

SENATE BILL NO. 354—COMMITTEE ON JUDICIARY

MARCH 23, 2009

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing land use decisions.
(BDR 22-235)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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

AN ACT relating to land use planning; revising provisions relating to the appeal of land use decisions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, the governing body of each city and county is required to
2 adopt an ordinance providing that an aggrieved person may appeal the decision of a
3 planning commission, board of adjustment, hearing examiner or other similar
4 official. This bill authorizes an aggrieved person to also appeal the decision of a
5 governing body that acted to accept or reject a recommendation of a planning
6 commission, board of adjustment, hearing examiner or other similar official. Solely
7 within the confines of a county whose population is 400,000 or more (currently
8 Clark County), this bill defines an "aggrieved person" as a person who: (1)
9 appeared before the governing body, planning commission, board of adjustment,
10 hearing examiner or other similar official on the matter which is the subject of the
11 decision; and (2) suffered an injury as a result of the decision that has a substantial
12 adverse effect on the person's property or other legal rights or which is not suffered
13 by the public as a whole. (NRS 278.3195)

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

1 **Section 1.** NRS 278.3195 is hereby amended to read as
2 follows:
3 278.3195 1. Except as otherwise provided in NRS 278.310,
4 each governing body shall adopt an ordinance providing that any
5 person who is aggrieved by a decision of:



1 (a) The planning commission, if the governing body has created
2 a planning commission pursuant to NRS 278.030;

3 (b) The board of adjustment, if the governing body has created a
4 board of adjustment pursuant to NRS 278.270;

5 (c) A hearing examiner, if the governing body has appointed a
6 hearing examiner pursuant to NRS 278.262; or

7 (d) Any other person appointed or employed by the governing
8 body who is authorized to make administrative decisions regarding
9 the use of land,

10 ➔ may appeal the decision to the governing body. ~~In a county
11 whose population is 400,000 or more, a person shall be deemed to
12 be aggrieved under an ordinance adopted pursuant to this subsection
13 if the person appeared, either in person, through an authorized
14 representative or in writing, before a person or entity described in
15 paragraphs (a) to (d), inclusive, on the matter which is the subject of
16 the decision.]~~

17 2. Except as otherwise provided in NRS 278.310, an ordinance
18 adopted pursuant to subsection 1 must set forth, without limitation:

19 (a) The period within which an appeal must be filed with the
20 governing body.

21 (b) The procedures pursuant to which the governing body will
22 hear the appeal.

23 (c) That the governing body may affirm, modify or reverse a
24 decision.

25 (d) The period within which the governing body must render its
26 decision except that:

27 (1) In a county whose population is 400,000 or more, that
28 period must not exceed 45 days.

29 (2) In a county whose population is less than 400,000, that
30 period must not exceed 60 days.

31 (e) That the decision of the governing body is a final decision
32 for the purpose of judicial review.

33 (f) That, in reviewing a decision, the governing body will be
34 guided by the statement of purpose underlying the regulation of the
35 improvement of land expressed in NRS 278.020.

36 (g) That the governing body may charge the appellant a fee for
37 the filing of an appeal.

38 3. In addition to the requirements set forth in subsection 2, in a
39 county whose population is 400,000 or more, an ordinance adopted
40 pursuant to subsection 1 must:

41 (a) Set forth procedures for the consolidation of appeals; and

42 (b) Prohibit the governing body from granting to an aggrieved
43 person more than two continuances on the same matter, unless the
44 governing body determines, upon good cause shown, that the
45 granting of additional continuances is warranted.



4. Any person who:

(a) Has appealed a decision to the governing body in accordance with an ordinance adopted pursuant to subsection 1 ~~H~~ and *is aggrieved by the decision of the governing body; or*

(b) Is aggrieved by ~~the~~ a decision of ~~the~~ a governing body ~~H~~ *regarding the use of land in which the governing body accepted or rejected a recommendation of a person or entity described in paragraphs (a) to (d), inclusive, of subsection 1,*

➔ may appeal that decision to the district court of the proper county by filing a petition for judicial review within 25 days after the date of filing of notice of the decision with the clerk or secretary of the governing body, as set forth in NRS 278.0235. *The appeal to the district court must be confined to the issues considered by the governing body. The remedy provided in this subsection is the exclusive remedy for a person described in paragraphs (a) and (b).*

5. *For the purposes of this section and any ordinance adopted pursuant to subsection 1, in a county whose population is 400,000 or more, a person shall be deemed to be aggrieved by a decision if, on the matter which is the subject of the decision:*

(a) *The person appeared in person, through an authorized representative or in writing:*

(1) *Before a person or entity described in paragraphs (a) to (d), inclusive, of subsection 1; and*

(2) *Before the applicable governing body; and*

(b) *The injury that the person claims he will suffer as a result of the decision:*

(1) *Will have a substantial adverse effect on his property rights or other legal interests, except that a person shall not be deemed to be aggrieved pursuant to this subparagraph if the decision he is appealing may increase or create competition that he claims may be detrimental to his property rights or other legal interests; or*

(2) *Is not suffered by the public as a whole.*

6. As used in this section, "person" includes the Armed Forces of the United States or an official component or representative thereof.

Sec. 2. This act becomes effective on July 1, 2009.

