

SENATE BILL NO. 176—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF WASHOE COUNTY)

FEBRUARY 20, 2003

Referred to Committee on Government Affairs

SUMMARY—Makes various changes regarding planning and zoning. (BDR 22-583)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: 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; requiring the preparation of a certificate to state that notice of certain hearings has been provided to the required persons and governmental entities; making such a certificate a public record; revising the requirements governing notice of a hearing regarding the amendment to a zoning boundary; revising the date by which a subdivider must present successive maps in a series of final maps; 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.** Chapter 278 of NRS is hereby amended by adding
2 thereto a new section to read as follows:
3 1. *If a governing body or other entity causes notice of a*
4 *hearing to be provided pursuant to NRS 278.0215, 278.147,*
5 *278.260, 278.315, 278.4789 or 278.480, the person designated by*
6 *the governing body or other entity to give the notice on behalf of*
7 *the governing body or other entity shall, within 24 hours after the*
8 *notice has been provided, prepare and sign a certificate which*
9 *states that the notice has been provided in the manner required by*
10 *the applicable statute.*



* S B 1 7 6 R 1 *

1 **2. The certificate required pursuant to subsection 1 must**
2 **contain:**

- 3 **(a) The date on which the notice was provided;**
4 **(b) A copy of the notice; and**
5 **(c) A list of the persons or governmental entities to which the**
6 **notice was provided.**

7 **3. The certificate must be based on the personal knowledge of**
8 **the person who prepared and signed the certificate, and not upon**
9 **information and belief that the notice has been provided.**

10 **4. A certificate prepared pursuant to this section is a public**
11 **record and is open to inspection pursuant to NRS 239.010.**

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

13 278.010 As used in NRS 278.010 to 278.630, inclusive, **and**
14 **section 1 of this act**, unless the context otherwise requires, the
15 words and terms defined in NRS 278.0105 to 278.0195, inclusive,
16 have the meanings ascribed to them in those sections.

17 **Sec. 3.** NRS 278.260 is hereby amended to read as follows:

18 278.260 1. The governing body shall provide for the manner
19 in which zoning regulations and restrictions and the boundaries of
20 zoning districts are determined, established, enforced and amended.

21 2. A zoning regulation, restriction or boundary , or an
22 amendment thereto , must not become effective until after
23 transmittal of a copy of the relevant application to the town board,
24 citizens' advisory council or town advisory board pursuant to
25 subsection 5, if applicable, and after a public hearing at which
26 parties in interest and other persons have an opportunity to be heard.
27 The governing body shall cause notice of the time and place of the
28 hearing to be:

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

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

34 3. If a proposed amendment involves a change in the boundary
35 of a zoning district in a county whose population is less than
36 ~~400,000,~~ **100,000**, the governing body shall, to the extent this
37 notice does not duplicate the notice required by subsection 2, cause
38 a notice **of the hearing** to be sent at least 10 days before the hearing
39 to:

40 (a) The applicant;

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

44 (c) The owner, as listed on the county assessor's records, of each
45 of the 30 separately owned parcels nearest to the portion of the



* S B 1 7 6 R 1 *

1 boundary being changed, to the extent this notice does not duplicate
2 the notice given pursuant to paragraph (b); and

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

5 The notice must be sent by mail or, if requested by a party to whom
6 notice must be provided pursuant to paragraphs (a) to (d), inclusive,
7 by electronic means if receipt of such an electronic notice can be
8 verified, and **must** be written in language which is easy to
9 understand. The notice must set forth the time, place and purpose of
10 the hearing and a physical description of ~~H~~ or a map detailing ~~H~~ the
11 proposed change, must indicate the existing zoning designation ~~H~~
12 and the proposed zoning designation ~~H~~ of the property in question,
13 and must contain a brief summary of the intent of the proposed
14 change. If the proposed amendment involves a change in the
15 boundary of the zoning district that would reduce the density or
16 intensity with which a parcel of land may be used, the notice must
17 include a section that an owner of property may complete and return
18 to the governing body to indicate his approval of or opposition to
19 the proposed amendment.

20 4. If a proposed amendment involves a change in the boundary
21 of a zoning district in a county whose population is ~~[400,000]~~
22 **100,000** or more, the governing body shall, to the extent this notice
23 does not duplicate the notice required by subsection 2, cause a
24 notice **of the hearing** to be sent at least 10 days before the hearing
25 to:

26 (a) The applicant;

27 (b) Each owner, as listed on the county assessor's records, of
28 real property located within ~~[500]~~ **750** feet of the portion of the
29 boundary being changed;

30 (c) The owner, as listed on the county assessor's records, of each
31 of the 30 separately owned parcels nearest to the portion of the
32 boundary being changed, to the extent this notice does not duplicate
33 the notice given pursuant to paragraph (b); ~~and~~

34 (d) **Each tenant of a mobile home park if that park is located**
35 **within 750 feet of the property in question; and**

36 (e) Any advisory board which has been established for the
37 affected area by the governing body.

38 The notice must be sent by mail or, if requested by a party to whom
39 notice must be provided pursuant to paragraphs (a) to ~~H(d)~~ **(e)**,
40 inclusive, by electronic means if receipt of such an electronic notice
41 can be verified, and **must** be written in language which is easy to
42 understand. The notice must set forth the time, place and purpose of
43 the hearing and a physical description of ~~H~~ or a map detailing ~~H~~ the
44 proposed change, must indicate the existing zoning designation ~~H~~
45 and the proposed zoning designation ~~H~~ of the property in question,



1 and must contain a brief summary of the intent of the proposed
2 change. If the proposed amendment involves a change in the
3 boundary of the zoning district that would reduce the density or
4 intensity with which a parcel of land may be used, the notice must
5 include a section that an owner of property may complete and return
6 to the governing body to indicate his approval of or opposition to
7 the proposed amendment.

8 5. If an application is filed with the governing body and the
9 application involves a change in the boundary of a zoning district
10 within an unincorporated town that is located more than 10 miles
11 from an incorporated city, the governing body shall, at least 10 days
12 before the hearing on the application is held pursuant to subsection
13 2, transmit a copy of any information pertinent to the application to
14 the town board, citizens' advisory council or town advisory board,
15 whichever is applicable, of the unincorporated town. The town
16 board, citizens' advisory council or town advisory board may make
17 recommendations regarding the application and submit its
18 recommendations before the hearing on the application is held
19 pursuant to subsection 2. The governing body or other authorized
20 person or entity conducting the hearing shall consider any
21 recommendations submitted by the town board, citizens' advisory
22 council or town advisory board regarding the application and, within
23 10 days after making its decision on the application, *shall* transmit a
24 copy of its decision to the town board, citizens' advisory council or
25 town advisory board.

26 6. ~~HH~~ *In a county whose population is 400,000 or more, if* a
27 notice is required to be sent pursuant to subsection 4:

- 28 (a) The exterior of a notice sent by mail; or
29 (b) The cover sheet, heading or subject line of a notice sent by
30 electronic means,
31 must bear a statement , in at least 10-point bold type or font , in
32 substantially the following form:

33
34 OFFICIAL NOTICE OF PUBLIC HEARING
35

36 7. In addition to sending the notice required pursuant to
37 subsection 4, in a county whose population is 400,000 or more, the
38 governing body shall, not later than 10 days before the hearing, erect
39 or cause to be erected on the property, at least one sign not less than
40 2 feet high and 2 feet wide. The sign must be made of material
41 reasonably calculated to withstand the elements for 40 days.
42 The governing body must be consistent in its use of colors for the
43 background and lettering of the sign. The sign must include the
44 following information:

- 45 (a) The existing zoning designation of the property in question;



* S B 1 7 6 R 1 *

1 (b) The proposed zoning designation of the property in question;
2 (c) The date, time and place of the public hearing;
3 (d) A telephone number which may be used by interested
4 persons to obtain additional information; and

5 (e) A statement which indicates whether the proposed zoning
6 designation of the property in question complies with the
7 requirements of the master plan of the city or county in which the
8 property is located.

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

13 9. A governing body may charge an additional fee for each
14 application to amend an existing zoning regulation, restriction or
15 boundary to cover the actual costs resulting from the mailed notice
16 required by this section and the erection of not more than one of the
17 signs required by subsection 7, if any. The additional fee is not
18 subject to the limitation imposed by NRS 354.5989.

19 10. The governing body shall remove or cause to be removed
20 any sign required by subsection 7 within 5 days after the final
21 hearing for the application for which the sign was erected. There
22 must be no additional charge to the applicant for such removal.

23 11. If a proposed amendment involves a change in the
24 boundary of a zoning district in a county whose population is
25 400,000 or more that would reduce the density or intensity with
26 which a parcel of land may be used and at least 20 percent of the
27 property owners to whom notices were sent pursuant to subsection 4
28 indicate in their responses opposition to the proposed amendment,
29 the governing body shall not approve the proposed amendment
30 unless the governing body:

31 (a) Considers separately the merits of each aspect of the
32 proposed amendment to which the owners expressed opposition;
33 and

34 (b) Makes a written finding that the public interest and necessity
35 will be promoted by approval of the proposed amendment.

36 12. The governing body of a county whose population is
37 400,000 or more shall not approve a zoning regulation, restriction or
38 boundary, or an amendment thereof, that affects any unincorporated
39 area of the county that is surrounded completely by the territory of
40 an incorporated city without sending a notice to the governing body
41 of the city. The governing body of the city, or its designee, must
42 submit any recommendations to the governing body of the county
43 within 15 days after receiving the notice. The governing body of the
44 county shall consider any such recommendations. If the governing
45 body of the county does not accept a recommendation, the



* S B 1 7 6 R 1 *

1 governing body of the county, or its authorized agent, shall specify
2 for the record the reasons for its action.

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

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

13 2. A hearing to consider an application for the granting of a
14 variance, special use permit, conditional use permit or special
15 exception must be held before the board of adjustment, planning
16 commission or hearing examiner within 65 days after the filing of
17 the application, unless a longer time or a different process of review
18 is provided in an agreement entered into pursuant to NRS 278.0201.

19 3. In a county whose population is less than 100,000, notice
20 setting forth the time, place and purpose of the hearing must be sent
21 at least 10 days before the hearing to:

22 (a) The applicant;

23 (b) Each owner of real property, as listed on the county
24 assessor's records, located within 300 feet of the property in
25 question;

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

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

30 4. Except as otherwise provided in subsection 7, in a county
31 whose population is 100,000 or more, a notice setting forth the time,
32 place and purpose of the hearing must be sent at least 10 days before
33 the hearing to:

34 (a) The applicant;

35 (b) If the application is for a deviation of at least 10 percent but
36 not more than 30 percent from a standard for development:

37 (1) Each owner, as listed on the county assessor's records, of
38 real property located within 100 feet of the property in question; and

39 (2) Each tenant of a mobile home park located within 100
40 feet of the property in question;

41 (c) If the application is for a special use permit or a deviation of
42 more than 30 percent from a standard for development:

43 (1) Each owner, as listed on the county assessor's records, of
44 real property located within 500 feet of the property in question;



* S B 1 7 6 R 1 *

1 (2) The owner, as listed on the county assessor's records, of
2 each of the 30 separately owned parcels nearest the property in
3 question, to the extent this notice does not duplicate the notice given
4 pursuant to subparagraph (1); and

5 (3) Each tenant of a mobile home park located within 500
6 feet of the property in question;

7 (d) If the application is for ~~la change in zoning or~~ a project of
8 regional significance, as that term is described in NRS 278.02542:

9 (1) Each owner, as listed on the county assessor's records, of
10 real property located within 750 feet of the property in question;

11 (2) The owner, as listed on the county assessor's records, of
12 each of the 30 separately owned parcels nearest the property in
13 question, to the extent this notice does not duplicate the notice given
14 pursuant to subparagraph (1); and

15 (3) Each tenant of a mobile home park located within 750
16 feet of the property in question; and

17 (e) Any advisory board which has been established for the
18 affected area by the governing body.

19 5. If an application is filed with the governing body for the
20 issuance of a special use permit with regard to property situated
21 within an unincorporated town that is located more than 10 miles
22 from an incorporated city, the governing body shall, at least 10 days
23 before the hearing on the application is held pursuant to subsection
24 2, transmit a copy of any information pertinent to the application to
25 the town board, citizens' advisory council or town advisory board,
26 whichever is applicable, of the unincorporated town. The town
27 board, citizens' advisory council or town advisory board may make
28 recommendations regarding the application and submit its
29 recommendations before the hearing on the application is held
30 pursuant to subsection 2. The governing body or other authorized
31 person or entity conducting the hearing shall consider any
32 recommendations submitted by the town board, citizens' advisory
33 council or town advisory board regarding the application and, within
34 10 days after making its decision on the application, *shall* transmit a
35 copy of its decision to the town board, citizens' advisory council or
36 town advisory board.

37 6. An applicant or a protestant may appeal a decision of the
38 board of adjustment, planning commission or hearing examiner in
39 accordance with the ordinance adopted pursuant to NRS 278.3195.

40 7. In a county whose population is 400,000 or more, if the
41 application is for the issuance of a special use permit for an
42 establishment which serves alcoholic beverages for consumption on
43 or off of the premises as its primary business in a district which is
44 not a gaming enterprise district as defined in NRS 463.0158, the
45 governing body shall, at least 10 days before the hearing:



* S B 1 7 6 R 1 *

- 1 (a) Send a notice setting forth the time, place and purpose of the
2 hearing to:
- 3 (1) The applicant;
- 4 (2) Each owner, as listed on the county assessor's records, of
5 real property located within 1,500 feet of the property in question;
- 6 (3) The owner, as listed on the county assessor's records, of
7 each of the 30 separately owned parcels nearest the property in
8 question, to the extent this notice does not duplicate the notice given
9 pursuant to subparagraph (2);
- 10 (4) Each tenant of a mobile home park located within 1,500
11 feet of the property in question; and
- 12 (5) Any advisory board which has been established for the
13 affected area by the governing body; and
- 14 (b) Erect or cause to be erected on the property, at least one sign
15 not less than 2 feet high and 2 feet wide. The sign must be made of
16 material reasonably calculated to withstand the elements for 40
17 days. The governing body must be consistent in its use of colors for
18 the background and lettering of the sign. The sign must include the
19 following information:
- 20 (1) The existing permitted use and zoning designation of the
21 property in question ;
- 22 (2) The proposed permitted use of the property in question;
- 23 (3) The date, time and place of the public hearing; and
- 24 (4) A telephone number which may be used by interested
25 persons to obtain additional information.
- 26 8. A sign required pursuant to subsection 7 is for informational
27 purposes only, and must be erected regardless of any local ordinance
28 regarding the size, placement or composition of signs to the
29 contrary.
- 30 9. A governing body may charge an additional fee for each
31 application for a special use permit to cover the actual costs
32 resulting from the erection of not more than one sign required by
33 subsection 7, if any. The additional fee is not subject to the
34 limitation imposed by NRS 354.5989.
- 35 10. The governing body shall remove or cause to be removed
36 any sign required by subsection 7 within 5 days after the final
37 hearing for the application for which the sign was erected. There
38 must be no additional charge to the applicant for such removal.
- 39 11. The notice required to be provided pursuant to subsections
40 3, 4 and 7 must be sent by mail or, if requested by a party to whom
41 notice must be provided pursuant to those subsections, by electronic
42 means if receipt of such an electronic notice can be verified, and
43 **must** be written in language which is easy to understand. The notice
44 must set forth the time, place and purpose of the hearing and a
45 physical description or map of the property in question.



* S B 1 7 6 R 1 *

1 12. The provisions of this section do not apply to an
2 application for a conditional use permit filed pursuant to
3 NRS 278.147.

4 **Sec. 5.** NRS 278.360 is hereby amended to read as follows:

5 278.360 1. Unless a longer time is provided in an agreement
6 entered into pursuant to NRS 278.0201:

7 (a) Unless the time is extended, the subdivider shall present to
8 the governing body, or the planning commission or the director of
9 planning or other authorized person or agency if authorized to take
10 final action by the governing body, within 2 years after the approval
11 of a tentative map:

12 (1) A final map, prepared in accordance with the tentative
13 map, for the entire area for which a tentative map has been
14 approved; or

15 (2) The first of a series of final maps covering a portion of
16 the approved tentative map. If the subdivider elects to present a
17 successive map in a series of final maps, each covering a portion of
18 the approved tentative map, the subdivider shall present to the
19 governing body, or the planning commission or the director of
20 planning or other authorized person or agency if authorized to take
21 final action by the governing body, on or before the anniversary of
22 the date on which the subdivider ~~presented to that entity for~~
23 ~~recording]~~ **recorded** the first in the series of final maps:

24 (I) A final map, prepared in accordance with the tentative
25 map, for the entire area for which the tentative map has been
26 approved; or

27 (II) The next final map in the series of final maps
28 covering a portion of the approved tentative map.

29 (b) If the subdivider fails to comply with the provisions of
30 paragraph (a), all proceedings concerning the subdivision are
31 terminated.

32 (c) The governing body or planning commission may grant an
33 extension of not more than 1 year for the presentation of any final
34 map after the 1-year period for presenting a successive final map has
35 expired.

36 2. If the subdivider is presenting in a timely manner a series of
37 final maps, each covering a portion of the approved tentative map,
38 no requirements other than those imposed on each of the final maps
39 in the series may be placed on the map when an extension of time is
40 granted unless the requirement is directly attributable to a change in
41 applicable laws which affect the public health, safety or welfare.

