of the residence may have the defect cured and may recover from the contractor the reasonable cost of the repairs plus reasonable attorney's fees and costs in addition to any other damages recoverable under any other law.

2. A contractor who does not cure a defect pursuant to this section because he has determined, in good faith and after a reasonable inspection, that there is not an imminent threat to the health or safety of the inhabitants is not liable for attorney's fees and costs pursuant to this section, except that if a building inspector, **building official or other similar authority** employed by a governmental body with jurisdiction certifies that there is an imminent threat to the health and safety of the inhabitants of the residence, the contractor is subject to the provisions of subsection 1.

Sec. 16. NRS 384.080 is hereby amended to read as follows:

384.080 1. The commission is vested with all of the functions and powers relating to the administration of NRS 384.010 to 384.210, inclusive.

2. It may, to the extent permitted by money appropriated or otherwise received therefor, employ such technical and clerical personnel, including a building inspector ~~or~~ **or other similar authority**, as may be necessary to the discharge of its duties, and fix their compensation.

Sec. 17. NRS 384.110 is hereby amended to read as follows:

384.110 1. No structure may be erected, reconstructed, altered, restored, moved or demolished within the historic district until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to and approved by the commission. The application for a certificate of appropriateness shall be in such form and accompanied by such plans, specifications and other material as the commission may from time to time prescribe.

2. In its deliberations under the provisions of NRS 384.010 to 384.210, inclusive, the commission shall not consider interior arrangement or use, and shall take no action under NRS 384.010 to 384.210, inclusive, except for the purpose of preventing the erection, reconstruction, restoration, alteration, moving or razing of buildings in the district obviously incongruous with the historic aspects of the district.

3. ~~Nothing in~~ *The provisions of* NRS 384.010 to 384.210, inclusive, ~~prevents~~ *do not prevent*:

(a) The ordinary maintenance or repair of any exterior architectural feature in the historic district which does not involve a change of design or material or the outward appearance thereof;

(b) The construction, reconstruction, alteration or demolition of any such feature which the building inspector or similar authority certifies is required by the public safety because of an unsafe or dangerous condition; or

(c) The construction, reconstruction, alteration or demolition of any such feature under a permit issued by a building inspector or similar authority prior to the effective date of the establishment of such district.

Sec. 18. NRS 384.190 is hereby amended to read as follows:

384.190 1. The building inspector *or similar authority* employed by the commission may investigate, inspect and examine any structure, place or area in the district, either in connection with an application for a certificate of appropriateness, or at any time to determine whether it is in violation of any provision of NRS 384.010 to 384.210, inclusive, or any regulation or order adopted or issued under authority of NRS 384.010 to 384.210, inclusive.

2. Whenever any work is being done contrary to the provisions of NRS 384.010 to 384.210, inclusive, the building inspector *or similar authority* may order the work stopped by notice in writing served on any person engaged in the doing or causing such work to be done, and any such person shall forthwith stop such work until authorized by the commission to proceed with the work.

Sec. 19. NRS 405.040 is hereby amended to read as follows:

405.040 1. It shall be unlawful for any person, firm, association or corporation, personally or by agent, to erect, place or maintain any billboard, sign or any form of notice or advertising outside the city limits of any city or town:

(a) On the public domain;

(b) On land owned or leased by such advertiser or agent but not used as the site for manufacturing the goods or articles advertised; or

(c) On the lands of another except where, by painting, an area of the barns or other outbuildings thereon may be preserved (for the purposes of

this paragraph "area" is defined as the entire wall or roof aspect on which an advertisement may be painted), without first having secured from the county building ~~inspector~~ **official**, if one has been appointed pursuant to NRS 278.570, or if not, from the county clerk of the county in which the sign may be located a permit to erect, or continue the use of, such sign, billboard or other form of notice or advertisement.

2. No permit for the erection of such sign, billboard or other form of advertisement shall be issued unless and until the applicant shall have paid a fee in the sum of \$5. On the tender of the fee the county building ~~inspector~~ **official** or county clerk shall issue the permit.

3. No fee shall be required for any billboard, sign or advertisement erected or placed by any farm bureau, chamber of commerce or lawful authority to advertise exclusively any city, town or geographic area, or public event.

4. This section shall not apply to the owner or occupant of any land outside the limits of any city, who may place or erect on the land or on the outbuildings thereon any sign or notice or advertisement intended to benefit the land or improvements thereon and advertise the business conducted in the buildings on the land.

Sec. 20. NRS 405.060 is hereby amended to read as follows:

405.060 On granting a permit the county building ~~inspector~~ **official** or county clerk shall assign a permit number which shall be painted or printed, together with the name of the county in which the permit is issued, on every sign, billboard or other form of advertising, as the case may be, placed under NRS 405.020 to 405.100, inclusive.

Sec. 21. NRS 523.164 is hereby amended to read as follows:

523.164 1. The director shall adopt regulations for the conservation of energy in buildings, including manufactured homes, which establish the minimum standards for:

- (a) The construction of floors, walls, ceilings and roofs;
- (b) The equipment and systems for heating, ventilation and air-conditioning;
- (c) Electrical equipment and systems;
- (d) Insulation; and
- (e) Other factors which affect the use of energy in a building.

2. The director may exempt a building from a standard if he determines that application of the standard to the building would not accomplish the purpose of the regulations.

3. The regulations must authorize allowances in design and construction for solar, wind or any other renewable source of energy used to supply all or a part of the energy required in a building.

4. The standards adopted by the director are the minimum standards for the conservation of energy which apply only to areas in which the governing body of the local government has not adopted standards for the conservation of energy in buildings. Such governing bodies shall assist the director in the enforcement of the regulations adopted pursuant to this section.

5. The director shall solicit comments regarding the adoption of regulations pursuant to this section from:

- (a) Persons in the business of constructing and selling homes;
- (b) Contractors;
- (c) Public utilities;
- (d) Local building ~~inspectors;~~ *officials*; and
- (e) The general public,

before adopting any regulations. The director must conduct at least three hearings in different locations in the state, after giving 30 days' notice of each hearing, before he may adopt any regulations pursuant to this section.

Sec. 22. NRS 618.425 is hereby amended to read as follows:

618.425 1. Any employee, representative of employees, provider of health care or governmental officer or employee whose primary duty is to ensure public safety, including a building inspector, *building official or other similar authority*, believing that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an investigation by giving notice, orally or in writing, to the administrator or his representative of the violation or danger.

2. The person giving the notice must state with reasonable particularity the grounds for the notice. The name of any employee giving a complaint notice or names of employees mentioned in the complaint must be held confidential. If the complaint is given orally, the division shall send to the complainant a form upon which he may supplement his oral complaint. His failure to return the form does not affect the division's duty to act pursuant to this section.

3. If upon receipt of the notification the division determines that there are reasonable grounds to believe that a violation or imminent danger exists, it shall make a special investigation within 14 days unless there is a substantial probability that death or serious physical harm could result from the violation or danger, then the investigation must be made immediately after the administrator receives the notice to determine whether a violation or imminent danger exists. The division need not investigate a complaint within the times required by this subsection if, from the facts stated in the complaint, the administrator determines that the complaint is intended solely to harass the employer. If the division determines that there are no reasonable grounds to believe that a violation or imminent danger exists, it shall notify the employees or other person who gave the notice of such determination within 14 days after the administrator receives the notice.

Sec. 23. NRS 618.435 is hereby amended to read as follows:

618.435 1. Before or during any inspection of a workplace, any employee, representative of employees, provider of health care or governmental officer or employee whose primary duty is to ensure public safety, including a building inspector, *building official or other similar authority*, may notify the administrator or any representative of the administrator responsible for conducting the inspection, orally or in writing, of any violation of this chapter which they have reason to believe exists in the workplace. The division shall by regulation establish procedures for informal review of any refusal by a representative of the administrator to issue a citation with respect to any such alleged violation and shall furnish the employees or other persons requesting the review a written statement of the reasons for the administrator's final disposition of the case within 14 days after the administrator receives the notice.

2. An opportunity must be afforded to a representative of the employer and an authorized representative of the employees to accompany the representative of the division during the physical inspection of the place of employment or, where there is no authorized representative of the employees, consultation must be had with a reasonable number of employees, but no more than one employee may accompany the division's representative during the inspection.

3. Any employee of the employer who accompanies the representative of the division during the inspection pursuant to subsection 2 is entitled to be paid by the employer at his regular rate of pay for the time spent with the representative of the division inspecting the place of employment if he would have otherwise been compensated for working during that time.

4. For the purposes of this section, "representative of an employee" means a person previously identified to the division as an authorized representative of the employee bargaining unit of a labor organization which has a collective bargaining relationship with the employer and represents the affected employees.

Sec. 24. NRS 645D.100 is hereby amended to read as follows:

645D.100 The provisions of this chapter do not apply to:

1. A federal or state employee, or an employee of a local government, who prepares or communicates an inspection report as part of his official duties, unless a certificate is required as a condition of his employment.

2. A person appointed to evaluate real estate pursuant to chapter 152 of NRS or NRS 269.125, except as required by the appointing judge.

3. A board of appraisers acting pursuant to NRS 269.135.

4. A person licensed, certified or registered pursuant to chapter 645, 645C or 684A of NRS while he is performing an act within the scope of his license, certification or registration. For the purposes of this subsection, a person licensed, certified or registered pursuant to chapter 645C of NRS shall be deemed to be acting within the scope of his license, certification or registration while he is performing an appraisal prescribed by federal law that requires a statement of visual condition and while he is preparing or communicating a report of such an appraisal.

5. A person who makes an evaluation of an improvement as an incidental part of his employment for which special compensation is not provided, if that evaluation is only provided to his employer for internal use within the place of his employment.

6. A person who provides an estimate of cost, repair or replacement of any improvements upon real estate.

7. Any person who reviews plans, performs inspections, prepares inspection reports or examines any component of a structure or construction pursuant to NRS 278.570 or 278.575.

Sec. 25. Notwithstanding the amendatory provisions of this act, a city or county shall not require a person who is employed by the city or county before October 1, 2001, to comply with the requirements for certification and continuing education pursuant to the provisions of section 3 of this act before October 1, 2007.