

Senate Bill No. 138–Senators Lange and Pickard

CHAPTER.....

AN ACT relating to land use planning; revising requirements for an ordinance for planned unit development; revising requirements for minimum site areas and parking for a planned unit development; eliminating the requirement that a planned unit development obtain tentative approval; making various other changes relating to provisions relating to planned unit development; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law gives certain powers to a city or county that enacts an ordinance for planned unit development. (NRS 278A.080) **Section 2** of this bill provides that a city or county may only exercise the powers relating to planned unit development granted if the county or city enacts an ordinance for planned development that conforms to the requirements of chapter 278A of NRS.

Existing law requires an ordinance for planned unit development to set forth standards and conditions by which a proposed planned unit development is evaluated. (NRS 278.090) **Section 3** of this bill requires the ordinance also to: (1) require the plan to be set forth in written and graphic materials, as specified in the ordinance; (2) set forth certain procedures for reviewing an application for a plan; and (3) set forth procedures for reviewing an application to modify, remove or release any provision of a plan. **Section 1** of this bill makes a conforming change to the definition of “plan.”

Section 6 of this bill clarifies that an offer to dedicate common open space must be accepted or rejected within 120 days.

Existing law requires an ordinance to set forth all standards and criteria for any feature of a planned unit development with sufficient certainty to provide work criteria by which specific proposals for the development may be evaluated. (NRS 278A.220) **Section 7** of this bill provides, instead, that the ordinance must set forth all standards and criteria for any feature of a planned unit development with sufficient certainty to provide criteria by which specific proposals for the development may be evaluated.

Existing law requires the minimum site area for a planned unit development to be 5 acres but authorizes the governing body of the city or county to waive the minimum site area when a proper planning justification is shown. (NRS 278A.250) **Section 8** of this bill provides, instead, that the minimum site area is 5 acres unless the governing body of the city or county provides otherwise in the ordinance.

Existing law requires that a minimum of one parking space be provided for each dwelling unit in a planned unit development. (NRS 278A.320) **Section 9** of this bill provides, instead, that a minimum of one parking space must be provided for each dwelling unit unless the governing body of the city or county provides otherwise in the ordinance.

Section 10 of this bill removes the requirement in existing law that the enforcement and modification of an approved plan must be to further the interests of the residents and owners of the planned unit development and the public and provides, instead, that the enforcement and modification of an approved plan are subject to the provisions adopted by the governing body in the ordinance. (NRS 278A.380)



Section 13 of this bill revises the existing prohibition on a city or county approving the modification, removal or release of a provision of a plan without first holding a public hearing to provide, instead, that a provision of a plan may be modified, removed or released without a public hearing upon the application by a landowner to modify, remove or release the provisions of a plan if: (1) the plan does not include any residential development; (2) the modification, removal or release does not add any new residential development; and (3) the city or county determines that the modification, removal or release is minor in nature, substantially complies with the plan and does not require the vacation or abandonment of a street, public sidewalk, pedestrian right-of-way or a drainage easement. (NRS 278A.410)

Existing law requires that a person who proposes a planned unit development must submit an application for tentative approval and an application for final approval. (NRS 278A.440, 278A.530) **Section 14** of this bill provides, instead, that unless otherwise required by the ordinance, tentative approval of a plan for a planned unit development is not required. Consistent with this change, **section 4** of this bill provides that the requirement in existing law that a reservation of common space in a planned development that will take place over a number of years must defer the location of the common space until an application for final approval is filed applies only if the ordinance requires both tentative and final approval of the plan. (NRS 278A.110)

Existing law requires an ordinance for planned unit development to designate the fee for an application for tentative approval. (NRS 278A.450) **Section 16** of this bill requires instead that the fee must be set forth in the ordinance or published and made publicly available by the city or county.

Section 17 of this bill provides that the ordinance may include a schedule showing the times in which additional applications for approval must be filed when a plan calls for development over a period of years.

Section 18 of this bill provides that a city or county may, as part of its action in granting tentative or final approval of a plan, specify certain items which must accompany an application for final approval or be included in the approved plan.

Section 19 of this bill requires that the grant or denial of approval of a plan must include findings on whether the plan would or would not be consistent with the statement of objectives of a planned unit development and the city or county's master plan, if one has been adopted.

Section 20 of this bill provides that approval of a plan may be revoked under certain circumstances.

Section 21 of this bill provides that an approved plan may not be modified or impaired by an act of the city or county unless the landowner consents and the modification complies with the procedures in existing law for modifications. (NRS 278A.570)

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

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

Section 1. NRS 278A.060 is hereby amended to read as follows:

278A.060 “Plan” means the provisions for development of a planned unit development, including a plat of subdivision, all



covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, private streets, ways and parking facilities, common open space and public facilities. ~~[The phrase “provisions of the plan” means the written and graphic materials referred to in this section.]~~

Sec. 2. NRS 278A.080 is hereby amended to read as follows:

278A.080 The powers granted under the provisions of this chapter may *only* be exercised by any city or county which enacts an ordinance conforming to the provisions of this chapter.

Sec. 3. NRS 278A.090 is hereby amended to read as follows:

278A.090 Each ordinance enacted pursuant to the provisions of this chapter must ~~[set]~~:

- 1. Require the plan to be set forth in written and graphic materials, as specified in the ordinance;*
- 2. Set forth procedures by which the city or county will review an application for a plan, which must include, without limitation, procedures by which the city or county will review an application for a plan which calls for development over a period of years;*
- 3. Set forth procedures by which the city or county will review and process an application to modify, remove or release any provision of the plan pursuant to NRS 278A.410; and*
- 4. Set forth the standards and conditions by which a proposed planned unit development is evaluated.*

Sec. 4. NRS 278A.110 is hereby amended to read as follows:

278A.110 1. An ordinance enacted pursuant to the provisions of this chapter must establish standards governing the density or intensity of land use in a planned unit development.

2. The standards must take into account the possibility that the density or intensity of land use otherwise allowable on the site under the provisions of a zoning ordinance previously enacted may not be appropriate for a planned unit development. The standards may vary the density or intensity of land use otherwise applicable to the land within the planned unit development in consideration of:

- (a) The amount, location and proposed use of common open space.
- (b) The location and physical characteristics of the site of the proposed planned development.
- (c) The location, design and type of dwelling units.
- (d) The criteria for approval of a tentative map of a subdivision pursuant to subsection 3 of NRS 278.349.

3. In the case of a planned unit development which is proposed to be developed over a period of years, the standards may, to



encourage the flexibility of density, design and type intended by the provisions of this chapter, authorize a departure from the density or intensity of use established for the entire planned unit development in the case of each section to be developed. The ordinance may authorize the city or county to allow for a greater concentration of density or intensity of land use within a section of development whether it is earlier or later in the development than the other sections. The ordinance may require that the approval by the city or county of a greater concentration of density or intensity of land use for any section to be developed be offset by a smaller concentration in any completed prior stage or by an appropriate reservation of common open space on the remaining land by a grant of easement or by covenant in favor of the city or county . ~~[, but]~~ *If the ordinance requires both tentative and final approval of a plan for a planned unit development,* the reservation must, as far as practicable, defer the precise location of the common open space until an application for final approval is filed so that flexibility of development, which is a prime objective of this chapter, can be maintained.

Sec. 5. (Deleted by amendment.)

Sec. 6. NRS 278A.130 is hereby amended to read as follows:

278A.130 The ordinance must provide that the city or county may accept the dedication of land or any interest therein for public use and maintenance, but the ordinance must not require, as a condition of the approval of a planned unit development, that land proposed to be set aside for common open space be dedicated or made available to public use. If any land is set aside for common open space, the planned unit development must be organized as a common-interest community in one of the forms permitted by chapter 116 of NRS. The ordinance may require that the association for the common-interest community may not be dissolved or dispose of any common open space by sale or otherwise, without first offering to dedicate the common open space to the city or county. That offer *to dedicate the common open space* must be accepted or rejected within 120 days.

Sec. 7. NRS 278A.220 is hereby amended to read as follows:

278A.220 1. An ordinance enacted pursuant to this chapter must set forth the standards and criteria by which the design, bulk and location of buildings is evaluated, and all standards and all criteria for any feature of a planned unit development must be set forth in that ordinance with sufficient certainty to provide ~~[work]~~ criteria by which specific proposals for a planned unit development can be evaluated.



2. Standards in the ordinance must not unreasonably restrict the ability of the landowner to relate the plan to the particular site and to the particular demand for housing existing at the time of development.

Sec. 8. NRS 278A.250 is hereby amended to read as follows:

278A.250 The minimum site area is 5 acres ~~[, except that]~~ *unless* the governing body ~~[may waive this minimum when proper planning justification is shown.]~~ *provides otherwise in the ordinance.*

Sec. 9. NRS 278A.320 is hereby amended to read as follows:

278A.320 A minimum of one parking space shall be provided for each dwelling unit ~~[.]~~ *unless the governing body provides otherwise in the ordinance.*

Sec. 10. NRS 278A.380 is hereby amended to read as follows:

278A.380 1. The enforcement and modification of the ~~[provisions of the]~~ plan as finally approved, whether or not ~~[these are]~~ *the plan is* recorded by plat, covenant, easement or otherwise, are subject to *the ordinance adopted pursuant to this chapter and* the provisions contained in NRS 278A.390, 278A.400 and 278A.410.

2. ~~[The enforcement and modification of the provisions of the plan must be to further the mutual interest of the residents and owners of the planned unit development and of the public in the preservation of the integrity of the plan as finally approved.]~~ The enforcement and modification of ~~[provisions]~~ *the plan* must ~~[be drawn also to insure that modifications, if any, in the plan will]~~ not impair the reasonable reliance of the residents and owners upon the ~~[provisions of the]~~ plan or result in changes that would adversely affect the public interest.

Secs. 11 and 12. (Deleted by amendment.)

Sec. 13. NRS 278A.410 is hereby amended to read as follows:

278A.410 All provisions of the plan authorized to be enforced by the city or county may be modified, removed or released by the city or county, except grants or easements relating to the service or equipment of a public utility unless expressly consented to by the public utility, subject to the following conditions:

1. No such modification, removal or release of the provisions of the plan by the city or county may affect the rights of the residents of the planned unit residential development to maintain and enforce those provisions.

2. ~~[No]~~ *Except as otherwise provided in subsection 3, no* modification, removal or release of the provisions of the plan by the city or county is permitted except upon a finding by the city or



county, following a public hearing , that ~~[(it)]~~ *the modification, removal or release:*

(a) ~~[(is consistent with the efficient development and preservation of the entire planned unit development;~~

~~-(b)]~~ Does not adversely affect either the enjoyment of land *within*, abutting upon or across a street from the planned unit development or the public interest; and

~~[(e)]~~ (b) Is not granted solely to confer a private benefit upon any person.

3. *A city or county may approve a modification, removal or release of the provisions of a plan without a public hearing upon application by or on behalf of a landowner to modify, remove or release the provisions of the plan if:*

(a) *The plan does not include any residential development;*

(b) *The modification, removal or release does not propose to add any new residential development; and*

(c) *The city or county determines that such modification, removal or release:*

(1) *Is minor in nature, as defined in the ordinance;*

(2) *Substantially complies with the plan; and*

(3) *Does not require the vacation or abandonment of any street, public sidewalk, pedestrian right of way or drainage easement.*

Sec. 14. NRS 278A.430 is hereby amended to read as follows:

278A.430 1. In order to provide an expeditious method for processing a plan for a planned unit development under the terms of an ordinance enacted pursuant to the powers granted under this chapter, and to avoid the delay and uncertainty which would arise if it were necessary to secure approval by a multiplicity of local procedures of a plat or subdivision or resubdivision, as well as approval of a change in the zoning regulations otherwise applicable to the property, it is hereby declared to be in the public interest that all procedures with respect to the approval or disapproval of a planned unit development and its continuing administration must be consistent with the provisions set out in *this section and* NRS 278A.440 to 278A.590, inclusive.

2. *Unless otherwise provided in the ordinance, a tentative approval of the plan for a planned unit development is not required. If the ordinance requires both tentative and final approval, the city or county shall comply with the procedures set forth in this section and NRS 278A.440 to 278A.590, inclusive, for granting tentative approval and final approval of the plan.*



Sec. 15. NRS 278A.440 is hereby amended to read as follows:
278A.440 An application for tentative *or final* approval of the plan for a planned unit development must be filed by or on behalf of the landowner.

Sec. 16. NRS 278A.450 is hereby amended to read as follows:

278A.450 1. The ~~ordinance enacted pursuant to this chapter must designate the~~ form of the application for tentative *or final* approval ~~[- the fee for filing the application]~~ and the official of the city or county with whom the application is to be filed ~~[-]~~ *must be:*

(a) *Set forth in the ordinance enacted pursuant to this chapter;*
or

(b) *Published and made publicly available by the city or county.*

2. *The fee for filing the application must be:*

(a) *Set forth in the ordinance enacted pursuant to this chapter;*
or

(b) *Published and made publicly available by the city or county.*

3. ~~[The]~~ *If the ordinance requires both tentative and final approval, the* application for tentative approval may include a tentative map. If a tentative map is included, tentative approval may not be granted pursuant to NRS 278A.490 until the tentative map has been submitted for review and comment by the agencies specified in NRS 278.335.

Sec. 17. NRS 278A.470 is hereby amended to read as follows:

278A.470 The ordinance may require such information in the application as is reasonably necessary to disclose to the city or county:

1. The location and size of the site and the nature of the landowner's interest in the land proposed to be developed.

2. The density of land use to be allocated to parts of the site to be developed.

3. The location and size of any common open space and the form of organization proposed to own and maintain any common open space.

4. The use and the approximate height, bulk and location of buildings and other structures.

5. The ratio of residential to nonresidential use.

6. The feasibility of proposals for disposition of sanitary waste and storm water.

7. The substance of covenants, grants or easements or other restrictions proposed to be imposed upon the use of the land,



buildings and structures, including proposed easements or grants for public utilities.

8. The provisions for parking of vehicles and the location and width of proposed streets and public ways.

9. The required modifications in the municipal land use regulations otherwise applicable to the subject property.

10. In the case of plans which call for development over a period of years, a schedule showing the proposed times within which *additional* applications for ~~final~~ approval of all sections of the planned unit development are intended to be filed.

Sec. 18. NRS 278A.490 is hereby amended to read as follows:

278A.490 The city or county shall, following the conclusion of the public hearing provided for in NRS 278A.480 ~~[by minute action]~~:

1. Grant tentative *or final* approval of the plan as submitted;
2. Grant tentative *or final* approval subject to specified conditions not included in the plan as submitted; or
3. Deny tentative *or final* approval to the plan.

↳ If tentative *or final* approval is granted, with regard to the plan as submitted or with regard to the plan with conditions, the city or county ~~shall~~ *may*, as part of its action, specify the drawings, specifications and form of performance bond that shall accompany an application for final approval ~~[]~~ *or be included in the approved plan.*

Sec. 19. NRS 278A.500 is hereby amended to read as follows:

278A.500 The grant or denial of tentative *or final* approval by minute action must set forth the reasons for the grant, with or without conditions, or for the denial, and the minutes must set forth with particularity in what respects the plan would or would not be in the public interest, including but not limited to findings on the following:

1. In what respects the plan is or is not consistent with ~~the~~ :
 - (a) *The* statement of objectives of a planned unit development ~~[]~~ ; *and*
 - (b) *The master plan adopted pursuant to NRS 278.150.*

2. The extent to which the plan departs from zoning and subdivision regulations otherwise applicable to the property, including but not limited to density, bulk and use, and the reasons why these departures are or are not deemed to be in the public interest.

3. The ratio of residential to nonresidential use in the planned unit development.



4. The purpose, location and amount of the common open space in the planned unit development, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development.

5. The physical design of the plan and the manner in which the design does or does not make adequate provision for public services, provide adequate control over vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment.

6. The relationship, beneficial or adverse, of the proposed planned unit development to the neighborhood in which it is proposed to be established.

7. In the case of a plan which proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public, residents and owners of the planned unit development in the integrity of the plan.

Sec. 20. NRS 278A.520 is hereby amended to read as follows:

278A.520 1. A copy of the minutes must be mailed to the landowner.

2. Tentative approval of a plan does not qualify a plat of the planned unit development for recording or authorize development or the issuance of any building permits. A plan which has been given tentative approval as submitted, or which has been given tentative approval with conditions which have been accepted by the landowner, may not be modified, revoked or otherwise impaired by action of the city or county pending an application for final approval, without the consent of the landowner. Impairment by action of the city or county is not stayed if an application for final approval has not been filed, or in the case of development over a period of years applications for approval of the several parts have not been filed, within the time specified in the minutes granting tentative approval.

3. ~~[The tentative approval must]~~ *Before a plan is recorded or, if the ordinance requires both tentative and final approval, before final approval of the plan is granted, approval of a plan may* be revoked and ~~[the portion of]~~ the area included in the plan ~~[for which final approval has not been given]~~ is subject to local ordinances if:

(a) The landowner elects to abandon the plan or any part thereof, and so notifies the city or county in writing; or

(b) The landowner fails to file application for the final approval *or record the plan* within the ~~[required]~~ time ~~[.]~~ *required by the ordinance enacted by the city or county.*



Sec. 21. NRS 278A.570 is hereby amended to read as follows:
278A.570 1. A plan which has been given final approval by the city or county ~~]~~ must be certified without delay by the city or county and filed of record in the office of the appropriate county recorder before any development occurs in accordance with that plan. A county recorder shall not file for record any final plan unless it includes:

(a) A final map of the entire final plan or an identifiable phase of the final plan if required by the provisions of NRS 278.010 to 278.630, inclusive;

(b) The certifications required pursuant to NRS 116.2109; and

(c) The same certificates of approval as are required under NRS 278.377 or evidence that:

(1) The approvals were requested more than 30 days before the date on which the request for filing is made; and

(2) The agency has not refused its approval.

2. Except as otherwise provided in this subsection, after the plan is recorded, the zoning and subdivision regulations otherwise applicable to the land included in the plan cease to apply. If the development is completed in identifiable phases, then each phase can be recorded. The zoning and subdivision regulations cease to apply after the recordation of each phase to the extent necessary to allow development of that phase.

3. Pending completion of the planned unit development, or of the part that has been finally approved, no modification of the provisions of the plan, or any part finally approved, may be made, nor may it be impaired by any act of the city or county except with the consent of ~~[the landowner.]~~ *any landowners affected by the modification and in accordance with the provisions of NRS 278A.410.*

4. For the recording or filing of any final map, plat or plan, the county recorder shall collect a fee of \$50 for the first sheet of the map, plat or plan plus \$10 for each additional sheet. The fee must be deposited in the general fund of the county where it is collected.

Secs. 22-24. (Deleted by amendment.)

Sec. 25. This act becomes effective on July 1, 2021.

