

Amendment No. 486

Assembly Amendment to Assembly Bill No. 277 (BDR 22-954)

Proposed by: Assembly Committee on Government Affairs

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: Yes Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

KCP



Date: 4/21/2017

A.B. No. 277—Revises provisions governing land use planning. (BDR 22-954)



ASSEMBLY BILL NO. 277—ASSEMBLYMEN YEAGER, FRIERSON, OHRENSCHALL, WATKINS, OSCARSON; ARAUJO, BENITEZ-THOMPSON, BILBRAY-AXELROD, BROOKS, CARLTON, CARRILLO, COHEN, DALY, DIAZ, FLORES, FUMO, JAUREGUI, JOINER, MCCURDY II, MILLER, MONROE-MORENO, NEAL, SPRINKLE, SWANK AND THOMPSON

MARCH 10, 2017

JOINT SPONSORS: SENATORS SEGERBLOM, PARKS, CANCELA, HARRIS; CANNIZZARO, FARLEY, HAMMOND AND MANENDO

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing land use planning. (BDR 22-954)

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; ~~restricting certain powers of~~ establishing uniform statewide standards that local governments must strictly comply with ~~with regard to~~ when exercising powers of land use planning, subdivision regulation and zoning ~~to~~ with regard to certain lands ~~located in~~ within or surrounding national conservation areas; repealing provisions relating to land use planning, subdivision regulation and zoning with regard to certain national conservation areas, national recreation areas and adjacent lands; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Legislature has authorized local governments to exercise certain powers relating to land use planning, subdivision regulation and zoning. (Chapters 244, 268, 269 and 278 of NRS) This bill establishes uniform statewide standards that local governments must strictly comply with when exercising those powers with regard to certain lands within or surrounding any national conservation areas in Nevada.

Currently, the Congress of the United States has designated by federal law the following national conservation areas in Nevada: (1) the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area in Humboldt, Pershing and Washoe Counties (16 U.S.C. §§ 460ppp et seq.); (2) the Sloan Canyon National Conservation Area in Clark County (16 U.S.C. §§ 460qqq et seq.); and (3) the Red Rock Canyon National Conservation Area in Clark County (16 U.S.C. §§ 460ccc et seq.). If Congress designates by federal law any additional national conservation areas in Nevada, this bill would apply to the lands within or surrounding those national

conservation areas but only after the enactment of the federal law making the designation.

Section 1.1 of this bill sets forth legislative findings and declarations underlying this bill. In particular, the Legislature finds in section 1.1 that because of the importance of the natural resources found within national conservation areas in Nevada, there is a legitimate and compelling need to enact uniform statewide standards to regulate development on lands within or surrounding national conservation areas to ensure that development on such lands proceeds at the local level in an orderly and responsible manner without detrimentally and irreversibly impacting the natural resources found within national conservation areas in Nevada. In order to secure, promote and advance these legislative purposes and objectives, the Legislature declares in section 1.1 that it is necessary and essential to: (1) designate and define natural resources overlay lands; (2) establish uniform statewide standards that local governments must strictly comply with when regulating the use of those lands; and (3) provide for judicial review and other appropriate remedies to ensure that local governments strictly comply with those standards.

Section 1.45 of this bill defines "natural resources overlay lands" to mean all parcels of land located: (1) within the boundary of any national conservation area in this State; or (2) not more than one-half mile outside the boundary of any national conservation area in this State. Section 1.45 also provides that if any parcel of land is located partially but not entirely within natural resources overlay lands, the portion of the parcel within natural resources overlay lands is subject to this bill but the remaining portion of the parcel is not subject to this bill, unless a proposed project on the remaining portion includes any part of the portion of the parcel within natural resources overlay lands.

However, sections 1.25, 1.35 and 1.45 of this bill create an exemption from this bill for any parcel of land subject to any development agreement that was approved and recorded under NRS 278.0201-278.0207 before the effective date of this bill. Additionally, section 4.5 of this bill creates an exemption from this bill for any project to develop lands if a local government took final action that approved the project before the effective date of this bill and the local government's final action of approval remained in effect and was enforceable on the effective date of this bill.

With regard to natural resources overlay lands that are subject to this bill, sections 1.55 and 2-4 of this bill provide that a local government's powers relating to planning, subdivision regulation and zoning are subordinate to this bill. However, those sections also provide that this bill establishes, as a minimum threshold, uniform statewide standards relating to natural resources overlay lands but this bill does not preempt or otherwise limit a local government from imposing, with regard to those lands, standards relating to planning, subdivision regulation and zoning that are stricter or more protective of natural resources overlay lands than the standards set forth in this bill. In addition, section 1.6 of this bill authorizes a local government to enact ordinances and adopt policies and procedures that implement and facilitate this bill so long as they are consistent with this bill.

Sections 1.2-1.35, 1.5 and 1.65-1.8 of this bill establish uniform statewide standards for any proposed project to develop, improve or build on natural resources overlay lands that requires final action by a local government, except for any public parks, trailheads, trails or other public recreational facilities that are constructed by a local government or by a developer pursuant to any development agreement.

Under section 1.65, a local government cannot take final action on a proposed project unless: (1) the developer prepares and submits an environmental impact statement; (2) the local government posts the environmental impact statement on its Internet website at least 15 calendar days before the public hearing at which the local government may take final action; and (3) the local government applies and weighs certain factors relating to the impact of the proposed project on natural resources overlay lands. However, if an environmental review relating to the proposed project has already been conducted by an appropriate federal or state agency under law, section 1.65 does not require the developer to prepare and submit an additional environmental impact statement. Instead, the local government must accept and utilize the findings and conclusions made in the federal or state agency's environmental review.

Under section 1.7, when the developer prepares and submits an environmental impact statement, the developer must provide a professional, detailed, thorough and comprehensive analysis and explanation concerning the environmental impacts that the proposed project will have on natural resources overlay lands. In reviewing and analyzing the environmental impact statement, section 1.7 permits the local government to use the regulations adopted by the Council on Environmental Quality pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321 et seq.) as a guide in determining whether the environmental impact statement accurately and appropriately addresses the environmental impacts that the proposed project will have on natural resources overlay lands, but those regulations are not binding or determinative.

Under section 1.75, before the local government takes final action on the proposed project, it must apply and weigh several factors relating to the impact of the proposed project on natural resources overlay lands, including: (1) whether the proposed project will be located near or in close proximity to existing developed or urban lands or existing undeveloped or rural lands; (2) whether the proposed project will be located near or in close proximity to existing infrastructure and utilities or whether the project will require extensive work to build necessary infrastructure and utilities; (3) whether the proposed project will have significant beneficial or adverse environmental impacts; (4) whether the proposed project will restrict or impair open space or public access to open space; and (5) whether the proposed project will protect or preserve or destroy or impair natural terrain, native vegetation, wildlife habitat, watershed areas, scenic views or geological formations. In addition to these factors, section 1.75 permits the local government to consider other factors relating to planning, subdivision regulation and zoning that are stricter or more protective of natural resources overlay lands.

Under section 1.8, if the local government does not strictly comply with this bill when it takes any final action on the proposed project: (1) the final action is deemed void and is of no legal force or effect; and (2) any person aggrieved by the final action may appeal the final action to the district court by filing a petition for judicial review against the local government within the 25-day appeal period. If an aggrieved party timely files a petition for judicial review, section 1.8 provides that the court must determine, based upon the record, whether the local government strictly complied with this bill and whether the local government's determination was based upon substantial evidence in the record. If the aggrieved party prevails on any claim for relief against the local government, section 1.8 provides that the aggrieved party is entitled to an award of reasonable attorney's fees and court costs. Section 1.8 also provides that the developer cannot be awarded attorney's fees or court costs, regardless of the outcome of the judicial review, unless the court imposes them as a penalty against another party for ethically or procedurally improper conduct that is independently sanctionable under court rules or other laws.

Finally, during the 1993 Legislative Session, the Legislature enacted Senate Bill No. 544 (1993 Red Rock Canyon Act), which is a special act that regulates certain uses of land within the Red Rock Canyon National Conservation Area in Clark County. (Chapter 639, Statutes of Nevada 1993, p. 2673) During the 2003 Legislative Session, the Legislature amended the 1993 Red Rock Canyon Act by enacting Senate Bill No. 358 ~~for the 2003 Legislative Session, known as the Red Rock Canyon Conservation Area and Adjacent Lands Act.~~ (2003 Red Rock Canyon Act), which is a special act that restricts the authority of local governments to regulate planning, subdividing and zoning of certain lands located in and adjacent to the Red Rock Canyon National Conservation Area in Clark County. (Chapter 639, Statutes of Nevada 1993, p. 2673, as amended by chapter 105, Statutes of Nevada 2003, p. 595) In 2013, the Nevada Supreme Court ruled that the 2003 Red Rock Canyon Act violates Sections 20, 21 and 25 of Article 4 of the Nevada Constitution on the grounds that it: (1) is a "local or special law" that "regulates county business"; and (2) establishes a "system of county government" that is not "uniform throughout the State." (*Attorney General v. Gypsum Resources*, 129 Nev. Adv. Op. 4, 294 p.3d 404 (2013))

~~This bill revises~~

To conform existing statutory provisions with the constitutional requirements established by the Nevada Supreme Court in *Gypsum Resources* and to resolve any statutory conflicts with this bill, section 5 of this bill repeals: (1) the pertinent provisions of the 1993 Red Rock Canyon Act and the 2003 Red Rock Canyon ~~Conservation Area and~~

~~Adjacent Lands Act, the similarly worded Spring Mountains National Recreation Area Act (Chapter 198, Statutes of Nevada 2009, p. 734) Act; and (2) related provisions of the Nevada Revised Statutes, in a manner consistent with the decision in Gypsum Resources. Sections 1-4 of this bill restrict generally the authority of any local government in this State to enact certain changes relating to planning, subdividing and zoning of certain lands located within any national conservation area, national recreation area or adjacent lands. Section 5 of this bill (NRS 244.154, 268.105, 269.617, 278.0239) In addition, section 5 also repeals certain provisions of the Spring Mountains National Recreation Area Act, chapter 198, Statutes of Nevada 2009, p. 734, which are similar to the provisions of the 2003 Red Rock Canyon Recreation Area and Adjacent Lands Act which) Act that the Court in Gypsum Resources held unconstitutional. 1; and also repeals certain provisions of the Spring Mountains National Recreation Area Act.~~

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 ~~to a new section to read as follows:~~ the provisions set forth as sections 1.1 to 1.8, inclusive, of this act.

Sec. 1.1. 1. The Legislature hereby finds that:

(a) Some of this State's most valuable and distinctive natural resources are found within national conservation areas in Nevada, and those natural resources must be protected and preserved because they are uniquely beautiful, incomparably scenic and geologically, scientifically, historically and culturally significant;

(b) The natural resources found within national conservation areas in Nevada also contribute to the public's health, well-being and welfare and stimulate this State's economy because those natural resources offer unparalleled recreational opportunities in peaceful and idyllic settings which are enjoyed by the residents of this State and which draw many tourists, sightseers and recreational users from other states and countries to Nevada; and

(c) Because of the importance of the natural resources found within national conservation areas in Nevada, there is a legitimate and compelling need to enact uniform statewide standards to regulate development on lands within or surrounding national conservation areas in Nevada to ensure that development on such lands proceeds at the local level in an orderly and responsible manner without detrimentally and irreversibly impacting the natural resources found within national conservation areas in Nevada.

2. The Legislature hereby declares that it is in the best interests of this State, beneficial to the public's health, well-being and welfare and necessary and essential for protecting and preserving this State's natural resources and for securing, promoting and obtaining the benefits of those natural resources for present and future generations to:

(a) Designate and define natural resources overlay lands;

(b) Establish uniform statewide standards that local governments must strictly comply with when regulating the use of those lands; and

(c) Provide for judicial review and other appropriate remedies to ensure that local governments strictly comply with those standards.

Sec. 1.15. As used in sections 1.1 to 1.8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 1.2 to 1.5, inclusive, of this act have the meanings ascribed to them in those sections.

1 Sec. 1.2. “Developer” means a person who wants to undertake or complete
2 any proposed project to develop, improve or build on natural resources overlay
3 lands.

4 Sec. 1.25. 1. “Development agreement” means any agreement for the
5 development of lands authorized pursuant to NRS 278.0201 to 278.0207,
6 inclusive.

7 2. The term does not include any development agreement that was approved
8 and recorded pursuant to NRS 278.0201 to 278.0207, inclusive, before the
9 effective date of this act.

10 Sec. 1.3. “Environmental impact statement” means a detailed report which
11 a developer prepares and submits pursuant to sections 1.1 to 1.8, inclusive, of this
12 act for the purposes of providing both the local government and the public with
13 detailed information concerning the environmental impacts that a proposed
14 project will have on natural resources overlay lands.

15 Sec. 1.35. 1. “Final action” means any final action, decision or order that
16 is taken by:

17 (a) The governing body of a local government; or

18 (b) Any public officer, as defined in NRS 281.005, or commission, board or
19 other body of the local government that is taking such final action, decision or
20 order in lieu of any final action, decision or order taken by the governing body.

21 2. The term includes, without limitation, any final action, decision or order
22 that is taken with regard to:

23 (a) Establishing new zoning districts;

24 (b) Amending, altering or expanding existing zoning districts;

25 (c) Establishing or increasing the number or density of units within zoning
26 districts;

27 (d) Granting or allowing variances or special uses within zoning districts; or

28 (e) Approving any development agreement.

29 3. The term does not include any final action, decision or order that is taken
30 with regard to any parcel of land subject to any development agreement that was
31 approved and recorded pursuant to NRS 278.0201 to 278.0207, inclusive, before
32 the effective date of this act.

33 Sec. 1.4. “National conservation area” means any area designated by
34 federal law as a national conservation area by the Congress of the United States.

35 Sec. 1.45. 1. “Natural resources overlay lands” means all parcels of land
36 located:

37 (a) Within the boundary of any national conservation area in this State; or

38 (b) Not more than one-half mile outside the boundary of any national
39 conservation area in this State.

40 2. The term includes, without limitation:

41 (a) Any parcel of land in its natural state;

42 (b) Any parcel of land that is zoned, rezoned or not zoned;

43 (c) Any parcel of land that is subdivided or developed into smaller parcels or
44 lots;

45 (d) Any parcel of land that is developed for any residential or nonresidential
46 use; or

47 (e) Any other parcel of land that is undeveloped or developed, in whole or in
48 part, regardless of its use.

49 3. The term does not include any parcel of land subject to any development
50 agreement that was approved and recorded pursuant to NRS 278.0201 to
51 278.0207, inclusive, before the effective date of this act.

52 4. For the purposes of this section, if any parcel of land is located partially
53 but not entirely within natural resources overlay lands:

(a) The portion of the parcel within natural resources overlay lands is subject to sections 1.1 to 1.8, inclusive, of this act; and

(b) The remaining portion of the parcel is not subject to sections 1.1 to 1.8, inclusive, of this act, unless a proposed project on the remaining portion includes any part of the portion of the parcel within natural resources overlay lands.

Sec. 1.5. 1. "Project" means any project to develop, improve or build on natural resources overlay lands that requires final action by a local government.

2. The term does not include any public parks, trailheads, trails or other public recreational facilities that are constructed by a local government or by a developer pursuant to any development agreement.

Sec. 1.55. 1. Notwithstanding any other provision of law to the contrary, ~~that~~ :

(a) The powers otherwise conferred by this chapter which relate to planning, subdivision regulation and zoning are subordinate to the provisions of ~~this section.~~

~~2. With respect to any lands located in a national conservation area, national recreation area or adjacent lands, a local government:~~

~~(a) Shall not, in regulating the use of those lands:~~

~~(1) Increase the number of residential dwelling units allowed by zoning regulations in existence on the effective date of this act, unless such an increase can be accomplished, within a given area, by the trading of development credits or another mechanism that allows a greater number of residential dwelling units to be constructed in that area without increasing the overall density of residential dwelling units in that area;~~

~~(2) Establish any new nonresidential zoning districts, other than for public facilities; or~~

~~(3) Expand the size of any nonresidential zoning district in existence on the effective date of this act, other than for public facilities;~~

~~(b) May regulate other matters, including, without limitation, landscaping, buffering, screening, signage and lighting; and~~

~~(c) Retains all other authority regarding planning, zoning and regulation of uses of land otherwise conferred by this chapter.~~

~~3. The prohibitions set forth in paragraph (a) of subsection 2 do not restrict or limit:~~

~~(a) Any existing or future development or other rights held by any owner of real property that is not part of a national conservation area, national recreation area or adjacent lands, including, without limitation, all rights, consents and agreements established, enacted, granted or entered into by a governing body, whether reflected in codes, ordinances, permits, agreements or other documents;~~

~~(b) Any future use or development of real property that is not part of a national conservation area, national recreation area or adjacent lands; or~~

~~(c) The authority of any governing body to regulate real property that is not part of a national conservation area, national recreation area or adjacent lands.~~

~~4. As used in this section:~~

~~(a) "Adjacent lands" means any tract of land which is:~~

~~(1) Located not more than 5 miles from any national conservation area; and~~

~~(2) Not located in a Bureau of Land Management disposal area.~~

~~(b) "Bureau of Land Management disposal area" means public land which is managed by the Bureau of Land Management and which has been identified as potentially suitable for disposal in an approved land use plan or through an amendment to an existing plan.~~

~~(c) "National conservation area" means an area designated as a national conservation area by the Congress of the United States.~~

~~(d) "National recreation area" means an area designated as a national recreation area by the Congress of the United States.~~ sections 1.1 to 1.8, inclusive, of this act; and

(b) A local government shall strictly comply with the provisions of sections 1.1 to 1.8, inclusive, of this act.

2. If there is a conflict between any other provisions of this chapter and the provisions of sections 1.1 to 1.8, inclusive, of this act, the provisions of sections 1.1 to 1.8, inclusive, of this act control.

3. The provisions of sections 1.1 to 1.8, inclusive, of this act:

(a) Establish, as a minimum threshold, uniform statewide standards relating to natural resources overlay lands; and

(b) Must not be interpreted to preempt or otherwise limit a local government from imposing, with regard to those lands, standards relating to planning, subdivision regulation and zoning that are stricter or more protective of natural resources overlay lands than the standards set forth in sections 1.1 to 1.8, inclusive, of this act.

Sec. 1.6. For the purposes of carrying out the provisions of sections 1.1 to 1.8, inclusive, of this act, a local government may enact ordinances and adopt policies and procedures that implement and facilitate those provisions and are consistent therewith, including, without limitation, requiring developers to pay for the costs of the local government to review and analyze an environmental impact statement.

Sec. 1.65. 1. Except as otherwise provided in this section, if a developer wants to undertake or complete any proposed project on natural resources overlay lands, a local government shall not take any final action regarding the proposed project unless:

(a) The developer prepares and submits an environmental impact statement that complies with section 1.7 of this act;

(b) The local government posts the environmental impact statement on its Internet website at least 15 calendar days before the public hearing at which the local government may take final action; and

(c) The local government applies and weighs the factors set forth in section 1.75 of this act.

2. If an environmental review relating to the proposed project has already been conducted by an appropriate federal agency or state agency pursuant to federal or state law:

(a) The local government shall accept and utilize the findings and conclusions made in that review for the purposes of carrying out the provisions of sections 1.1 to 1.8, inclusive, of this act; and

(b) The developer is not required to prepare and submit an additional environmental impact statement that complies with section 1.7 of this act.

Sec. 1.7. 1. In an environmental impact statement, a developer must provide a professional, detailed, thorough and comprehensive analysis and explanation concerning the environmental impacts that a proposed project will have on natural resources overlay lands.

2. The developer must pay all costs associated with preparation of the environmental impact statement.

3. The environmental impact statement must analyze and explain:

(a) All significant beneficial and adverse environmental impacts of the proposed project;

(b) All significant adverse environmental impacts of the proposed project which cannot be avoided if the proposed project is completed or which would have irreversible consequences if the project is completed;

(c) All reasonable alternatives to the proposed project;

(d) All mitigation measures which must be implemented to address, alleviate or offset the significant adverse environmental impacts of the proposed project; and

(e) The growth-inducing impact of the proposed project.

3. For the purposes of the environmental impact statement:

(a) Significant beneficial environmental impacts may include, without limitation:

(1) The development or use of renewable energy or renewable energy generation projects;

(2) The establishment or maintenance of public parks, trailheads, trails or other public recreational facilities;

(3) The development or use of land for recreational, educational or charitable purposes by a nonprofit organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c) or state law; or

(4) The protection or preservation of natural terrain, native vegetation, wildlife habitat, watershed areas, scenic views or geological formations.

(b) Significant adverse environmental impacts may include, without limitation:

(1) The development or use of fossil fuels;

(2) The generation of air pollution, water pollution, light pollution, noise pollution or other types of pollution;

(3) The restriction or elimination of open space or public access to open space; or

(4) The destruction or impairment of natural terrain, native vegetation, wildlife habitat, watershed areas, scenic views or geological formations.

4. In reviewing and analyzing an environmental impact statement, the local government may use the regulations adopted by the Council on Environmental Quality pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321 et seq., as a guide in determining whether an environmental impact statement accurately and appropriately addresses the environmental impacts that the proposed project will have on natural resources overlay lands, but those regulations are not binding or determinative.

Sec. 1.75. 1. Before a local government takes any final action regarding a proposed project on natural resources overlay lands, the local government shall apply and weigh the following factors:

(a) Whether the proposed project will be located near or in close proximity to existing developed or urban lands or existing undeveloped or rural lands.

(b) Whether the proposed project will be located near or in close proximity to existing infrastructure and utilities or whether the project will require extensive work to build necessary infrastructure and utilities.

(c) Whether the proposed project will have significant beneficial or adverse environmental impacts.

(d) Whether the proposed project will restrict or impair open space or public access to open space.

(e) Whether the proposed project will protect or preserve or destroy or impair natural terrain, native vegetation, wildlife habitat, watershed areas, scenic views or geological formations.

2. The provisions of this section:

(a) Establish, as a minimum threshold, the factors that a local government must apply and weigh before the local government takes any final action regarding a proposed project on natural resources overlay lands; and

(b) Must not be interpreted to preempt or otherwise limit a local government from applying and weighing, with regard to those lands, other factors relating to planning, subdivision regulation and zoning that are stricter or more protective of natural resources overlay lands than the factors set forth in this section.

Sec. 1.8. 1. A local government shall not take any final action regarding a proposed project on natural resources overlay lands unless the local government strictly complies with the provisions of sections 1.1 to 1.8, inclusive, of this act.

2. If a local government does not strictly comply with the provisions of sections 1.1 to 1.8, inclusive, of this act when it takes any final action regarding a proposed project on natural resources overlay lands:

(a) The final action shall be deemed to be void and of no legal force or effect; and

(b) Any person aggrieved by the final action may appeal the final action to the district court of the proper county by filing a petition for judicial review against the local government within 25 days after the date of filing of notice of the final action with the clerk or secretary of the governing body of the local government as set forth in NRS 278.0235.

3. For the purposes of this section, a person shall be deemed to be aggrieved by the final action taken by the local government if the person appeared before the local government, either in person, through an authorized representative or in writing, regarding the final action.

4. If a person brings a petition for judicial review pursuant to this section:

(a) The purpose of the judicial review is for the court to determine, based upon the record, whether the local government strictly complied with the provisions of sections 1.1 to 1.8, inclusive, of this act and whether the determination of the local government was based upon substantial evidence in the record.

(b) If the person prevails on any claim for relief against the local government, the court shall award reasonable attorney's fees and court costs to the person regarding the prevailing claim, but the developer whose proposed project is the subject of the judicial review may not be awarded attorney's fees or court costs, regardless of the outcome of the judicial review, unless the court imposes them as a penalty against another party for ethically or procedurally improper conduct that is independently sanctionable under court rules or laws other than this section.

5. The petition for judicial review and remedies prescribed by this section are in addition to any other forms of judicial review and remedies provided by law.

Sec. 2. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any other provision of law to the contrary ~~in, the~~ :

(a) The powers otherwise conferred by this chapter which relate to planning, subdivision regulation and zoning are subordinate to the provisions of ~~this~~ ~~section.~~

~~2. With respect to any lands located in a national conservation area, national recreation area or adjacent lands, a local government:~~

~~(a) Shall not, in regulating the use of those lands:~~

~~(1) Increase the number of residential dwelling units allowed by zoning regulations in existence on the effective date of this act, unless such an increase~~

~~can be accomplished within a given area, by the trading of development credits or another mechanism that allows a greater number of residential dwelling units to be constructed in that area without increasing the overall density of residential dwelling units in that area;~~

~~(2) Establish any new nonresidential zoning districts, other than for public facilities; or~~

~~(3) Expand the size of any nonresidential zoning district in existence on the effective date of this act, other than for public facilities;~~

~~(b) May regulate other matters, including, without limitation, landscaping, buffering, screening, signage and lighting; and~~

~~(c) Retains all other authority regarding planning, zoning and regulation of uses of land otherwise conferred by this chapter.~~

~~3. The prohibitions set forth in paragraph (a) of subsection 2 do not restrict or limit:~~

~~(a) Any existing or future development or other rights held by any owner of real property that is not part of a national conservation area, national recreation area or adjacent lands, including, without limitation, all rights, consents and agreements established, enacted, granted or entered into by a governing body, whether reflected in codes, ordinances, permits, agreements or other documents;~~

~~(b) Any future use or development of real property that is not part of a national conservation area, national recreation area or adjacent lands; or~~

~~(c) The authority of any governing body to regulate real property that is not part of a national conservation area, national recreation area or adjacent lands.~~

~~4. As used in this section:~~

~~(a) "Adjacent lands" has the meaning ascribed to it in section 1 of this act.~~

~~(b) "Bureau of Land Management disposal area" has the meaning ascribed to it in section 1 of this act.~~

~~(c) "National conservation area" has the meaning ascribed to it in section 1 of this act.~~

~~(d) "National recreation area" has the meaning ascribed to it in section 1 of this act.~~ sections 1.1 to 1.8, inclusive, of this act; and

(b) A local government shall strictly comply with the provisions of sections 1.1 to 1.8, inclusive, of this act.

2. If there is a conflict between any other provisions of this chapter and the provisions of sections 1.1 to 1.8, inclusive, of this act, the provisions of sections 1.1 to 1.8, inclusive, of this act control.

3. The provisions of sections 1.1 to 1.8, inclusive, of this act:

(a) Establish, as a minimum threshold, uniform statewide standards relating to natural resources overlay lands; and

(b) Must not be interpreted to preempt or otherwise limit a local government from imposing, with regard to those lands, standards relating to planning, subdivision regulation and zoning that are stricter or more protective of natural resources overlay lands than the standards set forth in sections 1.1 to 1.8, inclusive, of this act.

Sec. 3. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any other provision of law to the contrary ~~to the contrary~~:

(a) The powers otherwise conferred by this chapter which relate to planning, subdivision regulation and zoning are subordinate to the provisions of ~~this section~~.

2. With respect to any lands located in a national conservation area, national recreation area or adjacent lands, a local government:

(a) Shall not, in regulating the use of those lands:

~~(1) Increase the number of residential dwelling units allowed by zoning regulations in existence on the effective date of this act, unless such an increase can be accomplished, within a given area, by the trading of development credits or another mechanism that allows a greater number of residential dwelling units to be constructed in that area without increasing the overall density of residential dwelling units in that area;~~

~~(2) Establish any new nonresidential zoning districts, other than for public facilities; or~~

~~(3) Expand the size of any nonresidential zoning district in existence on the effective date of this act, other than for public facilities;~~

~~(b) May regulate other matters, including, without limitation, landscaping, buffering, screening, signage and lighting; and~~

~~(c) Retains all other authority regarding planning, zoning and regulation of uses of land otherwise conferred by this chapter.~~

~~3. The prohibitions set forth in paragraph (a) of subsection 2 do not restrict or limit:~~

~~(a) Any existing or future development or other rights held by any owner of real property that is not part of a national conservation area, national recreation area or adjacent lands, including, without limitation, all rights, consents and agreements established, enacted, granted or entered into by a governing body, whether reflected in codes, ordinances, permits, agreements or other documents;~~

~~(b) Any future use or development of real property that is not part of a national conservation area, national recreation area or adjacent lands; or~~

~~(c) The authority of any governing body to regulate real property that is not part of a national conservation area, national recreation area or adjacent lands.~~

~~4. As used in this section:~~

~~(a) "Adjacent lands" has the meaning ascribed to it in section 1 of this act.~~

~~(b) "Bureau of Land Management disposal area" has the meaning ascribed to it in section 1 of this act.~~

~~(c) "National conservation area" has the meaning ascribed to it in section 1 of this act.~~

~~(d) "National recreation area" has the meaning ascribed to it in section 1 of this act.~~ sections 1.1 to 1.8, inclusive, of this act; and

(b) A local government shall strictly comply with the provisions of sections 1.1 to 1.8, inclusive, of this act.

2. If there is a conflict between any other provisions of this chapter and the provisions of sections 1.1 to 1.8, inclusive, of this act, the provisions of sections 1.1 to 1.8, inclusive, of this act control.

3. The provisions of sections 1.1 to 1.8, inclusive, of this act:

(a) Establish, as a minimum threshold, uniform statewide standards relating to natural resources overlay lands; and

(b) Must not be interpreted to preempt or otherwise limit a local government from imposing, with regard to those lands, standards relating to planning, subdivision regulation and zoning that are stricter or more protective of natural resources overlay lands than the standards set forth in sections 1.1 to 1.8, inclusive, of this act.

Sec. 4. Chapter 269 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any other provision of law to the contrary ~~to the~~:

(a) The powers otherwise conferred by this chapter which relate to planning, subdivision regulation and zoning are subordinate to the provisions of ~~this~~ section.

~~2. With respect to any lands located in a national conservation area, national recreation area or adjacent lands, a local government:~~

~~(a) Shall not, in regulating the use of those lands:~~

~~(1) Increase the number of residential dwelling units allowed by zoning regulations in existence on the effective date of this act, unless such an increase can be accomplished, within a given area, by the trading of development credits or another mechanism that allows a greater number of residential dwelling units to be constructed in that area without increasing the overall density of residential dwelling units in that area;~~

~~(2) Establish any new nonresidential zoning districts, other than for public facilities; or~~

~~(3) Expand the size of any nonresidential zoning district in existence on the effective date of this act, other than for public facilities;~~

~~(b) May regulate other matters, including, without limitation, landscaping, buffering, screening, signage and lighting; and~~

~~(c) Retains all other authority regarding planning, zoning and regulation of uses of land otherwise conferred by this chapter.~~

~~3. The prohibitions set forth in paragraph (a) of subsection 2 do not restrict or limit:~~

~~(a) Any existing or future development or other rights held by any owner of real property that is not part of a national conservation area, national recreation area or adjacent lands, including, without limitation, all rights, consents and agreements established, enacted, granted or entered into by a governing body, whether reflected in codes, ordinances, permits, agreements or other documents;~~

~~(b) Any future use or development of real property that is not part of a national conservation area, national recreation area or adjacent lands; or~~

~~(c) The authority of any governing body to regulate real property that is not part of a national conservation area, national recreation area or adjacent lands.~~

~~4. As used in this section:~~

~~(a) "Adjacent lands" has the meaning ascribed to it in section 1 of this act.~~

~~(b) "Bureau of Land Management disposal area" has the meaning ascribed to it in section 1 of this act.~~

~~(c) "National conservation area" has the meaning ascribed to it in section 1 of this act.~~

~~(d) "National recreation area" has the meaning ascribed to it in section 1 of this act; sections 1.1 to 1.8, inclusive, of this act; and~~

~~(b) A local government shall strictly comply with the provisions of sections 1.1 to 1.8, inclusive, of this act.~~

2. If there is a conflict between any other provisions of this chapter and the provisions of sections 1.1 to 1.8, inclusive, of this act, the provisions of sections 1.1 to 1.8, inclusive, of this act control.

3. The provisions of sections 1.1 to 1.8, inclusive, of this act:

(a) Establish, as a minimum threshold, uniform statewide standards relating to natural resources overlay lands; and

(b) Must not be interpreted to preempt or otherwise limit a local government from imposing, with regard to those lands, standards relating to planning, subdivision regulation and zoning that are stricter or more protective of natural resources overlay lands than the standards set forth in sections 1.1 to 1.8, inclusive, of this act.

Sec. 4.5. 1. If, before the effective date of this act, a local government took final action that approved any project to develop lands located within natural resources overlay lands, including, without limitation, any project under a development agreement approved and recorded pursuant to NRS

278.0201 to 278.0207, inclusive, and the local government's final action of approval remained in effect and was enforceable on the effective date of this act, the provisions of this act do not apply to such a project or agreement.

2. As used in this section, the words and terms defined in sections 1.1 to 1.5, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 5. 1. NRS 244.154, 268.105, 269.617 and 278.0239 are hereby repealed.

2. Sections 1, 2, 3 and 4 of chapter 639, Statutes of Nevada 1993, at page 2673, sections 6, 7, 8, 9 and 10 of chapter 105, Statutes of Nevada 2003, at pages 596, 597 and 598, and section 8 of chapter 198, Statutes of Nevada 2009, at page 736, are hereby repealed.

Sec. 6. This act becomes effective upon passage and approval.

LEADLINES OF REPEALED SECTIONS OF NRS AND TEXT OF REPEALED SECTIONS OF STATUTES OF NEVADA

244.154 Planning, subdivision regulation and zoning: County's powers subordinate to limits upon development established in certain geographical regions by certain state acts.

268.105 City's powers subordinate in region for which Spring Mountains National Recreation Area Act and Red Rock Canyon Conservation Area and Adjacent Lands Act establish limits upon development.

269.617 Powers relating to planning, subdivision regulation and zoning subordinate in region for which Spring Mountains National Recreation Area and Red Rock Canyon Conservation Area and Adjacent Lands Act establish limits upon development.

278.0239 Supremacy of limits upon development established by certain special legislative acts.

Section 1 of chapter 639, Statutes of Nevada 1993:

Section 1. The legislature finds and declares that this special act which regulates activity in the Red Rock Canyon national conservation area is necessary because of:

1. The unusual beauty of the Red Rock Canyon national conservation area; and

2. The rapidly increasing population and growth in the region around the Red Rock Canyon national conservation area.

Section 2 of chapter 639, Statutes of Nevada 1993:

Sec. 2. As used in sections 1 to 4, inclusive, of this act, "Red Rock Canyon national conservation area" means the area in and around Red Rock Canyon which has been designated as a national conservation area by Congress pursuant to Title 16 of the United States Code.

Section 3 of chapter 639, Statutes of Nevada 1993:

Sec. 3. 1. Except as otherwise provided in subsection 2, the governing body of a city or county whose territory includes all or any part of the Red Rock Canyon national conservation area shall in regulating the use of land prohibit the use of any part of the national conservation area for any purpose other than recreation, and shall

prohibit excavation, the extraction of any substance, and the erection of any structure within the national conservation area.

2. Within the boundaries of a patented or unpatented mining claim the governing body may permit excavation, the extraction of any substance, or the making of improvements only to the extent permitted by a federally approved plan of operations or exempted by federal law or regulation from having an approved plan of operations.

Section 4 of chapter 639, Statutes of Nevada 1993:

Sec. 4. In the absence or pending the adoption and effectiveness of an ordinance complying with section 3 of this act, excavation, the extraction of any substance, and the erection of any structure are prohibited within the Red Rock Canyon national conservation area unless a permit is first obtained from the division of environmental protection of the state department of conservation and natural resources. The division shall not issue such a permit if the proposed activity would be detrimental to the environment outside the Red Rock Canyon national conservation area or would preclude the designation of the national conservation area as wilderness.

Section 6 of chapter 105, Statutes of Nevada 2003:

Sec. 6. Chapter 639, Statutes of Nevada 1993, at page 2673, is hereby amended by adding thereto a new section to be designated as section 0.5, immediately preceding section 1, to read as follows:

This act shall be known as the Red Rock Canyon Conservation Area and Adjacent Lands Act.

Section 7 of chapter 105, Statutes of Nevada 2003:

Sec. 7. Chapter 639, Statutes of Nevada 1993, at page 2673, is hereby amended by adding thereto new sections to be designated as sections 1.3 and 1.7, immediately following section 1, to read as follows:

Sec. 1.3. *As used in this act, unless the context otherwise requires, the words and terms defined in sections 1.7 and 2 of this act have the meanings ascribed to them in those sections.*

Sec. 1.7. *“Adjacent lands” means the following tracts of land:*

1. All of sections 34, 35 and 36, Township 20 South, Range 58 East, MDM;

2. All of sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35 and 36, Township 21 South, Range 58 East, MDM;

3. All of sections 1, 2, 3, 10, 11, 12, 13, 14 and 15, Township 22 South, Range 58 East, MDM;

4. All of sections 31 and 32, Township 20 South, Range 59 East, MDM, with the exception of any lands that are located within the corporate limits of the City of Las Vegas on the effective date of this act;

5. All of sections 3 and 4, Township 21 South, Range 59 East, MDM, with the exception of any lands that are located within the corporate limits of the City of Las Vegas on the effective date of this act;

6. All of sections 5, 6, 7, 8, 9, 10 and 11, Township 21 South, Range 59 East, MDM, with the exception of any lands that are located within the Summerlin South unincorporated area on the effective date of this act;

- 7. All of sections 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33 and 34, Township 21 South, Range 59 East, MDM; and*
8. All of sections 3, 4, 5, 6, 7, 8, 9, 10, 17 and 18, Township 22 South, Range 59 East, MDM.

Section 8 of chapter 105, Statutes of Nevada 2003:

Sec. 8. Chapter 639, Statutes of Nevada 1993, at page 2673, is hereby amended by adding thereto new sections to be designated as sections 4.3 and 4.7, immediately following section 4, to read as follows:

Sec. 4.3. *With respect to adjacent lands, a local government:*

1. Shall not, in regulating the use of those lands:

(a) Increase the number of residential dwelling units allowed by zoning regulations in existence on the effective date of this act, unless such an increase can be accomplished, within a given area, by the trading of development credits or another mechanism that allows a greater number of residential dwelling units to be constructed in that area without increasing the overall density of residential dwelling units in that area;

(b) Establish any new nonresidential zoning districts, other than for public facilities; or

(c) Expand the size of any nonresidential zoning district in existence on the effective date of this act, other than for public facilities.

2. Shall, at its discretion:

(a) Regulate matters to include, without limitation, landscaping, buffering, screening, signage and lighting; and

(b) Retain all other authority regarding planning, zoning and regulation of uses of land.

Sec. 4.7. *The prohibitions set forth in section 4.3 of this act with respect to adjacent lands do not restrict or limit:*

1. Any existing or future development or other rights held by any owner of real property that is not part of those adjacent lands, including, without limitation, all rights, consents and agreements established, enacted, granted or entered into by a governing body, whether reflected in codes, ordinances, permits, agreements or other documents;

2. Any future use or development of real property that is not part of those adjacent lands; or

3. The authority of any governing body to regulate real property that is not part of those adjacent lands.

Section 9 of chapter 105, Statutes of Nevada 2003:

Sec. 9. Section 1 of chapter 639, Statutes of Nevada 1993, at page 2673, is hereby amended to read as follows:

Section 1. The legislature *hereby* finds and declares that ~~this~~ :

1. This special act which regulates activity in the Red Rock Canyon National Conservation Area and on adjacent lands is necessary because of:

~~1-1~~ *(a) The unusual beauty of the Red Rock Canyon National Conservation Area; and*

~~2-1~~ *(b) The rapidly increasing population and growth in the region around the Red Rock Canyon National Conservation Area* ~~1-1~~ ; *and*

(c) The need to harmonize:

(1) The retention of the scenic beauty, small-town values, historic character, sense of community and recreational opportunities for visitors and residents of the Red Rock Canyon National Conservation Area and adjacent lands; and

(2) Residential and commercial development within the Red Rock Canyon National Conservation Area and adjacent lands.

2. The Legislature supports acquisition by the Federal Government of vacant private lands that are:

(a) Located within and adjacent to the Red Rock Canyon National Conservation Area;

(b) Located outside of the boundary described in the Clark County Conservation of Public Lands and Natural Resources Act of 2002, Public Law 107-282, November 6, 2002; and

(c) Essential to the character and value of the Red Rock Canyon National Conservation Area.

Section 10 of chapter 105, Statutes of Nevada 2003:

Sec. 10. Section 2 of chapter 639, Statutes of Nevada 1993, at page 2673, is hereby amended to read as follows:

Sec. 2. ~~As used in section 1 to 4, inclusive, of this act,~~ “Red Rock Canyon National Conservation Area” means the area in and around Red Rock Canyon which has been designated as a national conservation area by Congress pursuant to Title 16 of the United States Code.

Section 8 of chapter 198, Statutes of Nevada 2009:

Sec. 8. With respect to the Spring Mountains National Recreation Area, a local government:

1. Shall not, in regulating the use of those lands:

(a) Increase the number of residential dwelling units allowed by zoning regulations in existence on the effective date of this act;

(b) Establish any new nonresidential zoning districts, other than for public facilities; or

(c) Expand the size of any nonresidential zoning district in existence on the effective date of this act, other than for public facilities.

2. May regulate matters to include, without limitation, landscaping, buffering, screening, signage and lighting.

3. Retains all other authority regarding planning, zoning and regulation of uses of land.