

SENATE BILL NO. 138—SENATORS LANGE AND PICKARD

FEBRUARY 22, 2021

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to planned development.  
(BDR 22-566)

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 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:**

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

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

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

16 Existing law requires an ordinance to set forth all standards and criteria for any  
17 feature of a planned unit development with sufficient certainty to provide work  
18 criteria by which specific proposals for the development may be evaluated. (NRS  
19 278A.220) **Section 7** of this bill provides, instead, that the ordinance must set forth  
20 all standards and criteria for any feature of a planned unit development with



21 sufficient certainty to provide criteria by which specific proposals for the  
22 development may be evaluated.

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

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

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

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

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

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

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

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

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

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



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

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

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

3       278A.060 “Plan” means the provisions for development of a  
4 planned unit development, including a plat of subdivision, all  
5 covenants relating to use, location and bulk of buildings and other  
6 structures, intensity of use or density  
7 of development, private streets, ways and parking facilities,  
8 common open space and public facilities. ~~[The phrase “provisions of  
9 the plan” means the written and graphic materials referred to in this  
10 section.]~~

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

12       278A.080 The powers granted under the provisions of this  
13 chapter may *only* be exercised by any city or county which enacts  
14 an ordinance conforming to the provisions of this chapter.

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

16       278A.090 Each ordinance enacted pursuant to the provisions of  
17 this chapter must ~~[set]~~ :

18       1. *Require the plan to be set forth in written and graphic*  
19 *materials, as specified in the ordinance;*

20       2. *Set forth procedures by which the city or county will review*  
21 *an application for a plan, which must include, without limitation,*  
22 *procedures by which the city or county will review an application*  
23 *for a plan which calls for development over a period of years;*

24       3. *Set forth procedures by which the city or county will review*  
25 *and process an application to modify, remove or release any*  
26 *provision of the plan pursuant to NRS 278A.410; and*

27       4. *Set forth the standards and conditions by which a proposed*  
28 *planned unit development is evaluated.*

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

30       278A.110 1. An ordinance enacted pursuant to the provisions  
31 of this chapter must establish standards governing the density or  
32 intensity of land use in a planned unit development.

33       2. The standards must take into account the possibility that the  
34 density or intensity of land use otherwise allowable on the site under  
35 the provisions of a zoning ordinance previously enacted may not be  
36 appropriate for a planned unit development. The standards may vary



1 the density or intensity of land use otherwise applicable to the land  
2 within the planned unit development in consideration of:

3 (a) The amount, location and proposed use of common open  
4 space.

5 (b) The location and physical characteristics of the site of the  
6 proposed planned development.

7 (c) The location, design and type of dwelling units.

8 (d) The criteria for approval of a tentative map of a subdivision  
9 pursuant to subsection 3 of NRS 278.349.

10 3. In the case of a planned unit development which is proposed  
11 to be developed over a period of years, the standards may, to  
12 encourage the flexibility of density, design and type intended by the  
13 provisions of this chapter, authorize a departure from the density or  
14 intensity of use established for the entire planned unit development  
15 in the case of each section to be developed. The ordinance may  
16 authorize the city or county to allow for a greater concentration of  
17 density or intensity of land use within a section of development  
18 whether it is earlier or later in the development than the other  
19 sections. The ordinance may require that the approval by the city or  
20 county of a greater concentration of density or intensity of land use  
21 for any section to be developed be offset by a smaller concentration  
22 in any completed prior stage or by an appropriate reservation of  
23 common open space on the remaining land by a grant of easement  
24 or by covenant in favor of the city or county . [~~but~~] *If the*  
25 *ordinance requires both tentative and final approval of a plan for*  
26 *a planned unit development*, the reservation must, as far as  
27 practicable, defer the precise location of the common open space  
28 until an application for final approval is filed so that flexibility of  
29 development, which is a prime objective of this chapter, can be  
30 maintained.

31 **Sec. 5.** (Deleted by amendment.)

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

33 278A.130 The ordinance must provide that the city or county  
34 may accept the dedication of land or any interest therein for public  
35 use and maintenance, but the ordinance must not require, as a  
36 condition of the approval of a planned unit development, that land  
37 proposed to be set aside for common open space be dedicated or  
38 made available to public use. If any land is set aside for common  
39 open space, the planned unit development must be organized as a  
40 common-interest community in one of the forms permitted by  
41 chapter 116 of NRS. The ordinance may require that the association  
42 for the common-interest community may not be dissolved or  
43 dispose of any common open space by sale or otherwise, without  
44 first offering to dedicate the common open space to the city or



1 county. That offer *to dedicate the common open space* must be  
2 accepted or rejected within 120 days.

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

4 278A.220 1. An ordinance enacted pursuant to this chapter  
5 must set forth the standards and criteria by which the design, bulk  
6 and location of buildings is evaluated, and all standards and all  
7 criteria for any feature of a planned unit development must be set  
8 forth in that ordinance with sufficient certainty to provide ~~[work]~~  
9 criteria by which specific proposals for a planned unit development  
10 can be evaluated.

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

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

16 278A.250 The minimum site area is 5 acres ~~[-, except that]~~  
17 *unless* the governing body ~~[may waive this minimum when proper~~  
18 ~~planning justification is shown.]~~ *provides otherwise in the*  
19 *ordinance.*

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

21 278A.320 A minimum of one parking space shall be provided  
22 for each dwelling unit ~~[-]~~ *unless the governing body provides*  
23 *otherwise in the ordinance.*

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

25 278A.380 1. The enforcement and modification of the  
26 ~~[provisions of the]~~ plan as finally approved, whether or not ~~[these~~  
27 ~~are]~~ *the plan is* recorded by plat, covenant, easement or otherwise,  
28 are subject to *the ordinance adopted pursuant to this chapter and*  
29 the provisions contained in NRS 278A.390, 278A.400 and  
30 278A.410.

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

40 **Sec. 11.** (Deleted by amendment.)

41 **Sec. 12.** (Deleted by amendment.)

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

43 278A.410 All provisions of the plan authorized to be enforced  
44 by the city or county may be modified, removed or released by the  
45 city or county, except grants or easements relating to the service or



1 equipment of a public utility unless expressly consented to by the  
2 public utility, subject to the following conditions:

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

7 2. ~~[(No)]~~ *Except as otherwise provided in subsection 3, no*  
8 *modification, removal or release of the provisions of the plan by the*  
9 *city or county is permitted except upon a finding by the city or*  
10 *county, following a public hearing , that ~~[(it)]~~ the modification,*  
11 *removal or release:*

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

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

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

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

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

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

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

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

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

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

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

34 278A.430 1. In order to provide an expeditious method for  
35 processing a plan for a planned unit development under the terms of  
36 an ordinance enacted pursuant to the powers granted under this  
37 chapter, and to avoid the delay and uncertainty which would arise if  
38 it were necessary to secure approval by a multiplicity of local  
39 procedures of a plat or subdivision or resubdivision, as well as  
40 approval of a change in the zoning regulations otherwise applicable  
41 to the property, it is hereby declared to be in the public interest that  
42 all procedures with respect to the approval or disapproval of a  
43 planned unit development and its continuing administration must be  
44 consistent with the provisions set out in *this section and* NRS  
45 278A.440 to 278A.590, inclusive.



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

7 **Sec. 15.** NRS 278A.440 is hereby amended to read as follows:  
8 278A.440 An application for tentative **or final** approval of the  
9 plan for a planned unit development must be filed by or on behalf of  
10 the landowner.

11 **Sec. 16.** NRS 278A.450 is hereby amended to read as follows:  
12 278A.450 1. The ~~ordinance enacted pursuant to this chapter~~  
13 ~~must designate the~~ form of the application for tentative **or final**  
14 approval ~~[the fee for filing the application]~~ and the official of the  
15 city or county with whom the application is to be filed ~~[ ] must be:~~

16 (a) **Set forth in the ordinance enacted pursuant to this chapter;**  
17 **or**  
18 (b) **Published and made publicly available by the city or**  
19 **county.**

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

21 (a) **Set forth in the ordinance enacted pursuant to this chapter;**  
22 **or**  
23 (b) **Published and made publicly available by the city or**  
24 **county.**

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

31 **Sec. 17.** NRS 278A.470 is hereby amended to read as follows:  
32 278A.470 The ordinance may require such information in the  
33 application as is reasonably necessary to disclose to the city or  
34 county:

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

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

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

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

44 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.





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

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

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

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

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

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

21 278A.520 1. A copy of the minutes must be mailed to the  
22 landowner.

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

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

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

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



1       **Sec. 21.** NRS 278A.570 is hereby amended to read as follows:  
2       278A.570 1. A plan which has been given final approval by  
3 the city or county ~~it~~ must be certified without delay by the city or  
4 county and filed of record in the office of the appropriate county  
5 recorder before any development occurs in accordance with that  
6 plan. A county recorder shall not file for record any final plan unless  
7 it includes:

8       (a) A final map of the entire final plan or an identifiable phase of  
9 the final plan if required by the provisions of NRS 278.010 to  
10 278.630, inclusive;

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

12       (c) The same certificates of approval as are required under NRS  
13 278.377 or evidence that:

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

16       (2) The agency has not refused its approval.

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

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

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

35       **Sec. 22.** (Deleted by amendment.)

36       **Sec. 23.** (Deleted by amendment.)

37       **Sec. 24.** (Deleted by amendment.)

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

